



# Justice Reinvestment Coordinating Council



## Meeting Minutes

*July 29, 2015*

The Justice Reinvestment Coordinating Council meeting was held on Wednesday, July 29, 2015 at the Department of Legislative Services Building, 90 State Circle, Annapolis, Maryland, 21401. The meeting was called to order at 3:13 PM by Christopher Shank, Executive Director of the Governor's Office of Crime Control & Prevention (GOCCP), who presides as the Chairman for the Justice Reinvestment Coordinating Council (JRCC). This meeting was attended by the following Council members: Christopher Shank, GOCCP; Secretary Sam Abed, Department of Juvenile Services (DJS); Caryn Aslan, Job Opportunities Task Force (JOTF); Delegate Erek Barron; Sheriff Troy Berry, Charles County Sheriff's Office; LaMonte Cooke, Queen Anne's County Detention Center; Paul DeWolfe, Office of the Public Defender (OPD); Delegate Kathleen Dumais; David Eppler, Attorney General's Office; Senator Michael Hough; Delegate Michael Malone; Senator Nathaniel McFadden; Honorable Joseph Murphy, Maryland Court of Appeals (Ret.); Senator Douglas Peters; Judy Sachwald, Department of Public Safety and Correctional Services (DPSCS); Scott Shellenberger, Baltimore County State's Attorney's Office; and Delegate Geraldine Valentino-Smith.

This meeting was also attended by multiple guests to include: Adrian Bishop, Maryland Alliance for Justice Reform (MAJR); Philip Caroom, MAJR; Ann Ciekot, National Council on Alcoholism and Drug Dependence-MD; Molly Cioffi, GOCCP; Hannah Dier, Department of Legislative Services (DLS); Bill Gaertner, Gatekeepers; Vincent Greco, MAJR; Don Hogan, GOCCP; Sarah Hoyt, Judicial Proceedings Committee; Lea Green, Maryland CURE; Tony Hausner, Safe Silver Spring; Elizabeth Hayden, GOCCP; Toni Holness, ACLU of Maryland; Charles Holloway, MEND; Darienne Gutierrez, The Pew Charitable Trusts Charitable Trusts (Pew); Rachel Kesselman, GOCCP; Les Knapp, Maryland Association of Counties; Ryan Lhotsky, Office of Senator Robert (Bobby) Zirkin; Garrett O'Day, Maryland Catholic Conference; Casey Pheiffer, Pew; David Quinn, Street Re-entry of Maryland; Henriese Roberts, Street Sense; Roberta Roper, Maryland Crime Victims' Resource Center, Inc.; Felicity Rose, Crime and Justice Institute; Jim Rose, Patapsco Friends; Susannah Rose, MAJR; Ford Rowan, Street Re-entry; Julie Scheide, Office of Delegate Kathleen Dumais; Drew Snyder, Maryland Judiciary; David Soulé, Maryland State Commission on Criminal Sentencing Policy; Shelley Spruill, Baltimore City State's Attorney Office; Cara Sullivan, GOCCP; Barbara Thomas, MAJR; Zoe Towns, Pew; Jene Traore, University of Baltimore; Connie Utada, Pew; Cornelius Woodson Sr., DPSCS; and Jeffrey Zuback, GOCCP. A sign-in sheet was circulated to maintain a record of attendance.

### **I. Welcome and Introductions**

This meeting was called to order at 3:13 PM by Mr. Shank as he welcomed everyone to the Justice Reinvestment Coordinating Council "Data Drivers" meeting. The Council approved the meeting minutes from the JRCC Meeting on June 22, 2015. Mr. Shank thanked the JRCC, Pew staff and other participants for their hard work in conducting a systems analysis of ten years worth of DPSCS data. He emphasized that the analysis would be useful in informing future recommendations for justice



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reinvestment in Maryland. Mr. Shank also said that this data would be further refined and analyzed at future meetings. He reminded the JRCC that this is an opportunity to ask questions and explore factors that may be driving the system.

## **II. Pew Charitable Trusts Presentation: Maryland Data Analysis Part 1: Prison Drivers**

Mr. Shank introduced Felicity Rose, Senior Associate for the Crime and Justice Institute. Ms. Rose explained that all growth or decline in prison populations are driven by admissions and time served, so the presentation would focus specifically on those two pieces. Ms. Rose also stated that she intended to present the impact of current trends in the prison population.

### ***Data***

The data came from the Maryland Department of Public Safety and Correctional Services' OBSCIS Snapshots (August 2005-2013; July 2014), the Maryland Judiciary Annual Statistical Abstracts (FY05-FY14), the FBI's Uniform Crime Reports, and the United States Census Bureau population and demographic data. All prison data is based on those offenders who were sentenced to 12 or more months. Therefore, all offenders with less than 12 months to serve were excluded. Pretrial, federal, and other non-sentenced offenders in state custody and offenders with sentences between 12 to 18 months serving time in local detention facilities were also excluded.

### ***Definition of Terms***

Ms. Rose referenced the definition of terms, such as admission type (probation revocation, parole or mandatory supervision return, new court commitments) and release type (parole, mandatory release, other). Releases do not include deaths or escapes.

### ***Prison Admissions***

Over the last decade, the Maryland violent crime rate decreased by 32% and the Maryland property crime rate decreased by 27% (a 30% decrease in overall crime rates). Prison admissions in Maryland have also declined by 19% in the last ten years. 58% of prison admissions were individuals previously on supervision. There are large declines for probation revocations and newly sentenced prisoners, with a 17% decline in newly sentenced prisoners. 58% of prison admissions in Maryland are for nonviolent crimes (property, drug, and public order).

Mr. Shellenberger asked if the distribution of drugs was considered a nonviolent crime. Ms. Rose said that it was, according to DSPCS data. Mr. Shellenberger also asked about how felony possessions with a gun are categorized. Ms. Rose responded felony possessions are categorized as public order crimes.

The decline in the newly sentenced prisoner population is due almost entirely to a drop in drug admissions. Ms. Rose said that Pew is working on obtaining sentencing and disposition data, and it looks like the decline might be a result of fewer criminal filings rather than a drop in the rate of criminality. There is an even sharper decline in admissions for revoked probationers with drug offenses. Although possession with intent to distribute (PWID) has decreased significantly over the past decade, PWID is still the number one crime at admission. Second degree assault is the second most common crime at admissions. Distribution and possession (excluding marijuana) are also in the top ten. Ms. Rose



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stated that there were seven total admissions in prison for the possession of marijuana. Mr. Shellenberger asked if marijuana PWID was included, and Ms. Rose said that she needed to check the statute.

There has been a 14% growth in burglary offenders sentenced to prison, as well as an increase in admissions for robbery. Judge Murphy asked if there was data on the number of offenders sentenced because of a mandatory minimum requirement. Ms. Rose replied that they did not have the ability to explore mandatory minimum sentences with the data they received from DPSCS, but they are hoping to analyze data from the sentencing commission that may shed light on that factor.

More than 36% of admissions to prison come from Baltimore City, but admissions from Baltimore City are down 43% while admissions in all other jurisdictions are up by 4%. Secretary Abed mentioned that it would also be helpful to look at the prison admission rates by county. Senator Hough observed that admission rates might be down because of a decrease in zero-tolerance policies and harsher sentences in Baltimore City. Ms. Rose responded that Baltimore City Circuit Court cases are down over 35%, but they are up in other jurisdictions, despite the statewide drop in crime.

Newly sentenced prisoners are down 31% in Baltimore City, and down 9% in all other jurisdictions. Probation revocations are down 60% in Baltimore City, and up 6% in other jurisdictions. Probation revocations are up in 15 of 24 jurisdictions across the state. There is a 25% increase in the average sentence length for newly sentenced prisoners including an increase across all crime types and jurisdictions. There is significant variation in the average sentence length between circuit courts for nonviolent offenses. Mr. Shank asked if there is a way to break down the average sentence length by crime type by county. Ms. Rose said that breaking down the numbers too much may render them too small for meaningful analysis, but if there is a specific county or crime type of interest Pew could look into that. Judge Murphy asked if the 29% increase in average sentence length for revoked probationers included Baltimore City. Ms. Rose said that it did.

Mr. Shank asked if there is a way to determine what was driving the increase in burglary admission such as substance abuse. He hypothesized that it may be plausible to look at secondary charges and what led to the event of the crime. Ms. Rose replied that they would try to look deeper into the charging documents for primary and secondary charges. Mr. Shellenberger warned to practice caution when analyzing burglary charges because many offenders commit more than one burglary. Ms. Rose stated that burglary has decreased by about 8% in the state in the last decade, which does not correspond to the increase in burglary admissions. Judge Murphy observed that it is imperative to know the criminal histories of each offender before they come into court because it impacts a judge's decision. He discussed how it would be good to know how many people in the data were admitted into prison for their first offense. Ms. Rose agreed with Judge Murphy and expressed that Pew is planning to construct ten years of criminal history information as well as look at sentencing guideline worksheets. Judge Murphy predicted that these records would show many cases with second degree assaults or PWID. Delegate Barron inquired about how many cases ordered drug treatment, and Ms. Rose said they would explore that more.



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## *Time Served in Prison*

The analysis showed that the proportion of parole releases in Maryland increased, but they were still less than 40% of all releases. 36% of new offenders and 44% of probation revocations are paroled. 30% to 50% of property offenders get paroled. Of those offenders sentenced for drug offenses, those convicted of drug possession are the least likely to get paroled. Mr. Shank asked if there were any data of parole release of offenders convicted of violent crimes. Ms. Rose said that violent offenders were less likely to get paroled than property offenders.

Overall, time served is up 23% in the last decade from 29 to 35 months. Time served is up 30% for newly sentenced prisoners, and 25% for parole revocations. Time served is up for all offense types and across all release types. Drug offenders serve the lowest portion of their sentence in prison, but still serve 53% on average. Nonviolent offenders released on parole serve around 40% of their sentence. Although most violent offenders are not granted parole, the ones that are tend to be released closer to their parole eligibility date (must serve 50% of sentence) than nonviolent offenders (must serve 25% of sentence). Ms. Aslan asked to explain this phenomenon and Ms. Rose replied that it may be due to scheduling issues such as delays in releases, setting up a parole hearing, or completing required programming. There could also be reasons related to parole board policies, and Pew is looking into how the Maryland Parole Commission risk assessment is currently used.

Individuals who are paroled are serving an average of nine months past their parole eligibility date, costing the system almost 1,600 beds. All new court commitments serve an average of 16.5 months past their parole eligibility date, which equates to 5,500 offenders per month. If offenders were released closer to their parole eligibility date, it could open 7,500 beds. This data does not take into consideration the impact of mandatory minimum sentencing. Judge Murphy inquired if there is a law that requires offenders to serve 25% of their sentence before they can receive parole. Mr. DeWolfe and Mr. Hogan confirmed the legislation that created the Sentencing Commission in 1999 established the 25% requirement. Ms. Sachwald recalled a specialized program that allowed some offenders to bypass this requirement, but the program is no longer in place.

## *Stock Population*

The Maryland prison population has decreased by 5% in the last decade. The number of prisoners over the age of 55 has doubled in the last decade. Almost 2/3 of prisoners are incarcerated for new offenses, while 28% are incarcerated for probation revocations. 2/3 of prisoners were convicted of person crimes, including second degree assault. Drug offenders in prison fell by 40%, but every other offense type grew. There was also a large growth in the number of revoked probationers in prison for all offenses except drugs. If not for Baltimore City, the state prison population would have grown in the last decade. Controlling for population growth, most jurisdictions still use more prison beds than a decade ago. Secretary Abed asked for clarification on the methodology used to calculate use of more beds and Ms. Rose stated that they looked at the difference between the beds used per capita in 2005 and 2013.

## *Questions and Answers*



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Senator McFadden inquired how much the bed cost is per year. Mr. Shank replied that \$38,000 is the cost per year, or about \$120 per day. Mr. DeWolfe asked if there was a way to calculate the increase in cost over the past ten years. Ms. Rose said they would look into that moving forward.

Mr. Shank asked Ms. Rose to walk the JRCC through the definition of a revocation. Ms. Rose said they are going to discuss revocations more in the future, but they define it as someone who was on supervision and there was an option to intervene prior to their return to prison.

Mr. Shellenberger mentioned the importance of focusing on parole violations for the commission of new crimes rather than technical violations Ms. Rose said Pew is examining the issue further.

Mr. Shank noted that the number of prisoners over 55 years old had doubled and inquired about the possibility of looking at the increasing cost per inmate and healthcare. Ms. Rose highlighted that older offenders tend to be more expensive and have more health problems.

Senator McFadden mentioned that, from a local perspective, it might be useful to look at local offenders who are being sentenced to 12 to 18 months. Ms. Rose agreed and stated that Pew is seeking more data on those who are being sentenced between 12 to 18 months locally.

Delegate Valentino-Smith asked if anything has changed over the course of time that has given prosecutors a better ability to find evidence, such as social media. Mr. Shellenberger responded that more people are caught with the use of cell phones than DNA.

Delegate Valentino-Smith asked about the drivers in the juvenile justice system. Secretary Abed responded that, like the adult system, second degree assault is a top driver in the juvenile justice system.

Secretary Abed pointed out that it may be worthwhile to look at what is driving second degree assault in the prison population, especially on the admissions side, such as specific length of stay. Mr. Shellenberger added that second degree assault encompasses everything from pushing, to serious first degree assaults that get pled down, Mr. Shank asked Ms. Rose if there is a way to break down second degree assault, including domestic violence. Ms. Rose said that Pew does not currently have that ability with the data they have now, but they are doing a statutory review. She said if it were deemed necessary by the JRCC, they would do a file review and look at some actual cases.

Ms. Aslan inquired about the high number of admissions for nonviolent offenses and how Maryland ranks with other states. Ms. Rose said that it is hard to do state comparisons because of the disparity in crime definitions. However, she recognized that 58% of admissions for nonviolent offenses are probably above average. Also, Maryland is unique in that misdemeanor theft can result in prison time for more than 12 months.

Ms. Sachwald asked if Pew is going to make a similar presentation to address the drivers of offenders on probation. Ms. Rose said that next month's presentation would consist of cutting and analyzing Department of Parole and Probation (DPP) data. They will also hopefully be able to present disposition data from the sentencing commission.

Mr. DeWolfe said that the nearly 2,000 people who are in prison who are over 55 years old are the most expensive, but probably have the lowest threat to public safety. He thought the committee may want to



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address two policies that may be driving this: (1) the passing of life without parole in 1995 and (2) pardons that have been declined by previous governors. He also pointed out that the recidivism rate of the 100 individuals who have been released from the Unger case in 2012 has been zero. He suggested that DPSCS could use a risk assessment for this older population. Ms. Rose said Pew would look at recidivism data over the next few months. Senator Hough mentioned that a comprehensive medical parole law exists and inquired about how it would affect the current data. Ms. Rose said that it did not impact the data because of the range that was used.

Senator McFadden re-addressed the issue concerning the release of older inmates, and wanted to explore the sentence of life with a possibility of parole.

Delegate Barron observed that the black male population is overrepresented in the Maryland state prison population, and he would like to see the data on how this population has changed since the 1960s. Ms. Rose noted that they only have access to ten years worth of data right now, but they can try to obtain older data.

Judge Murphy mentioned an effective drug court in Baltimore City. He asked if there could be a study to address the impact of drug courts on reducing the number of people sentenced to prison. Ms. Rose said they would look at the participation numbers for drug courts, which is part of the system review that Pew will be presenting in September. She said they know that the drug courts can be very effective at reducing recidivism. Senator McFadden agreed with Judge Murphy about drug courts, and also pointed out the effectiveness of increased drug treatment. Pew has already been in contact with the Office of Problem Solving Courts.

Mr. Shank thanked Pew for pulling all of the information together, emphasizing that this is the first time he has seen so much data on the corrections population in Maryland at one time.

### **III. Council Calendar and Next Steps**

Mr. Shank stated that there has been a lot of discussion, and future conversations will be further refined in the subcommittee process. He said the subcommittees have not been assigned yet.

Mr. Shank reminded the council that there is an updated schedule which includes a few minor changes. There will be two stakeholder meetings, which the JRCC hopes to have fleshed out by the next meeting. The idea of the stakeholder meetings is to inform various constituencies about what has been learned and allow the opportunity for stakeholders to provide their feedback

The meeting adjourned at 4:53 PM.

### **IV. Next Meeting**

The next JRCC meeting will be held on Tuesday August 18, 2015 from 2:00 PM until 5:00 PM in Annapolis, Maryland in the Joint Hearing Room of the Legislative Services Building.