

OHIO CRIMINAL SENTENCING COMMISSION

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Chief Justice Maureen O'Connor
Chair

David J. Diroll
Executive Director

**Minutes of the
OHIO CRIMINAL SENTENCING COMMISSION
and the
CRIMINAL SENTENCING ADVISORY COMMITTEE
February 17, 2011**

MEMBERS PRESENT

Victim Representative Chrystal Alexander
Defense Attorney Paula Brown
Municipal Judge David Gormley
Public Defender Kathleen Hamm
Municipal Judge Fritz Hany
Andre Imbrogno, representing Rehabilitation and Correction
Director Gary Mohr
Bob Lane, representing State Public Defender Tim Young
Prosecuting Attorney Joseph Macejko
Mayor Michael O'Brien, City of Warren
County Commissioner Bob Proud
Sheriff Albert J. Rodenberg
State Representative Lynn Slaby
Municipal Judge Kenneth Spanagel

ADVISORY COMMITTEE MEMBERS PRESENT

Eugene Gallo, Executive Director, Eastern Ohio Correction Center
Lynn Grimshaw, Ohio Community Correction Association
John Leutz, legislative liaison, County Commissioners' Association
Cynthia Mausser, Chairperson, Ohio Parole Board
Joanna Saul, Correctional Institution Inspection Committee

STAFF PRESENT

David Diroll, Executive Director
Shawn Welch, Law Clerk

GUESTS PRESENT

Jim Brady, interested citizen
Jo Ellen Cline, Legislative Counsel, Supreme Court of Ohio
Monda DeWeese, SEPTA Correctional Facility
Beth Florence, legislative aide to Rep. Lynn Slaby
Darin Furderer, Correctional Institution Inspection Committee
Lusanne Green, Ohio Community Corrections Association
Alicia Handwerk, Chief, Bureau of Community Sanctions, DRC
Jamie Hooks, Correctional Institution Inspection Committee
Irene Lyons, Rehabilitation and Correction
Brian Martin, Rehabilitation and Correction
Scott Neeley, Rehabilitation and Correction
Phil Nunes, Ohio Justice Alliance for Community Corrections
Allen Ohman, legislative aide to Sen. Shirley Smith
Mark Pelka, Council of State Governments
Matt Stiffler, Legislative Service Commission
Paul Teasley, Hannah News Network

Lisa Valentine, policy aide to Speaker William Batchelder
Steve VanDine, Research Chief, DRC
Marjorie Yano, legislative aide to Speaker William Batchelder

The February 17, 2011 meeting of the Ohio Criminal Sentencing commission and Advisory Committee was opened by Judge David Gormley, acting vice-chair, and Executive Director David Diroll, at 9:40 a.m.

Dir. Diroll announced that three common pleas judges will soon be joining the Commission as members. These will include Janet Burnside from Cuyahoga County, Thomas Marcelain from Licking County and the return of Steve McIntosh from Franklin County. We are also expected to have a new prosecuting attorney appointed soon.

He welcomed Rep. Lynn Slaby, Chair of the House Criminal Justice Committee.

Sen. Bill Seitz is expected to provide an overview of S.B. 10 at the March meeting. S.B. 10/H.B. 86 is the replacement for S.B. 22 from the previous session. One issue of note discussed in S.B. 10 and H.B. 86 is an effort to divert felony nonsupport cases into other sanctions. There are some successful programs already being tested throughout the state, said Dir. Diroll, and a representative from one of those programs from the Cincinnati area will also be available at the March meeting.

CORRECTIONAL INSTITUTION INSPECTION COMMITTEE

At the January meeting, DRC Director Gary Mohr mentioned that there has been a progressive increase in institutional violence and disturbances involving multiple inmates. In light of that, Joanna Saul, Director of the Correctional Institution Inspection Committee, offered an overview of the role of the CIIC in addressing some of those concerns.

As of December 6, 2010, Ohio prisons were at 132% of capacity. That means there are 50,000 people crowded into a space meant for 38,000. Overcrowding is currently "the critical issue" for Ohio's correctional program, Director Saul maintained. Overcrowding affects not only the inmates, but also the prison staff, medical costs, waiting lists for programs, and even recidivism. She claimed that, based on the average cost of \$24,144.75 per inmate, crowding has already cost the state over \$304 million.

She credited DRC with improving resource management and making strides to decrease the rate of suicide attempts among inmates. Despite these efforts, there were 5,925 use of force incidents in 2009 and 6,080 incidents in 2010. The number of incidents has actually decreased in some facilities, including Lucasville. DRC attributes this to the increased use of OC spray or mace.

A very disturbing number in incidents involving the use of force is that which involves violence of some form directed by an inmate against staff of a correctional facility. There were 4,157 incidents of this nature from 2007 to 2010. This means that, on any given day, there were 2 to 3 assaults on staff. On the plus side, this number has actually decreased over the past couple of years.

The crowding situation, however, tends to have contributed to the increase in inmate-on-inmate physical assaults which rose 23 percent from 2007 to 2009. Violent disturbances, which involve 6 or more inmates, have increased from about 1 per month to 1 per week.

As of November 2010, approximately 10,672 inmates were in the Ohio prison system who did not have a GED or high school diploma. That amounts to almost a fifth of all inmates. Ms. Saul noted that the number inmates on the waitlist vastly outnumber the inmates actually enrolled. Since this lack of education often plays a role in why these people end up in prison in the first place, it most certainly will continue to affect their chances of success upon release. Contributing to the complications of the waiting list, a significant number of inmates serve less than one year in prison with much of that time served in the intake center, allowing a minimal amount of time for completing a GED program.

Ms. Saul reported that there is a three step grievance procedure for inmates to use. In its ideal form, the grievance procedure has the potential to reduce assaults and reduce tension because an inmate could have his concern addressed in a nonviolent way and recognize the value of nonviolent dispute resolution. However, 87.4% of inmates across the DRC believe that staff would retaliate or "get back" at them if they used the grievance procedure. If inmates do not use the grievance procedure, their other choice is using force.

Ms. Saul listed some of CIIC's goals, including: increased safety and security; increased community connections with prisons and offenders; increased access to programs for inmates; increased effectiveness of the grievance procedure; and identifying areas for cost savings.

At this point everyone was asked to separate into groups to discuss the five goals and report back.

Safety and Security. Upon reconvening, the group addressing the goal of increased safety and security reported that it is a complex problem with no simple solutions. Representing the DRC research department, Brian Martin remarked that DRC is trying to establish an institutional climate reporting system, similar to the one used by the Federal Bureau of Prisons. This would enable DRC to develop a better data regime to measure the social climate of its prisons and develop objective measures at the facility levels. Without such a system, there tends to be an increase in idleness. He declared that idleness presents the biggest problem, resulting in disturbances. Crowding is a problem, including at the point of admission, because it becomes hard to get short-term inmates into programs before release.

Besides developing a better system for tracking data, among the solutions offered, this group suggested increasing opportunities for diversions, and working on a solution to address the short-term offender problem. It was also suggested to have the municipal courts deal with more of the lower level F-4 and F-5 offenders, rather than the common pleas courts, in hopes of getting more offenders into community control.

With a large percentage of offenders serving less than a year, Municipal Judge Fritz Hany remarked that those are generally

misdemeanor-type timeframes. He asked if some felonies should be considered for conversion to misdemeanors.

Mr. Martin noted that he has been participating in a statewide jail evaluation. They collected data at the facility level on both the physical layout of the jails and the types of supervision and surveillance. They learned that the supervision and surveillance factors weigh more heavily than the physical layout in predicting violence or disturbances. Interpreting this data should translate into making better staffing arrangements and finding solutions to work with existing resources more efficiently for better supervision.

Community Corrections and Involvement. The group on increased community connections and involvement reported that the biggest problems tend to be communication, lack of professional influences, isolation from family and community, lack of reentry planning, negative attitudes from the community toward DRC and offenders, and lack of education. Some suggested mentorship opportunities, increasing video visitations, and encouraging volunteers such as college grads to assist with tutoring, possibly as a way to pay back student debt. Another suggestion was to expand prison industries by placing some in jobs in the community and perhaps even encouraging entrepreneurs to place new businesses "inside the wire", perhaps rent free, as an incentive to train inmates. Ms. Saul favored the option that might allow public-private partnerships.

The most obvious obstacles are existing statutory barriers and the stigma of working in a prison. The best measures of success may be an increase in the number of volunteers, a decrease in recidivism, and an increase in the number of inmates released to house supervision.

Access to Programs for Inmates. The group that discussed inmates' access to programs reported that inmates with the most serious behavior problems and greatest risk are also generally the ones most in need of multiple mental health and educational programs, while inmates with the lowest level of risk generally get into available programs first. Obstacles include funding and space limitations. Possible solutions might include adding volunteers, using ORAS to better match offenders with available programs, getting assistance from churches, colleges, high schools, etc., exploring grants, and possibly even using taped programs. Another suggestion was to transport low-level offenders offsite for programming and prioritizing by need.

Among the obstacles: volunteer goals do not always match what the programs are trying to accomplish and background checks for the volunteers can often be expensive and burdensome.

The best measurement would most likely be through exit surveys, pre- and post-tests for retention, observing whether or not the waiting lists decrease, and possibly reassessing offenders with ORAS at the conclusion of programming.

Effectiveness of Grievance Procedure. This group identified lack of confidence in the system and lack of inmate involvement as the biggest problems with the current grievance process. The procedure consists mostly of staff involvement and very little input from inmates. It was suggested that mediation should play a larger role in the process, possibly with use of an ombudsman. It was also suggested to increase

inmate education about the grievance process and train both inmates and staff as mediators. The primary obstacle seems to be lack of trust. Not only do the guards not trust inmates "ruling the asylum", but there are also trust issues in relation to inmate politics.

Cost Savings. The fourth group addressed cost savings. This group noted that the two related overarching problems are the extensive prison population and the resulting crowding. Additional problems resulting from these two include medical issues, cost of services, cost of labor, facility maintenance, court mandates, and staff reduction. Suggested steps toward a solution include legislative action (possibly through S.B. 10 and H.B. 86); budgetary action to reduce maintenance costs regarding facilities and/or medical and program services (possibly even consolidating some of the programs); judicial action to consider CSG proposals, half-year terms, and Sub. S.B. 10; consideration of more upfront cost payments; use of computer banks with lower inmate/staff ratios; study ways to reduce labor costs; increase involvement with the community; and increase performance audits. Obstacles include political difficulties, communication challenges, upfront cost issues, and staff cooperation. The best form of measurement will be a reduction in the cost per inmate.

Director Saul appreciated the wealth of information achieved within the 20 minute discussions. She explained that the exercise provided a taste of what the CIIC does on a regular basis. She particularly appreciated that the action steps suggested by the groups offer a wide range of options so that the responsibility would not rest entirely on the shoulders of DRC.

COUNCIL OF STATE GOVERNMENTS REPORT

Noting that the Council of State Governments recently issued their *Justice Reinvestment Initiative*, Dir. Diroll reported that pending S.B. 10 includes some of the recommendations from this report.

Representing the CSG, Mark Pelka reported that CSG was asked by the legislative, judicial, and executive branches of Ohio's government in 2008 for a comprehensive data analysis of Ohio's criminal justice system. The goal was to develop a statewide policy framework to reduce spending on corrections and reinvest in strategies to increase public safety. Some of the sources that provided data were the Department of Rehabilitation and Correction, the Department of Mental Health, the Department of Alcohol and Drug Addiction Services, the Supreme Court, county probation departments, and the FBI Uniform Crime Reports. The CSG also convened a series of focus groups and interviews with practitioners and stakeholders from around the state. These included prosecuting attorneys, public defenders, behavioral health treatment providers, victim advocates, judges, local government officials, chief probation officers, community corrections directors, and law enforcement executives.

More than one year in the making, Ohio's policy makers determined from the CSG findings that the three goals for Ohio should be to manage the growth of the prison population and reduce spending on corrections; improve the cost-effectiveness of existing criminal justice system resources; and reinvest in strategies that can increase public safety.

CSG Justice Center staff subsequently translated those recommendations into three sets of objectives: hold offenders accountable in more meaningful ways; make smarter, more effective use of community correction programs; and strengthen probation supervision. From this, CSG Justice Center staff designed a framework of thirteen policies.

Among the findings from CSG's comprehensive analysis, a large number of low-level property and drug offenders cycle through Ohio's criminal justice system. Many are sentenced to state prison for one year or less and are subsequently released to the community with no supervision. Because of the short amount of time served, few receive treatment for their addictions or services to assist with behavior change. This combination of short periods of incarceration without treatment or supervision upon release provides little or no public safety benefit at great expense to the taxpayers. Mr. Pelka noted that the lack of post-release supervision for these offenders is dictated by ORC statute.

Another key finding from CSG's analysis is that Ohio has one of the best infrastructures of intensive community correction programs but lacks standardized criteria for assessing who is best suited for which program. The failure to match the offender's risk and need levels with the appropriate programs results in a mismatch of resources and increased recidivism.

The third major finding from CSG's analysis was that Ohio's probation system is a patchwork of independent agencies that do not have consistent policies. The training and supervision policies vary significantly as well as the risk assessment instruments. Statewide standardized criteria are needed for training, policies, and risk assessments. He likened the fragmentation across the probation departments to trying to land an airplane at Chicago's O'Hare airport without air traffic controls.

CSG released its Justice Reinvestment Report on February 2 with the goal of getting feedback from Ohio's criminal justice community. It has since been introduced as legislation in S.B. 10.

Mr. Pelka proceeded to review the 13 policies recommended for achieving the objectives and goals of the Justice Reinvestment Policy framework:

Objective 1: Hold Offenders accountable in meaningful ways.

1-A: Require first-time property and drug offenders to serve probation terms and attend treatment as needed. Mr. Pelka reported that of 10,375 F4/F5 offenders admitted to DRC in 2008, only about 2,800 were admitted for first drug offenses, with no prior felony convictions.

These offenders, said Mr. Pelka, should be sentenced to probation supervision and community treatment programs. Since most terms of probation are longer than actual prison terms for these offenders, this would allow more time to complete treatment programs and, potentially, would reduce recidivism. If the offender violates conditions of supervision or reoffends, the court usually has a wider range of sanctions that can be imposed, including possible incarceration.

Dir. Diroll noted that there are already few judges who send a first-time low-level F4/F5 offender to prison. These offenders generally are not sent to prison unless they violate a sanction.

Mr. Pelka admitted that they had received the same response from the Ohio Prosecuting Attorneys' Association, noting that they were skeptical of the data. When questioned further, he acknowledged that the estimate of 3,000 admissions included probation violators.

The reference is to first time felons, not just first time incarcerated, Mr. VanDine clarified.

1-B: Raise the maximum sentence length for people convicted of committing particularly serious and violent crimes, and provide judges sentencing lower level offenders with more options. This objective, said Mr. Pelka, would encourage judges to sentence the most serious and violent F1 offenders to longer terms of incarceration. Because some F3 prison terms overlap with the length of those of the F1 and F2 levels, the proposal aims toward more precision in sentencing by removing the 4 and 5 year terms for F3 offenders and encouraging judges to impose 9 and 18-month terms in addition to the current 1, 2, or 3-year terms.

Dir. Diroll contended that many F3 offenders are there as a result to plea negotiations. Lowering the ceiling of this sentence range could make it more difficult to negotiate plea bargains. In fact, he argued, the bed savings might not be actualized because some pleas then might not happen, resulting in more offenders convicted as F2s in order to impose a longer sentence.

Representing the State Public Defender's Office, Bob Lane remarked that he did not see anything in the report about imposing a control on consecutive sentences. Currently there is no cap, resulting in some exorbitant sentences. He wondered if the CSG considered any kind of cap like the one under pre-existing law.

Dir. Diroll responded that the Sentencing Commission should deal directly on that and other *Foster* issues. He hopes to have a draft that addresses all of the *Foster* issues and possibly some consecutive sentencing reform by next month's meeting.

1-C: Provide judges with a risk reduction sentencing option to encourage participation in programs that lower recidivism. This would provide the judge with the option of imposing a "risk reduction sentence" based on a risk and needs assessment conducted prior to sentencing. The assessment would allow a plan to be developed that would include programs and services required during incarceration that should decrease the offender's likelihood of reoffending. As an incentive, successful completion of the programs and services and compliance with institutional rules and policies could potentially result in a possible 25 percent reduction in the offender's sentence. Mr. Pelka declared that, if stated clearly at the time of sentencing, this would not violate the principles of Ohio's truth-in-sentencing law. It is hoped that this would offer a way to control prison behavior. He claimed that the OPAA has approved this as an option.

1-D: Mandate that people sentenced to prison who demonstrate a high risk of reoffending are supervised after their release to the

community. Mr. Pelka explained that this proposed policy would require post-release supervision for certain offenders: those convicted of the most serious offenses (F1 and F2s), those convicted of violent F3s or sex offenses and those, regardless of offense type, who pose a high or very high likelihood of reoffending upon release. The policy would reallocate existing resources to ensure the supervision of offenders who pose the highest risk of reoffending.

Dir. Diroll noted that, under S.B. 2, everyone was eligible for post-release supervision, but the APA didn't have the resources to do so.

As Chair of the Ohio Parole Board, Cynthia Mausser said that The Adult Parole Authority would appreciate clarification on which offenders are mandated to be under post release control, and which ones have discretionary post release control.

1-E: Study how restitution is collected locally and recommend improvements. Courts order restitution as part of the sentence when the victim has sustained pecuniary losses as a result of the crime. Collection of restitution provides the victim with a sense that the person who committed the crime is being held accountable for their actions, argued Mr. Pelka. It often becomes difficult, however, to get the person ordered to pay to actually do so. This becomes an even greater challenge if that person is incarcerated. This proposed policy aims at increasing the rate of collection. It would involve an in depth study of victim restitution collection efforts at the local level resulting in recommendations that would speed the collection of debts, streamline payment mechanisms, apply best practices from jurisdictions around the state and country, and implement minimum standards for restitution collection.

Objective 2: Make smarter, more effective use of community correction programs. Mr. Pelka said that risk assessment instruments help users sort individuals into various risk groups by gauging the likelihood of an individual coming in contact with the criminal justice system via commission of a new crime or violation of terms of supervision. The risk assessment instruments predict the likelihood of future outcomes based on an analysis of past activities and present conditions. The goal is to prioritize supervision and treatment resources for those individuals who pose the greatest public safety risk.

2-A: Adopt a common set of risk assessment instruments across the state's criminal justice system. Ohio has been in the process of developing the Ohio Risk Assessment System (ORAS) for adult offenders, noted Mr. Pelka. It will be used to assist in corrections decisions at various points in the criminal justice system, including pretrial, community supervision, prison intake, and community reentry. If used by agencies at the state and local community levels, it should improve interagency communication, reduce costly duplication of information collection, and create system-wide consistency in its application.

The CSG, said Mr. Pelka, recommends requiring the use of ORAS by municipal courts, common pleas, courts, pre-trial entities, municipal and county probation agencies, the Adult Parole Authority, the Parole Board, prisons, and community correction agencies. It also recommends requiring those agencies to develop policies and protocols that define how the assessment instruments should be applied and integrated into

existing operations, supervision and case planning, administrative oversight, staff training, and data collection and sharing.

2-B: Sentence only people to CBCF's who research demonstrates would be less likely to reoffend after participating.

2-C: Make more effective use of CCA prison diversion programs by ensuring they employ supervision strategies and services demonstrated to reduce recidivism. Part I: Use state-funded CCA prison diversion programs primarily as an option for judges and supervision officers responding to people who are not complying with their probations. Part II: Ensure people in prison diversion programs who are assessed as having a high risk of recidivism have their treatment needs addressed.

Ohio already has a network of state-funded community correction programs to which adults are sentenced in lieu of jail or prison. These include Community Correction Act programs (prison and jail diversion), halfway houses, and community-based correctional facilities.

Prison and jail diversion include intensive supervision probation, electronic monitoring, work release, and day reporting. Halfway Houses are community-based residential programs providing supervision and treatment services, serving offenders released from prison or sentenced there directly by courts. They also serve offenders who have violated probation or parole/post-release control. A CBCF is a secure residential facility with a maximum length of stay of 180 days. It serves offenders who are directly sentenced by the court or who are found in violation of probation. CSG recommends establishing statewide criteria defining who may be sentenced to a CBCF or CCA prison diversion program and to reduce recidivism rates among people who have committed less serious crimes but who are at high risk of re-offending. It also recommends that DRC pay CBCFs or CCAs only for participants that fit these statewide criteria for placement in a CBCF or CCA.

Ohio's continuum of sanctions include residential programs that address several criminogenic needs, including substance abuse disorders, job-skill deficits, and cognitive-behavioral problems.

Research has shown, said Mr. Pelka, that low-risk offenders, when placed in programs with high-risk offenders, are more likely to recidivate than if they skipped the program altogether. Ensuring that only high-risk offenders or those who would otherwise have been sentenced to prison are admitted to CBCFs would increase the effectiveness of their programs. It is believed that standardized eligibility criteria will inform court officials' sentencing decisions, helping them to prioritize placement in the CBCFs for those populations most likely to benefit from them. Because Ohio invests over \$100 million in community corrections, the goal, he said, is to find a balance between cost effectiveness and a public safety benefit.

Eugene Gallo, Director of the Eastern Ohio Correction Center, remarked that nobody has a problem with using risk assessment tools to allocate where to place an offender. He agreed that most low risk offenders do not need the type of intensive programs that are offered at CBCFs. He had concerns, however, about the relevant chart in the Justice Reinvestment report. He said the chart does not take into account the 38% of current CBCF residents who have been to prison before. It also leaves the question of whether an F3 offender who has been to prison

before would benefit now from a CBCF program even if he currently tests as a low risk offender.

According to Mr. Pelka, it is assumed that a prior prison term would raise an offender's level of risk.

Mr. Gallo contended that it puts a lot of faith in one measure, the ORAS, and leaves little room for judge's discretion.

As Director of the SEPTA Correctional Facility, Monda DeWeese expressed concern that the ORAS is not strong enough and needs some exclusions.

Objective 3: Strengthen probation supervision.

3-A: Establish statewide standards that define effective probation supervision policies and practices. At the end of 2009, 75% of the 339,816 adults under criminal justice control in Ohio were being supervised on felony or misdemeanor probation. Ohio's probation system constitutes a patchwork of independent agencies, managed at the state, county, and municipal level. Because there are no statewide probation standards, there is substantial variation among the policies and practices, said Mr. Pelka. These include minimum qualifications for officers, the lengths of mandatory training, the number of monthly officer-probation contacts, and the use of risk assessment instruments to assign probationers to appropriate levels of supervision.

Mr. Pelka noted that Ohio's probation system is very similar to that of Texas. Both have local control of probation, elected judges, a strong sense of home rule, and an overlay of community correction programs that are meant to reinforce the probation system. Texas, however, has minimum standards established by statute for community run probation.

CSG's proposal for Ohio would require statewide standards for probation departments, their programs, and officers. Each common pleas and municipal court overseeing a probation agency would be required to maintain a system that ensures immediate action and graduated responses when someone fails to comply with the terms of their supervision. It would also require every probation agency to use the same risk assessment system to assign supervision resources based on the offender's likelihood of reoffending or violating supervision.

Mr. Pelka claimed that recidivism can be reduced by 18% when the offender is matched to the right program.

3-B: Provide funding and incentives to improve felony probation supervision and increase successful completion rates. The goal of this policy is to establish a probation improvement grant program to provide support and incentives for common pleas probation agencies to reduce recidivism among felony probationers. Any felony probation agency that is in compliance with the statewide standards and assessment system would be eligible for funding, said Mr. Pelka. Those programs that reduce their revocation rate would qualify for additional funds. It is believed that a performance incentive funding structure will increase partnership between state and local probation departments, which will help to lower recidivism and increase public safety. Arizona and Kansas have seen great success from these types of incentives. Each has resulted in significant reductions in their rates of recidivism and increases in successful completion of treatment programs. In Ohio, CSG recommends

the establishment of a \$3 million Probation Improvement Grant and a \$2 million Probation Incentive Grant.

3-C: Reduce duplication of supervision resources. Under the current system, some offenders have to answer to separate probation officers at both the misdemeanor and felony levels in the same county. The policy suggested by the CSG was originally recommended by the Judicial Conference. This would be to create a protocol for counties with multiple courts operating distinct probation agencies to ensure that individuals sentenced to probation are supervised by only one probation authority at a time.

3-D: Require probation violation hearing to be held in a relatively swift period of time. The ORC is silent on the amount of time an offender can be held in jail on a probation violation while awaiting a hearing. Some people serve 30, 60, or 90 days before getting a hearing. CSG recommends requiring that a notice of violation be filed within three business days of a probationer's arrest, and a hearing be held within 30 business days from filing. This would help ease jail crowding concerns, Mr. Pelka added.

3-E: Collect monthly data from probation departments across the state and analyze this information routinely. When CSG began collecting information on Ohio's probation systems, it was difficult to compile a database because no statewide data were available on the number of people on probation and the number exiting probation. CSG recommends establishing an ongoing database that would collect this information on a regular basis by offense level, together with basic demographic information. The exit information should also include the reason for exit, such as revocation to prison or successful completion. This would also be useful for fiscal accountability. It would provide information about the effectiveness of probation in holding offenders accountable.

Ohio's prison population is already 13,000 above operational capacity, said Mr. Pelka, and, under current conditions, is projected to increase. He believes that, under CSG's framework, a gradual reduction could be expected. By strengthening the state's probation system, he believes Ohio could see a 10% reduction in recidivism.

Dir. Diroll noticed that CSG's projections still reflect a prison population significantly above optimal capacity (38,000). The proposals, he noted, would only save marginal costs until Ohio's prison system is able to close wings or full prisons. Only then would the state see an impact on the larger costs. He believes that some of the Foster issues could have a significant impact.

The marginal cost per inmate is currently at +\$16 per day. Closing a prison wing could save approximately \$65 per person, but a lot more changes would be needed to get to that point.

COUNTY PROFILES AND TRANSITIONAL CONTROL

Brian Martin, from DRC's Research Department, reported that Sara Andrews had met with Mark Schweikert and others from the Ohio Judicial Conference about a year ago, regarding challenges presented by prison crowding. These challenges include the need for probation reform, as mentioned previously by Mr. Pelka. Other challenges are that nonviolent

offenders make up about 30% of the admissions to DRC, while about 52% of the admissions are F4s and F5s and 47% are short-term offenders (serving terms of less than 1 year).

DRC summarized resources used statewide and criminal justice patterns on a statewide level, then broke it down to a county level. These documents can be a first step in providing empirical information and can be used to determine some of the local needs for grant writing.

He offered a summary document that provided the population of each county in Ohio, incarceration levels based on the county of commitment, the incarceration rate, basic prison commitment information, judicial release activity, and recidivism information on a county basis. He noted that some of this information helps in determining bed budgeting.

He noted that Cuyahoga County has the highest number of commitments to DRC, but that rate has now dropped to less than 20%, in part due to the movement away from drug offenders.

Cuyahoga County may see further reduction, said Dir. Diroll, now that they have a CBCF available.

F4 and F5 commitments, said Mr. Martin, comprise 51.3% of the statewide prison population. 17.8% of the prison population serves 5 months or less. 11% of the prison population was granted judicial release in CY 2010. Community corrections technical violators make up 20.2% of the statewide prison population and the statewide recidivism rate within 3 years is 36.4%. He noted that the judicial release rate in Hamilton County is less than 2%.

In defining a truly non violent offender for the purpose of this data, it means that the offender had no violence on the commitment or indictment offense, no history of a violent conviction, no weapon related activity on the current conviction, is not a sex offender and no harm was caused. Given that broad definition, the statewide rate of nonviolent offenders committed to DRC is about 30%.

The six most common offenses resulting in DRC commitment tends to differ from county to county. The most common offense in most counties is usually drug related (drug possession or trafficking). The two most common offenses in Clermont County, however, are grand theft and non-support payment. The most common offense in Hocking County is burglary and in Summit County it is domestic violence.

The data also includes rates of completion or vetoes on transitional control. Alicia Handwerk, Chief of the Bureau of Community Sanctions, offered an overview of transitional control. She explained that it is not the same as early release or intensive program prisons (IPP). Transitional Control does not reduce a person's sentence. It refers to the transfer of an eligible prisoner to community supervision during the last 180 days of the sentence. The offender remains on inmate status. The transfer of the prisoner might be to a licensed halfway house or an approved residence under electronic monitoring.

The inmate, said Mr. Handwerk, can be transferred to prison if he fails to comply or violates conditions of the transitional control program.

To qualify for transitional control, the offender must be low risk to reoffend, not currently in disciplinary lockup, not subject to any felony detainer, has no sex offenses or attempts, no vehicular assault, vehicular homicide, or aggravated vehicular homicide, and no arson, aggravated arson or arson attempts on his record. He cannot be serving a mandatory sentence and can have no more than one present or past offense of violence or attempts and not more than five felony commitments. He must also be classified at a security level of 1 or 2.

If the transitional control involves transfer to an approved residence under electronic monitoring, background checks are run on the people with whom he will be living and an inspection is conducted of the home.

DRC contracts with halfway house to provide supervision and programs. Although there are strict itineraries, these facilities allow opportunities for the inmate to work and attend approved programs within the community and earn weekend home passes. Random checks are conducted to assure that the inmate is where he is expected to be.

Atty. Lane asked whether the people are ever allowed to drive a car or have employment.

To be able to drive a vehicle, said Ms. Handwerk, the inmate must have a valid driver's license and would be allowed to drive only under very limited circumstances.

Noting that there is no halfway house available in his region, Mr. Gallo wondered if there were any statutory provisions to allow CBCFs to be used for transitional control.

So far, said Ms. Handwerk, no communities have responded well to expanding that option. She noted that there are about 3,400 additional people who would be eligible for the program if additional beds were available. About 30 to 40% of the current beds are probation cases and 20 to 25% are post-release control cases. If those beds are not used, then they can be rolled over to use for transitional control.

The purposes of transitional control are to provide the inmate with an opportunity for employment, educational training, vocational training, treatment and programming, and to help him re-establish family ties. Because of the focus on training and programming, a significant portion of halfway house funding is aimed at programming.

The process for transitional control includes a notice of pendency of transfer sent to the court and victim 30 days prior to transfer. The court notice is accompanied by an Institutional Summary Report and the court has the opportunity to approve or disapprove the transfer. If no response is received from the court within 30 days, then the transitional control process proceeds. She noted that, currently, judges statewide veto about 25% of the offenders eligible for transitional control. Another 25% are not processed, because during its screening, the Parole Board may discover a notation in the journal entry that the judge will not approve for transitional control. Ms. Handwerk declared that, if those offenders were placed on transitional control, 1,100 prison beds could be freed up at a cost savings of approximately \$4.7 million.

Participation in the transitional control program, she reported, considerably impacts the offenders' recidivism rates. 11.8% of all successful completers are less likely to return to prison. 16.8% of the high risk successful completers are less likely to return to prison. She proudly noted that 75% of the participants successfully complete the program.

Based on the high rate of success, Phil Nunes, representing the Ohio Justice Alliance for Community Corrections, expressed concern about the rate of vetoes in some counties. Since most inmates return home from prison with little more than \$75 of gate money, it seems counterintuitive to public safety to veto an opportunity to help their adjustment back into the community. He suggested that it might make more sense to place a low-risk person on electronic monitoring rather than placing them in a residential facility.

Parole Board Chair Cynthia Mausser suggested that it might be worth consideration to place short-term offenders on transitional control for the last 6 to 9 months of their sentences.

FUTURE MEETINGS

Dir. Diroll reported that representatives from nonsupport programs will be presenting some information at the March meeting.

Future meetings of the Ohio Criminal Sentencing Commission and Advisory Committee are tentatively scheduled for March 17, April 21, May 19, June 16, July 21, August 18, September, 15, October 13, November 17, and December 15, 2011.

The meeting adjourned at 2:10 p.m.