

COUNTYWIDE CRIMINAL JUSTICE COORDINATION COMMITTEE

MINUTES OF THE **March 11, 2020** MEETING

Kenneth Hahn Hall of Administration
500 West Temple Street, Room 739
Los Angeles, California 90012

MEMBERS AND ALTERNATES PRESENT

Chair: Kathryn Barger, Supervisor, Fifth District and Chair of the County Board of Supervisors

Jackie Lacey, District Attorney and Vice Chair of CCJCC

Erika Anzoategui, County Alternate Public Defender

*Larry Canter for Debra Duardo, Superintendent, County Office of Education

John Curley, President, San Gabriel Valley Police Chiefs Association

Peter Espinoza, Director, Office of Diversion and Reentry

Ricardo Garcia, County Public Defender

Lajuana Haselrig for Alex Villanueva, Sheriff

Christa Hohmann, Directing Attorney, Post Conviction Assistance Center

Raymon Leyva, County Chief Probation Officer

Richard Llewellyn, Los Angeles City Administrative Officer

Jonathan Lucas, County Coroner – Chief Medical Examiner

Edward McIntyre for Jacki Bacharach, County Quality & Productivity Commission

Emilio Mendoza for Bobby Cagle, Director, County Department of Children and Family Services

Don Meredith for Joe Gardner, President, County Probation Commission

Dean Milligan, President, Southeast Police Chiefs Association

Anthony Miranda for John Incontrol, President, Los Angeles County Police Chiefs Association

Ezekiel Perlo, Directing Attorney, Indigent Criminal Defense Appointments Program

Robert Philibosian, Peace Officers Association of Los Angeles County

Kris Pitcher for Michel Moore, Chief, Los Angeles Police Department

Ray Regalado for Robin Toma, Executive Director, County Human Relations Commission

*Zee Rodriguez for Xavier Becerra, California Attorney General

Joanne Saliba for Ed Eng, County Economy and Efficiency Commission

Sergio Tapia II, Assistant Supervising Judge, Criminal Division, Superior Court

Sergio Tapia II for Sam Ohta, Supervising Judge, Criminal Division, Superior Court

Rachel Teitelbaum for Eric Garcetti, Mayor, City of Los Angeles

Christopher Thompson for Jonathan Sherin, Director, County Department of Mental Health

Andrea Welsing for Barbara Ferrer, Director, County Department of Public Health

Noro Zurabyan for Mary Wickham, County Counsel

***Not a designated alternate**

I. CALL TO ORDER / INTRODUCTIONS

Chair Kathryn Barger, County Supervisor, Fifth District

The meeting was called to order at 12:00 noon by Los Angeles County Supervisor Kathryn Barger, Chair of CCJCC.

Self-introductions followed.

II. APPROVAL OF THE MINUTES

Chair Kathryn Barger, County Supervisor, Fifth District

There were no requests for revisions to the minutes of the February 12, 2020 meeting. A motion was made to approve the minutes.

ACTION: The motion to approve the minutes of the February 12, 2020 meeting was seconded and approved without objection.

III. AD HOC OPIOID EPIDEMIC WORKING GROUP

Assistant U.S. Attorney Benjamin R. Barron, Special Counsel to the U.S. Attorney – Opioid Enforcement, Branch Chief – Santa Ana Branch Office, U.S. Attorney’s Office – Central District of California

Assistant U.S. Attorney A. Carley Palmer, Criminal Appeals Section, Former Section Opioids Coordinator – International Narcotics, Money Laundering, and Racketeering Section, U.S. Attorney’s Office – Central District of California

Assistant U.S. Attorney Benjamin Barron and Assistant U.S. Attorney Carley Palmer, both of the U.S. Attorney’s Office – Central District of California, presented on the work of the Ad Hoc Opioid Epidemic Working Group and its report to this committee.

The Ad Hoc Opioid Epidemic Working Group Report to CCJCC, as well as PowerPoint slides that were used for this presentation, have been posted online at <http://ccjcc.lacounty.gov>.

Background

As background, at the April 17, 2019 meeting of CCJCC, several member agencies presented on initiatives and partnerships in place to combat the opioid crisis.

Following the presentation, CCJCC approved a motion to create an Ad Hoc Opioid Epidemic Working Group. The motion was made by U.S. Attorney Nicola Hanna and Robert Philibosian of the Peace Officers Association of Los Angeles County.

The Working Group – co-chaired by Mr. Barron and Ms. Palmer – was tasked with developing and identifying strategies to assist with interagency coordination in the areas

of enforcement, prevention, and treatment with respect to the opioid epidemic, and to report back to CCJCC with recommendations.

Overview of Opioid Epidemic

Mr. Barron stated that the rise in opioid overdose deaths has come in three waves. The first wave began in the late 1990's and involved a rise in prescription opioid overdose deaths. The drugs involved were commonly prescribed opioids, which were natural and semi-synthetic opioids and Methadone.

The second wave began around 2010 and involved a rise in heroin overdose deaths.

The third wave began around 2013 and involved a rise in synthetic opioid overdose deaths. Examples of the drugs involved include Tramadol and Fentanyl, prescribed or illicitly manufactured.

Mr. Barron noted that each successive wave has compounded the problem and did not offset the deaths from previous waves.

He also reported that deaths where heroin is spiked with Fentanyl have increased notably this past decade, which indicates how dangerous Fentanyl is.

Locally, Los Angeles County has seen a 44% increase in unintentional opioid deaths from 2017 to 2019, with Fentanyl-related deaths more than doubling in the same time frame. In 2019, Fentanyl was involved in more than half of the unintentional opioid fatalities.

Fentanyl is cheap and easy to manufacture. It can also be used to create counterfeit pills so that individuals may take them not realizing that they are taking Fentanyl.

Mr. Barron observed that this region is about two years behind that of the East Coast of the U.S. with respect to overdose deaths.

Ad Hoc Opioid Epidemic Working Group Meetings

Ms. Palmer reported that the Ad Hoc Opioid Epidemic Working Group began meeting on a regular basis starting in June 2019. The Working Group included representatives from the following Departments/Organizations:

- U.S. Attorney's Office (co-chairs)
- District Attorney's Office
- Department of Public Health (DPH)-Substance Abuse Prevention & Control
- Drug Enforcement Administration
- Joint Regional Intelligence Center
- Los Angeles Police Department
- L.A. County Sheriff's Department
- Medical Examiner-Coroner

- Peace Officers Association of L.A. County

The following were major topics that were covered at the meetings:

- Overdose Detection Mapping Application Program (ODMAP)
- Public health strategies
- Law enforcement efforts
- Department of Health Services (DHS) efforts
- Medical Examiner-Coroner prescriber notification program
- Access to Naloxone
- Prisoner rehabilitation and diversion programs

Mr. Barron stated that the Working Group heard presentations from various individuals on these topics. The presentations were followed by detailed roundtable discussions by members.

Final Report

The Working Group developed fifteen (15) recommendations for consideration in its report back to CCJCC. The recommendations are divided into the following four categories:

- Access to Opioids and Public Education
- Substance Use Disorder (SUD) Treatment Approaches
- Enhancing Data Capacity
- Investigation and Enforcement

Mr. Barron reviewed the following five recommendations under Access to Opioids and Public Education:

1. Support DHS expected practices in educating patients who receive opioids.
2. Provide outreach to non-County health care clinics and community organizations.
3. Provide education to mental health professionals on trends and resources.
4. Expand accessibility of safe drug disposal at DHS pharmacies and facilities.
5. Engage with CalRecycle to provide input on the implementation of SB 212.

Ms. Palmer reviewed the next four recommendations, which fall under the category of SUD Treatment Approaches:

6. Support expansion of access to MAT.
7. Support ongoing work to engage with current and former inmates.
8. Expand access to peer advocates.
9. Support naloxone acquisition and deployment.

Mr. Barron reviewed the next three recommendations, which fall under the category of Enhancing Data Capacity:

10. Support efforts of the Emergency Medical Services Authority to set statewide standards for tracking opioid overdoses.
11. Increase resources for the Chief Medical Examiner (CME) Office's data maintenance and analysis capabilities.
12. Support ODMAP data collection and analysis.

Ms. Palmer reviewed the final three recommendations, which fall under the category of Investigation and Enforcement:

13. Educate first responders on the importance of preserving evidence found at the scenes of overdose deaths.
14. Engage with hospitals on preserving blood samples for suspected overdose deaths.
15. Increase resources to fund placement of law enforcement officers on opioid task forces.

Questions

Judge Peter Espinoza, Director of the Office of Diversion and Reentry (ODR), reported that ODR is currently administering two federal grants that fund efforts to address the Opioid epidemic through Project LEAD. In addition, in collaboration with the Sheriff's Department, ODR has been training inmates in the use of Naloxone and distributing it to inmates that leave the jail.

Mr. Barron noted that it is important for grant funds to be made available to smaller law enforcement agencies so that they have Naloxone available.

Christopher Thompson of the County Department of Mental Health inquired as to the connectivity of prescription drug monitoring programs between states. Mr. Barron stated that this remains an issue to resolve. All states now have prescription drug monitoring programs, but many track the data, receive the data, and provide the data differently depending upon state law.

Supervisor Barger inquired of Judge Espinoza as to whether the outcomes of the Naloxone distribution program are being monitored. Judge Espinoza stated that ODR has been tracking to see how the Naloxone is used and how effective the program is. ODR will follow-up with Supervisor Barger's Office as to specific results.

Andrea Welsing of the Department of Public Health inquired as to the demographics of overdose victims. Dr. Jonathan Lucas, County Coroner – Chief Medical Examiner, stated that, historically, most overdoses tend to be in the age range of middle 30's up to people in their 50's. Anecdotally, he noted that there appears to be a dropping in the age range of overdoses due to Fentanyl. Mr. Barron added that more youth are being impacted due

to the introduction of counterfeit pills.

Dr. Lello Tesema of DPH, who served on the Ad Hoc Opioid Epidemic Working Group, provided additional information about the demographic breakdown. She also noted that about two-thirds of the overdoses are males.

Supervisor Barger referenced the Medical Examiner-Coroner prescriber notification program. Dr. Lucas added that the letters are sent from his office to any prescriber that wrote a prescription for opioids, *or any other medication that may have had an added effect*, that led to an overdose death.

Mr. Philibosian, who served as a member of the Working Group, thanked Mr. Barron and Ms. Palmer for their leadership in chairing the meetings and steering the discussions.

A public comment was made by Ms. Genevieve Clavreul.

Motion

A motion was made to approve the report from the Ad Hoc Opioid Epidemic Working Group and refer it to the CCJCC Chair and member agencies for any follow-up action deemed appropriate.

ACTION: The motion to approve the report from the Ad Hoc Opioid Epidemic Working Group and refer it to the CCJCC Chair and member agencies for any follow-up action deemed appropriate was seconded and approved without objection.

IV. LOS ANGELES SUPERIOR COURT'S PRE-ARRAIGNMENT/PRE-TRIAL PILOT

Hon. Sergio Tapia II, Assistant Supervising Judge, Criminal Division,
Los Angeles Superior Court

Judge Sergio Tapia II, Assistant Supervising Judge of the Criminal Division of the Los Angeles Superior Court, provided an update on the Los Angeles Superior Court's Pre-Arrest/Pre-Trial pilot program.

PowerPoint slides that were used for this presentation have been posted online at <http://ccjcc.lacounty.gov>.

This is an update to a presentation that Judge Sam Ohta, Supervising Judge of the Criminal Division of the Los Angeles Superior Court, made last year at the October 2019 CCJCC meeting.

The pilot program has been given the title of Los Angeles Bail Reform Pilot Pretrial Risk Evaluation Process (PREP). The official start date of operations is now set for March 23, 2020.

Background

Criminal justice reform efforts have included a focus on the cash bail system and possible alternatives. In 2016, consideration was given at the local level to cash bail reform. A Bail Reform Team was created that studied this issue.

On the state level, Senate Bill 10 (SB 10) was signed by Governor Brown in 2018. This eliminates the state's cash bail system and replaces it with a pretrial risk assessment. However, this law is on hold pending a referendum on this in the November 2020 election.

SB 10 represents a new legislative scheme and, if it is upheld by the voters in the November 2020 election, will become law.

Efforts have continued to make reform within the existing legislative scheme. Last year's state budget earmarked \$75 million to the Judicial Council to launch and evaluate two-year pretrial projects in local trial courts.

As directed by the State Legislature, the projects are to do the following:

- Aim to increase the safe and efficient release of arrestees before trial;
- Use the least restrictive monitoring practices possible while protecting public safety and ensuring court appearances;
- Validate and expand the use of risk assessment tools; and
- Assess any bias.

The Judicial Council approved 16 Courts in the state to implement the pretrial projects. The Los Angeles Superior Court was one of the Courts that was selected, and it will be allotted a total of \$17.3 million from the Judicial Council for this effort.

Judge Tapia emphasized that these pretrial projects are efforts at reform within the confines of the current cash bail system. This is in contrast with SB 10, which is an example of the legislature taking action in an attempt to change the existing system.

Los Angeles Bail Reform Pilot Pretrial Risk Evaluation Process (PREP)

The Los Angeles pilot program is comprised of the following two-step process:

1. Bail Deviation (Penal Code Section 1269c) - Countywide

All eligible pretrial detainees will be assessed with a static risk assessment tool (PSA – Public Safety Assessment – Arnold tool) at bail deviation (P.C. Section 1269c).

2. Arraignment – At the Clara Shortridge Foltz Criminal Justice Center

Pretrial detainees at the Clara Shortridge Foltz Criminal Justice Center who were not cited out, bailed out, or released through the bail deviation step will be risk assessed with a dynamic tool (C-CAT – Criminal Courts Assessment Tool – Center for Court Innovation).

Justice partners that will be participating with the Los Angeles Superior Court in the pilot include the Probation Department, County Counsel, Sheriff's Department, Information Systems Advisory Board, County CEO, Board of Supervisors – Justice Deputies, District Attorney's Office, Public Defender's Office, Alternate Public Defender's Office, and Los Angeles City Attorney's Office.

Bail Deviation

The current law regarding bail deviation (P.C. Section 1269c) has the pre-trial detainee request a bail deviation. Under the rules of the pilot program, the risk assessment will be completed automatically for all eligible pretrial detainees.

This is significant given that there are only about 12 to 20 calls per day requesting bail deviation, whereas there are 1,000 to 1,200 people arrested countywide on a daily basis. Up to 400 of these individuals may be eligible for the automatic bail deviation consideration.

Certain individuals are not eligible for bail deviation consideration, among which are included those that are arrested for serious felonies, violent felonies, or certain domestic violence offenses (P.C. Section 1270.1). There also would not be bail deviation for individuals arrested for a probation violation.

When the person is arrested and detained at the local jail, there are 48 hours until filing/arraignment (except for weekends and holidays). Within this time period, Probation interviews the pretrial detainee, gathers information, and then uses a risk assessment tool to assist in making a recommendation as to what the judicial officer should do.

With the pilot process, the procedures will work the same, but now the individual will not need make the request for a bail deviation consideration as this will be completed for all eligible individuals. The information received as a result of LiveScan fingerprinting during booking is auto-populated into the risk assessment (PSA) tool.

The bench officer reviews the results of the risk assessment tool along with other items, such as the charge(s) and rap sheet, in making a final decision on bail deviation.

Judge Tapia noted that law enforcement will still have an opportunity to request a bail deviation upwards if an individual poses a danger that the bench officer needs to be aware of.

Arraignment

The pilot program for bail deviation at the Arraignment stage will be handled at the Clara Shortridge Foltz Criminal Justice Center (CJC). This step in the pilot program applies to pretrial detainees in the Central District who were not cited out, bailed out, or released through the bail deviation step.

The Probation Department oversees pre-trial supervision and will use the C-CAT (Criminal Courts Assessment Tool) to perform risk assessments of detainees.

It is expected that many lower risk individuals will be identified and released at the bail deviation phase (first step of pilot program), so this part of the pilot will have a focus on those individuals that are mid-level risk and lower-level risk that have not been released.

Currently, pretrial detainees in the local jail are transported to CJC where the prosecutor makes a filing decision in which the individual is either released or arraigned. With the pilot program, the detainees will be interviewed by Pretrial Services and the C-CAT assessment will be completed prior to the prosecutor's filing decision.

Following the prosecutor's filing decision, if the detainee isn't released, the judicial officer and attorneys will use the C-CAT results in decision making at the bail review phase (P.C. Section 1275). The C-CAT score will be considered along with the usual considerations of the seriousness of the offense, public safety, criminal history, and flight risk.

Individuals that are released through this program will be referred to Probation for pretrial supervision at different levels. For example, some may be released with an ankle monitor, which this pilot program will pay for.

Judge Tapia noted that individuals may still bail out or may be released on their own recognizance.

Reform of Cash Bail System

Judge Tapia provided an overview of some of the issues being considered with reform of the cash bail system. For instance, risk assessment tools have been offered as an alternative. On one hand, risk assessment tools can be helpful in providing additional information to judicial officers in making a final decision. However, if the historical data is flawed, then the outcome may also be flawed.

Senate Bill 36

Senate Bill 36 (SB 36) is a new law that adds a section on validating/studying risk assessments to the California Penal Code (P.C. 1320.35).

Specifically, SB 36 requires the following:

- Validate risk assessment tools by January 1, 2021.
- Continue to validate the risk assessment tools no less frequently than once every three years.
- The Judicial Council is to maintain a list of agencies that satisfy these conditions.
- Local government agencies that use a risk assessment tool, along with the California Department of Justice (DOJ) and the Superior Courts, are to transmit data to the Judicial Council.
- Beginning on December 31, 2020, and each year thereafter, the Judicial Council is to publish a report on its website that shows data related to outcomes and potential biases in pretrial release.

Data Collection

All of the data that is collected from the pilot programs will be transmitted from the participating Superior Courts to the Judicial Council in order to study whether the risk assessment tools are performing in an appropriate manner.

PREP's Philosophy

Judge Tapia emphasized that the pilot program has a goal of collaboration among justice partners in working toward creating a more equitable and fair criminal justice system.

The program is also flexible and subject to change if needed to make improvements.

Questions

Supervisor Barger inquired about bail reform efforts in New York City. Judge Tapia stated that it is difficult to apply the practices in New York to our local justice system because California trial courts are bound by the State Constitution and legislation. There is more flexibility in the New York system as a result.

For example, the question of bail in California is addressed in the Constitution. In contrast, bail in New York is not governed by their Constitution. Additionally, the Mayor of New York has the authority to make changes to the jail system, whereas our local justice system would need to have action taken by the State Legislature or, in some cases, the voters.

Judge Tapia also advised that New York has a robust and well-funded network of non-profits that helps to make their approach workable.

Los Angeles County District Attorney Jackie Lacey stated that the Court's PREP pilot program may result in fewer people in custody and therefore less people to divert. This in turn may lead to more space in community placement for those individuals that are diverted.

Judge Tapia noted that, with respect to the arraignment part of the pilot program, the Probation Department is working with a non-profit organization that will assist in connecting individuals with appropriate services. Efforts are being made to seek additional funding for the various services that will be needed.

In response to a query from District Attorney Lacey, Judge Tapia stated that Court representatives have met with law enforcement agencies in the county to explain the PREP pilot program and to ensure that officers are informed as to when to come to Court.

The Probation Department will separately do text reminders of Court appearances for people that are released under the arraignment part of the program.

ACTION: For information only.

V. OTHER MATTERS / PUBLIC COMMENT

There were no public comments.

VI. ADJOURNMENT

The meeting was adjourned at 1:06 p.m.