

COUNTYWIDE CRIMINAL JUSTICE COORDINATION COMMITTEE

MINUTES OF THE **September 19, 2018** MEETING

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

MEMBERS AND ALTERNATES PRESENT

Chair: Sheila Kuehl, Supervisor, Third District and Chair of the County Board of Supervisors

Jenny Brown for Nicole Tinkham, Interim County Public Defender

Liliana Campos for Mary Wickham, County Counsel

*Patricia Carbajal for Sachi Hamai, County Chief Executive Officer

Beatriz Dieringer, California League of Cities

*Mark Diorio for Scott Minnix, Director, County Internal Services Department

Peter Espinoza, Director, Office of Diversion and Reentry

*Xiomara Flores Holguin for Bobby Cagle, Director, County Department of Children and Family Services

*Jewel Forbes for Debra Duardo, Superintendent, County Office of Education

Janice Fukai, County Alternate Public Defender

Michael Garcia, Assistant Supervising Judge, Criminal Division, Superior Court

*Maria Gutierrez for Jim McDonnell, Sheriff

Doug Haubert, Long Beach City Prosecutor, County Prosecutors Association

Christa Hohmann, Directing Attorney, Post Conviction Assistance Center

Dan Jeffries for Mike Feuer, Los Angeles City Attorney

*Synthia Lee for Michel Moore, Chief, Los Angeles Police Department

Jonathan Lucas, County Coroner – Chief Medical Examiner

Mary Marx for Jonathan Sherin, Director, County Department of Mental Health

Terri McDonald, County Chief Probation Officer

Edward McIntyre for Shawn Landres, Chair, County Quality & Productivity Commission

Sam Ohta, Assistant Supervising Judge, Criminal Division, Superior Court

Sam Ohta for Scott Gordon, Supervising Judge, Criminal Division, Superior Court

Ezekiel Perlo, Directing Attorney, Indigent Criminal Defense Appointments Program

Robert Philibosian, Peace Officers Association of Los Angeles County

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

*Ray Regalado for Cynthia Banks, Director, County Department of Workforce Development, Aging and Community Services

Devallis Rutledge for Jackie Lacey, District Attorney and Vice Chair of CCJCC

Omar Watson for Chris O'Quinn, Chief, Southern Division, California Highway Patrol

Darneika Watson-Davis for Austin Beutner, Superintendent, Los Angeles Unified School District

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

***Not a designated alternate**

I. CALL TO ORDER / INTRODUCTIONS

Chair Sheila Kuehl, County Supervisor, Third District

The meeting was called to order at 12:00 p.m. by Los Angeles County Supervisor Sheila Kuehl, Chair of CCJCC.

Self-introductions followed.

II. APPROVAL OF THE MINUTES

Chair Sheila Kuehl, County Supervisor, Third District

There were no requests for revisions to the minutes of the July 18, 2018 meeting. A motion was made to approve the minutes.

ACTION: The motion to approve the minutes of the July 18, 2018 meeting was seconded and approved without objection.

III. LAW ENFORCEMENT ASSISTED DIVERSION (LEAD)

Judge Peter Espinoza, Director, Office of Diversion and Reentry

Judge Peter Espinoza, Director of the Office of Diversion and Reentry (ODR), appeared before CCJCC to make a presentation on the Law Enforcement Assisted Diversion (LEAD) program.

LEAD is a community-based, pre-booking diversion program for people whose criminal activity is due to unmet behavioral health needs. The program aims to reduce criminal behavior and improve public safety by having law enforcement connect low level offenders with community-based treatment and supportive services.

Instead of making an arrest, law enforcement immediately connects offenders to a case manager that can assist them with housing and other services.

The LEAD program is based on a successful program that was implemented in Seattle, Washington.

In November 2016, the Board of Supervisors instructed ODR to develop the program in response to the Board of State and Community Corrections (BSCC) request for proposals.

The pilot planning period lasted from April through October of 2017 and the program was launched in November of that year. The LEAD program is funded by a \$5.9 million grant from the BSCC.

The program has been implemented in the Long Beach Boulevard corridor, which is a five mile area that includes parts of Lynwood, Compton, Long Beach, and unincorporated Los Angeles County. The pilot is scheduled to end in June 2020.

This is a multi-department effort with many partners from within the County of Los Angeles and the City of Long Beach, as well as other agencies and people with lived experience of incarceration and substance use.

Judge Espinoza reported that the LEAD Policy Committee meets quarterly to review program data and resolve issues as they arise.

Critical components of the program include mutual respect among partners (which involves planning and coordination), harm reduction service delivery, and community engagement.

The components of harm reduction service delivery include the following:

- Meet people where they are;
- Services are not contingent on sobriety;
- Case management is guided by participants - Individual Service Plans;
- Housing first resources;
- Driven by basic recognition of a participant's often challenging paths and individual needs; and
- Understanding participants as survivors and agents of change.

Judge Espinoza reported that information on the program has been presented at local community meetings. In addition, law enforcement officers and case managers have spoken with residents, business owners, religious leaders, and sex workers to inform them about the program and the services that are available.

There have been a total of 195 individuals referred to the LEAD program since it began. In addition, there are currently 110 individuals participating in the program.

Law enforcement officers from the Long Beach Police Department and the Los Angeles County Sheriff's Department have identified individuals with histories of repeated incarceration for behavioral health motivated crimes and offered them, in lieu of arrest, an opportunity to participate in the program.

About 44% of the referrals come from law enforcement during the pre-booking stage at the point of arrest. The other 56% are social contract referrals, which are primarily referrals from outreach and engagement.

Judge Espinoza reported that 87% of all of the program participants are homeless, and many of the remaining 13% are unstably housed (i.e., staying with a friend, motel, or don't want to disclose that they are homeless).

With regard to demographics, 31% of participants are Latino/a, 44% are African American, 22% are Caucasian, 1% are Native American, and 2% are Asian/Pacific Islander. In addition, 60% are women and 40% are men.

A total of 7% of participants are aged 20 and younger, 39% are of ages 20 to 40, 48% are of ages 40 to 60, and 6% of participants are over the age of 60.

There are 28 individuals in interim housing through the LEAD program. Of these, 18 are in stabilization, 5 are in crisis housing (a motel), 2 are in recuperative care, 2 are in substance use disorder inpatient treatment, and 1 is with family.

In addition, 15 participants are in permanent supportive housing at home and 6 are in assigned permanent supportive housing.

Andrea Welsing from the Department of Public Health inquired as to how many of the female participants are victims of domestic violence. Judge Espinoza stated that he did not have an exact number with him, but he confirmed that many of the homeless women in the program are homeless due to escaping from a domestic violence situation.

Supervisor Kuehl noted that this information is available through the homeless count that is conducted every year. Among women, data indicates that there is a notable correlation between sexual assault at a young age, as well as domestic violence, with both incarceration and homelessness.

ACTION: For information only.

IV. DIVERSION PROGRAMS IMPLEMENTED BY THE OFFICES OF THE LONG BEACH CITY PROSECUTOR AND LOS ANGELES CITY ATTORNEY

Doug Haubert, Long Beach City Prosecutor

Dan Jeffries, Supervising Attorney, Criminal and Special Litigation Branch,
Los Angeles City Attorney's Office

Long Beach City Prosecutor's Office

Long Beach City Prosecutor Doug Haubert appeared before CCJCC to present on the following three programs from his office: Community Service Worker (CSW), Promising Adults, Tomorrow's Hope (PATH), and Priority Access Diversion (PAD).

Community Service Worker (CSW)

The Community Service Worker (CSW) program began in 2001 as a local alternative to CalTrans court-ordered labor; now 62% of cases are pre-filing diversion.

CSW is a local work program that allows individuals to choose their service (e.g., tree plantings, beach cleanups, wetlands preservation, graffiti removal, park maintenance, community gardens, special neighborhood cleanups, etc.).

Participants are offered this as an alternative to coming to Court and/or paying a fine.

The CSW program was named “Best Program in America” by Neighborhoods, USA in 2016.

An informational video of the CSW program can be accessed at the following link:

<https://vimeo.com/168856652>

Mr. Haubert reported that there were 650 volunteer opportunities last year. Additionally, 4,045 people completed 136,052 hours of community service in the last four years.

Priority Access Diversion (PAD)

The pilot of the Priority Access Diversion (PAD) program began in 2017. This is an alternative sentencing option for high-frequency offenders that are diagnosed with substance abuse and/or mental illness conditions.

Clinicians with the Department of Mental Health Court Linkage program and local nonprofit organizations perform a psychosocial assessment and identify appropriate residential, recovery-based treatment programs.

There were 48 cases in the first six months. Of these, 40 (83%) were diverted from custody into live-in treatment.

The City of Long Beach hired a booking clinician in April 2018 to be assigned to the booking area. As a result, in addition to identifying individuals outside of custody who might be in need of the mental health or substance use disorder services, the booking clinician can also do that at the booking stage.

A Justice Lab was also initiated in Long Beach to review data. Mr. Haubert reported that 5% of offenders have 11 or more arrests/citations in a five-year period. Further, 5% of offenders are responsible for over 15% of all of the citations and arrests.

The work of the Justice Lab has assisted the Long Beach City Prosecutor’s Office with identifying the high-frequency offenders that may be appropriate for the PAD program.

Mr. Haubert referenced the important model that the LEAD program has provided in the development of the PAD program.

Promising Adults, Tomorrow's Hope (PATH)

Promising Adults, Tomorrow's Hope (PATH) is an education and employment-based Court diversion program for 16 to 24 year olds. Services are provided by Pacific Gateway (PGWIN), with funding from U.S. Department of Labor.

The program offers pre-filing, deferred entry of judgment, or alternative sentencing options. Mr. Haubert noted that 93% of the cases are pre-filing.

A total of 535 people have received education and/or job skills assistance through PATH since January 2016.

The program is based on developing brain science research promoted by the U.S. Department of Justice and the National Institute of Justice that indicates that brains are not fully developed until the age of 25.

An informational video of the PATH program was shown to those in attendance, and can be accessed at the following link:

<https://vimeo.com/288852271>

All PATH participants must attend classes, meet with career counselors, and participate in a number of job based programs. If successful, PATH may be used as a model across the country.

Over 100 individuals signed-up for PATH in the first four months. A total of 193 individuals that signed-up in the first year completed the program.

Mr. Haubert provided the following additional information:

- 100% of PATH participants received a one-on-one assessment.
- 155 participants received job readiness assistance.
- 15 participants were placed directly in jobs.
- 3 participants received paid internships.
- 144 participants received more education.
- 135 participants completed a six-hour anti-recidivism course.
- 51 people attended class to help them get back their driver's license.

Los Angeles City Attorney's Office

Dan Jeffries, Supervising Attorney of the Criminal and Special Litigation Branch of the Los Angeles City Attorney's Office, appeared before CCJCC to facilitate an overview of three diversion programs that have been implemented by the Los Angeles City Attorney's Office. These are the Neighborhood Justice Program (NJP), LA DOOR (Diversion, Outreach, & Opportunities for Recovery), and Homeless Engagement and Response Team (HEART).

Neighborhood Justice Program (NJP)

Mr. Jeffries introduced Jose Egurbide of the Los Angeles City Attorney's Office to provide an overview of the Neighborhood Justice Program (NJP), which is a pre-filing, restorative justice program for first-time, non-violent offenders. The program began in late 2014 to address the large number of misdemeanor cases going through Court with first-time offenders, and it focuses on engagement, education, and rehabilitation.

Offenders take responsibility for their actions and, instead of going to Court, they appear before a three-person panel of community volunteers to discuss the crime and its harm to the victim(s) and community. A trained mediator/facilitator is also present, along with the victim(s).

At the conclusion of the panel, NJP volunteers recommend tailored obligations for the participant to complete. These might include paying restitution to the victim, attending therapeutic counseling to address issues, such as anger management or substance abuse, seeking employment assistance, repairing property damage, writing a letter of apology, or other actions with a connection to the underlying offense.

The recidivism rate for the program is 4.33%. In addition, a risk and needs assessment tool, developed by the Center for Court Innovation, was piloted in a small area. This was done to create more individual engagement plans for program participants. The recidivism rate in this area is 2.27%.

By comparison, based on records from the Los Angeles City Attorney's Office, similarly situated defendants have a 22% recidivism rate.

LA DOOR (Diversion, Outreach, & Opportunities for Recovery)

Mr. Jeffries next introduced Jamie Larson of the Los Angeles City Attorney's Office to provide an overview of LA DOOR (Diversion, Outreach, & Opportunities for Recovery), which is a comprehensive, health-focused drug intervention strategy that emphasizes engagement, education, and rehabilitation.

LA DOOR offers a diversion and outreach opportunity for recovery. The program is intended to address addiction, mental health, and physical wellness in the field rather than in a courtroom. The focus of this program is on repeat offenders for misdemeanor drug possession.

A \$6,000,000 Proposition 47 grant award supports LA DOOR operations in the 77th, Southwest, and Southeast LAPD Divisions.

LA DOOR is accessed through two avenues:

- The first is through outreach at "hotspot" locations. LA DOOR delivers mobile social services to five South Los Angeles locations that are in areas with a high

density of misdemeanor drug arrests and homelessness. The mobile team is staffed by SSG Project 180 and consists of a multi-disciplinary team that includes, among others, a program manager, field supervisor, substance use disorder specialist, mental health clinician, licensed vocational nurse, and peer case managers.

- The second is through pre-booking diversion. LA DOOR connects misdemeanor drug possession arrestees with an opportunity to engage in services instead of being booked into custody and prosecuted. Arresting officers make a call to a hotline and a member of the LA DOOR mobile team responds to the station to make the social service linkage.

The program began in March and is committed to having a caseload of 500 people by the end of the three-year grant. There are currently over 200 participants.

An additional support tool offered through the program is low-barrier interim housing to participants. This helps to stabilize participants so that they can engage in LA DOOR services.

Homeless Engagement and Response Team (HEART)

Mr. Jeffries introduced Gina Di Domenico of the Los Angeles City Attorney's Office to provide an overview of the Homeless Engagement and Response Team (HEART).

This program helps participants resolve eligible traffic tickets and pedestrian citations by engaging in services instead of paying fines and fees they cannot afford.

Eligible individuals must be adults that are experiencing homelessness or at risk of experiencing homelessness. Individuals may also qualify if they require substance or mental health treatment assistance.

HEART is funded by the Los Angeles County Board of Supervisors to support the Criminal Record Clearing Project by administering the Los Angeles County Homeless Court Program.

The original goal of the program was to serve 900 individuals in the first three years, but this target was far exceeded and over 2,700 individuals have been served.

Ms. Di Domenico noted that the Public Defender's Office provides support with record expungement and other post-conviction matters, and the Los Angeles City Attorney's Office provides support with the traffic citations and pedestrian citations.

Ms. Di Domenico invited members of the committee to attend any local outreach events held by the HEART program.

ACTION: For information only.

V. ASSEMBLY BILL 1810

Assistant Supervising Judge Sam Ohta, Criminal Division,
Los Angeles Superior Court

Judge Sam Ohta, Assistant Supervising Judge of the Criminal Division of the Los Angeles Superior Court, appeared before CCJCC to provide an overview of California Assembly Bill 1810 (AB 1810).

AB 1810 was signed into law in June 2018. Under this law, a Court may grant pre-trial diversion for up to two years if it is found that a defendant has a mental disorder that played a significant role in the commission of the charged offense.

As background, Judge Ohta reviewed the following different philosophies concerning criminal justice – Retribution, Utilitarianism, and Restorative justice. Restorative justice seeks to rehabilitate individuals and rectify harm that was done so that, to the extent possible, people are restored to the state that they were in prior to the crime happening.

Restorative justice methods can be utilized at pre-filing hearings, pre-trial diversion, deferred entry of judgement, and post judgement.

With the pre-filing model, prosecutors use their discretion to refer someone into a program. This is a non-statutory process. No case is filed if the individual successfully completes the program or treatment.

Pre-trial diversion may be statutory or non-statutory. This takes place post-filing, but pre-plea, which means that the judicial system is involved. If the individual is successful, the case is dismissed.

Deferred entry of judgement (DEJ) can also be statutory or non-statutory. DEJ takes place post-filing, but requires the entry of a plea. If the individual is successful, the plea is vacated and the case is dismissed.

With post judgement, there is a regular criminal process, post-filing, and entry of a plea of guilty or no contest. The defendant is then placed on probation with a plan in place to provide services for helping the individual.

Judge Ohta stated that AB 1810 follows the pre-trial diversion model.

AB 1810 was passed this year as a budget trailer bill and took effect immediately upon the Governor's signature. The law pertains to Penal Code Section 1001.35, and its purpose is to promote the following:

- Increased diversion of individuals with mental disorders to mitigate the individuals' entry and reentry into the criminal justice system while protecting public safety.

- Local discretion and flexibility for counties in the development and implementation of diversion for individuals with mental disorders across a continuum of care settings.
- Diversion that meets the unique mental health treatment and support needs of individuals with mental disorders.

Judge Ohta provided an overview of the features of AB 1810 and noted that it is applicable to any misdemeanor or felony. In order to qualify for pre-trial diversion, the defendant's mental disorder would need to be found to have substantially contributed to the commission of the offense.

Most mental disorders would qualify, with the following exceptions: (1) Anti-social personality disorder, (2) Borderline personality disorder; and (3) Pedophilia.

The Court is the ultimate gatekeeper through the use of discretion as to whether the defendant would receive diversion. If diversion does happen, the defendant must undergo either inpatient or outpatient mental health treatment for a maximum of two years. The case would then be dismissed if the defendant performs satisfactorily in diversion.

Diversion may be terminated and criminal proceedings reinstated if the defendant is performing unsatisfactorily in the program or has been charged with a criminal case which meets certain criteria.

California Senate Bill 215 (SB 215) has been passed by the State Legislature, but not yet signed by the Governor. This is a clean-up bill to amend AB 1810 in the following three ways:

1. Adds a Restrictive List:

Charges of murder, voluntary manslaughter, lewd act on a child, and various sex offenses are made ineligible for diversion consideration under AB 1810.

2. Prima Facie Showing:

The Court is vested with authority to require the defendant to make a prima facie showing on eligibility and suitability. This is informal, where the offers of proof, reliable hearsay, and arguments of counsel are sufficient. The Court may summarily deny the request based on a failure of the defendant to make a prima facie showing.

3. Victim Restitution:

The defendant may be ordered to pay restitution as defined under Penal Code Section 1203.4(f). An inability of the defendant to pay victim restitution cannot be the basis of a finding that the defendant has failed diversion.

To qualify for mental health diversion, the defendant must satisfy six criteria:

- Have a DSM 5 categorized mental disorder, with the exception of anti-social personality disorder, borderline personality disorder, and pedophilia.
- The mental disorder substantially contributed to the commission of the charged offense.
- Symptoms would respond to mental health treatment.
- Consent and waiver of speedy trial rights, unless incompetent under Penal Code Section 1368, and found to be an appropriate candidate for diversion under Penal Code Section 1370(a)(1)(B)(iv).
- Agreement to comply.
- Defendant will not pose an unreasonable risk of danger to public safety, as defined under Penal Code Section 1170.18, if treated in the community.

Supervisor Kuehl thanked Judge Ohta and all of the presenters at this meeting and noted the importance of diversion programs within the justice system.

ACTION: For information only.

VI. OTHER MATTERS / PUBLIC COMMENT

Comprehensive Opioid Abuse Program Resource Center – Online Resource

Mark Delgado, Executive Director of the Countywide Criminal Justice Coordination Committee (CCJCC), advised the committee of an online resource on opioid abuse that has been released by the Bureau of Justice Assistance (BJA). This information from the Comprehensive Opioid Abuse Program Resource Center can be accessed at the following link:

<https://www.coapresources.org/>

This website provides educational materials, information on effective programs, funding announcements, and training/technical assistance opportunities.

California Department of State Hospitals - Incompetent to Stand Trial Grant

Patricia Carbajal, Legislative Analyst with the County Chief Executive Office (CEO), shared information related to the California Department of State Hospitals (DSH) Diversion Program.

DSH is offering a grant of over \$100 million over three years to the 15 counties in the state with the highest rates of individuals found to be Incompetent to Stand Trial (IST). Los Angeles County is eligible to apply for funding from this grant, which will help to fund mental health diversion efforts.

DSH will be holding a meeting on September 26, 2018, that will allow eligible counties to provide input as to how the funding and application process should work.

ODR will be participating in the discussions, and Ms. Carbajal has also reached out to departments for feedback to share with DSH about the funding opportunity and program implementation.

Members of CCJCC were advised to contact Ms. Carbajal if they would like to participate in this process and/or provide input.

Public Comments

There were no public comments.

VII. ADJOURNMENT

The meeting was adjourned at 1:00 p.m.