

COUNTYWIDE CRIMINAL JUSTICE COORDINATION COMMITTEE
MINUTES OF THE OCTOBER 3, 2012 MEETING
Kenneth Hahn Hall of Administration
500 West Temple Street, Room 739
Los Angeles, California 90012

MEMBERS AND ALTERNATES PRESENT

Chair: Zev Yaroslavsky, County Supervisor for the Third District and
Chair of the County Board of Supervisors

Ronald Brown, County Public Defender

Susan Cichy for John Clarke, Superior Court Executive Officer

Xiomara Flores-Holguin for Philip Browning, Director, County Department of Children
and Family Services

Janice Fukai, Alternate Public Defender

*Eric Harden for Steven Bogdalek, Special Agent in Charge, U.S. Bureau of Alcohol,
Tobacco, Firearms and Explosives

Christa Hohmann, Directing Attorney, Post Conviction Assistance Center

Georgia Mattera for William Fujioka, County Chief Executive Officer

*Kevin McCarthy for Charles Beck, Chief, Los Angeles Police Department

*Jonathan McCaverty for John Krattli, Acting County Counsel

Don Meredith, President, County Probation Commission

William Montgomery for Tom Tindall, Director, County Internal Services Department

Earl Perkins for John Deasy, Superintendent, Los Angeles Unified School District

Jerry Powers, County Chief Probation Officer

Timothy Robbins, Field Office Director, U.S. Immigration and Customs Enforcement

Devallis Rutledge for Steve Cooley, District Attorney

Joseph Santoro, Director, Independent Cities Association

Lakshmanan Sathyavagiswaran, County Coroner – Medical Examiner

*Peter Shutan for Carmen Trutanich, Los Angeles City Attorney

David Singer, United States Marshal

Marvin Southard, Director, County Department of Mental Health

William Sullivan, Chair, County Quality & Productivity Commission

Mitch Tavera, President, South Bay Police Chiefs Association

Robin Toma, Executive Director, County Human Relations Commission

*Robin Toma for Cynthia Banks, Director, County Department of Community & Senior
Services

John Viernes for Jonathan Fielding, Director, County Department of Public Health

Lance Winters for Kamala Harris, California Attorney General

***Not a designated alternate**

MEMBERS NOT PRESENT OR REPRESENTED

Lee Baca, Sheriff and Vice Chair of CCJCC
Isaac Barcelona, Chair, County Economy and Efficiency Commission
Bruce Barrows, California League of Cities
Steve Beeuwsaert, Chief, Southern Division, California Highway Patrol
Andre Birotte, U.S. Attorney
Michelle Carey, Chief U.S. Probation Officer
Matthew Cate, Secretary, California Department of Corrections and Rehabilitation
Jorge Cisneros, President, Southeast Police Chiefs Association
Arturo Delgado, Superintendent, County Office of Education
Lee Smalley Edmon, Presiding Judge, Superior Court
Mitchell Englander, Los Angeles City Council, 12th District
David Keetle, President, San Gabriel Valley Police Chiefs Association
Sean Kennedy, Federal Public Defender
Tim Landrum, Special Agent in Charge, U.S. Drug Enforcement Administration
George Lomeli, Assistant Supervising Judge, Criminal, Superior Court
Steve Martinez, Assistant Director in Charge, Los Angeles Division, Federal Bureau of Investigation
Edward Medrano, President, Los Angeles County Police Chiefs Association
Michael Nash, Supervising Judge, Juvenile, Superior Court
Charlaine Olmedo, Supervising Judge, North Valley - San Fernando, Superior Court
Ezekiel Perlo, Directing Attorney, Indigent Criminal Defense Appointments Program
Richard Propster, Peace Officers Association of Los Angeles County
Richard Sanchez, County Chief Information Officer
Miguel Santana, Los Angeles City Chief Administrative Officer
Patricia Schnegg, Supervising Judge, Criminal, Superior Court
Paul Tanaka, Undersheriff
Nancy Tragarz, California Contract Cities Association
Antonio Villaraigosa, Mayor, City of Los Angeles
Mike Webb, County Prosecutors Association
David Wesley, Assistant Presiding Judge, Superior Court

CCJCC STAFF

Mark Delgado, Executive Director
Cynthia Machen
Craig Marin
Michelle Pangborn
Ana Silva

I. CONVENE/INTRODUCTIONS

Ronald Brown, Public Defender

The meeting was called to order at 12:00 noon by Los Angeles County Public Defender Ronald Brown, Chair Pro Tem.

Self-introductions followed.

II. APPROVAL OF THE MINUTES
Ronald Brown, Public Defender

There were no requests for revisions to the minutes of the August 1, 2012 meeting. A motion was made to approve the minutes.

ACTION: The motion to approve the minutes of the August 1, 2012 meeting was seconded and approved without objection.

III. TASKFORCE ON CRIMES AGAINST THE HOMELESS
Robin Toma, Executive Director, County Human Relations Commission

Robin Toma, Executive Director of the County Human Relations Commission (HRC), appeared before CCJCC to provide an update on the Task Force on Crimes Against the Homeless.

On March 24, 2009, the Los Angeles County Board of Supervisors passed a joint motion by Supervisors Zev Yaroslavsky and Don Knabe that requested the County Human Relations Commission to address crimes against the homeless and to work with criminal justice agencies throughout the County to explore the feasibility of implementing a system to track crimes against the homeless. This motion was passed in response to several incidents in which victims of crimes were seemingly targeted because of their homeless status.

On May 20, 2009, CCJCC voted to establish the Task Force on Crimes Against the Homeless to facilitate the process of tracking crimes against the homeless. The Task Force includes representatives of the Los Angeles County Human Relations Commission, Sheriff's Department, Los Angeles Police Department, Long Beach Police Department, Pasadena Police Department, Santa Monica Police Department, District Attorney's Office, Los Angeles City Attorney's Office, County CEO's Homeless Services Unit, and CCJCC.

The purpose of the Task Force is to develop and support the implementation of a system to track crimes against the homeless reported in Los Angeles County, whether or not the crime is bias motivated.

This information can be analyzed and used to: 1) Track trends in crimes against the homeless; 2) Develop strategies and actions to prevent and reduce such crime; 3) Educate the public regarding the homeless and the amount of crime they experience in comparison to the general population; 4) Inform policy discussions on resource allocation and homeless population needs; and 5) Pursue grant funding to support these intervention and prevention efforts.

The Task Force established an agreed upon definition of homelessness (Federal HUD definition) and initiated a pilot project in five jurisdictions to begin tracking key data elements related to crimes involving homeless victims. The purpose of the pilot is to track the data, identify data collection issues, and explore options for aggregating data across the agencies and, eventually, across all policing agencies within the County.

Beginning September 1, 2010, the Sheriff's Department, LAPD, Long Beach Police Department, Pasadena Police Department, and the Santa Monica Police Department began collecting data on crimes against the homeless.

The participating agencies collected and submitted the following data on cases where the victim, suspect, and/or witnesses are identified as homeless: (1) Time and location of crime; (2) Type of crime; (3) Race, age, gender, national origin, and other relevant characteristics of the suspect and victim; and (4) Whether or not there is evidence that the crime was motivated by prejudice or bias because the victim's actual or perceived status as homeless.

It was learned that new Information Technology programs would need to be developed to address the following problem: Although Part 1 Crimes are reported annually to the FBI through the State Attorney General's Office (Uniform Crime Reporting codes), all other crime is categorized by police agencies in the County using distinct crime codes. Therefore, creating a system for analyzing the types of crime in which the victim is homeless requires a method of translating the many distinct crime codes used by each agency into a similar set of crime codes. Mr. Toma stated that the Task Force is considering methods for creating such a system countywide.

In addition, the Task Force is working with the County CEO's Homeless Services Unit to carry out an informal pilot survey of homeless individuals to gauge the number and types of crime experienced, whether the crime was reported to law enforcement, and reasons for not reporting crime. The survey will be administered at homeless encampments.

The results of the survey will provide an indication of what types of crime are experienced by the homeless, as well as the volume. The survey will also help to better understand whether the homeless report the crime they experience and, if not, the reasons for not reporting. This data may also yield specific information that may be useful to law enforcement and policy makers in understanding criminal activity in certain areas where homeless individuals reside, and inform strategies for preventing and reducing crimes targeting the homeless.

ACTION: For information only.

NOTE: During this presentation, Supervisor Zev Yaroslavsky arrived and requested that Ronald Brown continue to serve as Chair Pro Tem for the remainder of the meeting.

IV. PROPOSITION 36 – BALLOT INITIATIVE TO MODIFY THE THREE STRIKES LAW

Lael Rubin, Director, Prosecution Support Operations of the Los Angeles County District Attorney's Office

Lael Rubin, Director of Prosecution Support Operations of the Los Angeles County District Attorney's Office, appeared before CCJCC to provide an update on a November ballot initiative, Proposition 36.

If approved, Proposition 36 would modify California's Three Strikes law by requiring that the new felony offense be serious or violent for an offender with two prior strikes to receive a 25-to-life sentence. There are a number of exceptions, however, that allow a prosecutor to seek a 25-to-life sentence for a third offense that is neither serious nor violent based upon the criminal history of the defendant or some circumstances that relate to the new offense.

Proposition 36 also provides a remediation mechanism for 25-to-life sentences imposed in some non-serious/non-violent new felony cases primarily during the early years of the Three Strikes law. Courts may revisit these early sentences, but there is nothing automatic that requires a judge to re-sentence someone who petitions the Court. In addition, for an inmate to be released, a judge must determine that the inmate is no longer an unreasonable threat to public safety.

As a further restriction on the remediation process, a life sentence penalty is maintained for felons with a non-serious, non-violent third strike if prior convictions were for rape, murder, or child molestation.

When the Three Strikes law was enacted in 1994, California became one of the few states with a three strikes law in which the third strike could be any felony. Other states required that the third strike be a serious or violent felony.

Various efforts have been made over the years to make changes to the Three Strikes law, both through the political process and through legal challenges.

Following the legislative defeat of Senate Bill 1642 in 2006, the Los Angeles County District Attorney's Office worked with other organizations, including Stanford Law School, to determine if the Three Strikes law could be ameliorated so as to prevent sentences that result in 25-to-life due to a non-violent, non-serious third strike felony, while still ensuring that public safety is protected. The resulting language attempts to provide that balance by eliminating the potential for abuse of Three Strikes while keeping the law as an important sentencing tool.

If Proposition 36 were to pass in November, it is not known how many inmates will petition the Los Angeles Superior Court for re-sentencing. The Los Angeles County District Attorney's Office has been working with the local defense bar, Public Defender's Office, Alternate Public Defender's Office, and the Court to determine procedures for

screening and hearing the petitions in the event that the initiative passes.

The remediation component of Proposition 36 provides for a window of two years for filing the petitions. This would begin running on the day after the election.

Ronald Brown inquired as to how Proposition 36 has been polling. Ms. Rubin stated that the Business Roundtable indicates that the initiative has support in the 70+ percentiles, while another poll showed it to be in the high 60's (percentile range).

Mr. Brown noted that Proposition 36 would codify the policy of the Los Angeles County District Attorney's Office under District Attorney Steve Cooley. He inquired as to whether the two candidates for Los Angeles County District Attorney have taken positions on this issue. Ms. Rubin stated that she did not know.

ACTION: For information only.

V. HEALTHCARE REFORM AND IMPACT TO THE CRIMINAL JUSTICE SYSTEM

John Viernes, Jr., Director, Substance Abuse Prevention and Control,
County Department of Public Health

John Viernes, Director of Substance Abuse Prevention and Control (SAPC) of the County Department of Public Health, appeared before CCJCC to make a presentation on Healthcare Reform and its potential impact on the criminal justice system.

Two Healthcare Reform changes that will impact the criminal justice system are the Affordable Care Act (ACA) and the Mental Health Parity and Addiction Equity Act (MHPAEA). The latter requires that behavioral health services be provided on the same basis as physical health care. Specifically, limitation and restrictions are no different than for services provided to primary care.

Mr. Viernes introduced Desiree Crevecoeur-MacPhail, Ph.D., Research Psychologist with UCLA Integrated Substance Abuse Programs (UCLA-ISAP), to provide details on the impact of Healthcare Reform on the criminal justice system.

Dr. MacPhail stated that connecting healthcare in jails to healthcare in the community preserves the investment that counties make in both the criminal justice system and the healthcare system. She also noted that county jails have become de facto behavioral health providers for many communities.

An example of the connection between healthcare in the jails and in the community is that detainees with communicable diseases who are released without effective treatment in jail may transmit these conditions in the community, compromising public health. Similarly, inmates with untreated addictions or mental health issues may burden their communities upon release if they commit crimes against property and persons. While jailed, these individuals may require significant resources to stabilize and treat.

A 2003 report indicated that 67-68% of arrested men and women tested positive for one or more drugs. Further, a 2009 study estimated the current prevalence rates of serious mental illness among adult jail inmates to be 15% for males and 31% for females.

A 2007 survey by the Center for Disease Control estimates that over a quarter of individuals between ages 18 and 24 lack health insurance coverage, and younger adults were more likely than older adults to be uninsured. These figures are likely to be much higher for individuals in this age group who are jail-involved.

Among males aged 18 to 24, the projected annual jail admissions in the county by 2014 is 40,570 and the projected number that are eligible for Medi-Cal is 29,940,¹ which is nearly 74%.

Dr. MacPhail stated that this is one of the ways in which Healthcare Reform will impact the criminal justice system. Namely, it expands eligibility for Medicaid (Medi-Cal in California) to some of the most vulnerable citizens for the first time.

Other important changes due to Healthcare Reform include:

- Access to behavioral health care (mental health and substance abuse treatment) at parity;
- Allows qualified individuals to enroll in a qualified health plan and participate in the Health Insurance Exchange while incarcerated and pending disposition of charges; and
- Promotes the use of Health Information Technology.

While the inmate cannot begin using the services of the health plan until release, enrollment may begin prior to release. This will help to eliminate any time delay in receiving services in the post-release period.

With respect to the expansion of Medi-Cal, enrollment eligibility will be available up to 133% of the federal poverty level. The Medi-Cal expansion will include about two-thirds of the jail involved population, and eligibility will not be precluded if an individual is incarcerated.

On the subject of behavioral and physical care parity, Dr. MacPhail stated that, without access to care, many of these individuals will be repeat users of emergency room services, inpatient psychiatric services, and, for many, jail health services as repeat offenders.

From a fiscal perspective, it will be in the interest of the state and counties to offer effective behavioral health treatment to Medi-Cal beneficiaries.

¹ <http://www.cochs.org/files/CADData.pdf>

She emphasized that persons who meet the eligibility requirements for Medi-Cal may enroll in the program before, during, and after the time in which they are detained. Furthermore, they may receive assistance by an authorized person to submit an application to Medi-Cal on their behalf, and this assistance may be a reimbursable Medi-Cal Administrative cost.

Dr. MacPhail reported that correctional authorities may increase continuity and coordination of care between jail and community providers through Health Information Technology. If a system is developed to share information so that individuals who are being prepared for release from jail can begin to link with the services they will need once they are released, this will assist in allowing for a seamless transition of people receiving services while they are in jail and once again when they are released.

Electronic Health Records (EHRs) can facilitate health care transitions, save staff time, contribute to patient safety, and offset the costs of some of the new, expanded roles for correctional facilities by reducing medical record staffing requirements.

Dr. MacPhail cited a study of programs in the State of Washington that showed cost savings to the criminal justice system and crime victims resulting from programs that provided substance abuse treatment for individuals unable to pay for treatment.

Ms. Rubin inquired as to who will be responsible for enrolling persons that are incarcerated in County Jail. Mr. Viernes stated that this has not yet been determined.

Mr. Viernes noted that Healthcare Reform may impact AB 109 services in that health insurance (in 2014) and expanded Medi-Cal will become part of the resources that are available in providing treatment.

Dr. Marvin Southard, Director of the County Department of Mental Health (DMH), provided an update on the use of the Section 1115 (of the Social Security Act) Medicaid Waiver, which can provide flexibility to states in their use of Medicaid funds.

Locally, an effort was made to build a bridge to Medicaid expansion before the ACA takes full effect. A benefit was developed for people under 133% of the poverty line by enrolling them in Healthy Way L.A. (HWLA). HWLA can provide a co-occurring benefit (mental health and substance abuse) that, due the availability of a funding match through the mental health system, is equal to the Medicaid benefit for mental health services. This has now been in place since July 2011.

Both the Health Department and DMH are seeing indigent uninsured clients at 100% local match costs. After drawing down federal funding for 50% of the costs, DMH used the savings to expand coverage to individuals at a less serious level of mental illness that had not previously been seen before. These are individuals that previously had been turned away due to lack of available resources.

An evidence-based program is being utilized for the new clients. DMH has implemented this expansion of services by co-locating DMH staff on the sites of comprehensive health clinics that are run by the Health Department, encouraging community contract agencies to locate their staff at free clinics, and providing direct funding to the clinics.

Dr. Southard noted that DMH has been working with the Department of Public Social Services (DPSS) to enroll all General Relief recipients into HWLA. Once enrolled, they can be provided the intensive or less intensive services.

The result of these changes is that the county now has the ability to serve the criminal justice population in a more effective way as they are released from incarceration. In addition, the county now has the resources to do this through community providers and health clinics in a manner that integrates behavioral treatment with primary care.

ACTION: For information only.

VI. OTHER MATTERS/PUBLIC COMMENT

Dr. Lakshmanan Sathyavagiswaran, Chief Medical Examiner – Los Angeles County Coroner, reported that the Department of Coroner is hosting their annual forensics training conference on October 24 – 26, 2012, at the Beverly Garland Holiday Inn in North Hollywood.

The title of this conference is “Final Makeover: Changes Before and After the Death Event.” Among the topics that will be included in this year’s conference are Evidence Collection at the Crime Scene and Breathing New Life into a Cold Case.

For more information, please visit <http://coroner.lacounty.gov>.

VII. ADJOURNMENT

The meeting was adjourned at 12:46 p.m.