



Criminal Justice Oversight Council

66th Montana Legislature

1301 E 6th Avenue
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Hon. Kurt Krueger
Sen. Nate McConnell
Sen. Keith Regier
Rep. Ryan Lynch
Rep. Barry Usher

Co. Atty. Marty Lambert
DOC Dir. Reginald D. Michael
DOC Dep. Dir. Cynthia Wolken
Annette Carter, BOPP Chair
Sheriff Ross Canen

Andy Huff
Kelsen Young, MCADSV
SK Rossi, ACLU
Melissa Kelly, Gallatin County Re-Entry
Amy Tenney, Boyd Andrew
Peter Ohman, OPD

July 14, 2020
Zoom Meeting Minutes Log

Link to audio on YouTube: <https://youtu.be/BP6CoRXLHHY>

1:01 - Roll call taken by Kathy Ralston

3:41 - Ryan Lynch moves to accept prior minutes. Sen Usher seconds

4:44 - Megan Coy presents on Risk and needs procedure. Talks about how risk assessments are used in contract facilities. References the handout outlining the policy and reads through several of the definitions in the policy. Covers the need to interview an offender, ability to use video conference and to use the MORRA and WRNA assessments as appropriate.

7:03 - Ms. Coy notes every case must have a current risk and needs assessment when in a contract facility. Assessments are current for 12 months unless a person is in jail or absconded or if their current assessment expired or a PSI was not ordered. Also discusses training requirements. Noted this is accessible through OMIS.

8:36 - Ms. Coy noted section B discusses which assessment tool is used at various stages of placement at which type of facility.

8:52 - Ms. Coy noted Section C discusses supplemental tools and secondary assessments (impaired driving assessment, sex offender risk assessment) and how those are used with a MORRA or WRNA. Asks for questions. None.

9:44 - Ms. Coy presents DOC commitment stats. Refers to Review stats handout and there are some technical difficulties sharing the zoom screen.

10:44 Kelsen Young asks that the title of the file be given to assist finding the correct handout. Mark Piskolich advised they are using "Commit Review Stats" word document. Handout is shared on screen.

11:10 - Ms. Coy advised the information from fiscal 2019 and 2020 is displayed on the charts. Notes the 2020 information is less complete as the raw data was impacted by the date of the data draw and COVID.

In FY 19 there was a release to P&P on sentencing 39 and 22 in FY 2020. Next category is Other Custody (about 2% in each year). This refers to placements that have other jurisdictions involved. Next is placement at an assessment facility and this is 53% and 48% in '19 and '20 respectively. Generally new DOC commits go to MASC and Start programs. More complex cases go to MASC. Also noted the introduction of the Pine Hills unit in 2020. All females go through Passages in Billings.

15:26 – Ms. Coy advised the next category is offenders who go to another facility and/or treatment center placements. Overall 27.4% in FY '19 and 23.9% in FY '20 went directly to a treatment center. Mostly direct DUI placements.

16:47 – Next part of the chart is DOC commits directly to prison. 9.2% in FY '19 and 10.4% in FY '20. These could include people sentence on a concurrent sentence or in custody behavior or refusal of placement leads the client to secure placement.

18:08 – Next category are those still in jail in FY '20. Next is PRC breakout. Approximately 4% each year went to a PRC. Takes questions.

19:16 – Judge Krueger notes the largest section is assessment center and asks for more data about where they are going and how long they spend at MASC

20:10 – Ms. Coy does not have specific stats.

20:42 - Judge Krueger requests this information and overview of where people go. Ms. Coy gives an overview of the process at the 3 assessment centers (MASC, Start and Passages). They are limited by 120 day length of stay. Also notes sexual and violent offenders submit a conditional release authorization and these are necessary to address sex offender case management and MASC offers sex offender phase I in house.

24:40 - Judge Krueger requests this information be provided within the next two weeks. Also asks Ms. Coy to be on camera and Kathy Ralston notes the presenters appear under Mark Piskolich's name due to how the meeting was set up.

26:28 – Mark Piskolich presents the online population report and demonstrates how to locate the report on the public facing DOC website.

27:30 – Rep Usher requests chat be turned off during the Zoom meeting because it raises issues of how to facilitate public release of Zoom chat. Chat is turned off.

27:48 – Mr. Piskolich shows how to find the Daily Population Report under News & Reports and shows how the data is viewed.

32:15 - Judge Krueger notes appreciation for the page and advised the page was requested a year ago and knew the information was up on a daily basis previously. Mr. Piskolich and Ms. Ralston confirmed this data would be available daily. Further questions.

34:04 – Question from Laurie LittleDog as to whether public comment would be at the end or after each speaker. Judge Krueger allows her public comment.

34:13 – Ms. LittleDog reports she does not think the numbers given by DOC are the “lived experience” of offenders. Advised she believes people are being held at MASC and not getting treatment until the end of her sentence. Judge Krueger asks for further questions.

36:18 - Judge Krueger asks Ms. Coy to speak to some of the numbers and placements in her charts and advised as of 7/12/2020, there were about 120 empty treatment and 120 empty PRC and 80 empty assessment beds but prison was all full. That's close to 400 empty community facility beds.

38:49 - Megan Coy advised this is largely a product of the COVID-19 pandemic and facilities are restricted on the number of admissions to ensure quarantine restrictions are manageable. Facility numbers are low but climbing. Facilities are not allowed to move in more than 10 in a week and transport vans are only able to carry half capacity and pick up from one facility at a time.

41:56 - Judge Krueger advised he believes the treatment beds have been down for over a year regarding the underutilization of the facilities. Noted a legislative audit noted these beds were empty before COVID. Asked for further questions.

43:05 - Kurt Aughney presents DOC policies regarding audits. Advised Quality Assurance (QA) does many audits and highlighted the Correctional Program Checklist (CPC) and Group Assessments (CPC GA) audits. Referenced DOC policy 117 which is currently under revision and it may be signed by the next CJOC. Advised the QA office also does Prison Rape Elimination Act (PREA) audits, contract reviews with contract services (prerelease or treatment programs) typically on a 3 year basis. Also review licensing functions (licensing regional or for profit or county prison and juvenile detention facilities). Advised they also do internal audits of financial activity and of secure facilities usually on a 3 year basis.

Mr. Aughney talked about provided policy 541 which talks about treatment programs and specifically about the process by which evidence-based program committee determines whether programs are actually evidence based. This policy also covers the process by which these programs are audited. Process is emerging.

47:57 - Mr. Aughney mentions policy 117A which talks about the procedure for audits and pre and post audit process. Also identifies roles of staff in audits.

48:43 - Judge Krueger asks for questions for Mr. Aughney. None.

49:14 - Judge Krueger advised there was a request from Rep. Usher to discuss the history of the DOC and Mike Ferriter is introduced as Director of DOC under Gov Schweitzer. Gave history of the name of the department from Institutions to Corrections and Human Services.

55:00 - Mr. Ferriter goes over his resume and history as a juvenile PO in Great Falls and how he moved toward the pre-release centers. Moved to Helena in 1987 and began as Community Corrections Service Division overseeing Probation and Parole. Ultimately became Community Corrections Director.

57:00 - Talked about struggles with population and about MCA 46-18-201 DOC commitment statute. Advised this statute took a great deal of work from the legislature. Montana is unique with DOC commitments and discussed how community non-profit partners are motivated to work with the department.

59:23 - Mr. Ferriter talked about legislation that required non-profit providers working with the DOC must be Montana-based firms.

59:54 - Mr. Ferriter talked more about DOC commitments in 1991 when Curt Chisholm was DOC Director (Then Dept of Institutions). Provided history about the 1991 MSP riot and departmental restructure including Mickey Gamble. Advised Gamble had several ideas about corrections and was the main driver of the DOC commitment. Describes the commitment as a "tie-breaker" between secure facilities and probation (P&P). Addresses the questions of whether probation actually holds people accountable.

1:03:10 - Gamble felt P&P had the best knowledge regarding the risks of individual offenders having written the PSI and worked with the family. P&P drives the system. Gamble ramrods the initiative and was put into statute in 1993 under the Racicot Administration and DOC Director Rick Day. Mr. Ferriter became the Director of the Community Corrections.

1:06:47 - This is also the time private prisons came in. Expanded PRC, ISP and standard P&P. Also expanded Prerelease (PRC) centers which were only taking people coming out. That also changed with DOC commit. Also allowed parole violators in PRC as a sanction. Other treatment programs and felony DUI programs started WATCH program and the Treasure State Correctional Training Facility (Boot Camp).

1:10:41 - Under Gov Martz, DOC Director was Bill Slaughter. Population continues to climb. Dept of Public Health closed Glendive facility and was reopened as WATCH East was established and the Lewistown (Nexus) and Boulder (Elkhorn) programs were established under community corrections. All of these programs were accessed through DOC commitment. More and more DOC Commits were going directly to prison because the commit was being used by Courts too often and on maybe inappropriate cases. Gov. Martz released a few hundred DOC commits directly to the streets because there was a belief they were viable candidates to the communities.

1:15:30 - DOC commitments were then allowed directly to the community. PRC screening committees were turning some defendants away and they determined to have an assessment and sanction center in Missoula. Eventually because Missoula Assessment and Sanction Center (MASC) and also started a revocation center which eventually becomes START in a new facility.

1:19:15 - Mr. Ferriter advised length of stay is key contributor to prison overcrowding. Mindset was to only use prison beds if we have to. DOC commitment was 3rd leg of tripod (Custody and probation). Worked on 80/20 split between facilities and community. Really meant 65/15/20 needing to keep at least 65% on probation, 20% in prison and 15% was designed to be in commitments and needed to manage the population. This was arrived at through experience more so than evidence based.

1:25:07 - Mr. Ferriter talked about being able to build new facilities going through non-profits and advised although there were problems, we were able to get beds built moved or developed quickly. Many things would not have worked as well as a state department. Says DOC commitment was effective and continues to be a good thing. Agrees the line staff and P&P remain best informed and tied into the communities and are best suited to make decisions.

1:27:57 - Mr. Ferriter advised his perception remains the DOC Commitment is a positive tool. Addresses length of stay issues and gets people to treatment quicker. Legislature had a great deal of confidence and judges agreed to let DOC make those decisions. Its unique, but a real valuable resource.

1:31:12 - Judge Krueger offers questions for Mr. Ferriter. Marty Lambert noted it looks like a 50% reduction in DOC commitments over the last year and suggests judges are not comfortable. Mr. Ferriter advised he was unsure why this would be.

1:34:49 - Andy Huff asked what other states thought about the DOC process. Mr. Ferriter advised he believes Montana is ahead of the game in community-based programming and had the luxury of being a small state but never took a back-seat to anyone. Able to move people through and thinks we remain as good as anyone, better than most.

1:37:12 - Sheriff Canen asked about contrast between pre-DOC and post-DOC commit jail overcrowding. Mr. Ferriter said there were population problems then as there are now and adding bed space was always a

concern and has never gone away. Would like to be able to say things were better but COVID is hurting things too. Numbers are bigger and the problem remains.

1:40:11 - Rep. Usher noted DOC getting people to services faster takes authority from judges. How does DOC commit circumvent that? Can DOC override the judge. Mr. Ferriter advised the judge retains their authority and has the discretion to not sentence to DOC. Usually the PO and the Judge know where they want this person to go. They lose authority to a degree when they commit to the DOC but sometimes It's the only way to activate the statutes and get someone to treatment.

1:44:49 - Rep. Usher follows up with asking whether the intent was POs making the decision. Mr. Ferriter confirms this was the intent. Usher follows up with questions regarding the PO pay and qualifications to make the decisions. Mr. Ferriter talked about post sentence investigation when PSI was not ordered. Is and was a very well thought out process.

1:47:35 - Rep Usher asked about whether the DOC process also circumvents the Parole Board. Mr. Ferriter explained the process by which a DOC commit was the judge handing authority over to the DOC to make initial placement and violation placement decisions. Serious violations were and are returned to the Court.

1:50:56 - Rep. Usher asks about judge's perception they are 'supposed' to sentence to DOC. Mr. Ferriter asks for clarification. Mr. Ferriter advised the judge certainly knows they have these three sentencing options (prison, commit, probation) and should not feel pressure.

1:53:54 - Judge Krueger advised the PSI changed and PO now makes no recommendations. Noted the Court has 3 options and talked about judges wanting to expedite the decision. Mr. Ferriter advised the DOC always tried to honor the judge's desires

1:56:46 - Kelsen Young advised it is clear how much authority POs have and would like to know more about P&P officer's training. Also, asked for clarification for who make the DOC process. Mr. Ferriter clarified the PO and Regional Administrator would recommend a placement (say Great Falls PRC) then, the GFPRC screening committee would look at it. They would try to get back asap and approve or deny the placement.

1:59:49 - Kelsen Young asked judge what specifically changed 2 years ago. Judge Krueger advised the PSI no longer contained a recommendation from the PO. Also noted the Courts would also ask for a pre-screening for placement at a facility but we don't see that anymore also as a result of the PSI being required in 30 days.

2:02:28 - Andy Huff asked why those recommendations are not coming through on PSIs anymore. Judge Krueger advised this was because of the 30 day requirement but also felt recommendations were a good indication of what DOC was thinking.

2:03:36 - DOC Dir Michael advised Kevin Olson would be the most appropriate person to address the question.

2:04:03 - Kevin Olson advised there is nothing in statute authorizing a PO to make a time recommendations. When legislature put in the 30 day requirement, we moved away from that but are now making more recommendations. As part of the Council of State Governments (CSG) review, they also pointed out POs should not be making time recommendations. There is also a move to make sentencing recommendations but will look to make a recommendation to the court based on the totality of what we know.

2:07:04 - Judge Krueger advised he had recollection of previous recommendations and noted POs have the ability to ask for an additional 30 days.

2:08:48 - Mr. Olson advised the DOC is working its way back to making recommendations and noted in the past plea agreements were given to POs for evaluation.

2:10:20 - Judge Krueger confirms Mr. Olson's contention POs have no authority to weigh in on plea agreements. Noted its completely up to the court but in the past PO can make recommendations based on factors not known.

2:10:46 - Judge Krueger asks Mr. Ferriter about prescreening for facilities prior to sentencing. Mr. Ferriter advised it works much better in moving people through the system and talked about history and evolution of the placement.

2:13:58 - Sheriff Canen advised it appears the system and intent has changed. Mr. Ferriter advised he is not in a position to answer. Dir. Michael advised one of the things to consider is the movement toward evidence-based practices are supposed to be driving our decisions.

2:16:53 - Mr. Olson advised this assessment is correct. More complete assessments of the clients lead to different placements and different facilities.

2:18:21 - Judge Krueger advised he has asked for over a year to have statistics in terms of evidence-based practices and has asked time and time again and not seen them. If we have these practices why are there empty community placement beds.

2:19:24 - Mr. Olson advised there will be more information in his presentation later in the day.

2:19:53 - Melissa Kelly advised the risk and needs responsivity factors have not been followed at the DOC and they are making decisions on substance abuse only. Advised she believes placement should be based on substance first and risk and needs second.

2:22:17 - Judge Krueger thanked Mr. Ferriter and sets 15 minute break.

2:26:07 - Audio continues after pause during break.

2:26:32 - Megan Coy presented the DOC commitment flowcharts. Discussed the process by which a person under sentence is evaluated, assessed and placed, including the individual contractor's screening committee. Asks whether there are specialized needs or if there are medical or mental health placement, may go to a placement center. If a secure placement is warranted, or if the offender refuses the placement rec, there is a refusal form and it is reviewed at division admin level.

2:34:53 - Kelsen Young asked about the y/n to sexual or violent offender and what constitutes that determination (current only, or offense history). Ms. Coy advised there is a determination whether a person is currently serving on a registerable offense, but this can also be review of the entire history of offenses it is reviewed with PO and supervisor. Kelsen Young asked if recidivism plays in whether a person is cycling through the system. Ms. Coy advised the PO working with the offender evaluates what types of resources are needed and/or are available, and makes a recommendation accordingly.

2:38:56 - Rep. Usher asked about the addition of the category of negligent homicide to the violent offenders list. Ms. Coy advised Neg Homicide is not on the list of register-able offenses; however, is looked at in

concert with all other Information. Rep Usher asked if Negligent Homicide should be added to the register list and Ms. Coy referred to Dir. Michael. Dir Michael advised there is no agenda to add the Neg. Homicide charge but noted there was no opposition.

2:40:33 - Rep Usher asked what percentage of people go directly to a treatment facility and Ms. Coy advised this is 28% in FY19 and 24% in FY20. Higher if PRCs are added.

2:43:43 - SK Rossi asked for more information for MH and substance use assessments and what are the qualifications of those making those assessments. Ms. Coy advised at this phase, she is talking about recommendations from PO on person at sentencing. If there is no evaluation done in the jail, the client is sent to the assessment center. All evaluators are licensed by the Dept of Labor under their requirements CD or MH counselors.

2:46:08 - SK Rossi asked if there aren't trained people, what assurances do we have that MH disordered folks are going into the prison and further from treatment. Concerned people not suffering from an obvious and severe mental health issue may slip through with issues that will be exacerbated by incarceration. Ms. Coy advised that issue dovetails with a work group currently meeting to review all of these issues. Also, the DOC Behavioral Health Bureau Chief is involved in this group.

2:49:31 - SK Rossi asked if working group would include a former client or family member of someone who's been through the process.

2:50:03 - Judge Krueger asked about how often a judge's decision is overridden for immediate release from jail. Ms. Coy deferred to Kevin Olson for answer in his presentation.

2:51:12 - Megan Coy continued her presentation of commitment process after a client is sent to an assessment center. After all assessments are captured, victim input is reviewed as is criminal history and judge's recs and PSI Information. Treatment team then meets and makes determination. Discusses the type of evaluation professionals making the assessments.

2:57:30 - Judge Krueger renews his request of more specific data regarding the outcomes of the assessment facilities and where these people are going. Asked for this within 2 weeks.

2:58:14 - Kelsen Young made the point a person would need to be a 3rd offense PFMA in order to end up on the registration list. Ms. Coy agrees.

2:59:16 - Judge Krueger asked Ms. Coy to respond to the findings of the legislative audit in terms of remote treatment beds. Ms. Coy advised the audit is linked on the Auditor's website. Advised they looked at overall contract management, placement processes and effectiveness of contract services. Made seven findings. DOC has begun and will continue to follow through with contract.

3:01:27 - MS. Coy advised the responses include ensure written contracts are in place and up to date. DOC rep now serves as last signer. DOC will provide public notice when applicable in contract negotiation. Screening procedure is currently under a 20 day review as recommended. DOC has developed a placement module in OMIS to allow analysis of information of some placement processes and a developed a work group to look at substance use eval processes. DOC identified staff resources within P&P to assist in reviewing conditional release pre-authorizations for timeliness and included a request for additional contract management staff in budget. Also connected with University of Cincinnati Corrections Institute to make sure effectiveness of community programs is measured accurately.

3:03:48 - Judge Krueger asks about placement module and Ms. Coy advised this should track all data about placement process and consolidate it to ensure everything is being captured.

3:04:49 - Kevin Olson presented 2nd District sentencing study. He advised the council had been concerned about the DOC not following court recommendations. Given time constraints, they only looked at the 2nd Judicial District looking at 281 judgments from January 1, 2018 to May 20, 2020. Of 281, 126 were sentenced to DOC commitments, 103 to probation, 44 to prison, 4 to Department of Health & Human Services commit (DPHHS), and 4 were judicial DUI sentences.

3:06:24 - Looking at the 126 DOC commits, 68 had no recommendation or generic recommendation. 25 recommended a treatment center, 29 recommended a specific treatment center and 4 were a specific treatment and PRC recommendation. Of the 68, 23 went to treatment and then PRC, 20 went to prison on an SPR, 15 went to a PRC only, 5 went to treatment only, 3 were conditionally released, 1 is currently being assessed and 1 was stayed because of absconding. Of the 58 where a specific program was recommended, the DOC followed that recommendation in 32 of those. The other 26 the DOC deviated from the recommendation.

3:03:23 - Of the 26, 6 went to prison (3 due to absconding, 1 for assaultive behavior, 1 was violent offender whose preauthorization was denied, 1 because the offender refused placement). 5 were placed in less restrictive treatment center than was recommended; 4 the offender refused placement; 4 the evaluation recommended a lower level of treatment; 1 was moved for unknown reason; 1 was denied by local committee; 1 a different court made a different recommendation; 1 was for medical needs; 1 was recommended for a longer treatment program; 1 was short to discharge (would not have time for the program); 1 was still being assessed.

3:10:47 - Mr. Olson advised the 20 who went to prison were likely serving a concurrent sentence for the parole board and were ordered back to prison. These could also be conditional release revoked. Of the 126 DOC cases examined, 26 went to prison, 4 were released and 96 went on to a treatment or PRC.

3:11:46 - Judge Krueger points out the program recommendations are only being followed 26% of the time in terms of the recommendation of the Court. The Court are also not receiving any information regarding why that is different.

3:13:02 - Mr. Olson observed 54% of the time there is no recommendations and the Court says DOC should make placement. Judge Krueger advised in the balance of cases where a recommendation is made, only 26% of the time that rec is followed by the DOC. Suggests this could be an issue of prescreening.

3:14:57 - Mr. Olson advised the DOC has developed a formal process which will provide for a written response to the Judge. Advised Megan Coy will be talking about this in her presentation.

3:15:39 - Public Comment from Laurie LittleDog from Bozeman requesting more patterns of the breakdown by race. Mr. Olson advised he is not sure if that is currently possible and will make a note and determine if that is possible.

3:17:31 - Megan Coy present the Placement determination policy draft PFB 6.1.201. Placement Determination and Referral for Adult Offenders. This is an updated procedure from what exists. This was revised through input from CJOC, internal staff and external stakeholders. Advised most important part is to give offenders most appropriate placement based on current risk assessments, supplemental tools, Court or Board ordered requirements, criminal history, placement history, victim input, public safety concerns, instructional behavior, correctional status and offender request. Requiring placement process be documented in OMIS and there is a section on prescreening. Talked also about consideration of warrants

and prior escapes and other factors which may impact placement decisions. Policy also walks through specific application process for the offender and how this can be used to highlight risk factors and specific treatment needs.

3:24:29 – Ms. Coy referenced Mr. Olson’s discussion of a formal process to inform court, prosecutor and defense counsel on placement of all DOC commits. This is form PFB 6.1.201F DOC Commitment Initial Placement Notification which will be sent back to involved parties to explain what assessments were done and if different from recommendation, why it diverges. Also talked about tasking facilities to develop exclusionary criteria to clarify who is or is not appropriate. For example, a program may not have a track for low risk offenders. DOC is working to develop these criteria and make the process public.

3:28:05 – The process requires the DOC give facilities a 20 day window to comment on proposed procedure revisions. This started yesterday. Also welcomes feedback from the CJOC members.

3:29:02 – Kelsen Young asked about ability to have comments within 20 days. MS. Coy advised a that was correct. And has review up by August 7, 2020.

3:29:49 - Judge Kruger advised he received the materials this morning and intends to comment as a council. what is sees in relation to the new policy, there is no coordination with the Courts and all major decisions are being made after the sentencing. Suggested all of these factors are considered by the Court and if these are not able to be done prior to sentencing the PSI timeline may need to be extended and these things should be built back into the PSI. Concerned that recommendations are only followed now 26% of the time and these criteria might make that even less.

3:33:14 - Andy Huff echoed Judge Krueger’s sentiment the gap between sentencing and the placement is a problem. Agreed this should all be addressed pre-sentencing.

3:34:22 - Rep. Usher agrees with Judge Krueger and Mr. Huff noting 49 other states do it a different way. Also noted it seems like responses to CJOC concerns and a big document is dropped and the council is given 20 days to comment on something done in response to the CJOC requests. Finds this situation insulting.

3:36:06 - Andy Huff clarified he thinks the DOC commit is a great procedure, but needs to have better communication prior to the sentencing.

3:36:50 - Kelsen Young requested a reminder of the 30 day.

3:37:18 - DOC Deputy Director Wolken advised the policy came from the Sentencing Commission and was in response to inconsistency from county to county and Council of State Governments (CSG) recommended standardization. They also noted there were about 400 inmates waiting at any given time and the decision was made to streamline the process. Voiced concern that return to the old method would increase jail stays and a negative impact on local governments.

3:39:42 - Judge Krueger commented he does not think the 30 day PSI requirement has not sped the process at all. All of the assessments being done post-sentencing take time and people still waiting in jails. Advised he doesn’t see the PSI timeframe as helpful.

3:41:53 - Ms. Wolken advised jail holds have dropped from 400 per day to 250 following the PSI timeline.

3:42:33 - Judge Krueger advised he is not referencing when inmates are sent to an assessment center. Says all of this assessing is done after the sentencings. Also referenced the empty community placement beds and noted prison commitments are going up and people are staying in jail for longer time periods.

3:44:27 - Public comment from May Simmons regarding jail numbers. Wants to know what is being done about bunk beds that was linked to rise in jail population. Directed to either Dir. Michael or Ms. Wolken.

3:45:10 - Ms. Wolken and Judge Krueger advised question was not understood and was referred to public comment section.

3:46:44 - Kevin Olson advised 866 offenders have been offered Conditional Discharge between July 1, 2019, and July 13, 2020.

3:48:20 - Kelsen Young asked Mr. Olson about qualifications and ongoing training of P&P officers. Mr. Olson advised of statutory requirements and DOC has increased statutory requirements MCA 46-23-1003 to necessitate a college degree and some training in behavioral sciences. Also noted P&P officers are trained at the Montana Law Enforcement Academy in a 9 week course covering mental health and domestic violence dynamics, motivational interviewing, risk and needs assessments.

3:51:04 - Kelsen Young asked specifically about domestic violence training to officers. Concerned that POs have limited guidance in dealing specifically with PFMA incidents. Mr. Olson advised the training is conducted by Natalie Adorni at the MLEA.

3:52:42 - Judge Krueger calls 15 minute break with the intention to work through lunch.

3:55:04 - Reconvened. SK Rossi asked to talk about the purpose of the CJOC which was supposed to be looking at the Justice Reinvestment Bills but spent a good deal of time down rabbit holes of things like the DOC commitment.

3:56:40 - Judge Krueger was unclear of SK Rossi's question. SK Rossi advised talking about proposed legislation was premature to the council discussion on how to proceed. Judge Krueger advised he viewed this as all-encompassing but could change public comment section. SK Rossi advised the question was about having a council process discussion before the proposed legislation discussion. Judge Krueger agreed to change agenda.

3:57:55 - SK Rossi would like to hear from other members of the council as to whether members were individually making recommendations or collective input. Judge Krueger advised the council gets to make determinations and the process is not that complicated.

3:59:47 - Kelsen Young noted she was asked about the agenda items but not asked about what legislation the CJOC might recommend.

4:01:17 - Judge Krueger advised there is one additional meeting on September 15, 2020, and that will complete this council. The discussion is what will the council address.

4:02:41 - Kelsen Young advised the CJOC has not had an opportunity to offer other proposed legislation and the next CJOC meeting is the day after the next Law and Justice Interim Committee (LJIC).

4:02:49 - Judge Krueger advised there would be a deadline to propose any legislation and an agenda in relation to the September 15 meeting and everyone would have an opportunity to add anything to that agenda.

4:03:28 - Rep. Usher advised the LJIC is on September 14, 2020, and all their bills are ready to go for that day. If the CJOC plans on voting on things they won't get to the LJIC. Said Ms. Young advised we didn't have the opportunity to steer the agenda but he thought the Judge was clear about agenda items and how to submit them.

4:06:14 - Judge Krueger advised he would like to open discussion and brought attention to Rep. Usher's comment prior to the break regarding the DOC policy which was only provided this morning. He views this as the DOC's response to what we've been talking about for months and then asking the CJOC to respond within 20 days. Suggests this be pulled and discussed but to implement something of this magnitude in 20 days after 10 months of discussion is not reflective of the seriousness of this council and CJOC.

4:08:57 - Peter Ohman advised he seemed to think there was a request for vote which is an action item, which was not on the agenda. Also was not sure of what proposed legislation was being offered.

4:10:00 - Rep. Lynch advised the other interim committee has the ability to draft bills and not necessarily voting on them. Wondering if the chair would allow that process. Noted this council continues by virtue of how it was drafted.

4:12:00 - Kelsen Young advised this is an ongoing council with a 2 year term. Terms don't end until August 2021. Requests the CJOC continue to work rather than get concerned about September. Although she agrees the chair asked for action items by a certain day, that's different than proposing legislation.

4:13:51 - Judge Krueger asked Ms. Coy about the issue of the 20 day policy and whether there would be an action item regarding that policy.

4:14:41 - Megan Coy advised the procedure has been under revision for a number of months. There was no intent to implement this in 20 days but was an internal comment period. This can also be extended. Implementation was to be held until all feedback was received and training developed.

4:16:12 - Judge Krueger asked if the CJOC is on a 2 year term, is there a need to advance legislation.

4:16:57 - Rep Usher advised there is no requirement to propose legislation and concurred the CJOC work is not done. Indicated the LJIC requested a report from the CJOC but agreed in the need to continue the work.

4:18:03 - Kelsen Young advised she verified CJOC term ends in 8/2021. Advised she concurs it is important to continue the oversight work.

4:18:43 - Judge Krueger advised the CJOC does have a request to report to the LJIC on September 14 and will likely appoint Rep. Lynch to provide an oral report to that committee. Also agreed with Mr. Ohman that we do not necessarily need to propose legislation at this time and opened for discussion of what should be on the next agenda.

4:20:53 - Marty Lambert advised he was looking at subsection 7 of HB 369 and the CJOC is required to submit a report to the governor any September 1 of every even numbered year. This council did not get going in a timely manner and would like to make a report and suggested sending HB369 around to the council to let members see requirements of the bill.

4:22:53 - Dep Dir Wolken advised she has requests from LJIC to do a deeper dive in to Native American issues and include tribal stakeholders in this group (Rep Diane Sands).

4:24:10 - Judge Krueger advised the CJOC has asked for numbers in the past and still don't have numbers in relation to racial demographics in population. Ms. Wolken advised there are stakeholders involved and she would be happy to reach out and have their input. Judge Krueger advised she should submit something for the 9/15 meeting in writing.

4:25:58 - Judge Krueger noted on the continuation of the committee, this point was clearly answered. 9/15 will likely be last meeting of this year and one of the ongoing issues is whether there would be recommendations for proposed legislation, they will need to be submitted by that 9/15 meeting. Can also discuss what else should be done with regard to Justice Reinvestment.

4:28:54 - Peter Ohman noted Sub 9 of HB369 the council may bring forth legislation and asked what that means functionally.

4:29:30 - Rep Usher advised he understands it to mean the council can advance proposed legislation or Bill drafts and Rep. Lynch and Dep Dir Wolken confirmed this as well. This item has been added to the LJIC agenda.

4:30:56 - Kelsen Young advised she appreciates the clarification on continuation of the CJOC, but requested further clarification of the other agenda items.

4:31:40 - Judge Krueger advised the DOC sentence outcomes was the primary topic of today and the Risk/Needs assessment for Justice Reinvestment has also been ongoing in this CJOC.

4:32:53 - Kelsen young asked about Pretrial and Judge Krueger advised he had asked the Court Administrator to attend a prior meeting but they were unable. This is a Court function and not DOC but he would again make a request to them again.

4:35:03 - SK Rossi noted the CJOJC is not just DOC oversight but justice system as a whole. Also noted the LJIC has also discussed PSIs and the CJOC might also look at that.

4:35:51 - Judge Krueger advised there may be a conflation of terms as the CJOC had discussed PSIs. Rossi advised this was a confusion; was talking about pretrial and diversion.

4:37:07 - Judge Krueger asked Mr. Lambert to expand on Diversion and he advised he believed pretrial was part of the JRI bill package. SK Rossi advised pretrial and diversion are closely aligned with criminal justice reform and is unclear why the CJOC wouldn't entertain some of those concepts.

4:38:20 - Judge Krueger asked that items be submitted formal to be put on the next agenda.

4:38:31 - Ms. Wolken offered clarification and advised SB59 had a Pretrial diversion aspect but It was not funded.

4:39:14 - SK Rossi offered clarification for Ms. Young indicating SK Rossi was the person who requested pretrial be added to the agenda and it wasn't fulfilled but she would be happy to re-submit it to the chair.

4:39:38 - Rep Usher asked Mark Piskolich as staff how much DOC actually supports his work. Mr. Piskolich advised he is on a grant which runs out August 28 but they provide anything I've asked of them. Rep. Usher asked should the staff of oversight council be in DOC when majority of the work is to hold

DOC accountable. Mr. Piskolich advised he has felt supported by DOC. Mr. User asked what happens when part-time staff runs out.

4:42:40 - Judge Krueger asked whether there was a way to fund continuing Mark Piskolich as a part-time CJOC staff. Dir Michael advised it is a difficult question to answer but advised DOC still has Kathy Ralston and will try to work out facilitating the next meeting.

4:44:07 - Marty Lambert noted as to Rep Usher's comments there was a \$29,000 allotment to pay Mr. Piskolich's position. Noted there is a report requirement and noted it will be difficult to get the whole report completed by September if not November. Subsection 5 talks about data evaluation from the council. This is staff intensive. Judge Krueger concurred this will be a challenge.

4:47:28 - Andy Huff noted the statutory requirements for the report 9/1 is pretty narrow and we may be able to get a draft of a report done that might inform LJIC discussions on 9/14. Recommends a subcommittee be formed to draft something that outlines what the CJOC has been doing.

4:50:18 - Judge Krueger agreed a report will have to be drafted with regard to this matter and suggested a subcommittee may be hard to accomplish prior to next meeting. Judge Krueger suggests Mr. Piskolich draft a narrative of what's occurred.

4:52:07 - Mr. Huff asks if any other members have ideas about this process.

4:52:21 - SK Rossi offered favor of a written report and suggested Mr. Piskolich or other DOC staff.

4:52:45 - Mr. Lambert volunteered to be on subcommittee but would need a lot of staff help.

4:53:11 - Rep Usher noted his understanding of the CJOC was it was oversight of DOC Implementation of Justice Reform. Wanted to make sure CJOC doesn't go outside the boundaries and cross purposes with other councils or committees.

4:53:57 - Ms. Wolken advised the intent of this council was to look at all the pieces of JRI and cover them all including things like pretrial and housing grants, Board of Pardons and Parole and Board of Crime Control.

4:54:59 - SK Rossi advised the pretrial programs were created by SB59 which is part of that JRI package. It is therefore squarely within the realm of the CJOC.

4:55:27 - Kelsen Young advised Rep. Usher the CJOC oversight is more broad than DOC.

4:56:03 - Judge Krueger notes the final meeting will have to conclude with what has been done and may not fit issues which have not yet been met. Ms. Young asked about next meeting dates and will they be in 2020? Judge Krueger advised the CJOC should look at 9/14 meeting as a summary of where we've gone so far and should use the next meeting to set ongoing meeting dates. Asked for further discussion.

4:59:50 - moved to Public Comment time.

5:00:09 - Nanette Gilbertson of Montana Country Attorneys and Montana Sheriff's and Peace Officer's Assoc. Wanted to talk about no termination of the CJOC and agree it should continue. Advised there is a report due on 9/1 and statute outlines how that report should be submitted and noted there are statutory guidelines.

Ms. Gilbertson agrees with Rep. Usher that JRI policies are directly impacted by DOC and wondered if DOC should be providing clerical assistance to this council but should be removed from this DOC. To DOC in general, there are issues with public participation of DOC. When they are making substantive change, there needs to be more of a public process rather than making changes at policy level with no input.

Ms. Gilbertson appreciated Mr. Ferriter's history and noted it seems the original intent may be lost. Talked about statutory language. Says there is a relationship and partnership with the DOC and private sector for which has been eroded and the trust is not there. Lack of communication and stakeholders do not feel they are valuable partners.

5:07:31 - May Simmons from Polson advised she watched the council with interest. Would like to note Dir Batista advised there was not enough data on the WRNA to make a decision. On 6/18/14, she had a constitutional right to have a religious programming and she sat 18 months because the program offered was not religious based. Believes the Bible was evidence-based and as a Jehovah's Witness, should have this available.

Ms. Simmons advised Mr. Ferriter didn't talk about contracts and how much money transportation contractors make. He also upheld write-ups against her and she is still fighting what was done to her 10 years ago (had to get locked down, etc).

Ms. Simmons advised in 2017, the DOC put up bunk beds and the prisons have become sanction centers to get jail beds down. Also noted programs like Passages say they don't care what the Judge says. Women lose services and the DOC doesn't care.

Ms. Simmons noted when you go to Passages your public (pretender) attorney has no further contact with them. People have a valid court order but no legal representation. Every Judge in the state should be up in arms. The bunk beds are impossible for people to sleep in.

5:15:51 Judge Krueger thanks Ms. Simmons for comments and asks for conclusion. Ms. Simmons advised she was not allowed a lawyer at her parole revocation hearing.

5:17:10 - Laurie LittleDog from Bozeman noted early input with how DOC commitments were handled. She advised what actually happens is the person is transported to MSP and they will wait there until a bed opens at MASC. They are denied religious accommodation and just watched. Decisions as to what happens with them are made by unqualified staff who ignore judge's recommendations.

Ms. LittleDog also advised risk assessments aren't appropriate for native American persons. Says they've tried to get independent assessors specialized in Native populations but no one calls her back. Where mainstream society is assessed it should be different for native Americans.

MS. LittleDog also requested these meetings should be streamed to people living in prisons and living the systems.

Ms. LittleDog also advised the windows at MSP high side I and II were welded shut a year ago and are now a COVID hazard.

5:21:38 - Judge Krueger found no further comment and next meeting is September 14, 2020. Will make a determination if this be in person and provide agenda items before 8/21/20 and this includes informational or proposed legislation. If members are interested in being on the draft report committee, email the judge.

5:24:00 - Meeting adjourned.