

Criminal Justice Oversight Council
Report
September 2020

Introduction

The 2017 Montana Legislature passed comprehensive criminal justice reform known as Montana's Justice Reinvestment Initiative.

The Criminal Justice Oversight Council is a multidisciplinary team created initially under SB59 by the 2017 legislature. The Council had a sunset date and revised by the 2019 Legislature under HB 369 and codified as MCA 53-1-216 with an effective date of July 1, 2019.

Membership consists of 16 appointed members:

- Two members of the house of representatives, one selected by the speaker and one selected by the house minority leader;
- Two members of the senate, one selected by the president and one selected by the senate minority leader;
- One district court judge appointed by the chief justice of the Montana supreme court;
- The director and deputy director of the department of corrections;
- A county sheriff and a county attorney appointed by the governor;
- A member of a state-recognized or federally recognized Indian tribe located within the boundaries of the State of Montana who has expertise in criminal justice;
- One member of the board of pardons and parole;
- One member who represents the office of the state public defender;
- One representative of crime victims;
- One representative of civil rights advocates; and
- Two representatives of community corrections providers, one of whom must represent a treatment facility and one of whom must represent a prerelease center;

The council shall:

- Elect a presiding officer;
- Review the recommendations of the Commission on Sentencing established in Chapter 343, Laws of 2015;
- Receive and analyze data collected by agencies and entities charged with implementing recommendations of the Commission on Sentencing that are collecting data during the implementation and management of specific recommendations;

- Assess outcomes from the recommendations the commission on sentencing has made and corresponding criminal justice reforms; and
- Request, receive and review data and report on performance outcome data relating to criminal justice reform.

Date evaluation performed by the Council must:

- Assess the current electronic records utilized by criminal justice agencies;
- Review and list all variables collected in each agency's information management system;
- Establish a baseline for historical data comparisons;
- Determine whether data is linked to specific offenders through a unique identifying factor;
- Review archival data and agencies' data retention policies;
- Determine whether presentence investigation reports are completed electronically in the department of corrections' case management system within established statutory timelines;
- Review any established data protocols for pre-trial services;
- Assess if the data collected or recommended to be collected on offenders and programs will provide criminal justice agencies, the legislature, and the public adequate information to determine whether correctional programs produce standardized outcomes across the State and are an efficient use of state resources; and
- Review and suggest improvements for behavioral health screening instruments and other screening instruments as needed to ensure the integrity of data that is captured in criminal justice agencies' information management systems.

The Council shall examine the feasibility of creating and maintaining a public portal through which criminal justice data can be accessed, including data on court case filings, correctional populations, and historical and legacy data sets.

The Council shall submit by September 1 of each even-numbered year a biennial report to the governor and legislature as provided in 5-11-210. The report must include:

- A description of the Council's proceedings since the previous report;
- A summary of savings from criminal justice reforms and recommendations for how the savings should be reinvested to reduce recidivism;
- A description of performance measures and outcomes related to criminal justice reforms; and

- A narrative of the Council's progress on establishing data collection and uniformity standards and any changes that have been implemented as a result of the Council's work.

The Council may appoint a working group to track any legislation resulting from criminal justice reforms and to perform other detailed analysis as directed by the Council. If appointed, the working group shall meet regularly and report to the Council as the Council requires. The working group may include representatives of criminal justice agencies and constituencies that are not members of the Council.

Using the process established in legislative rules for executive agency legislative requests, the Council may request legislation to enact changes to the State's criminal justice system that Council finds necessary.

The judicial branch, the department of corrections, the department of public health and human services, the board of pardons and parole, and the legislative and fiscal divisions shall provide data and information as requested by the Council.

The Council shall report to the Law and Justice interim Committee and the Legislative Finance Committee as requested.

Council members

Sen. Nate McConnell	DOC Dir. Reginald D. Michael	Kelsen Young, MCADSV
Sen. Keith Regier		
Rep. Ryan Lynch	DOC Dep. Dir. Cynthia Wolken	SK Rossi, ACLU
Rep. Barry Usher	Annette Carter, BOPP	Melissa Kelly, Gallatin County Re-Entry
Hon. Kurt Krueger	Chair	Amy Tenney, Boyd
Co. Atty. Marty Lambert	Sheriff Ross Canen	Andrew Peter Ohman, OPD
	Andy Huff	

Council materials, including agendas, meeting materials, minutes, and recordings of the meetings can be found at <https://cjoc.mt.gov>

Council Meetings and Activities

November 19, 2019

The Council held the first meeting, and the Honorable Judge Krueger was elected the council chair.

At this meeting, the Department of Corrections, Department of Health and Human Services, Office of the Court Administrator, Board and Pardons and Parole provided an overview of the Justice Reinvestment Initiative and an update on progress made in each of their areas. The Council then went into a planning session to set their meeting schedule and select future agenda items.

January 29, 2020

The Council met, and topics included presentations by the University of Cincinnati; the Yellowstone County Attorney's Office on Domestic Violence Program and Impact on Victims; DOC programming inventory, prescreening rates, CDFS/Early Discharge, OMIS data tracking; Justice Reinvestment, Tableau Dashboard of data elements related to the criminal justice system in conjunction with the CSG data tracking elements originally outlined within the JRI objectives.

May 13, 2020

The Council met, and topics included presentations by the DOC on staff training by the University of Cincinnati, how DOC calculates recidivism, the daily population report, CDFS timeline update, program inventory, JRI implementation updates, offender risk and needs assessments, CD evaluations/prescreening/court recommendations, and a council discussion on final council recommendations.

July 14, 2020

The Council met, and topics included presentations by the DOC on DOC commitments for FY19 and FY20, an overview of the new online population report, policy relating to facility audits, DOC commitments, CD evaluations/prescreening/placement criteria, CDFS/Early Discharge update, and presentation by Mike Ferriter on the history of DOC commitments.

Following the presentations, the Council discussed proposed legislation including DOC sentence placement outcome, risk and needs assessment related to Justice Reinvestment, Programming for Indigenous People, and continuation of the CJOC.

September 15, 2020

Next council meeting.

Recommendations and activities of the Council

The Council and its members met regularly and interacted with members of the public as well as stakeholders within the respective criminal justice system. A large portion of the Council's work was understanding current systems, structures, practices, and procedures. One area that is of great importance to the Council's and its stakeholders is consistent, reliable, and readily accessible data. The Council was successful in working with the Department of Corrections to get a daily population report put back online in an accessible format that is visible to the public. However, there should be data available regarding arrests, charged offenses, sentence outcomes, county of the sentence, pre-trial diversion outcomes, the risk level of offenders, usage of the Montana Incentive and Intervention Grid (MIIG), population projections of the correctional system, etc. The Council struggled to get a more extensive data set in a consistent and timely fashion, and future councils will need to continue to define and request data needed from the respective agencies and courts to ensure access and standardization that can be utilized to evaluate systems as a whole.

The Department of Corrections, at the suggestion of members of the Council, has set up a working group to evaluate and standardize the substance abuse evaluations for offenders within the system. The Council needs to continue to push for standardization across the systems to ensure that taxpayer money is being spent most effectively with reportable outcomes that are publicly accessible. Current chemical dependency evaluation standards are determined by the DSM-5, and Chemical Dependency Providers completing those evaluations are monitored by the Department of Health and Human Services. Evaluations are based on self-reported data and current behavior, as reported by the person being evaluated. Within the criminal justice system, the evaluation does not account for criminogenic needs and abstinence from substances due to incarceration. This often results in an offender being evaluated based on limited self-reported information and excludes them from programs specific to the Department of Corrections. The DOC will research and develop a chemical dependency evaluation tool that takes into account an offender's criminogenic needs, collateral data, and chemical dependency history that addresses the appropriate services needed for the issues identified.

A second recommendation is evaluating the structure of the Council. The Council is currently 'housed' within the Department of Corrections, which many members felt was it needed to be moved to Legislative Services and separate from any agency in which there was an oversight. Also, the Council needs to work closely with the Law and Justice Interim committee as there is overlap with these respective bodies and valuable conversations that members of both committees would benefit from.

Future councils many want to rotate meetings around the State and spend some time in each of the respective areas of the criminal justice system. The Council met remotely for the majority of its meetings due to precautions related to COVID 19, but members would benefit from touring pre-trial programs, correctional programs, county jails, court proceedings, etc, where they can interact with stakeholders of the systems.

The Department of Corrections developed and validated a risk/needs assessment for both men and women. The men's risk/needs assessment is the MORRA and the women's risk/needs assessment is the WRNA. Currently, the majority of placement decisions to include releases from jail, assessment/sanction centers, and prison are primarily determined by this score. Although the assessment tools are validated, they are not evidence-based as required by many tools and programs operated within and outside the DOC system. The DOC will be required to develop a timeline to make the assessment tools evidence-based and provide a contingency plan for placement decisions until that process is completed.

Other suggested changes and legislation: