



Criminal Justice Oversight Council

66th Montana Legislature

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

September 15, 2020

Minutes Log

8:37 - Meeting called to order by Chair Krueger

8:38- Roll call taken by Kathy Ralston

3:42 - Senator Lynch moves to accept prior minutes. Representative Usher seconds. All in favor, no objections.

8:42 - Beth McLaughlin from the Supreme Court presents on the Pre-Trial Pilot Project. The pre-trial pilot project was funded as part of the 2017 JRI package. It was intended to provide funding to the Supreme Court to develop a risk and release assessment to be used for judges when making decisions about pretrial defendants the program is about \$750,000 a year in the initial years of the program. From June of 2017 through June of 2018 they spent most of the time getting the assessment set up. She believes the intention originally from the legislature was to develop a Montana risk assessment. After review, they decided to use the existing Arnold Foundation Public Safety Assessment, which is used across the country so there is data to validate what they are measuring in assessments. The risk assessment looks at two key components, a person's criminal history and their failure to appear history.

8:58 - Ms. McLaughlin reviews the Pre-Trial Performance Measurement Summary spreadsheet. The committee put as much of the funding received into local services rather than into an IT system. The chart displays information on cases that were disposed that had a public safety assessment between January of 2019 in December of 2019, so they are looking at the entire calendar year of 2019. There were 2869 cases that had a PSA that were disposed or were closed, 80% of those defendants or 2289 defendants were released pre-trial from detention.

9:04 - Ms. McLaughlin discusses the makeup of the different working committees and sub-committees supporting the pre-trial pilot project. She offered to let the CJOC know the direction that comes out of the working-committee regarding how to maximize the number of people who are released from detention pre-trial and really focus on the cash bail or bond system to make sure that people aren't sitting in detention, simply because of their inability to pay.

9:10 - Chair Krueger thanks Ms. McLaughlin for the presentation and opens for questions.

9:12 - SK Rossi asks for the common factors that get people assessed at levels, one, two, and three and how many people have been assessed at those levels. SK Rossi went on to ask how the PSA has been validated locally and if it is going to be validated for indigenous folks as there has been a lot of concern from the

indigenous and PLC community that the PSA isn't actually validated for indigenous people. Would like to hear how the validation process was done and if there's a plan to validate it for indigenous folks.

9:13 – Ms. McLaughlin will send a link that goes through in detail how they are stored and how someone ends up in a particular level. The assessments are a tool that are part of the judge's decision making process. But ultimately the judge makes the decision about release. She explains the assessment has been validated nationally by the Arnold Foundation, it has not been validated in the state of Montana. They think they are close to the point where they have conducted enough PSAs where they could contract with somebody to validate it. It comes down to a money issue which will be in the neighborhood of \$60,000.

9:19 – SK Rossi asks about a percentage or tracking of pre-trial supervision.

9:21 – Ms. McLaughlin explains they are being tracked but they have not figured out how to report on that data.

9:21 – SK Rossi asks why there is such a high number of people who are being assessed as low risk enough to be released pre-trial back into the community, but are still being forced to pay monetary bail.

9:25 – Ms. McLaughlin replies if they look at the defendants that would not release pre-trial, 19% of them were level one defendants, 81% of the level one defendants were released. 32% remained in jail for level two and 49% were level three.

9:25 – SK Rossi asks to see a better breakdown of the levels 1, 2 and 3 assessments. The percentages of those levels and the factors that go into them. They would also like to be able to compare that with the people who are released and are still forced to pay monetary bail to see it holistically. They ask if there is any quality assurance programming happening to ensure there aren't vastly different swings or assessments being done or assessments being made for those levels. Is there any sort of analysis being done to make sure that we are not seeing enormously different level assessments from different courts in the state.

9:26 – Ms. McLaughlin responds the risk assessments are conducted centrally. Once the information is sent out about how the assessments are conducted, it will show it is not open to a lot of interpretation because it's not an interview risk assessment, it is based on criminal history data and failure to appear data.

9:29 – SK Rossi would like to know how the local actors are responding to those risk assessment levels and if there is a vast disparity in some courts versus others. Is it uniform or are there large swings in that data, and if so, why and how can we change that?

9:29 – Ms. McLaughlin says the data she provided will show there is some variation in terms of percentage of people who remain in jail designated as a PSA level three.

9:30 – Rep. Usher asks if they are going to look at coming up with dollars on how much we are saving jails, counties or the state versus the cost of this program in the future?

9:31 – Ms. McLaughlin states there is not a uniform reporting system on detention centers so they initially went into this thinking they would be able to show the cost savings on the accounting side. This is not something they will be able to do, they don't have access to the kind of data needed to be able to demonstrate the impact this is having on detention centers because there are many different kinds of people in a detention center at any given point.

9:34 – Rep. Usher states he is looking for simple numbers that counties could save based on this program if we did not have one of the offenders in jail before their trial for 30 days, there is a 30 day bed night savings.

9:35 – Ms. McLaughlin makes a note to discuss this with the Advisory Committee regarding jail information.

9:35 – Rep. Usher states this program is trying to save these people from losing their jobs, but in the end criminal justice reform is to keep people from going to jail when we can divert them into programs. If we can justify that savings, we would be shocked to see how many bed nights we have saved with this program.

9:37 - Kelsen Young comments this tool does not adequately address DUIs and domestic violence, it's not yet tested in Montana and it's not necessarily effective with native populations. What are the day to day consequences of these issues and how they might be impacting people on the ground?

9:38 – Ms. McLaughlin states the PSA has been validated in many parts of the country. It's not exclusively an East Coast program. It has been used statewide in Arizona which has a high number of Native Americans as well and they validated it. She also believes it accurately reports the defendants risk level when it comes to PFMA charges. She would like to have a companion tool for multiple DUI cases.

9:41 – Ms. Young requests a copy of the assessment tool be sent out to the council. One of her concerns is what criminal history people have access to when making decisions.

9:42 - Ms. McLaughlin states she will send the whole outline of the risk assessment to the council. She explains the processors use three different data sets and outlines each dataset used.

9:44 – Chair Krueger thanks Ms. McLaughlin for her presentation on the pre-trial program.

9:45 – Megan Coy is the Programs and Facilities Bureau Chief for the Department of Corrections presents follow up items from previous meetings. The first topic presented was a deeper dive on the DOC commitment information that was presented at the last meeting. A handout was provided which shows where offenders are going after they are at an assessment center. Each of the percentages represented are the total number of 841 and pulled from Fiscal Year 2020. The percentages relate to specific assessment centers.

9:46 - Ms. Coy presents the percentages for MASC. These percentages only pertain to the total number of that 841 who were at MASC and that's 226 total offenders.

9:47 – Ms. Coy presents the percentages for START. The total number who went through the START program were 381 as new DOC commits.

9:48 – Ms. Coy presents the percentages for Pine Hills. The Pine Hills numbers look a little bit incomplete primarily because their assessment function started late in the fiscal year, and when this information was pulled they hadn't had many offenders placed there for assessment. The total was six.

9:49 – Ms. Coy presents the percentages for Passages, which is the female assessment center located in Billings.

9:50 – Ms. Coy states there were 106 inmates out of the 841 who were placed in Montana State Prison or Montana Women's Prison, she took a closer look at why they were placed there, and categorized the reasons for placement at the secure facilities. These are a percentage of the 106, not the 841.

9:52 – Ms. Coy states she is working with the IT staff to create the ability to pull this information more regularly and have it available upon request.

9:52 – Chair Krueger opens the floor for questions for Ms. Coy.

9:53 – Rep. Usher asks Ms. Coy what percent of those recommendations are followed and what percentage of those recommendations are changed by staff.

9:54 – Ms. Coy asks for clarification whether they are asking about the recommendations that come from an assessment center's evaluation or are they talking about the court recommendations.

9:55 – Rep. Usher clarifies he is asking about the recommendations of the assessment centers.

9:56 – Ms. Coy explains once an assessment center's recommendation is made, the placement is followed through. During the conditional release pre-authorization process for sexual and violent offenders means that an assessment center has made a recommendation and they submit that to the Department of Corrections where it is reviewed and they determine whether or not they agree with the recommendation or they can make an alternative placement. Ms. Coy does not have full data on the number of times the pre-authorization is denied, but they would be able to pull that if that was requested from the committee.

9:57 – Rep. Usher states he would like to know the percentages of the recommendations that are not followed and are changed by staff. He also wanted clarification on the decisions when the assessment center recommendations are not followed through and there is a change in the decision from the assessment center made by staff because of the DOC commit. They are not taken back to the sentencing judge, is that correct?

9:58 – Ms. Coy explains the assessment process at the assessment centers. She will pull together some information about the number of CR pre-authorizations that have been denied and what the follow up placement was based on that.

9:58 – Rep. Usher asks when an assessment is changed, is middle management staff making the decision and they are not taking those decisions back to the sentencing judge who was duly elected by each individual Judicial District. Is that correct?

9:58 – Ms. Coy responds this is correct in terms of sexual violence.

9:58 – Chair Krueger states in hearing the statistics and in reviewing the charts, Ms. Coy has reported 49% of the people receive treatment. He believes the dark blue shows 49% are receiving Community Placement and as he reads it, MASC places 50% of the offenders back into the community and places them on probation. They only place 6%, which is the other blue, MASC only places 6% of the offenders in treatment. He requests Ms. Coy to provide a table to clarify the numbers.

9:58 – Ms. Coy agrees to provide a table with the information for clarification.

9:58 – Chair Krueger states a week ago the daily chart showed 400 empty beds at the treatment facilities. He thinks there is a lot of inconsistency with that statistic. With 49% of the offenders going to treatment and have 400 empty beds a week ago in treatment facilities. He is not sure that is a correct statistic.

9:59 – Chair Krueger states that START places 43% in treatment and asks if this is correct.

9:59 – Ms. Coy verifies this is correct.

10:00 - Chair Krueger states they place 43% in pre-release facilities.

10:01 - Ms. Coy states the correct number is 33%.

10:02 - Chair Krueger states Passages sends 80% of the offenders to treatment.

10:02 - Ms. Coy confirms this number.

10:02 - Sen. Regier asks what criteria is used in the DOC placement determination; the biggest group was for refusal. The next group is disciplinary assaulting. What does the DOC use to make this determination?

10:02 - Ms. Coy explains in most cases it was due to the nature of their offense or their history on supervision. Also, their need for treatment in a more secure environment. This was based on their behavior in the facility or because their conditional release pre-authorization has been denied.

10:03 - Deputy Director Wolken states if we look at the population across any of our community corrections facilities in the last four to six months, a lot of the numbers will be impacted by quarantine space, facility COVID related requirements regarding facing and transportation impacts related to COVID. She cautioned against looking at recent data and making decisions about bed utilization. One or more facilities are not accepting new individuals at this time. There are some COVID related impacts we need to keep in mind when looking at more recent data after March.

10:04 - Ms. Young thanks Deputy Director Wolken for her comment and asks if they could receive data that would be comparable from a non-global pandemic period of time. She agreed a lot of the numbers will be greatly impacted by that lack of transfer.

10:06 - Deputy Director Wolken states it is hard to get baseline data because there are so many different variables that go into treatment bed utilization. Even pre-pandemic, there have been significant expansion of treatment courts, felony treatment courts around the state over the last three to five years. A lot of those individuals that previously would have gone into a custodial treatment facility are now being accepted into felony treatment courts around the state. That is not something the DOC can control. It is a variable that we have seen that has been an impact.

10:08 - Rep. Lynch asks Ms. Coy to include length of stay within each of the respective facilities.

10:09 - Ms. Coy says she can provide that data.

10:09 - Chair Krueger asks for the numbers and percentages of conditional releases.

10:09 - Ms. Coy says the data will be provided in the clarifying information.

10:09- Ms. Coy presents the screening policy update and the written formal process for notifying courts regarding sentencing recommendations. The procedure which has been in place at the DOC for a couple of decades is under revision. They are gathering input from both internal DOC staff who are involved in the screening and placement processes as well as soliciting feedback from their community corrections partners and the parole board. The draft procedure had been sent out for a 20 day review period to gather some of that feedback. Since that 20 day review period closed they have held work sessions with their Montana Community Corrections Association partners to go line by line through the draft procedure and provide clarification and identify areas of the procedure that needs to be changed in terms of language or requirements. The notification to the courts regarding sentencing recommendations is included in this draft

procedure on screening and placement. Once this procedure is finalized, they will be training the staff throughout the department on how to complete that notification process and then the notification process will be implemented at the date of effectiveness of this procedure.

10:11 – Chair Krueger asks Ms. Coy to expand upon the feedback she has received and explain the level of feedback she has received.

10:11 – Ms. Coy explains their review process which involves sending the draft procedure out to an identified group which contains approximately 80 people and explains the feedback received.

10:14 – Chair Krueger asks if an offender is not appropriate for referral to a residential placement and they have a resident residential placement, whether it be a pre-release or a program, would they be appropriate for community placement under their proposal.

10:15 – Ms. Coy responds that would really depend on the case. Offenders sometimes come from different places. They could be located on community supervision already and a probation officer is the one handling the referrals, they could be in an assessment center and that assessment center sent out the referrals or they could be in a secure facility already and the parole board has required that they undergo a pre-release or treatment prior to their release. They would be handled on a case by case basis.

10:16 – Chair Krueger asks if a CD or mental health evaluation will only be required if it is determined by the risk and needs score, regardless of whether a court order ordered a CD or mental health evaluation.

10:16 – Ms. Coy states they would follow the orders of the court if that was required and they would add some clarifying language.

10:16 – Chair Krueger asks if a judge has to order a screening for them to occur in this proposal, or do they still have that as an option.

10:17 – Ms. Coy states this procedure would require a court order for screening during the pre-screening phase.

10:17 – Rep. Lynch asks what the percentage is of offenders that are denied by all the centers that are released into the community.

10:18 – Ms. Coy states they do not have that information. That population could be denied from a prison placement so they would not be included in the stats that we discussed a little bit earlier. One of the reasons that they want to create a standardized reporting mechanism for facility screenings is so they could report on information exactly like that. Currently that screening information is not automated within their Offender Management System.

10:18 – Rep. Lynch asks Ms. Coy if she has the numbers on the backlog of offenders within the secure care population who are waiting to move through a community facility and then parole upon completion of treatment.

10:20 – Annette Carter states they are not able to collect that information. The only way she knows is when people are denied by all centers and they are able get to a rescission hearing. She could collect the data from that standpoint as how many rescission hearings they done based on denials at all pre-release centers. It is very difficult because at this time they don't collect the data from the pre-release centers on who is denied by their centers.

10:21- Ms. Coy adds the department does get screening reports from every program after denial, but they are in many different formats so their ability to compile or conduct analysis on those screening results is beyond their capacity at this point. With an automated screening report, they would be able to provide that data.

10:21 - Rep. Lynch asks what happens to the screening packet after it has been denied by all the respective centers for screening.

10:21 - Ms. Coy responds the packet would go back to the referral source to notify them the offender has been denied by all centers. The process they would like to implement is that referral could come to a centralized location so they could take a closer look at the next steps for that offender. Sometimes there is not anything they can do in terms of re-application. Sometimes they can ask a facility to take another look at them or they may be able to provide some additional information or clarification on information that maybe wasn't in the packet.

10:23 - Ms. Carter adds they have been working with a group of denied folks. The DOC and herself have been reaching out to centers to review people that have been denied by all programs twice. They are trying to gain information from them to determine if there's further programming they would like to see the person complete before they come to their program or if they would like to see more clear conduct or what would make them eligible for their program.

10:23 - Rep. Lynch asks Ms. Carter if she has a ballpark figure of the number of folks that are in that that bucket.

10:24 - Ms. Carter estimates the number to be around 100.

10:24 - Rep. Lynch states historically there was an institutional screening committee that really worked with those offenders to ensure that they were ready once they hit the parole board. This was not case management but bringing all the pieces together and an opportunity for pre-screening. This committee was disbanded. He asks Ms. Coy or Ms. Carter if there is any conversations about bringing that back or some sort of working group like that.

10:25 - Ms. Carter states at this point one of Ms. Coy's staff and herself are working on those cases and are working with each of the individual facilities in order to get those folks rescreened. Case managers and the institutional probation and parole officers are preparing people that the Board of Pardons and Parole does endorse for centers.

10:25 - Peter Ohman states he sees there is a pre-screening option prior to sentencing in the policy. He asks Ms. Coy how often she sees courts requesting that and what is the time period that it takes to get that pre-screening process completed.

10:26 - Ms. Coy states unless the court has specifically ordered it and she does not think they have that information available in the Offender Management System other than in case notes. At this point with the timeframe of the 30 day PSI it is very difficult to do pre-screening, because each of the six male pre-release centers and each facility has ten business days to screen that offender from the date that they receive the packet. If that offender is accepted by the first facility that pre-screening rotation could be minimal. If they don't get accepted by any facility or if they get accepted by the fifth facility that screens them, it could take significantly longer.

10:26 - Mr. Ohman asks if the pre-screening works. It seems it is a frustration from the court, there are issues when the courts order placement and they are not placed. Can this be figured out beforehand so

the court does not issue an order for placement and the DOC does not follow it and we end up in the situation we are in now.

10:27 - Ms. Coy responds there is room for improvement in that process and they work together to make sure that placement is expedient and meets the needs of the court.

10:27 - Kelsen Young reports issues with audio for Zoom attendees.

10:29 - Break

10:48 - Kevin Olson presents the MIIG Sanction Grid Outcomes. He states there are limitations on the ability to extrapolate data, especially anything prior to MIIG, which was documented in the offenders file in the chronological notes. There were not specific data cells to capture that information. Once it was required by law, IT began work to put data fields into OMIS that would capture the utilization of MIIG. This is still not entirely complete. Mr. Olson outlines the history of the technical violations. He will have an in-depth discussion with Katie Hoagland of the Criminal Justice Institute to talk about the number of revocations for technical violations in the Montana correctional system.

10:56 - John Daugherty explains with the implementation of MIIG they started capturing more data. They added more data fields to collect data, so when they try to do a past comparison that wasn't using those additional behaviors or reasons it is harder to extrapolate an exact comparison. They have attempted to do that but what they haven't been able to verify that attempt is accurate. That is going to require looking manually through some documents and do that comparison. They are working with CSG to have them come back and provide technical assistance to update their projections and update the information they previously collected that will include PSI data, big data and all the things seen on the tracking spreadsheet.

10:59 - Mr. Olson states OMIS is still under construction. There are two new major components to OMIS that will be very beneficial when they come online. First is the placement module which will provide all the information that is being asked from Ms. Coy over the duration of the meetings. The second part is the compliance module for more detailed data pertaining to the use of the MIIG will be readily available in a few keystrokes.

11:02 - Rep. Lynch draws the council's attention to section D-4 in House Bill 2 where they mandated a workload study of officers, including an organizational assessment of the supervision structure. Also, an allocation of offender caseloads across the probation and parole staff. It is based on risk level which determines the risk assessment. Number two requires a plan to implement a training on the Offender Management Information System. The department shall report to the legislative finance committee by December 31" on the results of the workload study and the allocation of offender caseload and the plan to implement training for the offender management information system. Money may be expanded only after the budget director certified the department's completed workload study on the P&P and allocation of offender caseload. Further down they talk about the Offender Management Information System training position must be funded out of the P&P divisions base budget for two non-bargaining FTEs and must be used to immediately implement training on employees on the Offender Management Information System and the needs identified in the workload study and training.

11:05 - Mr. Olson states the caseload study was completed by the Council of State Governments. The OMIS trainer positions were removed from the Probation and Parole division and reallocated to IT. He asks John Daugherty to talk about the training.

11:05 - Rep. Lynch asks Mr. Olson if the P&P officers received training.

11:05 - Mr. Olson states the training had started, several of the offices did receive training. Mr. Daugherty can talk about some of the obstacles that the trainers have encountered, they report to John.

11:05 - Mr. Daugherty states the training positions were moved into his division and the positions have been hired. They have had a little bit of turnover in that area, however they did purchase a mobile lab that could travel around the state to the Probation and Parole offices and other areas in the state to provide the training. They are creating user guides for various functions and are developing the training. The training was rolled out as in person classroom training prior to COVID. After COVID they stopped the classroom training and those staff moved to a more Zoom oriented training creation.

11:07 - Rep. Lynch asked if OMIS was implemented around 2007, 2008 or 2009? When did they transition from the old ACES?

11:07 - Mr. Daugherty gives an overview of the migration from ACES and Profiles to OMIS and explains the request process for new modules in the OMIS system.

11:10 - Rep. Lynch asks when they will be able to get the data systems problem resolved, what are they lacking or missing?

11:11 - Mr. Daugherty says they are implementing all the different things for JRI with the staff. At one point, most of his IT programming staff left to go the private sector, they pay a lot more in the private sector. They have implemented a number of things related to JRI, it is a matter of getting to everything. They continue to work through those things based upon the prioritization from the department leadership.

11:13 - Rep. Lynch asks if they will have data in hand, even some of the rudimentary data going into the next session.

11:13 - Mr. Daugherty states he is hoping to have the Council of State Governments complete an in-depth review, which includes the MIIG, started before then, their timeline is fairly short. John's team has already been providing the CSG with a lot of the data prior to their initial meeting. He is very hopeful they will be able to help them determine a better way to provide data.

11:14 - Rep. Lynch states he was under the impression that the MIIG was stood up before 2018, back in 2015 or 2016. Through the JRI package it was redone and adopted. It was modeled off the Idaho model, but his understanding was that the MIIG was setup before 2018.

11:14 - Mr. Olson states there was a form of the incentives and intervention grid that was being utilized on a case by case basis. Back then, it was a model that was adopted by Wyoming. When the legislation passed and the Council of State Governments came in, they looked at about eight different states incentives and intervention grids. In the end, they determined the Wyoming model was not the best model for Montana and decided to use the Idaho model.

11:15 - Rep. Lynch asks Mr. Olson if his staff is familiar with the MIIG, do they use it daily in all their interactions either positive or negative and are they comfortable with it.

11:16 - Mr. Olson believes they are. They have done extensive training on it and have provided laminated copies to every officer.

11:17 - Rep. Lynch asks if an interaction with an offender doesn't wind up in a MIIG type of response, is every interaction with an offender documented within OMIS?

11:17 - Mr. Olson says generally they are. There is a note field that is entered in the chron section where the information about the phone call or meeting is entered.

11:17 - Rep. Lynch asks if they have the ability to pull that data on how many chrons have been entered.

11:17 - Mr. Olson says they can see the chrons that have been entered but actually trying to extrapolate data is difficult because it is a free text field, similar to an email and trying to extrapolate data from an email.

11:18 - Mr. Daugherty says yes and no, they can do chronological reports. When a chronological note is entered, there is a number of options the officer can use to track categories such as a telephone call, email exchange, in person visit or a field visit. They can track what type of contact the officer had. When it comes to looking at the notes the officer made, it's very difficult to pull any meaningful data from a free text field with no formatting. They can track all of those interactions based on the category fields and how many were entered by a particular officer and any particular offender on their caseload.

11:19 - Rep. Usher asked Mr. Lambert if a house bill is signed by the Governor and passes the Senate, it becomes a law. It is something that the counties are required to implement starting July 1, you have to enforce that, correct?

11:19 - Mr. Lambert replies basically yes.

11:20 - Rep. Usher states Rep. Lynch verbally quoted Section D of a house bill passed a year and a half ago and it required a lot of data. We continue to get no results or answers from Mr. Olson and others. He is wondering when they are going to be able to get the right people in the DOC that can actually get the job done and follow state law.

11:21- Director Michael states they have people here now that are doing the best that they can. There are things they are working with outside partners to try and get information clarified. They are working with the Crime and Justice Institute. They brought in someone from the outside to look at why people are returning to jail on violations. He believes their IT staff and P&P officers are trying to do this job.

11:23 - Chair Krueger asks Mr. Olson if he was the only one who received the spreadsheets. They are hard to read and the data wasn't summarized. He found an increase to admissions to prisons, offenders returning to prison, new crimes and technical violations. He also saw a decrease in probation technical violations and paid alternative placements which are treatments. He felt those spreadsheets will be useful, but they have to be summarized in a manner the reader can quickly ascertain what the spreadsheets are about.

11:25 - Mr. Olson explained they did not disseminate the spreadsheets to the council as a whole. They will work on cleaning them up to provide more clarity. He explained pre-MIIG data is contained in word documents that have been uploaded into OMIS.

11:25 - Chair Krueger asks one of the legislators to discuss how they propose to continue this council.

11:25 - Rep. Lynch states it is his understanding that when the legislation was crafted and passed last session there is no sunset or termination date to this council, it's an ongoing council that will continue unless legislative changes are made.

11:26 - Rep. Usher outlines the discussions regarding staffing held with several members of the CJOC. They believe there are potentially two solutions to discuss.

11:26 - Rep. Lynch agrees the change would be a holistic picture of what is in play with the county attorneys and the public defenders through the courts and into corrections. It makes more sense to have the oversight over everything and staffed at that level.

11:30 - Rep. Usher states there has not been any conversation about removing any members of the council.

11:30 - Deputy Director Wolken states this is a good solution proposal. She has appeared before the LJIC and it is very clear there is a significant interest in both committees for comprehensive criminal justice system and reforms data that are also under the purview of this body, so it makes a lot of sense logistically to look at the broader reforms across our system. She appreciates the proposal and will be supporting it.

11:31 - Kelson Young states she was not one of the people this proposal was discussed with prior and has some questions. The first it sounds like it's two different proposals, one would be to put it under the LJIC and the second would be to elevate it to a council that would be staffed. Are they being asked for feedback on both? Also, the agenda had proposed legislation, she doesn't see this here. She does not understand their processes, for instance if they have a vote and there is a disagreement, how it gets handled as a council. She does not believe they have addressed the process part. They are being asked to provide input, her basic concern is that this is staffed appropriately and that they have the resources needed to be a functioning council. She asks for further elaboration from those working behind the scenes.

11:33 - Chair Krueger says continuation of the council was discussed at the last meeting and it was stated they would discuss it today in terms of how the council will continue in the future.

11:34 - Rep. Usher states he envisions the CJOC to work like the interim committee, if they have a proposal for potential legislation, they can have it as a council bill. The LJIC gave authority for them to work on some legislation. If they have a proposed council bill, they can take a vote. If it does not pass any member that is able to bring it on their own can sponsor the bill. They are supposed to be looking at more than just the DOC, they are supposed to be looking at holistically all criminal justice reform. There was too much focus on the DOC, although they are big, there are a lot of other things they can review besides the pre-trial diversions. The criminal justice reform, overall, they are supposed to take the money from the savings from taking people out of the prisons and put that money on the front end, which this state has not done. They are also supposed to keep the DOC accountable which is difficult when they can't get the information. It makes more sense to have a more neutral party involved.

11:39 - Kelsen Young states the question on the table was if they are voting on not having the DOC staffing the council anymore. Or if they have actually chosen whether or not they are going to be under the LJIC or a separate entity.

11:40 - Rep. Usher states this would be a bill for the council to support that would potentially change it to one of those two. They have just started looking into the options, let's research and figure out which way it is. They have to vote on if they support a bill to make the changes and if this council doesn't want to do it, then one of the four legislators can bring the bill.

11:41 - Rep. Lynch states the legislation gave the ability for this committee to draft legislation utilizing the executive agency legislative request process. Yesterday, they went in front of the LJIC and requested they have the ability to draft legislation. The LJIC did give them the authority to do so with the caveat some of the authority would go to the chair so Judge Krueger would have the final say on that legislation and finding a sponsor that was appropriate. The question for today is do we think it should be moved out from Corrections or not and if so, there's a couple different possible options.

11:44 - SK Rossi states the question was what is the internal process for this committee and says the council exists in perpetuity. They have to meet every quarter and is not sure why this is the last meeting. They would like to hear about the process. This would include administrative rules or guidelines that fall into making the agenda, etc. If they are looking at revising the structure of the council, the conversation includes coming to agreement on what our process looks like for making these decisions.

11:46 - Chair Krueger states they have a discussion of whether they can have additional meetings before the legislature at the end of this meeting. From a practical standpoint, this is probably the last meeting of the year due to the election cycle. When they make a determination of the next meeting will probably be after the legislative session. Today they are going to make some decisions in terms of where they are as a council and the other things that are on the agenda.

11:47 - SK Rossi states they have never actually discussed the process.

11:47 - Chair Krueger states the process they follow are the rules of Robert's Rules of Order as they do with any legislative committee. They have procedurally followed all the rules followed in relation to legislative committees, every individual on the committee has had the opportunity to put items on the agenda.

11:49 - Andrew Huff states he has concerns about this. He was not informed this would be on the agenda or that it would be discussed. This is a substantive decision that isn't reflected on the agenda, so the public hasn't had an opportunity to think about it. Acting on this would potentially violate open meeting laws.

11:51 - Kelsen Young states the point that she has been trying to make is about process. The question was do we have a decision point today other than removing staffing from the Department of Corrections, or are you proposing one or the other, those kinds of things are clarified when we actually get information and materials ahead of time and when they are clear about the decisions they are making. She wants the record to reflect she is not some novice that doesn't understand process.

11:53 - Chair Krueger asks if anyone has any objection to the staffing of this manner be done by the Legislative Council.

11:53 - Andrew Huff states he wants to continue his process objection.

11:54 - Rep. Lynch states the council discussed this at the last meeting. They talked about the legislative process of going through the LJIC, it was decided that he would report in conjunction of the chair to the LJIC. They were authorized to draft bills so it has been an open and transparent process with the process delineated. There was adequate public input into the process.

11:55 - Chair Krueger suggests a short phone meeting in December and have a bill draft before the meeting.

11:56 - Rep. Usher states the motion would be to further investigate and follow through on a bill draft to bring back to the council before the end of the year.

11:57 - Deputy Director Wolken states the appropriation received did not go to staffing, the position was staffed within the DOC by a grant that has ended. That appropriation was to facilitate the meetings and for travel and reimbursement. If this goes forward, they would need to determine if the appropriation would continue with legislative services or what that staffing would look like.

11:58 - Rep. Usher states the motion is only to continue to move forward. The concept is that everything will just move to legislative services and reimbursements everything else. They will continue to use the same appropriation and just move to legislative services. Preliminarily they have asked for the same number of people that they currently have so it doesn't look like any increase.

11:59 - Rep. Usher states the motion is for the council to continue with one of the bill drafts to conceptually put something together to bring before the next meeting for the council to vote on.

12:00 - Chair Krueger calls for a roll call vote on the motion. Kathy Ralston announces the results of the vote: 9 yes, 6 no.

12:03 - Chair Krueger states the council will hold a brief Zoom meeting in November, probably the second week to discuss the bill draft.

12:04 - Chair Krueger states the next agenda item is legislation for the DOC commit which has been distributed to the council as a proposed request for legislation. This item will also be moved to the agenda for the November meeting. The two agenda items that will be voted on will be the motion on the continuation of the council and the DOC commit.

12:05 - Rep. Lynch states the council report will reflect the changes the council passes or does not pass. He recommended they move the report to the November meeting as well to give the council time to look at the report to edit it or add to it. He needs to change some of the risk and needs assessment as well as some other additions.

12:06 - Rep. Usher agrees the report should be on the next agenda. He suggested it be reviewed at this meeting since Rep. Lynch will need to do a rewrite on the report, they need to make sure it is reflective of all the council members. They should have a subcommittee working on the report which can be reviewed at the next meeting.

12:07 - Rep. Lynch agrees and requests any thoughts or feedback for the report be sent to him to be reviewed by the working committee. The council can review the report at the next meeting.

12:09 - Kelsen Young states her no vote was about process, not necessarily about rejecting the idea. She believes what type of council they setup will be important.

12:09 - Chair Krueger states the legislators on this this committee can work on the resolution and will present a bill draft in regards to how this council should move forward at the next meeting. He is leaving it to the legislators to review and discuss the type of legislation they would like to present. The legislation he proposed will be discussed at the next meeting.

12:11 - Rep. Usher states no one is opposed to a working committee, but they only voted on moving forward. The discussion is to let legislative services figure out legally who staffs it and the best type of model so they can maintain the same structure and all the current members. He does not feel a working group would have much to discuss. He agrees that should review the DOC commit proposal since it was on the agenda.

12:13 - Sen. Regier suggests each committee member look over the resolution and other bills coming and individually present amendments at the next meeting. They do not need a working group to do it. They can discuss those amendments to the bills or resolutions at that time.

12:15 – Sen. Nate McConnell states he supports the sentiment of his colleagues and thinks it is a good idea for the council to look at what has been proposed and offering amendments is a good idea.

12:15 – Peter Ohman states the council is supposed to be looking at all the different data coming out of the state agencies like OPD, Corrections and the DOJ. Idaho had passed some proposed legislation in the last few years to develop an integrated software system that collected data to properly evaluate whether justice reinvestment is doing what we were hoping it was going to. This may be something Montana may want to look into.

12:18 – Chair Krueger asks if there is any further discussion on the council report.

12:18 – Rep. Lynch requests everyone take a look at the council report and offer feedback, they can reconvene the working group before the next meeting and put together the framework.

12:19 – Chair Krueger states a pick a date meeting email will be sent out for a meeting in the second week of November. He asks if anyone has any further discussion items before they go to the public comments portion of the meeting.

12:20 – Marty Lambert suggests when they finalize the draft it be sent around at least 48 hours, two business in advance of the meeting.

12:22 – Chair Krueger opens the meeting for public comment.

12:22 – May Simmons comments about the screening process and expresses concern regarding comments she has heard about OMIS at the LJIC.

Ms. Simmons comments on the major and minor disciplinary reports that are being sent to the Parole Board. She is concerned about the inefficiencies in the system. She raised the question whether the MIIG is used for just probation or if they are using it for parole also.

Ms. Simmons states there is no coordinated reentry for the state of Montana. We will not have significantly lower numbers until we have this coordinated reentry effort.

12:28 - Connection is lost with Ms. Simmonds.

12:28 - Ms. Simmonds calls back in. She states the DOC was instructed to lower the number of jail beds, that is when bunk beds were installed. She states the bunk beds need to come down.

12:30 – Chair Krueger thanks Ms. Simmons for her comments and asks if there are any additional public comments. Hearing none, he asks for a motion to adjourn the meeting.

12:31 – Marty Lambert moves to adjourn the meeting.

12:31 – Rep. Lynch seconds the motion.

12:32 – Chair Krueger adjourns the meeting.