



CRIMINAL JUSTICE OVERSIGHT COUNCIL 67th Montana Legislature

SENATE MEMBERS

Ryan Lynch
Keith Regier

HOUSE MEMBERS

Kathy Kelker
Barry Usher

COMMITTEE STAFF

Milly Allen - Research Analyst
Bethany McDowell - Secretary

PUBLIC MEMBERS

Council Member Boggio
Sheriff Canen
Director Gootkin
Council Member Guernsey
Council Member Kelly
Judge Krueger
Council Member Lindquist
Council Member Medrano
Council Member Patelis
Council Member Tenney
Council Member Twito
Deputy Director Wolken

MINUTES LOG

June 28, 2022
Capitol Room 102/Zoom
Helena, Montana

Please note: This document is a Minutes Log and provides annotation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video recording of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of the meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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MEMBERS PRESENT:

Rep. Barry Usher, Chair (R)
Council Member Boggio, Public Member
Sheriff Canen, Public Member
Director Gootkin, Public Member
Council Member Guernsey, Public Member
Rep. Kathy Kelker (D)
Council Member Kelly, Public Member
Sen. Ryan Lynch (D)
Council Member Medrano, Public Member
Council Member Patelis, Public Member
Sen. Keith Regier (R)
Council Member Tenney, Public Member
Council Member Twito, Public Member
Deputy Director Wolken, Public Member
Judge Krueger

MEMBERS EXCUSED:

. Council Member Lindquist ()

MEMBERS ABSENT:

STAFF PRESENT:

Milly Allen, Research Analyst
Bethany McDowell, Secretary

AGENDA ([Attachment 1](#))

VISITORS' LIST ([Attachment 2](#))

COMMITTEE ACTION

CALL TO ORDER/ROLL CALL

08:09:36 Rep. Barry Usher-R called the meeting to order at 8:09 AM. The committee secretary took roll.

PANEL: DEPARTMENT OF CORRECTIONS (DOC) PUBLIC SAFETY UPDATE - Jim Anderson, Public Safety Chief; Katie Donath; Megan Coy; Erica Wimmer

08:11:15 Mr. Anderson
08:12:26 Ms. Donath
08:14:50 Mr. Anderson
08:15:20 Ms. Coy
08:19:33 Ms. Wimmer
08:20:39 Mr. Anderson

Council Questions for DOC Panel

08:21:00 Rep. Kelker asked about assessment tools.
08:22:49 Rep. Kelker asked about information received from assessment data.
08:23:45 Sen. Regier asked Ms. Donath about life-changing events considered for re-assessment.
08:24:59 Ms. Guernsey asked about individual assessments.
08:26:31 Ms. Guernsey asked about court recommendations.
08:27:21 Mr. Patelis asked Ms. Coy about who is in charge of assessments.
08:28:49 Mr. Patelis commented on the work of probation officers.
08:30:18 Rep. Usher asked the panelists to briefly describe a DOC commit.
08:32:07 Mr. Canen asked about tracking risk assessments.
08:33:01 Mr. Twito asked the panelists to describe conditional discharge.
08:34:42 Mr. Twito asked Ms. Donath for further explanations of conditional discharge.
08:37:14 Rep. Kelker asked the panelists about the timeline of assessments.
08:38:38 Sen. Lynch asked about PSI sentencing recommendations.
08:39:16 Sen. Lynch asked about ASAMs.

- 08:40:24 Sen. Lynch asked Mr. Patelis about the MBCC's reliance on substance use evaluation information.
- 08:41:54 Sen. Lynch asked about correctional best practices.
- 08:43:57 Sen. Lynch asked about DOC discretion regarding CDFS. He followed by asking about CDFS status and re-commitment.
- 08:47:05 Sen. Lynch asked about the total secure population.
- 08:47:58 Rep. Usher asked PSI assessment timelines in other states compared to Montana.
- 08:49:40 Rep. Usher asked about letters that are sent to judges regarding DOC recommendations. He followed by asking about hearing officers.
- 08:52:25 Rep. Usher asked about probation violation and the jurisdiction of the DOC when individuals re-offend.
- 08:54:10 Mr. Twito asked about conditional discharge denied due to supervision.
- 08:56:16 Mr. Twito asked about DOC policy related to supervision.
- 08:57:31 Mr. Patelis asked about caseloads.
- 08:59:25 Rep. Usher asked about conditional discharges.

Public Comment on DOC Public Safety Update

- 09:00:24 Pam Purinton, Ward 4 City Council, Billings
- 09:02:57 Frank Ewalt, Billings
- 09:05:27 May Simmons, Polson
- 09:09:05 Clemente Arciga, Gold Creek

PANEL: VICTIM EXPERIENCES AND SERVICES IN MONTANA

- 09:15:02 Gina Boesdorfer, Executive Director, The Friendship Center, Helena
- 09:18:51 Stacy Wesen, Victim Services Program Director, Gallatin County ([Exhibit 1](#))

Council Questions

- 09:28:03 Ms. Guernsey asked about victim involvement in obtaining plea deals.
- 09:32:50 Nancy Old Elk, Rural Victim Advocate, YMCA Billings
- 09:38:54 DeeAnn Richardson, Director at Safe Harbor, Ronan
- 09:45:15 Jamie Rogers, Victim Services Manager, DOC
- 09:49:08 Tawny Rogers, State Victim Liaison, Montana Board of Crime Control (MBCC)

Council Questions for the Panel

- 09:55:48 Rep. Kelker asked Ms. Rogers about funding for victim service programs.
- 09:57:02 Rep. Kelker asked about states taking responsibility over victim services. She followed by asking about restitutions for victims.
- 09:59:31 Ms. Guernsey asked about restitution. She followed by asking about victim responses to restorative restitution.
- 10:03:07 Ms. Guernsey asked about statutory responses to order protection violations. She followed by asking about the entity responsible for ensuring those responses.
- 10:04:20 Mr. Twito responded to Ms. Guernsey's question.
- 10:04:33 Mr. Twito responded to Ms. Geurnsey's question.
- 10:05:37 Sheriff Canen followed-up on Mr. Twito's response to Ms. Guernsey.

- 10:06:36 Mr. Twito asked about priority changes to victim services.
10:07:38 Ms. Boggio joined the meeting.

Public Comment on Survivor and Victim Experiences

- 10:12:37 Nanette Gilbertson, Montana County Attorney's Association and Montana Sheriffs and Peace Officers Association (MSPOA), Helena
10:14:07 Steven Hurd, Parole Board
10:16:25 Clemente Arciga, Gold Creek
10:19:01 May Simmons, Polson
10:23:39 Rep. Usher commented on inviting presenters who were victims to the next meeting.

HABITUAL OFFENDER STATUTES IN THE UNITED STATES - Alison Lawrence, Criminal and Civil Justice Program Principal, National Conference of State Legislators

- 10:24:28 Ms. Lawrence ([Exhibit 2](#))

Council Questions for Ms. Lawrence

- 10:42:40 Mr. Twito commented on Ms. Lawrence's presentation.
10:43:04 Ms. Wolken asked about sentencing ranges in Florida.
10:46:59 Mr. Twito asked about other states' parole restrictions.
10:49:36 Mr. Twito asked about other states' persistent felony offender replacement sentences.
10:50:35 Mr. Twito asked about Montana's persistent felony offender statute.
10:52:15 Sen. Lynch asked about victim voices in plea agreements.

Public Comment on Habitual Offender Statutes

- 10:54:46 Pam Purinton, Ward 4 City Council, Billings
10:55:54 Frank Ewalt, Billings
11:00:42 Angelica Henson, Colville, WA

PRE-TRIAL DIVERSION AND PRE-SENTENCE AGREEMENTS - Kirsten Pabst, Missoula County Attorney

- 11:03:50 Ms. Pabst ([Exhibit 3](#) - Presentation can be viewed in the video recording at [11:03:48](#))

Council Questions for Ms. Pabst

- 11:13:14 Ms. Tenney asked about the success rate of the programs.
11:14:23 Mr. Twito asked about individual assessments for participating in the calibrate program. He followed by asking about the timeline of those assessments.
11:17:39 Ms. Guernsey asked about considerations for success for individuals in her program.
11:19:16 Sen. Lynch asked about individuals who are allowed entrance into her program.
11:22:12 Sen. Lynch asked about any insurance as a resource for treatment services.

Public Comment on Pre-Trial Diversion and Pre-Sentence Agreements

- 11:24:25 Nanette Gilbertson, Montana County Attorneys Association, Helena

FLATHEAD RESERVATION RE-ENTRY PROGRAM - Ann Miller, Managing Attorney, Tribal Defenders Office of Confederated Salish and Kootenai Tribes (CSKT); Susette Billedeaux, Holistic Programming Director, Tribal Defenders Office of CSKT

11:28:03 Ms. Miller

11:37:28 Ms. Billedeaux

Council Questions for the Panel

11:38:05 Mr. Patelis asked about federal funding for the program.

11:38:44 Mr. Patelis asked about working with other entities to start additional programs similar to the Flathead Reservation Re-Entry Program.

11:40:29 Ms. Boggio asked about statistics on grant participant information.

Public Comment on Flathead Reservation Re-Entry Program

11:41:35 Josh Butterfly, Prayer Warriors Tribal Council ([Exhibit 4](#))

11:48:01 May Simmons, Polson

Council Questions

11:54:05 Rep. Usher asked Ms. Billedeaux and Ms. Miller about the facility used for re-entry services.

11:56:00 Rep. Usher asked Ms. Billedeaux and Ms. Miller about required tribal status of their clients. He followed by asking about funding.

11:57:16 Rep. Usher asked Ms. Billedeaux and Ms. Miller about referrals for pre-trial and pre-arrest diversion.

11:59:14 Ms. Wolken invited the council to a lunch at DOC.

Lunch/Recess

11:59:37 Reconvened at 13:31:40

Work Session: Council Legislation

13:32:28 Milly Allen, LSD Research Analyst, discussed CJOC 1 with the council. ([Exhibit 5](#))

13:33:57 Sen. Regier commented on the draft legislation. (See exhibit 5)

Public Comment on CJOC-1

13:35:35 Nannette Gilbertson, MSPOA and Montana County Attorney's Association

13:36:32 Mark Murphy, Helena

Council Discussion on CJOC-1

13:37:43 Mr. Twito commented on intentions of diversion within the legislation.

13:39:17 Rep. Usher commented on the upcoming Law and Justice Interim Committee (LJIC) meeting and bringing forth requested legislation to that committee.

13:40:22 Rep. Kelker asked about the draft legislation.

13:41:07 Mr. Twito replied to Rep. Kelker's question.

Council Discussion on CJOC-2

13:41:40 Ms. Allen discussed CJOC 2 with the council. ([Exhibit 6](#))

13:44:53 Rep. Kelker asked about recovery residency certification outlined in the draft legislation. (See exhibit 6)

13:47:57 Rep. Usher asked Rep. Kelker about naming specific standards that allow certification.

13:49:10 Ms. Tenney commented on outlining specific standards for certification.
13:50:37 Rep. Usher responded to Ms. Tenney's comment.
13:51:14 Ms. Boggio commented on the draft legislation. (See exhibit 6)
13:51:55 Mr. Twito asked for changes in the language in the draft legislation.
13:53:26 Sen. Lynch asked about grandfather clauses for current facilities.
13:55:35 Rep. Usher, Mr. Patelis, and Ms. Tenney commented on grandfather clauses.
13:57:54 Sen. Lynch asked about allowing options for enforcing standards for treatment homes.
13:58:55 Reps. Kelker and Usher, and Mr. Patelis commented on grandfather clauses.
14:00:38 Rep. Usher stated the need to follow-up with DPHHS in order to understand which homes are reaching the current standards.
14:01:23 Rep. Kelker commented on the language in the draft legislation. (See exhibit 6)
14:01:43 Rep. Usher asked the council for additional ideas on the draft legislation.
14:02:13 Rep. Kelker responded to Rep. Usher's question.
14:03:49 Rep. Usher commented on self-pay for the homes.
14:04:46 Mr. Twito commented on penalties within the legislation.
14:06:11 Sen. Lynch asked about the information from Tennessee Rep. Curcio from the March meeting.
14:07:04 Rep. Usher asked about certifications for recovery residences.
14:07:58 Mr. Twito responded to Rep. Usher's question on certifying recovery residences.
14:08:55 Ms. Purintan stood to respond to Rep. Usher's question.
14:10:03 Rep. Kelker asked about residences that are not certified.
14:13:50 Mr. Twito responded to Rep. Kelker's question.
14:14:48 Sen. Regier asked about short-term rental requirements.
14:16:11 Mr. Twito and Dir. Gootkin responded to Rep. Kelker's question.
14:18:23 Sen. Regier commented on short-term rental taxes and asked to clarify their subjectivity to short-term rental taxes.
14:19:34 Ms. Tenney commented on language within the draft legislation relating to substance use. (See exhibit 6)

Council Discussion on CJOC-3

14:20:53 Ms. Allen discussed CJOC 3 with the council. ([Exhibit 7](#))
14:21:55 Mr. Twito commented on the draft legislation. (See exhibit 7)
14:24:37 Ms. Tenney asked about disqualifications for persistent felony offender designations. She followed by asking about language on individuals on conditional release.
14:26:52 Mr. Patelis clarified conditional discharge versus conditional release.
14:28:30 Ms. Tenney clarified her previous question.
14:29:39 Sen. Lynch asked Mr. Twito about revocation paths.
14:32:58 Sen. Lynch asked Mr. Twito the number of felonies charged in Yellowstone County in 2021. He followed by asking how many of those cases went to trial.
14:35:13 Sen. Lynch asked about victims being included in legislation relating to sentencing structure.

PAROLE AND RE-ENTRY -Kristina Lucero, Board of Pardons and Parole

14:40:48 Ms. Lucero ([Exhibit 8](#))

Council Questions

14:59:02 Ms. Wolken commented on DOC Native American liaison.

14:59:48 Mr. Patelis commented on the objective of Re-entry.

Public Comment on any topic with CJOC's jurisdiction and not on the agenda

15:01:07 Mark Murphy, Helena

15:08:26 Steven Hurd, Montana Board of Pardons and Parole

15:10:24 Clemente Arciga, Gold Creek

15:12:43 Kasey Hugs, Missoula

15:14:42 May Simmons, Polson

Break/Recess

15:19:17 Reconvened at 15:31:42

Work Session: Council Legislation

15:32:00 Ms. Allen discussed CJOC 2 options. (See exhibit 6)

15:34:02 Rep. Kelker commented on regulations on safe homes.

15:35:03 Rep. Usher asked Mr. Twito about CJOC 3. (See exhibit 7)

15:38:23 Rep. Kelker asked Mr. Twito about data related to the bill. She followed by commenting on previous persistent felony offender legislation.

15:42:58 Mr. Twito responded to Rep. Kelker.

15:44:04 Ms. Guernsey commented on victim perspectives to the plea bargain that is outlined in the legislation.

15:44:52 Ms. Tenney commented on conditional discharge and conditional release decisions. She followed by asking the intentionality for commitments regarding state prison punishments.

15:45:39 Mr. Twito responded to Ms. Tenney.

15:49:16 Ms. Tenney commented on language in CJOC -3 that would disallow DOC commits. (See exhibit 7)

15:51:20 Sen. Lynch asked about felony charges prior to 2017.

15:54:26 Dir. Gootkin responded to Sen. Lynch.

15:55:17 Mr. Hurd stood to clarify the difference between conditional discharges for probationers and parolees.

Council Discussion on CJOC-4

15:56:53 Ms. Allen discussed CJOC 4 with the council. ([Exhibit 9](#)) Sen.

15:57:53 Regier commented on the draft legislation. (See exhibit 9)

Council Discussion on CJOC-5

15:58:38 Ms. Allen discussed CJOC 5 with the council. ([Exhibit 10](#))

15:59:44 Sen. Regier commented on the draft legislation and asked about fiscal notes from DOC. (See exhibit 10)

16:00:23 Rep. Usher responded to Sen. Regier.

16:00:50 Sen. Lynch asked for the impetus for the draft legislation.

16:03:46 Rep. Kelker clarified the intentions behind the bill.

16:04:47 Ms. Boggio asked about golf carts being defined as a motor vehicle.
16:07:31 Rep. Usher clarified the purpose of a motion.

Motion

16:08:20 Rep. Kelker moved to allow Ms. Allen to draft a memo to LJIC stating requests for bill draft placeholders.

Discussion on the Motion

16:10:04 Rep. Kelker asked about legislation related to diversion or pre-release.
16:10:41 Sen. Lynch asked about including an additional placeholder for refining pre-trial diversion laws.

Public Comment on the Motion

16:11:30 Nannette Gilbertson, MSPOA and Montana County Attorney's Association

Vote

16:14:40 Motion passed with a voice vote. Ms. Boggio voted no.

Work Session: Council Report and Study Summary

16:15:56 Ms. Allen discussed the draft final report and draft study summary. ([Exhibit 11](#))
16:17:08 Rep. Usher commented on the titles of the members of the council. He followed by asking to change the name of the report.
16:19:15 Rep. Usher asked the council their preference on submitting the report to LJIC.
16:19:58 Rep. Kelker asked for clarification on the report to be presented.

Work Session: Items for Next Meeting

16:23:45 Rep. Usher discussed victim services to be discussed at the next meeting.
16:24:07 Ms. Allen discussed meeting topics for the next meeting.

Adjourn

16:26:45 Rep. Usher adjourned the meeting at 16:26:45 (4:26pm).

ADJOURNMENT

Adjournment: 16:26:45