

PARTNERSHIP FOR A GREATER SALT LAKE CRIMINAL JUSTICE COMMITTEE

Meeting Notes from May 23, 2016

Attending : Patrick Anderson, Legal Defenders; Anna Brower, ACLU of Utah; Adam Cohen, Odyssey House; Kele Griffone, SLCo Criminal Justice Services; Mike Haddon, Utah Department of Corrections; Judge Brendan McCullagh, West Valley Justice Court; Nubia Pena, Racially Just Utah Coalition; Alan Pruhs, Association for Utah Community Health; Jackie Rendo, NAMI; Mayor JoAnn Seghini, Midvale City; Kerry Steadman, SLCo Regional Development; Tim Whalen, SLCo Behavioral Health; SLCo Sheriff Jim Winder, Jeannie Edens and Fraser Nelson, staff

Chairs: Salt Lake County Council Chair Max Burdick and Representative Eric Hutchings

Overview

Meeting Purpose: Gain a shared understanding of: each other and our perspectives, of the criminal justice and services system, and of issues we want to explore in depth

Deliverables: Draft shared vision statement / common agenda
Identification of critical issues in the system we want to address

Next meeting **Friday, June 24th 1:00 – 3:00**

Common agenda:

The Committee began its work by identifying broad areas where members think reforms and improvements are needed and possible. These will be narrowed down so that we can make real progress across our traditional roles. The following is a draft of our common agenda:

Our common agenda is to reduce the number of individuals who are in jail whose needs can more justly be met in the community. We can do this by scaling programs that work, ending programs that add to needless arrest and incarceration, and ensuring equal treatment under the law. In doing so, we will save the taxpayer dollars, increase the safety of our communities, and reduce the devastation of mass incarceration on individuals, families and communities.

Critical issues / actions

The committee surfaced the following critical issues / opportunities. The committee would like to tackle a few areas where the impact can be 1) immediate 2) be considered by the legislature during interim. We will examine these in our next meeting:

Scale what works

1. Expand JRI
2. Use data and evidence based programs
3. Examine the Family Justice / domestic violence programs for their applicability to other populations
4. Expand the number of mental health courts
5. Expand the number of drug courts
6. Expand the number of ACT Teams
7. Expand use of intensive supervision
8. Increase diversion programming (funding, equal access)

End needless incarceration

1. Legalize possession of marijuana
2. Increase non-incarceration alternatives for those who do not remain clean

3. Increase access to Legal Defender Services
4. Expand the earned time credit provisions for the state Justice Reform Initiative (JRI)
5. Reform the warrant program and increase people's ability to respond to outstanding warrants
6. End or greatly reform Justice Courts
7. End policies that encourage the incarceration of individuals who are homeless
8. Reform cash bail requirements that discriminate against low income individuals with low level offenses

Ensure equal treatment

9. Increase access to behavioral health services from the moment the need is identified.
10. Integrate primary care and behavioral health (substance abuse and mental health) services
11. Change policies that make it harder for people with felonies to get housing
12. Fight NIMBYism (enforce federal laws, strengthen state laws)
13. Change the Good Landlord provisions that reduce housing options for ex offenders
14. Increase efforts to help individuals expunge their records
15. Expand employment programs for ex offenders (Ban the Box)
16. Make recommendations to end the state and county's school to prison pipeline and its impact on communities of color
17. Review charges and treatment of women convicted for solicitation
18. Review risk / needs assessments for bias that (may) increase the score of people with disabilities, racial and ethnic minorities and youth.

Data Needs

There are areas where the committee would like a hard data. Note however, that the committee wants 'less study and more action' These include:

1. Creation of a Data warehouse so we can see where the system is failing people (include jail data, youth services, homelessness, behavioral health etc). This is underway.
2. Describe the systems' 'Super utilizers'. Note: the county will be receiving support from the University of Chicago Data Science for the Social Good fellows this fall.
3. Data on disparity (race / ethnicity, inability to make cash bail, and mental health status)

Additional representation needed

The following voices need to be added to our committee:

1. Someone from a youth / juvenile perspective
2. We need an effort to receive primary voices from those most impacted by this issue and our work
3. Someone from the Courts
4. Someone from the Veterans Administration
5. The DA (have been invited, need appointee)

Committee Tasks

1. Staff: Develop minutes and send committee list (attached)
2. Jackie: Summarize the issue of alternative programs for those who are not ready / able to access substance abuse treatment (attached)
3. Tim: Describe how enrollment in Medicaid can be improved (attached)
4. Nubia: Send report on racial/youth discipline/recommendations (attached)
5. Patrick: summarize the disparity / issues surrounding drug sentencing
6. Staff: Find representatives noted, describe primary voices campaign, identify data sets to answer questions

Attached documents:

- “From Fingerprints to Fingerprints” report by the University of Utah law school
- The most recently available data from the state’s Disproportionate Minority Contact Committee
- Handouts from our first meeting (Sequential Intercept model, overview data landscape, Maps of the Pre Trial and probation systems)
- List of committee participants and their contact information
- NAMI Stages of Change model

Disproportionate Minority Contact data - Anna Brower, ACLU and Nubia Pen, Racially Just Utah

- “From Fingerprints to Fingerprints” report by the University of Utah law school contains several very clear recommendations for improvement, as well as examples of worthwhile actions taken in other school districts throughout the country. Please review pages 19 to 21, though there are many great ideas from 16 through 27, inclusive of success stories from other states.
- The most recently available data from the state’s Disproportionate Minority Contact Committee, from 2014, which clearly shows how young people of color are more heavily involved in Utah’s juvenile justice system, at each and every step of the process. Data from previous years, going back to 2006, are available at http://www.juvenile.utah.gov/ubjj_dmc.html

Services for Individuals not ready to enter substance abuse treatment - Jackie Rendo, Criminal Justice Advocate, NAMI Utah

We need programs for people who haven’t reached the stage where they are ready to take action regarding their substance abuse issues. I’ve attached 2 examples of stages of change models to help demonstrate what I’m talking about. People who are in the pre-contemplation or even the contemplation stages are not ready to make changes (i.e. stop abusing substances) yet. If we try to put these individuals in the existing substance abuse programs they will fail. However, many housing programs require sobriety as a condition of staying there. What we need is housing first, then programs that are geared toward individuals who may not be ready to make a change (and may not be for some time).

The existing substance abuse programs are geared towards individuals who are ready to take action and, as Tim Whalen pointed out, there are evidence-based practices that show if you mix people who are continuously relapsing with people who are trying to stay sober it does de-stabilize the groups. Some of the programs require an interview to determine readiness before they will accept individuals into their programs. They may then be able to report good results because they effectively screen out people who aren’t yet ready to change. Calling out these programs by name isn’t necessarily a fair thing to do. However, what it does mean is that some of the people who need help the most don’t wind up getting it. It is a critical issue because individuals who can’t attain, or maintain, sobriety wind up cycling through homelessness.

Why it might be better to not develop a Medicaid suspension policy at admission in the jail. - Tim Whalen, Director, Behavioral Health Services

We are in a prepaid at risk Medicaid plan. The average length of time someone spends in the jail is less than a month. So suspending the Medicaid premium on a member at booking could cost us the monthly premium for members who may not stay in the jail for very long, not to mention the administrative burden to develop the IT link between all the jails across the state and the DOH.

I would propose a streamlined rapid enrollment process for folks who stay longer, or for individuals who may have lapsed prior to entry, or for folks who are newly eligible (micro-expansion).

Needed changes to sentencing – Patrick Anderson, Salt Lake Legal Defender Association

The initial JRI legislation recommended a change in the second degree felony Possession With Intent to Distribute statute. The change was intended to leave all serious drug dealers at a second degree felony Possession With Intent to Distribute charge level, while carving out a new third degree felony for lesser “distributors” of controlled substances.

The statute’s focus was to have a lesser offense for those individuals who are in essence drug addicts and who merely sell small amounts of drugs to further their habit. The JRI’s initial rationale was that treating those individuals at a third degree felony level rather than the more serious second degree felony level was appropriate. A second degree felony Possession With Intent to Distribute would be reserved for larger more serious quantities.

The legislation’s failure to provide for a new third degree felony coupled with the reduction of most third degree felony possession charges to class A misdemeanors has resulted in some unintended consequences. LDA has seen more small time offenders being charged with second degree felony Possession With Intent to Distribute whereas prior to JRI, they would probably have been charged with a third degree felony possession of drugs (e.g.: heroin, cocaine, meth). It is now common to find someone with just a couple baggies of drugs in their possession charged with the enhanced penalty of a second degree felony Possession With Intent to Distribute rather than a class A misdemeanor possession. The potential of a defendant going to prison is much greater on a second degree felony Possession With Intent to Distribute than it was on the prior third degree felony possession charge. This consequence was not intended by the JRI legislation.

The recommendation is to pass the original JRI proposed legislation, which made the distinction outlined.

Juvenile Justice and Intergenerational poverty - Utah Intergenerational Welfare Reform Commission Annual Report 2015 Annual report

The committee is interested in exploring the prison pipeline. The state’s Utah Intergenerational Welfare Reform Commission has examined at risk Intergenerational Poverty (IGP) youth and the juvenile justice system. Their 2016 report, due October 1, will look at Department of Corrections data.

When children receive quality education they are more likely to remain engaged in their education, which often reduces the likelihood they will engage in risky and criminal behavior. Education becomes a particularly important refuge for children experiencing barriers and challenges including poverty, abuse and neglect, and food insecurity. Unfortunately, these barriers and challenges often lead to interactions with Utah’s juvenile justice system.

The Utah Legislature recognized the relationship between economic hardship and criminal behavior in the Intergenerational Poverty Mitigation Act by including the Juvenile Court Administrator as a member of the Intergenerational Poverty Welfare Reform Commission.

Among the children at risk of remaining in poverty, as they become adults, 31 percent between the ages of 10 and 17 interacted with Utah’s juvenile justice system at some time in their lives, not simply during 2015. This includes individuals with juvenile court cases and services through Utah’s Division of Juvenile Justice Services.

Involvement with Juvenile Justice Services	2013	2014
Youth Services	5%	6%
Delinquency Referral	19%	19%
Juvenile Court Diversion	11%	11%
Habitual Truancy	3%	3%
Delinquency Adjudication	9%	10%

Detention Alternatives	2%	2%
Secure Detention	5%	5%
Juvenile Probation	2%	3%

In an effort to maintain engagement in their education, children in the juvenile justice system are being held accountable for educational outcomes.

In 2015, Utah Juvenile Court judges began receiving monthly academic reports from the schools educating children in the juvenile justice system. Among other actions, the reports allow judges to develop court orders containing academic outcomes. The path to academic success begins in early childhood. Children entering kindergarten behind their peers start an academic career filled with challenge, from high chronic absence and low proficiency in foundational subjects, to high dropout rates. Until academic outcomes improve for Utah's at risk students, statewide graduation rates will continue to struggle.

How the data was created:

Involvement with Juvenile Justice Services represents a match of both child cohorts with data from the Juvenile Courts and DHS, Division of Juvenile Justice Services. The 2015 data in this report was based on a sample of 13,779, 10- to 17-year-old youths provided by the Department of Workforce Services (DWS). All individuals in the CARE system with a date of birth between January 1, 1996 and December 31, 2004 were identified for matching purposes. Individuals in the DWS sample were matched to youths identified in the CARE data system based on (a) first name, (b) last name, (c) gender, and (d) date of birth. Adoption incidents were excluded because duplicated case numbers are allowable for this type of incident. This process resulted in 4,240 matches and 4,218 unique case numbers. Matched individuals account for 30.6% of the DWS sample of 13,779. The categories in this analysis are based on an unduplicated count of individuals. CARE was last queried by the Juvenile Court on June 29, 2015 at 10:45 AM and by DJJS on June 27 at 10:45 AM for this analysis.