

**Lincoln, Nebraska
March 27, 2009**

**COMMUNITY CORRECTIONS COUNCIL
*MEETING MINUTES***

The Community Corrections Council (Council) met Friday, March 27, 2009, 9:00 a.m., at Country Inn & Suites, Lincoln, Nebraska. The meeting was open to the public and was preceded by advance publicized notice in the Lincoln Journal Star.

Members present:

Scot Adams
Kermit A. Brashear, Chair
Esther Casmer
Brenda Council
Thomas Dorwart
Karen Flowers
Cathy Gibson-Beltz
John P. Icenogle, Vice-Chair
Joe Kelly
Robert Lindemeier
Pete Pirsch

Others present:

Jacki Allensworth
Bruce Ayers
Robert Bell
Joan Dietrich
Steve King
John Krejci
Roy Mehmken
Deb Minardi
Mike Overton
Rex Richard
Gale Schulz
Julie Scott
David Wegner

Members absent:

Mike Behm
Jeff Davis
Ellen Fabian-Brokofsky
Robert Houston
Janice Walker

Council Staff present:

Linda Krutz, Executive Director
Jeffrey Beaty, Policy Analyst
Tia Bachman, Admin. Assistant

CALL TO ORDER, WELCOME, & OVERVIEW

Chairperson Brashear called the Council meeting to order at 9:05 a.m., announced the meeting is subject to the Open Meetings Act and gave an overview of the meeting. Attendance is indicated above.

Brashear thanked outgoing members Senator Dwite Pedersen, Senator John Synowiecki, Julie Hippen, Lee Kimzey, and Council Staff, Nickette Allen.

Brashear welcomed new members, Senators Brenda Council and Pete Pirsch. Brashear said Synowiecki, Catholic Charities, has asked to be appointed to one of the vacant Community Based Behavioral Health Services positions.

APPROVAL OF MINUTES

The October 17, 2008 meeting minutes were approved as presented.

COMMUNITY CORRECTIONS FINANCIAL REPORT

Bruce Ayers, Nebraska Commission on Law Enforcement and Criminal Justice (Crime Commission), gave the *Community Corrections Financial Report*. Ayers said all Council General Funds and Parole Cash Funds have been allocated. The Council Uniform Data Analysis Fund has \$89,249 unallocated funds available for new contracts.

Ayers reported balances as of February 28, 2009. The Uniform Data Analysis Fund shows a balance of \$1,422,126. Probation Fees/Reimbursements show a balance of \$10,612,117. Parole Fees show a balance of \$737,371.

Brashear inquired whether a project from Vera Institute of Justice (Vera) would be able to utilize the funds from the Council Uniform Data Analysis Cash Fund. Ayers confirmed that it would be possible permitting future contracts in fiscal year 08-09 in regards to data would not need to be funded and the project is within the scope of the statutes for the fund.

Ayers noted the differences between recommendations from the Governor's office and the Appropriations Committee. For fiscal year (FY) 10-11, the Governor had requested flat budgets from all agencies. The Governor recommended appropriation for General Funds was \$5,776,088 and the Appropriations Committee granted \$5,888,876. The Governor recommended appropriation for Cash Funds was \$425,000 and the Appropriations Committee granted \$427,281.

TARGET POPULATION REPORT & COMMUNITY CORRECTIONS PROGRAMS REPORT

Mike Overton, Crime Commission, presented the *Target Population Report (February 2009)*. Admissions to the Department of Correctional Services (DCS) are down 17 percent compared to the same time period in 2008. Felony Drug Offender (FDO) admissions are down 21 percent and FDO's sentenced to three years or less is also down 46 percent compared to last

year. Probation and parole admissions are down, as well as, FDO's granted parole and FDO's sentenced to probation.

Overton presented the *Target Population Report (December 2007 to December 2008)*. Total admissions to DCS in 2008 were similar to 2007. The monthly average of FDO's in DCS admissions for 2008 is lower than any previous year and has declined 42 percent since the first quarter of 2006. The DCS population for 2008 is similar to the average population in 2007. The target population of FDO's is down 14 percent and FDO's with sentences of three years or less is down 37 percent.

Overton presented the *Nebraska Adult Problem-Solving Courts Report (2008 Year-End Report)*. The overall population for Adult Drug Courts was at 73 percent capacity in December 2008. Lancaster and Dodge County Adult Drug Courts were operating above 100 percent capacity. The Northeast and Midwest Nebraska Adult Drug Courts were operating at the lowest capacity. This may have been due to fewer referrals from the county attorneys and the Interstate Compact laws.

Overton presented the *Specialized Substance Abuse Supervision (SSAS) Report (Year-End Report 2008)*. In December of 2008, 76 percent of SSAS admissions were from probation and 24 percent from parole. The SSAS population has increased 70 percent since June 2007 but is only operating at 83 percent capacity. District 6, Lancaster County, is operating at 115 percent capacity yet District 16, Dakota, Cedar, and Dodge Counties, are only at 31 percent capacity. The lower percentage in District 16 may also be due to the Interstate Compact laws.

A fifteen minute break was called by Brashear.
The Council reconvened at 10:29 a.m.

Scot Adams, Director of the Department of Health and Human Services (DHHS), questioned if the Council has gone as far as possible with the FDO population and if the Council should move on to the next group of offenders that could best utilize the existing community corrections programs. Joe Kelly, County Attorney, said that within five years, an increase in drug related arrests and convictions may occur due to an increase in Federal Byrne grant funds being allotted to local and state law enforcement for drug task forces.

Linda Krutz, Executive Director of the Community Corrections Council, questioned if the sentence structure for felony Driving Under the Influence (DUI) is similar to the FDO sentence structure. Karen Flowers, District Court Judge, said the majority of felony DUI offenders only have DUI on their record. Fourth offense DUI with a blood alcohol level (BAC) of over .15 is a class III felony and a fifth offense DUI is a class II felony. Icenogle said an unintended consequence for setting up programs for felony DUI offenders may be the hesitancy of prosecutors to reduce sentences or plea-bargain if they know services would be available if left at a felony conviction.

Senator Council said there are current legislative bills that will change misdemeanors to a felony and change requirements for mandatory sentences. Pirsch said that data on DUI offenders should be looked at to see if it is the next population to best benefit from community programs.

Esther Casmer, Chairperson of the Board of Parole, said most offenders who are convicted of felony DUI do not want rehabilitation and have stated they will complete their entire sentence without receiving parole.

Steve King, DCS Planning, Research and Accreditation, reported a total of 171 offenders admitted to DCS for DUI during 2007; 24 were DUI with injury and 171 were Driving While Intoxicated (DWI). The number increased to 206 offenders in 2008; 27 were DUI with injury and 179 were DWI. Since January, 55 offenders have been admitted to DCS with a projection of 220 by the end of 2009; 15 were DUI with injury and 40 were DWI.

Brashear requested in-depth data on felony DUI offenders be an agenda item for the May1, 2009 meeting.

JUSTICE BEHAVIORAL HEALTH COMMITTEE REPORT

Krutz gave an update on the Justice Behavioral Health Committee (JBHC). The December 10, 2008 meeting minutes were included in the packet. A meeting was recently held on March 11, 2009. One new member, Mike Tolley, United States Probation, was added. One new position, United States Pretrial Services, was added.

The document titled Standards of Practice, changed to Provisional Standards of Practice during the October 17, 2008 Council meeting, was changed to Provisional Criminal Justice Substance Use Disorders Standards of Practice by JBHC in order to better define the target population for the standards.

Krutz discussed the cover letter that will accompany the Provisional Criminal Justice Substance Use Disorders Standards of Practice being sent out to all registered providers. At their March meeting, JBHC members questioned if the letter should be printed on Council letterhead and signed by Brashear, if JBHC should have a letterhead created and signed by the JBHC Co-chairs, or if it should come from probation since they manage the Fee for Service Voucher (Voucher) program. Council members agreed that the letter should come from the Council. Brashear and Council staff will revise the letter and prepare it to be sent out.

SENTENCED ADMISSIONS / REVOCATIONS / VIOLATION OF PROBATION / VIOLATION OF PAROLE

King gave the *Sentenced Admissions / Revocations / Violation of Probation / Violation of Parole Report* for the period of January through September 2008. King said the 319 inmates from Douglas County made up 43.5 percent of admissions to DCS with 12 months or less to serve. They were followed by the Southeast region with 136 inmates, 18.6 percent.

King discussed the Most Serious Offense (MSO) offenders were admitted with. Drugs were still the highest category, comprised of 161 offenders, and followed by 117 offenders admitted with assault as the MSO.

King said 73 inmates violated parole that were originally incarcerated with drugs as the MSO, followed by 49 inmates with theft the MSO. This can be compared to 37 probationers having violated probation whose MSO was drugs and 23 probationers whose MSO was burglary.

Scot Adams, Director of the Department of Health and Human Services, requested data on how many offenders on SSAS are reoffending.

2009 LEGISLATIVE UPDATE

Jeff Beaty, Policy Analyst for the Council, presented the *2009 Legislative Update*.

LB 274, submitted by Senator Christensen, authorizes the director of DCS to assign felony offenders to the Work Ethic Camp (WEC) in McCook in order to keep WEC at capacity. The bill was unanimously advanced to general file with a committee amendment. Icenogle questioned if priority was given to probationers to fill openings at WEC. Deb Minardi, Deputy Probation Administrator, Community Based Supervision, Programming and Services, confirmed that a verbal agreement between probation and DCS allowed probationers to fill vacancies first and noted WEC had recently reached capacity.

LB 429, also submitted by Christensen, would change employment provisions of persons committed to DCS. Inmates working in a school as part of a work release or other program would have to be directly supervised by DCS staff. The bill was unanimously advanced to general file without a committee amendment.

LB 659, submitted by Senator Fulton, would provide for data collection relating to persons released from incarceration. The bill appropriates \$25,200 for the study and directs the Council to contract with a private provider to collect data on 12 individuals released on parole. The hearing was held on March 26, 2009. Senator Council stated the scope of the study was too minute and would be better suited for an interim study.

PROBLEM-SOLVING COURT DATABASE

Dave Wegner, Deputy Probation Administrator, Information Systems, stated a Problem-Solving Court database will be operational by the fourth week in April.

Wegner requested an agenda item at the May 1, 2009 meeting to discuss the Problem-Solving Court database in detail.

2009 SSAS OUTCOME EVALUATION PROPOSAL

Brashear stated Vera will be in attendance at the May 1, 2009 Council meeting. Vera is requesting \$40,000 to fund an outcome evaluation on SSAS.

Flowers requested the number of offenders who will no longer be supervised by SSAS and information from the SSAS process evaluation, to be provided by probation during the May meeting.

Senator Council questioned if the \$89,249 of the Council Uniform Data Analysis Cash Fund rolls over to the next fiscal year if it remains unallocated. Overton said projects were originally set out to encompass the entire fund. The statutes for the Cash Fund will be reviewed to see if funding for Vera would qualify.

The proposal is tabled until the May 1, 2009 meeting when Vera is present to answer any questions.

VOUCHER PROGRAM UPDATE

Minardi gave the *Voucher Program Update for FY 08-09, July - December*. Minardi said \$1,845,237.40 or 70 percent of funds have been paid to providers for treatment services from July - December 2008. The remaining \$804,485 is available for treatment services from January to June 2009.

A total of \$360,486.60 of vouchers was used for parole clients. This was broken down into \$181,950 for Short Term Residential (STR); \$86,210.60 for Outpatient services (OP); \$66,267 for Intensive Outpatient services (IOP); and \$26,059 for evaluations. Minardi said the majority of voucher dollars are spent on STR because parole clients still need treatment when leaving prison. The least amount is spent on evaluations since they are usually done before an inmate is paroled.

A total of \$728,010.30 of vouchers was used for Problem-Solving Court clients. This was broken down into \$412,560 for STR; \$161,947.80 for IOP; \$139,880 for OP; and \$13,622.50 for evaluations. Minardi said that vouchers are usually not spent on evaluations in the specialty courts because it is a requirement to have an evaluation before being considered eligible.

A total of \$1,465,690.60 of vouchers was used for probation clients. This was broken down into \$778,122 for STR; \$321,856.30 for OP; \$282,865.30 for IOP; and \$82,847 for evaluations. Minardi said STR made up the majority of voucher dollars because of the cost of placing one client in STR far exceeds the amount required for OP services.

Minardi presented a graph of *Paid and Encumbered Quarterly Trends in Level of Care Voucher Usage*. Minardi said a spike in STR care in the fourth quarter of FY 07-08 may have been due to providers receiving a message that the fiscal year would be ending and to turn in billing. A gradual decline in voucher dollars spent on STR was noted since that time. Evaluations remained consistent and IOP and OP had a gradual incline.

COUNCIL STAFF RESEARCH PROJECT PROPOSAL

Beaty presented the *Council Staff Research Proposal*. The research would provide a detailed description and comparison of Problem-Solving Court and SSAS programs. The following areas would be evaluated: eligibility, program oversight, incentives and sanctions, court processes, treatment, information linkages, supervision, drug testing, data collections, budget/funding sources, and geographic coverage.

The research would be collected during April and May of 2009 by Mike Dunkle, Crime Commission, and Beaty, and completed by August 2009.

ADJOURNMENT

There being no further business, at 12:19 p.m. the meeting was adjourned.

The next scheduled meeting of the Council is Friday, May 1, 2009, 9:00 a.m., at Bryan LGH College of Health Sciences.

Respectfully submitted,

Tia M. Bachman
Administrative Assistant