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## WISCONSIN LEGISLATIVE COUNCIL

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### JUSTICE REINVESTMENT INITIATIVE OVERSIGHT

Room 411 South, State Capitol  
Madison, Wisconsin

March 11, 2009  
10:00 a.m. – 1:00 p.m.

[The following is a summary of the March 11, 2009 meeting of the Special Committee on Justice Reinvestment Initiative Oversight. The file copy of this summary has appended to it a copy of each document prepared for or submitted to the committee during the meeting. A digital recording of the meeting is available on our Web site at <http://www.legis.state.wi.us/lc>.]

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#### Call to Order and Roll Call

Chair Taylor called the meeting to order. The roll was called and it was determined that a quorum was present.

COMMITTEE MEMBERS PRESENT: Sen. Lena Taylor, Chair; Sens. Dan Kapanke and Luther Olsen; Reps. Tamara Grigsby and Robert Turner; and Public Members Nicholas Chiarkas, John Chisholm, Richard Dufour, Dave Graves, Frank Humphrey, Kit McNally, Lisa Stark, Tony Streveler, A. John Voelker, and Maxine White.

COMMITTEE MEMBERS EXCUSED: Reps. Joel Kleefisch and Scott Suder; and Public Members James Dwyer and Noble Wray.

COUNCIL STAFF PRESENT: Anne Sappenfield and Ronald Sklansky, Senior Staff Attorneys; and Melissa Schmidt, Staff Attorney.

APPEARANCES: Tony Fabelo, Director of Research, Justice Reinvestment Initiative, Council of State Governments (CSG) Justice Center; Marshall Clement, Project Director, Justice Reinvestment Initiative, CSG Justice Center; Mike Eisenberg, Research Manager, Justice Reinvestment Initiative, CSG Justice Center; and Marc Pelka, Policy Analyst, Justice Reinvestment Initiative, CSG Justice Center.

## **Approval of the Minutes of the Committee's January 12, 2009 Meeting**

*Representative Turner moved, seconded by Mr. Graves, that the minutes of the January 12, 2009 meeting be approved. The motion passed by unanimous consent.*

### **Introduction of Committee Members**

Chair Lena Taylor welcomed two new members to the committee and thanked them for their willingness to serve on the committee. The two new members are Senator Luther Olsen and Public Member Frank Humphrey. Mr. Dennis Schuh from the Office of Justice Assistance was also in attendance as a legislative liaison.

### **Presentations by Invited Speakers**

A panel from the CSG justice reinvestment initiative provided an overview of the project, followed by an initial analysis of community corrections in Wisconsin and further analyses that will be reported in April. This panel included Mr. Tony Fabelo and Mr. Marshall Clement. Mr. Mike Eisenberg and Mr. Marc Pelka were also present to field questions.

#### *Overview of the Project*

Mr. Clement listed the challenges facing Wisconsin. He described the overcrowded prison population, which impacts the effectiveness of Wisconsin's community corrections system. He said that Wisconsin needs a new prison population projection model that more accurately simulates the factors affecting the criminal justice system. Mr. Clement said that ineffective community corrections increase the number of revocations, which increases the prison population even more. The state fiscal crisis also places challenges on prison overcrowding and community corrections. It is projected that by doing nothing, it will cost \$1.2 billion in construction costs to increase prison capacity over the next 10 years.

Mr. Clement listed the six areas of analysis that CSG will be reporting to the committee: (1) prison population projections; (2) law enforcement and public safety; (3) community corrections system; (4) substance abuse and mental health; (5) reentry and employment strategies; and (6) mapping analysis. He stated that the panel will be reporting on community corrections at this presentation and everything else at the committee's April 7 meeting. He reported that CSG met with two law enforcement focus groups on March 9 and 10, one in Madison, and one in Milwaukee, respectively.

Mr. Clement described the PEW Charitable Trusts Center on the States report "One in 31: The Long Reach of American Corrections" that was released this month. It reports that one in 31 people are currently under some type of correctional supervision. Mr. Clement reported that 1.5 million people are in prison and 780,000 in jail. He stated that additionally, about 4.3 million people are in community corrections. Mr. Clement reported that in Wisconsin, one in every 39 adults is under correctional supervision. In 1982, this rate was one in every 111 adults. He also reported that Wisconsin spent \$1.08 billion on corrections in fiscal year 2008.

Community Corrections

Mr. Fabelo started the discussion of CSG's findings on Wisconsin's community corrections by reporting its number of community supervision revocations. He stated that the number of revocations without a new sentence increased from 3,790 in 2000 to 5,598 in 2007. He said that revocations without a new sentence accounted for 50% of prison admissions in 2000 and 61% of admissions in 2007.

Mr. Fabelo listed the different types of revocations without a new sentence: (1) probation; (2) extended supervision; (3) parole; and (4) mandatory release. The latter three categories reflect people that had been previously incarcerated and are under what CSG refers to as "post-release supervision." The total cost for all of these revocations in 2007 is \$286 million. For probation, he said the rate of revocations grew between 2000 and 2007 by 14%; the rate of reincarceration for post-release supervision revocations of extended supervision, parole, and mandatory release grew by 83%. He said that this raises the question regarding the effectiveness of Wisconsin's community corrections supervision.

Mr. Fabelo reported that 61% of the people revoked from post-release supervision had prior revocations. Of the people revoked in 2007, 36% had one prior revocation, 16% had two, and 9% had three or more prior revocations.

Mr. Fabelo explained that while the number of revocations increased between 2000 and 2007, so did the average length of post-release supervision. In 2000, for those admitted to prison on a new sentence, Mr. Fabelo reported the average supervision time was 32 months. He said that the average length in 2007 was 54 months. The number of people on post-release supervision increased from 9,890 in 2000 to 17,376 in 2007.

Mr. Fabelo also described some of the factors in the reincarceration rate, including drug use, mental illness, and unemployment. Of those revoked in 2007, 38% reported frequent drug use and 39% reported some drug use. For those revoked and returned to prison for two years, 46% had serious mental illnesses and 45% had some mental health needs. Mr. Fabelo reported that of those who were revoked, 68% were unemployed and 12% were unemployable. Only 1% were employed for one full year. In response to a question by Senator Kapanke, Mr. Fabelo stated that Wisconsin's unemployment rate and revocation rates are similar to those in Michigan. Mr. Clement stated that Michigan's unemployment rate of those on community supervision is between 50-70%. He also said that research showed that transitional employment strategies were showing some positive results.

Mr. Fabelo described who returned to prison over a period of time. In 2005, 23% of those on community supervision returned to prison within one year and 40% returned within two years. Of those returned within two years, the age bracket with the highest rate of revocations was 17- to 21-year olds, with 55% of adults being revoked. The second highest rate was for adults between 21- to 25-year olds, with 45% being revoked. Mr. Fabelo reported that in 2000, 38% of adults between the ages of 17- and 21-year olds were revoked.

Mr. Fabelo reported that the total amount of money spent on community corrections has increased from an average of \$279 per offender in 2004 to \$392 per offender in 2009. In response to questions, he clarified that this amount does not include county expenditures. He listed three issues that may need to be addressed: (1) Wisconsin does not have a system to track program quality and

outcomes; (2) the current number of oversight staff is insufficient to assess program quality and outcomes; and (3) funding is not distributed according to a systematic assessment of the supervised population's risks or needs.

Senator Olsen raised the concern that if supervision time has doubled but unemployment rate among the people on supervision is 71%, that some may have been revoked due to technical violations. Mr. Chisholm stated that this community supervision data reflects the Truth-In-Sentencing (TIS) laws. He explained that one effect of TIS is that the judiciary increased the number of people on probation, with stricter conditions and longer supervision. Chair Taylor stated that this information indicated a need to strengthen community corrections as it has cost the state millions of dollars, with more people being sent back to prison without a new charge.

Representative Grigsby raised the concern that the Department of Corrections (DOC) only has 2.2 full-time employees to oversee community corrections. Mr. Streveler explained that there are also employees at the eight regional levels. He said that the team used to have five employees. He also said that DOC currently does not have the capacity to have oversight and quality control over the community supervision programming.

In response to a question, Judge Stark explained that there is no credit for time in the community under extended supervision. She said that as a result, between incarceration and community supervision, someone could end up under DOC supervision for more time than their original sentence. She said that someone would never spend more time in prison than the total length of the sentence, but it could take longer to get through the sentence as there is no credit for time spent on community supervision.

Representative Grigsby asked what the level of discretion community supervision agents had when determining whether or not to revoke someone. Mr. Dufour said that administrative law judges make the final decision on revocations. Chair Taylor questioned whether recommendations for revocation are based on an offender's assessed risk level and noted that Mr. Fabelo said that CSG's review indicates that 95% of offenders on supervision are assessed as being high risk. Mr. Streveler explained that DOC has done a random sampling of revocations in an attempt to better understand what is happening during the screening process. He stated that the agent's supervisor also reviews the file before revocation is pursued.

Judge White said that the Governor's Task Force on Reducing Racial Profiling may have items that the committee should consider regarding community supervision. Mr. Streveler added that DOC is considering changes in response to the Task Force report.

Mr. Chiarkas stated that the idea behind TIS was punishment, not rehabilitation. He said that in the dissent in the TIS report it was stated that this sentencing structure would bankrupt the state by 2015 and increase violence in the community. He explained that under TIS, the system considers: (1) who did it; (2) the person's history; and then (3) how much time should be served. He emphasized three questions the system should ask are: (1) who did it; (2) how to correct the harm; and then (3) how to prevent the harm from happening again. He said that the real penalty can be to the community. He described the phenomenon whereby crime increases in a zip code when a certain number of people from the zip code are incarcerated.

### Summary and Next Steps

Mr. Fabelo listed the best practices for effective supervision. He recommended: (1) effective assessments of risk and needs; (2) supervision strategies; (3) incentives and sanctions; and (4) reduction in the number returned to prison. He then reviewed CSG's observations of these practices in Wisconsin. He noted that 95% of people on community supervision are assessed as high risk. He reported that the percentage is much lower throughout the rest of the country and said this indicated people are disproportionately assessed as high risk.

There was committee discussion about the need for greater information sharing and training. Judge Stark shared that judges are not always aware of community-based services and do not see DOC's risk assessment results for an offender. Mr. Dufour and Mr. Chisholm said that district attorney and public defender offices need to be adequately staffed. Mr. Dufour added that the high turnover rate in district attorney offices has created a need for more training to make better risk assessments. Mr. Streveler reminded the committee that risk assessment tools are not infallible. Mr. Fabelo explained that risk assessment tools supplement human discretion and said that he would guess that DOC is using the tools correctly.

Ms. McNally explained there were community organizations available to help community supervision agents. She said there is a lack of uniform accountability or outcome standards that these organizations should achieve.

There was also committee discussion about addressing the unemployment problem. Mr. Chiarkas mentioned that the City University of New York (CUNY) has a program called CUNY-Catch, where technical colleges partner with prisons to train inmates for employment prior to their release.

Mr. Clement presented CSG's justice reinvestment framework. He described the three aspects of the framework: (1) strengthening and improving the effectiveness of community supervision and services; (2) reducing the number of revocations and the cost to the taxpayers; and (3) reinvesting in strategies to increase public safety by reducing recidivism and rising rates of violent crime.

Mr. Humphrey said that Wisconsin's criminal justice system does not consider costs to society of people being incarcerated. He suggested spending money to prevent people from entering the system altogether. Senator Olsen said education is one method of early prevention.

### **Discussion of Committee Assignment**

Mr. Clement explained that more analyses will be presented at the April 7 meeting. He said that CSG will have a complete framework of all six areas of analyses at this meeting. He asked that the committee hold another meeting one week later for CSG to report policy options in response to the analyses.

### **Other Business**

There was no other business before the committee.

### **Plans for Future Meetings**

The next meetings of the Special Committee will be on *Tuesday, April 7, 2009, and Wednesday April 15, 2009*, both at the State Capitol, Madison.

### **Adjournment**

The meeting was adjourned at 1:00 p.m.

MS:wu:jal