

MINUTES
NORTH CAROLINA SENTENCING AND POLICY ADVISORY COMMISSION MEETING

March 6, 2020

The North Carolina Sentencing and Policy Advisory Commission met on **Friday, March 6, 2020**, at the North Carolina Judicial Center in Raleigh, North Carolina.

Members Present: Chairman Charlie Brown, Art Beeler, Sheriff James Clemmons, Senator Warren Daniel, Louise Davis, Danielle Elder, Judge Sherri Elliot, Representative John Faircloth, Chris Fialko, Willis Fowler, Judge R. Greg Horne, Susan Katzenelson, Chief Henry King, Honorable Tammy Lee, Dr. Harvey McMurray, Representative Allen McNeill, Tim Moose, Judge Fred Morrison, Representative Billy Richardson, Senator Bob Steinburg, Calvin Suber, Patrick Weede, and Judge Valerie Zachary.

Guests: Sarah Llaguno (DPS, Combined Records), Kim Robuck (DPS, Combined Records), Tom Bashore (NCSA), Jesse Sholar (NCSA), Alexander Fowler (OAH), William Childs (NCGA), Lindsey Granados (Law Offices of Wiley Nickel, NCAJ), Peg Dorer (CODA), and Emily Mehta (AOC).

Staff: Michelle Hall, John Madler, Ginny Hevener, Tamara Flinchum, Meghan Boyd Ward, Rebecca Dial, John King, Becky Whitaker, Dr. Jennifer Lutz, and Shelley Kirk.

INTRODUCTION

Chairman Brown called the meeting to order at 10:03 a.m. He asked members and guest to introduce themselves. Chairman Brown informed the members of the Justice Reinvestment Implementation Evaluation Report Subcommittee meeting scheduled for Friday, March 27, and reminded them of the Commission meeting dates of June 5, September 11, and December 4. He reviewed the agenda and then presented the minutes from the December 6, 2019, Sentencing Commission meeting. Sheriff Clemmons moved to adopt the minutes as presented; the motion was seconded by Tammy Lee and carried.

25TH ANNIVERSARY CELEBRATION: PRINCIPLES OF STRUCTURED SENTENCING

Chairman Brown recognized Michelle Hall, staff, to present an overview of the Principles of Structured Sentencing (*see* Presentation). Ms. Hall began by reminding the members that the Sentencing Commission started the process of developing Structured Sentencing by establishing a set of principles to guide their decisions. The Commission believed that sentencing policies should be truthful, be consistent, be certain, set resource priorities, and be balanced with correctional resources. Ms. Hall explained that staff would be highlighting certain principles at each meeting and that at this meeting they were going to focus on two of those principles: sentencing policies should be consistent and be certain. She explained how some meeting topics fit under those two principles and how other topics could benefit from them.

STRUCTURED SENTENCING STATISTICAL REPORT FY 2019: FELONY CONVICTIONS

Judge Brown recognized Rebecca Dial, staff, to present the FY 2019 Structured Sentencing Statistical Report Felony section (*see* Handouts). Ms. Dial noted the purpose of the report is to monitor convictions and sentences imposed under Structured Sentencing in order to examine if the intent of Structured Sentencing is being followed or if any changes are need. She also highlighted that a new trends

section had been added to the report. Overall, there were 28,526 felony convictions in FY 2019, a 4% decline from FY 2018.

Ms. Dial reviewed some offender characteristics, including a comparison of the age distribution of felony and misdemeanor offenders in FY 2010 and FY 2019. A smaller percentage of offenders are under 21 years of age than ten years ago and a larger percentage are over the age of 50. Ms. Dial then shared FY 2019 data on felony convictions by offense class, crime type, and listed the most common convictions.

She noted how the Prior Record Level distribution has shifted over time, with the highest prior record levels increasing. Offenders with no prior convictions made up 25% of convictions in FY 2010, which has decreased to 18% in both FY 2018 and FY 2019. Susan Katzenelson posited early action by courts to divert individuals could be affecting this, as well as the increasing age of offenders. Chris Fialko asked if conditional discharges were counted as convictions in the data. Ms. Dial confirmed they are not, and Mr. Fialko suggested that the expansion of conditional discharges could also play a role.

Ms. Dial presented the punishment imposed for FY 2019 convictions. As is intended by Structured Sentencing, the active rate decreases as offense seriousness decreases, while the active rate increases as the offenders' prior record level increases. The average minimum sentence length imposed for active sentences falls closer to the lowest possible minimum sentence than the highest possible minimum sentence. Ms. Dial attributed this to the fact that offenders in the three lowest prior record levels receive a majority of all active sentences and that very few sentences are imposed in the aggravated range.

Next, Ms. Dial discussed the proportion of sentences in the sentencing ranges by offense class. Representative Richardson commented that it showed him judges are using the presumptive range. Judge Horne mentioned habitual felons are typically sentenced in the mitigated ranges. Patrick Weede asked if there was data on where the sentence falls within each range. Ms. Dial pointed the commissioners to the spot tables in the report that show this information. Representative Richardson and Chairman Brown discussed how practices can vary around the state by county for charging habitual felons. Representative McNeill asked if there is data on the number of habitual felon convictions that result from plea bargains. Judge Horne noted Mecklenburg County usually has closed pleas while others use open pleas. Representative Richardson commented that extraordinary mitigation is rarely used. Ms. Katzenelson added that habitual felon statistics could be tricky because a potential plea could result in someone not being convicted of a habitual felon. Danielle Elder commented that the appeals really come from aggravated sentences so that could also be a factor in the few who do receive sentences in the aggravated ranges.

Ms. Dial then shifted to information on probation sentences. Probation was imposed in 62% of all felony convictions in FY 2019 and has fluctuated within just a few percentage points over the past ten years. The average probation length decreased as offense seriousness decreased. The average length of probation for felony convictions was 25 months and 99% of felony probation sentences required supervised probation.

Ms. Dial highlighted that while habitual felon convictions have increased 7% in the past five years, the number of habitual felon convictions decreased in FY 2019 for the first time since FY 2012. Ms. Dial closed the felony portion of her presentation by offering a few key points related to felony convictions. She remarked that the Felony Punishment Chart contributed to stability in sentencing over time; Prior Record Level distribution has shifted; the active rate is stable; the majority of sentences are in the

presumptive range, though the percent of sentences in the mitigated range is steadily increasing; and, the average probation length is longer than the average suspended sentence in each offense class.

Mr. Fialko commented that he would like to see the number of A-F felonies for 16 and 17 year olds next year given Raise the Age changes. Mr. Weede noted he was surprised methamphetamine was above heroin in the most common offenses. Mr. Fialko shared his impression that laws passed to get rid of meth labs worked but allowed cartels to instead move in and supply it. Art Beeler commented that age should be focused on because it costs institutions more to house older offenders and noted proclivity to commit crime decreased with age. Ms. Dial shared the most frequent offenses for those under age 21 and those over 50 and how they differ. Representative Richardson asked what types of crimes are being committed related to drugs and if it is trafficking or due to an individual who has substance abuse issues. Tim Moose responded that those in prison for trafficking typically do not have substance abuse issues.

PRISON POPULATION PROJECTIONS

Judge Brown then introduced Ginny Hevener, staff, to review the current prison population projections (*see* Handout). She stated that, pursuant to statute, the projections are prepared annually in conjunction with the Department of Public Safety's Division of Adult Correction and Juvenile Justice (DPS-DACJJ). She noted that examining the projected population within the context of prison capacity allows DPS and the General Assembly to proactively consider policy options or resource needs.

The prison population is projected to increase from 35,855 to 38,613, or 8%, across the ten-year projection period. The projected population is lower than previously projected, primarily as a result of continued declines in criminal justice trends and a slight decrease in felony convictions from this year to last year. Ms. Hevener noted that the projections account for inmates backlogged in county jails as part of the prison population, but do not include offenders in CRV centers in either the population or capacity. Additionally, the DPS prison capacity figures include beds not in use at facilities where operations are currently suspended. Comparing the projected prison population with the capacity estimates provided by Prisons Administration, the projected prison population is projected to be below Expanded Operating Capacity for all but the last three years of the projection period.

Representative McNeill questioned why 2,700 prison beds were off-line when there is a jail backlog. General discussion on this issue ensued, with Mr. Moose responding that prisons are staffed for Standard Operating Capacity (SOC) to ensure safety. He added that problems arise when the population exceeds that number and that the issue is compounded by the correctional officer vacancy rate. Mr. Moose noted recent legislative actions for equipment upgrades, technology enhancements, and correctional officer salary increases have helped; while things are going in the right direction (including a decline in the vacancy rate from 21% to 16%), it will take some time to get those beds back on-line due to staffing challenges.

Mr. Beeler and Tammy Lee emphasized how staff safety and pay have contributed to the vacancy rate. Dr. McMurray asked whether there was progress on obtaining law enforcement status for correctional officers. Commissioner Lee responded that Senator Steinburg has been working hard on these issues. Mr. Moose added that several options are being considered, including a step plan.

Representative Faircloth discussed concerns about the system and the lack of a mechanism to identify prisoners who could be released early. Commissioner Lee commented that prisoners do not have the proper tools to enable them to succeed once they are released back to the community. Senator Daniel

stated that there are great efforts for criminal justice reform, with the Second Chance Act and the First Step Act; however, this momentum typically stalls with resistance from the law enforcement/prosecutorial side. Mr. Beeler added that good treatment beds for substance abusers in the community and the removal of some of the collateral consequences of being a felon that impact employment would help offenders be more successful in the community.

Chairman Brown noted that the commentary brings a reality to the projections and that this presentation helps bring a reliable way for leaders to determine whether resources are needed for additional prisons. He asked Ms. Hevener if the projections show a short-term need for building prisons. Ms. Hevener responded that the projections do not suggest the need for additional beds in the short-term but it may be a consideration for the final years of the projection; however, it will depend on whether the downturn in criminal justice trends continues.

Sheriff Clemmons stated that there needs to be a total program in place, including while on post-release supervision and to include reentry programs that treat the whole person and do not leave out families. Representative Richardson raised that 51% of the projected prison population are in Classes A – D. He stated that with the strong JPS Subcommittee leadership in the General Assembly there is a window of opportunity to formulate a package with SPAC to determine how long-term, low-risk inmates could be reintroduced into society. Chairman Brown said that the Commission is standing ready to assist.

Mr. Beeler then made a motion to study the consequences of long-term confinement and how to ameliorate them. Ms. Katzenelson suggested that front-end solutions be considered as well, which Mr. Beeler added to the motion. Representative McNeill pointed out that the legislature understands the issues; Section 18.16 of House Bill 966 from the 2019 Session (which was ratified but subsequently vetoed) directed DPS to develop a long-term plan to meet Standard Operating Capacity (SOC) requirements. It included four areas of study, including recommendations to reduce the prison population. Representative McNeill added that he is not opposed to having SPAC study these areas as well.

Following discussion, the motion failed for the lack of a second. Chairman Brown stated that the Executive Director could follow up with legislative members to discuss the potential for a request from the General Assembly. Mr. Beeler also suggested the proposed study also consider plans to address aging prison facilities in NC, with many of them being over 50 years old.

Ms. Hevener described the impact that the Justice Reinvestment Act (JRA) and other policy changes have had on the prison population, with the prison population currently around FY 2005 levels. As anticipated, the composition of prison admissions has shifted following implementation of the JRA. In addition, Ms. Hevener discussed how offense seriousness factors into the prison population. While Class A – D convictions account for the smallest proportion of convictions (7%), they comprise over half of the prison population as a result of their mandatory active sentences and long sentence lengths. Class H – I convictions impact the prison population through their high volume (representing 65% of felony convictions) but have a limited impact on the prison population (accounting for 27% of the population) due to their lower rate of active sentences and shorter sentence lengths.

INTEGRATED CASE MANAGEMENT SYSTEM/E-COURTS TECHNOLOGY UPDATE

Chairman Brown recognized Brad Fowler, Chief Business Officer of the Administrative Office of the Courts (AOC), to provide an update on the AOC eCourts initiatives (*see* Presentation). Mr. Fowler informed the Commission that the AOC has had the goal of establishing a paperless system for the courts

for a long time. Most recently, the Chief Justice's Commission on the Administration of Law and Justice made several recommendations concerning it. Based on those recommendations, the Director of the AOC decided to work with the National Center for State Courts (NCSC) to develop a Request for Proposals (RFP) to develop an integrated case management system. The NCSC brought a standard template which the AOC could build on to fit North Carolina's needs. Between March and May of 2018, the AOC and NCSC conducted over 40 meetings with internal and external stakeholders to determine North Carolina's business needs. They then added those needs to the standard template and issued an RFP in August of 2018. Proposals were submitted to the AOC by October of 2018 and were evaluated by a Vendor Selection Committee made up of court officials and AOC staff. The Committee made recommendations to the OAC Director and on June 7, 2019, AOC Interim Director McKinley Wooten signed a contract with Tyler Technologies. This represents the first time AOC will have a single vendor solution rather than multiple internally-developed products.

Mr. Fowler listed some of the highlights of the contract. This system will be hosted in the cloud, which means no more mainframe computer, and it will include eFiling and paperless case management for all types of cases. Configuration of the system and roll-out will take five years but the contract with Tyler Technologies is for ten years to allow for follow-up. The first pilots will go live in approximately 21 to 24 months, with Wake, Harnett, Johnston, and Lee counties on the first track and Mecklenburg County on the second track. The remaining counties will be rolled-out over 10 more tracks.

Mr. Fowler pointed out some of the challenges of changing to new software, in particular whether to modify the software to match existing business processes or change the business processes to fit the software. Each option has an impact on the cost of the product and the amount of change the system has to absorb. The AOC decided to make minimal changes to the software thereby increasing standardization of practices across the state. The AOC formed an eCourts Advisory Committee made up of court officials to advise on configuration conflicts when they arose among the working groups, to recruit subject matter experts for the working groups, and to help keep their constituent groups informed. Mr. Fowler emphasized that this was an equal-access-to-justice project. It would not take discretionary power away from the decision makers, but it would improve consistency of the process across the state.

Currently, AOC is in the process of configuring the system and beginning the conversion in the first counties. Mr. Fowler pointed out that for a period of time, people will have to look up statewide information in the old system, ACIS, and in the new system, Odyssey. Eventually, every county will be in one system and members of the public will be able to utilize more court services over the internet instead of having to go to the court house.

Chief King suggested expanding discovery to allow for sharing of video like bodycam footage. Mr. Fowler responded that there will be expanded capacity for discovery.

Chairman Brown thanked Mr. Fowler for his presentation.

STRUCTURED SENTENCING STATISTICAL REPORT FY 2019: MISDEMEANOR CONVICTIONS

Chairman Brown recognized Rebecca Dial, staff, to present statistics on misdemeanor convictions from the Structured Sentencing Statistical Report for FY 2019 (see Handouts). Ms. Dial began by showing the continued decline in misdemeanor convictions over the last ten years and compared offender characteristics from FY 2010 with FY 2019. Chairman Brown mentioned reclassification affecting the methodology but not the workload of misdemeanor convictions. Ms. Hall agreed but noted that while the

largest decline over the period was due to reclassification, there are other criminal justice trends driving the overall volume lower. Ms. Dial provided a breakdown by class, most frequent five convictions, crime type, prior conviction level, and punishment imposed. Mr. Fialko remarked that if less than a half ounce of marijuana was decriminalized, resources could potentially be used elsewhere. Representative McNeill noted that those who have an addiction may only be able to get assistance through the criminal justice system. Ms. Dial pointed out the change in the percentages in prior conviction levels, noting the highest prior conviction level is increasing as a percentage of the total. Chairman Brown commented that improved technology in the courtroom could be contributing to finding more complete prior record information.

Ms. Dial presented the misdemeanor active rates and average active sentence lengths by crime type and noted that, unlike with felony convictions, the active rates for misdemeanors do not decrease in a stair step fashion as offense seriousness decreases. The active rate has increased from 25% in FY 2010 to 33% in FY 2019, which can most likely be attributed to active punishments stemming from credit for time served sentences. Within each offense class, the percent with an active sentence equal to the credit for time served has increased substantially. Ms. Dial noted that sentence lengths increase as both offense seriousness and prior conviction level increase.

For non-active sentences, the percentage of convictions where no probation is ordered increases as offense seriousness decreases and the percentage of convictions where supervised probation is ordered decreases as offense seriousness decreases. Ms. Dial also reported that the average suspended sentence length was shorter than the average probation length for each class.

Chairman Brown remarked that while credit for time served sentences are always an issue because there are offenders who cannot make bond, perhaps bond reform could change things. Ms. Elder asked about the length of time to disposition. Ms. Dial responded that the average time for misdemeanors was four months. Ms. Elder noted it would be interesting to see if credit for time served was linked to the length of time to disposition and if the disposition being due to a plea or trial made a difference. Ms. Hall responded that staff will be monitoring any changes to pretrial practices to see if any statewide effect occurs.

FY 2018 DWI STATISTICAL REPORT

Chairman Brown recognized John King, staff, to present on FY 2018 DWI convictions (*see Handout*). He reminded members that this was a new report which they received in December, but due to time constraints, the presentation was postponed until this meeting. Mr. King stated that there were 28,614 DWI convictions in FY 2018. He explained that DWI offenders are sentenced differently from other misdemeanants sentenced under the Structured Sentencing Act (SSA). DWI offenders are sentenced to one of six punishment levels, ranging from Aggravated Level 1 (most serious) to Level 5; all punishment levels allow for the suspension of active sentences and the imposition of probation. A majority (55%) of FY 2018 DWI sentences were in Level 5, the lowest punishment level.

Next, Mr. King shared some personal characteristics of offenders convicted of DWI in FY 2018. Nearly three-quarters of them were male (74%) and a majority were white (59%). A majority (62%) of DWI offenders were between 21 and 40 years old at the time of their DWI offense. Mr. King noted that SSA misdemeanants were generally similar to DWI offenders in terms of gender and age, but a greater percentage of DWI offenders were white compared to SSA misdemeanants (59% and 52% respectively). Most offenders had a blood alcohol concentration between .08 and .14.

Mr. King then shared analyses relating to the type of punishment and sentences imposed for DWI convictions in FY 2018. He noted that a majority of offenders (58%) received unsupervised probation and that only 8% of offenders received an active sentence. For comparison, he pointed out that 32% of SSA misdemeanants received active sentences. Active sentences ranged between 15% in Level 1 and 4% in Level 5; however, nearly half (48%) of offenders sentenced in Aggravated Level 1 received an active sentence. Supervised probation was most common in Aggravated Level 1 through Level 3; unsupervised probation was most common in Levels 4 and 5. When active sentences were imposed, they were typically set at half the statutory maximum; however, when sentences were suspended and probation was imposed, sentences were generally set at the statutory maximum.

Mr. King shared some additional analyses that had been provided to the Commission's DWI Subcommittee. He noted that generally the time to sentencing for DWI cases is the same regardless of punishment level. Over two-thirds (68%) of DWI convictions occurred within a year and 32% were disposed in a year or more. The median time to sentencing for DWI convictions was 9 months; for SSA misdemeanor convictions the median time to sentencing is 4 months.

Finally, Mr. King explained that judges are required to impose a maximum sentence for DWI convictions and may impose a minimum sentence. He noted that, in 84% of convictions, judges imposed a minimum and maximum sentence that were the same (e.g., 12 months minimum and 12 months maximum). In an additional 13% of convictions, judges imposed only a maximum sentence. In the remaining 3% of convictions, judges imposed a minimum that was different than the maximum (e.g., 12 months minimum and 24 months maximum). Mr. King pointed out that because judges rarely used a range of months when imposing sentences, the Commission's DWI Subcommittee recommended the elimination of the minimum sentence for DWI convictions.

FY 2020 STATEWIDE MISDEMEANANT CONFINEMENT PROGRAM CAPACITY PROJECTIONS

Chairman Brown recognized Rebecca Dial, staff, to present the Statewide Misdemeanant Confinement Program Capacity Projection: FY 2020 – FY 2024, which was submitted to the legislature in February pursuant to N.C. General Statute § 164-51 (*see* Handout). Ms. Dial reviewed the mandate, which requires the Commission to develop annual projections of available bed space in the SMCP for five fiscal years with the assistance of the NC Sheriffs' Association (NCSA). She then went over trends in the capacity and population of the SMCP. Since FY 2018, the SMCP capacity has declined 17% and the population has decreased 4%. Next, she detailed SMCP capacity considerations and highlighted key assumptions for the projections, including inmates backlogged in county jails, known planned jail projects, and the net change in SMCP capacity. Ms. Dial laid out the two scenarios developed for the five-year projections. Scenario 1 shows a 10 percent decline, or a 136 bed decrease, in SMCP capacity by FY 2024. Scenario 2 shows an 8 percent decline, or a 109 bed decrease, in SMCP capacity by FY 2024. Ms. Dial noted funding was not addressed in the projections and emphasized that the projected population for the same time period would need to be known in order to know whether the projected capacity for the SMCP is sufficient.

Chairman Brown mentioned that while there are overcrowding issues within jails such as Rowan County, counties are still participating as receiving counties while sending pretrial inmates to neighboring counties. He asked why that occurs. Jesse Sholar of the NCSA noted this does occur in some counties but that capacity has decreased in counties due to SMCP inmates being an optional population to house and easy to alter. There are a number of factors that counties weigh in making these decisions. Commissioner Lee added that many counties are having facility issues for myriad reasons. Mr. Sholar agreed, noting the

officer retention that affects state prisons is affecting counties as well. Chairman Brown reminded the Commission that thus far, the SMCP has always had more capacity than population. Mr. Sholar concurred and said eventually one would expect an equilibrium would be reached, though at what point is unclear. Sheriff Clemmons noted that the largest population in a jail is pretrial inmates, so while the convicted misdemeanor population is declining, it may not translate to less populated jails. Commissioner Weede asked if federal filings increasing impacts the SMCP population, to which Mr. Sholar replied that it could and added that anecdotally the federal contracts pay more than the SMCP. Commissioner Beeler asked if it was known why Mecklenburg County decreased its receiving capacity to zero. Commissioner Fialko noted the federal government pays more per bed and Mecklenburg has a new sheriff.

UPDATE FROM JUVENILE JURISDICTION ADVISORY COMMITTEE

Due to time constraints, Chairman Brown announced that this update will be carried over to the June 5th Commission Meeting.

PRESIDENTIAL COMMISSION ON LAW ENFORCEMENT AND THE ADMINISTRATION OF JUSTICE - DISCUSSION OF ISSUES

Chairman Brown announced Sheriff Clemmons' appointment to the President's Commission on Law Enforcement and the Administration of Justice (PCLEAJ) and recognized him for comments. Sheriff Clemmons stated he would be serving on PCLEAJ and two of its working groups: Police Officer Health, and Juvenile Delinquency and Youth Crime. He mentioned statistics regarding police officer suicide and the need for support for police officers suffering from mental health issues and for their families. He explained that law enforcement officers carry a burden that accompanies their work, and that confidentiality requirements often prevent them from being able to discuss their problems. Agencies have not responded to the mental health problems experienced by officers because of a culture of emotional stoicism and machismo. It is also problematic that officers fear they will be stripped of their duties and cast aside if they are open about their struggles. Chairman Brown added that he was surprised to learn there is no statewide requirement for mental health screening prior to hiring law enforcement officers.

Chairman Brown recognized Becky Whitaker, staff, to present an overview of the PCLEAJ and to facilitate a discussion of issues pertinent to Sheriff Clemmons' work on the PCLEAJ. Ms. Whitaker stated that the PCLEAJ will study issues related to law enforcement and the administration of justice and make recommendations to the Attorney General, who shall then submit a report and recommendations to the President on actions that can be taken to prevent, reduce, and control crime, increase respect for the law, and assist victims.

The PCLEAJ was authorized by President Donald Trump in Executive Order 13896 on October 28, 2019 and formally established by Attorney General William Barr in an Implementation Memorandum issued on January 21, 2020. Ms. Whitaker provided historical precedent for the PCLEAJ by briefly describing President Lyndon Johnson's Commission on Law Enforcement and the Administration of Justice in the late 1960s, as well as a recent example of a similar endeavor in President Barack Obama's 21st Century Task Force on Policing. Ms. Whitaker explained that the purpose of the PCLEAJ is to "enhance public safety and support the well-ordered administration of justice" and to "study ways to make American law enforcement the most trusted and effective guardians of our communities." Ms. Whitaker described the structure of the PCLEAJ, including its membership and staff, its monthly meeting requirement, and its duration of approximately one year. Sheriff Clemmons added that the structure of

the PCLEAJ is very similar to the structure of the Sentencing Commission and that he feels more prepared as a result of his work on the Sentencing Commission.

Ms. Whitaker stated that the PCLEAJ will have fifteen working groups. She reiterated that Sheriff Clemmons will serve on two working groups: Police Officer Health, and Juvenile Delinquency and Youth Crime. The PCLEAJ will solicit stakeholder input in a variety of ways, from speakers and presentations to a designated email address to receive public statements. Ms. Whitaker explained the PCLEAJ report would be a two-step process. First, the PCLEAJ would issue its report and recommendations to the Attorney General, then the Attorney General would issue a report and recommendations to the President.

Ms. Whitaker stated that the President's Executive Order contained twelve enumerated issues for the PCLEAJ's consideration, plus one additional "catch-all." Commission staff attempted to synthesize those issues into three broader categories: challenges to law enforcement, crime prevention and reduction, and best practices. She invited Commissioners to brainstorm and provide their input regarding those enumerated issues for Sheriff Clemmons to consider in his work on the PCLEAJ. Staff recorded Commissioners' ideas throughout the discussion.

With regard to challenges to law enforcement, Commissioners provided input for Sheriff Clemmons. Susan Katzenelson commented that drug treatment has historically been an issue. Mr. Beeler added that the interaction between homelessness and mental health is an issue that should be looked at.

Chris Fialko stated that police officers should be paid more and that many of them are working second jobs. He said police have a great opportunity to affect their community and their compensation should be higher.

Mr. Beeler commented on the culture of law enforcement where officers feel they must be macho. This contributes to stigma and makes officers reluctant to tell anyone if they are hurting or suffering. They fear losing their jobs if they are struggling with their mental health. Mr. Beeler added that there should be better well-being programs for law enforcement officers. He asked if corrections officers were included in this discussion and Sheriff Clemmons responded that they are.

Sheriff Clemmons stated that for many law enforcement agencies the policies for disciplinary action are long but policies for officer health and mental health are short by comparison. He said there is too much focus on discipline and not enough on officers' mental health.

Louise Davis stated that no matter what a person's function is in dealing with offenders, whether social work or law enforcement or some other level of involvement, the various elements are supposed to work as a team but that is not how it functions in reality. She gave the example of domestic violence and how different players in the system are not a team until there is a major crisis. She noted the lack of a community-based approach in the United States. Ms. Davis also mentioned the Scandinavian model of education and self-improvement, stating that those countries decided to emphasize community and they have been very successful.

Representative McNeill stated that in North Carolina law enforcement officers have become gatekeepers for mental health issues but that this should not be their role. Jails and prisons are filled up with people experiencing mental health issues. Even if law enforcement officers are paid more and given more training, he questions if this should be their role. Mr. Beeler commented that this is occurring because the state wanted to get out of dealing with mental health.

Sheriff Clemmons stated that it has been easier on the system to lock people up rather than get them treatment. Now law enforcement has Crisis Intervention Training and Mental Health First Aid and some agencies have established response teams. He added that the closure of the Dorothea Dix facility put the responsibility of mental health on law enforcement.

Turning to relationships with the community, Sheriff Clemmons stated that all law enforcement agencies in the state are trying to foster good relationships, but it only takes one bad incident to destroy that work and effort. What happens anywhere across the country reflects on all law enforcement.

Ms. Elder commented on law enforcement recruitment and retention. She mentioned incentivizing entering the law enforcement profession and gave the example of the NC Attorney General's Fellows Program for educational loan forgiveness in order to attract good candidates to the criminal justice field. She also mentioned compassion fatigue that law enforcement officers experience as a result of frequent interaction with victims and stated that this is an evolving area of concern.

Patrick Weede asked how many agencies have psychiatrists or psychologists available to their officers. Sheriff Clemmons responded that some larger agencies have the budget to have someone assigned to their agency but that smaller agencies like his do not have the budget for it. He can send his officers to local facilities but that no one wants to go anywhere local because they do not want to be seen in public at a mental health office. He can potentially send them outside the county. He added that he also has chaplains available to talk to officers.

Tammy Lee stated that smaller counties like hers do their best with providing salaries and recruitment bonuses for law enforcement but that they are already dealing with too many unfunded mandates. Unfunded mandates are very burdensome on smaller counties.

With regard to crime prevention and reduction, Commissioners provided input for Sheriff Clemmons. Ms. Katzenelson pointed out that the Sentencing Commission's collateral consequences report is a good one to forward to the PCLEAJ.

Mr. Fialko stated that he does not like the phrasing of enumerated issue 4, "refusal of prosecutors to enforce law or prosecute categories of crime." He thinks of it in a different way and that he does not want full federalization of law enforcement. Each county has its own set of problems and circumstances and that discretion should be kept locally. Sheriff Clemmons stated that members of the PCLEAJ felt the same way.

Mr. Beeler stated that the deterrence and enforcement pieces should be looked at carefully, cautioning against selective enforcement. He explained that another issue to focus on is the social cost to the family when a person is incarcerated. He cited University of Chicago research that that the social cost of incarceration is higher than the actual cost of keeping someone incarcerated. Children of incarcerated parents are more likely to go to prison themselves. He added that public/private partnerships are very important. Sometimes this is difficult due to bureaucracy but that it can be a good opportunity to involve the private sector.

Mr. Weede stated there is a need for young people to be more educated about the criminal justice system. He suggested possibly adding this to the curriculum in schools to better educate youth about becoming involved in the criminal justice system. Commissioner Lee mentioned that there is a cadet

program in Bertie County for high school students interested in careers in law enforcement. Chairman Brown said that Alamance County has a program that bridges the recruitment gap for students before they turn 21 and are eligible to become law enforcement officers. Mr. Beeler added that Florida just started hiring correctional officers at age 18. It will be interesting to see what the data says because he feels that 18 is young and there is a need for a certain level of maturity to deal with offenders.

With regard to best practices, the Commissioners provided input for Sheriff Clemmons. Chairman Brown stated he is interested in the evolving use of body cameras.

Mr. Beeler stated that they should look at training. It is one thing to be able to hire people, but it is another thing to keep them. This is a huge problem, especially in corrections, because supervisors are not being trained in how to deal with employees. Being a good supervisor requires a different skillset.

Senator Steinburg stated that leadership is aging out, especially in corrections. He also suggested that people are not being promoted based on what they know, but rather on who they know. There are competent people who have earned leadership positions but do not know the right person to get promoted. He has visited 46 of the 53 prisons in North Carolina and has learned a lot about the challenges correctional staff face on a day-to-day basis. He stated that although he is speaking about correctional settings, these issues also exist in sheriffs' departments and other agencies. It hurts the development of personnel and puts the state in a difficult position for filling management positions that are going to become open sooner rather than later.

Representative McNeill explained that he is supportive of training opportunities in law enforcement but that there must be someone on the road enforcing the laws. This is especially important for smaller agencies. He expressed concern that if too much training is mandated, there will not be anyone working.

Commissioner Lee stated there is no need for boilerplate training requirements to simply mark off a list, but there needs to be substance. She also expressed concern over the fact that sheriffs can fire people for no reason and that this may play into the difficulty with recruiting. Sheriff Clemmons responded that he sees that point, but that it can also be positive because he can get rid of a bad officer immediately as opposed to police or corrections agencies who have to go through a whole litany of disciplinary procedures before they can fire someone.

Chairman Brown expressed his enthusiasm for Sheriff Clemmons' appointment to the PCLEAJ.

UPDATES FROM STAFF

Due to time constraints, Chairman Brown announced that this update will be carried over to the June 5th Commission Meeting.

ADJOURNMENT

Chairman Brown reminded the members of the Commission meeting dates of June 5, September 11, and December 4. He added that Commissioners will be notified of subcommittee dates when they are set. Chairman Brown adjourned the meeting at 3:05 p.m.

Respectfully submitted,
Shelley Kirk
Administrative Secretary