

# **COUNTYWIDE CRIMINAL JUSTICE COORDINATION COMMITTEE**

## **MINUTES OF THE JUNE 18, 2008 MEETING**

Kenneth Hahn Hall of Administration  
500 West Temple Street, Room 739  
Los Angeles, California 90012

### **MEMBERS PRESENT**

Acting Chair: Michael Judge, County Public Defender

Marilyn Diaz, President, San Gabriel Valley Police Chiefs Association

Ray Fortner, County Counsel

Janice Fukai, County Alternate Public Defender

Karl Henry, Directing Attorney, Indigent Criminal Defense Appointments Program

Anthony Hernandez, Director, County Department of Coroner

Al Leiga, Chair, County Quality & Productivity Commission

Richard Propster, Peace Officers Association of Los Angeles County

Richard Sanchez, Acting County Chief Information Officer

Lakshmanan Sathyavagiswaran, County Coroner – Medical Examiner

Greg Savelli, President, South Bay Police Chiefs Association

Robert Taylor, County Chief Probation Officer

Michael Tynan, Judge, Superior Court

Steven Van Sicklen, Supervising Judge of Criminal, Superior Court

### **ALTERNATES**

Ed Brekke for John Clarke, Superior Court Executive Officer

Doyle Campbell for William Fujioka, County Chief Executive Officer

Michelle Carey for Loretta Martin, Chief U.S. Probation Officer

Elvira Castillo for Cynthia Banks, Director, County Department of Community & Senior Services

Marv Cavanaugh for Lee Baca, Sheriff and Vice Chair of CCJCC

Kathleen Daly for Marvin Southard, Director, County Department of Mental Health

Xiomara Flores-Holguin for Trish Ploehn, Director, County Department of Children and Family Services

Briane Grey for Tim Landrum, Special Agent in Charge, U.S. Drug Enforcement Administration

Jim Hudson for Kim Raney, President, Los Angeles County Police Chiefs Association

\*Greg Keosian for Richard Kirschner, Judge, Superior Court

Jason Killeen for Marcus Allen, Los Angeles City Chief Administrative Officer

Randall Martin for Adam Torres, United States Marshall

William Montgomery for Tom Tindall, Director, County Internal Services Department

William Nash for Margaret York, Chief, County Office of Public Safety

Ray Regalado for Robin Toma, Executive Director, County Human Relations Commission

Bruce Riordan for Rockard Delgadillo, Los Angeles City Attorney

Peter Shutan for Gabriella Holt, President, County Probation Commission

Sue Stengel for Jack Weiss, Los Angeles City Councilman, District 5  
Craig Valenzuela for William Bratton, Chief, Los Angeles Police Department  
Steven Van Sicklen for J. Stephen Czuleger, Presiding Judge, Superior Court

**\*Not a designated alternate**

**MEMBERS NOT PRESENT OR REPRESENTED**

Mark Arnold, Judge, Superior Court  
David Brewer, Superintendent, Los Angeles Unified School District  
Edmund Brown, California Attorney General  
Yvonne B. Burke, County Supervisor for the Second District,  
Chair of the County Board of Supervisors and Chair of CCJCC  
Steve Cooley, District Attorney  
Gary Dominguez, Southern Division Commander, California Highway Patrol  
Jonathan Fielding, Director, County Public Health Department  
Gigi Gordon, Directing Attorney, Post Conviction Assistance Center  
Salvador Hernandez, Assistant Director in Charge, Los Angeles Division, Federal  
Bureau of Investigation  
Ronald Ikejiri, Chair, County Economy and Efficiency Commission  
Sean Kennedy, Federal Public Defender  
Michael Nash, Supervising Judge, Juvenile Court  
John Noguez, President, California Contract Cities Association  
Thomas O'Brien, U.S. Attorney  
Darline Robles, Superintendent, County Office of Education  
Stephanie Sautner, Judge, Superior Court  
Patricia Schnegg, Judge, Superior Court  
Dennis Tafoya, County Affirmative Action Compliance Officer  
Robert Todd, President, Southeast Police Chiefs Association  
John Torres, Special Agent-in-Charge, U.S. Bureau of Alcohol, Tobacco, Firearms and  
Explosives  
Frank Venti, President, Independent Cities Association  
Antonio Villaraigosa, Mayor, City of Los Angeles  
Larry Waldie, Undersheriff  
Mike Webb, President, County Prosecutors Association

**CCJCC STAFF**

Mark Delgado, Executive Director  
Kenna Ackley  
Cynthia Machen  
Craig Marin

**GUESTS/OTHERS**

Bruce Brodie, County Alternate Public Defender's Office  
Dardy Chen, County Chief Executive Office  
Karen Dalton, Sheriff's Department  
Rudy Diaz, Judge, Superior Court  
Linda Dyer, Alcohol and Drug Programs Administration  
Peter Espinoza, Judge, Superior Court

Jackie Hill, County Quality and Productivity Commission  
Robert Kalunian, County Public Defender's Office  
Steve Kawamura, County Chief Executive Office  
Justice Elwood Lui, Settlement Referee, Jones Day  
Anna Pembedjian, Justice Deputy, Fifth District, County Board of Supervisors  
Ezekiel Perlo, Incoming Directing Attorney, Indigent Criminal Defense Appointments Program  
Scott Stickney, County Probation Department

**I. CONVENE/INTRODUCTIONS**

Michael Judge, County Public Defender

The meeting was called to order at 12:00 noon by Los Angeles County Public Defender Michael Judge, Acting Chair of CCJCC.

Self-introductions followed.

**II. APPROVAL OF THE MINUTES**

Michael Judge, County Public Defender

There were no requests for revisions to the minutes of the May 21, 2008 meeting. A motion was made to approve the minutes.

**ACTION: The motion to approve the minutes of the May 21, 2008 meeting was seconded and approved without objection.**

**III. DRUG COURT OVERSIGHT SUBCOMMITTEE**

Judge Rudy Diaz, Chair, Drug Court Oversight Subcommittee

Judge Rudy Diaz, Chair of the Drug Court Oversight Subcommittee, appeared before CCJCC to present the Drug Court Report for Fiscal Year 2006-2007.

The Los Angeles County Drug Court programs divert non-violent drug offenders with chronic substance abuse disorders out of the local jail and state prison systems and into treatment.

The first Drug Court program in Los Angeles County began in 1994. Currently, there are twelve traditional adult drug courts, two juvenile drug courts, and four specialized court programs based on the drug court model.

All Los Angeles County drug courts feature collaboration among judicial officers, prosecution, defense, law enforcement, probation, and community-based treatment providers. Each program offers structured treatment recovery services and utilizes community resources to offer drug involved defendants a chance at achieving sobriety and decreasing their involvement in the criminal justice system.

During FY 06-07, almost 800 individuals entered the Adult Drug Court programs in Los Angeles County. Combined with continuing participants, over 1,600 people received

treatment and services during that period. A total of 447 individuals graduated during the year.

Over the last five fiscal years, 5,669 new participants entered Los Angeles County Drug Courts and over 2,100 individuals have graduated from the programs.

The report notes that there has been a steady decrease in the number of participants entering drug court programs over the last five years, including a 32% reduction in new participants from FY 05-06 to FY 06-07. This is largely attributable to the implementation of Proposition 36 in 2001 and significant reductions in drug court funding.

Five-year recidivism data for drug court graduates show an average recidivism rate of 29%.

For FY 04-05 and FY 05-06 drug court graduates, three-year and four-year data show an average recidivism rate of 20%. These rates are well below the recidivism rate for similar offenders who do not participate in a drug court program.

The four specialized court programs that are based on the drug court model are relatively small, but they are serving as pilot programs that may be expanded based on evaluations of their effectiveness and outcomes measures.

The Co-Occurring Disorders Court (CODC) began in 2007 and focuses on offenders who suffer from both mental illness and substance abuse issues. The court can accommodate 54 clients and targets the downtown/Skid Row population. Intensive and integrated treatment for both the mental health disorders and the substance abuse disorders is the hallmark of this program.

To enhance the CODC, CCJCC helped to coordinate a grant submission by the Alcohol and Drug Programs Administration (ADPA) that would fund residential treatment services for clients in this program. This was submitted in April 2008, and the award decision is pending.

The Sentenced Offender Drug Court (SODC) was initiated in 1998 and is an intensive program for convicted, non-violent felony offenders who face state prison commitments. All court participants spend a mandatory 90 days in an in-custody treatment program in Los Angeles County jail followed by residential and outpatient treatment. The Court serves 100 individuals.

The Women's Reentry Court is a joint collaboration with the California Department of Corrections and Rehabilitation (CDCR). The Court began in 2007 and targets women parolees who are charged with a new offense. In lieu of a return to prison, participants are enrolled in a gender-specific treatment program that offers mental health, substance abuse, employment assistance, and trauma-related counseling services.

All three of these court programs are presided over by Judge Michael Tynan.

The fourth specialized court program is the Juvenile Dependency Drug Court that began in 2006. The Court targets primary caretaker parents whose children are under the Juvenile Dependency Court jurisdiction and whose substance abuse is a significant issue impeding family reunification. The Court originally served 20 adult clients at the Children's Court in Monterey Park, but it has been expanded in the last year. In addition, four courts in other areas of the county were created.

CCJCC and the Drug Court Oversight Subcommittee hosted the Annual Drug Court Conference on May 18, 2007 at the California Endowment. Nearly 300 individuals attended this event.

This year's Annual Drug Court Conference is scheduled for Monday, June 23<sup>rd</sup>, at the Conference Center at the Cathedral of Our Lady of the Angels.

Chief Probation Officer Robert Taylor inquired about the potential effect that the Nonviolent Offender Rehabilitation Act of 2008 (NORA) would have on Los Angeles County Drug Court programs. NORA is an initiative that will be on the statewide ballot in November 2008.

Judge Diaz stated that the potential effect of NORA is a matter of much debate. NORA would create three tracks for drug treatment diversion, which correlate roughly with the existing PC 1000, Proposition 36, and drug court programs.

The Drug Court programs would continue under NORA. However, there are two major concerns that many drug court judicial officers have. First, NORA limits the amount of incarceration time that can be imposed to a maximum of 10 days, and this would be for probation violations.

This would have a direct impact on SODC because that program operates with 90 days of in-custody treatment. Judge Diaz noted that SODC has been one of the most successful drug court programs in terms of low recidivism.

The limitation on incarceration would also restrict the ability of judicial officers to utilize this sanction as a means to bring about compliance. Furthermore, many of the participants in drug courts have long-term addictions that require extended in-custody stays in order to be successful. As a result, the effectiveness of the drug court programs could be impaired.

The second concern about NORA is that drug court programs may have much greater difficulty obtaining the funding needed to continue. Track III of NORA provides funding, but drug court programs that don't meet the Track III requirements may lose sources of funding given that the state will already be funding Track III.

In addition, Judge Diaz noted that the drug court programs had been experiencing an increase in funding prior to the implementation of Proposition 36. Once Proposition 36 was in place, however, drug courts suffered decreases in both participation and funding. There is concern, therefore, that the passage of NORA could have similar results.

Chief Taylor suggested that CCJCC study NORA in greater detail given the potential impact on the drug court programs.

A motion was made to approve the Drug Court Report for FY 06-07 for submission to the County Board of Supervisors.

**ACTION: The motion to approve the Drug Court Report for FY 06-07 for submission to the County Board of Supervisors was seconded and approved without objection.**

Regarding the study of NORA, Michael Judge commented that Judge Ana Maria Luna made a presentation on Proposition 36 to CCJCC on February 20<sup>th</sup> of this year, during which time she also discussed NORA. He recommended that she be invited to return next meeting and provide an update. In addition, the members of CCJCC can review the initiative and be prepared to discuss it.

Judge Michael Tynan stated that the Los Angeles County Narcotics and Dangerous Drugs Commission are meeting to consider whether to endorse NORA. He agreed that the impact of NORA on the drug court programs could be substantial and that CCJCC should discuss this initiative further.

**ACTION: Judge Luna will be asked to provide an update on the status and details of NORA at the next CCJCC meeting.**

#### **IV. CALIFORNIA PRISON OVERCROWDING LAWSUIT SETTLEMENT**

Justice Elwood Lui, Settlement Referee, Jones Day

Justice Elwood Lui, retired California Appellate Justice, appeared before CCJCC to discuss the status of two pending federal lawsuits concerning health care, mental health care, and prison overcrowding in the state prison system.

The United States District Courts for the Eastern and Northern Districts of California have convened a three-judge panel to address the issues raised in *Coleman et al. v. Schwarzenegger et al.* and *Plata et al. v. Schwarzenegger et al.*

The following five groups have intervened in these proceedings: California Correction Peace Officers Association; a group of county governments; a group of District Attorneys, a group of Republican members of the California Legislature; and a group of law enforcement officials.

Justice Lui was appointed as a settlement referee for these cases, and he has been involved for the past seven to eight months.

He noted that the California prison system has a design capacity of 100,000 beds but is now housing a population of close to 170,000 inmates.

If a settlement is not reached among the parties, the three-judge panel may order the release of a certain number of inmates from California prisons. This order would be reviewable by the United States Supreme Court, but if the order were to stand, about one-third of the inmates released would likely return to Los Angeles County.

Working groups of the various parties have been created, and information has been gathered in an effort to create a settlement that would avoid an inmate release order.

The parties were not able to reach an agreement after approximately six months, so Justice Lui has drafted a proposed settlement as a starting point. This draft settlement was the result of discussions among smaller groups meeting on the various topics.

The proposal attempts to avoid early release by offering diversion to low-level inmates such as drug offenders. These inmates will be on parole and will be assessed a strike and returned to prison if they fail to abide by the terms of their diversion.

Justice Lui stated that it takes three dollars to incarcerate an inmate for every one dollar that it costs to place the person in a diversion program.

His proposed settlement includes a provision calling for funding by the state legislature for local diversion programs. If the legislature does not agree to the funding, then there would be no settlement. In addition, counties would have the option of opting out of participation if funding from the state were withdrawn.

A risk assessment tool is being finalized that will allow for a statistical evaluation of each inmate to determine those best qualified for diversion programs.

The trial date is set for November 17, 2008. If a settlement is not agreed to by that time, the ultimate result could be a court-ordered release of tens of thousands of inmates without any programs in place to assist local governments and municipalities.

Assistant Sheriff Marv Cavanaugh noted that many of the state prisons are antiquated and in need of upgrades.

He also stated that approximately 31,000 inmates were convicted on felonies for cases that are wobblers; that is, cases where the person could have been charged with a misdemeanor rather than a felony. There has been discussion at the state level of statutorily making those misdemeanors, which could result in 10,000 of them being returned to Los Angeles County.

Judge Tynan emphasized that it is critical that the state legislature provide adequate funding for the entire criminal justice system in order to make the diversion programs successful.

At April's CCJCC meeting, Judge Steven Van Sicklen, Supervising Judge of Criminal in the Los Angeles Superior Court, expressed concern about the Legislative Analyst's Office (LAO) proposal for transferring responsibility for the supervision of certain

parolees to local courts and probation departments. At this meeting, he again stressed that any agreement that adds responsibilities to the local courts and criminal justice system, without a corresponding increase in funding, would be unworkable.

Judge Van Sicklen stated that the Los Angeles Superior Court currently has 37 fewer bench officers than at the start of this year, and that this number may increase to 50 by the end of the year. In addition, the Court is facing a significant budget cut in the upcoming fiscal year. He observed that the cost to the justice system of just one appearance by a defendant in court is about \$600.

Michael Judge inquired as to whether funding would include consideration of the local jurisdiction's history with diversion programs.

Justice Lui stated that the proposed settlement is a starting point for discussions and subject to modification. Many of the details have not yet been fully developed, but it has been made clear that adequate funding from the state is a requirement in order for the agreement to work.

He also noted that, under the proposed settlement, parole would continue to have the responsibility for handling parole violations and determining compliance with the terms of parole.

On Monday, June 23<sup>rd</sup>, there will be a meeting with all of the interveners to obtain their feedback on the proposed settlement. A status conference is scheduled for Friday, June 27<sup>th</sup>, where Justice Lui will report back to the three-judge panel.

**ACTION: For information only.**

**V. OTHER MATTERS/PUBLIC COMMENT**

There were no additional matters or public comments.

**VI. ADJOURN**

There being no further business, Michael Judge adjourned the meeting at 1:00 p.m.

The next CCJCC meeting will be held on **Wednesday, July 16, 2008, at 11:30 a.m. in Room 739 of the Kenneth Hahn Hall of Administration.**