

COUNTYWIDE CRIMINAL JUSTICE COORDINATION COMMITTEE

MINUTES OF THE JULY 16, 2008 MEETING

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

MEMBERS PRESENT

Chair: Yvonne B. Burke, County Supervisor for the Second District and
Chair of the County Board of Supervisors

Lee Baca, Sheriff and Vice Chair of CCJCC
Cynthia Banks, Director, County Department of Community & Senior Services
Marilyn Diaz, President, San Gabriel Valley Police Chiefs Association
Peter Espinoza, Supervising Judge of Criminal, Superior Court
Gigi Gordon, Directing Attorney, Post Conviction Assistance Center
Anthony Hernandez, Director, County Department of Coroner
Gabriella Holt, President, County Probation Commission
Michael Judge, County Public Defender
Tim Landrum, Special Agent in Charge, U.S. Drug Enforcement Administration
Al Leiga, Chair, County Quality & Productivity Commission
John Noguez, President, California Contract Cities Association
Ezekiel Perlo, Directing Attorney, Indigent Criminal Defense Appointments Program
Richard Propster, Peace Officers Association of Los Angeles County
Kim Raney, President, Los Angeles County Police Chiefs Association
Richard Sanchez, Acting County Chief Information Officer
Lakshmanan Sathyavagiswaran, County Coroner – Medical Examiner
Dennis Tafoya, County Affirmative Action Compliance Officer
Robert Taylor, County Chief Probation Officer
Michael Tynan, Judge, Superior Court

ALTERNATES

*Damon Alexander for John Torres, Special Agent-in-Charge, U.S. Bureau of Alcohol,
Tobacco, Firearms and Explosives
Ed Brekke for John Clarke, Superior Court Executive Officer
Bruce Brodie for Janice Fukai, County Alternate Public Defender
Peter Espinoza for J. Stephen Czuleger, Presiding Judge, Superior Court
Xiomara Flores-Holguin for Trish Ploehn, Director, County Department of Children and
Family Services
Pamela Hamanaka for Edmund Brown, California Attorney General
*Greg Keosian for Richard Kirschner, Judge, Superior Court
Jason Killeen for Raymond Ciranna, Interim Los Angeles City Chief Administrative Officer
*Tyrone Kilpatrick for Adam Torres, United States Marshall
Jim McDonnell for William Bratton, Chief, Los Angeles Police Department
William Montgomery for Tom Tindall, Director, County Internal Services Department
Steven Olivas for Antonio Villaraigosa, Mayor, City of Los Angeles
Robert Philibosian for Ronald Ikejiri, Chair, County Economy and Efficiency Commission
Bruce Riordan for Rockard Delgadillo, Los Angeles City Attorney

John Spillane for Steve Cooley, District Attorney
Wayne Sugita for Jonathan Fielding, Director, County Public Health Department
Gordon Trask for Ray Fortner, County Counsel

***Not a designated alternate**

MEMBERS NOT PRESENT OR REPRESENTED

Mark Arnold, Judge, Superior Court
David Brewer, Superintendent, Los Angeles Unified School District
Gary Dominguez, Southern Division Commander, California Highway Patrol
William Fujioka, County Chief Executive Officer
Salvador Hernandez, Assistant Director in Charge, Los Angeles Division, Federal
Bureau of Investigation
Sean Kennedy, Federal Public Defender
Loretta Martin, Chief U.S. Probation Officer
Michael Nash, Supervising Judge, Juvenile Court
Thomas O'Brien, U.S. Attorney
Darline Robles, Superintendent, County Office of Education
Stephanie Sautner, Judge, Superior Court
Greg Savelli, President, South Bay Police Chiefs Association
Patricia Schnegg, Judge, Superior Court
Marvin Southard, Director, County Department of Mental Health
Robert Todd, President, Southeast Police Chiefs Association
Robin Toma, Executive Director, County Human Relations Commission
Frank Venti, President, Independent Cities Association
Larry Waldie, Undersheriff
Mike Webb, County Prosecutors Association
Jack Weiss, Los Angeles City Councilman, District 5
Margaret York, Chief, County Office of Public Safety

CCJCC STAFF

Mark Delgado, Executive Director
Kenna Ackley
Cynthia Machen
Craig Marin

GUESTS/OTHERS

Victor Allente, Sheriff's Department
David Anders, Private Citizen
Richard Barrantes, Sheriff's Department
Lydia Becerra, Alcohol and Drug Program Administration
Jason Binghoff, L.A. City Chief Administrative Office
Cleveland Block, IMPACT Drug and Alcohol Treatment Center
Marv Cavanaugh, Sheriff's Department
Joseph Charney, Third District, County Board of Supervisors
Dardy Chen, County Chief Executive Office
Karen Dalton, Sheriff's Department
Linda Dyer, Alcohol and Drug Program Administration

Ali Farahani, Information Systems Advisory Body
John Fernandes, County Ombudsman
David Fratello, Proposition 5/NORA Campaign Manager
Briane Grey, U.S. Drug Enforcement Administration
Vincent Holmes, County Chief Executive Office
Kimberly Jo, County Chief Executive Office
Karly Katona, Second District, County Board of Supervisors
Leora Katz, County Commission for Children and Families
Steve Kawamura, County Chief Executive Office
Yanira Lima, Alcohol and Drug Program Administration
Ana Maria Luna, Judge, Superior Court
Patrick Ogawa, County Board of Supervisors, Executive Office
Ann Peterson, Proposition 5/NORA Campaign
Suzanne Pulice, District Attorney's Office
Jillian Punch, Private Citizen
Joel Sappell, Third District, County Board of Supervisors
Maxine Schmidl, County Chief Executive Office
Jim Stillwell, Executive Director, IMPACT Drug and Alcohol Treatment Center
Randi Tahara, Second District, County Board of Supervisors
Antonia Villasenor, California Department of Corrections and Rehabilitation
Jacqueline White, County Chief Executive Office
Kimberly Wong, Public Defender's Office

I. CONVENE/INTRODUCTIONS

Yvonne B. Burke, County Supervisor, Second District

The meeting was called to order at 12:00 noon by Los Angeles County Supervisor Yvonne B. Burke, Chair of CCJCC.

Self-introductions followed.

II. APPROVAL OF THE MINUTES

Yvonne B. Burke, County Supervisor, Second District

There were no requests for revisions to the minutes of the June 18, 2008 meeting. A motion was made to approve the minutes.

ACTION: The motion to approve the minutes of the June 18, 2008 meeting was seconded and approved without objection.

NOTE: With no objection, the fourth item on the Agenda, the Nonviolent Offender Rehabilitation Act (NORA) – Motion To Oppose, was moved up to the third item on the Agenda.

**III. NONVIOLENT OFFENDER REHABILITATION ACT (NORA) –
MOTION TO OPPOSE**

John Spillane, Chief Deputy District Attorney

John Spillane, Chief Deputy District Attorney, appeared before CCJCC on behalf of Los Angeles County District Attorney Steve Cooley to make a motion that CCJCC recommend to the County Board of Supervisors that they oppose Proposition 5, the Nonviolent Offender Rehabilitation Act (NORA). Proposition 5 will appear on the November 4, 2008 statewide ballot.

Mr. Cooley set forth a number of objections to NORA in a June 26, 2008 letter to Supervisor Burke. A copy of this letter was distributed to the members of CCJCC.

Mr. Spillane summarized the following additional objections that the District Attorney has to NORA:

First, there is concern that the implementation of NORA will decrease funding for successful drug court programs that are already in existence. Drug Court programs that include in-custody treatment or incarceration for non-compliance will not be eligible for funding under NORA. Given the large amount of mandatory state funding that would go to NORA (\$460 million for FY 09-10), it would be difficult for these programs to obtain the funding needed to continue.

Second, while the advocates of NORA state that it will build on the successes of Proposition 36, the District Attorney believes that Proposition 36 has not shown a notable success. Since its inception, about 25% of the individuals that have been referred to Proposition 36 have successfully completed treatment. NORA would expand eligibility to non-violent offenders who have committed felonies. The District Attorney believes that this may decrease the success rate further.

Third, NORA permits continued use of drugs during treatment, which the District Attorney believes will result in other violations of law during the period when individuals are in drug treatment.

Mr. Spillane noted that the proponents and opponents of NORA dispute the implications of a discretionary element in the initiative. Specifically, the courts will have discretion to refer eligible defendants to drug treatment in the furtherance of justice. The District Attorney believes that, because there is no statutory role for the prosecutor or defense counsel in making this determination, judges will look for guidance in other language in the statute – language that mandates that eligible individuals must receive treatment under one of the three tracks.

Among the potentially eligible defendants for drug treatment diversion will include those convicted of commercial burglary, auto theft, selling drugs, manufacturing drugs, trafficking in child pornography, and driving under the influence of alcohol or drugs. The position of the District Attorney is that it may be appropriate to incarcerate individuals who commit these crimes and not divert them away from criminal sanctions.

Mr. Spillane urged the members of CCJCC to approve the District Attorney's motion to recommend to the County Board of Supervisors that they oppose Proposition 5.

The motion was seconded by Chief Kim Raney, Los Angeles County Police Chiefs Association.

Supervisor Burke called upon Los Angeles County Sheriff Lee Baca to address the committee concerning this motion.

Sheriff Baca stated that he also opposes NORA. He believes that the purity of the intent of NORA is good but that the consequences will not be. One reason for this is that, in creating this initiative, the various organizations in the criminal justice system (i.e., District Attorney, Sheriff, Superior Court, etc.) were not brought in as full participating partners in developing the policy. The result is a skewed expectation of success vis-à-vis the realities of the drug addiction problem in the state. He added that he views this as an experimental initiative with no proven record of success.

A further problem that the Sheriff noted is that the State of California is not in a financial position to become encumbered with new mandatory funding programs. Given that the state has a \$15 billion deficit that it is trying to close, this is not a good time to be introducing this initiative.

As with the District Attorney, Sheriff Baca also objected to allowing the continued use of drugs while an individual is receiving treatment. He stated that judges and law enforcement officials are not opponents of recovery. What those who object to this provision are against is the idea that an individual may attempt to recover while continuing the habit of buying and using drugs. He does not believe that keeping the drug and the drug addicted person together is an effective means for dealing with this problem.

Supervisor Burke called upon David Fratello of the Proposition 5/NORA campaign to address the committee on this motion.

Mr. Fratello stated that NORA was written to address the following three major problems in California:

1. There is a lack of treatment options for youth with drug addiction problems. NORA addresses this by creating the first statewide system offering youth treatment on demand;
2. Proposition 36 does not receive sufficient funding to meet the treatment needs of its participants. UCLA's study on Proposition 36 has recommended funding at over twice the amount that it currently receives. Mr. Fratello maintains that Proposition 36 has a success rate equivalent to that of other criminal justice referrals; and
3. The State of California has overcrowded prisons and faces the possibility of a federal takeover of the prison system along with mandated prisoner releases. NORA would divert inmates from the prisons and into rehabilitative treatment.

Those in support of NORA include the Los Angeles County Narcotics and Dangerous Drugs Commission, California State Senator Gloria Romero, the California Society of Addiction Medicine, County Alcohol and Drug Program Administrators Association of California, California Public Defenders Association, major treatment providers (such as the Tarzana Treatment Centers, Inc.), the California State Conference of the NAACP, the League of United Latin American Citizens, the SEIU State Council, AFSCME, the California Democratic Party, and the League of Women Voters of California.

Mr. Fratello referenced the issue raised by Mr. Spillane concerning the discretion of the judges under NORA. He emphasized that the decision to refer an individual to treatment is left to the judge's discretion in the furtherance of justice, and that it is not mandatory that judges refer a person to treatment.

The NORA campaign has just issued a rebuttal to a position paper by the National Association of Drug Court Professionals (NADCP) that came out in opposition to NORA. Mr. Fratello stated that 25 errors of fact about NORA have been identified in the position paper.

Currently, under Proposition 36, Los Angeles County receives about \$25.3 million per year for treatment and supervision. Under NORA, using the same methodology that is now used for allocating funds under Proposition 36, Los Angeles County would receive \$116.2 million per year.

Mr. Fratello offered to speak further with any members that would like additional information about NORA.

Supervisor Burke invited members of CCJCC to speak on this motion.

Robert Philibosian of the County Economy and Efficiency Commission (EEC) stated that from a procedural standpoint, NORA amounts to an amendment to the state constitution because the only way for this law to be changed would be with a four-fifths vote of the State Legislature.

He also has a number of concerns about the financial implications of NORA. For instance, the Attorney General's Circulating Title and Summary states that the initiative would create numerous divisions, boards, commissions, and reporting requirements regarding drug treatment and rehabilitation. Mr. Philibosian questioned where the funding would come from to provide for this.

Furthermore, he noted that the last line of the Attorney General's Circulating Title and Summary states that there is an "unknown net fiscal effect on expenditures for county operations and capital outlay." Mr. Philibosian questioned why the County of Los Angeles should support this measure if the cost to the county cannot be predicted.

Mr. Philibosian also echoed Sheriff Baca's concern that the state has a serious budget crisis in part due to mandatory budget items that are locked-in by previous initiatives and constitutional amendments. NORA would add to this burden.

In addition to his concerns with NORA from a fiscal standpoint as a member of the EEC, Mr. Philibosian stated that he also has concerns from the standpoint of a private citizen. He expressed the view that crime in the state has decreased in part due to the incarceration of criminals. He believes that an initiative that keeps more criminals out of prison will harm public safety and increase the crime rate.

Chief Kim Raney, Chief of the Covina Police Department and President of the Los Angeles County Police Chiefs Association (PCA), stated that the PCA has also taken a position against NORA. He stated that the PCA, which represents 45 municipal police chiefs in the County of Los Angeles, is concerned that NORA represents a strategic attempt to slowly decriminalize the use of narcotics in this state. The police chiefs share the view that this would be harmful to public safety at a local level given that the use of illegal drugs is often accompanied by other types of criminal behavior, such as theft.

Los Angeles County Public Defender Michael Judge stated that Mr. Fratello is correct in stating that the California Public Defenders Association has taken a position in favor of NORA. However, speaking as the Los Angeles County Public Defender, Mr. Judge is taking a neutral position.

Mr. Judge stated that he disapproves of the design of NORA in that it requires that individuals be convicted in order to receive treatment. He maintains that drug addicted individuals have a disease, and he therefore does not support this requirement. Successful drug treatment programs have allowed people to go into treatment almost immediately upon being arraigned.

In addition, Mr. Judge supports in-custody treatment and stated that there are occasions in which drug addicted individuals need a disablement strategy for a short period so that they will not have access to drugs. There are also occasions where a medical detox approach is needed for people who are incarcerated and going through withdrawals. NORA does not provide funding for these situations.

Mr. Judge shares the District Attorney's concern that funding for existing successful drug court programs will be reduced or eliminated as a result of NORA.

On the other hand, Mr. Judge does not oppose NORA either because it would provide a large amount of needed funding for drug treatment.

Judge Michael Tynan of the Los Angeles Superior Court addressed the body. He runs the Sentenced Offender Drug Court (SODC), Co-Occurring Disorders Court, and the Women's Reentry Court and is a strong believer in the use of treatment for drug addicted individuals and drug court programs in general. He stated that drug courts nationally have a 75% success rate and that the SODC program has success rates ranging between 75% and 92%.

Judge Tynan stated that a stick as well as a carrot is needed in order for some drug addicts to recover. NORA would significantly restrict the ability of judges to incarcerate individuals for non-compliance.

The first 90 days of the SODC program involves in-custody treatment, which would disqualify it for funding under NORA. If NORA were to become law, the SODC program would have great difficulty obtaining the funding needed to continue.

An additional concern that Judge Tynan has with NORA is that the funding cannot be used for testing, which he stated is a crucial component of drug treatment programs coming out of the courts.

Following-up on the comments regarding the funding for NORA, Judge Tynan noted that the \$460 million will come from the state's general fund, not a separate funding source. As a result, other programs funded by the general fund will need to be cut by a percentage. He believes that any savings resulting from NORA will go to the State Department of Corrections and Rehabilitation due to having fewer people in custody.

Based on an analysis conducted within the Superior Court's Criminal Division, Judge Tynan said that NORA may result in an additional \$63 million a year in court costs.

Judge Tynan concluded by stating that NORA is not a treatment initiative, but rather, an incarceration reduction initiative. He does not believe that this initiative has been designed in a way that will produce a high success rate, but it will result in more people being out of prison.

No other members of CCJCC requested to speak on this motion.

The motion having been seconded, Supervisor Burke asked for a vote of the CCJCC members on the motion at hand.

ACTION: The motion to recommend to the County Board of Supervisors that they oppose Proposition 5, the Nonviolent Offender Rehabilitation Act (NORA), was approved without objection.

Supervisor Burke then called on Judge Ana Maria Luna and requested that she convene a Task Force for the purposes of developing a contingency plan in the event that Proposition 5 passes in November.

Judge Luna stated that she was willing to chair this effort if there was no objection from Judge Peter Espinoza or Judge Michael Tynan. None were expressed.

NOTE: At this time, Supervisor Burke had to leave the meeting. Michael Judge, County Public Defender, served as Acting Chair for the remainder of the meeting.

Judge Luna advised that based on her experience with the implementation of Proposition 36, she believes the best approach in developing a contingency plan is to gather together the stakeholders. She noted that CCJCC has already formed a Continuum of Care Workgroup, which consists of most of these stakeholders. Therefore, she recommended that this existing Workgroup be asked to address implementation issues in the event that Proposition 5 passes in November.

Michael Judge queried as to whether there was any objection to Judge Luna's suggestion.

ACTION: In the absence of any objection, it was agreed that the workgroup be charged with developing a contingency plan and addressing implementation issues in the event that Proposition 5 passes in November and that Judge Luna chair this effort.

IV. INFORMATION SYSTEMS ADVISORY BODY (ISAB) SEMI-ANNUAL REPORT
Ali Farahani, Director of the ISAB Integration Services Division

Ali Farahani, Director of the Information Systems Advisory Body (ISAB) Integration Services Division, appeared before CCJCC to present ISAB's Semi-Annual Report.

Mr. Farahani highlighted the following ISAB projects:

CCHRS Upgrade

With funding support from the County CEO's Office, ISAB entered into an agreement with a contractor to assist in a critical hardware/software upgrade of the Consolidated Criminal History and Reporting System (CCHRS), including the implementation of a system disaster recovery plan by installing a CCHRS replica in the Orange County data center. The project began in June 2008 and is expected to be completed in the second quarter of 2009.

The upgrade will enhance application performance and reliability by upgrading hardware to a new IBM AIX system and upgrading an Oracle database/application server.

DNA Offender Tracking System (DOTS)

In collaboration with the Proposition 69 Implementation Task Force, the Sheriff's Department, the LAPD, and the Probation Department, ISAB has implemented Phase I of the DNA Offender Tracking System (DOTS). The system is now used by all law enforcement agencies in Los Angeles County, and the Pre-Dots system has been shut down.

ISAB has continued to work with the Sheriff's Department to implement Phase II of DOTS. Once implemented, the system will screen all subjects transferred to the Inmate Reception Center (IRC) and automatically identify those who qualify for DNA sample collection. System development has been completed and testing is scheduled for July and August 2008. It is expected that DOTS Phase II will be implemented in October 2008.

ISAB is also working with the Sheriff's Department to integrate DOTS into the LiveScan system (fingerprint-based booking) to automatically identify eligible subjects for criminal DNA sample collection at the time of booking. Information will also be printed on the booking slip so that it will not need to be checked manually.

Probation E-Filing

In collaboration with the Probation Department, Public Defender's Office, and District Attorney's Office, ISAB is implementing a secure and reliable system for the electronic delivery of the probation reports to other justice agencies. System development has been completed and testing is in progress. Implementation is expected in the last quarter of 2008.

Countywide Warrant System (CWS)

The Countywide Warrant System (CWS) project is in the final stages of development and testing. CWS web services will allow criminal justice agencies to implement system-to-system automated warrant inquiries.

One of the web services, warrant inquiry by warrant number, has been moved to production. In addition, the LAPD Detective Division has developed an application that will utilize the CWS web services to automate warrant checks.

Identity and Entitlement Management

As more information exchanges are developed with outside agencies, the capability to support multiple security and privacy protocols increases. ISAB is actively working with the Federal Department of Justice (DOJ) GLOBAL effort to develop common standards and protocols to enable effective justice information sharing between Los Angeles County justice agencies and authorized state and federal agencies.

CCHRS Lite – GFIPM

ISAB began work with the Automated Regional Justice Information System (ARJIS) team in San Diego to provide authorized ARJIS users with secure web-based access to CCHRS using the Global Federated Identity and Privilege Management (GFIPM) standards. The system is currently in the development phase and is being referred to as CCHRS Lite.

In response to a question from Damon Alexander of the U.S. Bureau of Alcohol, Tobacco, Firearms and Explosives, Mr. Farahani stated that ISAB is working with the DOJ to make CCHRS Lite available to other trusted users if this pilot effort is a success.

Mr. Farahani noted that additional information is available in the ISAB Semi-Annual Report that was distributed at this meeting.

A motion was made to approve the ISAB Semi-Annual Report for submission to the County Board of Supervisors.

ACTION: The motion to approve the ISAB Semi-Annual Report for submission to the County Board of Supervisors was seconded and approved without objection.

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 1:03 p.m.

He noted that CCJCC will not meet in August.

The next CCJCC meeting will be held on **Wednesday, September 17, 2008, at 11:30 a.m. in Room 739 of the Kenneth Hahn Hall of Administration.**