

## External Advisory Group Meeting—June 2, 2015

- 1. There seems to be an extended wait from disposition to sentence where defendants are in jail awaiting the completion of the pre-sentence report. How many additional officers would the probation dept. need to close this waiting time, and thus reduce the jail population?**

*Following a conviction for a felony and many misdemeanors, a court must order a pre-sentence report which is prepared by the Office of Probation. A case will be adjourned for a number of weeks while the report is being prepared. The length of the adjournment varies and is determined by the judges, but typically ranges from four to eight weeks. The content of the report is considered before the judge sentences a defendant.*

*The purpose of pre-sentence reports is to provide courts with reliable and relevant information and to provide dispositional and regulatory agencies with information for immediate and future decision-making. Due to their importance for the defendant and the entire criminal justice system, they must be fair and accurate.*

*The scope and contents of pre-sentence reports are regulated by statutory authority. They must contain a legal history, description of the present offense, description of past and present social circumstances, victim(s) information, financial assessment where restitution is applicable, a risk and need assessment, an interview with the defendant(s), the arresting officer's statement, evaluation of all the facts and information and recommendation for disposition.*

*Gathering, verifying and analyzing the information needed to prepare a report is a lengthy process and varies from case to case depending on the complexity involved. There are many factors that contribute to the length of time needed to prepare a report including: interviews need to be coordinated with defense attorneys, victims need time to gather information about their losses, information regarding treatment history must be obtained and various records must be secured and verified.*

*All of the above factors need to be examined when determining the number of probation officers needed to complete pre-sentence reports expeditiously. At present, the number of probation officers is not the critical factor. Nevertheless, pre-sentence reports are one of the major components in criminal justice processing and will be examined along with other functions in a comprehensive manner. As part of the in-depth analysis of Average Length of Stay (ALOS) currently being undertaken by the Criminal Justice Council, the role of pre-sentence reports in criminal justice processing will be reviewed. Following completion of the review, recommendations will be made.*

**2. The District Atty. office has a pro felony/pro incarceration philosophy. What would it take to change the culture of said office to one of retribution and restorative justice, instead of simply incarcerating people?**

The response below was provided by District Attorney Bill Grady.

*The District Attorney's Office does not have a pro felony/pro incarceration philosophy. If a recommendation of incarceration on a felony is appropriate under the facts of a particular case, we will not hesitate to make such a recommendation. Each case, however, is decided on its own merits. The Prosecutor does not arrest offenders. This happens when a police officer determines that there is sufficient evidence present to warrant charging an offender with a crime, which could be a felony.*

*Later in the process, after the offender has been arraigned and bail has been set by the court, the case file is forwarded to the DA's office and the prosecutor then reviews the facts, circumstances, witnesses statements and available evidence in the case. A decision is then made as to whether the case can be prosecuted, and if so what crime or crimes should be charged under the facts of the case. If the answer is yes and if the crime is a felony, it is either resolved by way of the defendant pleading guilty to the felony contained in what is called a Superior Court Information or the case is presented to the Grand Jury. When the defendant resolves a case by way of a Superior Court Information, he, in essence, gives up his right to have his case reviewed by the Grand Jury as well as his right to a Trial by Jury and agrees to plead guilty.*

*If the case is submitted to a Grand jury, the Grand Jury decides, based on the evidence and the testimony of witnesses whether to indict the offender. The options available to the Grand Jury are multiple. The Grand Jury is not limited to what the offender was arrested for. It can also choose to charge the offender with a misdemeanor instead of a felony or it may dismiss the charge.*

*As to whether an offender should receive incarceration if convicted of a felony, there are varied reasons that would result in incarceration. As an example, there are numerous felony crimes classified as violent felony offenses. If an offender is convicted of one, the law mandates incarceration as a sentence. If an offender has a prior felony conviction within ten years, state prison sentence is also mandatory. There are also occasions when an offender, due to his prior record or severity of the crime will be sentenced to a period of incarceration in addition to being given a lengthy probation sentence. It should be noted that in those cases where the court has discretion on sentence, the DA only makes a recommendation as to sentence. Under the law the court must make the final*

*determination. The court will impose sentence after weighing the recommendation from the DA, reviewing the Department of Probation Pre Sentence Report on the offender and the sentence recommendation by the Probation Officer, and finally after listening to a statement from the victim. On another note, If the court is not satisfied with a proposed plea agreement between the prosecution and defense, it can reject such proposal since the law requires such a plea to take place with the permission of the court.*

*This office routinely participates in Alternative to Incarceration programs that place non violent offenders who qualify, under the supervision of the Probation Department during the pendency of their case. In addition the DA's Office regularly participates in Drug Diversion Programs in our County Court which allow qualified non violent drug dependant offenders to participate in rehabilitation programs as an alternative to further incarceration. I personally am serving on the Special Populations Committee which was created to recommend and implement enhancement of existing jail programs as well as the creation of new jail based programs using the restorative justice concept of more effectively addressing the problems that led to the offenders incarceration and thereby reduce the likelihood of recidivism.*

*Through the joint efforts of the District Attorney's Office, Public Defender's Office and the Office of Probation, a new initiative has been introduced as a pilot in the Town of Poughkeepsie. CHIP (Coordinated Hybrid Interim Program) will be available for suitable defendants who have been screened and deemed appropriate. A risk and pretrial assessment will be used to determine eligibility. Sentencing will be adjourned while the defendant is under supervision and successful completion of the CHIP program may result in reduced or dismissed charges depending on the circumstances of the case. Community safety needs will be addressed through the identification of needs and participation in appropriate treatment plans as well as ongoing monitoring of behavior in the community.*

*Judges must approve participation in the program.*

- 3. Since the vast majority of inmates are mentally ill and substance abusers, wouldn't it be more prudent to build a dual diagnosis inpatient treatment center than another jail?**

*Once again, there is some disagreement with assumptions and opinions presented by the questioner. Although many of the individuals do have mental issues and/or substance abuse issues, they have also committed a crime and if the judge feels they are a risk to public safety the judge may remand the individual to jail. Our current jail is too small,*

*quite outdated and needs to be replaced in order to effectively deal with those who are incarcerated.*

*According to Margaret Hirst, the Acting Commissioner of Mental Hygiene, "I am a social worker and an advocate for individuals with mental health, chemical dependency and Intellectual and developmental disabilities; I am always concerned that these individuals have treatment programs and the access to those programs that will help them to address these issues and achieve recovery.*

*It should be noted however, that the current trend in healthcare is away from hospitalization for both physical and behavioral health and towards community based services. The NYS Office of Mental Health is currently reducing the number of inpatient beds throughout the state.*

*With that in mind, I believe that the philosophy that the Justice and Transition Center has embraced will help those with these issues that do become involved in the criminal justice system to better access the care that they need."*

*Currently the Justice and Transition Center project is developing and will implement the following:*

- 1. Crisis Intervention Team Training (CIT) will provide the 25% of county and local law enforcement field officers most likely to interact with individuals with mental illness with better tools to use in first encounters and in many cases the ability to divert them to treatment rather than to the criminal justice system.*
- 2. Mental Health First Aid training (MHFA) for the remaining 75% of law enforcement officers (administration, detectives, etc) and 911 dispatchers to improve understanding of mental illness and chemical dependency and help reduce stigma.*
- 3. Mobile Crisis Intervention Team (MCIT) response 24/7/365: in partnership with the NYS Office of Mental Health and the Mid-Hudson Regional Hospital of Westchester Medical Center, the Dept of Behavioral and Community Health (DBCH) will soon have a 24 hour mobile response. Officers who encounter a person and feel the need for professional consultation will have it available.*
- 4. Restoration Center: a 23 hour Crisis Stabilization and Wellness Center, available 24/7/365. This program, when operational, will provide law enforcement, families, agencies and individuals a safe environment when in a behavioral health crisis to stabilize and directly connect to the treatment programs. This will give law enforcement officers an alternative to incarceration.*
- 5. Mental Health Connections: once the MCIT is 24/7/365, the MCIT will be available to any judge who, at the time of the first arraignment, feels that a treatment diversion plan*

would be acceptable and with the approval of Probation, the MCIT will engage the person immediately in community treatment/supports. This program has proven to be effective in the City of Poughkeepsie in diverting individuals from incarceration or reducing the length of stay in the jail.

6. *Jail-based Team: This team of DBCH staff identifies individuals in the jail with behavioral health issues, what community support and treatment they will need upon re-entry to the community and provides a care manager "Bridger" to connect individuals, who agree, to services and community supports. These services are available to any inmate in the jail.*
7. *ReStart: in jail programming for offenders who present as a high risk for criminogenic behavior. Individuals will receive intensive programming including mental health and chemical dependency educational/treatment readiness and transitional planning and will be bridge to ongoing treatment service in a community based program upon re-entry.*
8. *Forensic Evaluation: individuals (misdemeanor and 1<sup>st</sup> felony offenders) with behavioral health issues are assessed for alternative to incarceration treatment programs (over 600 evaluations were performed in 2014).*
9. *Specialty Courts: a) Judicial Diversion: a court based alternative to incarceration which is a partnership with the criminal justice system and behavioral health treatment (target population: 2<sup>nd</sup> felony offenders) and b) Beacon Drug Court: a similar program to Judicial Diversion for the misdemeanor offender*

*Additionally, the community based treatment programs will be implementing evidence based curriculum programs which have shown to be effective with the criminal justice population. This will provide a continuum of care with all programs targeting the same goal; to reduce criminogenic risk and address behavioral health issues so that individuals can achieve optimal recovery.*

**4. Has there been a space analysis on the current jail to modify same and make more efficient?**

*Yes, the 1994 addition to the jail will be a part of the new jail construction. The older sections will be demolished as well as the current Sheriff's office. It should be noted that a new design will allow for a much better staff to inmate ratio which will yield considerable annual operating expense reduction.*

5. **The RicciGreene, Project Definition Report recommends a capacity for the new facility of 578-680 beds/cells. What actions are underway to reduce this total based on the fact that our Average Length of Stay in the jail is two times the national average; that we are bringing back the housed-out inmates; and that there are many projects underway to reduce recidivism, streamline case processing; and, provide appropriate alternatives to low-risk individuals, misdemeanants, non-violent felons and individuals with a mental illness and/or a chemical dependency?** (The answer provided below is to follow-up to the original response provided at the May meeting.)

*The proposed 578 beds were based on an analysis with RicciGreeneAssociates; trends incarceration rates over many years.*

*Although our average length of stay is much higher than the national average, our incarceration rate is less than half the national average. Dutchess County is already taking the "low hanging fruit." Dutchess County has over 600 individuals in Alternative to Incarceration programs. The County has taken steps to divert individuals with mental issues through its Mobile Crisis Intervention Team.*

*The County will do a review of the number before a final decision is made, but we do not want to build a new facility that is too small the day we move in. The Commission on Corrections (COC) has final say regarding the bed count and they are comfortable with 578, so any change will require their approval.*

*Finally, the County's design will provide a mechanism to de-commission beds and use that available space for a transition house, or perhaps for those with mental illness, or even the homeless. That would also be subject to COC approval.*