

CUMBERLAND COUNTY BOARD OF COMMISSIONERS
APRIL 30, 2010 – 8:00 AM
DEPARTMENT OF SOCIAL SERVICES, MEETING ROOM D
1225 RAMSEY STREET
SPECIAL MEETING FOR JAIL SUMMIT

PRESENT:

Chairman Billy R. King
Commissioner Jeannette Council
Commissioner Kenneth Edge
Commissioner Marshall Faircloth
Commissioner Ed Melvin
Commissioner Phillip Gilfus
Commissioner Jimmy Keefe
James Martin, County Manager
Juanita Pilgrim, Deputy County Manager
Amy Cannon, Assistant County Manager
Rick Moorefield, County Attorney
Sally Shutt, County Communications Manager
Marie Colgan, Clerk to the Board

Sheriff Earl R. Butler
Chief Deputy Paul Hinson, Sheriff Office
Major John McRainey, Sheriff's Office
Ed Grannis, District Attorney
Claire Hill, District Attorney's Office

Judge Lynn Johnson, Superior Court Judge
Ellen Hancock – Trial Court Administrator
Callie Gardner, Director for Pretrial Release
Caroline Melvin, Assistant Director to Callie Gardner

Linda Priest – Clerk of Court

Hank Debnam, Director of Mental Health
Wayne Cannon, Mental Health
Dawn Baxley Director of Public Health
Jane Stevens, Public Health
Dale Iman, Fayetteville City Manager
Chief Tom Bergamine, Fayetteville City Police
Dave Servie, Hope Mills Police Department
Jeff Stafford, Spring Lake Police Department
Chief Troy McDuffie, Spring Lake Police Department
James Markham – Facilitator – UNC Institute of Government
Alvin Keller, Secretary of the NC Department of Corrections
Pat Chavis, Department of Corrections – Division of Prisons
Darsweil Rogers, CQ Risk Management, LLC
Dr. Joel Rosch, Duke University

Dr. Michael Sanera - John Locke Foundation
Mike Jackson – National Institute of Corrections
Press

Chairman King called the meeting to order at 8:30 AM welcoming attendees and the public. Chairman King referred all attendees to the agenda as provided. Chairman King informed attendees the goal of the meeting was to help answer some questions regarding the over-crowding of the jail facility. He then introduced the facilitator, James Markham with the UNC School of Government. Mr. Markham advised in order to help answer some of the questions that had been posed for this meeting, he would endeavor to keep the meeting moving along. Chairman King advised the order of the agenda is being changed and called on Sheriff Earl Butler for the first presentation.

Presentation from the Sheriff's Office

Sheriff Butler called on Major McRainey to provide an update on the jail population of Cumberland County. The following are highlights from a Power Point presentation:

- Ground was broken on the current jail in November, 1999 with the jail opening in February – March, 2003.
- The jail was designed to allow for expansion as the needs of the community grew.
- The jail population at the time of opening was approximately 410 inmates and the jail population has risen steadily since then.
- Average daily population in 2003 was 447 and grew to 554 in 2009; with the maximum rated capacity being 568.
- Admissions of 9,305 in 2003 with releases of 9,271 was compared to 12,123 admissions in 2009 with 12,287 releases.
- Causes of the rise in jail population was contributed to the growth of Cumberland County, increase in probation violations of 30%, mental health patients being returned to their communities from state hospital beds, courts and law enforcement have become more severe in dealing with people charged with DWI, domestic violence and sex offenders which now results in some jail requirements and advanced technology by law enforcement officers has resulted in more arrests.
- Court positions (judges, district attorneys, public defenders, court clerks, etc.) have not been added fast enough to handle the additional cases.
- Comparison of several other counties showed that Cumberland with a population of 312,696 has 568 jail beds while Durham County with a population of 262,715 has 736 beds.
- Median length of stay for inmates at the jail is 49 days (1/2 have been in jail less than 49 days and 1/2 have been in jail more than 49 days). 42% of current inmates have been in jail less than 30 days.
- A breakdown of the current 556 inmates showed some of the following charges: 80 are charged with murder; 58 charged with rape, sex offense or child abuse; 79 charged with assault and/or domestic violence, 151 charged with burglary, breaking or entering or larceny and 79 charged with probation violation or failure to appear.

- The following recommendations were made: begin the planning process to expand the jail and build four additional housing units in the form of single level dormitory style housing designed to hold 64 inmates each, for a total of 256 beds.

Presentation from the District Attorney's Office

District Attorney Ed Grannis provided handouts and advised he is formally putting the Commissioners on notice that at times, the jail population is significantly over capacity and that is neither legal nor safe. District Attorney Grannis referred to a handout showing the six most populous counties in North Carolina stating that he and Judge Lynn Johnson wanted the Board to be aware there has been an increase in criminal case filings of 17.9% in Cumberland County for the 2009 fiscal year. Compared to other counties, Cumberland had a disposition rate of 86% and was first in the average number of days to disposition. District Attorney Grannis advised Cumberland County compared to the other counties has experienced the most significant increase in violence. Another handout showed the number of inmates who have been booked 5 or more times since 1/1/2009 revealing that one inmate had 21 bookings with 151 criminal charges being brought against him. District Attorney Grannis stated the courts work closely with the Clerk of Court to ensure the timeliness of required voluminous paperwork and they work closely with pre-trial release staff utilizing every possible form of pre-trial release such as electronic house arrest and GPS monitoring. His office is working with the city police and the Sheriff's Office to identify repeat offenders with more than 50 individuals being identified each month as repeat offenders. Another handout showed several counties and their plans for expansions, along with a copy of an article in the Fayetteville Observer reporting that the General at Ft. Bragg cited his concerns over crime in the county. In closing, District Attorney Grannis reminded attendees a report was presented eighteen years ago to Chairman King of the Board of Commissioners through Juanita Pilgrim and it reflected that by 2012 the County would need capacity for 760 jail beds. District Attorney Grannis requested the Board proceed with the plan that was presented in the report for the increase in beds.

Presentation by Darsweil Rogers

Mr. Rogers provided information on his background advising that his involvement with the criminal justice system is that of a consultant agency to the system which supports community-based corrections. A handout was provided with the following highlights:

- His company is dedicated to assisting the criminal justice system in reducing recidivism in offenders through the application of a multi-pronged approach including traditional incarceration, electronic surveillance, proactive community-based services and revised judicial sentencing.
- The goal is to reduce recidivism through providing offenders with viable career options combined with proactive punishment for regressive behavior.
- His company effectively balances the need to reintegrate the offender into society with cost concerns and the broader goal of improved public safety.
- Mr. Rogers believes that a holistic approach is needed for solutions to the issues of crime by using the traditional techniques of enforcement and incarceration, increased use of modern electronic surveillance techniques, revised judicial sentencing, using community-based support agencies and finally education and training.

- Traditional incarceration cost \$63 per day, while ankle bracelets used for 24/7 house arrest cost \$5 per day and 24/7 GPS tracking devices cost \$9 per day.
- It is unclear if the holistic approach will increase or decrease in cost in the short term, but the emphasis will shift from jails and prisons to community-based solutions.

Presentation from Mike Jackson

Mr. Jackson provided information on his background advising that his agency, the Jail Division, is a small sub- agency of the Bureau of Prisons which is a large sub-agency of the Department of Justice. Their mission is to assist correctional facilities across the country at the state and local level. Mr. Jackson advised the information the District Attorney presented earlier is consistent with what is happening nationwide. Most jails were built in the 1970's and 1980's with longevity of around thirty years. Due to the economy, there are jails that have been built but have not been opened due to lack of funds to run them. Other counties need new jails, but can't build them because of the lack of funding. Mr. Jackson stated his agency is responsible for the first two phases of building a new jail: (1) conducting a needs assessment by technical resource providers who review the current jail system within the particular county to see how it works and an analyst who assesses the court system processes; and (2) an invitation is sent to the Sheriff, the chief jailer, a member of the Board of Commissioners and the County Manager to meet with his agency to discuss and learn how to plan for a new jail. It is hard to plan further than five years out. Mr. Jackson provided several booklets to the Chair regarding available resources his agency can provide on this subject and encouraged attendees to visit the information center on their website for additional resources. Mr. Jackson concluded his presentation stating their services are mainly cost-free to counties.

Presentation by Department of Corrections Secretary Alvin Keller

Secretary Keller provided information on his background and also provided handouts, informing attendees that several important things happened in the last few weeks since the Governor introduced her budget for the coming year. The Justice Reinvestment effort has been rolled out as one of her four priorities. This effort is focused on an investment in technology to help law enforcement and public safety agencies do their job. Proposal includes increase in pay to recruit and retain probation officers, a data project to put all NC criminal justice records into one place, expand the state's VIPER radio system, fund law enforcement to be able to collect DNA sample as soon as a felon arrest is made, and fund more than 750 new custody and medical positions in order to staff two new medical and mental health facilities now under construction. Secretary Keller stated the state prison system is growing just like many jails across the state. Over 40,000 inmates are housed in 70 state prisons. If current sentencing laws and practices remain the same, it is projected that the inmate population will grow to almost 51,000 by 2019. Currently, they are at capacity in some inmate classifications, with 794 inmates backlogged in county jails awaiting transfer to prison. Cumberland County has fourteen waiting and the waiting time is at about fourteen days for transfer. Three new prison additions are expected to be completed in the fall which will help the backlog. The Department of Corrections realizes that the jail backlog situation places a burden on the counties and should a particular Cumberland County inmate need to be moved immediately, Secretary Keller stated that they would make the necessary arrangements. Controlling the growth

of the prison population is key to controlling costs which have risen faster than any other state budget item. According to the NC Sentencing Commission, 50% of those leaving prison are re-arrested within three years. Secretary Keller referred to a handout regarding Justice Reinvestment which he described as is a smart and sound criminal justice policy designed to reduce recidivism and has been working in more than twelve states already. This program has helped shrink recidivism and has kept states from having to build more prisons. A group in North Carolina has been established to review data and develop a legislative package to recommend use of this program. Secretary Keller advised that the Division of Community Corrections is also working on implementing supervision strategies of offenders based on the results of a data-driven risk-needs assessment overlaid with the sanctions and requirements of the court. Secretary Keller concluded his remarks stating that his department looks forward to working with all stakeholders on the many public safety initiatives that he mentioned.

Presentation by Dr. Joel Rosch

Dr. Rosch provided information on his background and presented a handout entitled “Thinking About Jails”. Dr. Rosch stated in North Carolina, jails are used primarily to hold people prior to trial and by far, North Carolina has the lowest rate of numbers of people in jail per capita in the southeast for this reason. Jail beds in North Carolina compared to other states show that North Carolina is under jailed. Since structured sentencing, North Carolina’s prison population has moved to a little below the national average, while jail population has remained much lower. Dr. Rosch questioned the criteria being used to decide whether to build more jail beds and whether it is a cost issue or a safety issue. A number of successful programs are used in a variety of communities to reduce jail populations without decreasing public safety. Dr. Rosch stated statistics prove that a relatively small number of repeat offenders commit a large percentage of the most serious predatory violent crimes. Dr. Rosch provided charts that showed the rise in crime pertained mostly to the age group of 15-20 year olds. Dr. Rosch closed his remarks stating Cumberland County has fewer jail beds per capita than most counties in North Carolina and North Carolina has fewer jail bed capacity per capita than the rest of the nation.

Presentation by Dr. Michael Sanera

Dr. Sanera provided information on his background and stated the John Locke Foundation frames all their analysis and advice to public policy makers. The John Locke Foundation provides other options to public policy makers not normally considered in most public policy discussions. The Foundation does not accept public funds and therefore can provide more innovative solutions to problems. Dr. Sanera pointed out local law enforcement is the front line of protecting the citizens’ rights and his remarks are more geared to long term solutions for the county. Dr. Sanera supports the community working together to solve the problem of needed jail space. Consideration should be given to joining with other counties to operate a regional jail which would allow for a split in cost. Another option would be to contract with neighboring counties and transport inmates to them for housing, or building a larger jail and leasing out jail beds to other counties. An option that is available when inmates are farther away from the courthouse is a remote video stream for minor court appearances such as bail hearings. At present, there are three state prisons contracted out to private firms, but it is questionable whether county jails can do this based on current laws. However, Dr.

Sanera feels this law can be successfully challenged. Dr. Sanera closed his remarks stating there are three ways to approach the overcrowding problem: (1) design, build and operate a new jail or add on to an existing jail; (2) hire a company to design and build the jail that they then lease back to the county; or (3) contract with a company to design, build and operate the facility.

Mr. Markham thanked all participants and opened up the floor to the Commissioners for questions or comments.

Commissioner Keefe stated new technology is an avenue that should be explored in lieu of brick and mortar options. Commissioner Keefe further stated rehabilitation using new technology should be looked into especially based on the recidivism numbers as supplied earlier in the Summit. District Attorney Grannis called on Callie Gardner to explain the success of programs that are currently being used. A handout and an explanation of the two programs currently being used was provided: (1) Pretrial Services Program is where individuals are under moderate supervision, and (2) the Electronic House Program/Global Positioning System (GPS) which is designed for defendants who need more intensive supervision. Both programs are designed to aid in reducing the jail population and are for defendants who do not have an extensive criminal history. There is an extensive qualification process that is followed with a judge giving the final consent for individuals to be placed in the program. There are 110 individuals in both programs at this time and the program is a success because there are few crimes committed by individuals while they are in the program. In answer to a question from Commissioner Keefe, Ms. Gardner stated technology for Electronic House Arrest this program was updated two years ago and the cost for the GPS unit is about \$5 per day.

Commissioner Edge questioned whether individuals who cut off their ankle bracelets have their bond forfeited. Ms. Linda Priest explained the bond would not be forfeited unless they failed to go to court. If the individual is picked up and placed back in jail, a new bond would be issued and the General Statutes determine this ruling.

Chief Tom Bergamine informed attendees that in 2006, there were over 6,000 arrests by the city police, but since then, the yearly average is over 8,000 arrests. Causes of crime are social, economic and not enough effort is made at front-end prevention. Chief Bergamine stated Cumberland County continues to grow and the bottom line is more jail space is needed because crime is up and police must continue to arrest violators of the law. Commissioner Keefe questioned the District Attorney about whether first and second time property criminals are to be placed in the jail. District Attorney Grannis stated they would only be placed in jail if they have other criminal charges against them.

Commissioner Faircloth questioned whether there are any available statistics that show a correlation between pretrial incarceration and actual sentencing that does not involve prison. Mr. Markham explained sentencing an individual to prison would depend on their record and the charge. District Attorney Grannis advised since the repeat offender program was just put into place this year, there are a great number of individuals that have not been locked up who are repeat offenders. Judge Lynn Johnson added the North Carolina Sentencing Policy Advisory Commissioner does publish the data the Commissioner Faircloth questioned and it is available in his office.

Dan Ford, retired Chief Jailer of Cumberland County, was recognized. He stated the same type meeting was held in 1985 and it resulted in a request to the Board of Commissioners for a 1,000-bed facility; in 1995 a new jail with 568 beds was approved with an opening in 2003. Mr. Ford stated it is past time to increase the bed space to the original request.

The Facilitator questioned how long it would take to complete the requested addition. Major McRainey answered it would take two to three years.

Commissioner Gilfus questioned whether 256 beds would be enough. Sheriff Butler stated that 256 beds would be sufficient for several years. Sheriff Butler stated he realized more space is not the total answer to the problem. Commissioner Gilfus questioned Judge Johnson about the court's thought process during pretrial determinations given the current capacity of the jail. Judge Johnson referred to a book he recently supplied to the Board of Commissioners in which he listed a trial judge's options and confirmed current capacity of the jail did enter into the thought process.

Commissioner Council advised the County's Master Facilities Plan speaks to an increase in jail space that would be needed in 2012 and questioned whether the request today is a change from what was originally requested. Major McRainey explained the request is still for a pod but the change in the request is for a dormitory style interior that still provides direct supervision. Commissioner Council voiced her concern that in the handout provided earlier, it appeared that the County did not have any plans in place which was not true. District Attorney Grannis stated he was not aware the Board had already committed to expanding the jail. County Manager Martin explained the County has known for a number of years that future expansion of the jail would be needed since the County originally approved 568 of the original 1,000 beds requested. The core facilities were built with future expansion of the existing jail in mind and within the County's Capital Improvement Plan, there are several recommended facilities listed for upgrades with no funding attached. Commissioner Council stated she wanted to ensure the public that the Board of Commissioners is concerned about jail needs and that the Board already has plans for expansion of the jail.

Fayetteville City Manager Dale Iman advised from his date of hire, reduction of crime was a high priority for the City of Fayetteville. He praised Chief Bergamine for the plan put together for the City of Fayetteville and stated the Fayetteville City Council funded the plan which resulted in the hiring of additional police officers and placement of computers in all police vehicles. Mr. Iman reminded attendees that the county's population is going to increase with incoming families through BRAC at Ft. Bragg. He closed his remarks stating that a plan without a funding source is no plan at all.

Assistant District Attorney Claire Hill stated she works directly with the jail on a daily basis and currently her office has 4,518 pending felony cases with only jail bed space for 568. Ms. Hill stated there are individuals out of jail on a complete unsecured bond, with first time property offenders being the majority of those. Ms. Hill further stated these individuals are not in the pretrial release program. After explaining the process, Ms. Hill stated she feels their office does a great job in accelerating jail cases and accelerating

misdemeanor cases within 24 hours if the person charged does not make bond. Ms. Hill stated other cases they have involve the homeless and those who have mental health conditions, and quarterly jail meetings are being held to discuss issues related to the provision of medical services to inmates.

Commissioner Edge acknowledged that the growing inmate population is a problem and stated the responsibility falls on all who are represented at this Summit. Commissioner Edge stated he said this in 2001 and he will say it again that anyone can walk into the courthouse on Friday afternoons and find the courtrooms are not being utilized. Commissioner Edge praised the various departments for their work, but stated that all areas need to be looked at and for all to work in collaboration to relieve the overcrowding.

Concerns and questions were received from the public attending.

In response to some of the questions, Ellen Hancock, Trial Court Administrator, stated mental illness is a complex problem and the court system has to coordinate with the mental health facilities on services for these individuals. Ms. Hancock also explained empty courtrooms on Fridays do not mean they are not disposing of cases; the speed in which felonies are handled is the lowest in the state of the most populous counties. However, in the near future, they will be experiencing the largest change in senior leadership in the last 35 years which could change the speed in which they can handle cases. The more serious the crime, the longer it takes to dispose of the case. The courts have to follow the Constitution of the United States and to the North Carolina Constitution which requires balancing the Constitutional rights of the accused with the need to expedite cases.

Commissioner Faircloth voiced his concern as to whether 256 beds will be enough. Commissioner Faircloth stated he does not believe a larger facility can answer all the problems. District Attorney Grannis advised disposing of cases has been slowed due to new rules and regulations placed on the court system. Ms. Hancock added scheduling is difficult due to the small number of criminal attorneys for Cumberland County.

Chairman King thanked everyone for attending and stated the Summit has been very informative. Commissioner King further stated he expects additional discussion in the future. Chairman King stated everyone is committed to keeping the citizens and their property safe; however, there are challenges that must be worked through.

The meeting adjourned at 12:15 p.m.

Approved with/without revision:

Respectfully submitted,

Marie Colgan
Clerk to the Board