

**Technical Assistance Report**  
**Wisconsin First Judicial District**  
**National Institute of Corrections**  
**Technical Assistance 09C1008**

**Submitted By: Peggy McGarry, Consultant**

**March 29, 2009**

## **BACKGROUND**

Judge Jeffrey Kremers, Chief Judge of the First Judicial Circuit in Wisconsin, requested assistance from the National Institute of Corrections (NIC) for an assessment of the progress and direction of the Community Criminal Justice Council (the Council) in Milwaukee and for recommendations for further enhancement and development of the Council.

The Council was established by resolution of the Milwaukee County Board of Supervisors on May 17, 2007. This action of the County Board was taken following:

1. The recommendation of a previous NIC Technical Assistance Report (September 6 – 8, 2006);
2. Discussions that took place among criminal justice officials as a part of the visit that produced the aforementioned technical assistance report; and
3. Settlement negotiations in a long-standing lawsuit against the county by the American Civil Liberties Union over conditions and crowding in the county's jail.

Steve Austin, correctional program specialist at NIC, contacted the consultant to provide the requested assistance.

## **TECHNICAL ASSISTANCE ACTIVITIES**

The consultant, accompanied by Mr. Austin, was on site February 11 and 12, 2009. Once on site, the consultant and Mr. Austin conducted individual interviews with the following:

- Rob Henken, President, Public Policy Forum
- Inspector Kevin Carr, Milwaukee County Sheriff's Department
- Dennis John, Chief Information Officer, Milwaukee County Information Management Services Division
- Mayor Tom Barrett
- District Attorney John Chisholm
- Deputy District Attorney Jeff Altenburg
- Chief Judge Jeffrey Kremers, Chair of the Council
- County Executive Scott Walker
- Kit McNally, Executive Director, The Benedict Center
- Supervisor Willie Johnson, Jr., Milwaukee County Board of Supervisors
- First Assistant Public Defender Tom Reed

In addition to the individual interviews, the NIC team had a group meeting with Judge Kremers, Inspector Carr, Defender Reed, and Ms. McNally.

## **THE CONTEXT OF THE REQUEST**

In 1996, Milwaukee County was sued by a former inmate of its jail alleging dangerous conditions including inadequate medical care. A consent decree went

into effect in 2001 and remained so through settlement negotiations between the Legal Aid Society and the county in 2006. Out of those negotiations, seconded by the NIC report the same year, came the recommendation that some type of coordinating council be established to manage the jail population, and the system's other corrections resources, more effectively. The sheriff thought the idea worthy apart from the lawsuit settlement and sought support from other policymakers in the county. The County Board created the Council in May, 2007. It began meeting in January of 2008.

It is interesting to note that following a similar lawsuit in 1986, a county Criminal Justice Coordinating Committee was established for much the same purpose and has since faded away. Only one of the individuals the team interviewed was even aware that such a body had existed.

Since 2009, the county's House of Correction has been taken over (at the direction of the County Executive) by the sheriff and the free-standing work release facility (or, as these are known in Wisconsin, the Huber facility) has been closed and the inmates moved into a pod at the jail. There is a new chief judge and a relatively new elected prosecutor.

The officials interviewed universally indicated that these changes (among others) signal that this is a propitious moment to get the Council off to a strong start and that NIC's recommendations would help to ensure that the Council builds a solid foundation for itself.

## **GENERAL OBSERVATIONS**

The consultant and NIC staff were impressed with the degree to which those we sought to interview made themselves available and were enthusiastic about NIC's assistance.

Everyone with whom the team spoke expressed a great deal of excitement and satisfaction at the existence, membership, and meeting attendance of the Council. There is a perception that this is the moment to "make a new start" in terms of communication and cooperation among key stakeholders and policymakers in the county.

At the same time, there was broad – but not universal – recognition that this excitement and the commitment of the key actors to attend every meeting have a limited shelf life. Several spoke of the need for the Council to take this excitement and the momentum of its creation and move beyond improved communication to making important, cross-system decisions -- or risk this Council's fading away.

As the national, state, and local economies falter and we risk losing the important crime-reduction gains of the last decades, the Council also risks irrelevance if it cannot manage a laser focus on the twin goals of making more efficient use of public

resources and using those resources to strengthen communities and enhance their safety.

## ISSUES AND RECOMMENDATIONS

The issues that the team identified for attention are entirely consistent with the emergence of a new, ambitious effort within a difficult area of public policy. They speak to the need to focus some of the Council's efforts at this early stage to its own direction, its own process, and its capacity to achieve its ambition. As suggested above, Milwaukee has seen similar endeavors in the relatively recent past. The observations and recommendations that follow are intended to help this one fulfill all of its great promise for the citizens of Milwaukee.

### I. The goals and purpose of the Council.

Although the County Board's resolution establishing the Council indicates that its purpose is: "to advise and promote a more effective and efficient criminal justice system guided by the interests of the people that we serve," and the "effective and efficient" language was used by many of those interviewed, there is little agreement about either what those words mean or how the Council should operate to achieve them.

We asked each person interviewed for their views on its purpose and goals. The answers ranged from "making sure that the system's assets are used effectively for the public good" to "good communication so that everyone knows what's going on." One person describes the Council as a way for the system to speak "with one voice" to the public about "hot-button issues," while another sees it as a tool to achieve widespread reform of the entire criminal justice system. An elected official thought its mission should be to reduce the number of people being incarcerated unnecessarily. Others mentioned the management of scarce resources and the need to use those more prudently.

These are all sensible purposes for a body like the Council. They are not mutually exclusive and can be met at the same time. However, they are wildly divergent in terms of the *main* goal and driving purpose that the Council is to serve and reveal a broad discrepancy in the views of Council members (and we did not interview the entire Council) about why it exists. (It should be noted that all of the then-members of the Executive Committee created the current mission statement.)

### Recommendation:

The Council cannot succeed as anything more than a simple information-sharing body if its members do not agree on an overriding mission for it and its operations. Mission drives every other aspect of the Council's operations: whether it has the right mix of members; its need for resources like staff and research capacity; and its operating structure, including committee tasks and membership;

Members are now – and will likely continue – behaving as if they belonged to one of several different organizations. Furthermore, experience tells us that if the Council is used only to inform, key decisionmakers will stop attending.

We recommend a retreat, conducted off-site by a skilled neutral facilitator, of significant duration (probably at least a day), the sole purpose of which is to arrive at a mission that all can agree to actively support and the words and meaning of which are clear, concrete, and measurable.

## II. The Council's operating mode.

Does the Council only share information or does it also make joint decisions? While this question cannot be answered separately from the question of mission, it is illuminating to look at the expectations of Council members. As an example, several of those interviewed told us of their dissatisfaction with the manner in which the decisions to consolidate management of the jail and the House of Correction and move work-release inmates into the jail were made. They acknowledged and respected the *authority* of the County Executive, County Board, and the Sheriff to make these decisions, but questioned why the Council was not used as a vehicle for examining all possible implications and issues, as well as other options, from the variety of perspectives and experiences of its members. These members thought that the decisions may have ultimately been the same but would have been made with more information, enjoyed greater support, and practical suggestions from the group might have aided in their implementation.

(It should be noted that there is a Jail and Huber Utilization Standing Committee that was tasked with monitoring the consolidation.)

If some Council members believe that they should be consulted while others believe they are only obliged to inform or be informed, then the ground is set for on-going conflicts that are rooted in differing expectations. In any high-level body of this type, it is essential to clarify whether members expect to participate in making decisions that effect the system (or even a few of its agencies), or to have full discussions before those decisions are made outside the body, or to be informed of decisions already made.

Given the expectations and excitement that many Council members shared with us, it seems likely that a significant number of members are looking for a group in which major decisions are at least thoroughly debated if not actually made.

As the Council considers this issue, it will be useful for the members to consider that decisions made utilizing the collective body of knowledge of the entire Council and supported by the entire group are more likely to enjoy credibility and confidence within the community not only when such policy changes are successful, but also in turbulent times (such as when a case "goes bad") because there was collective

decision making done by community leaders and stakeholders. In such cases, the Council can stand together and cite the way in which decisions were made. Such decision-making, however, does require that a relatively high level of trust be established among council members.

Recommendation:

Clarification on the “kind” of body the Council wants to be needs to be made immediately before members’ differing expectations lead to embedded conflict and resentment – which, in turn, will drive members away and make the Council ineffective. The discussion of mission must precede this work (and will make it easier), but another block of time must be set aside for a facilitated conversation on this issue.

That discussion will have to include an examination of members’ expectations of the degree to which the Council will seek cooperation versus collaboration.

The intertwined issues of levels of decision-making and seeking cooperation or collaboration are always difficult but never more so than in a group that includes political rivals; both elected and appointed officials; both public office holders and private citizens; different levels of government (city, county, and state); rivals for shares of public resources; and those with budgetary control over the agencies of other members. The unacknowledged “agendas” in any discussion or decision can be dizzying.

For that reason, the discussion of these issues must include some airing of the way that these differences, competitions, and rivalries can drive positions and get in the way of honest discussions, full information-sharing, and sound decision-making.

### III. Setting work priorities for the Council and its committees.

The Council, based on our conversations with members, seems to be struggling to find a balance between getting input from community members and defining what it perceives as Milwaukee’s urgent needs.

For example, the most frequently cited example of concrete work by the Council has been its efforts to secure funding and approval to use a single assessment instrument for the system. However, we heard little discussion of what would be done with such a tool, who would house the data and how the data might go from one agency (e.g., pre-trial) to another (e.g., the jail), any agreement on how its assessments would be used at which decision points, and what gaps it might help reveal in terms of responding to various types of offenders.

These seem like assignments that might usefully be turned over to a committee or committees. (We now understand that Universal Screening was the result of work

by the Jail and Huber Utilization Committee and a special committee chaired by a member of the Executive Committee which has or is addressing many of these issues.) But it seems that the committees have been given free-rein to define their own agendas rather than responding to directives or given specific assignments by the Council. While this is not so surprising given the Council's own lack of clarity about its mission and priorities, it does mean that many people are spending time in committee meetings when they have little idea if their recommendations or the results of their work will find a positive reception – much less a commitment to action-- in the Council.

Committees are open to anyone who wants to participate. While this is a laudable effort to secure varied input from many points of view, it may also mean that a committee is dominated in its agenda and work by individuals or organizations Council members have no confidence in and whose work, therefore, may be dismissed. Here, too, if direction to and expectations of the committees are not clear, it may create conflict and disaffection. Segments of the community may end up feeling alienated and dismissed. This could be costly if the Council later looks for broad public support for its efforts.

It was unclear to the NIC team how communication and direction is supposed to take place between the committees and the Council.

Recommendation:

The Council should establish committees that correspond to its priorities (based on its mission and goals) and provide direction and tasks for each committee. Committee membership might then be driven by the needs of the specific assignments and examined to ensure that a full range of experience, knowledge, and authority is represented. A committee assigned to examine bail, for example, must include individuals who can speak to how defendants can or cannot raise bail, the impact on the defendant and the family, etc. as well as those who can provide analysis of the composition of the jail's pretrial population currently and over time.

The Executive Committee of the Council might be best positioned to oversee the direction, membership, and work of the committees. A member of the Executive Committee might also be charged with chairing each committee – thus ensuring that the committees' work remains within the Council's overall mission and reassuring the committee members that their work will be given serious consideration by the entire Council.

In addition to assignments, direction, and managed membership, committees need an understanding of how their work fits into the larger effort of the Council, how their conclusions and recommendations will be presented, and how action may or may not proceed.

IV. The ability of the Council to get work done.

The Council is pursuing its work without any staff. Over the long term, this is impractical and may contribute to the Council's becoming stuck and not able to accomplish what it wishes.

Staff is needed to help put details, workplans, and timetables to the Council's mission and goals and to the committees' assignments and work. Staff would ideally attend every committee meeting to keep track of membership, attendance, the fullness of the discussion, and the completion of tasks; and to keep both the committees and the Council informed about each other's progress. Staff is needed to follow-up on items discussed at Council meetings and make sure there is information available to members to make decisions; to stay in contact with members about their concerns, their committee assignments, or any other issue; and to take minutes, prepare agendas, and otherwise attend to routine administrative matters. In the meanwhile, the Public Policy Forum has donated time and expertise on a variety of research projects and the Sheriff's Department has contributed clerical support.

Staff is needed to complete research. That research may be programmatic, population analysis, research reviews, etc. – anything that provides the Council with information that it needs to understand problems (e.g., analysis of the jail population or of the time from arrest to disposition or of the breakdown of the use of arrests versus summons across the county), to compare possible solutions, to understand the cost-benefit impact of policy choices, or to understand the existing evaluations of various practices from across the country that Milwaukee uses or is considering.

Recommendation:

The Council needs to be as creative as possible in finding the resources to hire its own staff. Those resources can come by combining modest amounts from many agencies, supplemented by university graduate or law students; by seeking local private support or federal support.

## V. The need for data

Much of the work that the Council intends to take up requires data systems that can talk to each other. Police, court, pre-trial, jail, and corrections data must be accessible to track cases, analyze the population moving through the system, evaluate and compare options, and so forth.

Recommendation:

Although one of the Council's committees is working on this, it is doing so on its own with no dedicated staff support or direction from the Council. Both are needed for the effort to succeed.

## VI. City, County, and State

There are two competing realities about the connection between the city and the county of Milwaukee as it relates to the criminal justice system: the county is responsible for much of the cost of local corrections and court operations, while the city is the source of most of people making their way through the system. There is a perception that the county government is engaged with this simply to save money. This has obviously led to tension about what, in turn, the city might stand to gain from participating in this effort. (Unfortunately, the city's police chief was the only person unable to keep an appointment to meet with the NIC team.)

Similarly, the state's control of community corrections – most notably the policies and practices of the Wisconsin Department of Corrections regarding supervision and revocation – creates tension between the county and the state. On the other hand, Milwaukee is a major contributor to the state's institutional corrections population. Yet, the state's participation in this endeavor is limited to a regional supervisor, though the implications for the state are potentially significant.

### Recommendation:

The city of Milwaukee's lack of "investment" in the Council and its potential outcomes is hard to explain. Nonetheless, their full involvement is critical and Council members may have to extend themselves, despite the city's stance, to demonstrate what the city stands to gain from the Council's success. To the extent that the Council takes up issues of diversion to treatment of the mentally ill, the homeless, and the addicted population, the city would benefit considerably in costs and in urban revitalization and safety. Therefore, the Council may want to make those issues a higher priority than they have been.

Related to this, the Council should examine – or make sure a committee is tending to this – the capacity and effectiveness of existing services for these populations, the gaps in those services, and the role that the proposed assessment instrument might play in both directing defendants and offenders to services and, therefore, overloading them.

As the Council's work takes shape, members of the Council's executive committee should meet with the leadership of the state DOC to discuss their mutual interests and to invite a representative at the highest level to participate in the Council.

## VII. The Council's leadership

One way to secure trust and "buy-in" from many different stakeholders at all levels of government is to assure that each have a clear voice in the direction and decisions of the Council.

Recommendation:

While it is true that the court in any jurisdiction commands a high level of moral authority among other players, the Council might consider rotating chair responsibilities among various stakeholders – perhaps including the mayor of Milwaukee.

## **DISCLAIMER**

RE: NIC Technical Assistance No. 09C1008

This technical assistance activity was funded by the Community Corrections Division of the National Institute of Corrections. The Institute is a Federal agency established to provide assistance to strengthen state and local correctional agencies by creating more effective, humane, safe and just correctional services.

The resource person who provided the on site technical assistance did so through a cooperative agreement, at the request of the Wisconsin First Judicial District, and through the coordination of the National Institute of Corrections. The direct onsite assistance and the subsequent report are intended to assist the agency in addressing issues outlined in the original request and in efforts to enhance the effectiveness of the agency.

The contents of this document reflect the views of Ms. Peggy McGarry. The contents do not necessarily reflect the official views or policies of the National Institute of Corrections.