

**PALM BEACH COUNTY CRIMINAL JUSTICE COMMISSION
MINUTES**

Monday, February 28, 2022 – 8:00 a.m.

**ROBERT WEISMAN GOVERNMENTAL CENTER
MCEADDY CONFERENCE ROOM, 12TH FLOOR & VIRTUAL
301 N. OLIVE AVENUE, WEST PALM BEACH, FL**

Members Present

- ✓ Frank Adderley, Police Chief, City of West Palm Beach
- ✓ Marcia Andrews, PBC School Board
- ✓ Sheldon Burkett, Drug Enforcement Agency
- ✓ William Dames, PBC Chiefs of Police Association
- P Douglas Duncan, Roth & Duncan, P.A.
- P George Elmore, Hardrives of Delray
- P Lawrence Gordon, PBC League of Cities
- P Carey Haughwout, 15th Judicial Public Defender
- P Joseph Ianno, Jr., Florida Power & Light Company
- P Randolph Johnson, Sr., Communications by Johnson
- P Reverend Kevin Jones, Clergy
- P Glenn Kelley, Chief Judge, 15th Judicial Circuit
- P Dave Kerner, PBC BOCC, District 3
- ✓ Nellie King, Attorney, PB Association of Criminal Defense Lawyers
- P Kathleen Kroll, Admin Juvenile Judge, 15th Judicial
- P Christina Morrison, Christina Morrison, P.A.
- ✓ Christopher Orcinolo, Bureau of Alcohol, Tobacco, Firearms and Explosives
- P Matt Pawlowski, Next Era Energy
- P Gregory Starling, Chief Probation Officer, FL Dept. of Juvenile Justice
- ✓ Stephen Stepp, Police Chiefs Association
- ✓ Sivashree Sundaram, U.S. Attorney's Office
- ✓ Lauren Whetstone, Greenberg Traurig, P.A.

Guests Attending

- ✓ Jennifer Loyless, Public Defender's Office
- ✓ Dan Eisenger, Public Defender's Office
- ✓ Cheo Reid, State Attorney's Office
- ✓ Marc Freeman, State Attorney's Office
- ✓ Debra Oates, PBC Court Administration
- ✓ Brett Taylor, Center for Court Innovations
- ✓ Ontario Johnson, Renaissance Partners
- ✓ Thomas Blomberg, Florida State University
- ✓ Jennifer Copp, Florida State University
- ✓ Josephine Gon, PBC Jewish Federation
- ✓ Keith Clinkscale, OFMB, Strategic Planning
- ✓ Dr. Angela Bess, PBC School District
- ✓ Javaro Sims, Chief of Police, Delray Beach
- ✓ Sean Brammer, Chief of Police, FAU
- P Dave Bernhardt, BOCC, District 3
- ✓ Jane Tierney, Catalyst for Change
- ✓ Marsha Martino, PBC NAMI
- ✓ Stephanie Sejnoha, PBC Public Safety
- P Richard Radcliffe, PBC League of Cities
- P April Bristow, Judge, 15th Judicial Circuit

Members Absent

- Joseph Abruzzo, Clerk & Comptroller of the 15th Judicial Circuit
- Dave Aronberg, 15th Judicial Circuit State Attorney
- Ric Bradshaw, PBC Sheriff's Office
- Barbara Cheives, Converge & Associates
- Rachel Docekal, Lyrae Group, LLC
- Eric Jester, ASAC, FL Department of Law Enforcement
- Michelle Johns, Administrator, Dept. of Corrections
- Gerald Richman, Fisher, Potter, Hodas LLC
- Matthew Willhite, PBC Legislative Delegation

CJC Staff Present

- P Regenia Herring, Executive Director
- P Damir Kukec, Manager, Research & Planning
- P Rosalind Murray, Senior Criminal Justice Analyst
- P Allison Orr, Administrative Assistant
- P Katherine Shover, Senior Criminal Justice Analyst
- ✓ Candee Villapando, Criminal Justice Analyst
- ✓ Bert Winkler, Manager, Program Development

Other Palm Beach County Staff Present

- ✓ Dorritt Miller, Assistant County Administrator
- P Todd Bonlarron, Assistant County Administrator
- P Jean Williams, Assistant County Attorney

- I. Chairman Kevin L. Jones called the meeting to order and extended a welcome to members and guests.
- II. Director Herring took roll call and she noted a quorum was present.
- III. Chairman Jones invited in-person and virtual guests to introduce themselves. He asked those attending online to enter their names into the virtual chat box for recording purposes.
- IV. Chairman Jones requested a motion be made to approve the February 28, 2022 Agenda; Ms. Christina Morrison made a motion to approve, with a second by Mr. Randy Johnson, Sr., the motion passed unanimously.
- V. Chairman Jones requested a motion be made to approve the October 25 and December 20, 2021 minutes; Ms. Christina Morrison made a motion to approve both, with a second by Mr. Joseph Ianno, Jr., the motion passed unanimously.
- VI. Chairman's Comments:
 - A. Chairman Jones congratulated the 2022 CJC Officers; he said he was looking forward to working with them and their particular talents. He also thanked those who served as the 2021 Officers.
 - B. Chairman Jones presented an overview of "Chairman and Officers Collective Vision for 2022". He stated he and the Officers had discussed the vision for the CJC they wished to create, which is mainly to get back to what the CJC was created to do: to study the local criminal justice system using the objectives, authority and powers afforded the CJC. Chairman Jones said the CJC's purpose is to study the criminal justice system and offer recommendations as it affects the criminal justice system. He asked the members to read the overview outside of the meeting.
 - C. Chairman Jones announced the cancellation of the 43rd Citizen's Criminal Justice Academy.
 - D. Chairman Jones announced the Annual Planning Meeting is rescheduled, due to the Omicron virus, to March 28, 2022, at the Palm Beach County Convention Center (PBC). He stressed this is an in-person venue and strongly urged the CJC members to attend this important event. Chairman Jones expressed his thanks for the attendance at today's meeting; he said it has been a challenge to achieve a quorum. He said it was extremely important for this reason to have all of the CJC members present and to make sure the members note the date on their calendars.

VII. Treasurer's Report:

- A. Mr. Matt Pawlowski, newly elected CJC Treasurer, presented the CJC financials to the entire commission to show where the funding is and where it is going, and to highlight the entire budget. He said more information would be presented as the year progresses. He said we have quite a lot of funds that have not been expended; he noted it is important to keep an eye on these funds including grants. Executive Director Regenia Herring added that over the last two years the trust fund dollars have been significantly adding up, she added a listing in the financial sheet showing the specifics of what these trust funds can be used for. Director Herring added the CJC continues to collaborate with the PBC Public Safety/Victim Services department to help create awareness and teach the triggers that can indicate violent or abusive behavior. Also planned is the implementation of a trauma-informed "Train the Trainer" series, in partnership with PBSO, to make sure the law enforcement community is properly trained for awareness. She said this training could include the Judiciary, State Attorney and Public Defender staff, as well as Corrections and the Department of Juvenile Justice. The trauma-informed training will also be inclusive of community-based organizations. She said this training could allow law enforcement on the front end to look internally among staff to give them tools and skillsets to combat stress. She said the CJC Executive Committee work to move this program forward.

VIII. Old Business:

None.

IX. New Business:

A. & B. Chair Jones introduced new business with Mr. Douglas Duncan, Chair of the CJC Corrections Task Force (CTF). The CTF recommends the CJC make a request of the Board of County Commissioners (BOCC) to designate the Public Safety Coordinating Council (PSCC) a subcommittee of the CJC. This designation will allow the PSCC to work in tandem with the Corrections Task Force. CTF Chair Mr. Douglas Duncan acknowledged he had been served as the CTF Chair for the past 25 years, and said he was surprised to learn the CTF was formed by resolution and the PSCC was created by state statute (FL 951.26). The PSCC was created with eleven specifically designated members on the Council. The CJC drafted a Resolution to assign the PSCC to the CTF, without BOCC designation. Chair Duncan said the CTF has additional member positions who are important to the task force than the PSCC has. He gave examples of some of the CTF membership; the Clerk of the Court, a First Appearance Judge, a criminal defense attorney, a Chief of Police, a member of the bail bond industry and a member of the clergy. He said he takes great pride in the work of the CTF because of its membership. The work of the CTF brings all segments of the criminal justice system together to do good work on important issues. He said the CTF requests the CJC designate the PSCC as a subcommittee of the CJC, to work along with the CTF. He also recommended the CJC recommend to the BOCC to bring legislation expanding the PSCC member roster. Chairman Jones asked if it was possible to add members to the CTF. Director Herring responded that could be done by the CJC. Director Herring went on to say the CTF had not been designated to serve as the PSCC, it was solely deemed by the CJC and its Bylaws to act as one body. She said there are sixty-seven PSCC bodies across the state, and the question would be if the state were willing to expand the membership statewide to add six or seven more members to mirror the CTF membership. Public Defender Carey Haughwout said it would be easier to simply add language to the statute, to the effect of "and add such members as deemed appropriate by the BOCC". She suggested not listing the actual membership positions by name. Assistant County Attorney Williams said to clarify these two issues, the CJC Bylaws stated the CTF expanded the membership of the PSCC, and they both sit as one body. She said one of the concerns was that there was no clear distinction as to when the PSCC sits as a council, and when the CTF sits in its role. Assistant County Attorney Williams said there must be clarification that establishes the PSCC under the CJC. She also said that if the CJC board votes to proceed with legislation adding additional members to the PSCC, it would escalate to the PBC Legislative Delegation staff. PBC Commissioner Dave Kerner made a motion to request the BOCC designate the PSCC to be a subcommittee of the CJC, and to work in tandem with the CTF. With a second by Mr. Randy Johnson, Sr., the motion passed unanimously. Commissioner Kerner then made a motion for the CTF to recommend to the CJC a request that the BOCC support legislation to modify the PSCC membership, to replicate the CTF ; or be consistent with Public Defender Haughwout' s recommendation. With a second by Mr. Randy Johnson, Sr., the motion passed unanimously.

C. Chair Duncan assured the CJC members that issues that come before the PSCC will be voted on only by the PSCC members, and likewise with the CTF.

Examining the Implementation and Impact of Administrative Order (AO) 12.510-04/2020-9 – which reduced the required bond amount on certain third degree felony offenses from 3,000 to 1,000:

Chair Duncan addresses the April 6, 2020 Administrative Order (AO) 12.510-04/2020.9, a temporary order issued by then Chief Judge Krista Marx. Issued in the wake of COVID-19, it served to reduce the bond amount of certain felony offenses, excluded from a list of ineligible crimes, from \$3,000.00 to \$1,000.00. The AO ordered that felony charges considered violent in nature must still go before a first appearance judge and are not subject to the posting of a bond. He said that first and second degree felonies are subject to other bond amounts, the issue was and still is the bond amount for third degree felonies. Upon the lessening of COVID-19 cases, the AO was rescinded by Chief Judge Marx. Chair Duncan said the CTF studied the impact this order had on jail releases; some questions were raised concerning at what rate were individuals re-offending, and should the reduction in bond amounts be

continued. He said the CTF addressed the misinformation that exists, such as all felony bonds were reduced to \$1,000.00. Chair Duncan reiterated that crimes like aggravated assault and burglary were not eligible for the lower bond; cases involving non-violent drug possession would be the type of offense that would qualify for the reduced bond. Chair Duncan added the Florida State University (FSU) report is a thorough study, the CTF considered recommending the FSU study. He noted the study showed no increases in dangers to the community, should the CTF adopt FSU's recommendations. He stated the CTF voted "no" by a 4-2 margin, with several abstentions, not to recommend. Director Herring said in order to address some of the misinformation; Dr. Thomas Blomberg and Dr. Jennifer Copp from FSU have joined the meeting virtually to answer any questions. Dr. Jennifer Copp said they were tasked with reviewing the AO in the wake of COVID-19, studying its effects in reducing the bond amount for eligible felonies. Dr. Copp said the impact of the AO was to reduce bond amounts for eligible third degree felonies, and to facilitate the release of defendants. She said specific comparison groups, pre-modification and post-modification, booked on similar charges, and with the consideration of a full range of criminal histories and socioeconomic factors were used over the period covered in the study. The data translated to an increase in pretrial release numbers, which were greater among individuals subject to bond reduction. Over the same time, time spent detained showed a significant decrease as well. She said there was no impact of pretrial Failures to Appear (FTA's) during the AO modification period, and showed no downside in releasing eligible individuals. Dr. Copp said a breakdown of the data indicates fewer than eight percent of crimes committed were considered by the Florida Department of Law Enforcement (FDLE) to be violent. She said the shift away from surety bonds to cash bond releases indicate that cash bonds represent a small number of bond releases. She stated that in comparison to lower surety bonds, more individuals were able to afford pretrial release. She added that usually individuals who pay bond are released sooner than those released on Supervised Own Recognzance (SOR). Dr. Copp said there was concern expressed over the FSU study coinciding with a study concerning the effects of COVID-19 on the court system. She noted pretrial FTA's indicate very low numbers for PBC; she said this was true before and after the AO was put in place. She added there were no expectations that the data would show an increase in the numbers, because PBC had very low FTA's in general; she noted the data also showed that bond modification did not affect rates of re-arrest. She said there was a net benefit resulting for law enforcement as well, and these findings will be useful for ongoing research. Dr. Copp also added there are unequivocally no errors in the FSU report.

Commissioner Dave Kerner said he understood the threshold of the decision-making process is confined to the judiciary. He expressed concern that by the CJC or the BOCC recommending this study, there could be a violation of separation of powers. He also questioned what, if any, value there was having the CJC or BOCC define the question of bond reduction. Chief Judge Kelley said the study is an opinion that he will consider as well as other opinions with respect to how to set bonds. He stated he has no problem with anyone or any organization weighing in on an issue; however, he would abstain on any vote brought forth on this matter, because it is ultimately his call. Chief Judge Kelley acknowledged that the issue is not binding upon the judiciary, and he is not concerned with separation of powers; he sees it as simply a recommendation. Commissioner Kerner said this report is commissioned by the CJC and could be of value to the judiciary and asked Chief Judge Kelley if there was any value in putting this matter to a vote. Chief Judge Kelley responded he did not know if it had any greater or lesser weight than any other factor. He said he would consider all factors brought to him to make the best decision possible. Commissioner Kerner said in the report there was phraseology that primarily excludes violent felonies, he asked if third-degree crimes considered violent felonies are or are not excluded. Chair Duncan said it is inaccurate to say all violent felonies are on the list of no bond. Dr. Copp said those violent offenses are of a lesser degree; for example, child abuse that does not include acts of violence or cruelty and other low level offenses; she said she would share more information on this subject if requested. Mr. Randy Johnson, Sr. asked if there was indeed a bail bond member on the CTF, Chair Duncan affirmed there was. Chair Duncan added the bond agencies had questioned some of the findings in the FSU report as well.

Mr. Joseph Ianno, Jr. said he had heard of individuals who do not bond out spend the night in jail and consequently lose their job because they have to wait for a first appearance judge. There was discussion on the data indicators on length of custody, and how that translates using different criteria. Dr. Copp responded the indicators went up a few percentage points, but the data showed there was little difference

in the length of custody in the pre or post bond modification. Mr. Ianno said if there would be any vote on the report it would be to accept the report or not, without making a recommendation to the Chief Judge. Chair Duncan said the CTF meets on a yearly basis with the Chief Judge to review the bond schedule and recommend any changes.

Public Defender Haughwout said Broward County, without a MacArthur Grant and many meetings, issued an AO reducing all non-violent third degree felonies to OR release. She said the fact that the CJC and other system agencies could not agree on the bond issue is indicative of a bigger issue. Public Defender Haughwout stated that after looking at the issues of pretrial detention and the impact it has on people of color, their families, jobs and the community, she is not sure she can support any further pursuit of MacArthur Safety & Justice Challenge funds.

Mr. Lawrence Gordon spoke in support of recommending the FSU report to Chief Judge Kelley. He said statistics show most families of color cannot even retain an emergency fund of \$500.00; so the bond issue weighs heavily on our communities of color.

Chairman Jones read a letter that was submitted to the CJC from the PBC Association of Chiefs of Police, opposing the continuation of AO 12.510-04/2020.9 because the COVID numbers are on the decline, they believe the AO should sunset, along with the continued increase in organized theft and a multitude of other third degree felony crimes. Chairman Jones also read a letter submitted to the CJC from several Palm Beach County community organizations, listed in the letter, in defense of the AO. The letter stated there have been many positive results from lessening the minimum bond amount from 3,000.00 to 1,000.00, thereby benefitting the judicial system, pretrial defendants, their family and community at large. Chair Jones agreed the FSU report should be presented to Chief Judge Kelley for consideration.

Commissioner Dave Kerner made a motion to accept the findings of the FSU study by Dr. Jennifer Copp, Dr. Jennifer M. Brown and Dr. Thomas Blomberg and forward them to the Chief Judge. He noted this is an important public policy issue and PBC has a vested interest in reducing the jail population in terms of tax dollars, and attempting to eviscerate racial disparities that exist demographically and ethnically. Commissioner Kerner stated he is not willing to support a formal recommendation today, until he receives the information he needs as a policymaker, on the types of felonies that would be excluded from the bond amount. He pointed out some discrepancies in the general discussion; using the example, Public Defender Haughwout made regarding Broward County making all non-violent third degree felonies. He said that in this discussion the board is not using the same comparatives on what does or does not constitute a violent offense. He also raised the statement Dr. Copp made earlier that child abuse or neglect without violence is considered in the category of bond reduction. Commissioner Kerner stated child abuse does not need to involve violence; it can simply involve withholding life necessities, which is a big issue. Therefore, until these issues are resolved he is in favor of adopting the findings and forwarding them to the Chief Judge.

With a second on Commissioner Kerner's motion to forward the FSU study to the Chief Judge by Mr. George Elmore, the motion passed unanimously.

Ms. Christina Morrison commented that as a layperson, it seemed as though this issue seemed to be pitting public safety against reducing the jail population. She asked if a more defined list of offenses that could be considered for the reduced bond category. Chair Duncan agreed and suggested the CTF should review what other offenses can be added to the list to better define what third degree felonies are considered excluded (non-violent). Public Defender Haughwout made a motion to refer the CTF to review the bond schedule and recommend if appropriate, reduced bond and/or SOR release on specified non-violent offenses. With a second by Mr. Randy Johnson, Sr. motion passed with one abstention by Chief Judge Glenn Kelley.

X. Taskforce & Committee Reports:

- A. Judge April Bristow, Chair of the Court System Task Force (CSTF), gave an overview of the work progress in the CSTF. The current priorities are case management processing, incentivizing probation and a review of data to compare how bonds are set in court before a first appearance judge v. a duty judge.
- B. Chief Javaro Sims, Chair of the Law Enforcement Planning Council (LEPC), gave an overview of the LEPC. They are currently working on a collaboration between the CJC, PBSO and Palm Beach State College to bring the Trauma-Informed Train the Trainer program to the county; an update on FIBRS/NIBRS and the School & Community Safety Initiative; a report will be presented to the CJC in the near future.
- C. Chairman Jones, Chair of the Racial Equity Team, reported the subcommittee has determined the racial disparity that showed the highest numbers were in the FTA's. They are looking at strategies to bring down those numbers, and will have some recommendations for the CJC in April.

XI. Member Comments:

Chairman Jones asked the membership if there were any final comments; there were none.

XII. Adjournment:

Chairman Jones adjourned the meeting at 9:10 a.m.

MINUTES REVIEWED AND APPROVED FOR DISTRIBUTION:

_____ **DATE:** _____
Christina Morrison, CJC Secretary