

Testimony before the Law Enforcement Perspectives on the Drug Epidemic and Its Impact on Families Committee
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Introduction

Good afternoon Chair Pelanda, Vice Chair Buchy, Ranking Minority Member Antonio, and members of the Law Enforcement Perspectives on the Drug Epidemic Committee. I appreciate the opportunity to present testimony today regarding sentencing issues and alternatives to incarceration as it relates to Ohio's drug problem.

As you have heard from other experts in law enforcement over the past several hearings, the scourge of drug abuse and addiction is affecting all of Ohio's communities and it is also having a profound impact on the Ohio Department of Rehabilitation and Correction (DRC). Of DRC's prison intake of more than 20,500 offenders in calendar 2013, nearly 25% were committed for a drug offense. We know that a large majority (70-80%) of all prisoners have a documented history of drug and/or alcohol abuse. Intake studies show that the percentage of offenders involved with Heroin/opioid/pills has increased dramatically (415%) from calendar 2000 to calendar 2013. For female offenders entering prison, the rate of heroin involvement in the instant offense is even greater, with rates double those of male offenders.

Ohio's Prison Population Trends

Ohio's prison population currently stands at 50,509, which is over 130% of rated capacity. Overall commitments from Ohio's courts are down 2% in Fiscal Year (FY) 2014. Commitments to prison declined in Ohio's six largest counties by 10% in FY 2014, but increased 5% among all other counties. The largest counties as a group have the lowest percentages of commitments that are Felony 4 and Felony 5 offenders and community control violators in both FY 2013 and FY 2014.

The day I started in the Ohio Department of Rehabilitation and Correction there was a total of 291 women in Ohio's prisons. Today we have an all time high of nearly 4,200 offenders, driven largely by Ohio's opioid and heroin epidemic. In proportional terms, the percentage of female offenders committed from counties under 100,000 in population has nearly doubled in 10 years, compared to only a 40% increase among males. Overall, female offenders represent a gradually increasing proportion of the total intake (14% for FY 2014 and about 15% this summer) as compared to 11.5% in 2003. The rate at which females are committed as probation violators is nearly double that of males (40% versus 21% in FY 2014). Among higher risk offenders, females are admitted to prison with substantially higher levels of criminogenic needs in the substance abuse/mental health domain as compared to male offenders.

What Can We Do to Help?

As Director of DRC, I often wonder what our agency can do to stem the tide of these trends. Some would say that harsher penalties and building of more prisons is the answer. Yet, I applaud those such as Clinton County Common Pleas Court Judge John Rudduck, who you

heard testify at the August 19th hearing in Wilmington, who recognized that “we cannot incarcerate our way out of this epidemic.” Judge Rudduck was one of six representatives of Clinton County who joined representatives from 83 of Ohio’s counties at the recent Ohio Judicial Symposium on the Opiate Epidemic where Governor Kasich, Chief Justice O’Conner, and Attorney General DeWine and other experts spoke about these issues. I am very heartened to hear that Judge Rudduck and other attendees have taken the ideas that were presented and are putting them into action in their communities.

While Ohio has reduced the number of low level felons entering prison serving less than a year from over 60% a decade ago to the current rate of 41%, this is still far too many. These offenders serve on average nine months in the prison system, and in many cases after the reception process, there is very little time remaining for any meaningful programming. Every piece of research in the United States including the Washington State Institute for Policy that released a publication in November 2013, demonstrate that low level, non-violent felons are managed more effectively and commit fewer crimes when involved in evidenced-based community options. Rather than continuing the practice of increasing incarceration of low level non-violent offenders our position is clear: provide judges with increased resources to develop evidenced-based options, both residential and non-residential for non-violent offenders, and recidivism rates will be positively impacted. This approach has been shown to work as Ohio has invested more of its resources in community corrections and we have seen a corresponding reduction in its recidivism rate, to a current all time low of 27.1% as compared to the national average of 49.7%. Yet, we are aware that the recidivism rates in rural counties that do not have the range of community options are generally higher than urban centers. I would like to talk about some of our efforts to increase funding to enhance options for judges.

Expanding Community Resources

Smart Ohio Funding

DRC has allocated \$10.4 million of current biennium CCA 407 funding to allow counties to apply under alternative tracks based upon locally determined operational need. A total of 29 counties applied for funding, and all have received approval. Judges have been given more options in three areas:

Treatment Services Track: Funding follows local need for treatment services, defined as the percentage of F4/F5 commitments that are scored as having a severe level of recovery services need on the TCU substance abuse screening tool.

Probation Support Track: This track provides support to counties for expansion of community corrections alternatives by providing supplemental probation funding to local probation departments who then may purchase treatment services.

Targeted Diversion Track: Using a variation of the initial Reclaim-style concept, targeted diversion allocates a fixed pool of funds based on available bed day credits that are tied to probation caseload sizes instead of criminal case filings or population. It incentivizes targeted diversions by allocating funds based on minimizing F4/F5 prison bed days used.

Initial reports regarding this funding program are favorable. DRC is assisting counties in providing quarterly reports and technical assistance, and in seeking alternative funding. This collaborative partnership has benefitted communication and county operations.

Probation Improvement and Incentive Grants

These grants which were originally authorized by House Bill 86 of the 129th General Assembly have a goal to reduce the number of Felony 4 and 5 prison commitments and reduce the number of Community Control violators returning to prison.

Mid Biennial Review Funding (MBR)

The MBR as enacted by Am.Sub.HB 483 would further expand our investment in community corrections programs. It provided an additional \$4.2 million in FY 2014 and \$8.5 million in FY 2015 to increase funding for Halfway Houses and Community Based Correctional Facilities to add around 400 residential treatment beds. This investment will provide even greater capacity for judges and localities to divert offenders into less expensive, more appropriate settings in the community. This will not only have a positive impact on the state's prison population, but will also assist counties in reducing their local jail populations.

Drug Courts/HOPE Model

I believe that every county should have access to its own drug court or a regional drug court that would service each Ohio Court. We also need to support the increase of service providers for substance abuse treatment. I recommend that inmates who test clean of drugs and have completed intensive drug programming become eligible to earn credit toward the initial level of credentialing.

Another promising approach to dealing with drug offenders is the HOPE model which is based on the premise that every violation of supervision standards deserves a swift and certain response. Even a short response has been demonstrated effective. This approach has been utilized very effectively in the states of Hawaii, Washington, and in other jurisdictions. In Ohio, we have applied for and were just awarded a \$370,000 Bureau of Justice Assistance grant to pilot an approach with probationers in three counties (Auglaize, Pike, and Jackson). Each will utilize warning hearings, frequent drug tests, a streamlined judicial process, and swift and certain sanctions for probationers who fail their drug tests.

Medicaid Expansion

I believe that the state's decision to expand Medicaid funding has the potential to be the single greatest catalyst for positive change in my 40 years in corrections. Statistics show that 90 percent of all persons entering jails/detention centers are uninsured. Within DRC's current population, approximately 10,000 offenders are on the mental health caseload, and as I indicated earlier in my testimony, close to 80 percent have a history of drug/ and/or alcohol abuse. Upon release, 90 percent of DRC inmates will be eligible for Medicaid under the expanded funding. The potential to link offenders returning to their communities to community agencies and vital services utilizing this funding stream is enormous. ODMHAS may need additional assistance to increase the number of qualified recovery services professionals, especially in rural areas.

Criminal Code Recodification Effort

I strongly support the work of the forthcoming Criminal Justice Recodification Committee that was established in HB 483 under the leadership of members to be appointed by Senator Faber and Speaker Batchelder. Historically, each time an element of the criminal code is presented in the legislature it is to increase a penalty, create a new offense or create a mandatory sentence. A balancing approach needs to be sought. There should be a concerted effort to reduce mandatory sentences in the Ohio Revised Code.

Conclusion

In conclusion, Chair Pelanda and members of the Law Enforcement Perspectives on the Drug Epidemic Committee, if Ohio is to stem the tide of drug and opioid abuse that is destroying our communities we must have a multi-faceted approach. We can go down the path of increased incarceration, a path that will be less effective for many offenders and cost the state millions of dollars, or we can continue to invest our resources in providing judges with evidenced based community alternatives that allow offenders to stay employed and remain connected to families and local resources.

I stand ready to assist this committee and the legislature with its recommendations to address this important policy area. I would now be pleased to answer any questions that you or other committee members might have.