

Alternatives to Incarceration
Working Group Meeting Notes
9/11/19
2:00 pm – 4:00 pm

Hubert H. Humphrey

Welcome and Introductions

Dr. Bob Ross from The California Endowment opened the meeting after a round of introductions. He informed the group we are on track for the Roadmap and are moving forward. The vote today is critical for many reasons. The 77 recommendations are being voted on today, and the group will begin working on recommendations for additional populations, including women and LGBTQ+. There may be new recommendations or deliberations. He advised everyone to prepare for the new recommendations. The 77 recommendations are the core central component of the implementation. We must not walk away without some type of accountability. Who will be responsible for oversight and what will that look like? That will be something to discuss further. Dr. Ross mentioned the list of additional meetings that is available on the registration table.

Rigo reviewed the meeting agenda and the original issue analysis for the group, along with a list of the sessions for the populations we want to engage. There will be workshops and many meetings in September, for community engagement and the new Ad Hoc Committee focusing on Gender and Sexual Orientation. He reiterated the work group purpose and mission and process values being utilized by the group. He informed the group how to adopt the recommendations coming from the ad hoc committees. The prior feedback from the August 7 ATI and committee meetings with minor changes in language have been made. Also, implementation feedback was taken. Intercepts 5 and 6 received feedback that they needed more recommendations. In August two or three meetings worked through many of the recommendations. Today the final recommendations are being presented to the work group.

Rigo reviewed the voting and consensus process. He mentioned that the consensus building process will move quicker after the first few times. It will be impossible to go through each of the 77 recommendations individually, so the group will use a consent calendar approach. Public commentary can be brought forward to the microphone. Dr. Ross will ask if any of the voting members would like to pull any of the recommendations out for discussion and comments. If it's on the consent agenda that should signify no one will likely block it. He explained the vote documentation process. The items pulled out of the consent agenda will then be open for comment and then a consensus will be taken. If nobody blocks a recommendation, then it gets adopted. Adopted means nobody is blocking it. If someone does, then it has not been adopted and we need to go into the voting process. 60% will be considered an adoption. We will always document everything. There will always be public comment before a decision is made.

Dr. Ross posed a question to the voting group about pulling a recommendation by number out. Cheryl Newman-Tarwater expressed approval regarding the process in front of the group.

The following numbers were chosen to be pulled: 1,2, 8, 9, 10, 12, 29, 33, 35, 39, 40, 52, 66. Dr. Ross called for a motion to adopt every other recommendation not pulled from the recommendations. There was a motion made and it was seconded. No public comment for further pull of any recommendations was made.

Motion 1- 65 of the recommendations were approved by the voting members by 3 A (Fully Agree) and 18 B (Agree) votes. We moved into deliberations over the numbers pulled out. If only clarification is needed the group can move onto voting. Diana and Karen were asked to help with reading the items from the document to the group and someone from the group involved in developing the recommendations to explain them.

Michael Castillo asked to discuss Recommendation #16: Create an individualized/personalized master transition plan for displaced individuals. The question was about the meaning of “displacement.” What was that intended to mean? (broad meaning multiple forms of displacement: board and care). Will we get into specifics meaning is it due to specific factors like domestic violence, economic conditions or other reasons. It was noted that when we get into implementation planning adding examples is preferred for clarification. Brittney Weisman and Eunisses Hernandez explained that the term was intended to be broad, to cover all types of displacement.

Motion 2- (Recommendation #16): Nobody blocked it so it moved forward with 18 B (Agree) votes.

Mark Delgado asked to review three recommendations – 10, 39 and 40. #10 (Part D (read by Karen) The question/suggestion is about the language. Suggestion to modify: “Whenever possible”, would it make more sense to say “whenever possible and appropriate?” The same phrasing for 35 and 40. What is the criteria? Or, is there something else needed like “criminal justice system contact resulting from unmet behavioral health needs.”

#35 (Intercept 2, Law Enforcement)-(read by Karen to group)

#40 (read by Karen)- See #10 (voting member mentioned same for this one) We are going to test on the original one before supporting or blocking takes place, it is meant to do what we can to prevent people from getting into Intercept 1. This is still in Intercept 0, with no interaction with law enforcement. We should take out “justice-involved”. It should include “Justice-involved and not justice-involved individuals”. We will test the first (original) version, and then the second version. It is proposed to remove “justice-involved”, also describe psychiatric, MAT treatments. If someone prefers the second, they have to block the first one. A person could support both if they were okay with both. If no one blocks it, it will become adopted, unless it is blocked. If both are blocked, we revert to the voting again.

Why not say individuals with mental health and substance abusers, not “or”?

The original language for recommendation #10 has been blocked so the second one was tested.

Motion 3- (Recommendation #10 revised): Now reads, “Support and broaden implementation of community based harm reduction strategies for individuals with mental health, substance use disorders, and/or individuals who use alcohol/drugs, including but not limited to sustained prescribing of psychiatric medications and MAT”. Nobody blocked it so it moved forward with 14 A (Fully Agree) votes and 8 B (Agree) votes.

#35- The group then moved to number 35. The suggestion is to add “... and appropriate”. Is there an additional recommendation regarding training and capacity (professional development). The question was brought up that it would depend on who thinks what is “appropriate to” do. It was interpreted that whenever possible was interpreted as when appropriate. It may not be as obvious as one would think. Why not make it explicit, rather than leaving it for people to assume. It was then opened for public comment.

Public comment: What if someone needs to be hospitalized for grave disability or something else that is an immediate need?

Public Comment: Work will be dependent on the population. There are many decisions to be made around assessment.

Public Comment: The concern is that allowing law enforcement to make these decisions is not wise. Include others to make the decisions.

Public Comment: The law enforcement will not call co-response team, who will then make the decision, not the law enforcement.

Public Comment: Interpretations of whenever possible vary, we need to be very careful regarding this wording.

Voting Member: Lets eliminate “whenever possible” altogether

Motion 4- (Recommendation #35 revised): Now reads, “Promote a practice where law enforcement officers, whenever possible and appropriate, release individuals with clinical behavioral health disorders at the time of contact and ensure a warm introduction to supportive services”. Nobody blocked it so it moved forward with 2 A (Fully Agree) votes and 13 B (Agree) votes. The D’s were instructed to write down their rationale.

#40- The beginning should be changed with everything else remaining the same. There are 3 options: the original, whenever possible and appropriate, except when a serious or violent felony as defined by (penal code) or when a concern for safety of the community.

To ensure this is consistent, decisions made collaboratively, can we “parking lot” this one. We should further flush out the wording in the implementation process. The way it is currently phrased makes it apply to every single crime in those categories. Defined as serious or violence by California law means not necessarily a serious crime. There is a real danger there unless we are more specific.

There is a major concern about eliminating major groups of crimes. Some crimes that are really not as serious would then also be excluded from the care first model if it is interpreted by some of us who do not know about the specific circumstances. When we are too vague in our language, there will be implementation issues that will need to be discussed further. The defining during implementation applies to all the recommendations. When we think about public safety and the presumption of pretrial release, we need to address if it will be related to public safety. The broad penal code exception will allow people to fall through the cracks and some who maybe just steal a bike from a garage could be charged with a serious felony and would not be considered for this program.

Public Comment: Consent and agreement in multiple tiered approached gets complicated, we need to consider that.

Public comment:

- Reiterate what Eunisses Hernandez said, we should be visionary and dreaming big and thinking about these things in implementation; need presumption of release to be truly care first and jail last
- Can't get well in a cell; if someone is mentally ill or on substances, incarceration is not the answer
- Would caution the language used; would not limit to clinical issues
- We should do everything we can to help people, not incarcerate them

Voting on original language: blocked (Gilbert Wright and Cheryl)

Second version ("and appropriate"): blocked (Gilbert Wright)

Third version (with Gilbert Wright’s additions): blocked (Eunisses Hernandez, Dolores Canales)

Voting (need 14 votes to meet 60% threshold):

Motion 5 - (Recommendation #40 original): Did not move forward based on votes below:

- Yes: 11
- No: 7
- Abstention: 4

Motion 6 – (Recommendation #40 revised) Now reads, “Institute a presumption of pretrial release for individuals with clinical behavioral health disorders, whenever possible and appropriate, coupled with warm handoffs to community-based systems of care, to provide targeted services to help individuals remain safely in the community and support their return to court”. Moved forward based on vote below:

- Yes: 20
- No: 2
- Abstention: 1

Recommendation 39:

- Peter Espinoza: My opposition is inclusion of "situated outside of law enforcement" as our work at ODR, specifically jail diversion, can only happen in close collaboration with Probation and the community supervision they provide outside of custody. It also makes the Court comfortable that law enforcement is involved
 - We removed 1,900 people charged with felonies from jail. They are currently being housed and treated in the community, in close collaboration with Probation staff who are understanding of harm reduction and diversion efforts. When we have problems and need Probation's help, they are very helpful in ensuring the individual doesn't return to custody, by seeking services in the community.
 - We have 14% recidivism rate (felony re-offenses), and our team attributes a deal of that success with our collaboration with the Probation department. Would like inclusion of Probation department for consideration.
- Randall Pineda: the department looked at this recommendation, our objection was that there isn't any consideration of the work we are doing around bail reform. Would like any type of development of pretrial/bail reform pilots to be included in this recommendation implementation
- Eunisses Hernandez: do not think it's appropriate to involve law enforcement for people who are pretrial and have a presumption of innocence. May need a third type of agency for this recommendation. San Francisco has a model that has an agency that collaborates with law enforcement that is worth learning from
- Kelly Lytle-Hernandez: I think it's a philosophical question. Maybe modifying to be "possibly situated outside of law enforcement" and leaving it up to implementation
- First option (as is): Original language
- Second option: Remove "situated outside of law enforcement"
- Third option: Amend to "preferably situated outside of law enforcement"
- Fourth option: Amend to "possibly situated outside of law enforcement"
- Melodie Larsen: we might be putting the cart before the horse, hopefully we can do an analysis during implementation; this seems a little premature
- Comments:
 - There may have been examples where some of these ideas have worked, but there has been community experiences where this has not worked at all. We as a jurisdiction have a shameful history in pretrial policy. In many senses we are playing catch up. The opportunity to create a third agency is a profound opportunity to make up for past injustices. About 42% of 17,000 incarcerated people are pre-trial, which is one of the largest in the country. This would actually allow us to walk the walk on the 6th Amendment.
 - Agree with Kelly. This project is about shifting the paradigm and shifting the dollars. We all know the vast majority of LA County's AB109 funds are going to LASD and Probation, and we have a chance to shift the dollars to the community and treatment (ditto)
 - I am a Community Health Worker that works with parole, probation and jail facilities. I generally have no opposition, but I do have opposition to this. When I talk to the people I work with, they are more open to accept the help to stay out of jail/prison, when they know I will not be providing information to law enforcement about the things they need for the problems that need to be addressed.
 - Do we need to include risk assessment to some degree? Also, who will administer the program? Who will coordinate the assessments, and how open and transparent will it be? What is considered "relevant information?"
 - In sitting through the probation reform and implementation team meetings, we are concerned with their ability to partner with community groups. The contradiction of playing both a social worker and law enforcement officer may render services ineffective. Would support "preferably" option.

- I have been on probation supervision when I was 16 for 3 years. My mother had to pay for a variety of probation-mandated classes even though she didn't have the money. I do not support probation providing services.
- It will cost less for the community to provide pretrial services than probation. They are ineffective at best and harmful at worst
- When I was 16, I was on Probation and experiencing homelessness with mental health issues, and in and out of school. Probation never asked how I was feeling and doing. A community-based agency, YJC, was the organization that was able to help me, not Probation
- I don't think Probation is here to help us. Probation by definition is a sentence, so I don't feel like they are in a position to help us effectively; community-based agencies and non-profits can.
- Robert Ross: I hope whatever gets passed, the discord is noted in the report
- Voting:
 - **Motion 7** (Rec. 39 Original) - First option (as is): blocked (Peter Espinoza):
 - Did not move forward based on vote below:
 - Yes: 11
 - No: 8
 - Abstention: 4
 - **Motion 8** (Rec. 39 Remove Law Enf.) - Second option (remove "situated outside of law enforcement"): blocked (Eunisses Hernandez):
 - Did not move forward based on vote below:
 - Yes: 2
 - No: 15
 - Abstention: 6
 - **Motion 9** (Rec. 39 Preferably) - Third option (amend to "preferably situated outside of law enforcement"): blocked (Cheryl Newman-Tarwater):
 - Did not move forward based on vote below:
 - Yes: 12
 - No: 6
 - Abstention: 5
 - **Motion 10** (Rec. 39 Possibly) - Fourth option (amend to "possibly situated outside of law enforcement"): blocked (Julia Dixon):
 - Moved forward based on vote below:
 - Yes: 14
 - No: 0
 - Abstention: 9
 - **Not voted on since Motion 10 passed** - Fifth option ("situated outside of law enforcement in coordination with key stakeholders"): blocked (Cheryl Newman-Tarwater)

Public Comment (Rec 40): Historically, exceptions have always been abused. I strongly discourage including any exceptions to this recommendation.

Adjournment

Meeting was adjourned at 4:20 pm.