

REGULAR MEETING

ILLINOIS CRIMINAL JUSTICE INFORMATION AUTHORITY

March 7, 2008, 9:20 a.m.
160 North LaSalle Street
Chicago, Illinois

Call to Order and Roll Call

Chairman Sorosky convened the regular meeting of the Illinois Criminal Justice Information Authority and asked Jack Cutrone, the Authority's General Counsel, to call the roll.

In addition to the Chairman, other Authority members in attendance were:

Chief David P. Bradford
Ms. Dorothy Brown
Sheriff Thomas Dart
Sheriff Jerry Dawson
Ms. Becky Jansen
Ms. Ellen Mandeltort
Director Michael J. Pelletier
Ms. Mariyana Spyropoulos
Mr. John Z. Toscas
Director Roger E. Walker, Jr.
Superintendent Jody P. Weis

Chairman's Remarks

Chairman Sorosky welcomed Board Members to the Authority's first meeting of the year and also on behalf of the Authority welcomed new Board Members Chicago Police Department Superintendent Jody Weis and State Appellate Defender Michael Pelletier. He added that the Authority looked forward to working with them.

Executive Director's Remarks

Chairman Sorosky then called on Executive Director Levin for her remarks while waiting for several Board Members who were enroute to make up a quorum. Director Levin stated that since the last Board meeting, the Authority had moved to a new location comprising the entire seventh floor of 300 West Adams. Director Levin complimented Hank Anthony, Associate Director of the Office of Administrative Services, and Donald Pignato, as well as all the staff who worked together to make the move happen.

She then reported that IPSAN, despite being sent a letter informing them that their equipment needed to be removed from 120 S. Riverside Plaza had not complied.

Director Levin turned to personnel matters, including an anticipated filling of the position of Chief Financial Officer. She continued to say that Tony Jenkins has returned to the Authority as the Associate Director for the Information Systems Unit. She noted that he had been very helpful in making the move go smoothly, along with Herb Johnson, who was ISU Acting Associate Director, whom she also thanked.

In addition, Director Levin introduced Victoria Cruz, a new grant monitor working in the Federal and State Grants Unit. She also announced that Jessica Ashley and Christine Devitt were promoted to Public Service Administrators, as Supervisors in the Research and Analysis unit, and that Erica Hughes was promoted to Criminal Justice Specialist Two.

With respect to the Authority's Budget, she stated that some General Revenue was added to the Authority's budget to make up for the amendatory veto of the Authority's federal match and that CMS will be picking up the Authority's last three months' rent at 120 S. Riverside Plaza.

She also mentioned that the Authority has been working with the Governor's Safety Net Works initiative, a multi-agency juvenile violence prevention program. She stated that it not only is using the Authority's Juvenile Accountability Incentive Block Grant (JAIBG) funds, but that Mark Myrent and his staff were going to be playing an instrumental role by doing a real time program evaluation.

In addition, she said that the Authority has been working on the NIU tragedy with the Office for Victims of Crime, which approached the Authority. She explained that the Authority has been coordinating with the Department of Mental Health and the Illinois Emergency Management Agency and will be seeking funds for some mental health services for the young people who were in the auditorium at the time of the shooting.

She then reviewed the current situation with the Byrne Justice Assistance Grants, stating that the President refused to sign a budget at the levels that Congress had passed. The President's response resulted in an omnibus appropriations bill emerging that had drastic cuts for a number of the Authority's funding streams. She said one of them was the Byrne JAG allocation which was decreased by two-thirds to \$174 million.

She explained that the Authority operates in arrears, with current year's grants' funding coming from prior years' awards, putting it in better shape than other states which are operating out of current years funds. She continued to say that because the Authority operates in arrears and spent slightly over \$1 million, if only \$4 million is received, there will be approximately \$3 million from the year before that can be used to make up for the decrease. So that at least as an impact, the Authority will be short about \$1.5 million, necessitating some additional cuts. On a more positive note, she reported that various groups have been lobbying Congress and it is hoped that these lobbying efforts may produce positive results.

She then turned to the Victims of Crime Act funds stating that the VOCA cap was also lowered again and that the situation was very dire. She recounted that VOCA funds are non-appropriated, deriving from fines on federal defendants and originally spent as they accrued. Due to some major white collar cases generating extremely high fines, VOCA funds were given a cap. She said that the cap was lowered last year decreasing funds to Illinois by \$1.1 million and it has been lowered again affecting the State for \$2 million less. She explained that since the Authority made up the \$1.1 million with JAG, it would be down \$3 million next year. As to VOCA also, there have been efforts by various groups to try to restore some of the funding.

She said that any help Board Members could give by contacting the Congressional delegation both individually as well as by sending the form letter would be appreciated.

Approval of Minutes for the December 7, 2007 Authority Meeting

Chairman Sorosky thanked Director Levin for her report. With the additional Board Members having arrived, a roll call was conducted and it was determined that a quorum was present. Chairman Sorosky then asked for a motion to adopt the minutes of the last Authority meeting.

{Mr. Toscas made a motion to approve the minutes of the December 7, 2007 Authority Meeting. Director Walker seconded the motion and it was approved by unanimous voice vote.}

Budget Committee Report by Associate Director for Federal and State Grants Unit John Chojnacki in the Absence of Committee Chair Eugene E. Murphy, Jr.

Chairman Sorosky asked Mr. Chojnacki if there were any comments he wanted to make about the Budget Committee that took place on January 3, 2008. In response, Mr. Chojnacki indicated that there was nothing additional to what appeared in the distributed report. Chairman Sorosky then called on Ron Litwin, Acting Chief Financial Officer, for a fiscal report.

Fiscal Report by Acting Chief Financial Officer, Ron Litwin

Mr. Litwin directed attention to Exhibit 1 comparing expenditures and obligations for the first seven months of fiscal 2008 to the total year budget. He began by pointing out that the Personal Services, Retirement and FICA line items grouped together were basically in accord with the budgeted amounts. He moved to the Contractual line and explained that the expenditures are lagging the budget, but would increase when the cost of moving is reflected in these numbers. He commented on a number of other particular budget items and noted that under the Criminal Justice Trust Fund, expenditures and obligations are 75 percent of the full year budget and that the Miscellaneous Award Grants, which are funds for investigating criminal justice issues, are far lower than budgeted.

Chairman Sorosky then introduced Cara Smith, Deputy Chief of Staff for the Attorney General's Office, to discuss new legislation on sex offender registration requirements.

Presentation on Proposed Legislation on Sex Offender Registration Requirements by Cara Smith

Ms. Smith explained that in late July, 2006 President Bush signed the federal Adam Walsh Act, that Title I of that legislation is called SORNA, the Sex Offender Registration Notification Act provisions, and that every state is required to comply with them by July, 2009 or risk losing 10 percent of its Byrne grant funding.

She continued to say that since July 2006, that there will be some significant changes required for Illinois and other states. She commented that Illinois' laws have improved over the past several years and much of Illinois's law is in compliance with the federal requirements as contained in title I of the Walsh Act. But she added that there are three areas that are particularly controversial and will cause major discussion in Illinois and across the country: juvenile registration, retroactivity, and tiered registration.

Ms. Smith explained that the purpose of the act basically was to assure that states have similar registration laws and minimum registration requirements to comply with the Walsh Act. She continued to explain that it requires a three-tiered registration system, 15 years, 25 years or lifetime registration depending on the crime for which a person. Walsh requires that the system apply not only to everyone that is currently registered but also to people who were convicted of crimes in the past and either completed their registration requirement or who were convicted at a time when no registration was required. As an example of the latter, someone who was convicted in 1975 of a rape case when Illinois did not have registration, that person would have gone to prison, been released, done parole and there would have been no more that the person had to do. Under the Walsh Act, rape would be classified as a lifetime registration crime and if that person, the 1975 rapist, gets convicted for any felony or misdemeanor, whether sexually related or not, after Illinois complies, he would then be put onto the registration system going forward.

Another controversial area is juvenile registration. She said that the law was amended several years ago to require that juvenile sex offenders register as adults when they attain their 17th birthday, which generated a tremendous amount of controversy. Last year, legislation was passed that vested the juvenile court judges with discretion about the length of registration. After a period of time registering, juveniles may petition a juvenile court judge to terminate their registration requirement. She related that there was a great deal of support both in the juvenile offenders advocacy community as well as in the General Assembly for this sort of individualized registration system.

Ms. Smith explained that the Walsh Act requires that any juvenile offender who commits the crime of aggravated criminal sexual assault or more severe on or after their 14th birthday must register as an adult in all regards, with all that information made public. She stated that piece is a very controversial development and that all states are dealing with what it means for their juvenile justice systems.

Recognizing the significant changes that this required compliance with the federal law was going to mean for Illinois, she said that the Attorney General's Office worked with the Department of Corrections, the State Police, and the Illinois Criminal Justice Information Authority, holding ten meetings around the state in October and November. She said that there was very high attendance at the meetings, with over 600 people attending, including law enforcement, prosecutors, defense attorneys, treatment providers, advocates and others. She related how they divided the bill into pieces so that everyone could spend a few hours discussing each piece, with a great deal of concern about retroactivity and the juvenile requirements.

She reported that there is an office created within the Walsh Act called the SMART Office, designed to provide technical assistance to states that are contemplating compliance. She reported that there are no states thus far to have been deemed in compliance with the Walsh Act, adding that a few states that were out in front and passed legislation that was intended to be compliant, experiencing tremendous challenges in their states.

She remarked that because of the problems around the country and because the Smart Office has not yet made final guidelines available, the Attorney General's Office is recommending a very careful approach to compliance. She added that Illinois does not stand to suffer any fiscal loss unless compliance is not reached by July, 2009, and that there is another legislative session after the current one within which to take the next steps that will be necessary. Ms. Smith said that what the Attorney General's office is recommending for this legislative session is just to create and go forward with the tiered system for offenders, not to deal with retroactivity and not to deal with the juvenile piece until there is greater guidance from the SMART Office in order to determine what to ask the legislature to do.

She said that the guidelines generated a tremendous amount of comments to the SMART office with over 800 pages just on the juvenile provisions. She remarked that she was concerned that rushing forward without proper guidance from the SMART Office could lead not only to having to return to the legislature next year but could cripple the criminal justice system with injunctions or lawsuits by offenders whose ten-year registration terms have been changed to life-time registrations.

In conclusion, Ms. Smith said she wanted to make sure that the Authority Board Members had the framework within which the Attorney General's Office has been looking at this issue and asked if anyone had questions or concerns. She said that she would be happy to provide more information.

Clerk Brown asked how long juveniles would need to register according to the federal law. Ms. Smith said that under the federal law they fall within tier three which is lifetime, but after 25 years they could request a clean record reduction. She then referred to a resource book that the Attorney General's office prepared for the meetings that were held with information relevant to each meeting's topic.

To Clerk Brown's point, Ms. Smith displayed an adult juvenile citation report, which lists the number of juveniles registered in Illinois for every crime, showing the range of crimes, with a similar listing for adults. She said that summaries of the Act, summaries of the guidelines, and maps of the offender populations county by county in the state are also included. Clerk Brown inquired if the registration information published for juveniles is public, with Ms. Smith responding affirmatively.

Ms. Smith indicated that the states are required to submit their compliance plans to the SMART Office by April, 2009. Ms. Smith also reported that states can receive an extension of the effective date of up to two years if necessary, but she thought that Illinois would be ready to file by the deadline.

Director Levin then reiterated that with the juvenile and other issues involved, it was important for the Board Members to be fully aware of the situation, particularly in light of the two-thirds reduction in funding and the possibility of another 10 percent loss of Byrne JAG money.

Chief Bradford noted that in his conversations with some legislators regarding the Walsh Act, there was strong sentiment against removing any of the provisions for a hearing that a juvenile offender might have before a judge and the judge's discretion. He said that in his discussions, if removing that type of provision and taking it out of the Illinois law were required versus losing 10 percent, the sentiment expressed was to lose the 10 percent. Ms. Smith replied that the bill being introduced leaves intact the juvenile system that is currently in place and does not adjust those provisions.

Mr. Pelletier then turned to the issue of substantial compliance. He asked that if Illinois addresses only one of the three provisions of the Walsh Act's Sex Offender Registration Notification Act, and not juvenile registration; and if two areas were corrected and the state's juvenile provision is left intact, would that qualify as substantial compliance and keep Illinois from losing the 10 percent.

In reply, Ms. Smith said that although she was not sure, her sense is that states are looking for ways to structure their systems so that they can argue they are compliant while not adhering specifically to the Act's requirement of 14-year olds on the public registry. She added that juvenile registration is the single issue about which the Smart Office is receiving the most concern and she thinks the Smart Office is very interested in working with states on this issue. She also said she thinks that the Smart Office was not fully aware of the concern it would be hearing from around the country about juvenile registration, so Illinois should argue strongly that its current law should be found in compliance.

Director Walker then asked if there is any fiscal tax associated with this compliance, and if there is, will the federal government assist the states. Ms. Smith said she thought there will be assistance particularly for the state police and for local law enforcement agencies. She further said that grant funding is supposed to be available to states under the Act, that

she was unaware of funding for many of the grants that are addressed, and that the fiscal issue will be relevant, but as yet, she did not have an amount.

In the ensuing conversation, Clerk Jansen raised the impact the Act would have on the circuit court clerk's office. She stated that anytime the circuit court is involved, it affects the circuit clerk's office financially by generating more work, especially in retrieving old files, and thus thought that circuit court clerks should be included in discussions regarding the Act. Ms. Smith agreed, with Clerk Jansen reiterating the integral part the circuit court would play by passing on the records.

Ms. Mandeltort stated that the two ways she thinks the State can legally not comply with the Adam Walsh Act would be if there was an Illinois Supreme Court opinion or something in the Illinois Constitution that conflicts with the requirements of the Walsh Act.

Director Levin said as Executive Director, she would like some direction as to what the Board wants to do in terms of whether they just want to be kept abreast, whether they want to study the legislation that the Attorney General will be introducing, or whether the Board wants the Authority to draft additional legislation. She added that she did not want the Board at some point to say that the Authority is not fiscally prudent and at the same time, that the Criminal Justice Information Authority does not just deal with fiscal concerns, but with the general concerns of bettering the criminal justice system. Therefore, she asked for advice from the Board as to what direction should be taken.

Chief Bradford said that at a minimum, the Board might want to consider an expression of support for amending the legislation on the Congressional level to deal with these issues because he felt Illinois is not the only state in this situation.

Ms. Smith stated that if Illinois were to comply with the proposed guidelines now, it could be discovered subsequently that the SMART Office revisited them or were persuaded by comments to make changes and that the final rules would be different than those on paper today. She said that the SMART Office has indicated that the guidelines will be finalized soon but it has been many weeks at this point.

Clerk Brown said she thinks that the Authority Board should follow the lead of the Attorney General's Office since they appear to be fully aware of the situation and should monitor it along with the Attorney General's Office. She added that the Authority Board should keep in mind that it may want to propose some legislative amendments later but should support the Attorney General's proposed legislation that does not include retroactivity and not amend the juvenile provisions.

Additionally, she said that the Authority should monitor the development of the Attorney General's plan to be in substantial compliance focusing on July 2009 when a request for an extension to 2011 may be contemplated.

{ Chairman Sorosky said that Clerk Brown's very cogent, wise comments would be considered a motion. Chief Bradford seconded Clerk Brown's motion, which was approved unanimously. }

Chairman Sorosky asked General Counsel Jack Cutrone to discuss another issue that was discussed at the Legislation and Regulations Committee Meeting on February 25 involving the Violence Against Women Act.

Mr. Cutrone said the reason the Legislation and Regulations Committee was referring this issue to the full Board is that some information was lacking at the time of the committee's meeting. He explained that there is currently in Illinois a requirement that individuals who are indicted or who have been the subject of a finding of probable cause as to a sex offense be tested for HIV. He added that the latest reenactment of the Violence Against Women Act requires that the testing be done within 48 hours of indictment or information. He mentioned that a bill was introduced in the House last year to accomplish that and passed unanimously through the House. He said that it was referred to the Senate, sponsored by Senator Dillard, and referred to the Rules Committee in May, 2007, where it has remained.

Mr. Cutrone said that the Legislation and Regulations Committee was concerned that unless some further action was taken to bring it out of committee it would just stay there. He noted that Illinois would then go out of compliance with the Violence Against Women Act, which is required some time next year, and that would cost Illinois five percent of its annual VAWA award. He reported that since the Legislation and Regulations Committee meeting, the Authority's lobbyist, Tom Nolan, contacted Senator Dillard's Office and advised him of the nature of the problem, and that Senator Dillard promised to exert his best efforts to have it moved out of committee and passed through the Senate. Mr. Cutrone stated that since Illinois already requires the testing and it was only that the testing be done within 48 hours that needed to be added, it seemed a non-controversial issue. He added that he did not see it as generating much controversy in the Senate, with its having passed unanimously through the House, and his comments were only informational.

Chairman Sorosky thanked Mr. Cutrone and asked if there were any questions or concerns. Not having received any, Chairman Sorosky introduced Mark Myrent, Director of Research and Analysis, to relate trends and issues in the area of criminal justice.

Trends and Issues Data Presentation by Mark Myrent

Mr. Myrent said that Trends and Issues was the Authority's flagship publication, with the Research Division producing statistical portraits of the trends in criminal justice that have taken place over time. He related that this is the 20-year anniversary of the first edition and that it has been 10 years since the last one, adding that the plan is to publish it regularly every other year.

He acknowledged and thanked the research staff members who worked on Trends and Issues over the past year: Kimberly Burke, who served as the project manager and authored the chapter on victims of crime; Cristine Devitt, Erica Hughes, Sal Perry and Idetta Phillips, who worked on the law enforcement chapter; Sharyn Adams, who produced the courts chapter; Mark Powers, who developed the corrections chapter, and Jessica Ashley and Lindsay Boswick, who created the juvenile justice chapter.

He explained that the publication is organized into the chapters that he referenced, but rather than talking about the entire report, he was going to focus on the core trends in the adult criminal justice system. Mr. Myrent stated that when crime is examined overall, the focus generally is on the eight index crimes, four violent crimes and four property crimes. He said that Illinois has experienced a steady downward trend in the number of index offenses both violent and property combined from the 11-year period from 1995 to 2005. He added that crime reported to police dropped in the state as a whole for the 12th consecutive year in 2005, and total index crimes decreased by 28 percent, a trend that somewhat mirrors the nationwide decline that began in 1994 after the highest ever reported totals in the early 90s.

He said that the decline in reported violent crime as a whole for the state actually went down 43 percent over this 11-year period, holding true especially in Chicago. He continued to say that Chicago although having a higher violent offense rate than the rest of the state, also has the greatest decline over the last 11 years as well. He added that from 1995 to 2005 the violent index offense rate actually fell 51 percent in Chicago, and only 29 percent in the rest of the state. He said that upon examination of these numbers, when violent crime is discussed, the violent index offense trends are driven largely by aggravated assault and to a lesser extent robbery.

He remarked that when this decrease that is driven by Chicago is reviewed, some different trends across the state are seen. He said that again Chicago had its 51 percent decline that was even greater than the state as a whole, and that an examination of the four component offense types – murder, criminal sexual assault, robbery and aggravated assault – showed similar decreases. But he said that is not the case in all the other regions, such as in the suburbs where there are very slight declines for murder, sexual assault, and robbery and a very steep decline for aggravated assault. He said therefore the decrease in the suburbs is being driven extensively by aggravated assault.

Moving to the collar regions, Mr. Myrent indicated that there was a very slight decline in murder and sexual assault and bigger declines in robbery and aggravated assault over the last ten years, with a similar trend in the urban areas. He added that the declines were being led by mostly large drop-offs for robbery and aggravated assault and not so much for murder and sexual assault. For the rural areas of Illinois, he pointed out that there was a somewhat less steep decline overall at 22 percent and in 2005, the last year of the trend, a rise developing in the violent offense rates, particularly in aggravated assault.

Shifting to property crime, he said that there has been a decrease over the ten-year period in that sphere as well, with Illinois having experienced a 30 percent decrease in property

index offenses over the 11-year period. He explained that again in every year Chicago had a higher property index crime rate than the combined rest of the state, but the difference between Chicago and the rest of the state each year was not as great as with violent index offenses. He added that the rate of decline in property index crimes over the 11-year period was similar between Chicago and the rest of Illinois.

Mr. Myrent then moved on to a discussion of the courts. He said in terms of felony court filings in criminal court, between 1995 and 2005 the number of felony filings in Illinois increased by five percent, with a big difference across the state. He added that the felony filings increased in the urban and the collar counties by about 34 percent and in the rural counties by about 40 percent, but that in Cook County felony filings had actually decreased by 22 percent over the 11-year period. He said that misdemeanor court filings were somewhat different and although the felony filings have increased, the misdemeanor case filings have decreased by 20 percent statewide from 1995 to 2005. He added there were decreases to a modest degree in the urban and rural counties and 25 percent in Cook County, with the collar counties remaining about the same.

He stated that mirroring the trends in felony case filings, the number of offenders convicted of a felony and sentenced in Illinois increased similarly by five percent, with substantial differences across the state and Cook County. In Cook County he said convictions and sentences actually decreased by 18 percent, but in some of the other areas, there were large increases in convictions, including 15 percent in the collar counties, 47 percent in the urban areas, and 59 percent in the rural areas.

He said that the number of convicted felons sentenced to probation during this period decreased seven percent led by Cook County with a 31 percent decrease. Addressing felony sentences to the Illinois Department of Corrections, he said that those numbers have increased 15 percent statewide, with a huge difference across the state. He remarked that the largest increases were in the urban and rural counties, with the urban areas excluding Cook County and the five collar counties, but including the 30 other urban counties of Illinois. He reported that in the 11-year period, the felony sentences in these urban counties, along with all rural counties, increased 70 percent. He said that the collar counties had a modest increase to 14 percent and Cook County experienced a decrease of four percent.

Regarding the county jail population, Mr. Myrent said the average daily jail population in Illinois increased over the ten-year period from slightly over 17,000 in 1995 to somewhat over 22,000 in fiscal year 2005. He added that in 2005 the average daily population in Illinois was at about 100 percent capacity, which was an aggregation of the different jurisdictions. He said that Cook and the collar counties were generally above capacity over the 11-year period, whereas the others were generally below capacity.

Mr. Myrent went on to discuss further details of the statistics which are available for examination in the publication.

In conclusion, Mr. Myrent said that there would be additional information offered in the new Trends and Issues, which would be available shortly and that thereafter more frequent updates will be issued. Chairman Sorosky thanked Mr. Myrent for a very insightful and excellent presentation and said that he had a question pertaining to the increased violent crime in the rural areas that was cited, inquiring as to the reason.

Chairman Sorosky asked if there were any questions or comments. With no response, he asked for a motion to adjourn.

Motion to Adjourn.

{Ms. Mandeltort's motion to adjourn was seconded by Chief Bradford and passed by unanimous voice vote.}