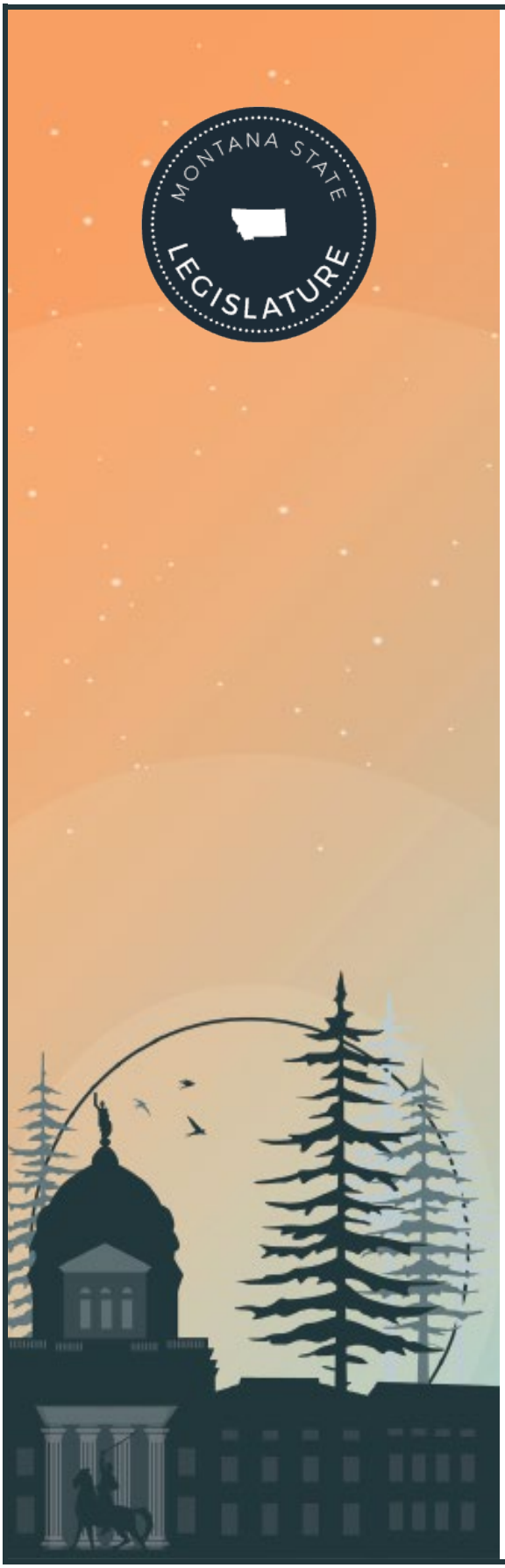

CRIMINAL JUSTICE OVERSIGHT COUNCIL

2023-2024 BIENNIAL REPORT

Updated September 16, 2024

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This report is a summary of the work of the Criminal Justice Oversight Council, specific to its 2023-2024 work as outlined in the interim work plan. Members received additional information and public testimony on subjects within their purview, and this report is an effort to highlight key information and the processes followed by the Criminal Justice Oversight Council in reaching its conclusions. To review additional information, including audio minutes, and exhibits, visit the Criminal Justice Oversight Council website: https://leg.mt.gov/committees/interim/cjoc

THIS REPORT IS STATUTORY REQUIRED BY 53-1-216(5), MCA TO BE SUBMITTED TO THE GOVERNOR AND LEGISLATURE

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MEMBERSHIP

The Montana Criminal Justice Oversight Council members represent a broad scope of stakeholders and experts in Montana's criminal justice system. The council reports to the governor and the Montana State Legislature; its membership and duties are codified in 53-21-216, MCA.

Appointments are made and members serve terms in accordance to 53-1-216, MCA.

Member	Role
Rep. Amy Regier, Chair	Member of the House of Representatives
Jimmy Patelis, Vice Chair	Member of the Board of Pardons and Parole
Rep. Laura Smith	Member of the House of Representatives
Sen. Chris Freidel	Member of the Senate
Sen. Ryan Lynch	Member of the Senate
Hon. Luke Berger	District court judge
Hon. Jerome McCarthy	Municipal court judge
Alan Doane	Attorney General's designee
Director Brian Gootkin	Director of the Department of Corrections
Director Brett Schandelson	Director of the Office of State Public Defender
Director Charlie Brereton	Director of the Department of Public Health and Human Services
Sheriff Ross Canen	County sheriff
Scott Twito	County attorney
Eldena Bear Don't Walk	Member of a federally recognized Indian tribe located within the boundaries of the state of Montana who has expertise in criminal justice
Shantelle Gaynor	Representative of crime victims who also serves on the board of crime control established in 2-15-2008, MCA.
Henry Seaton*	Representative of civil rights advocates
Melissa Kelly	Representative of community corrections facilities
Amy Tenney	Representative of community corrections facilities

Criminal Justice Oversight Council Staff

Laura Sherley, Legislative Research Analyst | Milly Allen, Legislative Research Analyst
Ania Alduenda, Secretary | Bethany McDowell James, Secretary

*Mr. Seaton was appointed to replace Sharen Kickingwoman as the civil rights advocate representative after Ms. Kickingwoman submitted her resignation from the council in July 2024.

BACKGROUND AND OVERSIGHT

SENATE BILL 59 (2017)

The Montana Criminal Justice Oversight Council (the council) was created by Senate Bill 59 of the 65th Montana Legislature to monitor and report on the effects of criminal justice legislation. Council members represent a broad scope of stakeholders and experts in Montana's criminal justice system. The council reports to the governor and the Montana State Legislature. Its membership and duties are codified in 53-21-216, MCA.

2023-2024 WORK PLAN

STATUTORY DUTY: SENATE BILL 11 (2023)

Senate Bill 11 (SB11) creates a criminal justice data warehouse housed in the Montana Board of Crime Control (MBCC). The purpose of the criminal justice data warehouse is to receive, store, secure, and maintain data and information from contributing entities to assist state and local officials to make data-informed decisions about the criminal justice system.

SB11 also directs the MBCC to consult and collaborate with the council to prioritize data requested from contributing entities, data requests, and research using data from the criminal justice data warehouse; and establish policies to address the creation of reports generated through the query of records and data in the criminal justice data warehouse.

Additionally, SB11 modifies the council's duties outlined in 53-1-216, MCA:

> (4) The council shall:
>
> (a) provide direction and recommendations to the board of crime control regarding data to be included in the criminal justice data warehouse established in [section 2] and policies to govern the use of and priorities for the criminal justice data warehouse;
>
> (b) study and recommend solutions to address issues facing the criminal justice system and its constituent state and local agencies;
>
> (c) monitor the functioning of the criminal justice system; and
>
> (d) make recommendations to the legislature to address system issues proactively, manage limited resources, improve workloads, make improvements to state and local criminal justice systems, meaningfully address crime, and enhance public safety.

MEMBER TOPICS

Complementary to its statutory duties outlined in SB11, the council identified specific topics within its purview to study during the 2023-2024 interim. This process allowed the council members to delve more deeply into issues they considered to be of the greatest importance and produce recommendations in time for the next legislative session.

The following table includes the topics set by the council at its meeting on January 22, 2024, and how it prioritized the topics.

Topic	Priority
Criminal justice data warehouse	Statutory Duty
Improvements to sentencing process, especially modifications to improve the presentence investigation process	1
Behavioral health services for incarcerated individuals, including youths and the issue of juvenile solitary confinement	2
Violent crime issues, such as the definition of a crime of violence and Montana's violent offender registry	3

MEETINGS

The council met seven times between June 2023 and September 2024. In that timeframe, the council heard presentations from people with experience and expertise, public comment from interested parties, and reviewed informational materials on topics related to:

- the criminal justice data warehouse;
- interstate counseling compacts and occupational licensing;
- community and state department run correction treatment programs;
- community supervision and parole conditions;
- state department crime reporting and data collection by counties;
- crime data sharing in the state's correctional system;
- the inmate census and correctional facility populations;
- the sexual and violent offender registry and statutory definitions related to violent crime;
- solitary confinement and restrictive housing;
- correctional facility transition pathways for incarcerated youth; and
- inmate co-pay for treatment.

This accumulation and review of information allowed the council to identify any action items and final recommendations. All meeting materials, including presentation aids and supplements, are archived online on the Montana Legislature website.[1]

[1] https://leg.mt.gov/

WORK AND RECOMMENDATIONS

SB 11: CRIMINAL JUSTICE DATA WAREHOUSE

INFORMATION GATHERING

As part of its consulting duties provided for in SB11, the council heard three progress updates from the MBCC implementing the criminal justice data warehouse. Presenters discussed project planning, stakeholder communication efforts, project funding, and data integration and masterization. The MBCC requested guidance from the council on next steps and input for research and project priorities.

The council formed a work group *(see figure 1)* to facilitate this collaboration and determine research priorities, answer existing questions about the criminal justice system, prioritize data collection, and develop data warehouse governance policies.

CRIMINAL JUSTICE DATA WAREHOUSE WORK GROUP MEMBERS

Rep. Laura Smith
Director Brian Gootkin – *Chair*
Director Brett Schandelson
County Attorney Scott Twito

INTERAGENCY COLLABORATORS

MBCC - Natalia Bowser and Janice Fries
DOA - Adam Carpenter, Sarah Bartow, and Therese Simpson
COR - John Daugherty

Figure 1

WORK GROUP MEETINGS AND DISCUSSION

The work group held three whiteboard sessions in partnership with the MBCC, the Department of Administration (DOA), and the Department of Corrections (COR). The interagency collaboration developed data organization themes and identified what types of information from contributing entities would be necessary to answer criminal justice research questions.

From these discussions, the work group and the agencies created a mission statement *(see figure 2)* and five pillar statements to provide MBCC guidance when identifying data to be incorporated into the criminal justice data warehouse:

1. Support policy making decisions.
2. Determine intervention efficacy.
3. Support staff and resource decisions.
4. Have an integrated source of reliable information.
5. Understand justice-involved individual personas.

Mission Statement
Enabling data-driven criminal justice policies and practices that improve system efficacy, promote public safety, and ensure efficient use of state resources.

Figure 2

The MBCC compiled this information into an outline of the criminal justice data warehouse project which illustrates data themes and gives the board focus as they start the data masterization process. It includes information such as desired successful outcomes, stakeholders, a mission statement, etc. encompassing the intent of the data project.

The council approved this work at its July 2024 meeting and discussed next steps and data project priorities for the board to continue the implementation of the criminal justice data warehouse.

COUNCIL TOPIC #1: IMPROVEMENTS TO SENTENCING PROCESS, ESPECIALLY MODIFICATIONS TO IMPROVE THE PRESENTENCE INVESTIGATION PROCESS

INFORMATION GATHERING

In the fall of 2023, members of the Board of Pardons and Parole (BOPP) provided an overview of its work and updates to its best practices. The board members also highlighted issues related to recidivism that impacted the board's work. This presentation generated council discussion around the modification of community supervision conditions.

In early 2024, council member Judge Luke Berger contributed a judicial perspective on presentence investigations (PSI). The council heard how PSI documents are compiled by COR, used at sentencing and in BOPP determinations, and follow an individual through the criminal justice system. The council discussed PSI quality, standardization, and timeliness. The Criminal Justice Institute (CJI) also provided a summary of PSI statutes and processes in Minnesota, Connecticut, Kansas, Washington, Nevada, Iowa, and Indiana. The council learned about other states' tiered PSI practices and Pre-Plea Investigations.

Additionally, CJI provided a progress report on the department's Conditions Workgroup *(see figure 3)*. The council heard what efforts the workgroup was undertaking with COR regarding the department's administrative rules on community supervision standard conditions. The Conditions Workgroup also identified potential statutory language changes to improve community supervision modification practices. CJI presented these workgroup recommendations to the council for its consideration.

Image of slide 13 from the May 2024 COR Conditions Workgroup presentation

Figure 3

In the summer of 2024, a panel of county attorneys discussed crime reporting and data collection requirements for child sexual abuse cases in their counties, required by HB 640 (2019), after staff from the Department of Justice gave an overview regarding the county attorney crime reporting database. The panel discussed workload burdens on county attorney offices and how effectively the data in the reports supports the legislature when making policy decisions. Additionally, they heard from the Department of Public Health and Human Services on how the department receives reports of child sexual abuse from mandatory reporters, translates those reports into data, and disseminates data to the appropriate county attorney jurisdiction.

COUNCIL TOPIC #2: BEHAVIORAL HEALTH SERVICES FOR INCARCERATED INDIVIDUALS, INCLUDING YOUTHS AND THE ISSUE OF JUVENILE SOLITARY CONFINEMENT

INFORMATION GATHERING

In early 2023, staff from the Council of State Governments provided an overview of interstate counseling compacts. The council learned how counseling compacts are established and the state's occupational licensure compacts (nursing, physicians, PT, OT, counseling, etc.).

The council heard from Community, Counseling, and Correctional Services, Inc. on the organization's corrections programs and resident/community treatment models. Some concerns highlighted in the presentation included residential treatment referral placement criteria and underutilization of residential treatment.

January 2024, the council received a presentation from COR staff on its integrated correctional program model. Members heard about the department's efforts to consolidate and standardize how behavioral and mental health programming is implemented across correctional facilities.

The COR also provided an update on the inmate census and operational and housing practices for youth correctional facilities. The Pine Hills Superintendent reviewed the transition process for incarcerated youth aging out of youth correctional facilities into adult correctional facilities. This presentation included an overview of mental health services for incarcerated youth. The council also received a copy of the final report of the 2017-2018 interim SJ25 study on solitary confinement in Montana. Additionally, COR provided the council an update on the Arizona Saguaro Correction Center inmate transfer.

The council also received a progress report from members of the HB 872: Behavioral Health Systems for Future Generations Commission. Specifically, they heard a summary of the commission's study alongside the Law and Justice Interim Committee work group regarding civil and forensic commitments and recommendations to help alleviate the current bottlenecks in the commitment process.

COUNCIL TOPIC #3: VIOLENT CRIME ISSUES, SUCH AS THE DEFINITION OF A CRIME OF VIOLENCE AND MONTANA'S VIOLENT OFFENDER REGISTRY

INFORMATION GATHERING

Legislative Services Division staff presented an overview of statutory definitions related to violent crime and the council learned that where a definition is used in statute changes the meaning. The council also heard data updates from COR on crime rates and how the criminal justice system is seeing a rise in violent crime.

Additionally, the council received a background of the state's sexual or violent offender registry and a review of offenses that require a convicted individual to register as a violent offender in Montana.

COUNCIL RECOMMENDATIONS

Considering the council's statutory direction to study and make recommendations to the legislature to address criminal justice system issues, manage limited resources, improve workloads, and make improvements to state and local criminal justice systems, the council considered legislation related to crime reporting, the criminal justice data warehouse, the sentencing process, and community supervision.

The council voted to send 5 bills to the 69th Legislature. While the council discussed different approaches to resolve questions posed in several topics, not all of the topics resulted in recommendations for statutory changes. Details of the bills approved by the council are below. Each bill can be viewed and tracked by its LC# on Bill Explorer: https://bills.legmt.gov/

LC# / Bill# (CJOC Draft #)	Short Title	Sponsor
LC 238 / SB 69 (CJOC 1)	Generally revise laws related to county attorney reporting requirements	Sen. Gayle Lammers
LC 239 / HB 117 (CJOC 2.2)	Establish data project priorities for the 2025-2026 interim	Rep. Amy Regier
LC 240 / SB 84 (CJOC 3.2)	Generally revise laws related to presentence investigations	Sen. Laura Smith
LC 241 / SB 89 (CJOC 4)	Establish a presentence investigation writers special unit	Sen. Laura Smith
LC 242 / SB 70 (CJOC 5.2)	Generally revise laws related to supervision on probation	Sen. Gayle Lammers