



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

GARLIN GILCHRIST II
LT. GOVERNOR

EXECUTIVE ORDER

No. 2019-10

Michigan Joint Task Force on Jail and Pretrial Incarceration

Little statewide data exist to account for who is booked into local jails, how long they stay, and why. National sources show Michigan jail populations tripling in the last 35 years. With crime now at a 50-year low, hundreds of thousands are still admitted to Michigan jails every year, and people are staying in jail longer on average than before. Furthermore, roughly half of the people held in Michigan's jails on any given day have not been convicted of a crime and are constitutionally presumed innocent as they await trial.

A significant portion of county budgets in Michigan go to justice-system costs. Growth in jail populations has stretched county resources, leaving less for investment in treatment services, crime prevention, victim services, economic development, and other local priorities.

Local justice-system decisions, ranging from arrest and pretrial release to case processing, diversion, and jail sentences versus community-based alternatives, are shaped and influenced in part by state-level laws, policies, and budgetary decisions.

An emerging and fast-developing body of research offers useful guidance about what does and does not work to prevent and deter crime, protect victims, ensure court appearance and pretrial safety, and reduce recidivism.

Jurisdictions across the country have generated innovative models for justice-system reform that could inform policy discussions or be adapted to improve system outcomes in Michigan.

The elected leaders of this state are committed to good government, transparency, responsible spending of taxpayer resources, and to the constitutional guarantees of liberty, due process, and equal protection of the laws.

Moreover, the elected leaders of this state have a strong interest in easing the burden on county budgets, taxpayers, and citizens by ensuring jail beds are used in targeted ways that promote public safety and economic stability.

A joint task force to evaluate justice systems in Michigan and to craft recommendations for statewide policy and budgetary changes grounded in data, research, and fundamental constitutional principles, will assist the state in increasing justice-system efficiency and effectiveness and in becoming a national leader in justice-system reform. This task force

will exist as a partnership between county and state leaders, as well as other leaders involved in the criminal justice system.

Section 1 of article 5 of the Michigan Constitution of 1963 vests the executive power of the State of Michigan in the governor.

Section 4 of article 5 of the Michigan Constitution of 1963 authorizes the establishment of temporary commissions or agencies for special purposes.

Acting pursuant to the Michigan Constitution of 1963 and Michigan law, I order the following:

1. Creating the Michigan Joint Task Force on Jail and Pretrial Incarceration

- (a) The Michigan Joint Task Force on Jail and Pretrial Incarceration ("Task Force") is created as a temporary advisory body consisting of 21 residents of this state.
- (b) The Task Force shall include the following members from the executive branch of state government:
 - (1) The lieutenant governor.
 - (2) The attorney general or the attorney general's designated representative from within the Department of Attorney General.
- (c) The Task Force shall include the following members appointed by the governor:
 - (1) A community member who is a crime survivor or victim advocate.
 - (2) A representative of community corrections or pretrial services.
 - (3) An individual who is a formerly incarcerated person appointed from a list of one or more nominees submitted by the Michigan State Appellate Defender Office.
 - (4) An individual who is a public defender or a criminal defense attorney for indigent clients appointed from a list of one or more nominees submitted by the Michigan Indigent Defense Commission.
 - (5) An individual recognized as a community leader or a business leader appointed from a list of one or more nominees submitted by the majority leader of the Michigan Senate.
 - (6) An individual recognized as a faith leader or a community leader appointed from a list of one or more nominees submitted by the speaker of the Michigan House of Representatives.
 - (7) A county prosecutor appointed from a list of one or more nominees submitted by the Prosecuting Attorneys Association of Michigan.

- (8) A police chief appointed from a list of one or more nominees submitted by the Michigan Association of Chiefs of Police.
- (9) The following two members appointed from a list of two or more nominees submitted by the Michigan Association of Counties:
 - (A) A member of a board of county commissioners from a county with a population of 200,000 or more according to the most recent decennial census.
 - (B) A member of a board of county commissioners from a county with a population of less than 200,000 according to the most recent decennial census.
- (10) The following two members appointed from a list of two or more nominees submitted by the Michigan Sheriffs' Association:
 - (A) A county sheriff or county jail administrator from a county with a population of 200,000 or more according to the most recent decennial census.
 - (B) A county sheriff or county jail administrator from a county with a population of less than 200,000 according to the most recent decennial census.
- (d) The following officers of the judicial branch of state government may participate as members of the Task Force:
 - (1) The chief justice of the Michigan Supreme Court.
 - (2) A circuit court judge designated by the chief justice of the Michigan Supreme Court.
 - (3) A district court judge designated by the chief justice of the Michigan Supreme Court.
- (e) The following officers of the legislative branch of state government may participate as members of the Task Force:
 - (1) A member of the Michigan Senate designated by the senate majority leader.
 - (2) A member of the Michigan Senate designated by the senate minority leader.
 - (3) A member of the Michigan House of Representatives designated by the speaker of the Michigan House of Representatives.

- (4) A member of the Michigan House of Representatives designated by the house minority leader.
- (f) Nominations for appointments are requested by May 1, 2019. The governor shall make appointments under section 1(c) by May 8, 2019. Members appointed under section 1(c) will be appointed for terms ending on September 30, 2020. Notice to the governor of designation of participants from the judicial branch and the legislative branch is requested by May 1, 2019.
- (g) A vacancy on the Task Force shall be filled in the same manner as the original appointment or designation.
- (h) The lieutenant governor and the chief justice are designated as co-chairpersons of the Task Force.

2. Charge to the Task Force

- (a) The Task Force shall act in an advisory capacity with the goal of developing ambitious, innovative, and thorough recommendations for changes in state law, policy, and appropriations to expand alternatives to jail, safely reduce jail admissions and length of stay, and improve the efficiency and effectiveness of Michigan's justice systems.
- (b) The Task Force's recommendations shall be guided by the following objectives:
 - (1) To expand jail alternatives for those who can be managed in the community;
 - (2) To safely reduce jail admissions, length of stay, and associated costs;
 - (3) To support consistent, objective, and evidence-based pretrial decision-making;
 - (4) To provide services and support to crime victims;
 - (5) To improve the efficiency and effectiveness of the state's and counties' justice and public safety systems; and
 - (6) To better align practices with research and constitutional mandates.
- (c) The Task Force shall provide recommendations for implementation and performance-outcome monitoring of statewide policy changes.
- (d) The Task Force shall educate the public, stakeholders, and policymakers regarding its findings and recommendations.
- (e) The Task Force shall complete its work and shall issue a final report detailing its findings and policy recommendations by January 10, 2020.

3. Operations of the Task Force

- (a) By mutual agreement, the State Court Administrative Office shall staff the Task Force and Pew Charitable Trusts will provide technical assistance.
- (b) The Task Force shall adopt procedures, consistent with this order and applicable law, governing its organization and operations. The Task Force shall hold its meetings in a manner that complies with the Open Meetings Act, 1976 PA 267, as amended, MCL 15.261 to 15.275.
- (c) The Task Force shall meet at the call of its chairpersons and as otherwise provided in the procedures adopted by the Task Force. The Task Force shall meet at least six times and shall hold its first meeting by July 31, 2019.
- (d) A majority of the members of the Task Force serving constitutes a quorum for the transaction of the business of the Task Force. The Task Force must act by a majority vote of its serving members.
- (e) The Task Force may establish advisory workgroups composed of individuals or entities participating in Task Force activities to assist it in performing its duties and responsibilities. The Task Force may adopt, reject, or modify any recommendations proposed by an advisory workgroup.
- (f) The Task Force may, as appropriate, make inquiries, studies, and investigations, hold hearings, and receive comments from the public. The members and staff of the Task Force shall engage and gather input and guidance from their peers, justice-system practitioners and stakeholders, in-state and national experts, crime victims and those impacted by criminal justice systems in the state, community leaders, and members of the public.
- (g) The Task Force may accept donations of labor, services, or other things of value from any public or private agency or person. Any donations shall be received and used in accordance with law.
- (h) Members of the Task Force shall serve without compensation.
- (i) The Task Force is dissolved on September 30, 2020.

4. Implementation

- (a) All departments, committees, commissioners, or officers of this state or of any political subdivision of this state shall give to the Task Force and its staff, or to any member or representative of the Task Force, any necessary assistance required by the Task Force, or any member or representative of the Task Force, in the performance of the duties of the Task Force so far as is compatible with their duties and consistent with this order and applicable law. Free access also must be given to any books, records, or documents in their custody relating to matters within the scope of inquiry, study, or review of the Task Force, consistent with applicable law.

- (b) This order is not intended to abate a proceeding commenced by, against, or before an officer or entity affected by this order. A proceeding may be maintained by, against, or before the successor of any officer or entity affected by this order.
- (c) If any portion of this order is found to be unenforceable, the unenforceable provision should be disregarded and the rest of the order should remain in effect as issued.
- (d) This order is effective upon filing.

Given under my hand and the great seal of the State of Michigan.

Date: April 17, 2019


GRETCHEN WHITMER
GOVERNOR



By the Governor:


SECRETARY OF STATE

FILED WITH SECRETARY OF STATE

ON 4/17/19 AT 2:30 P.M.