

MARION COUNTY PUBLIC SAFETY COORDINATING COUNCIL MINUTES

October 11, 2022, 4:00 PM
Courthouse Square
Salem, OR

MCPSCC: Chris Baldrige, John Bauer, Joe Budge, Kevin Cameron, Rob Carney, Paige Clarkson, Jayne Downing, Don Frederickson, Courtland Geyer, Chris Hoy, Joe Kast, Alison Kelley, Garland King, Rick Lewis, Christina McCollum, Pete McCallum, Todd McCann, Ed McKenney, Ryan Matthews, Tim Murphy, Tracy Prall, Dave Rash, Cari Sessums, Shaney Starr, Colm Willis, Shannon Wilson, Trevor Womack, Hitesh Parekh (recorder).

GUESTS: Bruce Anderson, Jay Bergmann, Ed Diehl, Tad Larson, Raquel Moore-Green, Amy Queen, Tanisha Rosas, Jessica Stanton, Joshua Wolf, Jeff Wood.

1. ADMINISTRATIVE (INFORMATION/ACTION)

Meeting called to order at 4:05 P.M. by Commissioner Kevin Cameron.

Welcome and introductions

- Introductions

Announcements and upcoming events

- Reentry Breakfast is on October 27 at Keizer Civic Center.
- Legislative delegation breakfast is on December 13. Thanks to Judge Prall will hold meeting in Courtroom 2a. Meeting is in-person meeting only and starts at 7:30 AM.

Memberships

Alison Kelly, Jayne Downing, and Representative Rick Lewis were all reappointed to the council for another term. Elizabeth Infante was appointed as a new member. All have already been appointed by the Marion County Board of Commissioners.

MOTION: Jayne Downing made a motion to approve the appointments of Alison Kelly, Jayne Downing, Representative Rick Lewis and Elizabeth Infante to the Marion County Public Safety Coordinating Council (MCPSCC). Alison Kelley seconded. Motion passes.

Minutes July 12, 2022

MOTION: Tim Murphy made a motion to approve the July 12 MCPSCC meeting minutes. Don Frederickson seconded. Motion passes.

2. BEHAVIORAL HEALTH UPDATE

Marion County District Attorney Paige Clarkson presented this item. Summary of presentation:

- Significant development at the Oregon State Hospital (OSH)
- Many years ago, lawsuit at state hospital about an individual who had stayed there too long. From this came some rules, such as how long could individuals stay and how quickly he or she would be processed out
- Twenty years later OSH found themselves in a lawsuit again.
- This time from the Metro Public Defender's Office in Portland and Disability Rights Oregon.

- As part of litigation, plaintiffs reached an agreement on guidelines where they would no longer comply with Oregon statutory timelines for an individual to remain at the OSH in an “aid and assist” process.
 - This is a process by which an individual attempts to get restored to competency enough so that they can aid and assist in their own defense in a criminal case.
 - Individual is charged with a crime but has behavioral health issues and cannot appreciate the nature of what is happening.
 - Defense attorney will ask- that since individual cannot aid and assist in his/her own defense – individual must be “restored” first.
 - Under this restoration process the Oregon statutes assume the individual can be there for statutorily agreed upon time frames.
- OSH saying they cannot get people into the OSH because they cannot get people out of the OSH.
 - Consequently, several people located at the state hospital with pending criminal cases who cannot aid and assist in their own defense fall into this category.
 - OSH saying despite the statutory timeline, individuals will be released sooner.
 - May of the released individuals still unable to aid and assist in their own defense.
- Marion County like other counties, does not have residential treatment facilities.
 - This means they will return to the criminal justice system, will be represented by defense attorneys, and still be unable to aid and assist in their own defense.
 - Systematic failure at the state level.
- County leaders have been collaborating to problem solve and move these criminal cases forward.
 - Litigation is ongoing even though there is an order from a federal judge.
 - Other county district attorneys have intervened through an amicus filing in this lawsuit.
 - Hospitals are also doing something similar through their own litigation.
- Goal is to press upon the federal court that this will impact the local community.
- Working hard on this issue but not a lot of solutions. These are felony level charges.

Summary of discussion

John Bauer, chief legal officer, Salem Health, said another case has been filed which involves trying to assign the Oregon Health Authority as a responsible party over a civil commitment and not Marion County. Ryan Matthews, Marion County Health and Human Services Department administrator said trying to push people out of OSH when they still required care was a state issue not a local one. Counties don’t have structure and staffing and the hospital level of care to take this on. Judge Prall said everyday there is a new evolving list of individuals who meet the new discharge timeline. Used to be that for a misdemeanor, individuals could be helped for up to an entire year at the OSH until restored. If, sometime during the year, the OSH decided the individual could never be restored, then the district attorney has an opportunity to dismiss the charges and look for other options such as civil commitments. If you are admitted for a felony then you could be held for five years – although no one is held that long. At some point the OSH will say this individual will never be restored- but not even getting this. So now the release deadlines have been arbitrarily changed from one year to 90 days for a misdemeanor, and from five years to a maximum of 180 days for a felony. Ballot Measure 11 felonies can be held a lot longer, so county left with a terrible choice. These individuals were sent to state hospital; evaluated; determined to be unrestorable and released, but county is not holding them in custody so must make a horrible choice: Who can be released out into the community, and who can be restored in the community? Unable to hold all these aid and assists in custody and

unable to restore them in the jail due to statutory limitations. County is brainstorming but going to have to make a hard choice as to who to send out into the community and hope the county Health and Human Services Department and Salem Health can help them. Salem Health emergency room is going to be ground zero. This is also the most expensive option and will affect everyone if the emergency room is full of people who cannot be aided and assisted. So this will create a community crisis. Judge Prall has asked the chief justice to send out an e-mail to all the presiding judges across the state to not dismiss cases and release individuals until they were returned to their individual counties- so that Salem would not become a dumping ground. Some judges said if any of their cases were released as an aid and assist they would dismiss the case. But still have many people coming back to Marion County. Ms. Clarkson said they would be making some tough decisions on who to let into the community. This debacle is a failure of the state and took years in the making even before Covid struck. While it was compounded by Covid, this is not about a shortage of space but a shortage of staffing solutions at the statewide level.

Q: What would normally happen when someone is in the state hospital for a felony is released unable to aid and assist in his/her defense?

A: Normally OSH will make determination that individual is never able to aid and assist - wouldn't take up to two years. If they say "never able" then the criminal case cannot proceed and will be dismissed- but in the meantime, a lot of services get built around the person. Sometimes can get "guilty except for insanity" if person unable to comprehend at the time of the incident- state hospital must take these folks- even under this order.

Q: The reason people can't aid and assist is that their mental health issues prevent them from doing so. They are getting released into the community. Is their treatment mandated?

A: If can't aid and assist, can't mandate them to do anything. Can only treat someone if they voluntarily consent to treatment which is a huge barrier for this population. Treatment includes housing, medication and therapy with consent. Not so much capacity issue but treatment availability issue-need more hospital staff. Governor called in National Guard to assist during COVID to free up the more skilled workers. This could be a possible solution. At this point, even if you bring in new staff, training them will take time so it will be months before they can be deployed to make a difference. Possible to use financial incentives to hire. National guard is a short-term solution since they are not psychiatrists or therapists which is what is needed. Oregon just does not have the people- same goes for defense attorneys. Need incentives for people to come to Oregon.

Marion County Psychiatric Crisis Center (PCC)

Ryan Murphy presented this item. Summary of presentation:

The Marion County Psychiatric Crisis Center has been operating from a site at the Salem hospital for 27 years. County needed to expand so purchased property on Commercial Street for the PCC. Historically four mobile crisis teams operated across Marion County. County has received some additional funding to develop community response teams. These are non-law enforcement centered emergency responses. Will entail one mental health professional next to a certified recovery mentor that would be deployed out of the PCC. If there is a dispatch call that doesn't rise to the level of a law enforcement response, the community response team will respond. Looking at unsheltered populations around Salem. Currently

building teams to make this 24-7 coverage. In addition, there is also funding arriving for mobile response to youth- so working on creating these teams. Historically have always focused on adults. Want a juvenile response team that includes a juvenile probation officer and qualified mental health professional to divert youth from juvenile detention. Partnering with Bridgeway Recovery Services-want 24/7 substance abuse treatment available at crisis center. Have started that already and want to expand it. (Finding that 90% of individuals are under the influence of drugs and/or alcohol). Opening delay because of supply chain issues in terms of HVAC systems and staff.

Navigation Center

Salem City Councilor Chris Hoy said the RFP process for constructing the Salem Navigation Center was well under way. Center will have a 75- bed total capacity of which 15 to 20 beds will be reserved for law enforcement referrals. Want to get residents stabilized and with services. Anticipating Center will open in December 2022.

CJAC

3. CRIMINAL JUSTICE ADVISORY COUNCIL

The MCPSCC switched roles as the Criminal Justice Advisory Council. Council chair Judge Tracy Prall presented this item. Summary of item:

Marion County's Criminal Justice Advisory Council (CJAC) has been working diligently with members of the defense, prosecution, and jail staff on the aforementioned behavioral health issues as well as dearth of criminal defense attorneys in the county. There are 39 individuals statewide "in custody" without lawyers and 718 "out of custody" without lawyers. The out of custody folks need intervention- they have allegedly committed crimes and need services. Without these services and intervention, they may commit a new crime and will cycle in and out of jail. County does not have defense lawyers to give them any advice or even direct them to the De Muniz Resource Center for any available resources. In Marion County court caseloads have changed: used to have way more misdemeanors than felonies, but this is now reversed, and fewer attorneys can work on felony cases. Attorneys build up their experience from low level to high level felonies- then only to BM 11 and murder cases. This is the progression. But during COVID-19 many of the fledgling attorneys did not get the experience of trying cases and move onto harder cases resulting in a shortage of felony experienced attorneys. Also, statewide there are fewer attorneys in the criminal justice system, so cases are not moving through the courts as the attorneys that are in the system are overwhelmed. There were several days in October where the county did not have any lawyers with felony cases. Had this problem in December 2021 too with too few lawyers on felony cases. So, situation is not going to get better and state has no answers. Oregon Public Defense Services working daily on finding lawyers to help.

Shannon Wilson, executive director of Public Defender of Marion County Inc. said Marion County has handled this situation better than most counties. The defense bar is monitoring attorney schedules and has received additional training and funds from the state - but these have arrived too late. Her organization added six attorney positions since February 2022- but most are doing minor felony and misdemeanor cases. She is very grateful to Judge Prall and Ms. Clarkson for willing to convene and problem solve this together. Council members can e-mail her for additional information.

Senate Bill (SB) 48- Modification of Pre-Trial Release Process

Marion County deputy district attorney Amy Queen presented this item. Summary of presentation: Senate Bill 48 (SB 48), signed by Governor Brown, became effective July 1, 2022. This bill eliminates certain mandatory minimum-security amounts currently in statute and requires individualized assessments based on objective criteria when making release determinations and setting security. In addition, it directs judges to enter a standing pretrial release order specifying people and offenses subject to release on recognizance, conditional release, and people not eligible for release until an arraignment. The purpose is to create a standard process across the state for counties to handle pre-trial releases. Marion County already had something in place with regards to pre-trial decisions and how these were handled. SB 48 got rid of standard bail for certain types of crime which has been nullified along with statutory bail. For example, \$50,000 bail on a BM 11 case was recently nullified. Standard bail on \$500,000 for delivery of methamphetamines also disappeared. So, counties were left with an order where the presiding judge of every jurisdiction was put in a position where he/she would have to create an order for the jail for individuals when they arrived. These pre-arraignment decisions had to align with a chief justice order which gave the framework of what it was supposed to look like. This framework consisted of three categories of individuals and from this the ability to create overriding circumstances- or objective criteria for a release officer to look at in order to make a release decision prior to arraignment. Important to understand that it deals with pre-trial release before a person sees a judge. Not a directive to district attorneys, or judges after an arraignment: directed at jail so that when people are admitted this is how they will be categorized:

- Category 1 is that they get released on their own recognizance.
- Category 2 is that they are released based upon conditions.
- Category 3 – the most important- is to hold them until arraignment.

Months before SB 48 passed, Judge Prall gathered public safety practitioners together to develop the presiding order and the overriding circumstances that were a part of it. The order states that individual will remain in custody until a judge can see them to determine their custody status. This is a living document. Learning all the time from it. Jail went from two case aids to three and pre-trial monitoring traffic has more than doubled. Plan will be implemented August 1. The Oregon Judicial Department received funding for counties to hire release officers. There is a possibility that these funds county could still receive these funds. Funds could be available in July 2023.

4. LAW ENFORCEMENT ASSISTED DIVERSION (LEAD)

Commander Larson presented this item. Summary of presentation:

LEAD started in Marion County in 2016. As of July 1, 2022, the program has moved to the Sheriff's Office. There are currently two FTE navigators in the program and the department is in the process of hiring three more. LEAD has 51 active clients and 54 inactive clients and is funded with two grants from the Bureau of Justice Assistance and county General Funds. Long term funding for the program is still a challenge.

Commissioner Cameron thanked Representative Lewis and Raquel Moore-Green for their support and reminded the council that the council will be meeting with state legislators on December 13. Funding raised from the Reentry Breakfast meeting on October 27 will help clients pay for incidental expenses.

5. EMERGING ISSUES/OTHER BUSINESS

Center for Hope and Safety

Jayne Downing, chief executive officer, Center for Hope and Safety thanked the commissioners and legislators for supporting the Center. In 2021 the Center and the Mid-Willamette Valley Community were each awarded a motel from Project Turnkey. The motel has been turned into a shelter which opened in December 2021. The Center has been able to increase the number of people at its shelters by 144% because of this acquisition. In addition, Hope Plaza will add another 20 housing units at the former Greyhound bus station site in downtown Salem. Looking at breaking ground on November 28, 2022. In 15 months, there will be low-income permanent housing in downtown Salem.

Radio Communication in Rural Marion County

Woodburn Fire Chief Joe Budge said that rural areas of Marion County- especially the Santiam Canyon and Cascade foothills, have a difficult time with fire departments talking to one another and organizing responses. Sheriff's Office has been working on trying to remediate this for a long time. Chief Budge thanked the Sheriff for providing leadership and funding for a system that will hopefully bring state of the art communication capability for the commissioners to consider in the future.

Tim Murphy, chief executive officer for Bridgeway Recovery Services, said his organization will be providing dental treatment along with behavioral health substance abuse and primary care. Since moving downtown, Bridgeway Recovery Services is experiencing more traffic.

Future Agenda Items

- Cyber Security Issues
- Future County Emergency Response Meeting?

ADJOURNED