

**MARION COUNTY PUBLIC SAFETY COORDINATING COUNCIL**  
**MINUTES**

January 18, 2022, 4:00 PM  
Courthouse Square  
Salem, OR

**MCPSCC:** Mark Caillier, Kevin Cameron, Rob Carney, Paige Clarkson, Jayne Downing, Don Frederickson, Tamra Goettsch, Chris Hoy, Linda Hukari, Levi Herrera-Lopez; Joe Kast, Alison Kelley, Pete McCallum, Todd McCann, Ed McKenney, Ryan Matthews, Tim Murphy, Tracy Prall, Mile Runyon, Shaney Starr, Shannon Wilson, Trevor Womack, and Hitesh Parekh (recorder).

Mark Daniel, Ian Davidson, Christine Kirk, Kevin Karvandi, Katherine Tallan, and Jeffrey Wood.

**GUESTS:**

**1. ADMINISTRATIVE (INFORMATION/ACTION)**

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

Welcome and introductions

Commissioner Cameron welcomed council members after introductions were made.

Announcements and upcoming events

- The next annual Breakfast Reentry meeting is on April 28 at 7:30 AM at the Keizer Civic Center.

Vice-Chair appointment MCPSCC

- Bylaws require the MCPSCC to select a vice-chair every two years. Executive Committee is recommending that Jayne Downing be appointed vice-chair.

MOTION: Pete McCallum made a motion that the MCPSCC appoint Jayne Downing as council vice-chair for a two-year term. Shaney Starr seconded the motion. Motion passes unanimously.

Memberships

Executive Committee also recommends the Board of Commissioners appoint Tamra Goettsch as a council member for a three-year term.

MOTION: Shaney Starr made a motion recommending that the Board of Commissioners appoint Community Services director Tamra Goettsch to the MCPSCC for a three-year term. Jayne Downing seconded the motion. Motion passes unanimously.

Approve October 12, 2021 MCPSCC meeting minutes

MOTION: Don Frederickson made a motion to approve the October 12, 2021, MCPSCC meeting minutes. Ed McKenney seconded. Motion passes unanimously.

**2. PUBLIC SAFETY LEGISLATION EFFECTIVE JANUARY 1, 2022**

District Attorney Paige Clarkson presented this item. Summary of presentation: Several legislative bills with a significant impact on public safety are forcing district attorneys across the state to review old cases again.

Senate Bill 819 Conviction Integrity Bill

- SB 819, “conviction integrity bill”, passed with intent to give district attorneys the authority and power to get cases back into court (if they believe) these individuals need to be resentenced or re-adjudicated and reassessed.
  - Prior to SB 819, no mechanism where the District Attorney (DA) alone could get a case back into court- although the DA would receive requests from those in prison asking for another look at their sentences and convictions.
- SB 819 took effect in January 2022. District attorneys can now request cases be reassessed if needed.
  - Need to work on a policy in Marion County to determine which cases will qualify.
  - Policy includes what the process will be and the types of cases the DA will review. Will look at most cases, if that case is not already being appealed.
- Lots of parties participate in the criminal justice process before a conviction is made and most cases have worked their way successfully.
  - But there may be a circumstance when a case needs to be revisited.
- Policy requires the party seeking reconsideration to do the bulk of the work to present the information to the DA.
- DA’s office does not have abundant resources at hand to work on these cases.
- At no time will anything be done on a victim related case without consulting the victim.
- Changing a sentence is a major event- simply because someone did not like their sentence is inadequate reason to undo a case.
  - Ms. Clarkson anticipated using this power sparingly.

#### Granting clemency

- Governor Kate Brown can grant someone a new sentence in any way she wants to:
  - Pardon them, release them from custody, grant clemency from parole, or release someone from prison and have the person report to a parole and probation officer.
  - Governor has done this over the past two years in several ways, for COVID-19 clemencies, and for inmate volunteer fire fighters during the 2020 wildfires.
  - Governor is also granting clemency to under 18 aged violent offenders treated as adults in the criminal justice system.
    - Marion County received 212 petitions for clemency in 2021 - more requests than any other DA across the state since a clemency application must be submitted in the county in which you are convicted and incarcerated.
    - Ms. Clarkson’s office has responded to more clemency requests in the past three years than the preceding 30 years combined.
      - These requests require a lot of work to fulfill. Frustrating that a lot of previous work must be undone.
      - None of the individuals are claiming actual innocence, or that they were incorrectly convicted of a crime.
  - These cases have been adjudicated and settled and having to contact victims of survivors of these crimes and telling them the individual may be released is painful.
  - This is on top of the daily work DAs still must do.
  - These are complicated cases such as murders and assaults with multiple victims that need to be found so that we can advise them.
  - Governor also granted six clemencies to individuals convicted of murder, attempted murder, and/or robbery.
  - DA is committed to victims, but will be hard for to focus on the “here and now” if these requests keep coming in at this rate.

#### Ramos retroactive concerns

- LC 98 proposes to broaden the retroactive look back on non-unanimous verdicts.
- In 1934, Oregon voters amended the Oregon constitution to allow for non-unanimous jury verdicts. Since then, Oregon prosecutors, judges, and defense attorneys followed that law—allowing 10-2 or 11-1 trial decisions for all felony verdicts except murder.
- However, in April 2020, the U.S. Supreme Court changed the rules.
  - In *Ramos v. Louisiana*, the Court determined that the U.S. Constitution now requires a unanimous jury verdict to convict someone of a serious offense.
  - Despite being a major change to constitutional law, the Supreme Court held in a separate case that the new unanimity requirement was not retroactive.
- So virtually overnight the law changed, but there are those in the state legislature that want to make Ramos retroactive.
- Again, the DA must look backwards at cases that have been long adjudicated.
- Ramos retroactivity will have a huge impact on victims affecting women and children the most.
- Majority of these cases are white male sex offenders and domestic violence perpetrators.
- Victims will be asked to return and testify again in front of their abuser.
- District attorneys across the state will not be trial ready for these cases.
- Only person who will benefit is the offender.
- Finally, concerned about what this will do to our county jail.
- Many of these individuals are serving lengthy sentences in prison.
- If unconvicted they will be removed from state prisons to county jails- which are already full due to COVID-19 health protocols.
  - A rough estimate is a few hundred people will be released to Marion County.
  - This will make the jail max out immediately.
- Once again district attorneys are going to have a large workload to retry what was already tried once before.

Q: Who is behind LC 98?

A: Senator Prozanski. Mostly written and driven by Professor Eliza Kaplan who is the director of the Criminal Justice Reform Clinic at Lewis and Clark Law School. Retroactivity concept has not been discussed at the table. Group believes that a non-unanimous jury verdict process is rooted in racism. While racism is real in our criminal justice process, we should be doing things that address it. But making Ramos retroactive- something that the United States Supreme Court does not require- just gives white male sex offenders another chance. Also, this is a short session and LC 98 deserves discussion in a long session.

Q: Does SB 819 allow DAs across the state to negate sentences imposed by judges and change them?

A: Not unilaterally. Allows us to get them back into court- a power we did not have previously.

Requests that the DA go to the presiding judge or original sentencing judge requesting remedy and requires a judge to sign off on that first. Essentially it is a joint petition by the convicted individual with the DA. Judge must agree for it to become a judicial order. Can be fixed in a multiple number of ways: a charge; sentence if we all agree.

Q: Why are you receiving so many clemency requests?

A: Don't know for sure. If people like Shaun Fox (who was tried for the death penalty) are granted clemency, then the word gets out so that those with equal or lesser convictions find no harm in asking.

Q: I'm astonished at the logic of clemency that people are using. My understanding of clemency is that it's a privilege to be used by the Governor to right obvious injustices. We are now seeing the victory of moral relativism where people believe that because of their philosophical belief they can pervert the justice system.

#### Ballot Measure 110 and impact on the community

- BM 110 was passed by voters in November 2020.

- If an individual completed treatment *screening* within 45 days of a citation issued for possessing a small amount of drugs, his/her case is dismissed- individual does not even have to go for treatment.
- Oregon Judicial Department is tracing the citations.
  - From February through October 2021, there were 1,491 Class E violations filed that went to court.
  - Of these, 1,027 resulted in convictions: 361 individuals appeared in court; 666 failed to appear and 324 cases were still pending.
  - 107 individuals had multiple violations.
  - 67% of the 1,491 were found in possession of methamphetamines and 22% heroin.
  - There were 61 violations filed in Marion County.
- Bottom line is this measure is not a success.
- Marion County has more people in its drug court in a week than these statewide numbers.
- Law enforcement officers have a lot to do, and violations are low on their list of priorities.
- Concerned the measure precludes law enforcement involvement, and by drifting away these individuals who need substance abuse treatment are overdosing.
  - In 2021 there were 70 confirmed overdose/drug related deaths and 40 pending toxicology results in Marion County.
  - This is compared to 2020 when the state had just 47 accidental overdose deaths.
  - This is a 134% increase over 2020.
- BM 110 made it easier for drug users to think drugs are not a big deal.

Summary of discussion:

Most behavioral health practitioners look at Measure 110 as an abject failure for a lot of the reasons that Ms. Clarkson mentioned. In the early days there was some support to turn a public safety issue into a public health issue. However, the way the ballot was implemented people are not receiving treatment. Program funds have not gotten out to the communities but are stuck in the Oregon Health Authority. Conversely, the good part of Measure 110 is that there is a substantial amount of money now available for treatment – money we have never had before to treat this population.

Q: Why are people not showing up for treatment?

A: Theory from those that work in the criminal justice system is that there is nothing holding these people accountable. If you don't pay the fine nothing will happen to you.

Sheriff Kast: Our own recovery addicts say that without pressure on them from the criminal justice system they would not have made it into the program they went to. First few times will not change individual. Individual must continue with therapy, and it is very easy for addicts to relapse.

Alison Kelley: Reality is that a lot of these adults struggling with addiction have children attached to them. Addiction of the parents is the primary driver of children going into foster care. Children also need to be included in this.

Ryan Matthews: Treatment numbers overlap with the covid pandemic - increased isolation and inability for people to access services and certain types of treatment.

LC 81 affixed to some bad case law we had this year- court of appeals case called Hubble. Attempts to change the definition of delivery of controlled substances. Now the DA can only charge an individual with delivery and attempted delivery. Hard for us to contact individuals with huge number of narcotics, can only charge you with possession.

#### Impact of COVID-19 on the county jail

Sheriff Joe Kast presented this item.

- Due to COVID-19 safety protocols, the jail had to reduce the number of beds as it is a congregate facility. Jail held under 300 adults in custody which allowed it to single cell for a while, but for the foreseeable future it will not be budgeted at a capacity of 415 inmates.

- HB 3273 went into effect January 1, 2022, prohibiting the release of booking photos to the public unless this individual falls under a very specific situation.
  - Bill aims at trying to decrease shaming the public.
- MCPSCC submitted a grant application for the 2021-23 Justice Reinvestment Initiative as well as a competitive supplemental grant.
  - County was fully funded for entire application at \$ 4.1 M in Justice Reinvestment Grant funds and \$ 917,000 in supplemental funding.
    - Now developing an inter-governmental agreement with the state.

#### **4. CRIMINAL JUSTICE ADVISORY COUNCIL, CJAC**

Marion County Presiding Judge Tracy Prall presented this item. Summary of presentation:

- The Marion County Public Defender's Office and the Marion County Association of Defenders handle indigent defense in the county.
- Marion County has a robust pre-trial release program which has kept the in-custody cases low, but these in custody cases are increasing since there is a statewide shortage of defense attorneys.
  - This puts a lot of stress on the available lawyers through the state Oregon Public Defense Services (OPDS) contract.
  - Defendants are lodged in jail until a public defender can be found to represent them.
  - Now seeing defendants in custody for more than a month without a lawyer, including being in custody on a murder charge for more than two weeks- which is unacceptable.
- New director for OPDS, David Singer, came from Louisiana and was there during Hurricane Katrina. He has a lot of experience with this type of problem, but he has inherited a contract system that he cannot fix until the long session. So, we are going to be in a difficult position for a while.
- Criminal justice system needs defense attorneys to ensure all parts of the system are working correctly.
  - Delay harms victims just as much as a defendant who is wrongly accused.
    - Also, cases can come back when a judge is forced to appoint someone who is not qualified to try a case.
    - So as a body need to support public defense services and advocate for these services.
    - Need to ensure public defenders get adequate funding and training.
- Judge Prall, district attorney Paige Clarkson, and executive director of Public Defender of Marion County Shannon Wilson have all been meeting every other week regarding the COVID issues, but the lack of defense attorneys is a major challenge requiring daily problem solving.
- The shortage has resulted in Marion County having to request counsel from ODDS directly. ODDS will give the county someone from out of the area like Multnomah, Clackamas, and Bend counties.
  - Since these attorneys get paid the same for any level of felony, they prefer low level property cases -not in custody cases involving Jessica's Law and BM 11.

#### Summary of discussion

Marion County Public Defender Inc. executive director Shannon Wilson said the American Bar Association released a study showing that Oregon has a shortage of defense attorneys. Defendants have a right to counsel under the U.S. Constitution. Right now defense attorneys and courts are just focusing on Measure 11 cases. Hope to get some relief soon but not optimistic for the immediate future.

#### 5. Marion County prison usage, CJC Quarterly Report

Ian Davidson, Justice Reinvestment Program Manager for the Oregon Criminal Justice Commission and Catherine Tallan, Senior Research Analyst, provided an overview of the justice reinvestment grant

program and Marion County's prison use data for the quarter ending December 31, 2021. Mr. Davidson said that due to COVID-19, the data is skewed, see [Attachment A](#).

**6. EMERGING ISSUES/OTHER BUSINESS**

None

ADJOURNED