

MARION COUNTY PUBLIC SAFETY COORDINATING COUNCIL

MINUTES

October 8, 2019 4:00 PM
Sheriff's Public Safety Building
Salem, OR

MCPSCC: Mark Caillier, Kevin Cameron, Rob Carney, Kim Doster, Jayne Downing, Don Frederickson, Tamra Goettsch, Troy Gregg, Courtland Geyer, Levi-Herrera, Roland Herrera, Linda Hukari, Mike Iwai, Jessica Kampfe, Joe Kast, Ed McKenney, Todd McCann, Cary Moller, Mike Runyon, and Hitesh Parekh (recorder).

GUESTS: Melissa Allison, Ann-Marie Bandfield, Audrey Broyles, Cliff Carpentier, Jessica Howard, Kevin Karvandi, Alison Kelley, Micky Logan, Jeff Wood

1. ADMINISTRATIVE (INFORMATION/ACTION)

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

Welcome and introductions

Attendees introduced themselves.

Announcements & upcoming events

- Commissioner Cameron said the council invited state legislators to attend the meeting today to listen in on the Senate Bill 24 discussion. Due to conflicts and illness, all were unable to attend.

Memberships

- Marion County Circuit Court trial court administrator Diane Morse has retired and Linda Hukari has replaced her.
 - Presiding judge appointed Ms. Hukari to the council by court order on October 1, 2019.
 - As per [the council's bylaws](#), since the presiding judge appoints Ms. Hukari, no need for the council to take any action.
- Don Frederickson has served as the MCPSCC's vice chair for the past few years.
 - Council by-laws state that the vice-chair serves for a two year period.
 - Council chair must select a new vice-chair who is then appointed by the council.
 - Commissioner Cameron has selected council member Rob Carney to be the next vice-chair on the council.
 - MOTION: Don Frederickson moved to appoint Rob Carney vice-chair of the MCPSCC for a two year term ending August 2021. Seconded by Ed McKenney. A voice vote was unanimous.
- Director of Safety and Risk Management Services at the Salem Keizer School District, John Van Dreal has retired and tendered his resignation from the council.
 - Mr. Cliff Carpentier has been hired to replace Mr. Van Dreal at the Salem-Keizer School District.
 - Executive Committee of the MCPSCC is recommending appointing Mr. Carpentier to the MCPSCC.
 - MOTION: Joe Kast moved to recommend appointing Mr. Carpentier to the MCPSCC for a three year term ending June 2022. Seconded by Mark Caillier. A voice vote was unanimous.
 - Mr. Carpentier gave a short summary of his biography. He had 20 years of experience in law enforcement prior to becoming the director of Safety and Risk Management Services.

- Executive Director of Liberty House Child Abuse Assessment Center Alison Kelley asked if she could serve as a council member. The Executive Committee of the MCPSCC recommended appointing Ms. Kelley to the council.
- MOTION: Ed McKenney moved to recommend appointing Ms. Kelley to the MCPSCC for a three year term ending June 2022. Seconded by Jayne Downing. A voice vote was unanimous.

Approve July 9, 2019 Meeting Minutes

- MOTION: Mark Callier moved to approve the [July 9, 2019 MCPSCC meeting minutes](#). Seconded by Ed McKenney. A voice vote was unanimous.

Marion County Reentry Initiative (MCRI) Breakfast debriefing

- October 1 MCRI breakfast event was a success.
 - Raised up to \$24,000 excluding sponsorships.
 - Honored the late Senator Jackie Winters.
- State Legislative debriefing- 2019
 - Marion County District Attorney Paige Clarkson will provide an update on Senate Bill 1013 at the next council meeting.
 - This bill significantly limits the death penalty in Oregon and was not supposed to apply to death row cases returned to lower courts for retrial or new sentencing hearings.
 - (The Oregon Department of Justice has told prosecutors that the law does indeed affect those and pending aggravated murder cases as well.)

Court Support Advocates, Center for Hope and Safety

- Jayne Downing, executive director, Center For Hope and Safety said she had applied for a grant for the court support advocate position that could not be funded with 2019-21 Justice Reinvestment Grant funds.
 - Her application was successful and the court support advocate position will now be funded for three years.

2. RATIFY 2019-21 JUSTICE REINVESTMENT INITIATIVE GRANT APPLICATION

Undersheriff Jeff Wood, Marion County Sheriff's Office presented this item. Summary of presentation:

- On July 9, 2019 the MCPSCC approved [Issue Brief # 3](#) approving the Marion County Sheriff's Office application for \$3,771,025 in JRI funds and \$856,414 in Supplemental Grant funds.
- The council gave the MCPSCC Steering Committee authority to make any further budgetary changes as needed before submitting these grants to the state.
- Subsequent to this meeting, it was discovered that only the SB 416 Prison Diversion program qualified for supplemental grant funds. The Sheriff's Office has amended both the 2019-21 JRI and Supplemental grant fund budgets to meet the Supplemental Grant requirements as shown in [Issue Brief # 4](#). Under this new issue brief, the total funding amount for the 2019-21 JRI grant remains unchanged, while the Supplemental Grant funding totals \$951,571. Apportioning the funds this way gives the county the best chance of success since the supplemental grant is more competitive.
- MOTION: Tammie Goettsch moved to ratify [Issue Brief # 4](#). Seconded by Mark Caillier. A voice vote was unanimous. Judge Geyer and Jessica Kampfe abstained.

3. APPROVE 2019-21 COMMUNITY CORRECTIONS BIENNIAL PLAN

- [This is a two year plan](#) required by the Department of Corrections (DOC) of all community corrections agencies in the state. Plan:
 - Includes a general description and overview of each agency and how DOC funds will be spent for each program.

- Serves as the foundation for core services, related programs, and supports, including reentry services prison diversion.
- Must align with the legislatively approved budget.
- Must be approved by the Marion County Public Safety Coordinating Council and the Board of Commissioners.
- Total funding available for all counties is approximately \$268 M.
 - Marion County’s allocation has decreased since the 2009-11 biennium, from 11.02% to 9.11%
 - Ironic, because by being too effective in diverting felons from state prison, the state has cut funds to the county.
 - County will receive approximately \$24 M for the 2019-21 biennium, excluding other funding sources.
- 2019 - Difficult legislative session.
 - There is an “Actual Community Corrections Cost Study” conducted by the DOC. Study is required by the ORS and must take place every six years.
 - Two year comprehensive study involving all 36 counties in the state.
 - At a minimum, an inflationary rate is applied to the community corrections budgets for the biennium.
 - Study showed that the daily per capita rate has increased significantly from \$12.06 to \$14.25.
 - Instead of increasing the county budgets based upon this study, the state *cut* community corrections funding.
 - One reason costs have increased is because good treatment costs money and is more than the Medicaid reimbursement rate.
 - Mediocre treatment alone will make people worse.
 - County uses evidence based programs including pre-release case management.
 - Doing these six months in advance for reach-ins.
 - Parole officers go into state institutions and review conditions of release and supervision expectations with inmates.
 - This “reach in” has decreased the “no show” rate from 30% to 3%.
 - So by successfully decreasing recidivism, counties are now being penalized by having their state funds cut.
 - A lot of the larger counties saw their funding decrease.
 - Multnomah, Washington and Clackamas impacted the greatest.
 - Without Marion and Multnomah reducing the number of prison bound inmates, the state would not have been able to save any money.
 - Prior to Senator Winters passing, rumor was that partial funding would be available for the study. But this never took place.
 - Community Corrections baseline funding is not just for community corrections.
 - Money used for local control sentences, jail beds, and debt service for the new public safety building.
 - 2019-21 community corrections budget has been cut due to fewer funds:
 - A total of 7.5 FTE reductions in Marion County.
 - Funds were cut to the jail reentry program, De Muniz Resource Center, sex offender treatment program, and transitional housing.
- Have made significant accomplishments in prior years:
 - Caseload size vs. caseload average.
 - Kept caseload sizes manageable for parole and probation deputies.
 - Decreased prison reductions.
 - 591 prison months were avoided by Marion County managing these offenders.
 - Recidivism in Marion County has decreased.

MOTION: Don Frederickson moved to approve the Marion County 2019-21 Community Corrections Plan. Seconded by Ed McKenney. A voice vote was unanimous. Judge Geyer abstained.

4. CRIMINAL JUSTICE ADVISORY COUNCIL- QUARTERLY UPDATE

Marion County Circuit Court Trial Court Administrator Linda Hukari presented this item.

Summary of presentation:

- Judge Prall met with the defense bar and others to discuss new legislation: House Bills 2932, 3145 and 2013.
 - HB 2932 prohibits court from inquiring into defendant's immigration status or requiring defendant to disclose defendant's immigration status at time of plea or at any other time during criminal proceeding.
 - HB 3145 would specifically address some of the concerns in a report published by The Sixth Amendment Center which identify overwhelming caseloads and a funding structure that incentivizes public defenders to rush cases. Legislation failed, but contract with defense attorneys has been renewed for a six month period ending June 30, 2020.
 - Implementation of HB 2013 is also under discussion. Bill provides that person subject to certain court protective orders is prohibited from possessing firearms if person had opportunity to be heard on order and did not request hearing, failed to appear at hearing or withdrew request before hearing occurred. Punishes violation of prohibition by maximum of 364 days' imprisonment, \$6,250 fine, or both.
- Marion County Circuit Court is also working on streamlining the recently implemented pretrial justice annex court procedures.

5. SB 24 AID AND ASSISTS

Senate Bill 24 panel discussion members: Judge Audrey Broyles, Marion County Circuit Court; Micky Logan, J.D. director of legal affairs, Oregon State Hospital; Melissa Allison, Marion County District Attorney's Office; Jessica Kampfe, executive director, Public Defender of Marion County, Inc.; Cary Moller, director, Marion County Health and Human Services; Ann-Marie Bandfield, health program manager, Marion County Health and Human Services. Summary of discussion:

Introduction

- [Senate Bill \(SB\) 24](#) was signed as an emergency clause and took effect on July 15, 2019.
- When people are accused of a crime, sometimes they are unable to participate in their trial because of the severity of their mental illness.
- In these cases, the court decides whether to restore an individual to competency in the community or at the state hospital until well enough to "aid and assist" in their own defense.
 - If person is sent to the Oregon State Hospital (OSH) could stay there for months or years until discharged.
 - This stops the criminal justice process.
- Due to a large number of aid and assist cases ending up and overwhelming the Oregon State Hospital, the legislature passed SB 24.

Key SB 24 issues

- Prohibits the court from committing a defendant charged with a violation or misdemeanor to the state hospital or another facility for restoration.

- If person is being restored at the OSH, and no longer requires a hospital level of care, hospital has to issue a letter to the circuit court saying person unable to aid and assist, but does not require a hospital level of care.
- For those out of custody trying to determine where to get restored, judges are directing that the Marion County Psychiatric Counseling Center (PCC) make a determination if individual can be restored to competency.
- Very fortunate that Marion County has a crisis center and an umbrella of services.
 - County can do an assessment 24/7 for anyone leaving the county jail and OSH to determine their needs.
 - Only county facility in the state that is open 24/7.
 - For people that want participation with the county, community restoration is a great option, since admission into the OSH will result in their medical benefits being cut.
 - County will connect them to an outpatient provider to focus on those issues that caused them to get into the criminal justice commission in the first place.

Marion County is exceptional

- From the perspective of the OSH, the Oregon Health Authority views Marion County as a model county in terms of how it has used OSH resources.
 - Marion County is the only county that rarely sends misdemeanants to the OSH. County has a stellar mental health program.
 - If every county was like Marion County, state would not have needed to pass SB 24.
- Community restoration is excellent for defendants in the system, but time in community restoration does not count towards an individual's time served.
- Judge Broyles has added a monthly community restoration docket to her mental health docket.
 - Docket is attended by a district attorney, someone representing the defendant, and Ms. Bandfield.
 - Informal process, but allows the courts to get a progress report directly from the individual and connect.
 - People more willing to participate when they know they have to appear before a judge.

SB 24 increases hurdles to get someone into the hospital

- Before someone can be sent to the hospital for restoration services, court has directed that they have to first consider release criteria, and find the least restrictive services possible, including community restoration and civil commitments.
- Will only go to the OSH if the court makes a finding that they are dangerous and due to the acuity of their symptoms, it is necessary for them to have a hospital level of care.
 - This is a significant change that has created new hurdles for the Criminal Justice Commission.
 - County has not had to make these findings to get people to the hospital prior to the implementation of SB 24.
 - One concern is that no one is doing a "dangerousness" assessment.
 - Courts still trying to figure this out.

What if individual fails to meet criteria for release and restoration at the OSH?

- Another question that came up is what if individual does not meet criteria for release and restoration at OSH?
 - Statute says that if person staying at the jail, court has to have a hearing within 7 days to determine appropriate action.
 - This is a huge issue.
 - What do you do with someone who can't be aided and assisted due to an intellectual disability, but doesn't meet the primary release criteria or require hospital level of care? What would be the appropriate level of care?

- Judge Nan Waller, presiding judge from Multnomah County will be on a committee to revisit the legislation in February 2020.
 - Judges are trying to figure out what other counties are doing, but struggling.
 - Thought was there should be a continuum of care at the state hospital for those extreme cases just the way Marion County has been doing.
 - Some smaller counties have sent many more defendants to the OSH as though it is the only option.

Marion County lacks a secure residential facility

- Marion County has other options, but lacks a secure residential treatment facility – not a hospital- just a structured and supervised locked facility.
 - Concept is good, but reality is no facility available to do this.
 - So county has created an implementation work group with an eye to the next legislative session.
 - Want to develop an emergency clause to look at this language.
 - Unsure what the legislature will do.
 - One suggestion was to remove “dangerousness” out of the equation.
- Pre-SB 24, a judge could send anyone to the state hospital.
 - But now someone has to be “dangerous” due to their mental illness, with acute symptoms.
 - “Dangerousness” is a hard qualifier to identify.
 - There are some hard cases.
 - For example in an assault case, the suspect had no ongoing signs of dangerousness, but was on a warrant status when the crime was committed.
 - He had two open cases that spanned over the last year for failing to register as a sex offender and repeatedly failed to appear in court.
 - He also refused to take part in community restoration since it is voluntary.
 - County has limited resources to go out into the community to find these individuals and to make them participate.
 - Stuck if someone won’t participate.

Aid and assists as civil commitments?

- Trying to move aid and assists towards civil commitment is a problem in that it is not a civil commitment.
 - To do a civil commitment investigation, you need access to records.
 - So without access to an individual’s criminal history, we should not be making a decision if someone is dangerous or not to our community.
 - Also seeing a stratification of services and who gets in where.
 - If you have serious charges and serious mental illness, you will end up at the OSH.
 - Then there are those with quality of life crimes where mental illness is driving these crimes.
 - These are the community restoration folks.
- Problem is we have a growing group of people with mental health symptoms.
 - In the Marion County Circuit Court rapid docket, three of four cases were drug induced. This makes it much harder to say what is driving the behavior.
 - So seeing a growing population of individuals with an intermediate crime level-not quality of life issues.
 - Individual may have threatened someone, or their behavior is hard to manage.
 - Makes it difficult for community mental health to monitor them, but they have a criminal element, so they are a danger to the community.
 - However they don’t need a hospital level of care need. So struggling with this.
 - A secure residential treatment facility could be helpful, but some of these individuals won’t really need this level of accommodation, so need to be more creative in terms of monitoring these individuals in the community.

- The good news is that we have a lot of judges in the state who understand that SB 24 is basically looking at people with mental illnesses and saying “a one size fits all” solution to everything does not work.
- The state hospital is not a solution for everyone.
- If the case was a Class A misdemeanor, some courts rationalize that the individual has been in the state hospital longer than he ever would be in jail- and will dismiss the case.
- Oregon State Hospital does ten to twenty annual hospital releases because individual did not get the orders needed; the case was dismissed; or the hospital received an end of jurisdiction notification. Hospital will always call ahead to notify the Marion County Psychiatric Crisis Center about these releases.

“9(B)” Letters

- SB 24 changed the process by creating “9(B)” letters stating that since individual no longer requires hospital level of care, it is up to the county to deal with this individual. Concern is that for a low level offense with not much jail time, the charge will just be dismissed.
 - When this happens, does the OSH have the authority to transport individual back to their county of origin before releasing, or will person be released in Salem?
- Hospital is now required to send a notice to the courts when someone is doing well.
 - Purpose of this legislation is that (unlike Marion County) other counties send individuals to the state hospital and forget.
 - Requires the court to have a hearing. (Does not say court has to make a decision to terminate the case at that hearing.)
 - State hospital does not want anyone going back to jail from the state hospital.
 - Would rather that the hearing be continued until there is a good plan for this person. Everyone knows that someone with a mental illness should not be in jail.
 - Language says hospital can retain them in custody until a plan is created.
 - Hearings are every seven days.
 - Hopeful the legislature will change this in the next session.
 - In a community our size, we have good communication and collaboration, but a challenge to become flexible and responsibly monitor an individual who has been released to the community.
 - Have to responsibly engage them into our services.
 - SB 24 highlights how difficult it is to create this flexibility and fluidity before community restoration.
 - There are at least 5 workgroups working on SB 24 issues in preparation for our meeting with the state legislators in 2020.

Chair Cameron thanked the panel and said it was an excellent team to take to meet with the county’s legislators and ask for their support in 2020.

6. EMERGING ISSUES/OTHER BUSINESS

- Mano A Mano’s radio station is now live, broadcasting on 98.6 FM across Marion County.
 - Excellent way to get information out to the public.

Next council meeting is on January 14, 2020

ADJOURNED 5:37 PM