

PUBLIC SAFETY COORDINATING COUNCIL

MINUTES

TUESDAY,
January 28, 2020

11:30

JUSTICE BUILDING -
JURY ASSEMBLY ROOM

MEETING CALLED BY	Eric Guyer
ATTENDEES	Josh Aldrich, Dave Carter, Joe Charter, Travis Christian, Scott Clausen, Marie Curren, Rick Dyer, Doug Engle, Amber Freitas, Barbara Johnson, Danny Jordan, Tyler Lee, Jennifer Lind, Judge Mejia, Jennifer Mylenek, Mark Orndoff, Tina Qualls, Mark Reagles, Nate Sickler, John Stromberg, Rita Sullivan Visitors: William Amaya, A. John Watson, Tina Messinger, Melissa Cochran, Bob Strosser, Doug Houston, Athena, Melissa Welch, Jennifer Gustafson, Terri Galderger

- Eric Guyer opened the meeting at 11:30
- Opening Remarks: Eric Guyer welcomed everyone to the January PSCC meeting.

Agenda Topics

NEW MEMBER -TRAVIS CHRISTIAN

ERIC GUYER, CHAIR

DISCUSSION	
Welcome our new PSCC Member Travis Christian.	

MINUTE ADOPTION –NOVEMBER

ERIC GUYER, CHAIR

DISCUSSION	
No suggested revisions were identified for the November minutes, Scott Clausen provided a motion to adopt, seconded by Barbara Johnson. A vote was requested, all were in favor, and none were opposed. The November minutes were officially adopted.	

OREGON BEHAVIORAL HEALTH JUSTICE REINVESTMENT

ERIC GUYER, CHAIR

DISCUSSION	
<p><i>IMPACTS Grant Review Committee - Oregon Behavioral Health Justice Reinvestment – Steve Allen, OHA Behavioral Health Director</i></p> <p>In the first phase of the Behavioral Health Justice Reinvestment project, researchers matched data from multiple sources for a robust population-specific analysis.</p> <p>Population of people who have frequent contact with Oregon's criminal justice and health care systems:</p> <ul style="list-style-type: none"> • Jail • Community Corrections • Medicaid • Oregon State Hospital <p>The analysis focused on the population's complex health care needs and utilization patterns along with the related systems impacts and costs.</p> <p>In 2017, people with Frequent Criminal Justice Involvement (FCJI) represented 9 percent of people booked into Oregon jails and accounted for 29 percent of all bookings and an estimated 16 percent of all bed days.</p> <p>FCJI represents 4 or more booking events in a year because it is a statistically significant number more than two standard deviations above the average number of booking events.</p> <p>People with FCJI are deeply involved in both Oregon's criminal justice and health care systems.</p> <ul style="list-style-type: none"> • Booked into jail 4+ times a year • Almost 80% with some history of community supervision • 2/3 are high risk/needs • 2/3 are OHP members • Much more likely to have MI and SUD diagnoses than general OHP members • Much more likely to visit Emergency Departments 	

- Much more likely to be homeless

Danny Jordan: of the 9% of people with Frequent Criminal Justice Involvement that are in jail, are these people more likely to have a mental illness issue, or be without housing?

Steve: Yes, the group that comes into jail even once are much more likely to have substance use disorder or mental illness.

People with FCJI* are more likely to have a mental illness or substance use disorder diagnosis than all OHP members or other people booked into Oregon jails.

There were approximately half a million people receiving OHP in 2017, double if you include children. Of those:

- 17% received services for a mental illness
- 6% received services for a SUD
- 3% received services for both

Compared to the overall OHP population, FCJI* persons are:

- 71% more likely to have a MI diagnosis
- 650% more likely to have a SUD diagnosis
- 533% more likely to have a Dual Diagnosis

People have these disorders but are not seeking services for them. Part of that is access. We know we don't have enough treatment in Oregon for SUD and partly due to individuals reluctant to seek services. The data is also not telling the severity, even though there is a modest increase in mental illness from 27-29% it may be that these with the 29% have much more severe conditions. This data only represents those receiving services not the extent or severity of those conditions.

Danny: Does it also qualify personality disorders as mental illness diagnosis?

Steve said, he does not believe they included personality disorder as part of that cluster.

Danny: Are people with co-occurring disorders separate and distinct from the other two categories or are they included?

Steve could not recall the answer to that question.

Jennifer Lind: To reinforce from the CCO perspective, we don't have adequate diagnosis so we use separate flags in our data to know who might have a SUD. The 6% and 3% are really underreported for what we expect of the population before they are even in jail.

People with FCJI* are more likely to visit emergency departments (ED) than all OHP members or other people booked into Oregon jails.

Compared to the overall adult population, FCJI persons were:

- 150% more likely to have been to an emergency department in 2017

Danny: Are those visits while they're in jail or not?

Steve answered no, any visit in 2017 to an emergency department.

Danny: But could've been brought in by a patrol officer etc.

Jennifer Lind: But billed to OHP.

Steve: That's right, what triggers this is a code that says that its being billed out of an emergency department.

People with FCJI* are more than three times as likely to have stayed at the Oregon State Hospital compared to people who are not FCJI.

Non FCJI:

- Unique Persons Booked 1-3 Times During 2017
- 43,529 (90% of All Adults Booked)
- # with any OR State Hospital stay 2013-17 = 447
- About 10 OSH stays per 1,000 non FCJI adults booked

FCJI:

- Unique Persons Booked 4+ Times During 2017
- 5,033 (10% of All Adult Persons Booked)
- # with any OR State Hospital stay 2013-17 = 167
- About 33 OSH stays per 1,000 FCJI adults booked

Danny: So, these people that are coming with aid and assist, guilty except from insanity, or civil commit, we're talking 1% or 3%?

Steve: Yes, relatively small numbers in the grand scheme of things.

Only 2% of FCJI-related bookings involve a felony level offense against persons.

Of 104,776 Booking Events in 2017:

- 74,724 Bookings NOT Involving FCJI
- 24,754 Felony offense as most serious underlying (33% of non-FCJI bookings)
- 3,349 Person felony as most serious underlying (4% of non-FCJI bookings)

- 30,052 Bookings Involving FCJI 30
- 10,206 Felony offense as most serious underlying (34% of FCJI bookings)
- 527 Person felony as most serious underlying (2% of FCJI bookings)

The felony level offenses for which people with FCJI are booked are overwhelmingly property and drug related offenses.

In Oregon county jail and community corrections analyses, people with FCJI* who are booked into jail and are also on an active supervision caseload are likely to be at a high risk of recidivating.

Danny: We have such a small number of people receiving services from mental health and OHP and we were just told that it's probably underrepresented because of how they have to code it. Those aren't people that are seeking help and alcohol and drug treatment, they're not getting it until they get arrested and get in jail. It doesn't stop them from committing the crime they committed, it stops them from recidivating.
Steve agreed with this statement.

There is a consistent pattern of increased homelessness among people with FCJI. *

Judge Mejia: Speaking for Jackson County, everything that we have on homelessness is reported at the time of lodging and includes people who just don't want to give us an address. I think in our county those numbers are probably inflated a little bit, but it's the only way we have to track it.

Danny: Looking at frequently involved individuals they tend to be a little savvier with the criminal justice system and we have a huge number that are booked and rebooked and don't want to be found, that would also contribute to this higher number. I don't think this is true or representative of our population.

He added that Umatilla and Morrow county are the same jail, Morrow contracts with Umatilla.

Questions/Discussion

Danny Jordan: We have this discussion in our community, what about the people that aren't justice engaged? The people who are enrolled in OHP that aren't getting services. People want the county to provide those services, but the county doesn't. We contract with the state to provide those services on behalf of the state.

Primary concern is how do we get to people, and how is what you're proposing get to people before they have to be taken to jail. What kind of impact can we have when, of the people going to jail, 1-3% are committed to the state hospital- we're not talking about diverting a large amount of people.

Steve: Working with the state we're very concerned with utilization of the state hospital because we're bursting at the seams. The average length of stay for someone coming to the state hospital with aid and assist is about 80 days, 120 days for civil commit, and two and a half years for guilty except for insanity. Capacity is not just beds- it is beds and length of stay. We are very concerned about the state hospital; these data are all about thinking about managing the resources that we have. From my role I want to retool how we support communities. We are not catching up with this aid and assist population, nationally its growing. Drug abuse especially methamphetamine is playing a role. We've treated it as a mental health problem but it's a cooccurring challenge we have, and partly about resources.

Rather than an aid and assist problem, how do we provide intensive community services across a range of populations that need them? How do we restructure our unit to better support communities in doing that? We have one person at OHA that helps communities with aid and assist. We can't provide the kind of support that will be helpful, nor is there sufficient funding. We have asked for double the amount of funding or OHA to better support the communities, and restructure staff to look at all of the communities who need a special set of wrap-around services to truly support them in their communities. We like communities like Jackson County to build on the work that has already been started, and slow down the trajectory of referrals through having more money to invest and investing it more proactively.

This is not a hospital solution, people who go to the hospital on aid and assist are there on average 80 days, they are come back stabilized, but nothing more than that. The stabilization can evaporate within 24 hours. Once they are stabilized, what kind of services are provided so they can retain this level of stability? The hospital has a limited role, but it is not the solution.

Danny: It is the state that funds those things?
Steve agreed.

Danny: Do you think the resources that are allocated out through CCO's, or through grant programs are actually making it to services out on the streets?

Steve added that if they were fully staffed they might be able to know this answer. We've asked for double the funding, to get people before they're arrested and before they're booked into jail, this is where the real opportunity lies.

Question: When you've said you have asked for a doubling of the funding for the aid and assist population, how is that proportionally split between centralized funding at your level and community-based funding?

Steve: Currently the 7.6 million budget is distributed unevenly, we've asked for another 4.2 million but, that needs to be doubled because by the time it reaches us it will only be for one year. We've asked for double the amount of funding that will go out to counties.

Judge Mejia brought up the housing issue.

Steve said that housing needs to be in the mix. The Speaker and Governor have focused on housing as a whole in Oregon. Local dynamics play a huge role. Some of what we can do as a state is provide the resources and technical services, but a lot of the housing stuff falls on the community's shoulders. This needs to be a partnership.

Judge Mejia says that sometimes sending people to the home they do have is an issue because they still won't follow through.

Danny: Lessen the restriction CCO's have to help with housing. Remove some of the strings that come with the funding, so local communities can determine how to prioritize those things.

Steve: The hope is that communities come up with solutions that are locally driven.

What is Aid & Assist? - Judge Greif, Jackson County Community

Statutory process for determining whether a defendant can aid & assist is outlined in ORS 161.360, ORS 161.365, and ORS 161.370

ORS 161.360 defines fitness to proceed

Incompetency—a defendant may be found incapacitated if, as a result of a qualifying mental disorder, the defendant is unable to understand the nature of the proceedings, assist and cooperate with their defense counsel, or participate in the his/her own defense

Judges in Oregon have taken the position that probation violations and punitive contempt cases qualify in addition to criminal offenses (basically anything that could subject a defendant to incarceration)

Qualifying mental disorders include:

- Schizophrenia
- Schizoaffective
- Other psychotic disorders; bipolar, major depression
- Other mood disorders; and anxiety disorders

It does not include anti-social conduct or personality disorders alone

ORS 161.365 defines process for preliminary/initial court ordered evaluations before defendant found unfit to proceed (court signs an order sending defendant to OSH for evaluation/examination not to exceed 30 days)

ORS 161.370 describes the effects of a finding of unfitness and defines the process to restore defendants:

- (1) defendant is examined by a certified evaluator who submits a written report to the court or
- (2) court holds a hearing to make a determination about defendant's fitness to proceed

Three possible outcomes:

- (1) sent to OSH for restoration treatment;
- (2) receives local, community-based restoration treatment, or
- (3) if defendant does not meet hospital criteria, but is not suitable for local restoration services, hold in the jail with review hearings every 7 days until another option can be implemented

If a defendant is sent to OSH, he/she cannot be held there beyond the time equivalent to the maximum sentence for the most serious of their charges (or 3 years if the sentence would be more than 3 years); defendants must receive all credit for time served in jail and at OSH

If a defendant has served the maximum possible sentence on his/her case, including all time spent in jail and at OSH, the court must dismiss the charge or charges

If a defendant is restored to competency, then his/her case or cases are returned to the criminal docket to proceed in the normal course

If a defendant is determined never able to aid and assist, the court must dismiss the charge or charges, regardless of the seriousness of the offense or offenses

New Legislation

Senate Bill 24 was signed into law by Governor Brown on July 15, 2019
Amended ORS 161.365 and 161.370

Requires that CMHP (in Jackson County, this is JCMH) evaluate all AA defendants to determine whether services and supervision necessary to safely allow the defendant to gain fitness are available in the community

To be placed at OSH, must be a finding that either the defendant is a danger to self or others as a result of a qualifying mental disorder and that a hospital level of care is required due to the defendant's dangerousness and the acuity of the symptoms of the defendant's qualifying mental disorder AND that services and supervision necessary to allow the defendant to gain fitness are not available in the community (If the most serious charge is a misdemeanor, either a certified evaluator or the CMHP must make a determination that the defendant does require a hospital level of care due to the defendant's dangerousness and the acuity of the symptoms of the defendant's qualifying mental disorder)

If OSH determines defendant is no longer dangerous, or a hospital level of care is not necessary due to the defendant's dangerousness and the acuity of the symptoms of the defendant's qualifying mental disorder, or the services and supervision necessary to allow the defendant to gain fitness are available in the community, then the court must order the CMHP to conduct an evaluation within 5 judicial days to determine whether services and supervision necessary to allow the defendant to gain fitness are available in the community

Within 10 days of receiving the CHMP report the court shall hold a hearing to determine an appropriate action

Outcomes could include:

- OSH commitment, community restoration
- Release on supervision
- Civil commitment
- Guardianship
- Dismissal of the charges

Court must consider the primary and secondary release criteria under ORS 135.230, the least restrictive options for the defendant, the needs of the defendant, and the interests of justice (this also applies to the 7-day review hearings)

Proposed New Legislation to fix SB 24 (SB 1575 2020 Regular Session)

For felonies, hospital level of stay required due to public safety concerns or acuity of symptoms of defendant's mental disorder, and that appropriate community restoration services are not provided

For misdemeanors, requires either a recommendation from certified evaluator that defendant requires hospital level of care and statement from CMHP concerning available community restoration services, or for court to make certain findings concerning severity of defendant's symptoms, present public safety concerns, and whether appropriate community services are provided. Also, would modify the procedures when circumstances authorizing commitment of the defendant no longer exist.

Jackson County AA Docket

Two judges (Cromwell and Greif) oversee all AA cases

Have established AA court procedures and processes with designated staff

Have a designated judge queue for two AA judges to review all AA forensic evaluations & reports, community consultation findings report, motions, and orders

AA staffing sessions every other Tuesday at 2 pm for misdemeanors and low-level felonies (schedule staffing by submitting request for staffing and signed ROI to court and contacting Judge Greif's Judicial Assistant, Melissa Wells)

Possible outcomes:

- civil commitment
- dismissal/ reduction of charges
- guardianship
- community-based restoration treatment
- quasi diversion/deferred proceedings
- formal AA process and placement at OSH

AA court sessions every Tuesday at 4 pm (get on the docket by contacting Judge Greif's Judicial Assistant Melissa Wells or Judge Cromwell's Judicial Assistant Janean Rockwell)

Multiple types of situations: for judge to determine fitness to proceed under ORS 161.370 (including contested hearings); for judge to order community based restoration services and conditions of release; for judge to monitor/do status & compliance

checks on those defendants participating in local restoration services; for those defendants returning from OSH who are still unable to aid & assist but no longer meet hospital criteria under ORS 161.370(9)(b) and require a 7 day review hearing; to hold a hearing under *Sell v. United States* to determine if a defendant can be involuntarily medicated to restore him/her to competency; for those defendants who are restored to competency either at OSH or locally in the community; and for those defendants who are deemed never able to aid and assist

Jackson County's AA docket is based on Multnomah County's model, which was started in 2016

Designated judges, prosecutor, defense attorney, probation officer, jail sergeant, manager from Options, and manager from JCMH (our community mental health program) oversee and manage all AA cases

Goals are to determine best options for defendants, have a more efficient and humane system, have consistent processes and procedures, and reduce custody time for defendants

Challenges

Sheer numbers of defendants who cannot aid & assist

High acuity of symptoms

Lack of space at OSH

Limited space/dates for transports

- Jail transports most defendants to OSH on Thursdays, but can transport on other days to meet statutory 7-day transport requirement
- 2017:27 Thursday transports; 2018: 46 Thursday transports; 2019: 63 Thursday transports

Limited resources for local restoration services

No secure residential treatment/placement facilities in Jackson County

Lack of transitional and permanent housing for those with behavioral health issues

Limited mental health providers: psychiatrists, counselors, case managers, etc.

Limited adult foster homes (15 people currently on wait list)

High number of AA defendants with co-occurring substance use disorders (60-90%)

- Many meet residential treatment criteria and we have limited residential A & D beds

Many AA defendants are homeless (60-70%) and have a difficult time meeting even their basic needs

Collaboration

LPSCC Mental Health Task Force has been meeting on at least a quarterly basis since 2012

Mental Health Court since 2015

- Team members include representatives from District Attorney's Office, Public Defender's Office, Community Justice, JCMH, Options, Columbia Care, Addictions Recovery Center, VA, MPD, JCSCO
- High level of success and ongoing stability with MHC graduates
- A significant number of MHC participants started out in the AA caseload and many of those were at OSH for restorative services/treatment
- Mental Health Court Advisory Board with 24 community members meets twice a year

OJD Behavioral Health Advisory Committee

- TCA Tina Qualls, Judge Cromwell, and Judge Greif are members
- Advise the Chief Justice on best-practices for use in case and docket management, and decision-making, in cases involving court users with behavioral health issues
- Judge Greif chairs the MHC subcommittee

PSRB/GEI Legislative Workgroup (Judge Cromwell is a member)

SB 24 Implementation Workgroup (Stacy Brubaker is a member)

SB 973 IMPACTS Grant Committee (Stacy Brubaker is a member)

Questions/Discussion

Danny: It sounds like for you to be able to do something, they have to be in your system.

Judge Greif agreed it is the problem. They don't get many people to voluntarily do it, whether its treatment court or juvenile court. It's difficult to navigate your way through barriers. There are so many factors that play into that. Often external motivation is important like, threat of jail, court mandate, state hospital, threat of losing your kids, you need that external motivation in addition to anything internally. Most of the people in mental health court are there because they don't want to go to go to prison or because they're going to get felonies dismissed, or a felony reduced to a misdemeanor.

With certain allegations being decriminalized, we now no longer have the hammer to hold over people which is the catalyst of helping them recover.

Danny: Do you think increase in commitments, also corresponds with increase in criminal felons?

Judge Greif agreed. The fact of the matter is there are many failures to appear, they get a warrant then new charges and get out and do the same thing again. Using other substances if you have a mental illness is going to exacerbate your symptoms. It's a revolving door.

Danny: Nearly 68 of 14,000 in a year is a win, but they take a lot of resources.

Judge Greif: Mental health court is capped at 15 people and that's exactly why. They're so resource intensive.

Sheriff Sickler: How many times have you seen somebody coming in to the criminal justice system have a substance use disorder but maybe not present as mentally ill, but down the road you see it. Does that happen quite a bit?

Judge Greif: Yes, and you see them gradually move up in seriousness of offenses.

PSCC AA Data

OSH AA Census (first column is the number of defendants at OSH from Jackson County each month and the second column is the percentage of defendants who are there with felony charges)

12/18	21	(66.7%)
1/19	19	(78.9%)
2/19	17	(70.6%)
3/19	20	(75%)
4/19	28	(82.1%)
5/19	28	(75%)
6/19	27	(77.8%)
7/19	26	(76.9%)
8/19	25	(80%)
9/19	21	(95.2%)
10/19	26	(76.9%)
11/19	29	(82.8%)
12/19	21	(95.2%)
1/20	19	(94.7%)

Jackson County AA population at OSH went from 5 people in April 2018 to 29 people in November 2019
We are averaging 5 new admissions per month to OSH

Cost

Average stay at OSH is 80 days
Cost per day per patient as of 1/28/20 = \$1285
Average cost per patient: \$1285 x 80 = \$102,800

OSH Population

As of 1/28/20, roughly 280 people were at OSH due to AA
OSH officials expect the number to hit 300 within the next few months
AA represents 44% of the OSH population which also includes people there on civil commitment and GEI cases
Civil commitment cases: 50-person waitlist to be admitted to OSH (average hospital stay 120 days)
GEI admissions are up significantly as well (average hospital stay 900 days)

ANNOUNCEMENTS/OTHER BUSINESS

ERIC GUYER, CHAIR

DISCUSSION	
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Next Scheduled PSCC Meeting: February 25, 2019

Meeting Adjourned: 12:52 pm