

MINUTES

Public Safety Coordinating Council
Community Corrections Committee
Hult Plaza Conference Room
401 East 10th Avenue – Suite 500 – Eugene

May 21, 2002 – 3:00 P.M.

PRESENT: Gretchen Pierce, Chair; Ron Chase, John Clague, Bob Hickok (for Jan Clements), David Factor, David Garnick, Tricia Hedin, Jan Gund, Grant Nelson, Rob Rockstroh, and Ilisa Rooke-Ley, members; Myra Wall Downing, staff.

ABSENT: Mary Ann Bearden

GUESTS: Tony Bieda, Bob Denouden, Linda Eaton, Jenni Freeman, Julie Losco, and Mark Stevens.

Ms. Pierce called the meeting of the Public Safety Coordinating Council (PSCC) Community Corrections Committee to order at 3:05 p.m.

1. Approval of Minutes

Mr. Garnick moved, seconded by Mr. Rockstroh, that the minutes of the April 16 meeting be accepted.

Mr. Chase requested that sentence 1, in paragraph 8, on page 4 of the minutes be changed, as follows:

Ms. Eaton said not all participants in the Lane County Sex Offender Treatment Program were included in data submitted for quarterly reports. *She said* because it was permitted to *only* release individual information about persons who gave ~~their~~ permission.

Ms. Pierce determined there was no objection to the request and stated that the minutes were amended.

The motion to accept the minutes was adopted unanimously, 11:0.

2. Bennett Report Review

Ms. Freeman referred to a document entitled “Jail Population Management Plan” distributed at the beginning of the meeting. She noted that it contained synopses of the conclusions and of the chapters of a report prepared by David M. Bennett in 1996 regarding management of the Lane County Jail.

Ms. Freeman said the report presented two main conclusions, as follows:

1. A specific number of jail beds should be constructed to meet the needs of the Criminal Justice System and to ensure effective protection of the public.
2. Operational adjustments should be made in the Lane County justice system to enhance case processing, minimize long-term bed space needs and effectively manage both the new and existing jail beds.

Ms. Pierce noted that the summary of the chapter of the Report entitled “Jail Capacity Forecasts” identified different ways to calculate the average length of Jail stay in Lane County in 1984-85 and 1990-95, and compared them with the average length of stay in the Jails of comparable communities. She said reducing lengths of stay appeared to be one way to reduce the number of persons forced to be released from Jail through the matrix system.

Mr. Clague stated that regulations created by Measure 11 and Senate Bill 1145 had steadily increased the average length of Jail stay in Lane County. He suggested that Jail served three purposes – it ensured that persons appeared for court proceedings, it was punishment, and it could be rehabilitation. He said there were other means to accomplish each purpose.

Mr. Factor said eliminating Jail releases through the matrix system could be accomplished by providing pre-trial supervision of accused persons outside of Jail. He said building new Jail beds would not eliminate the matrix, but that policy choices made regarding law enforcement and public safety were the most effective means.

Ms. Pierce said she believed that if Jail releases through the matrix system were perceived to be a public problem, voters would have approved jail expansion measures placed on recent ballots.

Mr. Factor suggested that developing coherent policy for dealing with mental health and other, non-public safety problems that Jail was used to solve could reduce over-crowding and release through the matrix system problems.

Mr. Clague said he did not believe there was a single answer to eliminating matrix system Jail releases, but that diversion and early release programs, Forest Work Camp, Parole and Probation supervision, and Custody Referee agreements would be a part of it. He said recognizing that different communities had different community standards for the use of the Jail was also important.

Mr. Rockstroh said he agreed that there was no consistency about who was a risk to the community and the appropriateness of the release of various individuals from Jail. He suggested that a practical agreement about such policies could be developed and proposed by the PSCC.

Ms. Rooke-Ley said she did not believe a way to improve the success of Jail sentencing would be easily found.

Ms. Pierce said that unless a way was found to deal with matrix system jail releases, the public would never consider the justice system successful.

Mr. Rockstroh said it was well known that locking individuals in Jail was not an effective way to change criminal behavior.

Ms. Gund said an additional factor was that certain individuals knew how to “use the system” to their own benefit and until there was a reduction in the number of Jail matrix releases; Jail sentencing would continue to be unsuccessful.

Mr. Clague said a recent article in *The Oregonian* showed that the Jail problems faced by Lane County were found statewide.

Mr. Nelson suggested that it would be important to decide if Jail was to be an end in itself or one of a number of tools used by society in dealing with criminal behavior.

Ms. Freeman reviewed recommendations found in Chapter 5 of the Bennett Report entitled “Jail Population Management,” as follows:

- *Custody Referee* – Staffed and operated 24 hours a day. All defendants, including those released through the matrix system, should be monitored and tracked. Release criteria should be validated.

Mr. Clague said implementing this recommendation could significantly reduce the Failure to Appear rate of the county.

Ms. Rooke-Ley said it was her experience that information provided by reports of the Custody Referee was frequently inaccurate.

Mr. Factor said he received few complaints about operation of the Custody Referee.

Ms. Hedin suggested that inaccurate information provided by the Custody Referee could have been erroneously provided to them.

Mr. Clague said loss of the Custody Referee supervisor was being compensated for by line workers and that the effectiveness of supervision of the program was improving.

- *Arraignment Proceedings* – Increased emphasis should be placed on resolving cases at court arraignment, reducing the number of failure to appear.

Ms. Hedin said deferred adjudication programs of the District Attorney had increased the number of cases resolved at arraignment and that it was her experience that defense attorneys were receiving necessary records earlier than had been previously true.

- *Court Process* – 90% of cases should be heard within 14 days of arrest.

Ms. Rooke-Ley said progress was being made in implementing this recommendation.

- *Sanctions* – A structured Day Reporting Center would reduce jail bed needs.

Mr. Nelson reported that a program which functioned as a Day Reporting Center has been instituted by Parole and Probation which could handle up to 15 persons a day. He said the program had no special funding and was operated by officers as part of their other responsibilities.

Mr. Rockstroh said generally accepted research showed Day Reporting Center programs were effective alternatives to the use of Jail. He said support for establishing a fully functional program in Lane County had been thwarted in the past by the presentation of bogus information about their value.

- *Information System* – An integrated criminal justice information system should be developed and include all county agencies and like to the Oregon Justice Information Network (OJIN).

Mr. Clague said completion of the AIRS Conversion Project was meant to assist in this recommendation but was not an integrated system with other systems.

Ms. Wall Downing noted that the PSCC Risk Assessment Project (RAP) was an example of an integrated system because it connected information from PC AIRS and the Department of Corrections.

- *Overall Conclusions* – A formal Office of Criminal Justice Planning should be given responsibility of facilitation of PSCC and provide research staff.

Ms. Freeman said LCOG staff was providing some of the services included in this recommendation.

Ms. Pierce said she was hearing that although it was taking a while, progress was being made to implement recommendations of the Bennett Report.

Ms. Wall Downing observed that a mark of progress being made was that there were “few surprises” presented at PSCC meetings.

3. ACES Evaluation Review

Ms. Pierce noted that the assigned presenter for developing criteria for the Evaluation Review of Addiction Counseling and Education Services (ACES) was not present and that the consideration of it would be postponed until the next meeting.

4. Legislative Issues

Ms. Wall Downing referred to a document entitled “Community Corrections Committee Proposed Legislation” distributed at the beginning of the meeting and noted that it contained descriptions of issues which could be proposed for inclusion in a PSCC Legislative Agenda to be supported in the 2003 Oregon Legislative Session.

A. Medicaid Reimbursement

Mr. Rockstroh explained that federal regulations prohibited reimbursement for physical and mental health services normally covered by Medicaid through the Oregon Health Plan for an incarcerated adult or juvenile. He said such persons were also often “disenrolled” from

Medicaid eligibility and that the services provided during the extended time required for re-enrollment were the responsibility of the justice system.

Mr. Rockstroh suggested possible Legislative solutions to the problem, as follows:

- Establish that those incarcerated for a period of one year or less would have Medicaid eligibility suspended, rather than being disenrolled.
- Establish that those who are disenrolled were immediately re-enrolled upon release to the community.
- Establish that the state use non-federal resources to pay a portion of the cost of health services for incarcerated persons.

Mr. Rockstroh said the proposed solutions would be “hard to sell” to legislators because they were difficult to understand and could be seen as shifting the responsibility for costs from local jurisdictions to the state.

Ms. Hedin said state currently paid for health services for those incarcerated in State Prisons and that it should be possible to create a case for similar coverage for those incarcerated locally. She also stated that it had been proposed in the 2001 Legislative Session that private insurance companies not be able to stop health coverage for incarcerated persons. She said the proposal had not been adopted.

Mr. Bieda said an initial step in formulating a legislative action proposal to correct the situation was to secure an accurate estimate of the cost for health services to jurisdictions operating detention facilities.

Mr. Clague reported that the Lane County Jail was currently approximately \$350,00 over its \$1 million annual budget for health care services.

Mr. Bieda suggested that it would also be important to determine if shifting the cost of medical care to detention facilities for incarcerated persons was a deliberate decision or unintended consequence.

Ms. Wall Downing asked if the issue of reimbursement for the cost of health care services was overly complex for consideration by the State Legislature.

Mr. Bieda said the cost of health care had a significant influence on many areas of government and that it might be possible to get the attention of Legislators for the issue. He suggested that a concrete proposal be devised which would provide a statewide solution to the problem.

Mr. Factor suggested that one approach to the issue would be to seek an additional waiver for the use of Medicare resources, as had already been done for the Oregon Health Plan.

Mr. Bieda added that a solution might be as simple as applying provisions of the state formulary for the purchase of drugs to local health care costs.

Mr. Factor said he believed the federal policy was that “bad people in jail should not get Medicaid funded health care.”

Ms. Pierce asked if the issue was of concern to the Oregon Department of Corrections. Mr. Rockstroh said he did not believe it was a high priority for the department because the cost of the services was paid by a separate agency.

Mr. Bieda suggested that it would be helpful to understand if the medical needs of incarcerated persons were different than the general population.

Mr. Clague said it was his experience that the need for mental health services was higher for incarcerated persons. He suggested that linkages with community based mental health services be established for incarcerated persons before they were released from Jail.

B. Agencies Authorized to Secure DNA Samples

Mr. Nelson explained that Oregon Revised Statute 137.076 required that DNA record of blood or oral cavity samples and thumbprints be maintained by the State Police for persons convicted of certain crimes. He said the description of those authorized to obtain and transmit the samples was limited to law enforcement agencies “attending upon the court.” He said clarifying language to enable parole or probation officers and jail custody staff to do the work was needed.

Mr. Clague suggested that the issue was a minor matter and should have low priority in the PSCC Legislative Agenda.

Ms. Pierce suggested that the proposed remedies could be easily accomplished and should be included in the Legislative Agenda as a “slam dunk” exercise to allow the experience of success.

C. Credit for Time Served on Consecutive Sentences

Ms. Hedin explained that credit for pre-trial time in Jail was applied to all sentences served concurrently, but only to one sentence of those served consecutively. She said the practice was intended to make the time served by persons convicted of the same crime equal who were able to raise bail and those who remained in Jail. She said she believed the practice was based on an interpretation of court guidelines and, if changed to allow the credit to apply to sentences served consecutively, could free up a significant number of Jail bed days.

Mr. Clague said there was a similar issue related to “good time” credit. He said it was not allowed to begin to be earned until there was a conviction.

Mr. Nelson said the proposal defeated the purpose of allowing judge discretion to sentence persons to consecutive or concurrent terms. Mr. Factor agreed and said he did not believe the proposal would be supported by judges of the Circuit Court.

Ms. Pierce suggested that deciding if the proposal should be supported would only be possible if specifics were written out for members to study.

Mr. Bieda suggested that an inventory be taken of whether there were other practices which extend the time of sentences.

Mr. Factor said that although the proposal would change established policy and be resisted by those who set it, there was no reason to not attempt to make the change.

Ms. Rooke-Ley said she believed the District Attorney's Office would file additional charges or find other ways to avert the consequences of a change such as proposed.

5. Other Business

Mr. Nelson referred to a document entitled "Community Corrections Budget Reduction Policy Options" distributed at the beginning of the meeting. He explained that additional cuts to Parole and Probation budgets were anticipated for the 2003-05 biennium. He reviewed choices to incorporate the reductions included in the document, as follows:

- Reduce post-prison supervision sentences
- Reduce probation sentences
- Convert felony possession of a controlled substance to a misdemeanor.
- Impose Day Fines instead of supervised probation for selected offenses.

Mr. Nelson said Community Corrections Directors did not support the options because they would be ineffective, impact jail capacity and be difficult to re-instate current services. He said the directors believed giving Parole and Probation workers discretion for early release would be a more effective way to reduce costs.

Mr. Nelson referred to a document entitled "Steering Committee Report" distributed at the beginning of the meeting and reviewed its description of the weaknesses of Senate Bill 1145. He said Community Corrections Directors were making a study of recommending counties "opt out" of its provisions.

Ms. Pierce said that a decision to not participate in the provisions of the bill was significant and that all implications of the decision should be included in the study.

The meeting adjourned at 4:00 p.m.

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