

MINUTES
Justice Coalition Executive Committee
December 9, 2021

Members Present: Judge Tom Eagon, District Attorney Louis Molepske, Corporation Counsel Dave Ray

Members Unavailable: Judge Robert Shannon, Public Defender Anne Renc, County Board Chair Al Haga, Sheriff Mike Lukas, County Executive Chris Holman, Judge Patricia Baker

Staff Present: Andrea Behnke and Paula Cummings, Justice Programs Department

Chair Eagon called the meeting to order at 8:00 am in Conference Room D in the Portage County Courthouse.

1. Approve Minutes of June 10, 2021 Meeting

Due to lack of quorum, this action item is postponed until the next meeting.

2. Review of Justice Programs Statistics from the Previous Quarter

Behnke provided statistical data with the agenda packet to all members prior to the meeting (originals in meeting file). Behnke discussed and highlighted the following from those handouts:

Relative to the Diversion Program – 2018-2021

Behnke referenced two Diversion Program attachments related to year 2021 and 2018-2021 statistics.

Relative to Portage County Jail Population – Year 2021

- Average jail population at end-of-month of is 20-21 inmates with an additional 30+ housed in Waupaca County.
- Juvenile detention population averages 4-5.
- Home Detention Program (HDP) participation is down with less than 10 in each of the last three months.

Relative to Adult Drug Treatment Court – Current

- There are 8 participants, with 2 pending admission and 2 under review.
- There have been 5 graduations in 2021. Statistics have been good relative to those who graduate and return to the justice system with drug-related offenses. Noting, some have been found guilty of other offenses. Eagon asked if other offenses were tracked that may be related to drug use. Molepske noted cases such as theft to resell items to buy drugs. Behnke replied there is no way to confirm that to be the case, felt it should not be added to statistical numbers, and suggested a column “other” could be added. Ray suggested using a footnote stating this is an “assumption”.
- In 2021, there have been 4 participants terminated and 6 found ineligible. Of the 6 ineligible, there were 4 with violent offenses, which is the largest denial category. County funding would be necessary to add additional seats for violent offenders in Treatment Court because TAD funds cannot be used for violent offenders. Statistically, violent offenders do well in Treatment Court.
- There was one administrative discharge due to death.
- Daily incarceration savings from March 20, 2017 through November 14, 2021 totals \$1,578,188 in a medium security facility and \$1,926,500 in Portage County jail. Yearly totals will be reported starting in 2022.

Relative to Justiceworks – Year 2021

- FLIC has served 787 people from January-October 2021, with fees collected of \$18,500.
- Community Residential Program (CRP) mentoring had 75 clients from January-October, with 29 new admissions, 19 successful discharges, and 9 unsuccessful discharges during that same period. The average number of clients served per month is 10, with a new admission each month. It was noted that Portage House is looking to provide NARCAN to individuals when discharged. Portage House has NARCAN on site and staff are trained in its use. Three-Bridges from Wood County provided NARCAN to Portage House. Eagon felt this a hard juxtaposition. Behnke explained the Wisconsin Department of Corrections was contacted about this procedure and was not against it.

Relative to Day Report – January through October 2021

- Admissions are low.
- 34 case management sessions.
- High severity violations average 1 per month and open cases with 10+ violations average 10.
- There were 73 successful discharges; all successful discharges.
- There are 51 average participants at end-of-month, which reflects a decrease compared to the last two years.
- Breathalyzers ordered by the Department of Corrections are up. Eagon asked if the County was reimbursed for those tests and Behnke replied yes, they actually pre-pay \$40 per month.
- No positive breathalyzers in October.
- There were 51 missed breathalyzers in October, 31 of which had 10+ violations/constant misses.
- There were 12 excused misses for: COVID, in custody, etc.
- UAs were up in August and down to the 40's for the months of September and October.
- Misses average 20, with 45 in October, 24 of which had 10+ violations.

Relative to Pre-Trial – January through October 2021

- Average of 24 participants at end-of-month.
- Breathalyzers primarily used for OWI clients and average 200-220 per month, with a low number of positives.
- Number of missed breathalyzers in October total 11, with 3 misses by those with 10+ violations.
- The number of UAs is low, as well as missed UAs.
- Case management numbers have increased.
- There have been only a few high severity violations throughout the year.
- Discharges have been successful, with no terminations.

Relative to Post-Sentence Supervision – January through October 2021

- Participants average 13 at end-of-month.
- There have been zero positive breathalyzers and only a few misses.
- There were 11 UAs for the year, with high severity cases at zero the last few months.
- One unsuccessful discharge in August.

Overall Results

-Most common positive test results are for: Amphetamine, Methamphetamine, and THC.

-PBTs average 350 a month, with 9 positives and 607 misses - 429 of those with 10+ violations.

-High severity violations average 1 per month

Behnke noted when a “miss” occurs, JusticePoint staff checks with the jail to see if the individual is incarcerated. There was one individual whose bond was amended, and Day Report staff was not notified, so this was logged as a miss. As for those with 10+ violations, this could be due to an extended period in the Court system, while some individuals just do not show up.

Behnke provided and read through a matrix describing the process to be used for low, moderate, and high violations, as well as immediate custody individuals. This matrix describes what is considered a violation in our programs. Molepske referred to comments made by Lukas at the June meeting (as found in the minutes) regarding ramifications participants experience when they violate. He noted the Attorneys looked at this and an individual could have high violations and have a plea set already, could be uncharged/read-in, one was in warrant status, and they found bail jumping filed on seven individuals. Molepske noted a large staff turnover in his office as well. Molepske stated he reached out to Lukas and is waiting on a callback. Behnke asked Molepske if he would like staff to be trained again and Molepske replied yes. Behnke suggested an update to the matrix to indicate OWI clients are sent to Pre-Trial, and all other cases are sent to Day Report. It is easier to refer clients to JusticePoint staff for assessment and placement in the correct program type. She also noted the Court Clerks will be informed.

Day Report and Pre-Trial Costs Averted – January-October 2021

- \$487,122 saved in cost of days in Waupaca
- \$1,281,900 saved in cost of days in Portage County jail

Molepske asked, with the jail census at historic lows (an average of 25), is less staffing needed, or does the staff number not change due to how the jail was built? Eagon indicated he believed the working capacity is 49 with a total capacity of 60. Molepske asked what the low census represents – a change in model? Eagon referenced the release of more Pre-Trial individuals, and that it could also be due to COVID. There has been no change in sentencing. Eagon also noted the number of offender in HDP is also down and Behnke said the population has been less than 10 for a while. Eagon also stated if an individual does well while on Day Report and other programming, their jail sentence is less.

Behnke told members the TAD grant for Treatment Court has been awarded for 2022, but at a lesser amount than requested. The application needs to be resubmitted at \$28,000 less and the Finance Department is looking at this. This year the TAD grant process was competitive, and there was not enough money available to fund all applications at 100%. She also noted the Diversion Program must create an Oversight Committee, which should begin meeting now. Behnke will Chair this Committee, which will approve all policies related to the Diversion Program. Molepske asked why this committee is needed now and Behnke replied the committee requirement is in Statutes. Molepske let Committee members know the Diversion Program money awarded will allow them to keep the Diversion Program Assistant position.

3. Update on Pretrial Programming

Behnke noted during her department's budget hearing, money she added to revamp evidence-based practices was declined, and the Finance Department is looking to utilize American Recovery Plan Act (ARPA) funds instead as part of a larger Court package. All dollar amounts needed were provided in April, and if approved, the Non-Monetary Bonds Work Group would need to reconvene. The proposed Court package would impact program needs. Eagon asked if this would include funds for HDP and Pre-Trial. Behnke replied the Sheriff's Office is not taking that on at this time, so she talked to Holman about Justice Programs taking it over. If that should happen, a work group would be needed, which would include domestic violence advocates. This would be a passive monitoring system without overnight checks. Molepske stated the Judicial General Government Committee wants a Request for Proposals related to a public risk assessment of those out on signature bond. Other counties our size will be contacted to see what is being paid to JusticePoint to up their contract for this process. He acknowledged there is public misinformation out there regarding bail for and the release of offenders.

4. Proposed Pre-Trial Fee Policy

Due to lack of quorum, this item is postponed until the next meeting. Molepske questioned whether this proposed policy language includes the Diversion Program. Behnke replied no, she does not supervise Diversion, and Justice Programs refers to her Department. To make the language clearer, Behnke will add "Department" after Justice Programs in the proposed language. Molepske suggested reviewing the Statute fee schedule and funding of certain operations.

5. Update on Day Report/Pretrial/Post Supervision Violation Reports

These figures were discussed and/or can be found in the statistical handouts under agenda item 2 above.

6. Update on Treatment Court Treatment Team Tune-Up Training Recommendations

Behnke referenced the task plan portion of the handout (page 2) related to the National Drug Court Institute (NDCI). Items on the Task Plan include: 1. Discuss changes to referral procedure between public defender and district attorney and 2. Gather drug offense data and compare to drug court referrals. There is an unwritten policy that the Public Defender and District Attorney cannot refer anyone to Treatment Court unless agreed to by the District Attorneys' Office. NDCI felt this was a hinderance. Molepske felt that was not accurate and believes his office asks the Public Defender if their client wants to go to Treatment Court. Eagon asked if the suggestion was to formally get rid of any unwritten policy as part of the mutual recommendation process. Molepske noted he would not want clients in Treatment Court without knowledge. Behnke stated when a referral is made and all assessments are completed, a letter is sent to all parties if a person qualifies for Treatment Court or not. If a request is made at sentencing, it is up to the Court whether the person enters Treatment Court. Molepske stated he would like to discuss this with Renc. Eagon felt a referral is a referral and asked if a Public Defender can make a referral. Behnke answered yes, but only if approved by the District Attorney's Office. Molepske said we would like our number of Treatment Court participants to grow to the maximum of 20. He then noted Judge Flugaur had suggested the District Attorney must be on-board with participants coming into the program and Molepske had agreed his office needed to know what was going on. Molepske stated he would reach out to Renc. Behnke felt eligibility could be revised; as an example having participants be high risk/high need was added. As part of the tune-up, the Treatment Court brochure will be updated, and a mental health provider will be found for participants. Eagon asked about the brochure update and Behnke noted the brochure, as well as all Treatment Court information can be found on-line. Eagon asked if the tune-up information had been provided to the District Attorney and Behnke confirmed that took place at the training itself.

7. Discussion of the Agenda Items for January 20, 2022 Justice Coalition Meeting

Molepske suggested a concise discussion on pre-trial release take place at the next Justice Coalition meeting because people do not seem to understand the process of signature bonds and cash bonds. Eagon noted an offender proxy tool had been used in the past to help with assessment of individuals as completed by District Attorney staff. Cummings noted she then received the proxies and created a spreadsheet containing the information for 100's of individuals and at a certain point, as decided by a former Justice Programs Director, this was sent for third-party analysis (J-SAT in Colorado/Brad Bogue), with results sent back for discussion by the Justice Coalition. Use of the proxy tool was discontinued.

Meeting adjourned at 9:10 am.

Respectfully submitted,

Paula Cummings
Recording Secretary