



COUNTY OF SAN DIEGO

AGENDA ITEM

BOARD OF SUPERVISORS

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DRAFT

DATE: March 24, 2020

XX

TO: Board of Supervisors

SUBJECT

AUTHORITY TO CONTRACT WITH AND ACCEPT FUNDING FROM THE DEPARTMENT OF STATE HOSPITALS FOR A FELONY MENTAL HEALTH DIVERSION PROGRAM (DISTRICTS: ALL)

OVERVIEW

Expanding community-based treatment and reducing the number of individuals who cycle through psychiatric crisis and jail largely due to untreated mental illness are top County of San Diego priorities. Today's request would add a new local option to divert people with serious mental illness from jail and the justice system into treatment by authorizing the County to enter a contract to receive funding from the Department of State Hospitals (DSH). The proposed action would establish the County's first formal pre-trial mental health diversion program.

Mental health diversion, pursuant to Penal Code 1001.36, allows a court, under certain circumstances, to postpone criminal prosecution for a period of up to two years for an individual to receive community-based treatment and to dismiss the case at the end of a satisfactory diversion. State funding is allocated through the DSH to support county diversion programs for individuals charged with felonies related to specific serious mental health diagnoses who may potentially be ruled incompetent to stand trial.

Partners in the proposed mental health diversion program include the District Attorney's Office, the Sheriff's Department, the Public Defender, the Health and Human Services Agency, the Probation Department, and the Court. The program design is based on San Diego County's successful Behavioral Health Court, which provides Assertive Community Treatment, wraparound services and regular hearings before a judge and other collaborative court partners to support individuals whose crimes are related to serious mental illness.

Today's request would authorize the Deputy Chief Administrative Officer (DCAO), Public Safety Group, to execute a contract with the Department of State Hospitals (DSH) to accept up to \$3,220,000 in state funding for a Pre-Trial Felony Mental Health Diversion Program and to execute all required contract documents, including any extensions, amendments or revisions thereto, that do not materially impact either the program or funding level.

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RECOMMENDATION(S)

CHIEF ADMINISTRATIVE OFFICER

Authorize the Deputy Chief Administrative Officer (DCAO), Public Safety Group, to execute a contract with the Department of State Hospitals (DSH) to accept funding for a Pre-Trial Felony Mental Health Diversion Program and to execute all required contract documents, including any extensions, amendments or revisions thereto, that do not materially impact either the program or funding level.

FISCAL IMPACT

If approved, this request will result in costs and revenue of approximately \$4,564,000 for a contract term beginning in Fiscal Year 2019-20 and extending through Fiscal Year 2022-23, The funding sources are State General Funds through the Department of State Hospitals (\$3,220,000), Medi-Cal (\$700,000) and a required 20% match supported with Local Revenue Fund 2011, Community Corrections Subaccount (\$644,000). Staff will return to the Board if appropriations are required in the current fiscal year and funds will be included in future Operational Plans. There will be no change in net General Fund cost and no additional staff years.

BUSINESS IMPACT STATEMENT

N/A

ADVISORY BOARD STATEMENT

On March 5, 2020, the Behavioral Health Advisory Board voted to _____

BACKGROUND

The rate of people with mental illness in jails and prisons nationwide has been steadily increasing since the 1960s. This trend is partially due to the era of deinstitutionalization, which saw large state mental health institutions closed in favor of serving patients in less restrictive community-based care. It has since been continually challenging for governments and communities to provide enough treatment services and residential settings to support populations with serious mental illness and related life issues, such as homelessness. This means jails and prisons see many individuals whose arrests and criminal behavior are related to untreated mental illness and homelessness. Expanding interventions and community-based treatment for these populations is a top priority shared by District Attorney Summer Stephan, the Board of Supervisors (Board), Sheriff William Gore, and the broader community, as reflected in a series of Board actions and the District Attorney’s Blueprint for Mental Health Reform. Today’s action would create a new pathway to treatment and housing for people whose crimes are related to their serious mental illness by establishing the County’s first formal pre-trial mental health diversion program.

If approved, the new local diversion program would be supported by state funding through the Department of State Hospitals Pre-trial Felony Mental Health Diversion Program. Mental health diversion is described in Penal Code (PC)1001.36, which took effect in July 2018. The law allows a judge to approve mental health treatment in the community instead of criminal prosecution when a defendant’s charges are significantly related to a mental illness and the person can be safely released to the community without unreasonable danger to the public. If an individual granted diversion continues successfully in treatment for a period of up to two years, their case is

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dismissed. The DSH funding supports county diversion programs for a particular subset of all people who may be eligible for mental health diversion: individuals charged with felonies, with diagnoses of schizophrenia, schizoaffective disorder, and bi-polar disorder, who are at risk of being ruled incompetent to stand trial.

Partners including the District Attorney, Sheriff's Department, Public Defender, the Public Safety Group, the Health and Human Services Agency and the Court have worked closely over the past months to design a program to meet the DSH requirements and allow a population with serious diagnoses charged with felonies to be carefully assessed and safely diverted from prosecution to community-based treatment. The partners agreed that adding a diversion track to the already successful treatment and collaborative court program Behavioral Health Court would be the best approach.

Behavioral Health Court (BHC), established in 2010, currently provides Assertive Community Treatment, housing, case management and wraparound services through a contracted treatment provider. The program serves people with serious mental illness who have pled guilty and agreed to the court process, probation and treatment in lieu of a sentence to custody. A collaborative court team monitors and supports participants, generally for 18 to 24 months. As participants near program's end, the focus shifts to transitioning to ongoing community care at the appropriate level to sustain recovery and stability. Behavioral Health Court Diversion would substantially mirror the current BHC program, except participants' legal status would be guided by PC 1001.36. BHC Diversion participants would agree to regular court check ins and to monitoring by a probation officer in exchange for suspended criminal proceedings, comprehensive treatment and housing, and dismissed charges with successful program completion.

Total program costs are estimated at \$4.6 million over three years, with an estimated \$3.5 million of that supporting up to 35 diversion participants at any given time with wraparound treatment and housing. The DSH contract would allow the County to receive up to \$3,220,000 in state funding for Behavioral Health Court Diversion over a three-year program period. The DSH program requires counties to provide 20 percent local matching funds, which the County would provide using up to \$644,000 in Local Revenue Fund 2011, Community Corrections Subaccount funding over three years. Medi-Cal is an additional funding source. In addition to treatment and housing services, program funds would support a probation officer to monitor diversion participants in the community, Superior Court costs to administer an expanded Behavioral Health Court calendar, and GPS monitoring, as appropriate.

The County partner agencies propose to implement the diversion treatment and housing through amending and extending a current contract for Behavioral Health Court services to add 30 BHC Diversion slots beginning April 1, 2020. The Board previously authorized a re-procurement of BHC Services (October 29, 2019 (8)), to include Behavioral Health Court Diversion. The new procurement would be expected to bring BHC Diversion capacity to 35 treatment slots beginning January 1, 2021.

A primary State goal is to evaluate whether funding county mental health diversion programs reduces the number of people transferred from counties to DSH for competency restoration and

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thus reduces State costs. DSH has seen dramatic increases in referrals to State hospitals and associated skyrocketing costs over the past several years. The State’s Fiscal Year 2018-2019 budget included \$100 million in State General Funds to expand county diversion programs, with most of these funds allocated to large counties. The State and DSH plan to carefully monitor overall program outcomes and determine whether funding felony diversion programs is an effective State investment. The DSH contract would require to the County to submit quarterly data to the state on program participants and outcomes. Locally, these reporting requirements will help partners monitor and evaluate the new program, while contributing to the County’s broader understanding of how best to serve people with behavioral health needs who touch the justice system.

Today’s request would authorize the Deputy Chief Administrative Officer (DCAO), Public Safety Group, to execute a contract with the Department of State Hospitals (DSH) to accept up to \$3,220,000 in state funding for a Pre-Trial Felony Mental Health Diversion Program and to execute all required contract documents, including any extensions, amendments or revisions thereto, that do not materially impact either the program or funding level.

LINKAGE TO THE COUNTY OF SAN DIEGO STRATEGIC PLAN

Today’s proposed action supports the Building Better Health and Living Safely Initiatives in the County of San Diego’s 2020-2025 Strategic Plan as well as the County’s Live Well San Diego vision by expanding community-based services to support long-term recovery and stability for people with serious mental illness who touch the justice system.

Respectfully submitted,

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SIGNATURE

HELEN N. ROBBINS-MEYER
Chief Administrative Officer

ATTACHMENT(S)

Attachment A: Contract with the Department of State Hospitals for a Felony Pre-Trial Diversion Program

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AGENDA ITEM INFORMATION SHEET

REQUIRES FOUR VOTES: Yes No

WRITTEN DISCLOSURE PER COUNTY CHARTER SECTION 1000.1 REQUIRED

Yes No

PREVIOUS RELEVANT BOARD ACTIONS:

October 29, 2019 (8), Authorization for Competitive Solicitations and the Amendment of an Existing Contract for Behavioral Health Services

BOARD POLICIES APPLICABLE:

N/A

BOARD POLICY STATEMENTS:

N/A

MANDATORY COMPLIANCE:

N/A

ORACLE AWARD NUMBER(S) AND CONTRACT AND/OR REQUISITION NUMBER(S):

Click here to enter text.

ORIGINATING DEPARTMENT: Public Safety Group

OTHER CONCURRENCE(S): District Attorney
Sheriff's Department
Health and Human Services Agency
Public Defender
Probation Department

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