



CIRCUIT COURT OF THE STATE OF OREGON

NAN WALLER
JUDGE

FOURTH JUDICIAL DISTRICT
MULTNOMAH COUNTY COURTHOUSE
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Dear Judge Rigmaiden and Members of the Task Force,

We are the members of the Multnomah County Circuit Court Mental Health Court (MHC) Management Team. We are writing to clarify the consideration process for MHC. At your last meeting you heard from Chris Behr, Defense Attorney with Metropolitan Public Defender's office on the consideration process for a number of Multnomah County's Treatment Courts. We are concerned that Mr. Behr unintentionally gave you incorrect or outdated information about the MHC consideration process. We are writing this letter to clarify the consideration process, which is intended to be as objective as possible.

The MHC program focuses on serving individuals with a severe and persistent mental illness such as: Schizophrenia, Schizoaffective, Bipolar I or II, and/or Major Depressive Disorder. In accordance with Standard 3 of the Oregon Specialty Court Standards, MHC targets individuals classified as moderate-risk/moderate-need to high-risk/high-need. Our preference, in determining risk level, is to access to the Level of Service/Case Management Inventory (LSCMI) if one has been completed. However, when one is not available, we use the Public Safety Checklist (PSC). For many of the individuals accepted into MHC the negotiations are a prison recommendation if not accepted into MHC based upon the seriousness of their charges. One of our goals is to avoid a prison sentence for individuals with serious mental illness on the belief that prison is not conducive to mental health stability and that the level of supervision provided by MHC, as a treatment court, can help ameliorate public safety concerns.

There are occasions when we have decided to accept individuals with lower risk scores because of the very high acuity of their mental illness and the determination that they could not be successful on a standard probation.

Individuals are screened for program acceptance following the submission of a referral packet; typically submitted by the trial defense attorney, although prosecuting attorneys, probation officers, and other specialty courts are encouraged to refer program eligible individuals. When submitting a MHC referral the referring party is required to submit a validated mental health evaluation to ensure the individual meets diagnostic criteria. We have accepted cases, however, where it has not been possible to obtain a timely evaluation, and jail or medical records can confirm a qualifying diagnosis. We also ask that if there is any indication that the individual has a history of drug or alcohol abuse that an ASAM be provided to identify treatment and complementary service needs. For consideration hearing we ask the Department of Community Justice to provide an overview of any past probation performances. Multnomah County's

Behavioral Health Division compiles an individual's history and evaluations into a comprehensive report with identified needs to make case planning recommendations in anticipation of entry into MHC.

A number of years ago Defense Lawyers raised concerns that the reports were too subjective and made recommendations in line with the writer's assessment of whether the individual would be a good fit for MHC. We listened to that feedback. As a result, the reports no longer contain any recommendation as to whether the individual should be accepted. The reports provide background history on the individual (obtained from the individual), a list of community resources previously accessed and recommendations on what the individual will need if accepted into MHC.

As part of our consideration process, we have an in-person settlement conference. We believe that this is important for a number of reasons. In keeping with the principles of procedural justice we want every individual considering MHC to understand the process and what will be expected of them in MHC. We want defendants who are considering MHC to have the opportunity to be heard before any decision is made. We did not want the MHC team to come to a conclusion that, solely because of the serious nature of the charges, the individual would not be a good fit for MHC. Meeting with individuals can overcome resistance to an offer of probation and MHC based on the seriousness of the charges, when those participating in the consideration process have an opportunity to understand how mental illness has been a driving force in the individual's behavior and their willingness to participate in any recommended treatment.

There was a statement made to you by Mr. Behre that MHC "cherry picks" which cases are accepted. To the contrary, since 2020 the MHC has seen a 40% increase in referral submissions and has a current program acceptance rate of 91%. We have often accepted individuals who, based on their prior performance on probation, are high risk in terms of the chance that they will succeed. However, we firmly believe that individuals with serious mental illness will do better in the community than in prison. MHC is based on the proposition that long-term public safety is better supported if defendants with mental illness receive treatment in the community when that can be achieved safely. We believe in the demonstrated efficacy of treatment courts. We also want to clarify that we do not reject individuals who have a substance abuse disorder in addition to a qualifying mental health disorder. Almost all of our MHC defendants have a co-occurring substance abuse disorder. We have agreed with START and STEP Court that, where the primary driver for an individual is a serious mental illness and they also have a substance abuse disorder, that MHC court will be the appropriate treatment court and vice-versa.

Mr. Behre stated that our consideration process is subjective. We take issue with that characterization. Our process allows us to determine whether the individual meets the criteria for MHC (diagnosis, risk and willingness to follow program rules, including treatment recommendations) in an objective manner while adhering to the principles of procedural justice. Mr. Behr stated that the subjective nature of our consideration process has led to racial disparities in the MHC population. That is simply inaccurate as the data from our dashboard shows that: MHC currently leads the Multnomah County Specialty Courts in participant diversity as evidenced by nearly 45% of the current population being people of color, compared to 31% of

the population on Probation and supervised by Multnomah County's Department of Community Justice's Mental Health Unit.

In conclusion, the MHC offers a comprehensive and tailored approach to addressing both the legal and mental health needs of its participants. By providing specialized support, continuous monitoring, and access to mental health resources, the program fosters an environment where individuals can achieve meaningful progress with the underlying goal to ultimately reduce recidivism. Eligibility to this program aligns with the Oregon Specialty Court Standards and principles of justice and rehabilitation, recognizing that addressing mental health issues is a critical component of achieving both individual and societal well-being. Therefore, it is both prudent and just to support and advocate for the inclusion of individuals who meet the criteria for this program.

Please let us know if there are any questions that you have.

Sincerely,

A handwritten signature in black ink that reads "Nan Waller". The signature is written in a cursive, flowing style.

Multnomah County Circuit Court Mental Health Court Management Team:

Honorable Nan Waller- Oregon Judicial Department Judicial Officer

Karina Mares- Oregon Judicial Department Court Coordinator

Jeffrey Clayson- Multnomah County Deputy District Attorney

Zachary Pedrazzi- Metropolitan Public Defense Attorney

John McVay- Department of Community Justice Senior Manager

Amy Solt- Behavioral Health Division Senior Manager Civil Commitment and Forensic Services

Kathy McCarter- Behavioral Health Division Diversion Courts Program Supervisor

Ashley Wuertzer- Cascadia Health Clinical Director of Community Justice

Laura McNeil- Cascadia Health Program Manager

Geoffrey Moser- Mental Health Addiction Association of Oregon Program Manager