



FOURTH JUDICIAL DISTRICT  
OFFICE OF THE TRIAL COURT ADMINISTRATOR

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Sent by E-Mail

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MEMORANDUM

TO: Defense Bar and General Public  
FROM: Joel Bruhn  
RE: **Recent changes in MCJRP case management**

1. Effective December 12, 2014, the Opt-Out period is extended (one week) until Day 28.
2. Effective immediately, Judge Dailey replaces Judge Walker.
3. Effective January 1, 2015, the District Attorney's Office will provide an electronic copy of the defendant's criminal history report (CCH) by Day 15.

Due to collaboration among the members of Multnomah County's public safety community, the first six months of the Multnomah County Justice Reinvestment Program have been successful. The MCJRP Steering Committee and its program coordinators welcome feedback from practitioners about how case processing can be improved.

Attached to this memo, please find the current case management protocol.

02/09/15 JIB

1. Summary of MCJRP case processing timeline:

Day 1	Arrestment on Indictment
Day 14	Defense Coordinator prompts defense attorney to set LS/CMI* interview
Day 15	District Attorney's Office sends electronic Criminal History Report (CCH) to the Defense Coordinator for distribution
Day 21	Dept. Community Justice (DCJ) will conduct LS/CMI interview by this day
Day 28	Last day to opt out of MCJRP
Day 50	Deadline for DA's Office to file sentencing enhancement factors
Day 61	Deadline for MCJRP report to be made available to parties. Note: DCJ may make the assessment report available at day 51, but the report must be available by day 61
Day 77	Judicial Settlement Conference (JSC) must be scheduled
Day 100	Deadline for JSC to be held

\*Level of Service/Case Management Inventory

- a. Soon after arrestment on indictment, the MCJRP Defense Coordinator will arrange an interview with the Department of Community Justice (DCJ). If no interview appointment is scheduled by Day 14, the Defense Coordinator will apprise defense counsel to arrange an interview or, alternatively, to opt out of the program. The interview should occur before Day 21.
- b. An electronic copy of the defendant's Criminal History Report (CCH) will be sent to the Defense Coordinator for distribution by Day 15.
- c. The MCJRP Assessment Report, including the LS/CMI assessment, will be available between Day 51 and Day 61 from date of arrestment on indictment.
- d. Judicial settlement conferences may be scheduled on Thursdays with one of the MCJRP judges. The JSC may be scheduled at any time after arrestment on indictment, but the date selected should be after the due date of the MCJRP report.
- e. If the case is clearly one in which the state knows unequivocally it will never agree to a probation resolution, the defense attorney should be so notified. The defense attorney can still schedule a JSC: if the defense wants a judge involved in negotiations – holding out probation hope regardless of DA's position; or if defense wants to present mitigating information to the judge to obtain a shorter length in prison than the state recommends.
- f. If the defendant is in custody and both parties believe probation will be the likely outcome, an expedited MCJRP assessment report may be requested to accelerate the process. The parties must make the request to the MCJRP DDA, who will coordinate efforts with DCJ.
- g. JSCs are not required in every case.

2. Opt out: If the defendant does not want to participate in MCJRP, a Notice of Intent to Opt Out must be filed by Day 28 from date of arraignment on indictment.
  - a. The Notice of Intent to Opt Out shall be filed with the court.
  - b. Notices filed beyond the opt-out period will not be effective.
  - c. A motion must be filed with the court to extend the opt-out period.
    - i. The motion must be filed within 21 days from the date of arraignment on indictment.
    - ii. The motion must be accompanied by a declaration specifying one of the following reasons:
      1. Defense attorney was in trial 3 of the 4 weeks;
      2. Defense attorney was on vacation/conferences 3 of 4 weeks;
      3. Defense attorney was ill or on leave 3 of 4 weeks;
      4. Defense attorney unable to locate client despite attorney's due diligence (e.g., homeless/no address or no phone/msg phone).
    - iii. The motion shall be granted or denied based on written submission.
    - iv. If granted, the extension shall be for one week (until Day 35).
3. If defendant files Notice of Intent to Opt Out timely, the case will be processed with Pre-MCJRP protocol.
  - a. If DCJ conducted the Level of Service/Case Management Inventory (LS/CMI) interview or a LS/CMI report was generated prior to Day 28 and the defendant opts out, the information shall be electronically "sealed" until the case for which it was generated is resolved or closed.
  - b. Cases with timely opt outs may set JSCs with any non-MCJRP judge.
4. If the defendant does not opt out, but fails to participate in the LS/CMI assessment:
  - a. The defendant may appear only before designated MCJRP judges, including JSCs and Plea/Sentencing hearings.
  - b. DCJ will prepare a criminal history/past supervision report for JSCs and plea/sentencing hearings without the LS/CMI results or other pertinent information that usually accompanies the MCJRP Assessment Report. The report is called a MCJRP Historical Report.
  - c. If a plea agreement is negotiated, or the defendant chooses open sentencing, the plea and sentencing shall be before a MCJRP judge. After input from the defense attorney, DDA and probation officer, in its discretion the court may either proceed with sentencing or may require more information to be gathered regarding the sufficiency of wraparound services available to meet the risks/needs for that defendant (e.g. inpatient or intensive outpatient treatment, housing, etc.).
    - i. If the state has agreed to a probation offer, then regardless of the additional information gathered, the state will honor its agreement (contract plea).
    - ii. After reviewing the additional information, the judge may accept or reject the probation agreement. If rejected, the defendant may withdraw the plea.
    - iii. If the defendant is sentenced at the same time the plea is taken, then the judge will order LS/CMI assessment as a condition of probation.