



Board Agenda Item 26.1

DATE: September 22, 2020
TO: Board of Supervisors
SUBMITTED BY: Dawan Utecht, Director, Department of Behavioral Health
SUBJECT: Forensic Behavioral Health Jail Diversion Services

RECOMMENDED ACTION(S):

- 1. Approve and authorize the Chairman to execute a retroactive Agreement with the California Department of State Hospitals for non-competitive, one-time funding for a Jail Diversion Program, effective July 1, 2020 through June 30, 2023, total not to exceed \$7,012,440.**
- 2. Approve and authorize the Director of the Department of Behavioral Health, or designee, to be the signatory on behalf of the Board of Supervisors on associated Jail Diversion Program funding documents, expenditure forms and reports.**
- 3. Approve and authorize the Director of the Department of Behavioral Health, or designee, to approve payment to Superior Court of California, County of Fresno for mental health diversion court training without an agreement up to a maximum of \$4,000 through Jail Diversion Program funding, effective upon execution through June 30, 2023.**
- 4. Approve and authorize the Chairman to execute an Agreement with Turning Point of Central California, Inc. to provide forensic behavioral health jail diversion services, effective upon execution through June 30, 2023, which includes one optional one-year extension, total not to exceed \$8,518,804.**

California Assembly Bill 1810 (AB 1810) and Senate Bill 215 (SB 215) enacted an opportunity for California counties that utilize State Hospitals for treatment to inmates who have been found incompetent to stand trial (IST). Approval of the first recommended action will allow the Department of Behavioral Health (DBH) to accept the California Department of State Hospitals (DSH) funding for jail diversion services in Fresno County, as originally approved for application by your Board on October 23, 2018. The second and third recommended actions will allow the DBH Director, as the lead entity of DSH funding in Fresno County, to sign funding documents, expenditure forms, and reports, and coordinate payment to collaborative partner Superior Courts for mental health diversion court training on behalf of your Board. The fourth recommended action will allow Turning Point of Central California, Inc. (TPOCC) to operate a forensic behavioral health treatment program for justice-involved adults with serious mental health illness are found or at risk to be found incompetent to stand trial (IST) on felony and misdemeanor charges. Costs will be funded with DSH diversion funding, Mental Health Services Act (MHSA) Community Services and Support (CSS) and Medi-Cal Federal Financial Participation (FFP), with no Net County Cost. This item is countywide.

ALTERNATIVE ACTION(S):

There is no viable alternative action. If the Board does not approve the recommended actions, Fresno County would lose the DSH Diversion funding opportunity and not be able to provide needed

community-based behavioral health services to justice-involved individuals who have significant mental health challenges and who would otherwise remain incarcerated. Additionally, DBH will have to return to your Board for signature on all necessary funding reports and forms.

RETROACTIVE AGREEMENT:

The recommended revenue Agreement with DSH is retroactive to July 1, 2020 to align with the funding term as set by DSH. DBH received the agreement from DSH via electronic mail on June 9, 2020. The period to prepare and review the associated program service agreement to be funded by DSH funding did not allow presentation to your Board on an earlier date.

FISCAL IMPACT:

There is no increase in Net County Cost associated with the recommended actions. The one-time, non-competitive funding made available by DSH will be in the amount of \$5,843,700. There is a required 20% County contribution match to these funds in the amount of \$1,168,740, with up to 5% (\$58,437) able to be met through County administrative costs associated with program development, reporting and evaluation activities. The three-year combined total for the DSH diversion funding will be \$7,012,440. DSH diversion funding will be used to partially fund Mental Health Diversion Court (MHDC) training and implementation costs by Fresno County Superior Courts, community supervision and MHDC support by Probation and a community-based treatment program service through the recommended Agreement with TPOCC. Probation services began July 1, 2020 with first quarter invoice (\$37,130) due in October 2020.

The recommended Agreement with TPOCC has a total maximum compensation not to exceed \$8,518,804. Services will be fully funded by DSH Diversion, MHSA CSS and Medi-Cal FFP funding. Sufficient appropriations and estimated revenues are included in the Department's Org 5630 FY 2020-21 Recommended Budget and will be included in subsequent budget requests for the duration of this program. Total expenditures are based on actual services provided.

DISCUSSION:

In 2018, AB 1810 and SB 215 amended Penal Code (PC) Sections 1001.35 and 1001.36 to create a pathway for courts to authorize pre-trial diversion for individuals with serious mental disorders who committed certain felony or misdemeanor crimes. DSH released a one-time, non-competitive diversion funding to Fresno County to develop a pre-trial jail diversion program with intent to reduce at minimum 42 felony IST referrals to State Hospitals by connecting them to long-term community-based treatment and supportive services. In collaboration with criminal justice partners, DBH planned to utilize the funding to support training and implementation of the centralized Mental Health Diversion Court (MHDC) through a site visit by Superior Court staff to another county diversion court, a community supervision component through Probation to MHDC, and contracted services for community-based forensic behavioral health treatment services. MHDC was implemented by Superior Courts on June 18, 2020 to effectively and efficiently streamline diversion applications and hearings. Although probation is not required for diversion, justice partners felt a community supervision component through one (1) full time equivalent (FTE) Probation Officer was necessary for effective diversion by supporting the intersection between the criminal justice and community treatment systems. DSH does not require a detailed program plan or budget in the recommended revenue Agreement in order to allow program adjustments to meet shifting needs. As other program strategies are identified for funding, DBH will return to your Board for approval as appropriate.

A Request for Proposal (RFP) for a Pre-Trial Jail Diversion Forensic Behavioral Health Program (FBHP) was released on October 8, 2019 and closed on December 3, 2019 with four responses submitted. The evaluation committee met on January 9, 2020 and January 24, 2020 to complete their recommendation for award to the first ranked vendor, Liberty Healthcare, Inc. (Liberty). Contract negotiations were not successful due to exceptions requested from County contract terms and conditions that would be out of compliance with Centers for Medicare and Medicaid Services reimbursement. After notification to

Purchasing and Liberty on July 9, 2020, DBH began contract discussions with the second ranked bidder, TPOCC.

Under the recommended Agreement with TPOCC, the resulting evidenced-based program will ramp up to serve up to 30 individuals who meet criteria under AB 1810 in FY 2020-21, up to 60 in FY 2021-22 and up to 75 in FY 2022-23. The continuum of care design allows for flexibility in moving the individual between the different levels of care seamlessly as clinically indicated to meet their unique specialty mental health, substance use disorder, and/or any additional wraparound service needs. The levels of care include Assertive Community Treatment, Full Service Partnership, Intensive Case Management, Outpatient, and Outreach and Engagement.

The recommended Agreement with TPOCC is not a five year term due to the need to evaluate program design and continued sustainability once DSH diversion funding ends June 30, 2023. Due to uncertain projections on program participant numbers and the stage at which individuals move in the continuum of care, flexibility in associated program budgets is necessary. The recommended Agreement will allow the DBH Director or designee the ability to approve changes to budget expense category subtotals and individual program budget maximums not to exceed ten percent of the maximum contract amount. In addition, the recommended Agreement provides for termination by Contractor, County or their designee upon giving 60 days advance written notice and includes language allowing for the termination of the Agreement due to the non-allocation of funds upon giving 30 days advance written notice to the Contractor.

OTHER REVIEWING AGENCIES:

The Behavioral Health Board was made aware of the recommended Agreements during its August meeting.

REFERENCE MATERIAL:

BAI #32.1, October 23, 2018

ATTACHMENTS INCLUDED AND/OR ON FILE:

On file with Clerk - Agreement with California Department of State Hospitals
On file with Clerk - Agreement with Turning Point of Central California, Inc.

CAO ANALYST:

Ron Alexander