

Nonprofit helping lawyers with science literacy to help innocent defendants

By Jake Thomas
Oregon Capital Bureau

When Janis Puracal began reviewing evidence used to convict Nicholas McGuffin of killing his girlfriend, she recalled how it didn't add up.

In 2011, a jury convicted McGuffin, a resident of Coquille, of manslaughter after his girlfriend Leah Freeman turned up dead. In 2014, the Oregon Innocence Project took up his case.

Puracal, then an attorney with the group, noticed how the prosecutor's timeline of events didn't fit with other evidence or alibi witnesses.

She eventually found what would be key: a technical report documenting a DNA analysis in the case. Puracal had an independent expert look at the report's raw data.

The expert discovered that another man's DNA was on Freeman's shoe, which could have proven McGuffin's innocence and pointed to another suspect. But this information hadn't been disclosed by prosecutors.

Earlier this month, a judge found that the evidence should have been disclosed at trial and overturned the conviction against McGuffin's who was later released from prison.

The victory is the most high-profile yet for the Forensic Justice Project. A small Portland-based nonprofit founded by Puracal last year, the Forensic Justice Project is dedicated to helping defense lawyers understand, find and challenge scientific evidence introduced during trials.

In November, the Oregon Office of Public Defense Services signed a two-year, \$600,000 contract with the Forensic Justice Project to provide case support and training to public defense lawyers across the state.

Public defense attorneys can already request funding for forensic experts or analysis from the Oregon Office of Public Defense Services. The training offered by the Forensic Justice Project will help them ask the right questions and identify potential problems in the evidence.

Aliza Kaplan, a professor at Lewis & Clark Law School and counsel for the Forensic Justice Project, said that only a few states have similar organizations. She said that the training will teach defense lawyers how to read technical reports, question experts and better understand scientific evidence.

State foster care consultants wrap up \$3.5 million contract

By Claire Withycombe
Oregon Capital Bureau

Consultants hired to lift Oregon's foster care system out of dysfunction were expected to close up shop Friday. All told, they are expected to walk away with \$3.5 million after eight months of work.

While about 60 foster children sent to facilities in other states have come back to Oregon as a result of the work of Alvarez & Marsal, a global consulting firm, the impact on the thousands of kids in Oregon's foster care system has yet to be widely felt.

State records show that in late October, the state and Alvarez & Marsal agreed to increase the company's compensation to \$3.5 million.

The company was originally to be paid up to \$280,000 under its contract executed May 2, state records show. That figure steadily multiplied in the following months.

Initially, the contract was due to end Oct. 26. Contract extensions in May, August and October were reviewed by a state procurement official and the Oregon Department of Justice, according to Gov. Kate Brown's office.

Brown's April 18 executive order intervening at DHS allowed the state to suspend or change its policies on hiring and contracting to expedite those processes.

"The extensions were granted after (Alvarez & Marsal) demonstrated they were making progress in meeting the objectives of the (executive order)," a spokesman for Brown, Charles Boyle, wrote in an email. "Progress was monitored in daily check-in calls with staff, weekly reports to the governor, monthly meetings of the Child Welfare Oversight Board, and in legislative briefings."

Alvarez & Marsal are known for restructuring and business services, contracting with private companies and governments across the country to fix problems and find efficiencies.

Brown brought on the consultants to overhaul the state Department of Human Services' child welfare system after a highly publicized controversy over officials' practice of sending foster kids to residential facilities in other states with little oversight.

Last week, Oregon Public Broadcasting published an investigation into the practice, finding that the state entrusted vulnerable kids to a private company, Sequel, that operates residential facilities. Children in those facilities have been hurt and abused, OPB reported.

Brown said the consultants would focus on internal operations of Oregon DHS to improve internal practices and procedures that would provide better treatment of Oregon foster kids.

The consultants told state officials in a briefing Dec. 10 that hurdles remain. That briefing, which lays out areas where DHS still has trouble and steps to fix those problems, was provided to the Oregon Capital Bureau by the governor's office.

The consultants said that Oregon's foster care program struggles with prioritizing and carrying out projects, and that it should set up clear "roles, responsibilities and measurable goals." DHS must work better with the state's health agency to meet kids' needs, they said.

They also recommended that the team that reviews deaths of children report directly to the director of the state child welfare program. Information from those reviews should be used to better train workers, consultants said.

They said the agency should establish a training unit because supervisors and caseworkers now lack training opportunities. The field offices of DHS "inconsistently enforce training and workforce development requirements" for their workers, consultants said, and the administration doesn't hold the districts or people working there accountable when they don't comply.

Brown's office said, under Alvarez & Marsal, DHS has been developing its workforce, increasing access to services and places for foster children to live, and done better keeping kids safe.

Consultants said they worked to streamline licensing of foster care providers, increased transparency in reviews of child deaths and improved the new statewide hotline for reporting abuse.

Twenty-three Oregon kids were still in out-of-state facilities as of Thursday, according to the governor's office. That figure is down from a high of 87, according to governor's office records. On any given day, about 7,000 Oregon kids are in foster care.

Mary Moller, Brown's director of executive appointments, said that dip reflects the "ripple effect" of fixing seemingly bureaucratic operations in a large organization like DHS.

"I think that there was definitely progress made," Moller said. "We're really pleased with that progress. But are we done yet? No. We have to continue to push hard for kids and families every day."

Brown's office also touts an effort to hire caseworkers quickly. Consultants said in their presentation this week that it made 345 "conditional hires" of new workers. According to DHS, that means that the job offers are conditional on completed background checks.

Oregon DHS had known for years that understaffing put kids at risk, thanks to multiple outside audits.

But in response to questions from the Oregon Capital Bureau, Brown's office said in a statement Thursday that progress on the effort, including hiring the hundreds of workers this summer and reducing children sent out of state, "would not have been possible without the implementation leadership and data tracking efforts of the cri-

sis management team."

Moller said DHS is pushing to improve training for caseworkers. She said she doesn't think there is a risk that hiring hundreds of workers quickly may result in unqualified employees working with vulnerable kids.

"People were clamoring to work in this organization to help the state," Moller said. "I actually think that we have actually really qualified people. It's getting them trained is the challenging part, getting enough training to accommodate all the people that we're bringing on."

At any given time, about a dozen people were working on the DHS overhaul in recent months, ranging from wonky subjects like how the state agency handles reams of data on kids in the system to researching government funding for kids' medical care.

After the consultants' contract ends Friday, a new management office at DHS will continue driving reforms.

In a statement, Boyle, Brown's spokesman, said the governor had brought on Alvarez & Marsal "because she wanted to see immediate and measurable progress to improve outcomes for Oregon's most vulnerable children and families."

In an interview last week, Rebecca Jones Gaston, Oregon's new head of Child Welfare, said an outside look is "always a creative way of being able to see things that you wouldn't necessarily recognize, or even identify gaps or processes that need to be changed, shifted, built, if you're in it on a day to day basis."

"I think what (Alvarez & Marsal) did was bring that lens around business processes and things like that," Jones Gaston said. "And were able to really quickly home in on some places where maybe existing processes were slowing down our ability to be responsive, or impacting our ability to kind of turn a ship in a nimble way."

State Hospital temporarily halts civil commitments

By Sam Stites
Oregon Capital Bureau

The Oregon State Hospital is suspending all civil admissions until Dec. 27 to prioritize patients ordered by courts to receive competency restoration treatment.

The halt on civil commitments was announced in a letter Monday, Dec. 16, to the hospital's statewide partners. It is effective immediately.

According to hospital spokeswoman Rebekah Gipson-King, the move is intended to help the hospital comply with a 2003 federal court ruling that requires criminal defendants ordered to receive treatment so they can meaningfully aid and assist in their own trial be admitted within seven days of a judge's signature.

"We wanted to make sure that

we were still able to meet our legal obligations to the people who are coming in under aid and assist within the seven days," she said.

Gipson-King said hospital administrators chose Dec. 27 for the suspension to expire because that's when they feel the hospital will be able to start reaccepting civil admissions and not be in danger of violating the seven-day rule.

As of Dec. 16, the number of civil patients awaiting admission to the hospital had increased from 15 in January to 43 this month.

The state hospital was sued early this year by advocacy group Disability Rights Oregon for not complying with the rule. In 2018, more than 200 patients had to wait longer than seven days, a problem which hospital administrators said was caused by an unforeseen influx of

aid and assist patients the facility wasn't equipped to handle.

Gipson-King said the suspension of civil admissions would force local hospitals and psychiatric care units to hold patients awaiting civil commitment a little longer than they might have expected.

"These are people whom a judge has said they aren't able to take care of their own basic needs and civilly commits them to the Oregon Health Authority, so they're already on a waitlist to get into the state hospital," she said. "They're already in an acute care hospital with staff trained to meet their needs as opposed to our (aid and assist) population who we're also trying to accommodate."

Melissa Eckstein, president of the Unity Center for Behavioral Health at Legacy Emanuel Hospital in Portland, said in a prepared

statement that her organization is in conversations with Oregon Health Authority and State Hospital leadership to address needs for improved access to behavioral health care throughout the region.

Eckstein expressed hope that discussion will lead to positive change and faster, more comprehensive care for patients.

"This situation has a huge impact on operations at Unity Center for Behavioral Health. More than 25% of our current adult patients are waiting for a bed at the Oregon State Hospital," Eckstein wrote. "The lack of capacity at OSU is creating a patient flow crisis within Unity Center's Psychiatric Emergency Services and long delays for patients who urgently need acute hospitalization for their safety and wellbeing."

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