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JusticePoint Appeal: 1,400 words

JusticePoint continues jail alternatives work as Milwaukee tries to cancel contract

*The city of Milwaukee lacks a plan to replace JusticePoint’s incarceration alternatives services if it succeeds in canceling its contract.*

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*Wisconsin Watch*

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After starting to move out of its Milwaukee Municipal Court building office earlier this month, JusticePoint, Inc., has learned it can continue providing incarceration alternatives to residents while a lawsuit it filed against the city of Milwaukee continues.

The nonprofit, which has spent years serving low-income Milwaukeeans and those with mental health and addiction challenges, sued the city in July after two Municipal Court judges sought to cancel its Municipal Court Alternatives Program contract without public explanation.

On Nov. 6 Judge Joseph Donald of the Wisconsin Court of Appeals issued an order requiring the city to continue paying JusticePoint for its services while the nonprofit appeals a lower court’s dismissal of its lawsuit.

Milwaukee’s Municipal Court would have otherwise lacked a diversion program for the first time since the 1980s.

“We feel a tremendous obligation to the clients we serve,” said Nick Sayner, JusticePoint’s co-founder and CEO. “We serve some of the most vulnerable people in the city of Milwaukee and Milwaukee County as a whole. And the Municipal Court’s system and structure can do a lot of damage to that population if the courts are not aware of the full context that an individual or defendant is dealing with.”

The contract the city seeks to cancel early lasts through 2024.

**No plan to replace JusticePoint’s services**

JusticePoint program director Sue Eckhart has spent most of her decades-long career supporting indigent residents and others who landed in court because they could not pay fines for civil infractions, such as illegal parking or loitering.

Nov. 3 was the second day this year on which Eckhart thought it was her last leading the alternatives program.

A Milwaukee County Circuit Court judge had dismissed JusticePoint’s lawsuit in October, and a temporary order that delayed the ruling’s effect was set to expire. Eckhart worried many would end up “falling through the cracks.”

“We had left so many individuals kind of just hanging,” she said.

But Donald’s ruling offered Eckhart some relief.

Municipal Court officials said they have not identified a vendor to replace JusticePoint, which has contracted with the city since 2015.

“No final decisions will be made until the current contractual obligation is finished,” Municipal Court’s Chief Administrator Sheldyn Himle told Wisconsin Watch in an October email, adding that judges may directly refer defendants who cannot pay fines to alternative services without a vendor’s help.

Some judges have already stopped referring defendants to the nonprofit and are instead trying to monitor community service efforts themselves, leading to confusion, Eckhart said.

“We’re getting calls from people who don’t know how to do it, don’t know where to go, want some help from us,” Eckhart said. “And then we’re seeing people that just don’t come back to show that they’ve done it for the court.”

Eckhart worries removing JusticePoint from the Municipal Court would lead to more arrest warrants as fewer people return to handle their infractions.

JusticePoint was serving clients in 123 open cases as of Nov. 3. Some had court dates set for next year and were referred by Judge Molly Gena, Eckhart said.

During a June Milwaukee Common Council committee meeting, Gena said terminating the contract would make her job “a lot harder.” She said she could order people to pay fines but can’t address root causes that will send them back to court.

“It was indicated that maybe the other judges have a plan — I don’t,” she said, referring to the prospect of losing JusticePoint’s services.

The nonprofit’s clients in years past had a 52% community service completion rate compared with the 35% completion rate of those facing judge-ordered community service, former Municipal Court Judge Derek Mosley said during a 2018 Milwaukee Common Council committee meeting.

JusticePoint says its role in forging personal relationships and connecting people to transportation, jobs and other resources increases the odds of completion.

**Wisconsin Fair Dealership law at issue**

In suing to save its contract, JusticePoint argued the city violated the Wisconsin Fair Dealership law, which protects “dealers” — typically business owners — whose economic livelihood could be imperiled by “grantors,” who, through a contract, give dealers the ability to sell or distribute goods or services. The law prohibits a grantor from terminating a relationship with a dealer without good cause, proper notice and the ability to fix any issue at hand.

Circuit Court Judge J.D. Watts ruled in October that the Fair Dealership law did not apply to the case. JusticePoint and the city had forged a typical vendor-vendee relationship without a community of interest and no interdependence to merit fair dealership protection, Watts ruled.

Jeff Mandell, JusticePoint’s attorney in the lawsuit, disagreed.

“It struck me as really bizarre that the Circuit Court was so invested in insisting that these services really had nothing to do with the city, and even the city was not willing to say that,” Mandell said. “The city had other arguments about why it thought the dealership law shouldn’t apply here.”

Assistant City Attorney Kathryn Block, who is representing the city in court, declined to comment.

Still unclear in the dispute: why the city seeks to terminate the contract.

Two Municipal Court judges, Phil Chavez and Valarie Hill, recommended terminating the contract before Gena was elected to the court in April, [Wisconsin Watch and Milwaukee Neighborhood News Service previously reported](https://wisconsinwatch.org/2023/07/justicepoint-offers-incarceration-alternatives-in-milwaukee-two-judges-tried-to-cancel-its-contract/).

The city sought to cancel the contract under a “convenience” clause, rather than for cause, allowing it to be halted for any reason.

Neither the judges nor anyone else have publicly explained the move. But the two judges told Himle, the court’s chief administrator, they “lost faith” in JusticePoint over the longstanding practice of sharing citations with attorneys at Legal Action of Wisconsin, a nonprofit that provides free legal services to people with low incomes, according to a May 15 email between Sayner and Himle.

The city attorney’s office had advised JusticePoint to share citations during pilot phases of a program to help people with low incomes find legal representation, Sayner responded to Himle at the time. Sayner also told Himle that JusticePoint hadn’t received broader feedback from the court for several years, but was open to it as long as the program’s principles remained consistent.

Sayner told Wisconsin Watch that JusticePoint partners with systems that often treat defendants, victims and witnesses unfairly. The lack of transparency about the contract cancellation “brings up all of the concerns that the public and the community generally have about these systems,” he said.

The city acknowledged in a legal filing that the Municipal Court Alternatives Program “has generally been successful and has assisted many residents and generally streamlined the process for many people the Municipal Court serves.”

“The city had reasons to terminate the contract,” Block said in court without specifying. But such reasons were not relevant to whether the city had the right to do so, she added.

**Residents express concern**

A coalition of 24 local organizations this summer urged the city’s Common Council and Mayor Cavalier Johnson to save the program, but officials say neither has control over the contract. The council funds but does not oversee the program, allocating $487,000 for JusticePoint’s services this year.

Art Heitzer, an attorney with the National Lawyers Guild’s Milwaukee chapter, criticized the city for using tax dollars to defend the cancellation in court.

“Fighting this lawsuit and spending money and potentially running up attorney fees that they have to pay on the other side if JusticePoint wins is not in the best interest of the city or the taxpayers,” Heitzer said.

Johnson declined to comment.

“The selection, deployment and accountability of this service rests entirely with Municipal Court administrators and the elected judges. The mayor will not be commenting on JusticePoint or successor programming because he has not been involved in any aspect of the work,” spokesperson Jeff Fleming wrote in an email.

 Mandell takes issue with that distancing attempt.

“Usually, when a defendant has nothing to do with something, they tell that to the court, and that’s not what the city has done here,” he said. “At no point have they said, ‘Hey, this was not our decision. We didn’t do this.’”

Joseph Ellwanger, a former pastor of Cross Lutheran Church in Milwaukee who supports JusticePoint’s services, also finds the situation curious.

“It is rather strange that the Common Council apparently legally has no way to oversee or intervene in the contract even though it’s the city that provides the money for the contract,” he said.

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