

Incarceration Prevention and Reduction Task Force
Legal & Justice Systems Subcommittee
Meeting Summary for July 18, 2016

1. Call To Order

Committee Chair Fred Heydrich called the meeting to order at 9:15 a.m. in the Bellingham Municipal Court Fireplace Room, 2014 C Street, Bellingham.

Members Present: Angela Anderson, Jill Bernstein, Bill Elfo, Stephen Gockley, Daniel Hammill, Fred Heydrich, Dave McEachran, Moonwater, Irene Morgan, Darlene Peterson, Peter Ruffatto

Members Absent: Deborra Garrett, Michael Knapp

Review June 13, 2016 Meeting Summary

There were no changes.

2. Electronic Home Monitoring (EHM) Update

Elfo updated the Committee on his research into EHM technology:

- Met with Friendship Diversion Services, and will likely use them as a service provider
- Provides the Sheriff's Office more ability to communicate with offenders
- The Friendship Diversion Services equipment is superior to the Washington Association of Sheriffs and Police Chiefs equipment
- Currently, some offenders don't want to pay for EHM, so they are offered other jail alternatives, such as community service or out-of-custody work crew
- To expand EHM to the sentenced population, he may need more latitude in the Unified Fee Schedule and more discretion to waive the fee
- The County budget instructions currently require that they capture the entire cost of the program
- The County Sheriff's Office staff could install a monitor, or an offender can have it installed downtown
- If liability concerns were addressed, a pre-trial monitoring program would be appropriate for District Court Probation
- The new equipment would be an upgrade from existing technology, but it's uncertain whether the number of people using the program would increase

Bernstein moved to recommend to the Task Force that the County Council ensure adequate funding for the Sheriff to effectively manage and supervise an expanded electronic home monitoring (EHM) program. The motion was seconded.

The Committee members discussed a possible funding source and additional costs from supervising program participants, the difference between City and County offenders who use the program, whether felony convictions can be put on an EHM program,

The motion carried unanimously.

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The Committee discussed other changes in jail alternative policies and procedures such as shortening the time it takes to determine eligibility, allowing people with shorter sentences to use EHM, reinstating a program to allow people with mandatory one-day sentences to serve their sentences on one weekend a month.

Bernstein moved to recommend to the Task Force that the County Council allow the Sheriff's Office to deviate from the County Unified Fee Schedule (UFS) to include a program to subsidize the cost of EHM for those who can't pay the full amount, and to lift the requirement that the program be self-supporting.

The motion carried unanimously.

3. Drug Court

Anderson referenced her June 20 email on Committee packet page six and stated there are valid reasons why those who have been pre-approved for Drug Court are not participating.

The Committee discussed whether a Drug Court needs assessment is necessary, the lack of someone to provide in-custody drug and alcohol evaluations and send inmates to treatment, and the requirement that an in-custody evaluator be funded by the Behavioral Health Organization (BHO). The jail would need to make accommodation for any contractor to have access to the inmates, due to the infrastructure problems with the jail.

Bernstein moved to recommend to the Task Force support for the Health Department recommendation to the County Council for a Behavioral Health Organization (BHO)-contracted individual to provide alcohol and drug evaluations to jail inmates.

The motion carried unanimously.

4. Recommendations on Probation Services Improvements

Bernstein referenced her Probation Services document beginning on Committee packet page eight.

Bruce Van Glubt, District Court Administrator, stated the Probation Department is able to respond to walk-in clients who have immediate needs. New case management software will allow them to meet clients remotely, outside the Courthouse.

Bernstein stated the Whatcom Transportation Authority (WTA) is currently taking public comment on their routes. She moved to recommend that the Task Force send a letter to the WTA supporting an increase in the number and frequency of bus routes to the County jail alternative facility on Division Street and between the Courthouse and Division Street facility.

Motion carried unanimously.

The Committee discussed whether the government can do anything about increasing the certified service provider workforce in the community, local community college education programs, the possibility of funding an in-house staff person to prove domestic violence and substance abuse

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evaluations, the difference between an evaluator and a service provider, upgraded Probation hardware and software, and funding to subsidize evaluation and treatment for indigent individuals.

Bernstein moved to recommend to the Task Force that the County create a fund to pay for evaluation and treatment services for indigent offenders. The motion was not seconded.

The Committee discussed evaluation and treatment services for indigent offenders:

- They should separate alcohol and drug services from domestic violence services, because the Affordable Healthcare Act now makes alcohol and drug services more available to indigent people
- The County needs a social worker to decide who gets evaluated and helps people sign up for Medicaid
- Get information from the Domestic Violence Commission and other partners on domestic violence treatment and funding
- Make recommendations to municipal and tribal jurisdictions, not just the County

Van Glubt submitted a handout (on file) and reported on a potential new pre-trial monitoring program the District Court judges are working on.

Bernstein moved recommend to the Task Force that the County Council support the additional hardware to supervise and monitor individuals when they are not in jail both pre-trial, and post-conviction, including additional EHM/D, SCRAM, and portable breath test devices. Costs shall be apportioned among all courts using District Court Probation. The motion was seconded.

The Committee discussed whether the proposed new pre-trial program would reduce jail population, coordinating the new program with the advanced electronic home monitoring technology, whether a pre-trial monitoring program would work for Superior Court.

Motion carried unanimously.

This item was held in committee for further discussion.

5. Yakima Smart Pre-Trial Implementation Plan

Heydrich reported on his upcoming trip to Yakima to look into their program, and asked for input from the committee on questions he should ask the Yakima officials:

- What are the liability issues
- What are the steps to ameliorate any problems
- Whether there have been any litigation or claims
- How all the courts collaborate
- What are revenue and expenditures
- Whether there has been feedback about the system being biased
- Where they are monitoring the efficacy of the program based on potential bias
- What are the city jails in that jurisdiction doing
- What is the recidivism rate
- What data are they collecting

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The Committee members discussed the best practices Whatcom County already uses, such as providing criminal history at first appearance hearings, and best practices that can be implemented, such as a risk assessment tool.

McEachran submitted a handout (on file) on the Adult Static Risk Assessment (ASRA) web-based program and stated a risk assessment system valid in Washington State is important. He described how a risk assessment would work. He will start using the tool to see if there is a value to it.

The committee discussed various risk assessment tools:

- Make sure a risk assessment tool is not misused
- Avoid tools with inherent racial bias
- Staff will have to add the current pending charge to the risk assessment tool
- Using a risk assessment tool that considers failures to appear (FTAs)
- A pre-trial risk assessment score that recommends the level of supervision

6. Presentation on Mental Health Court

This item was held to the next Committee meeting.

7. Fast Track Update and Recommendations

Anderson referenced her May 20 email on Committee packet page 83 and asked for feedback. She will work with Sheriff Elfo and Prosecutor McEachran to refine a motion for the next meeting.

Bernstein stated today's motions will go to the Task Force for approval, then on to the County Council. There may be more recommendations from the Probation discussion.

Moonwater stated continue the conversation on domestic violence evaluation and treatment.

Forrest Longman, County Council Legislative Analyst, updated the Committee on the request for qualification (RFQ) process for technical expert consultant.

8. Public Comment

Ray Baribeau stated the in-custody work program teaches work ethic to inmates.

Joy Gilfilen stated look at prevention and early intervention. Trauma intervention services must be provided.

9. Adjourn

The meeting adjourned at 11:20 a.m.

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DRAFT Meeting Summary for September 19, 2016

1. Call To Order

Committee Member Jill Bernstein called the meeting to order at 9:15 a.m. in the Bellingham Municipal Court Fireplace Room, 2014 C Street, Bellingham.

Members Present: Angela Anderson, Jill Bernstein, Bill Elfo, Deborra Garrett, Stephen Gockley, Fred Heydrich, Moonwater, Irene Morgan, Darlene Peterson, Peter Ruffatto

Also Present: Matt Huffman (for Michael Knapp)

Members Absent: Daniel Hammill, Michael Knapp, Dave McEachran

Review Summary August 8, 2016 Meeting Summary

There were no changes.

2. Yakima Pretrial Risk Assessment and Supervision

Heydrich stated there are three risk assessment tools: the Virginia model, the Arnold Foundation model, and the Washington State model, which the Prosecutor uses. He has not seen the results of the Prosecutor's use of the tool. He is meeting with the Superior Court judges about their support for a pretrial supervision unit. He doesn't prefer one particular tool over another. It's important to use a validated and demonstrated risk assessment tool in some form. It's up to the courts in consultation with the Prosecutor, Public Defender, and others to decide which tool to use.

The Committee discussed:

- The City of Bellingham's experience with using their risk assessment tool
 - Evaluations are done pre-arraignment and given to the judge and prosecutor to decide on whether pretrial supervision and monitoring is appropriate
 - The City has the ability to do pretrial supervision
 - The City has been able to release people who are eligible for pretrial monitoring

Gockley moved to recommend to the Task Force the adoption of a pretrial risk assessment tool and creation of a pretrial supervision unit.

The committee discussed whether they want the Task Force to make a recommendation to the County Council that it consider creating a supervisions unit, and whether they should recommend that the courts specifically use a risk assessment tool:

- Committee members suggested appropriate wording for the recommendation:

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- It should be up to the judges to structure whether and how a risk assessment would be used as part of a supervision unit.
- Recommend that other jurisdictions that operate courts have a similar type of program.
- Create a supervision unit in conjunction with the use of a pretrial risk assessment tool, approved by the court with input from stakeholders.
- Follow up on the court's interest in pursuing this, with appropriate funding.
- Recommend a subsidy for indigent defendants who can't afford pretrial supervision.
- Have the VERA contractor create a pretrial statistics baseline.
- The ACLU is reviewing the issue of risk assessment tools to ensure they are not disproportionately being applied to people of color and of low income status.
- Make sure the assessment isn't used for anything beyond pretrial assessment.
- District Court is proposing a pilot program for monitoring.
- The risk assessment tool provides an objective basis to determine who can be released and what level of supervision is applied. It also gives the court a basis to hold someone on bail.

Note: The Committee took a five-minute break at 10:00 a.m.

The Committee refined the language of the proposed motion.

Moonwater stated she would like a future Committee conversation on making all the programs in the recommendations to be universally accessible.

Gockley amended his motion and moved that the Committee recommend the following to the Task Force, "Recognizing and endorsing the ongoing review and evaluation by the courts of evidence-based pretrial risk assessment tools and other means of reducing retrial incarceration, we recommend creation and funding of a pretrial supervision unit that would assist and monitor a defendant's compliance with pretrial release conditions." The amended motion was seconded.

The motion carried unanimously.

3. Mental Health Court

Bernstein stated one of the strongest recommendations from the last meeting regarded transportation. The Task Force has sent a letter to the Whatcom Transportation Authority (WTA) recommending more transportation to and from the Division Street facility.

The Committee discussed:

- The handout received at the last committee meeting from Mental Health Court staff

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- The need for transportation to get people to and from court and service appointments
- Creating a volunteer program to give people rides to and from mental health court
- Inviting a representative from WTA to discuss transportation services related to the mission of the Task Force
- Nexus between transportation and Law and Justice Systems Subcommittee
- Accountability and implementation of Task Force recommendations
- The lack of housing for mental health court participants
- The lack of community support services to allow expansion of county drug and mental health court programs

The Committee discussed the following future discussions and action items:

- Make a statement that there is value in expanding drug court and mental health court programs, but community resources need to expand to support the programs. Those two things need to happen concurrently. *(A. Anderson to write a statement for Committee review.)*
- The Committee would like to better understand the issues and available resources relative to both transportation and housing, and how those two services intersect with mental health court and drug court.
- The full Task Force should have a discussion with WTA on transportation issues. *(J. Bernstein to schedule on Task Force agenda.)*
- The Task Force can also have a discussion with Greg Winter, Opportunity Council, on housing issues, such as public/private partnerships. *(J. Bernstein to schedule on Task Force agenda.)*

4. Other Recommendations to Task Force

Embedding a social worker in the Public Defender's Office

Anderson stated that if the County Executive does not approve this in his proposed 2017 - 2018 budget, then the Committee can make a recommendation of support to the County Council to restore an embedded social worker in the Public Defender's Office.

5. Public Comment

Mark Gardner, City of Bellingham, stated that on behalf of Bellingham Council Member Dan Hammill, he is looking at pre-arrest diversion programs. First, make sure existing resources are working well together.

6. Adjourn

The meeting adjourned at 11:16 a.m.

2017 SCHEDULE

(Proposed)

<p>LEGAL & JUSTICE SYSTEM SUBCOMMITTEE 2nd Monday of each month 9:15-11:15 a.m. Bellingham Municipal Court Fireplace Room</p>
<p>January 9 February 13 March 13 April 10 May 8 June 12 July 10 August 14 September 11 October 9 November 13 December 11</p>