

***Incarceration Prevention Reduction Task Force  
Steering Committee***

November 9, 2017

Health Department Creekside Conference Room, 509 Girard Street, Bellingham WA  
11:30 a.m. - 1:00 p.m.

**AGENDA**

Topic	Requested Action	Presenter	Attachment
<b>1. Call to Order</b>			
<b>2. VERA Final Report</b>	Discussion	N/A	See Report
<b>3. Phase 3 Report</b> <ul style="list-style-type: none"><li>• Review committee reports</li></ul>	Review	Committee Chairs	1 - 20
<b>4. What's Next for the Task Force?</b> <ul style="list-style-type: none"><li>• Membership</li><li>• 2018 meeting schedule</li></ul>	Discussion	N/A	21 - 22
<b>5. Other Business</b>			
<b>6. Public Comment</b>			
<b>7. Adjourn</b> The next meeting is not scheduled at this time.			

Upcoming Meetings:

- Legal and Justice Systems Committee: 11:30 a.m. - 1:30 p.m. on November 14, 2017 at the County Courthouse Fifth Floor Conference Room 514, 311 Grand Avenue, Bellingham.
- Behavioral Health Committee: 2:30 - 3:30 p.m. on November 20, 2017 at the Health Department Creekside Conference Room, 509 Girard Street, Bellingham.
- Full Task Force: 9:00-11:00 a.m. on November 27, 2017 in the County Courthouse 5<sup>th</sup> Floor Conference Rooms 513/514, 311 Grand Avenue, Bellingham.

The Behavioral Health Ad Hoc Committee has added to their list of ongoing efforts. Areas of focus for this past period include the Opioid epidemic, Whatcom GRACE planning activities, and reviewing current programming. The need to hear from individuals who have had direct experience with our criminal justice system has also become a goal of the committee in order to broaden perspective and gain more knowledge about system shortcomings.

## OPIATE ADDICTION

The national Opioid epidemic has reached Whatcom County, and criminal activity is often associated with illegal drug use. As addiction progresses, people are challenged to hold down full-time jobs or function successfully in the community. The driving need to obtain and use the drug of addiction does not subside however. Without money to purchase, people may commit illegal acts in order to secure their next use.

The criminal justice system is tasked with addressing the criminal activity itself, but it is ill-equipped, and not the right system, to provide the treatment interventions needed. While we may not be able to avoid the criminal justice system at times, the committee understands the importance of ensuring a robust care delivery system of prevention and treatment.

The committee reviewed community activities underway focused on educating the public about the importance of safe storage and disposal of Opiate medications and prevention of Opiate/Heroin overdose deaths. The campaign of education and awareness will include posters on each Whatcom Transit Authority bus, printed materials providing guidance on safe storage of prescriptions, and information about locations where people can bring back unused medications. A separate community-based committee staffed by the Health Department has broad participation in planning and implementing these strategies. Committee members contributing to the efforts include health care and social service providers, schools, tribes, law enforcement, defense and prosecuting attorneys. Wide-spread distribution of naloxone (brand name, NarCan) has also been a primary strategy. This medication prevents an Opiate overdose death and can be obtained at many pharmacies without a prescription specific to an individual.

The Behavioral Health Ad Hoc Committee acknowledges that addiction is a disease of the brain. More than half of people who are addicted to Heroin began by abusing prescription medications. Take-back programs for unused medications are in the process of being expanded in the community. Also, medication-assisted treatment (MAT) is being expanded currently. Science has proven that treatment for Opiate

addiction with the use of medications is effective in reducing or eliminating the use of illegal drugs as well as the likelihood of overdose death.

A copy of the county's Opioid Response Plan was reviewed and supported by the Behavioral Health Ad Hoc Committee and is attached to this report as reference.

## WHATCOM GRACE

The “**Ground-level Response And Coordinated Engagement**” project continues to move forward. This project intends to focus intensive wrap-a-around services to some of our most vulnerable residents who frequent our criminal justice system. The Health Department has taken the lead in operationalizing the program and has convened both the Leadership Team and the Program Team to begin finalizing the details. Community members are actively involved in this process from the areas of law enforcement, jail, treatment and social service providers, PeaceHealth hospital, EMS, and crisis responders.

GRACE will have many programmatic components to ensure a multi-pronged approach to the familiar faces it will serve. Elements of the project will include coordination of intensive case management, mental health and substance use disorder treatment, housing and employment support, medical care, and legal system navigation.

The Behavioral Health Ad Hoc Committee will be instrumental in supporting funding opportunities and ensuring the project meets its expected outcomes. It is hoped that an agency that can serve as the “Hub” for this project will be identified by early next year.

## CURRENT PROGRAMMING

The Behavioral Health Ad Hoc Committee has recognized numerous services that have been in place focused on preventing and reducing incarceration. The committee reviewed a document prepared by the Health Department showing local behavioral health programs. The identified programs include those that are funded with strictly local dollars, as well as those that have multiple funding sources to include federal and state monies.

More than forty programs or program areas are listed on the document; most of them are behavioral health interventions. It is not a complete list, since many more programs exist under many of the general headings. Whatcom County is fortunate to have so many programs focused on preventing and reducing incarceration. Challenges in adequate funding for the programs remains a concern. And our community still

experiences inadequate treatment opportunities for individuals living with mental illness and substance use disorders. These concerns must be improved in order to realize significant improvements in diverting people to effective treatment.

The document is linked here: <http://www.co.whatcom.wa.us/DocumentCenter/View/31000>

The document shows that programs have been designed and implemented along a continuum from **P**revention and **I**ntervention to **T**reatment and **A**ftercare. This PITA continuum is adopted by our community to ensure some equity in programming across the spectrum. A focus on preventing incarceration, especially in terms of diverting from arrest or jail booking, is a priority for the Task Force. Once the Crisis Triage Facility is expanded, law enforcement will have increased options for diversion. At that point, the Behavioral Health Ad Hoc Committee will be in the process of seeking additional programs that can offer connection and engagement to services upon discharge from the Triage Facility.

Finally, the BH Ad Hoc Committee has been pursuing the creation of a focus group to gather information from individuals who have direct experience with our criminal justice system. It is hoped that this effort will provide insight on system failures, gaps in critical behavioral health interventions, and guidance on the community supports necessary to keep people out of the criminal justice system and on a path to recovery and health.

Whatcom County Incarceration Prevention and Reduction Task Force  
LEGAL AND JUSTICE SYSTEMS AD HOC COMMITTEE  
PHASE III REPORT

## INTRODUCTION

In Phase III, the Legal and Justice Systems Ad Hoc Committee continued to evaluate the benefits of and processes for implementing measures to release persons awaiting trial when there are reliable expectations those persons will appear later for their case and will forego new criminal activity while in the community. The Committee and the Task Force now endorse the importance of pretrial release based on an individualized, evidence-based risk assessment and a monitoring program to minimize possible harms, and call for the beginning of concrete planning for such measures by relevant stakeholders. The Legal and Justice Systems Ad Hoc Committee has also reviewed and facilitated steps to improve the effectiveness of the Drug Court Program.

## ACTIONS TAKEN

- Agreement in principle to develop a pretrial risk assessment instrument statistically validated for the Whatcom County population and, in conjunction with Superior Court judicial officers, to begin taking concrete planning steps needed to create it.
- Agreement in principle to establish a unit of county employees responsible for monitoring persons released while awaiting trial.
- Recommendation for funding an additional .5 FTE professional staff to work with drug court participants.

## PRETRIAL RISK ASSESSMENT INSTRUMENT

Background: Available data shows that 59% of the jail population at any time is awaiting trial. Those persons have not been convicted of a crime. Except in capital cases, Washington Superior Court Criminal Rule (CrR) 3.2 directs such persons to be released without financial conditions unless the court specifically finds that it is uncertain the person would appear back in court when required or that he or she would be likely to commit a new violent crime, intimidate a witness or otherwise undermine the interests of justice.

This legal directive, along with the sheer number of persons in jail before being tried, make clear this group should be one of the primary focuses of any effort to reduce the jail population. Moreover, the potential harms of not releasing those who pose little risk to the community are substantial. Research results reported by the VERA Institute establish that keeping a person in jail for even one or two days increases the chances the person will not appear later in court or may commit new crimes, even up to two years after the resolution of his or her current case.

Growing trend toward pretrial release: Spokane County, Yakima County, King County and other jurisdictions in Washington State and across the country have chosen to develop policies for the release of pretrial detainees without financial conditions. Members of the Legal and Justice Systems Ad Hoc

Committee and the Task Force have made site visits to Spokane and Yakima and interviewed key participants in those efforts. A committee member now participates on a new state-wide task force beginning to explore expanding pretrial release methods. In addition, the Task Force brought in a criminal justice expert from the faculty of Washington State University who has worked on the Spokane County and King County efforts and others to present our Task Force members with information about best practices in the growing field of pretrial risk assessment and release.

Local approaches to pretrial release: The Bellingham Municipal Court recently implemented self-generated selection process for releasing and monitoring persons facing charges there, which has shown promising results with little negative effect on failures to appear back in court or the commission of new crimes. The judicial officers and the administrator of Whatcom District Court are actively developing a similar process using a standardized system created in Ohio, for which staff training certification has been achieved. The Lummi Nation judicial system has also adopted a range of innovative measures to reduce the incarceration of its pretrial defendants.

However, Whatcom County Superior Court judicial officers currently have no objective basis for making the determinations necessary under CrR 3.2 to release pretrial defendants without financial conditions. A very small percentage of pretrial defendants can be released anyway via subjective assessments. For the vast majority of Superior Court defendants, though, the only condition available to Superior Court judicial officers for pretrial release is to set bail. As a condition of release, bail presents two significant problems. First, the ability to pay a bail amount the court sets has very little relation to the likelihood that the person will return to court when required later or that he or she will not commit a new violent crime while on release, and thus releasing an individual on bail provides no protection for community safety. Second, relying on bail as a condition of pretrial release divides defendants on the basis of their wealth: those with adequate financial resources can secure their release, whereas those who are poor and many who are middle-income are more likely to have to remain incarcerated because they cannot afford the bail set for them.

BEST PRACTICES: The Task Force's consultants from the VERA Institute and the WSU expert present a consistent set of features that make up best practices for the release of pretrial individuals.

- i. The first element is the creation of a standardized, evidence-based risk assessment instrument to calculate the chances that an individual (a) will not appear back in court or (b) will become involved in new criminal activity. Generally, a pretrial risk assessment instrument gathers specific information considered relevant to those two determinations, such as past criminal history, previous failures to appear, seriousness of the current charge, and connections to the community like having family nearby or being employed. This information is assigned a weight, the sum of which yield an overall risk "score." In recent years, multiple instruments (such as the Ohio system being explored by our District Court) have been developed and localities can acquire the right to use them, and in some cases to modify them. It is important to emphasize that the assessment process does not override the professional judgment and discretion vested in our judicial officers. Rather, the result of an individual's risk assessment is a guide, not a mandate, for the judicial officer considering that individual's pretrial release.
- ii. The second element in the set of best practices for a pretrial risk assessment instrument is to have it "validated" statistically. The purpose of statistical validation is to ensure that the information obtained and the weights assigned accurately predict the two key risk factors (appearing back in court, and no criminal activity) for the local population where it is to be used.

This validation process often entails several stages: an initial validation is done with historical data from the jurisdiction and, once the finalized pretrial risk assessment instrument is in use, it is periodically re-validated to verify its continued accuracy.

- iii. The third element of best practices involves establishing a decision-making framework for applying the scores provided by the instrument. Often, a collective local decision is made to create risk categories – low, medium, and high, perhaps – from the weighted scores and with each category to assign a range of possible non-financial conditions for release that a judicial officer can impose. The Washington State Supreme Court has very recently ruled that pretrial release conditions cannot be punitive, since the individual has not been convicted of the charges and retains a presumption of innocence. Best practice in this area calls for the least restrictive oversight of the individual that is possible, and the Committee has consensus that this should entail indirect monitoring approaches only and should avoid more intensive supervision. This is also consistent with the requirements for pretrial release provided in CrR 3.2. Examples of indirect monitoring are phone or text reminders of upcoming court appearance dates, periodic check-ins by the individual with court personnel, and various monitoring devices such as GPS-enabled bracelets and similar hardware that can detect the presence of alcohol or drugs through the person’s skin. All of these examples are currently being utilized to some extent in Whatcom County.

Both the pretrial risk assessment instrument being used by Bellingham Municipal Court and the one being contemplated by Whatcom County District Court draw on instruments in wide use elsewhere. However, neither of these instruments has been statistically validated for predictive accuracy with Whatcom County’s population, and thus neither utilizes best practices to the fullest extent.

Additional factors: The Legal and Justice Systems Ad Hoc Committee has highlighted two further considerations related to adopting a pretrial risk assessment instrument.

- i. Many persons currently incarcerated in the jail face multiple charges, including charges in more than one jurisdiction that must be adjudicated in multiple courts. Little is gained if one court system uses a validated pretrial risk assessment instrument to make release decisions, while another court handling charges against the same individual uses a different approach and reaches different conclusions or imposes different conditions. To the fullest extent possible, the goal of reducing pretrial incarceration will be best served if the courts in Whatcom County work together toward a unified approach to pretrial release that is consistently applied. To date, several local court systems have indicated their willingness to consider aligning their practices with those other courts develop.
- II. A non-validated risk assessment instrument can still offer useful predictions for a judicial officer to consider, and in fact the Bellingham Municipal Court has had positive results with its assessments, as noted above. However, the approach for implementing a pretrial risk assessment instrument that has been recommended to the Committee and the Task Force by the VERA Institute consultants and the WSU criminal justice expert is to validate the instrument against the local population, and this has become the best practice standard in the field. Statistical validation, and the necessary software to accomplish it and to manage assessments comprehensively, are expensive propositions and the cost factors in adopting a validated pretrial risk assessment instrument need to be investigated further and weighed carefully in

moving toward a goal of safely and appropriately releasing more persons from jail prior to their trials.

## PRETRIAL MONITORING

As evidenced by the discussion above (see BEST PRACTICES, iii.), a decision-making framework that guides the terms of pretrial release acknowledges that some persons awaiting trial may be released even if there is some risk they will not appear again later or may engage in new crimes. A pretrial risk assessment is not sufficient without the support provided by a menu of monitoring activities. In other words, any risk must be adequately managed to promote the ends of the judicial process and the community's well-being.

The Superior Court judicial officers who have endorsed proceeding with concrete planning for a pretrial risk assessment instrument have also emphasized that employing such an instrument will be useful to them and will be able to reduce the jail population only if it works in conjunction with staffing dedicated to a pretrial monitoring function.

This necessary coordination between evidence-based risk assessment, pretrial release with non-financial conditions, and pretrial monitoring has been recommended by the VERA Institute consultants. It forms a key part of pretrial release programs being developed in Spokane County, Yakima County, and King County, as well as the program operating in Lummi Nation. It is also included in the focus of the state-level pretrial risk assessment work group now underway. **The Legal and Justice Systems Ad Hoc Committee and the Task Force together recommend the creation of an adequate staff capacity to monitor persons awaiting trial who have been released by our courts.**

Deciding on the options for conducting pretrial monitoring, how many staff will be necessary for that work, what protocols should be adopted, and where staff should be assigned will be critical future tasks in establishing a sound program in Whatcom County. The same considerations cited previously for cost-effectiveness and for making monitoring services available to multiple local jurisdictions will need to be addressed in the concrete planning effort to come.

## DRUG COURT IMPROVEMENTS

Whatcom County created a Drug Court program approximately 20 years ago that has successfully offered persons with substance use problems an opportunity for support and treatment of their problems instead of incarceration. Questions were raised to the Legal and Justice Systems Ad Hoc Committee about whether the original policies and procedures being employed were contributing as much as they could to diverting individuals from the jail. The Committee invited an analysis and recommendations for improving the drug court program from the presiding Superior Court judge and the administrator of the local therapeutic courts programs. Considerable discussion about these recommendations has yielded positive results and improved communication between public systems, and identified potential steps to achieve further improvements in the program in the future.

Additional part-time professional staff: Because of limited staffing, the drug court administrator is forced to do middle-level tasks (including in some cases administering random UA tests to participants) that prevent her from more productive work such as pursuing available grants to better fund the program. **The Committee and the Task Force recommend that the County budget include funding to provide an additional .5 FTE position to support the work of the program administrator.** Discussions with

the Superior Court administrator have increased the prospect for directing existing unspent funding to this purpose, and efforts will continue to make this funding a more permanent and explicit part of the county's budget.

Improving teamwork and cooperation: The "team" that works with drug court participants includes the Prosecutor's Office, the supervising judge, the therapeutic courts administrator and support staff, and the Public Defender's Office. The Committee was informed that this team had never all attended a national training together to enhance and upgrade their collective knowledge and coordination. Identifying this fact prompted communication with the County Health Department, which clarified that dedicated behavioral health sales tax revenue could be available to fund such training and plans are now proceeding to allow the team to attend such training in 2018. In a similar way, it was reported that the drug court program had inadequate resources available to provide drug court participants with minimal but motivational positive incentives (for example, a gift card for a free coffee drink or a movie pass) to acknowledge incremental progress in the program. Positive incentives are a best practice for drug court programs, according to the standards established by the National Association of Drug Court Professionals (NADCP). As with the cost of training, the Health Department agreed that dedicated behavioral health sales tax revenue was also appropriate for this purpose.

Eligibility for referral to Drug Court: It is the responsibility of the Prosecutor's Office to determine which individuals should be referred to the drug court program for evaluation of whether they are promising candidates for participation. This referral is a discretionary decision which the Prosecutor's Office takes very seriously and for which it uses its own professional judgment. In the time since the Whatcom County drug court program was established, however, the views of drug court professionals about the methods for appropriate referrals have evolved due to subsequent research. The best practices now set by the NADCP call for use of an evidence-based, validated eligibility screening tool to inform the Prosecutor's referral decision. The Committee has entertained considerable debate about whether the local program should adopt this best practice and move toward incorporating such a screening tool into its referral process. Available standards and practices for awarding substantial but very competitive federal grants for drug court programs seem to penalize grant applicants that do not implement this and other best practices. For the present time, the Prosecutor's Office expressly rejects use of an evidence-based screening tool as unnecessary. However, the Prosecutor's Office and the Superior Court are committed to ongoing discussions about drug court improvements and this step may be reconsidered at an appropriate future time.

Exploring expansion of supportive housing: The drug court program generally requires a new participant to live in a "clean-and-sober" supported housing environment for the first several months of involvement in the program. This is reasonably intended to provide a setting that separate the participant from people and circumstances related to the substance use problems he or she is starting to deal with. Unfortunately, the availability of such housing in Whatcom County is limited. In addition, the agencies that provide "clean-and-sober" housing tend to operate with a zero-tolerance approach to relapses that may lead directly to the loss of the housing, whereas the accepted model for drug court is to view relapses as part of the recovery process and as a signal of the need for more services, not less. Following the analysis and recommendations of the drug court administrator, further conversations began in the community about exploring the development of additional supported housing. This effort quickly engaged a non-profit housing development agency, a non-profit supported housing provider, a community-based foundation committed to criminal justice improvements, the County Health Department, and a non-profit property owner. Much more specific work needs to be done to advance this prospect, but everyone in these conversations to date is gratified by the support engendered so far.

**From:** [Phillips, Chris](#)  
**To:** [Forrest Longman](#); [Tyler Schroeder](#); [Anne Deacon](#)  
**Cc:** [Jill Nixon](#)  
**Subject:** Triage section of the Phase III report  
**Date:** Sunday, November 05, 2017 6:01:06 PM  
**Attachments:** [image003.png](#)  
[image006.png](#)  
[Phase III Report cp.draft\\_11.5.17\\_V2.docx](#)  
**Importance:** High

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Good evening Forrest, Anne and Tyler,

I am enclosing a draft of the Phase III Report/ Triage Section. I worked off the Interim Phase III report and used track changes. The edits begin on pages 4 and 5 and then again on pages 9 – 15.

There's a number of places in the document that I just took a guess, so if it appears off, it's probably because it is. For example, I would encourage those with a greater grasp of the financial and political nuisances than I, to take a look at the Capital Funding section. Please feel free to make what edits you think are needed in any and all of it.

I highlighted three questions:

1. Pg 9: . [Is it true that the fire code issues have been resolved? Do we want to say anything more about how it was resolved? Not sure that its needed].
2. Pg 13: [Do we want to discuss bonding as a possible plan B?]
3. Pg 15: [Do we want to get any more specific with next steps?]

Let me know how I can assist further,

Chris

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**Chris Phillips** | Director for Community Health | NW  
[PeaceHealth](#) |

## EXECUTIVE SUMMARY

This is an initial update preceding the third report requested by the Whatcom County Council when it created the Incarceration Prevention and Reduction Task Force (Task Force). The third and final report is due to the Council December 5, 2017. The Task Force has organized itself into three ad hoc committees to focus on specific areas of interest:

1. Development of an expanded Crisis Triage Facility (Triage Facility Ad Hoc Committee);
2. Identification of current jail diversion programs and opportunities for new or expanded programs within the court process (Legal & Justice System Ad Hoc Committee); and
3. Identification of current behavioral health programs and opportunities for new or expanded programs to reduce jail use by individuals with mental illness or substance abuse disorder (Behavioral Health Ad Hoc Committee).

### TRIAGE FACILITY AD HOC COMMITTEE

In the Phase II report The Triage Ad Hoc Committee made the following recommendation:

1. Develop two 16-bed units joined in one building off a common foyer with a common intake space; each unit licensed as a Residential Treatment Facility. One unit will provide mental health crisis stabilization services as a Crisis Triage Facility. The other unit will provide acute substance detoxification services.
2. The 16-bed mental health Crisis Triage Unit will be certified as voluntary with enhanced security. The other unit will be certified as an Acute Detox Facility.
3. Focus efforts on redeveloping the Division Street location.

Additionally, the committee strongly recommended that the County continue to support the development of a continuum of care, and noted that Triage facility success will be limited without sufficient resources to support individuals once they have stabilized and are ready to be discharged.

The Committee, with active and ongoing staff support from the Health Department and the Executive's Office, has put together preliminary operational and facility plans and has made significant progress on both capital and operational funding. Total capital cost is now projected to be approximately \$9 million, of which \$5.5 million has been committed. The regional Behavioral Health Organization requested the balance from the State Legislature, That request remains tied up in the State capital budget impasse. Operational funding is projected to be nearly \$5 million annually and expected to be funded primarily by the regional Behavioral Health Organization with Medicaid dollars. The committee will continue to provide input on this planning process.

Over the last several months progress has been made on developing a public outreach framework, and securing Council approval of a contract with an architect for a schematic design and associated services. Additionally, the Task Force passed a resolution recommending that the County assess the advisability of building a stand-alone crisis triage center as opposed to re-modeling the existing Iron Gate facility. which is currently working to complete the biennial budget. ~~Operational funding is projected to be nearly \$5 million annually and expected to be funded primarily by the regional Behavioral Health Organization with Medicaid dollars. The committee will continue to provide input on this planning process.~~

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#### LEGAL & JUSTICE SYSTEM AD HOC COMMITTEE

The Legal & Justice System Ad Hoc Committee has focused on developing an evidence-based, pretrial risk assessment tool and pretrial supervision unit. An analysis by the Prosecutor's Office, reviewing three days of jail use, found 36-37 percent of the jail population being held pretrial on felony charges. That analysis identified a number of individuals who could be eligible for pretrial release, depending on the criteria. This population could represent a meaningful impact on jail use. However, the committee expects that further analysis and program development will identify a more precise proportion of the jail population, including misdemeanants, which may be eligible for release. The work of the Vera Institute will inform this effort.

For the final Phase III report, the committee intends to develop recommendations concerning the creation and adoption of a risk assessment tool and pretrial supervision unit. Additionally, the committee will continue to review opportunities to improve the legal and justice systems, including ensuring existing programs are using best practices and that treatment programs are evidence-based.

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#### BEHAVIORAL HEALTH AD HOC COMMITTEE

The Behavioral Health Ad Hoc Committee focused most of its preliminary Phase III work on developing and enhancing services that may avert arrest and incarceration. This effort aligned with our priority to develop or improve programs that link to the "front door" of the Crisis Triage facility.

The committee provided ongoing review and feedback on a community initiative to develop a coordinated system of response and engagement with individuals who frequently use crisis and criminal justice systems in ineffective and inappropriate ways. These individuals are the "familiar faces" that our community spends significant time and money on with minimal positive impact.

The initiative, **Ground-level Response And Coordinated Engagement**, or GRACE, is a community effort encompassing the health care system and criminal justice. The GRACE project is intended in part to prevent and reduce arrest and incarceration for a targeted group of individuals by providing better coordination of interventions that connect them to treatment and support services which serve as alternatives to jail. The program is not another crisis system program to be used by anyone in distress.

## INTRODUCTION

The Whatcom County Council created the Incarceration Prevention and Reduction Task Force (Task Force) by Ordinance 2015-25. It charged the Task Force with recommending a continuum of new or enhanced programs to divert or prevent incarceration of individuals with mental illness and substance use disorders. Implicit in the charge is to consider both the safety of the public and the most effective tools necessary to deal with such individuals charged with, or at risk of committing, a criminal violation consistent state and tribal laws. Ordinance 2015-37 amended the Task Force charge, to “expand, as soon as reasonably possible, available alternatives to incarceration...” for individuals in general.

The ordinance structured the work of the Task Force into three phases and several objectives.

The Task Force delivered the Phase I report in February of 2016. That report focused on developing goals for a new or enhanced crisis triage center. It presented preliminary recommendations for a crisis triage facility; a description of current justice system and behavioral health programs; and an extensive list of possible changes or additions to the overall justice system and behavioral health system continuums of diversion and treatment alternatives. That and subsequent reports can be found on the [Task Force webpage](#).

The Phase II report was delivered in October of 2016. It included specific recommendations for the development of a new Crisis Triage Facility, recommendations for reducing barriers for electronic home monitoring, a mapping of existing behavioral health programs and a discussion of how to develop effective programs.

The final Phase III report is due to the County Council by December 5, 2017, as set by Ordinance 2017-004. The report will include specific operational plans and budgets for implementing crisis intervention, triage and incarceration prevention and reduction programs. This initial Phase III report provides an update on Crisis Triage Facility specifications and preferred location, and investigations on expanding alternatives to incarceration.

The Task Force is composed of three ad hoc committees which discuss, review and develop proposals. The committees then make recommendations to the larger Task Force which further reviews the recommendations and makes recommendations to the County Council. Such recommendations, with appropriate background information and discussion, will be included in the final Phase III report. The three committees are organized as follows:

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### TRIAGE FACILITY AD HOC COMMITTEE

The Triage Facility Ad Hoc Committee is tasked with assessing the existing Crisis Triage Facility, developing recommendations for a new or enhanced Crisis Triage Facility, and providing goals and objectives for improvements to current systems. These goals and objectives, if acted upon, may enhance the ability of law enforcement and emergency medical services to divert individuals with mental illness/substance use disorders to appropriate and available treatment modalities, and provide alternatives to incarceration when necessary.

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## LEGAL & JUSTICE SYSTEM AD HOC COMMITTEE

The Legal & Justice Ad Hoc Committee is reviewing incarceration alternatives and diversion programs as well as developing recommendations for specific, achievable programs and services that would prevent or reduce incarceration, within and parallel to the legal and law enforcement systems for both individuals with mental illness/substance use disorder and the general population. They are keenly focused on short-term “wins” that will make immediate improvements to current programs and services, consistent with the laws of the state and tribal laws.

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## BEHAVIORAL HEALTH AD HOC COMMITTEE

The Behavioral Health Ad Hoc Committee is mapping existing programs and services, and developing recommendations for new, or enhancements of existing programs, designed along a continuum that effectively reduce incarceration of individuals struggling with mental illness and chemical dependency. The committee is charged with evaluating current programs, and benchmarking them against recognized best practices.

## TRIAGE FACILITY AD HOC COMMITTEE REPORT

### INTRODUCTION

In the Phase II report The Triage Ad Hoc Committee made the following recommendation:

1. Develop two 16-bed units joined in one building off a common foyer with a common intake space; each unit licensed as a Residential Treatment Facility. One unit will provide mental health crisis stabilization services as a Crisis Triage Facility. The other unit will provide acute withdrawal stabilization services.
2. The 16-bed mental health Crisis Triage Unit will be certified as voluntary with enhanced security. The other unit will be certified as an Acute Withdrawal Stabilization Facility.
3. Focus efforts on redeveloping the Division Street location.

Additionally, the committee strongly recommended that the County continue to support the development of a continuum of care, and noted that the success of the Crisis Triage Facility will be limited without sufficient resources to support individuals once they have stabilized and are ready to be discharged.

The Committee, with active and ongoing staff support from the Health Department and the Executive’s Office, has put together preliminary operational and facility plans and has made significant progress on both capital and operational funding.

FACILITY PLAN

DESIGN

The Phase II report described the capacity and limitations of the current Triage Facility, and outlined the factors that were considered to estimate the need for additional crisis triage bed and detox bed capacity. While the needs are projected to be somewhat greater than the 32-bed recommendation, 16 beds for each discreet unit are the maximum allowed under Medicaid rules. Accordingly, the design is for two 16-bed units joined in one building off a common foyer. One unit will provide mental health crisis stabilization services. The other unit will provide acute withdrawal stabilization services.

~~In the Interim Phase III Report, it was noted that aWhile preliminary architectural drawings have been developed, they cannot be finalized and a contract awarded to a qualified general contractor until a regulatory issue regarding the interpretation of fire code by two different Departments of State government was holding up the development of is-resolved architectural drawings. A recent interpretation of a building code by the Washington State Department of Health Construction Review Services Division is creating significant challenges to facility design. The interpretation creates a requirement for additional walls for fire suppression and is being challenged by two similar projects elsewhere in the state. The requirement for additional walls compromises line of sight and sound of facility clients, thereby jeopardizing client safety. The Whatcom County Triage expansion may be delayed until this issue is resolved. The committee will continue to monitor the situation and reach out to individuals who may be able to lobby for reinterpretation of this rule. This problem has been resolved, and, the County has engaged an architect to complete program and conceptual design as outlined below. [Is it true that the fire code issues have been resolved? Do we want to say anything more about how it was resolved? Not sure that its needed].~~

Programming design will include the following:

- Confirmation of project scope, including a detailed description of the facilities programming requirements; verification of DSHS and Department of Health licensing requirements
- Confirmation of structural, mechanical, and electrical requirements for the project,
- Verification of building code issues with the City of Bellingham, Washington State Department of Health, Department of Social and Health Services, Washington State Fire Marshal, International Building Code (as adopted by the State of Washington and the City of Bellingham) and / or others as applicable
- Development of a detailed project schedule, incorporating provisions for the continued operation of the existing facility,
- Preparation of an Estimate of Probable Construction Cost, based upon the facility program and the established project time schedule,
- Confirmation of the overall Project Schedule,
- Revisions and updates as required to the Overall Project Budget.

Conceptual Designs will be offered for the following two options;

- (1) renovation and addition to the existing building to accommodate the Facility Program,
- and (2) the development of an independent new building adjacent to the existing building,

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incorporating the complete Facility Program.

Both options will be presented including a detailed cost comparison that incorporates both hard construction cost and soft development costs.

A scope of work that includes the above items has been negotiated with architect Ron Wright for a fee of \$30,000.

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## LOCATION

In the Phase II report the Committee reviewed the alternatives to the current Division Street location, and recommended that the County move forward with redevelopment at Division Street. There were three issues noted in the Phase II report that needed to be addressed, and they were 1) ensuring adequate public transportation; 2) assurances given to the City of Bellingham and neighborhood concerning the long-term disposition of the property after the termination of its temporary use as a Work Center; and 3) the need to close the current triage center during construction.

As noted in the Phase II Report, expansion of WTA service addresses the first issue, and recent discussions between the County and City coupled with the planned public outreach addresses the second issue. The third issue remains a concern that is being factored into the planning options that are outlined below.

The Task Force is recommending that the County explore making the Triage and Crisis Respite facility free-standing for four reasons: 1) The cost differential for the remodel and a new facility is only 16 percent; 2) hidden problems often occur with remodels, so the new construction forecast will be more accurate; 3) it gives better use of the existing building by not eliminating what they currently have and 4) there will be a savings from not having to move people from the existing facility during construction.

The next step, assuming that the regulatory issues noted above can be resolved and architectural renderings developed, will be to host an early public process, hopefully in September, to introduce the community to the plan and invite public comment. Subsequent outreach will include:

1. Letters and outreach to the neighbors;
2. Media outreach about the project; and
3. Compliance with City of Bellingham's requirements for public outreach during the building permit process.

The Phase II Report called out the need to proactively engage the public, including people living in close proximity to the anticipated program site. To ensure a transparent, open process for stakeholders, citizens and decision makers, the County Executive's Office has worked with the Task Force to develop a Public Involvement Plan that includes:

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- Public briefings with the Incarceration Prevention Task Force and the Triage Committee, the Bellingham City Council and the County Council,
- Neighborhood Notice/Meeting discussions
- Key Stakeholders Discussions
- Permit process

The Phase II report noted three issues surrounding the Division Street Location and the Task Force has taken steps to address these issues:

The first issue was limited public transportation service to the site. The Whatcom Transportation Authority recently expanded service on the bus line serving the location. However, this may not be sufficient; the Task Force will continue to seek further service expansions to mitigate transportation challenges.

The second issue is the assurances given to the City of Bellingham and neighborhood concerning the long term disposition of the property after the termination of its temporary use as a Work Center. At the time, the County committed to return the property to private ownership when the Work Center was closed. It is anticipated the County and City will work together toward insuring this location remains a viable location. Additionally, the City agrees that the utilization of this facility for the purposes of a triage center would not be violative of the agreements. Assurances to the neighborhood will be addressed during the public outreach process.

The final issue was the potential need to close the triage center during construction. The committee continues to explore this issue as planning continues.

#### CAPITAL FUNDING

In the early stages of planning the estimated cost has ranged from \$6.5 to \$9 million. The more specific project budget as developed by Ron Wright Associates in August, 2017 is for \$7 million. That budget can be seen on the next page.

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**Whatcom County Crisis Triage Center  
PROJECT BUDGET WORKSHEET**

**SITE AND BUILDING CONSTRUCTION COSTS**

Construction		\$4,536,000	
Construction Contingency	10%	\$453,600	Unforeseen conditions, etc.
WSST	8.70%	\$434,095	
Subtotal			\$5,423,695

**PERMITS, FEES, TAXES, INSURANCE, BONDS**

Building/Use Permits	1.80%	\$97,627	
Health Department Permit Fees	allow	\$15,000	
Geotechnical & Misc. Reports	allow	\$5,000	
Inspection /Testing	allow	\$8,000	
A/E Consultants fees	allow	\$693,596	WA State Fee Schedule Required for LEED
Commissioning Consultant	allow	\$20,000	
Balancing Services (HVAC)	allow	\$10,000	
Civil Engineering & Landscape	allow	\$15,000	
LEED Consultant Services	allow	\$65,000	LEED
Project Management Costs	allow	\$120,000	County
Contingency	allow	\$20,000	
Subtotal			\$1,069,223

**EQUIPMENT/FURNISHINGS**

Computer System (wiring/installation)	allow	\$0	Included in Construction
Communications System	allow	\$0	Included in Construction
Security System	allow	\$0	Included in Construction
Misc Equip (applicances, etc.)	allow	\$0	Included in Construction
Furniture	allow	\$0	Included in Construction
Contingency	allow	\$10,000	
Subtotal			\$10,000

**MAINTAIN DETOX OPERATIONS**

Allowance for temporary operations	allow	\$200,000	8 months
Contingency	allow	\$0	
Subtotal			\$200,000

**INFLATION/CONTINGENCY**

Escallation to August 2018	2.50%	\$163,749	
Owners Project Contingency	2.00%	\$133,333	
Subtotal			\$297,082

**TOTAL ESTIMATED PROJECT COSTS** \$7,000,000

~~The Phase II report quoted an estimate of \$6.5 million, but since that time building costs and specifications have changed. The revised estimate for the total project is \$9 million to account also for relocation of programming during the construction process.~~ Significant headway has been made in securing the needed capital funds. A regional request was submitted to the legislature, with a specific line item for the triage expansion. The State House of Representatives capital budget proposes fully funding the request. The State Senate capital budget proposes to direct the Department of Commerce to grant funds for such projects through a competitive process. As of ~~June-November~~ 2017, the ~~legislature committee is awaiting the outcome of the special legislative session; it is unclear what the final negotiated has not released a~~ capital budget ~~will provide for the Whatcom County triage expansion project.~~

The local and regional funding contribution is more secure. The North Sound Behavioral Health Organization (BHO) has provided \$2.5 million, and the County's local behavioral health fund has dedicated \$3 million for the project.

**[Do we want to discuss bonding as a possible plan B?]**

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## OPERATIONS

### PROGRAM DESIGN

The program design recommendations of the proposed 16-bed crisis stabilization and 16-bed withdrawal stabilization facility are outlined in the Phase II report and affirmed in this Phase III report. These include:

- Because of the greater flexibility and lower cost provided by a voluntary facility, the Task Force recommends the facility remain voluntary. (The current state statute [RCW 10.31.110] and administrative codes defining and guiding the operations of an Involuntary Crisis Triage Facility are restrictive. An individual who is admitted to the facility on an involuntary basis may be held up to twelve hours only. Within three hours of arrival, the individual must be evaluated by a Mental Health Professional. If the individual is found to require civil commitment under the Involuntary Treatment Act [RCW 71.05], then s/he must be transferred to an Evaluation & Treatment facility. Two other disposition options include being discharged to the community, or remaining in the facility on a voluntary basis until the mental health crisis is stabilized.)
- The withdrawal stabilization facility should be designed as an *Acute Stabilization Center*, i.e. there should be medical staff and other supports available on site on a 24/7 basis to treat severe withdrawal.

The operational plan for the two adjacent units has not been finalized. Two options exist: one treatment provider delivers all services at the two adjacent units; or two separate treatment providers operate out of each adjacent unit, one providing mental health crisis stabilization and the other providing acute withdrawal stabilization. This decision will be made based in part on ensuring that all requirements for Medicaid funding are met.

## OPERATIONAL COST

~~The North Sound BHO will administer these funds through contracts with the treatment providers.~~ As noted in the Phase II report, a review of similar facilities suggests that operating costs would be approximately \$3 million for the mental health triage unit and \$1.9 million for the withdrawal stabilization unit. Under the current funding model for these types of facilities, North Sound BHO will be the primary operational funder, using Medicaid dollars allocated by the state. Local behavioral health dollars may be contributed to cover certain unfunded costs which are not yet identified, but necessary to ensure optimal seamless care and coordination upon discharge to the community.

In the Phase II report a number of issues were identified that contributed to uncertainty regarding behavioral health funding in the state, and by extension the ability of the BHO to “make good” on its intention to support the operational costs of the Triage center. These issues included d the state-mandated integration of behavioral health and medical care financing, and ongoing conversations at the federal level to repeal or change the Affordable Care Act.

Since the Phase II report was presented to the Council in October 2016, the North Sound five-county region has chosen to integrate behavioral and medical Medicaid financing a year ahead of the legislatively mandated deadline for integration. At the Federal level, efforts to repeal and replace the ACA have fallen short, and at least for now Medicaid expansion remains.

While the committee recognizes that the County must carefully consider the uncertainties at play in the North Sound Region and at the Federal level, noted above, there is reason to believe that the Triage facility could rely on Medicaid funding despite regional changes in Medicaid financing and possible shifts in the Federal Medicaid program. ~~possible state and federal changes. Programs People will still be required to serve populations for whom who are in~~ sub-acute intervention is an important tool for behavioral health crisis will need to be served, -Additionally, and, regardless of who the payer is, these types of Triage and Crisis stabilization, facilities will always be less expensive than sending someone in mental health or substance induced crisis to an emergency room.

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## NEXT STEPS

The Task Force has recommended the Division Street location for two, adjacent 16-bed facilities, one for mental health crisis triage and one for withdrawal stabilization. ~~Outreach to the businesses and residents in the Division Street area should begin as soon as possible. Every effort should be made to secure funding from the current legislative session. Additionally, the governor’s office should be contacted to ensure that the fire code issues can be resolved so that design can proceed~~ Upon

completion of the Architectural services scope of work (projected to be December 2017), the --Public Involvement Plan should be put into action.

In the meantime, the County Executive's office and the Council will no doubt be carefully monitoring the State capital budget situation. The Task Force Triage Committee stands ready to assist in the development of a "Plan B" in the event that the needed capital funds are not secured through the legislative capital budget. [Do we want to get more specific with next steps]

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## LEGAL & JUSTICE SYSTEM AD HOC COMMITTEE REPORT

### INTRODUCTION

In the Phase II report, the Legal & Justice Ad Hoc Committee described its preliminary investigation of pretrial release programs. The committee has continued this work, further reviewing the opportunities that may exist for reducing incarceration of individuals held pretrial while mitigating risks this may create. The committee has focused this review on evidence-based risk assessments tools coupled with a pretrial supervision unit.

### EVIDENCE-BASED RISK ASSESSMENT TOOL AND PRETRAIL SUPERVISION UNIT

The committee's review of the county's legal and justice system led it to identify the population in custody and awaiting trial as the primary target for their work. These individuals are in the jail, but have not been convicted of a crime.

### PRETRAIL RELEASE RULES

The Court Rules in Washington direct that individuals who are charged with a non-capital crime be released without bail unless the Court is reasonably assured that this release will:

1. not reasonably assure the accused's appearance; or
2. result in a likely danger that the accused will commit a violent crime or will seek to intimidate witnesses, or otherwise unlawfully interfere with the administration of justice. (CrR 3.2)

When the Court is concerned about an individual's appearance in court or public safety, the Court will set bail and conditions of release. In setting the bail amount, the Court considers the likeliness or unlikeliness of the accused appearing for court based on the following (as set by the Court Rules): the accused's history of response to legal process; employment status; family ties; reputation, character and mental condition; length of residence in the community; criminal record; willingness of responsible members of the community to vouch for the accused and assist in complying with conditions; the nature of the charge; and any other factors indicating ties to the community.

Name: **Incarceration Prevention and Reduction Task Force**

Membership: 24 Members. Thirteen permanent members and 11 appointed members

Enabling Statute(s): WCC 2.46: Ordinance 2015-025, 2015-037, 2017-004

Term Information: Appointed Members: 4 year terms, no term limits. (Initial Appointments: 5 positions are for 2-year terms and 6 positions are for 4-year terms)

<b>PERMANENT MEMBERS</b>		
<b>#</b>	<b>Position</b>	<b>Name</b>
1	Whatcom County Councilmember	Ken Mann
2	Whatcom County Executive (or designated representative)	Tyler Schroeder
3	Whatcom County Sheriff (or designated representative)	Bill Elfo
4	Whatcom County Pros. Attorney (or designated representative)	Dave McEachran
5	Whatcom County Public Defender (or designated representative)	Angela Anderson
6	Whatcom County Superior Court or District Court Representative	Commissioner Alfred Heydrich
7	Bellingham Mayor or Representative	Kelli Linville
8	Bellingham City Attorney, Municipal Court, or Police	Darlene Peterson
9	Bellingham City Council Member	Daniel Hammill
10	Small Cities Caucus Representative	John Billester, Lynden Interim Police Chief
11	Tribal Representative	Nick Lewis
12	Health Dept., Human Services Division Representative	Anne Deacon
13	North Sound BHO Exec. Director (or designated representative)	Betsy Kruse, Deputy Director

<b>APPOINTED MEMBERS</b>			
	<b>Position</b>	<b>Name/Address</b>	<b>Term Information</b>
1	Whatcom Alliance for Health Advancement (WAHA)	Stephen Gockley WAHA Board Member	1 <sup>st</sup> term ends 1/31/2020
2	Peace Health St. Joseph	Chris Phillips	1 <sup>st</sup> term ends 1/31/2020
3	Community Health Center - Federally Qualified Health Center (FQHC):	<b>VACANT</b>	1 <sup>st</sup> term ends 1/31/2020
4	Emergency Medical Services (EMS)	<b>Jeff Brubaker</b> Community Paramedic	1 <sup>st</sup> term ends 1/31/2018
5	Community Action Agency or Provider 1	Greg Winter Opportunity Council	1 <sup>st</sup> term ends 1/31/2020
6	Community Action Agency or Provider 2	<b>Byron Manering</b> Brigid Collins	1 <sup>st</sup> term ends 1/31/2018
7	Community Action Agency or Provider 3	<b>Moonwater</b> Dispute Resolution Center	1 <sup>st</sup> term ends 1/31/2018
8	Consumer 1	Jack Hovenier	1 <sup>st</sup> term ends 1/31/2020
9	Consumer 2	<b>Susan Gribbin</b>	1 <sup>st</sup> term ends 1/31/2018
10	Citizen 1	Jill Bernstein	1 <sup>st</sup> term ends 1/31/2020
11	Citizen 2	<b>Irene Morgan</b>	1 <sup>st</sup> term ends 1/31/2018

Updated: 11/7/2017

# 2018 IPR TASK FORCE & COMMITTEE SCHEDULE

**PROPOSED**

	<b>IPR TASK FORCE</b> <b>4<sup>th</sup> Monday</b> <b>9-11 a.m.</b> <b>Courthouse</b> <b>513/514</b>	<b>BEHAVIORAL</b> <b>HEALTH</b> <b>3rd Mondays</b> <b>2:30-3:30 pm</b> <b>Health Dept.</b> <b>Creekside Room</b>	<b>LEGAL &amp;</b> <b>JUSTICE SYS.</b> <b>2<sup>nd</sup> Tuesday</b> <b>11:30 am -</b> <b>1:30 pm</b> <b>Courthouse 514</b>
<b>OPTION A</b> → Meet monthly, on the same weekday each month (e.g. the 4 <sup>th</sup> Monday)	January 22 # February 26 # March 26 # April 23 # May 21 *# June 25 July 23 # (no august) September 24 # October 22 # November 26 December 17 *	May not be possible due to 2018 prospective committee chair Dan Hammill and multiple conflicts with Bellingham City Council meeting days	January 9 February 13 # March 13 # April 17 May 15 June 19 # July 17 (no august) September 18 October 16 November 20 # December 18
<b>OPTION B</b> → Meet on different days, working around Bellingham City Council or Whatcom County Council meeting days	<b>ALTERNATE</b> <b>Various Mondays, not on Bellingham City Council days</b>	<b>ALTERNATE</b> <b>Various Mondays, not on Bellingham City Council days</b>	<b>ALTERNATE</b> <b>Various Tuesdays, not on County Council days</b>
	January ___ (8?) February 5 March 5 April 2 May 14 June 11 July 2 or 16 August 6 September 17 October 15 November 26 December 17	January ___? February 5 March 5 April 2 May 14 June 11 July 2 or 16 August 6 September 17 October 15 November 26 December 17	January 9 February 6 March 6 April 3 May 1 June 12 July 10 (no august) September 18 October 16 November 13 December 4
<b>OPTION C</b>	<b>???</b>	<b>???</b>	<b>???</b>

\* = Alternate meeting day due to holiday/vacation

# = conflicts with County Council (Tuesdays) or Bellingham City Council (Mondays) meeting days