

Incarceration Prevention and Reduction Task Force
Legal & Justice Systems Subcommittee
Meeting Summary for August 8, 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, Daniel Hammill, Fred Heydrich, Irene Morgan, Darlene Peterson, Peter Ruffatto

Also Present: Kathy Walker (Proxy for Dave McEachran)

Members Absent: Deborra Garrett, Stephen Gockley, Michael Knapp, Dave McEachran, Moonwater

2. Presentation on Mental Health Court needs

Darrin Hall, Public Defender, submitted and read from a handout on Mental Health Court (on file):

- Pre- and post-conviction
- Post-conviction participants may begin with deferred felony charges with the option to plead guilty with a misdemeanor with mental health court in District Court.
- If mental health court is successfully completed after 18 months to two years, the felony will be dismissed.
- The goal is to provide two years of full compliance with mental health services, medication requirements, and/or substance abuse treatment
- They are 19 months into the first class.
- They need a comprehensive, full-scale service provider of transportation, housing, medication, and other services

Linda Grant, Health Department, stated local agencies' staff and services fluctuate overtime. Don't lock into a long-term contract with a single agency. Maintain the County's ability to be flexible in choosing the best agencies available at the time.

The Committee asked questions about needed improvements to the program:

- Clients from District Court have different housing and transportation needs from the clients from the municipal courts.
- Mental Health Court hasn't had to use the crisis prevention and intervention team (CPIT), but is aware of the services they and other community response groups provide.
- They need expanded triage capacity for crisis respite and detox
- They also need a secure and safe detox option for clients who show up to court under the influence
- They all want an expanded continuum of substance use disorder and co-occurring order treatment
- A recovery housing option separate from a typical clean and sober house is essential
- Continue expansion at the Lake Whatcom Treatment Center and Catholic Community Services for their co-occurring disorders
- In-custody substance use evaluation is being restored by the Health Department and Behavioral Health Organization (BHO)
- It's been difficult finding a mental health evaluator to find time to do evaluations at the jail between regular appointments

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- Law enforcement are informed of the list of people participating in mental health court in case they encounter those participants
- Someone who has been in jail for more than 30 days is not considered clean and sober for the purpose of getting access to services
- The County can hire a staff person to do in-custody evaluations part-time; finding a qualified person to apply may be difficult
- Substance use evaluators and mental health evaluators require different training, so there may not be one person who can do both

Grant continued the presentation on housing needs:

- The homeless population and mental health population coming out of jail overlap, but aren't the same population
- Citygate, Sun House, and Francis Place are housing options that work well
- Landlords generally don't want to rent to this population
- There is a 24-hour gap from jail release to being qualified as homeless to receive homeless services
- They will need specialty housing for those with a criminal history who aren't considered traditionally vulnerable

Warren Page, Prosecutor, stated housing is a critical need. There are many ways to be ineligible for housing. Mental health court graduates' chances of success are low if they don't have stable housing.

The committee continued to discuss housing and transportation needs for people with mental health, substance use, and others with complex problems:

- There is a need for more sophisticated staff on site to manage these folks, some with strong criminogenic behaviors and/or severe addiction or illness
- It can be expensive to provide housing units that receive much damage from meth use and other types of destruction
- There are between 100 and 200 folks in the community now who need this type of housing
- At this point, mental health court would not be ready for Superior Court
- Active case managers who meet with the clients at least twice a week are necessary
- Transportation to get clients to appointments is also necessary
- Increased public bus system services isn't enough to solve transportation issues

3. Discussion of whether an independent assessment of Drug Court is needed

Anderson stated her concerns have been addressed, and a Drug Court needs assessment isn't necessary at this time. If the Drug Court staff feel that an assessment is necessary, they have the ability to request one. They don't need the Task Force to request it for them. She withdraws her request for an independent assessment, based on the information she's received.

David Graham, Prosecutor, stated a needs assessment could always recommend a smaller program. Drug Court staff concur that they need long-term in-patient treatment and clean and sober housing. They put anyone in Drug Court they can, but they have a problem finding enough in-patient treatment.

Anderson stated that when Drug Court served more people, there were too many people and it was inefficient. It wasn't a good program. Judge Snyder questions the need for an assessment.

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Bernstein stated she still would like to know if a needs assessment would answer the question of whether the full need in the community is being served and if more people could be served with more staff.

Anderson state everyone who qualifies and applies is allowed into the Drug Court program, and they have enough staff to handle it. Unless they change the qualification requirements, that population won't change, but that's not what a needs assessment would address.

The Committee discussed why defendants don't choose Drug Court, how to create incentives for defendants to choose a longer drug court program, and having an in-patient coordinator to funnel defendants into shorter programs they can do on their own.

4. Report on Yakima Pretrial Risk Assessment and Supervision

Heydrich reported on his recent visit to Yakima to learn about their program:

- A pre-trial risk assessment is evidence-based assessment of risk factors, to help the court determine who should be released and under what conditions
- A risk assessment that doesn't include defendant interview is a static assessment
- Pre-trial assessments are have been used around the country for decades
- He submitted examples of two noteworthy assessment models (on file), which are the Virginia model and the Arnold Foundation model
- A validated assessment model has been subjected to statistical analysis and study
- Risk assessments result in a scoring system that recommend whether or not a person should be released and under what conditions
- Services and conditions traditionally imposed can include hearing notifications and reminders, criminal history checks, phone or electric home monitoring (EHM) check-in, drug testing, location monitoring, and treatment.
- He hopes to make a recommendation to consider implementing the use of a risk assessment tool and set up a pre-trial supervision unit, to achieve the goal of getting more pre-trial people out of jail

Heydrich described the Yakima program:

- The number of pre-trial inmates was down to 383 from 450 before the pre-trial supervision program was implemented six months ago
- They spend \$82 per day for each person in jail, and \$8 per day for every person on pre-trial release
- The pre-trial supervision unit operates out of the court and includes a front-desk person, a supervisor, and a third staff person
- The program is paid from the general fund
- Of the people released on pre-trial supervision, 85 percent have not failed to appear to court and 94 percent have not reoffended. Yakima officials are compiling the data to calculate what these statistics were before the program was implemented
- Yakima uses the Arnold Foundation model assessment with additional local factors included
- The unit sends notification of all hearing dates via an automatic calling system
- The unit oversees 320 people with the three staff

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- The program is applied to Superior Court and District Court cases only, and municipalities are interested in joining the program
- Pre-trial supervision is for defendants released on personal recognizance (PR) only; people who post bail aren't included
- Yakima screens 40-60 people per week
- Each assessment takes about five minutes per person, and they're done by 10:00 a.m. each day
- The program supervisor has a Department of Corrections, county jail, and probation background
- Unit staff attends all first appearances and gets initial contact information
- The clerk sends court appearance results to the Unit daily
- The Unit staff are mostly successful at getting people to appear within five days if they don't appear at their court date
- Some people achieve a risk assessment score that keeps them in jail when they previously would have been released
- Defendants are required to call in once per week
- The Yakima County Prosecutor is guardedly optimistic about the program
- Anecdotally, there has not been an increase in trials or decrease in conviction rates
- County officials believe more low-risk defendants are being released, and more who need to be held are being held instead of released
- There has been 1,233 defendants assessed in the program so far; 512 have been released
- There have been no lawsuits
- Under court administration, there is reduced potential for County liability. It's just an assessment, the Court makes the final decision on release, and the Court is immune to lawsuits of this sort
- The manner of supervision is more about monitoring than supervising. The onus is on the defendants to check-in. County officials don't track down individuals.
- Of those assessed, 51 percent result in a 'Release Not Recommended' finding. The court has not been releasing 49.9 percent of those people. The court's decisions are close to the assessment results
- A risk assessment wouldn't be effective at reducing failures to appear and reoffending without the supervision component

The Committee discussed;

- Whether the court can implement this program on its own, without County Council approval
- Whatcom County District Court's pre-trial supervision program
- What happens if someone fails to call in
- The importance of having a prosecutor and public defender at first appearance, which Whatcom County already does
- Whether this risk assessment would result in the County holding more people than it does now
- Last year, before recent innovations from the municipalities, the rate of release from jail within 24 hours of arrest was at 56 percent. Within 72 hours, it was 63 percent.
- The Prosecutor's Office will start using the adult risk assessment, which was presented at the last committee meeting, which is different assessment from the pre-trial supervision assessment

This item will be held for more discussion and decisions to the next Committee meeting.

5. Recommendations on Probation Services Improvements (discussion if time allows)

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This item was not discussed and held to the next Committee meeting.

6. Public Comment

Unidentified speaker stated it doesn't look like these models allow people to represent themselves.

7. Adjourn

The meeting adjourned at 11:25 a.m.