

***Incarceration Prevention and Reduction Task Force
Legal & Justice Systems Subcommittee
Meeting Summary for March 14, 2017***

1. Call To Order

Committee Chair Stephen Gockley called the meeting to order at 11:35 a.m. in the Whatcom County Courthouse Conference Room 514, 311 Grand Avenue, Bellingham.

Members Present: Angela Anderson, Jill Bernstein, John Billester, Stephen Gockley, Moonwater, Irene Morgan, Darlene Peterson

Also Present: Deborra Garrett (for Alfred Heydrich), Kathy Walker (for Dave McEachran)

Members Absent: Bill Elfo, Fred Heydrich, Dave McEachran

Review February 28, 2017 Meeting Summary

The Committee agreed by general consent to approve the following amendments:

- Summary Title: correct date of the meeting, "~~May 16~~ **February 28**, 2017"
- Page 4: "If a person reports to Friendship Diversion Services within 24 hours **and enrolls**, the jail review court date is automatically cancelled."
- Page 2: "Statutory provisions create gross negligence **standard** if supervised under the auspices of the Court."

Election of Committee Vice-Chair

Bernstein moved to appoint Darlene Peterson as Subcommittee Vice-Chair.

The motion was approved by general consent.

2. Update on Initial groundwork for pretrial risk assessment recommendations

The Committee members discussed whether the group that develops a risk assessment tool for Whatcom County should be just the judges or a broader workgroup as suggested in the March 2017 memo from the VERA consultants.

- A standing agenda item for this committee could be an update from the judges on their progress in developing a risk assessment tool.
- A request of the judges to review and consider the Washington State Static Risk Assessment (SRA)
- Ask the judges how this Committee can help them make their decision on a risk assessment tool.
- Use the VERA consultant expertise as much as possible.
- The VERA consultants should incorporate as much information as possible that is specific to Washington State, including the Washington State Static Risk Assessment.
- Define a process to create a tool that is statistically validated for Whatcom County.

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- Find a statistician that is familiar with the topic, such as the Washington State Institute for Public Policy or the Washington State University Criminal Justice Institute.
- Consider whether they even need a pretrial release process.

Garrett stated the judges want a risk assessment tool that makes sense and that has consensus from the community, prosecution, and defense. The judges will make the final decision on a risk assessment tool, however the judges don't have the demographic or statistical expertise to develop the tool. The judges are interested to hear about the experience in Spokane from Commissioner Heydrich. The judges support a static risk assessment. At this point, it's up to the judges to meet with representatives of the public defender, prosecutor, and private bar to come up with something for which they can get input. It's not up to this committee to draft an assessment. A pretrial supervision unit is necessary for a risk assessment tool to be effective.

Peterson described the City of Bellingham's risk assessment development process. They reviewed the common questions on all the assessment tools they reviewed. A judicial decision created a weight for the answers to the questions. In addition to the assessment, they do a national criminal check and review defendant case history, which is required by the Revised Code of Washington (RCW) for Superior Court. The tool they developed was reviewed and slightly changed after six months of use. It has not been reviewed statistically.

The Committee discussed the process for moving forward:

- The first step is for Judge Garrett and Commissioner Heydrich to develop a first, very rough draft of a tool that he can take to Spokane.
- Commissioner Heydrich will do a site visit in Spokane, then present the information to the Whatcom County judges.
- Garrett will report back to this Committee at its meeting next month.
- The judges need demographic information, possibly from the VERA consultants or other researchers, such as:
 - Which factors are most predictive of community safety problems.
 - Which factors are most predictive of failure to appear.
 - The number of failures to appear.
 - The population of violent offenders and threats to community safety upon release.
 - The number of people who reoffend upon release.
- The Whatcom County judges will choose which options they prefer, and then ask for community input on those options.

The Committee continued to discuss:

- Whether other jurisdictions within the county could use the risk assessment tool that the County Superior Court judges develop.
- Risk assessment of felons versus misdemeanants.

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- The process outlined so far is different from what the VERA memo recommendation of a multi-stakeholder workgroup.
- The Washington State Static Risk Assessment doesn't include all the factors in the analysis that the judges would like.
- Every defendant is screened twice, prior to assigned counsel and from investigator interns, before meeting with their public defender. That screening is done twice per day, before court.
- A risk assessment would be conducted before first appearance.
- The Task Force members can help the judges connect with other stakeholders in the community who would be valuable to the development of the tool, such as the domestic violence prevention community.
- The Court may want to connect with Lummi support services for the Lummi Tribal members.

3. Proposal to Reconstitute a County Law and Justice Council

Walker described the history of the Law and Justice Council and how it disbanded in 2008 due to the economic recession and loss of funding for staff support and administration.

The Committee discussed:

- The diversity of the Law and Justice Council.
- Whether there is room for another committee with a similar focus.
- Recommendations of the Jail Planning Task Force to the County Council to reinstate the Law and Justice Council.
- Whether it is the responsibility of the Task Force.
- Whether the Task Force is temporary or permanent.

The Committee members agreed to refer the question to the full Task Force.

4. Next Steps: Ideas & Further Information

Bernstein referenced a handout of the whiteboard notes taken at the November 2017 committee meeting regarding a pretrial supervision unit (*on file*) and stated a next step is to come up with the answers to the questions, a timeline for answering the questions, and assign responsibilities to gather firm data so the questions are answered:

- The Committee has discussed Item 9 with Prosecutor McEachran and City Attorney Peter Ruffatto.
- The Committee discussed Item 8 today.
- To address Items 1 and 2, they need information from Commissioner Heydrich on the Spokane program, specifically the pretrial supervision unit structure, budget, and number of employees.

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- Bruce Van Glubt, Probation Administrator, stated he will contact other counties that are supervising pretrial felons and ask some of the questions.

The Committee discussed:

- Whether they need to develop the risk assessment tool before they can answer questions listed in the whiteboard notes.
- Whether a defendant's pretrial release will include monitoring or supervision.
- The types of conditions that can be required of a pretrial defendant when released, which does not include treatment, but can include evaluations and orders to ensure community safety.
- In-house staff and costs versus contractors
- The Committee going through a visioning process for its own pretrial supervision unit.
- Include an administrator's perspective when visioning a pretrial supervision unit.

Lewis stated he would like the Committee to address jurisdiction issues between the Lummi Tribe and the State courts. For example, tribal members have treaty rights to hunt and fish in areas that aren't allowed for others, yet they get prosecuted. The jurisdiction needs to be transferred to Lummi courts. These people are sitting in jail when arrested for hunting and fishing under Tribal treaty laws. In addition, the Tribal behavioral health service providers have the same training, education, and certification as Washington State-certified providers, yet the courts don't recognize the services that defendants get through Lummi support services.

The Committee agreed to have a meeting at the Lummi Administration Building.

5. Other Business

There was no other business.

6. Public Comment

7. Adjourn

The meeting adjourned at 1:25 p.m.