

Incarceration Prevention and Reduction Task Force
Legal & Justice Systems Subcommittee
Meeting Summary for May 9, 2017

1. Call To Order

Committee Chair Stephen Gockley called the meeting to order at 11:30 a.m. in the Whatcom County Courthouse Conference Room 514, 311 Grand Avenue, Bellingham.

Members Present: Angela Anderson, Jill Bernstein, Bill Elfo, Stephen Gockley, Fred Heydrich, Moonwater, Darlene Peterson

Members Absent: John Billester, Dave McEachran, Irene Morgan

Also Present: Joy Gilfilen (proxy for Irene Morgan), Nick Lewis, Kathy Walker (proxy for Dave McEachran)

Review March 4 and April 11, 2017 Meeting Summaries

There were no changes.

2. Pretrial Risk Assessment Instrument

Gockley submitted and referred to handout from Council Legislative Analyst Forrest Longman (*on file*) on the cost of locally validating a risk assessment instrument.

Matt Elich, Whatcom County District Court Judge, stated the pretrial release assessment instrument (PRAI) will primarily be used by Superior Court. District Court already engages in pretrial release. The District Court judges will consider and will not obstruct the use of a PRAI.

The committee members discussed:

- Whether validation costs are prohibitively expensive.
- The variety of different charges between Superior Court felonies and municipal and District Court misdemeanors.
- Review of potential validators by the VERA Institute consultants.
- Whether they need a specialist to design and validate the County's PRAI instead of designing their own or using an off-the-shelf tool.
- Prioritizing all recommendations that go to the Council.
- The concern about inconsistent orders between Superior Court and District Court.
- In Yakima, both Superior Court and District Court use the PRAI.
- In Spokane, all courts will be using the PRAI by June.

3. Drug Court

Chris Furman, Whatcom County Drug Court, described her background and the Drug Court process.

Incarceration Prevention and Reduction Task Force
Legal & Justice Systems Subcommittee
Meeting Summary for May 9, 2017

Raquel Montoya-Lewis, Whatcom County Superior Court Judge, described her background and the County's Drug Court program.

Montoya-Lewis, Furman, and the Committee members discussed the following:

- At this time, the program has an excellent base, and they do well with what they have.
- There are issues with funding, time, and lack of available services. With more funding, they can serve more people.
- Most participants are released from jail and go directly into inpatient treatment.
- Many participants are released from treatment too soon, and there is a gap in the definition of successful treatment between how the Court defines it and how the treatment provider defines it.
- 30 days is the minimum necessary treatment length.
- The Court has no authority to make a treatment provider hold someone longer than the provider deems necessary according to their criteria for inpatient treatment.
- Catholic Community Services is really the only provider for outpatient services, but they are not providing a skills curriculum for drug court participants.
- It's a best practice for the judge to know where the participant is at in the learning process, but that can't happen without a curriculum.
- Other programs with evidence-based practices are available in the community, such as the SeaMar Living in Balance program, but it's only available to the insured and private payers.
- Possible solutions for drug court services include:
 - The County to hire another case manager and develop a certified assessment center and curriculum-based program specifically for Drug Court participants. The North Sound Behavioral Health Organization would have to certify a program.
 - Work with Catholic Community Services to develop a curriculum-based program that is validated to best practices for Drug Court participants.
 - County to contract with SeaMar to provide a certified, specialized branch program for Drug Court participants
 - Contract with a local practitioner to develop and implement a program for drug court participants.
- Assessments are done quicker for people who remain in custody. It can take a month or longer to get an assessment for anyone out of custody. Certifying Drug Court personal would allow the process to work better and get people into treatment quicker. It would cost \$1,000 and a documented continuum of care to become a certified assessment center, plus there must be assessment staff to build a great program.
- Out-patient services are paid by Medicaid to a provider that has been certified and is contracted by the North Sound Behavioral Health Organization (BHO), which only contracts with Catholic Community Services (CCS) and SeaMar at this time.

Incarceration Prevention and Reduction Task Force
Legal & Justice Systems Subcommittee
Meeting Summary for May 9, 2017

- Have a discussion with North Sound BHO about auditing their contracts and why they are funding CCS, which isn't following best practices.
- There is a need for clean and sober housing, especially for women and people on suboxone.
- Drug Court violation sanctions are limited, and would benefit from other options, such as electronic home monitoring, that a pretrial unit could provide.
- The Drug Court needs small incentives and rewards for participants who do well, which is a drug court best practice. A small budget amount of \$1,000 per year for incentives would go a long way. A fund request is set up for the Whatcom County Drug Court at the Whatcom Community Foundation website:
https://wcf.fcsuite.com/erp/donate/create?setc=1&funit_id=1387&event_date_id=&grant_id=
- Additional FTEs:
 - A .5 FTE to allow Ms. Furman to develop community relationships and support for the program and its participants, at a cost of approximately \$75,000 to \$80,000. If certified, the position could do urinalysis in-house, which would save the County \$1,500-\$2,000 per month.
 - One case manager FTE to allow in-house treatment
 - Ideally, one to three additional FTEs total would allow the program to grow and do better.
- There are 40 participants now, and could be increased to 80 with an additional three case managers and a urinalysis technician.
- The process for deciding who is and who isn't qualified for Drug Court is very unclear. The national best practice for that process includes risk assessment. Those who do best are high risk with high needs.
- The Lummi Nation is focusing its money on the high risk, swift and certain, post-conviction drug court. Their capacity is 20 participants. Their jail budget is going down because of their investment in wraparound services.
- Judge Montoya-Lewis and Drug Court staff need training in best practices according to the National Association of Drug Court Professionals (NADCP).
- The County's Drug Court program would be qualified to apply for federal drug court grants if it followed NADCP best practices.
- Use a VISTA volunteer through the Opportunity Council to write grants.
- In terms of the 2012 assessment recommendations, Judge Montoya-Lewis knows they need to increase capacity, but can't do that without additional case managers and solve other issues as discussed.

Walker described the Prosecutor's process for determining eligibility for drug court and how drug court was originally created:

- The defense attorneys request that their client be considered for drug court.
- The prosecuting attorneys consider the present offense, the most current offense plus their history, plus their FTA history.

Incarceration Prevention and Reduction Task Force
Legal & Justice Systems Subcommittee
Meeting Summary for May 9, 2017

- When the initial drug court program was set up 15 years ago, everybody met and went to training sessions all over the country
- Decisions on eligibility includes prosecutorial discretion.
- The existing program hasn't been reviewed since it was created, and it may be time for a review.
- National best practices may or may not work in the local environment.
- There is no waiting list to get into the program, and eligible participants aren't turned away due to lack of program capacity.

(Note: The Committee continued discussion of Drug Court at its meeting on June 13, 2017.)

4. Developing a Pretrial Risk Assessment Instrument: initial work group report

Heydrich stated there is no new information. He's come to the conclusion that it's best to contract with a specialist to develop a locally-validated assessment tool.

5. Pretrial Supervision

Heydrich reported on his trip to Spokane to learn about their new pretrial assessment and supervision program.

- The jail is run by the County Commissioners, not the Sheriff.
- The program is too new to have statistics on results.
- Everyone except the Sheriff was optimistic about the program.
- They used the Washington State risk assessment in the past, and were not happy with it because it wasn't designed for pretrial defendants and doesn't address failures to appear.
- Statistics on pretrial jail population are unclear, and the estimates ranged from 38 to 70 percent.
- At this time, it's only for felonies, but will expand to District Court and Municipal Court by June.
- They have a significant federal population.
- The County jail has a mental health unit.
- The pretrial supervision unit:
 - Interviews inmates daily
 - The staff of 15, including 11 pretrial supervision officers, answers to the County Commissioners.
 - There is only one level of pretrial supervision: there must be no new violations, check-in by phone is required, and they must attend court and maintain their residences.
- Staff training was on-the-job.
- Spokane used Dr. Zachery Hamilton from Washington State University to validate the program.

Incarceration Prevention and Reduction Task Force
Legal & Justice Systems Subcommittee
Meeting Summary for May 9, 2017

- The risk assessment was funded with a MacArthur grant.
- He has ideas to make the first appearance calendar run more efficiently.
- Complete the risk assessment before the first appearance.
- The Lummi Nation programs uses the LSIR for risk assessment, uses a 24/7 sobriety program for pretrial, and uses a hotline that people must call into every day.

6. Next Steps: Ideas & Further Information

This item was not discussed.

7. Other Business

There was no other business.

8. Public Comment

Amy Malone, Restorative Community Coalition, stated she hopes the Task Force follows through on all the ideas presented today and looks at the proposals from the Restorative Community Coalition to partner with other agencies.

9. Adjourn

The meeting adjourned at 11:10 a.m.