

***Incarceration Prevention and Reduction Task Force  
Legal & Justice Systems Subcommittee  
Meeting Summary for June 13, 2017***

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**1. Call To Order**

Committee Chair Stephen Gockley called the meeting to order at 11:33 a.m. in the Whatcom County Courthouse Conference Room 514, 311 Grand Avenue, Bellingham.

Members Present: Angela Anderson, Jill Bernstein, John Billester, Bill Elfo, Stephen Gockley, Fred Heydrich, Dave McEachran, Moonwater, Irene Morgan, Darlene Peterson

Also Present: Matthew Elich, Deborra Garrett (proxy for Fred Heydrich), Joy Gilfilen (proxy for Irene Morgan), Bruce Van Glubt

Members Absent: None

Review May 9, 2017 Meeting Summary

- and -

**2. Drug Court**

*(Note: The Committee discussed the meeting summary and Agenda Item 2, Drug Court, concurrently.)*

McEachran stated he had concerns about comments made at the May 9 meeting regarding drug court:

- The Whatcom County Drug Court exactly follows best practices as described by the 10 key components in *Drug Courts: Defining Key Components*, by the Bureau of Justice Assistance, which is what everyone follows.
- All drug court programs across the country vary based upon the targets, the people you're looking at, location, and how much money you have to fund the program.
- The Whatcom County Drug Court is pre-conviction.
- Whatcom County did not receive any drug court grants this year because Superior Court did not apply for any.
- There are not enough treatment providers and not enough beds.
- There is no waiting list for drug court, so there's no reason to increase capacity to 80.
- His process for deciding who goes into drug court is not unclear.
- They do not include violent people, nor do they include drug dealers.
- The responsibility of the Prosecuting Attorney is to protect the public safety by ensuring that each candidate is appropriate for the program and complies with all drug court requirements.
- They have criteria for making decisions regarding participants and continued enrollment barring additional criminal behavior.
- He reviews all the felonies every morning. If he determines that someone would be available for drug court, he will identify them, contact the defense, and tell them they're a candidate, but it's incumbent upon them to ask.
- They're trying to increase the turnaround time.
- Regarding the statement that those who do best are high risk with high needs, if the high risk means high violence, that's something they never approve.

***Incarceration Prevention and Reduction Task Force***  
***Legal & Justice Systems Subcommittee***  
**Meeting Summary for June 13, 2017**

---

- When prescreening, he looks at the criminal histories, review past cases, and see if there's a real indication of violence.

Kathy Walker also spoke about factors of the drug court program:

- There are two funding streams. One is through the National Association of Drug Court Professionals, and one is through the National Institute of Justice (NIJ). They rely on the 10 best components.
- The 10 components are applied to 1,800 drug courts in this country.
- The 10 components have been adopted by both the drug court professional group and the criminal justice group.
- According to the research, they've been applied across the board to analyze the performance of drug court.
- It lays out a flexible structure for designing drug court programs based on community structure, community focus, drug interventions, and other things.
- There are levels of review. One is for the prosecution's side. Once approved by the Prosecutor's Office, they're reviewed by the therapeutic court principals to determine whether or not they're eligible for the program and what kind of addiction problem they have.
- The May 9 meeting summary does not accurately reflect the discussion or include the comments she made at the meeting.

Task Force members discussed:

- The purpose of the meeting summaries reflecting statements made at a meeting, regardless of whether or not members agree with the statements.
- The nature of statements from Judge Montoya-Lewis and Ms. Furman at the May meeting.
- Continuing the discussion of drug court at the next meeting, with all parties present.
- Whether there are different sets of standards and best practices.
- The Task Force's enabling ordinance, which calls for them to identify evidence-based practices.
- The lack of quality treatment providers and services in the community.
- Whether the County is losing out on funding options if it doesn't meet the current best practices.
- Continuing to work on establishing what best practices are and deciding whether or not the County's program follows them.
- How someone waiting for drug court can find out whether or not their application is delayed.
- The drug court approval process.

The Committee members agreed that the Clerk will review the May 9 meeting audio and summary and work with the Prosecutor's Office to refine the summary.

McEachran moved that this committee set forth the agenda for the next meeting at or near the conclusion of this meeting today.

The motion was seconded.

***Incarceration Prevention and Reduction Task Force***  
***Legal & Justice Systems Subcommittee***  
**Meeting Summary for June 13, 2017**

---

The Task Force members discussed allowing the Chair flexibility to change the agenda when necessary.

McEachran stated that there is flexibility to add items later on. They can star additional items, so it would be known.

The motion failed by the following vote:

**Ayes:** Anderson, Billester, Elfo, Gockley, and McEachran

**Nays:** Bernstein, Gilfilen (as proxy for Irene Morgan), Heydrich, and Peterson

**Abstains:** Moonwater

*(Clerk's Note: With a total of 10 members on the committee, a motion requires six votes to pass. Although the Clerk announced the motion passed, it did not.)*

### **3. Pretrial Risk Assessment Tool**

There is no new information on the County's effort to create a pretrial risk assessment tool.

Heydrich stated he recommends that they hire someone to assess the local information and help them develop a risk assessment tool that works for this community.

Bernstein stated the VERA Institute consultants are working on data analysis and will be onsite in July to report.

Task Force members discussed the timeline for receiving the data report, Spokane pretrial services, and costs associated with developing a pretrial risk assessment tool. The pretrial services for Spokane are managed better under the county commissioners executive branch. However, they only do monitoring, not supervising with discretionary authority, because it does not share judicial immunity.

### **4. Pretrial Supervision Unit**

Bruce Van Glubt, Whatcom County District Court Administrator, submitted and referenced a handout (*on file*) and reported on pretrial risk tools and risk tools that could be used by district court professionals, not judges, prosecutors, or defense attorneys, in supervising defendants. He described the history of the District Court Probation risk assessment and what he's looking for in a new risk assessment tool, which includes:

- A more currently validated tool
- Ongoing institutional support
- Whether staff can be trained to use the tool with a reasonable amount of resources
- Whether the tool is user-friendly for staff to complete for each defendant within a reasonable amount of time
- Whether it is affordable

He described the variety of ways jurisdictions develop a validated tool. In the end, it comes down to personal preference of the decision-makers for an off-the-shelf versus customized tool. The

***Incarceration Prevention and Reduction Task Force***  
***Legal & Justice Systems Subcommittee***  
**Meeting Summary for June 13, 2017**

---

decision-makers won't use or allow to be used any tools that include the deal-breakers that they personally decide are important. All the validated tools are pretty good tools, but it comes down to the human factor to make the decision. However, the choice of which risk assessment tool to use can change. For example, the Washington State Department of Corrections is moving away from the adult static risk assessment (ASRA) and will begin using the STRONG-R.

Matthew Elich, District Court Judge, asked about training, cost, and validation of the Ohio Risk Assessment System (ORAS). According to Van Glubt:

- The Ohio Risk Assessment System is free to use, but training is required to use it
- The State Department of Social and Health Services pays for training on the Ohio Risk Assessment System
- He attended the two-day training and will attend a five-day training in August, so he can train other users
- The Ohio Risk Assessment System includes several tools
- Each tool can be purchased and used separately
- Whatcom County District Court may decide to use the Ohio Risk Assessment System
- The cost to locally validate the Ohio Risk Assessment System tools will be \$30,000 to \$100,000, depending on how many of the tools in the system they use

Van Glubt and the Committee members continued to discuss the range of validation costs, depending on which tool they decide to use; felony versus misdemeanor risk assessment tools; using the same tool across all the courts in the county; video-training on the ORAS (<http://youtu.be/5pn2LDun40I>) making sure any tool they decide to use isn't racially-biased; and finding out from developers of risk assessment tools what is the impact on recidivism in other jurisdictions since those jurisdictions started using a risk assessment tool.

**5. Next Steps: Ideas & Further Information**

Anderson will provide information on a training video for the ORAS.

Committee members should email outstanding questions they have regarding pretrial risk assessment to the Clerk and Mr. Van Glubt.

The committee decided that the following items will be on the next committee agenda:

- Pretrial risk assessment, including the range of costs
- Drug court discussion with Mr. McEachran, Judge Montoya-Lewis, and Chris Furman
- VEA Institute of Justice (tentative)
- Improved domestic violence treatment with Karen Burke (tentative)

Task Force members discussed the possibility of adjusting its regular meeting schedule so it does not conflict with the County Council meeting schedule.

***Incarceration Prevention and Reduction Task Force  
Legal & Justice Systems Subcommittee  
Meeting Summary for June 13, 2017***

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**6. Other Business**

There was no other business.

**7. Public Comment**

There was no public comment.

**8. Adjourn**

The meeting adjourned at 1:29 p.m.