

Incarceration Prevention and Reduction Task Force
Legal & Justice Systems Subcommittee
Meeting Summary for October 10, 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, John Billester, Bill Elfo, Stephen Gockley, Moonwater, Irene Morgan

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

Members Absent: Fred Heydrich, Dave McEachran, Darlene Peterson

Review September 12, 2017 Meeting Summary

Garrett stated she attended the last meeting in Fred Heydrich's absence. There were no other changes.

2. Continued discussion of pretrial risk assessment and monitoring

Committee members discussed:

- The presentation at the last meeting from Dr. Zachary Hamilton
- The content and process for developing a pretrial risk assessment tool and pretrial services unit
- The advantages and disadvantages of static and dynamic risk assessment tools
- The cost to acquire, validate, and implement a risk assessment tool
- Making sure a pretrial services unit engages only in monitoring, not supervision, and does not overstep Constitutional protections
- The risk assessment vs. the importance of maintaining judicial discretion
- Whether the tool will result in enough positive changes to justify the cost
- Recent changes in Superior Court to not require the attendance of the defendant at pretrial conferences unless summoned
- The purpose of conditions for pretrial is to prevent new crimes, keep a defendant away from witnesses or victims, and keep the defendant in the state
- Will there be an unintended consequence that the judges will assign everyone with a felony to pretrial monitoring, which will be labor intensive
- Supervision or monitoring for Department of Corrections (DOC)
- Making sure any assessment tool has buy-in from the judges to use and the Council to pay for it.

Garrett stated the Superior Court judges would have a meeting on these issues, and she will report back to the Committee at its next meeting on specific suggestions:

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- Identify and discuss necessary next steps to move the conversation forward about a tool
- Criteria/needs for a monitoring unit
- Thoughts on standardizing among/across all courts

Bernstein moved to recommend that the County create a Superior Court pretrial monitoring unit, pending endorsement of the Superior Court judges. The motion was seconded.

The motion carried 8-0-1, Walker abstained.

The Committee created a list of key takeaways, outstanding questions, and possible recommendations and/or next steps:

Key Takeaways:

1. Opportunity to focus on people being held pretrial (59%)
2. Opportunity to address warrants issue
3. Review of Public Defender questionnaire was helpful (may provide a start)
4. Use of non-static tool (interviews) = higher cost
5. Concerns about high cost of initial investment and whether there are long-term savings
6. Understand this is an iterative process
7. All courts should use same tool
8. Need to geographically validate
9. Does not replace judicial discretion
10. If the tool is 70% effective (30% not effective), is this more effective than the status quo?
11. There is value in taking action now

Outstanding Questions:

1. What is the total cost over time?
2. Should we use a static or non-static tool?
3. What is the cost differential between static and non-static assessment?
4. What other information do we need to decide which option makes sense?
5. Who should research/investigate these two options?
6. What preferences do the decision-makers have (if any)?
7. Where do you draw lines between low/medium/high risk if judicial discretion remains?
8. Would the implementation of a tool and team be better than the status quo?
9. What would Dr. Hamilton think of just a monitoring unit?

Possible Recommendations or Next Steps:

1. 2-prong approach: 1. Validated tool, and 2. Pretrial services unit
2. Continue to study/explore the use of a tool
3. Request judges to discuss and identify necessary next steps to move forward the conversation about the tool, and criteria/needs for a monitoring unit, and thoughts on standardizing among/across all courts.
4. Identify other recommendations for other (non-Superior Court) courts.

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5. Motion to recommend staffing for a Superior Court monitoring unit, pending endorsement from Superior Court judges
6. (Not yet) Recommend identification, development, creation of a locally validated risk assessment tool, pending endorsement of Superior Court judges
7. Connect with judges Lewis and Bobbink
8. Summarize agreement by committee that will support the creation/implementation of a pretrial tool, that we judges to drive/endorse its creation and use, and that there are other details to flesh out.

3. Drug Court Updates

Bernstein reported on commitments to provide resources to Drug Court for participant incentives, staff training, and an additional .5 full-time equivalent (FTE) employee. She moved to support the County hiring of a .5 FTE professional staff person for Drug Court. The motion was seconded.

The motion carried unanimously.

Committee members discussed the need for staffed supportive housing dedicated to Drug Court participants. The Opportunity Council is partnering with a private foundation and the Health Department to develop a housing unit on Girard Street at I Street, which could benefit Drug Court participants, using new monies. The private sector is expanding other facilities in the community, as well. Existing clean and sober housing is also available.

Gockley reported that Judge Montoya-Lewis and Prosecutor McEachran are meeting to discuss Drug Court.

4. Phase III Report

Gockley stated the timeframe is set for the report. He will begin working on the committee's report, and present to the committee for review.

5. Next Steps: Ideas & Further Information

Gockley stated the next agenda will continue discussion on pretrial risk assessment and monitoring.

Moonwater stated she will soon circulate a report on diverting certain low-level misdemeanor criminal cases to mediation to reduce jail population. She is also working on a presentation for restorative justice.

Bernstein stated Moonwater could review the Washington State Compromise of Misdemeanors statute, which allows non-assaults to resolve differences by way of compromise and negotiation.

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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 1:10 p.m.