

***Incarceration Prevention & Reduction Task Force / Law & Justice Council
Meeting Summary December 16, 2019***

1. Call to Order

Task Force Co-Chair Stephen Gockley called the meeting to order at 9:05 a.m.

Present: Barry Buchanan, Anne Deacon, David Doll, Arlene Feld, Heather Flaherty, Deborra Garrett, Stephen Gockley, Daniel Hammill, Jack Hovenier, Raylene King, Scott Korthuis, Moonwater, Darlene Peterson, Dave Reynolds, Eric Richey, Tyler Schroeder, Bruce Van Glubt, Maia Vanyo, Mike Parker (proxy for Greg Winter), Wendy Jones (proxy for Bill Elfo)

Absent: Travis Brockie, Bill Elfo, Deborah Hawley, Mike Hilley, Kelli Linville, Rachel Lucy, Byron Manering, Eric Petersen, Kevin Turner, Greg Winter

2. Recognition of Judge Raquel Montoya-Lewis

Gockley announced an event for Judge Montoya-Lewis on January 2 on the occasion of her appointment to the State Supreme Court. He also announced an event for the retirement of Bellingham Mayor Kelli Linville and City Council Member Terry Borneman.

Deacon introduced the representatives from the State Department of Social and Health Services and Health Care Authority, who will give a presentation later in the meeting.

3. 2020 IPRTF Regular Meeting Calendar

Hammill moved to approve the regular calendar. The motion was seconded and carried unanimously.

King stated the meeting time of the Legal and Justice Systems Committee will change to 11:30 a.m. to 1:00 p.m.

4. Year End Report to County Council

Buchanan reported that the County Council requires a two reports per year from the Task Force. A draft of the upcoming report is in the packet.

Schroeder moved to approve the report. The motion was seconded.

Hammill referenced page six of the report and stated the item "Dividing Duties with a New Prevention Committee" needs to be deleted. The Task Force is not creating a new prevention committee. Each of the existing committees will incorporate prevention into their work.

The motion to approve as presented with Mr. Hammill's change carried unanimously.

5A. Discussion of jail data and trends with DSHS Office of Forensic Mental Health Services: Tom Kinlen, Director, and Tim Hunter, Liaison and Diversion Specialist

Deacon introduced the presenters, including:

- Alice Haber, Health Care Authority
- Ora Macarthur, Health Care Authority
- Keri Waterland, Health Care Authority

Deacon submitted a slide presentation (on file).

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Hunter described his responsibilities with the State and their effort to implement the Trueblood settlement agreement, which are strategies that are more proactive and early to deflect people with behavioral health issues from getting involved in the criminal justice system. Initiatives are being rolled out around the state. He described the Trueblood lawsuit regarding a defendant's competency to face charges and the long wait time for treatment. Since the settlement, the wait times for an evaluation have improved to 14 days. However, wait times for treatment have not improved, due to a lack of facilities and beds. The State is being fined for noncompliance. The State is also embarking on implementing early intervention programs because of the settlement fines.

Alice Haber, Health Care Authority, referenced and described the presentation slides. She and Hunter answered questions:

- How there should be fewer misdemeanants that are referred for competency evaluations
- First contact with law enforcement could refer to a support program and/or crisis facility instead of jail
- Create an entry into the system that is civil and doesn't involve the criminal justice system
- A future discussion on how the State plans to better serve those who are civilly committed, which will clear the way for forensic individuals.

Deacon referenced the presentation slide and spoke about the percent change in competency evaluation referrals and Whatcom County's dramatic percentage increase.

Committee members and presenters discussed the effort to determine the reasons for such large increases. Whatcom county increases are greater than the Statewide increase. The data in the slide is based on raw numbers, and does not account for population increase. Increases could be due to population increase, more recognition of mental illness, mental illness may be used more often as a defense. Whatcom county has also experienced a dramatic increase in competency restoration referrals for misdemeanors. Statewide, about 50 percent of people referred for evaluation are found incompetent and require restoration services. The hospital recently had 20 individuals in its psych unit who attempted and failed to cross the border into Canada. Look at the intersection of data regarding law enforcement's difficulty with civil commitments impacting referrals to the County jail. It seems there is an increase in a determination that an individual is found not competent, but is not referred to restoration, which leaves the court no options.

Hunter described the difference between needed care and competency. Competency only requires two factors, which are that the defendants:

- Understand the charges against them and
- Assist in the case

Don't use the competency system to get people into care. The Trueblood case is about competency only, not needed care, which is what some people may expect.

Committee members and presenters continued to discuss:

- Whether they are charging more people based on mandatory charges, such as domestic violence
- The data is based on court data
- These increases are happening in other states as well, and no one knows why
- the lag time from determination of incompetency to restoration. The requirement is seven days, but it's taking months
- the status of bed capacity throughout the state
- The difference time requirements between in-custody and out-of-custody

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5B. Construction and operational funding update for Crisis Stabilization Facility

Deacon reported on the importance of diversion and the status of the new facility, including the operational funding gap for non-Medicaid patients. One funding option is the 70/30 split of money in the State general fund going to the managed care organizations (MCOs), which could be reevaluated, and more sent to the administrative service organizations (ASOs).

Tom Kinlen, Director, DSHS Office of Forensic Mental Health Services stated there will be an opportunity in the Spring to apply for funding regarding the sequential intercept model from Disability Rights Washington.

Schroeder showed a time-lapse video of the facility construction. They are on schedule for opening the facility June 2020. They hope the State will continue to fund operations.

The committee members discussed how to move forward with competency issues, whether the increases are part of a natural cycle, whether increases are due to an increase in awareness and understanding, whether the increases are an unintended consequence of some action, and concerns about necessary competency referrals not being made.

Kinlen referenced the settlement document and the implementation plan for more information. Implementation is in three phases based on region. Whatcom County could look at the reports with data during the first two phases in other regions to find working programs. A listserv is available at TrueBloodTaskForce@dshs.wa.gov.

6. Appointments to Stakeholder Advisory Committee for Public Health, Safety, and Justice Facility Needs Assessment

Buchanan reported on the needs assessment, the stakeholder advisory committee, and the technical advisory committee.

Hammill moved to allow committee chairs to designate their representatives to the stakeholder advisory committee, and the full Task Force would ratify the designations at its meeting in February 2020. The motion was seconded and carried unanimously.

7. Committee Updates

Garrett reported on the Pretrial Processes Workgroup and the status of the new Pretrial Service Unit. The group and court chose to use the Arnold Foundation risk assessment tool. Dr. Andrew Peterson, the Administrative Office of the Courts (AOC) is working on a statistical baseline and evaluation. The Arnold Foundation will train staff on the use of the tool. They have hired two staff for the new Pretrial Services Unit, which is offering limited services. Of the 100 people they've worked with so far, about 70 percent stayed in compliance with requirements. Of the 30 percent who have not, most failed on in-person check-in requirements. They closed 26 of the 100 cases. Of those, 13 cases were closed because the case was resolved. Another five cases had miscellaneous circumstances. They are working on appropriate responses when someone doesn't comply with the minor requirements.

8. Update by Jurisdictions on Jail Diversion Programs

This item was not discussed.

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9. Other Business

There was no other business.

10. Public Comment

Irene Morgan, Restorative Community Coalition, spoke about a court navigator position, failed jail taxes, trauma experienced by people in the system due to a lack of services.

Joy Gilfien submitted a handout (on file) of a jail trauma chart and spoke about the trust and communication gap between the sequential intercept model and behavioral health issues. The systems are broken. She prefers that they improve the system before arrest, which will provide a better return on investment to the taxpayers. Add a community intervention specialist to the stakeholder advisory committee needs assessment.

11. Adjourn

The meeting adjourned at 11:05 a.m.