

*Whatcom County Justice Project Needs Assessment*

*Stakeholder Advisory Committee for the Justice Project  
Public Health, Safety, and Justice Facility Needs  
Assessment*

*NOVEMBER 2022 DRAFT*



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## Acknowledgements

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### Stakeholder Advisory Committee

**Teresa Bosteter**, *Individual with lived experience in the criminal justice system*

**Barry Buchanan**, *Whatcom County Councilmember*

**Chad Butenschoen**, *Citizen – Criminal Justice Advocate*

**Kendra Cook**, *Individual with lived experience in the criminal justice system*

**Atul Deshmane**, *Citizen – Criminal Justice Advocate*

**Bill Elfo / Doug Chadwick**, *Whatcom County Sheriff's Office*

**Brooke Eolande**, *Behavioral Health and Social Service Provider*

**Arlene Feld**, *Behavioral Health and Social Service Provider*

**Heather Flaherty**, *Behavioral Health and Social Service Provider*

**Seth Fleetwood / Brian Heinrich**, *City of Bellingham Administration*

**Stark Follis / Maialisa Vanyo**, *Public Defender's Office*

**Peter Frazier**, *Citizen – Criminal Justice Advocate*

**Brel Froebe**, *Citizen – Criminal Justice Advocate*

**Stephen Gockley**, *Incarceration Prevention and Reduction Task Force*

**David Goldman**, *Jail Resources/Service Provider*

**Daniel Hammill**, *Incarceration Prevention and Reduction Task Force*

**Kristin Hanna** (defense attorney), *Individual with lived experience in the criminal justice system*

**Deborah Hawley**, *Citizen – Criminal Justice Advocate*

**Anthony Hillaire**, *Lummi Nation*

**Jack Hovenier**, *Citizen – Behavioral Health Advocate*

**Scott Korthuis**, *Small Cities Partnership*

**Cliff Langley**, *Citizen – Criminal Justice Advocate*

**Erika Lautenbach**, *Whatcom County Health Department*

**Michael Lilliquist**, *Bellingham City Councilmember*

**Harriet Markell**, *Behavioral Health and Social Service Provider*

**Rebecca Mertzig / David Crass**, *Bellingham Police*

**Kara Mitchell Allen**, *Individual with lived experience in the criminal justice system*

**Perry Mowery**, *Incarceration Prevention and Reduction Task Force*

**John Mutchler**, *Citizen – Criminal Justice Advocate*

**Darlene Peterson**, *Incarceration Prevention and Reduction Task Force*

**Eric Richey**, *Whatcom County Prosecuting Attorney*

**Roman Swanaset-Simmonds**, *Nooksack Indian Tribe*

**Satpal Sidhu / Tyler Schroeder**, *Whatcom County Administration*

**Daron Smith**, *Teamsters Local 231 Whatcom County Corrections Business Unit*

**Eve Smason-Marcus**, *Individual with lived experience in the criminal justice system*

**Mary Lou Steward**, *Small Cities Partnership*

**RB Tewksbury**, *Citizen – Criminal Justice Advocate*

**Eli Wainman**, *Citizen – Criminal Justice Advocate*

## *Incarceration Prevention and Reduction Task Force*

**Barry Buchanan**, *Whatcom County Councilmember*

**Bill Elfo**, *Whatcom County Sheriff / Jail Administrator*

**Arlene Feld**, *Concerned citizen*

**Heather Flaherty**, *Concerned citizen*

**Seth Fleetwood**, *Bellingham Mayor*

**David Freeman**, *Superior Court Judge*

**Stephen Gockley**, *Task Force Co-Chair, Health and Social Services*

**Daniel Hammill**, *Bellingham City Councilmember*

**Deborah Hawley**, *Consumer of services or family member of consumer*

**Mike Hilley**, *Whatcom County EMS Manager / Emergency medical services representative*

**Jack Hovenier**, *Task Force Co-Chair, Consumer of services or family member of consumer*

**Raylene King**, *Blaine Court Administrator / Small Cities Municipal Court representative*

**Scott Korthuis**, *Lynden City Mayor*

**Jenn Lockwood**, *Health and Social Services*

**Jason McGill**, *Health and Social Services*

**Rebecca Mertzig**, *Bellingham Police Chief*

**Perry Mowery**, *Whatcom County Health Department, Human Services Division Supervisor*

**Eric Petersen**, *Representative of the Secretary of the Washington State Department of Corrections*

**Darlene Peterson**, *Bellingham Municipal Court Clerk*

**Dave Reynolds**, *Juvenile Court Administrator / Superior Court Clerk*

**Eric Richey**, *Whatcom County Prosecuting Attorney*

**Satpal Sidhu**, *Whatcom County Executive*

**Donnell Tanksley**, *Small City Police Chief*

**Bruce Van Glubt**, *District Court Administrator*

**Maialisa Vanyo**, *Chief Deputy Public Defender*

**Greg Winter**, *Health and Social Services*

**Undesignated**, *Lummi Business Council Member*

**Undesignated**, *Nooksack Tribe*

**Undesignated**, *PeaceHealth St. Joseph's Medical Center representative*

**Undesignated**, *Small City Councilmember*

## *Behavioral Health Gap Analysis Team*

**Perry Mowery**, *Whatcom County Health Department*

**Barry Buchanan**, *Whatcom County Councilmember*

**Malora Christensen**, *Whatcom County Health Department*

**Gail DeHoog**, *Whatcom County Health Department*

**Chris D'Onofrio**, *Whatcom County Health Department*

**Joe Fuller**, *Whatcom County Health Department*

**Mike Hilley**, *Whatcom County Emergency Medical Services*

**Barbara Johnson-Vinna**, *Whatcom County Health Department*

**Erika Lautenbach**, *Director, Whatcom County Health Department*

**Thomas McAuliffe**, *Whatcom County Health Department*

**Jackie Mitchell**, *Whatcom County Health Department*

**Jeremy Morton**, *Whatcom County Health Department*

**Mike Parker**, *Opportunity Council*

**Dean Wight**, *Whatcom County Health Department*

### *Justice Project Leadership Team*

**Barry Buchanan**, *Whatcom County Councilmember*

**Bill Elfo**, *Whatcom County Sheriff / Jail Administrator*

**Eric Richey**, *Whatcom County Prosecuting Attorney*

**Satpal Sidhu**, *Whatcom County Executive*

### *Justice Project Planning Team*

**Barry Buchanan**, *Whatcom County Councilmember*

**Stephen Gockley**, *Incarceration Prevention and Reduction Task Force Co-Chair*

**Jack Hovenier**, *Incarceration Prevention and Reduction Task Force Co-Chair*

**Tyler Schroeder**, *Deputy Executive Whatcom County*

### *Corrections Information and Data Support*

**Caleb Erickson**, *Lieutenant, Whatcom County Sheriff's Office*

**Wendy Jones**, *Chief Corrections Deputy, Whatcom County Sheriff's Office*

### *Project Support Team*

**Elizabeth Boyle**, *Graphic Design, Elizabeth Boyle Consulting*

**Makenzie Flemming**, *Public Engagement Project Manager, The Vida Agency*

**Cathy B. Halka**, *AICP, Legislative Analyst, Whatcom County Council*

**Dr. Alexis Harris**, *University of Washington, Department of Sociology*

**Jennifer Moon**, *Lead Report Writer, Moonlight Solutions*

**Jill Nixon**, *Legislative Coordinator II, Whatcom County Council*

**Holly O'Neil and Mardi Solomon**, *Project Facilitation Team, Crossroads Consulting*

### *Research Assistance*

**Jackson Boyle and Samantha Schwartz**, *Data Entry*

**David Goldman**, *MAEd, Transitional Learning Department, Whatcom Community College*

**Lydia McClaran**, *Glossary Development*

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*Glossary*

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*Executive Summary*

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## Introduction

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**For decades, Whatcom County has struggled to strike a balance in its approach to public safety.** In the past, the scale has tipped towards incarceration. Not just in Whatcom County, but throughout the country, sending offenders to jail has been seen as the principal response to crime. Jail sentences kept individuals charged with and convicted of crimes off the streets. Diversion programs were considered appropriate for some but were largely a secondary part of the public safety response.

Public safety systems are now being re-examined. An over-reliance on incarceration is costly and does not ultimately result in improved public safety over time. **It has become clear that jails are being used not only for public safety purposes but also to fill gaps in broken systems.** They have evolved, for example, into housing and behavioral health treatment facilities of last resort.

Incarceration as a practice has also been applied inequitably across the country. **Data show that those who live in poverty, who have behavioral health challenges, and who are people of color are much more likely to be involved in the criminal legal system and jailed.** This is a reflection of laws, policies, and practices that are now under the microscope.

In Whatcom County, the pendulum is swinging towards a point of balance. A growing number of community members and leaders have called for reforms to reduce incarceration rates and prevent criminal legal system involvement.

Policies and practices that put people who do not pose a public safety risk in jail, they argue, are unjust. Community members have called for the creation and funding of services and programs that focus on prevention and provide alternatives to incarceration for those who do not pose a public safety risk. Many also support developing more services to stabilize and rehabilitate those in jail. Striving to make jail a one-time occurrence for those who are incarcerated improves lives and saves taxpayers money.

**Jail:** A local detainment facility holding those newly arrested, those serving sentences of up to a year for less serious offenses, or those awaiting trial or sentencing who are deemed a public safety risk.

**Prison:** A state or federal detainment facility holding those guilty of more serious crimes or serving longer sentences, generally more than a year.

**Whatcom County residents generally agree that jail is appropriate for those who pose a risk to public safety.** Identifying the criteria that determine such a risk, however, is much harder. What crimes, actions, or behaviors require a jail sentence? Which can and should be addressed through community-based justice programs? How big should the Whatcom County Jail population be in relation to population growth and prevention and diversion services? How much could be saved



by investing in community-based alternatives for non-violent offenders? These questions have dominated local public safety debates for almost as long as the Whatcom County Jail has been in existence.

This Needs Assessment reflects the work of the Stakeholder Advisory Committee (SAC) over the course of 2022. The SAC worked with the Incarceration Prevention and Reduction Task Force (IPRTF), which also serves as the Whatcom County Law and Justice Council, and the Behavioral Health Gap Analysis Team (BHGAT). The IPRTF, BHGAT, Whatcom County Corrections leadership, and other subject matter experts gathered and provided data to help the SAC explore these questions. In addition, information was gathered from the general public and priority groups to inform this assessment.

This Needs Assessment:

- **Establishes a vision, values, and goals** for the criminal legal system in Whatcom County.
- **Examines data** related to incarceration rates (including procedural practices and

legislative directives), population demographics, existing incarceration prevention and reduction efforts, and the health and welfare needs of those who are involved in the criminal legal system.

- **Identifies gaps** in the current community response, both inside and outside the Whatcom County Jail.
- **Considers what it would take to fill those gaps** in order to improve health and public safety, including programs, services, and facilities.
- **Makes recommendations** in an attempt to strike the right balance in addressing the community's public safety concerns.

Many promising efforts are currently underway in Whatcom County. More work is needed. The members of the SAC hope that the information and recommendations presented below will set a clear direction for Whatcom County's criminal legal system to improve both public safety and the health, welfare, and future prospects of those involved in the local criminal legal system.

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## Methodology

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### About the Stakeholder Advisory Committee (SAC)

The Stakeholder Advisory Committee was formed by a resolution that was passed unanimously by the Whatcom County Council.

The SAC was comprised of 38 voting members, including broad and diverse representation from local government, Tribal Nations, community-based service providers, criminal legal system agencies, and people with lived experience in the criminal legal system. Its members were selected as liaisons to the communities they represent and as individuals who could assist in developing a plan reflective of the community's values. The purpose and membership of the SAC is described in further detail in Appendix A.

The work of the SAC was coordinated by a Leadership Team and a Planning Team. Whatcom County Councilmember Barry Buchanan served as the Chair.

- The SAC **Leadership Team** consisted of the Whatcom County Executive, the Whatcom County Sheriff, a Whatcom County Councilmember, and the Whatcom County Prosecuting Attorney.
- The **Planning Team**, including Whatcom County Councilmember Barry Buchanan, IPRTF co-chairs Jack Hovenier and Stephen Gockley, and Whatcom County Deputy Executive Tyler Schroeder,

helped facilitate the process of compiling relevant data to bring before the SAC membership for consideration, identifying local experts to present to the group, and preparing the final Needs Assessment report.

The SAC held nine official meetings and nine work sessions between January 2022 and January 2023. A SAC subcommittee also met to develop recommended Vision, Values, and Goals statements. SAC members worked diligently for months to complete this work. Meetings and work sessions were well-attended, and members engaged with subject matter experts and the material. The complexity of the work necessitated more SAC meetings than had been originally planned. The SAC also provided periodic updates to the County Council on its work. SAC members dedicated their time and expertise throughout the process.

The IPRTF and its committees informed the work of the SAC along the way. The IPRTF currently has five subcommittees, including:

- A Crisis Stabilization subcommittee.
- A Behavioral Health subcommittee.
- A Legal and Justice System subcommittee.
- An Information Needs and Data Exchange (INDEX) subcommittee.
- A Steering Committee.

The work sessions SAC members attended included special meetings of several of these subcommittees during the Needs Assessment planning process. These meetings with the IPRTF subcommittees helped build a common understanding of the complex issues being discussed. In addition, the chairs of several IPRTF committees hosted informational sessions for SAC members who wanted to learn more about the issues and initiatives being addressed.

The SAC benefitted from the expertise of Dr. Alexis Harris, Professor of Sociology at the University of Washington, who provided guidance on data collection and analysis and attended one SAC meeting.

During the process, the SAC considered a range of topics. These included:

- Current criminal legal system challenges, including data limitations, procedural and legislative factors, and the impact of COVID-19.
- A history of the Whatcom County Jail and jail diversion programs.
- Characteristics and needs of those involved in the criminal legal system, with a particular focus on behavioral health.
- Existing prevention and diversion programs and their outcomes.

### Needs Assessment Scope

This Needs Assessment examines Whatcom County's public health, safety, and justice facility needs. It also assesses the current service capacity of Whatcom County's

prevention and diversion infrastructure. The work of prevention and diversion is ongoing. It will continue to evolve as outcomes are assessed, the understanding of population needs grows, and data and research related to these interventions improve.

### *Limitations of Needs Assessment*

**This Needs Assessment is limited to consideration of interventions immediately prior to, during, and after the incarceration of adults**, rather than cataloging all community prevention needs and activities or broader public health outcomes.

There are many contributing factors that might put someone at greater risk of incarceration. Homelessness, mental health issues, poverty, racism, substance use disorders, criminogenic risk factors, and adverse childhood experiences (ACEs) can have a tremendous impact on the likelihood of future violence, victimization, and perpetration. Numerous agencies outside of the criminal legal system, such as early childhood education and social service providers, work to prevent and to mitigate these kinds of risk factors. These include early childhood educators, social service providers, the Child and Family Well-Being Task Force, and Healthy Whatcom, which

has developed a 2022-2026 Community Health Improvement Plan.<sup>1</sup>

This Needs Assessment does not address the needs of the juvenile population who are involved in the criminal legal system. It should be noted here, however, that critical work has been done in recent years to reduce and divert the juvenile population. This includes the creation of a Teen Court, a best practice model that has demonstrated impressive results.

The SAC recognizes and acknowledges that crime is an issue of concern to many Whatcom County residents. In the same way that this Needs Assessment does not make recommendations related to the root causes that place people at greater risk of incarceration, it does not directly address policing practices or speak to community perceptions about or the community experience of crime in Whatcom County.

Underlying this Needs Assessment is the understanding that bolstering funding and advancing policies that promote **prevention** is essential to advancing public safety in Whatcom County.

### Reaching a Shared Understanding

All the parts of this Needs Assessment have been developed through an iterative process involving input from the SAC, IPRTF, subject matter experts, and the general public. With a goal of involving people with

very diverse perspectives in this process, the intention was not to come to formal consensus but rather to work toward shared understanding. At each juncture, the key question was “What additional information is needed?” Decisions to approve project content were made with a 50% plus one majority vote.

A summary of the process and participants in the development of the various work products included in this assessment are detailed in Appendix B.

### Data Sources

This study draws on data from available local sources and data systems. It also considers the findings of previous studies and reports.

Much of the material presented here reflects the work of the IPRTF and BHGAT. These groups have conducted analysis of data across multiple systems, including the criminal legal and emergency response systems, to inform the SAC process and recommendations.

Analysis of Whatcom County’s public safety systems is not an easy task. **Multiple data systems and inconsistent data collection are a challenge.** Where data are limited, the study describes population statistics and needs and makes projections based on the best data available.

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<sup>1</sup> Healthy Whatcom. Accessed November 21, 2022. <https://healthywhatcom.org/>; Whatcom County Board and Commissions, Child and Family Well-Being Task Force. Accessed November 21, 2022; Child and Family Well-being Task Force and Whatcom County Health Department Staff, “Child and Family Well-Being Task Force, Phase II Report,” March 2022. <https://www.whatcomcounty.us/DocumentCenter/View/66319/Child-and-Family-Well-being-Task-Force-Phase-II-Report-2022-03-30-Final>.

## Planning Tool

### **This assessment relies heavily on the use of the Sequential Intercept Model (SIM).**

This model is a planning tool that was first developed in the early 2000's and is now used nationally. It helps communities to identify resources and gaps in services at all points of connection with people before, during, and after incarceration. Developing strategic responses at each intercept can reduce the involvement of people with mental health and substance use disorders in the criminal legal system.

The SIM was first used locally by the IPRTF in 2019. Through this Needs Assessment process, the SIM was updated by the BHGAT to better reflect local conditions, current service needs, and programs that have been developed in the past few years.

The full updated SIM can be found in Appendix C.

## Survey of Jail Inmates and Staff

As part of the data collection process, surveys were conducted with jail inmates and jail staff. One hundred nine inmates voluntarily participated in the survey. Sixty-two percent of participants were located at the Work Center, and 38% of participants were Whatcom County Jail inmates.

Twenty-eight Whatcom County Jail staff separately participated in another survey.

Findings from these surveys are summarized below and can be accessed in Appendix D.

## Community Engagement Process

To gather additional input and get feedback on the SAC's work and the Needs Assessment findings, a community survey was conducted in the fall of 2022, with (#) people responding. A Town Hall was held in November 2022 for the public at large, along with targeted outreach, listening sessions, and interviews to ensure the inclusion of voices from:

- Black communities.
- Latinx communities.
- Immigrant communities.
- The Nooksack Tribe and Lummi Nation.
- Individuals who have been previously incarcerated.
- Family members of individuals who have been previously incarcerated.

Public participation in the community survey and Town Hall was encouraged via the Whatcom County Justice Project website<sup>2</sup>, a Whatcom County Newsflash and postings on the Whatcom County website, local news coverage, and other outreach activities.

The full results of the Community Engagement process are included in Appendix E.

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<sup>2</sup> Whatcom County Justice Project. Accessed November 21, 2022. <https://whatcomjusticeproject.org/>.

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## *An Overview of the Whatcom County Jail and Incarceration Prevention and Reduction Efforts*

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### Inadequate From the Start

The existing Whatcom County Jail was completed in 1984. As soon as it was built, it was already out of date and inadequate in a number of ways. It was constructed based on state standards dating to the 1960s and was, therefore, seismically unsound from the start. It was designed to hold up to 148 inmates. It was not adequately designed as a place for rehabilitation and restoration to community life. It lacked appropriate spaces for health care, behavioral health, and other needed services. Its construction reflected assumptions and approaches of an earlier era. These inadequacies have hampered the jail ever since.

From the early days following the completion of the Whatcom County Jail until now, there have been two consistent needs:

- To have a jail that is safe for those in it, with the services needed to ensure health and welfare and to support successful community re-entry.
- To limit costly jail stays and more appropriately respond to lower-level offenses by reducing and controlling the

size of the jail population through jail prevention, alternatives, and diversion.

Addressing these two needs in tandem is key to meeting community expectations for improved public health, safety, and justice.

*“It is time to do something most communities have not done”<sup>3</sup>*

Beginning in the early 1990s, jail overcrowding was already becoming a problem. **For all but the first two years of the jail’s existence, the jail population has exceeded its original capacity.** Built to last for 50 years, overcrowding increased wear and tear on the facility. It quickly deteriorated.

Over the next decade, the jail was remodeled to increase capacity. Single cells became double- or triple-bunked cells. Over time, indoor recreation areas were eliminated, and a multipurpose room in the jail, which accommodated larger groups and programs, was repurposed into an in-jail courtroom. More beds in the jail meant less space for needed services, programs, and operations.

**In 1993, the Whatcom County Council established the Whatcom County Law and**

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<sup>3</sup> Whatcom County Council, Special County Council, “Discussion of the Phase 1 Report of the Whatcom County Law and Justice Plan, Findings and Recommendations,” December 6, 1999. <https://documents.whatcomcounty.us/WebLink/DocView.aspx?id=3345821&dbid=0&repo=WC&searchid=70d46e87-102c-448a-bc8a-aff8a45219e8&cr=1>.

**Justice Council**, as required by a new state law that had first been introduced by Washington State Senator Dale Brandland. Based on a model that had been previously developed in Whatcom County, the purpose of the Law and Justice Council was to plan and coordinate efforts across the criminal legal system.<sup>4</sup> Its work focused primarily on procedures and operations to make the system work more smoothly. **At the time, the Council included no community or agency representatives.** Instead, it was comprised solely of court, law enforcement, corrections, and prosecution staff.

Following the formation of the Law and Justice Council, a **Whatcom County Comprehensive Law and Justice Planning Project** was created. This group produced a report written by two law and justice system experts. The study suggested that jail alternatives be developed for low-risk offenders. “Putting someone who has come in on a warrant for driving without a license in a bed is asinine,” one of the study’s authors concluded.<sup>5</sup>

To address jail overcrowding, the experts recommended that a minimum- or medium-security facility be built. The new

facility should offer clinical services. The study’s author also suggested that “It is time to do something most communities have not done, which is to put them into a clinical setting where they can be diagnosed, treated, and diverted to become productive citizens.” Pretrial reforms such as electronic monitoring and house arrest were other strategies that might reduce the jail population.

### **Bigger But Better**

The Whatcom County Comprehensive Law and Justice Planning Project report estimated capacity needs for a new jail but also recommended additional ways to reduce the jail population. These included:

- Citing and releasing all traffic and non-misdemeanor arrests.
- Pretrial release for some offenders.
- Jail alternatives for felons who had served two-thirds of their sentence.

**Despite the report’s focus on prevention and diversion, the recommended size for a new jail was quite large.** Based on population growth, incarceration rates, and length of stay at the time, the report projected that 560 adult beds would be needed by 2010. This included 150

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<sup>4</sup> History of the Law and Justice Council development provided to the authors by Chief Wendy Jones, Whatcom County Sheriff’s Office, November 2022.

<sup>5</sup> Whatcom County Council, Special County Council, “Discussion of the Phase 1 Report of the Whatcom County Law and Justice Plan, Findings and Recommendations,” December 6, 1999. <https://documents.whatcomcounty.us/WebLink/DocView.aspx?id=3345821&dbid=0&repo=WC&searchid=70d46e87-102c-448a-bc8a-aff8a45219e8&cr=1>. See also Whatcom County Council, Special Committee of the Whole, “Presentation of the Phase II Report: Implementation of the Whatcom County Law and Justice Plan,” June 27, 2000. Whatcom County Council, Special County Council, “Discussion of the Phase 1 Report of the Whatcom County Law and Justice Plan, Findings and Recommendations,” December 6, 1999. <https://documents.whatcomcounty.us/WebLink/DocView.aspx?id=3345821&dbid=0&repo=WC&searchid=70d46e87-102c-448a-bc8a-aff8a45219e8&cr=1>.

maximum-security beds, 120 work release beds, and 290 minimum- to medium-security beds. **By 2020, the report estimated a need for over 700 adult beds.**

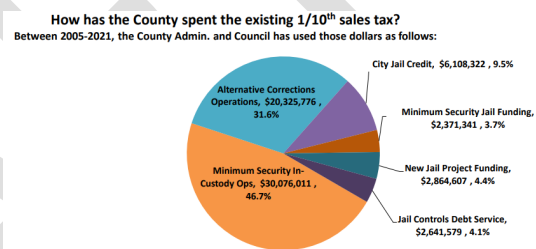
The report also recommended that additional spaces be created for recreational and rehabilitation programs. These spaces would be especially helpful in treating those with substance use and mental health challenges.

**The call for expanded services in the jail led to the expansion of the Law and Justice Council.** It was soon reformed to include the staff of local behavioral health treatment providers. Improved services would need to be a key piece of the incarceration reduction puzzle. Whatcom County's Drug Court was also established at about the same time, in 1999.

**By around 2005, the minimum-security facility recommended by the Comprehensive Law and Justice Planning Project report was under construction.** It was funded by a 0.1% voter-approved sales tax passed in 2004.<sup>6</sup> Funding was directed to "costs associated with financing, design, acquisition, construction, equipping, operating, maintaining, remodeling, repairing, re-equipping, and improvement of jail facilities that house inmates being

held, charged, or convicted of misdemeanor or felony acts."<sup>7</sup> This included construction of a new jail and a minimum-security Work Center.<sup>8</sup>

The Work Center was intended as a temporary facility while the County planned for a new jail. It opened its doors in 2006. Although the sales tax revenues provided some funding for a new jail, a new facility was not built.



Calls for a new jail escalated as the number of people within the jail continued to grow. The jail regularly had a population of 280 to 300, hitting a high of 320 in 2010. The new Interim Work Center held about 150 people.

**In 2011, the Whatcom County Council approved a resolution creating a Jail Planning Task Force.**<sup>9</sup> The group was responsible for:

- Recommending the size, location, and funding options for a new jail.

<sup>6</sup> In 1999, another 0.1% sales tax increase had been approved by the County Council for criminal legal purposes.  
<sup>7</sup> Whatcom County Sample Ballot, Proposition No. 1, Jail Facilities Sales and Use Tax, November 2, 2004. Accessed November 21, 2022. [https://www.whatcomcounty.us/DocumentCenter/View/7212/11022004\\_GeneralSample?bidId=](https://www.whatcomcounty.us/DocumentCenter/View/7212/11022004_GeneralSample?bidId=)  
<sup>8</sup> Whatcom County, Justice Project Public Health, Safety, and Justice Needs Assessment, Council Update, April 26, 2022. <https://whatcom.legistar.com/View.ashx?M=F&ID=10843748&GUID=DCF7BED8-56E9-40FC-A744-1CF3D949B8E8>.  
<sup>9</sup> Whatcom County Council, Resolution 2011-014, April 12, 2011. <https://www.whatcomcounty.us/DocumentCenter/View/891/Resolution-2011-014-PDF>.



- Determining the effects of jail alternatives and diversion programs on the jail population.
- Planning a behavioral health triage center to reduce incarceration of those with mental health challenges.

Ultimately, the work of this group led to County Council approval of a formal jail planning process. **The County hired jail planners and soon purchased an approximately 40-acre property on LaBounty Road in Ferndale, which met site selection criteria identified by the Jail Planning Task Force,**<sup>10</sup> as the intended site of a new jail. A 0.2% sales tax increase measure was placed on the November 2015 ballot to fund the new 521-bed jail. The new facility would be designed to eventually add another 128 beds to meet future capacity needs.

**Concerns about the size of the proposed new facility were soon raised.** Some local officials and community members called for any new jail funding to be linked to efforts to prevent and reduce incarceration. These might include probation reforms, electronic home monitoring, crisis intervention services, and intensive case management.

In response to these demands, **the Whatcom County Council established the Incarceration Prevention and Reduction**

**Task Force (IPRTF).**<sup>11</sup> Thirty community stakeholders were named to the IPRTF. The IPRTF would soon take on the dual role of serving as the County’s Law and Justice Council.<sup>12</sup> It was assigned the tasks of:

- Reviewing best practices to make recommendations that would safely and effectively reduce incarceration.
- Identifying alternatives to incarceration for those living with behavioral health challenges and pretrial defendants who could be released safely.
- Planning for a new and expanded crisis stabilization center to replace the existing Whatcom County Triage Center.

Despite these initial commitments to a new approach to public safety, **voters rejected the 0.2% sales tax ballot measure in November 2015 by a 51-49 margin.**

**Recommendations for a Path Forward Following the ballot measure’s defeat, Whatcom County, with the IPRTF, contracted with the Vera Institute of Justice.** The Vera Institute, which works on criminal legal reform nationally, was hired to conduct an analysis of Whatcom County’s jail population and recommend reforms to reduce incarceration rates, while protecting public safety. **The Vera Institute**

<sup>10</sup> Whatcom County, “Whatcom County Jail Planning Task Force Site Selection Criteria,” February 5, 2012. <https://www.whatcomcounty.us/DocumentCenter/View/887/Appendix---Recommendation-5-PDF>.

<sup>11</sup> Whatcom County Council, Ordinance 2015-025, May 25, 2015. <https://documents.whatcomcounty.us/WebLink/DocView.aspx?dbid=0&id=3362112&page=1&searchid=307d476d-ae88-4c2d-8cdc-98b8c4835728&cr=1>.

<sup>12</sup> Whatcom County Council, Ordinance 2019-009, December 4, 2018. <https://www.whatcomcounty.us/DocumentCenter/View/40766/ord2019-009>.

**report<sup>13</sup> made several recommendations,** including:

- Reforms in warrant processing.
- Risk-based assessment of pretrial defendants as an alternative to bail.
- Changes to improve the processing of cases through the court system.
- Diversion of many individuals with mental health and substance use issues from jail.

**The report also noted that incarceration rates of Native American, Black, and Hispanic people in Whatcom County were disproportionately high.** The rate at which these populations were jailed exceeded their proportion of the population. Additional work was recommended to reduce these disparities.

**The need for either a new jail or renovations to the existing jail, however, remained.** The Whatcom County Council contracted with an architectural design firm, design2 LAST, inc., in 2016. The firm, which specialized in jail construction, conducted a study examining the condition of the jail. It assessed whether capital improvements at the jail and Work Center were feasible.<sup>14</sup>

The study found the Work Center to be in good condition, but in need of some improvements such as better lighting. Also,

Americans with Disabilities Act (ADA) accessibility guidelines were not being met.

The jail, however, had significant deficiencies. The study found that it not only failed to meet current seismic building codes, but it also had:

- Significant heating and plumbing problems.
- Limited sight lines that increased safety risks.
- A lack of ADA accessibility.
- An exposed medical area that violated patient privacy requirements.
- Poor lighting.
- Failing locks.
- No smoke evacuation system, in violation of code requirements.
- An unprotected natural gas line at the building's entrance.

The architectural firm concluded that the jail needed to be replaced. The report stated that several architectural firms, the National Institute of Corrections, and the Whatcom County Law and Justice Council had all come to the same conclusion.

The Whatcom County Council held a public hearing in June 2017 to gather citizen input on the size of a new jail. Speakers at the public hearing expressed concerns about the lack of a needs assessment to inform the jail planning process. They also

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<sup>13</sup> Vera Institute of Justice, "Report to Whatcom County Stakeholders on Jail Reduction Strategies," November 2017. <https://www.vera.org/downloads/publications/Whatcom-County-Final-Vera-Report.pdf>.

<sup>14</sup> design2LAST, inc., "Building Assessment Studies and Cost Estimates for Capital Improvements at the Jail (Public Safety Building) and Work Center," October 11, 2016. <https://www.whatcomcounty.us/DocumentCenter/View/23949/Design2-Last-Jail-Building-Assessment-Final-Report?bidId>.

questioned the size and location of the proposed facility. Some argued that new jail construction should not move forward without addressing the findings of the Vera Institute report.

In response, Whatcom County Council members cited concerns about the condition of the jail. Its condition endangered the safety of those living and working within it. Significant investments had already been made in the LaBounty Road property in Ferndale, including the purchase of the property for approximately \$6 million and about \$1.6 million for jail planning and design services.<sup>15</sup> In addition, members noted that local government had limited control over laws and policies passed at the state or federal levels that put people in jail. They were required to enforce such laws and policies regardless of impacts on the local jail population.

The Whatcom County Council pressed forward. The following month, **a second ballot measure for a 0.2% sales tax increase to fund the construction,**

**operation, and maintenance of a new jail** was approved to be placed on the ballot.

**In November 2017, Whatcom County voters again rejected the ballot measure to fund a new jail by an even wider margin of 59-41.**

### *A New Direction*

After the second ballot measure was defeated, it was clear that a new approach was needed to better align the investment of public dollars into a system that worked for all.

### *Listening Sessions*

**In 2018, the Whatcom County Council hosted a Criminal Justice and Public Safety Committee Listening Tour.**<sup>16</sup> Seven two-hour listening sessions were held between April and June 2018 throughout the county. An unduplicated total of 115 Whatcom County residents provided verbal public comment and/or oral or written feedback at the Listening Sessions. An additional 693 people provided written input in a community survey.

Listening session participants were asked about their concerns regarding the ballot

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<sup>15</sup> Whatcom County Council, Resolution 2013-051, November 26, 2013.

<https://documents.whatcomcounty.us/WebLink/DocView.aspx?id=3186216&dbid=0&repo=WC&searchid=e4819cf7-fded-4218-a938-ecb9a4a0bdb6>; Whatcom County, Contract for Services Agreement (No. 201409013) with DLR Group, October 1, 2014.

<https://documents.whatcomcounty.us/WebLink/DocView.aspx?id=3142239&dbid=0&repo=WC&searchid=d562b9e0-2240-4a70-a5be-e7c175e163a1>; Whatcom County, Contract for Services Agreement (No. 201301018) with DLR Group, January 3, 2014.

<https://documents.whatcomcounty.us/WebLink/DocView.aspx?id=2887197&dbid=0&repo=WC&searchid=d562b9e0-2240-4a70-a5be-e7c175e163a1>.

<sup>16</sup> Whatcom County Council, Criminal Justice & Public Safety Committee, "Report on Whatcom County Criminal Justice & Public Safety Listening Tour," July 2018.

<https://www.whatcomcounty.us/DocumentCenter/View/45595/Presentation-on-Criminal-Justice-Listening-Tour-8618gj>.

proposal and their hopes and expectations for future actions. Findings of the listening sessions included:

- Participants voiced a clear preference for criminal legal reform measures and incarceration prevention and reduction.
- Respondents felt that the proposed site of a new jail in Ferndale was too big, too expensive, and in the wrong location.
- The 2017 ballot measure was too much like the 2015 proposal and lacked a needs assessment.

### *New Incarceration Prevention and Reduction Programs*

**Several programs were developed to better serve those at risk of being jailed.**<sup>17</sup>

Some of these programs are now housed in the Whatcom County Health Department's new Response Systems Division, formally established in 2022. Programs include:

- The **Community Paramedic Program**. It was established in 2013 with two goals:
  - Reduce non-emergency 911 calls to Emergency Medical Services (EMS).
  - Connect those who make frequent non-emergency 911 calls to medical, mental health, substance use, and housing services in the community.
- The **Ground-level Response and Coordinated Engagement (GRACE)** Program. This program was implemented in 2018. GRACE Intensive Case Managers (ICM) work closely with First Responder partners. GRACE ICMs

are paired with Community Paramedics in Bellingham and Ferndale and are also co-located at the Bellingham Police Department. They focus their work on those who cycle through the health care, criminal legal, emergency shelter, and emergency response systems. The intent of the GRACE Program is to stabilize participants, address the root causes of the problems they face, and reduce their involvement with these systems. The goals of GRACE are increased public safety, reductions in the use and costs of emergency and criminal legal services, and improved health and well-being for individuals with complex needs.

- The **Law Enforcement Assisted Diversion (LEAD)** Program. Based on a Seattle model, the program launched in 2019. The LEAD Program connects people with a history of chronic, low-level law violations stemming from substance use, mental health challenges, or extreme poverty to needed services. The LEAD program offers people a path out of the criminal justice system and into intensive case management. The program's goals are to increase community safety, address racial disparities in the criminal justice system, and improve the health and well-being of program participants.
- The **Mobile Crisis Outreach Team (MCOT)**. MCOT is a community-based outreach team with the ability to

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<sup>17</sup> See also Whatcom County, SAC Group Discussion #4: Behavioral Health, May 17, 2022 for a discussion of these programs. <https://www.youtube.com/watch?v=CieHKGhLn9M>.

respond to and provide crisis services in the community (e.g., homes, schools, shelters). The Team serves people experiencing a behavioral health crisis, offering short-term crisis intervention and prevention services. MCOT consists of a team of behavioral health professionals who are provide urgent community response, usually within two hours, short-term care planning services, community outreach, and Involuntary Treatment Act Services.

- The **Alternative Response Team (ART)**. ART will serve Bellingham residents starting in 2022. ART provides a mobile alternative response, instead of a police officer, to non-violent behavioral health 911 calls. ART aids people in crisis, whether it be a mental health or substance use crisis or an inability to care for themselves in the moment of crisis. The multidisciplinary team will consist of a Behavioral Health specialist and a Public Health nurse or EMT. ART will coordinate with other crisis services and outreach teams and will focus on enhancing community safety through strengthened partnerships between first responders and community services.

### *Advocacy for Restorative Justice*

Alongside programs to decrease incarceration, the Restorative Community Coalition works to advance a “restorative

justice” approach to public safety. The goals of restorative justice include attending to victims' needs, enabling offenders to assume responsibility for their actions, supporting victim and offender rehabilitation, and avoiding escalation of the legal system and the associated costs.

### *Re-Assessing Facility Needs*

While progress was being made in prevention and diversion, **there was still a need to find a solution to the long-standing problems at the existing jail facility, where health and safety conditions had grown more dire.** Between 2011 and 2021, Whatcom County spent approximately \$9 million on needed repairs and maintenance for the existing jail. Estimates for future maintenance of the facility over the next 20 years are as high as \$27 million.<sup>18</sup>

In order to address jail overcrowding, some awaiting trial have been sent to jails in other counties, including as far away as Yakima County, and the jail has repeatedly been remodeled. Sending inmates to other counties is difficult for families and reduces access to services and legal representation. Jail remodels have reduced service capacity. Space has been carved out of operational areas to add beds. There is currently limited available space for confidential services, including the ability for inmates to speak

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<sup>18</sup> design2LAST, inc., “Building Assessment Studies and Cost Estimates for Capital Improvements at the Jail (Public Safety Building) and Work Center,” October 11, 2016. <https://www.whatcomcounty.us/DocumentCenter/View/23949/Design2-Last-Jail-Building-Assessment-Final-Report?bidId>.

privately with their lawyer or receive behavioral health care.

### *Whatcom County Council Establishes Guiding Principles*

**In 2019, Council unanimously approved a set of public health, safety, and justice facility planning principles.**<sup>19</sup> The principles updated a resolution first adopted in 2016. They emphasized the need to take a comprehensive look at the programmatic, service, and facility needs that would result in a jail that is safe, along with prevention and diversion services to limit the jail population.

**The Council's Criminal Justice and Public Safety Committee approved a Needs Assessment process in 2019.**<sup>20</sup> A **Stakeholder Advisory Committee** comprised of 38 members was formed and charged with creating a **Public Health, Safety, and Justice Facility Needs Assessment**. In early 2020, a consultant was

hired to lead the Needs Assessment process.

### *Progress Interrupted*

And then came COVID-19. The Needs Assessment was paused, although the work of the IPRTF continued. Construction of the Anne Deacon Center for Hope, the new, expanded crisis stabilization center that replaced the previous Triage Center, also got underway. With funding from the state, the North Sound Behavioral Health Organization, and the Whatcom County Behavioral Health Fund<sup>21</sup>, the new facility was completed in 2021. It now provides 16 beds for mental health support and 16 substance use detox beds.

In the fall of 2021, the Stakeholder Advisory Committee process resumed. A new, local consultant team was named to facilitate the planning process. The Stakeholder Advisory Committee's first meeting was held on January 20, 2022.

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<sup>19</sup> Whatcom County Council, Resolution 2019-036, August 7, 2019. <https://www.whatcomcounty.us/DocumentCenter/View/62853/Prinicples---Approved-Resolution-2019-036>; Whatcom County Council, Resolution 2016-008, February 9, 2016. <https://whatcomcounty.us/DocumentCenter/View/33210/Resolution-2016-008?bidId=>.

<sup>20</sup> Whatcom County Council, Resolution 2019-063, October 22, 2019. <https://whatcom.legistar.com/View.ashx?M=F&ID=7944333&GUID=2456E02F-40DF-4FE4-BFB8-41D0BB66D082>.

<sup>21</sup> The Whatcom County Behavioral Health Fund is the result of a 0.1% sales tax for expanded substances and mental health treatment programs that was authorized by the Whatcom County Council in 2008.

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## *Efforts to Reduce the Jail Population*

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A desire to limit the population of the Whatcom County Jail has been a recurring theme for many years. Regardless of concerns about crime and what the need for correctional facilities may be, **there is a recognition in Whatcom County that the jail population cannot continue to grow in proportion to overall population growth.** The jail needs to be right-sized to detain those identified as posing a genuine threat to public safety. In all other cases, prevention and diversion can avoid costly jail sentences.

**This reflects a growing national consensus that too many Americans are jailed.** The U.S. has the highest rate of incarceration in the world. According to data from the Vera Institute, Whatcom County's incarceration rate per 100,000 Whatcom County residents tripled between 1970 and 2014.<sup>22</sup> Jail as a response to societal ills is both costly in terms of public expenditures and the impact on individuals and families. It fails to address the root causes of issues and perpetuates racial and socioeconomic inequities.

**Through a combination of jail alternatives, prevention and diversion programs, process improvements, and booking restrictions, Whatcom County's incarceration rate declined between 2014 and 2020.** It fell from 193 per 100,000 to 96 per 100,000.<sup>23</sup>

The Sheriff's Office has resorted to booking restrictions repeatedly since the jail opened, primarily in response to facility capacity issues.

Due to the limited space available in the jail, the Sheriff's Office has consistently refrained from booking people suspected of misdemeanor offenses and some gross misdemeanor offenses. COVID-19 presented additional challenges in maintaining adequate spacing in a facility that lacks adequate ventilation. Even with additional restrictions during the pandemic, limited COVID-19 outbreaks occurred in the jail. Although effective in controlling the size of the jail population, booking restrictions raise concerns about those who are not jailed who some believe should be.

### *Jail Alternatives*

Much progress has been made over many years to develop jail alternatives. These include:

- **Electronic Home Detention (EHD):** Whatcom County's EHD program is well-developed and second only to King County in Washington State. Those monitored wear ankle bracelets which enable supervision. If a person violates the terms of release, they can be returned to full custody.
- **Work/School Release:** This program enables those housed at the Interim Work Center to go to school or work during the

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<sup>22</sup> Vera Institute of Justice, "Report to Whatcom County Stakeholders on Jail Reduction Strategies," November 2017, p. 6. <https://www.vera.org/downloads/publications/Whatcom-County-Final-Vera-Report.pdf>.

<sup>23</sup> Whatcom County Sheriff's Office, Incarceration Rates in Whatcom County Jail. Data provided up to 2020.

day. These individuals may pose a higher risk than those participating in EHD, but they have the opportunity to develop their skills while held in a minimum- to medium-security facility.

- **Work Crews:** There are in-custody and out-of-custody work crews. Out-of-custody work crews are managed through the Work Center and do community projects, such as park maintenance, five days a week. Work done can cover unpaid fines that an individual may not have been able to afford. In-custody work crews are housed at the Work Center. They do community jobs, such as litter collection or maintenance projects, 40 hours a week.

### Prevention and Diversion Programs

As mentioned earlier, **the Community Paramedic, GRACE, and LEAD programs have offered new approaches to prevention and diversion in recent years.** Based on data available thus far, they have also been shown to have had a positive effect on individual participants. Between 2018 and June 2022, there have been 502 unduplicated participants involved in the GRACE and LEAD programs. **Comparing booking data 24 months pre- and post-program involvement, the GRACE program has seen a nearly 88% reduction in bookings among those actively engaged in the program. Similarly, the LEAD program has seen an 89% reduction in jail bookings, based on the same measure.**

A caveat is that bookings also declined because of COVID-19 restrictions, so these results may

be due in part to non-programmatic factors. There is, however, a strong correlation between continued engagement in services and a reduction in jail bookings 24 months post-engagement. The LEAD program has also seen reductions in interactions with law enforcement for program participants.<sup>24</sup>

### **There is also a strong correlation with reductions in Emergency Medical Services (EMS) contacts.**

According to 2020 EMS program data, there was a noticeable cost reduction of more than 75% related to those individuals who completed these programs. Since a typical response to a call costs \$3,000 and a transport costs another \$1,000, the public expenditure savings associated with these kinds of outcomes are substantial. These savings do not include all the other reduced costs associated with criminal legal system involvement, or a reliance on crisis response systems.<sup>25</sup>

### System Improvements

#### *Specialized Courts*

**Whatcom County has also developed an array of specialized courts that offer an alternative to incarceration.** The Drug Court now serves both juveniles and adults. Its creation in 1999 was followed by the creation of a Family Treatment Court in 2002 and a Mental Health Court in 2015.

#### *Court System Process Improvements*

In recent years, there have also been improvements undertaken within the several court systems to reduce a reliance on

<sup>24</sup> Data provided to authors by Whatcom County Emergency Management Services, August 10, 2022.

<sup>25</sup> Data provided to authors by Whatcom County Emergency Management Services, August 10, 2022.



incarceration. **For example, the District Court uses phone calls and text reminders to reduce instances of “failure to appear” for court proceedings as a case moves forward.**

For several years, a **Pretrial Processes Work Group** (PPWG), directed by Superior Court judicial officers but including IPRTF members, has been tasked with identifying and implementing pretrial reforms. Prior to such reforms, Superior Court, unlike District or municipal courts, could use only a bail amount in releasing a pretrial defendant. At the PPWG’s recommendation, a Pretrial Services Unit within the Superior Court was created to monitor defendants who are released to the community while awaiting trial.

**The Superior Court also adopted the Public Safety Assessment, the most carefully researched and validated pretrial risk assessment tool available.** When making a decision to release or detain the individual, this tool informs a judicial officer about the likelihood an individual will fail to appear in court or commit a new violent crime.

Implementation of these initiatives was interrupted by the COVID-19 pandemic and the closure of courts and in-person pretrial services. Recently, the Superior Court has resumed operations, but considerable backlogs persist. Following successful implementation of these reforms in Superior Court, there is the potential to increase adoption of the Public Safety Assessment in all Whatcom County

Courts and expand the capacity of the Pretrial Services Unit.

#### *Prosecutorial Process Improvements*

In addition to the creation of the **LEAD Program**, other changes in charging practices by the Whatcom County Prosecuting Attorney’s Office have reduced the risk of incarceration. For example, driving with a suspended license in the third degree is no longer charged as a stand-alone offense. These types of charges have historically been disproportionately brought against people of color. A **Discovery Specialist** has also been hired to expedite the process of providing defendants with the evidence to be used at trial.

#### *Other Factors Affecting the Size of the Jail Population*

Even assuming a robust prevention and diversion system, there are a number of factors affecting the size of the jail population:

- **Law enforcement:** Within available capacity, the jail books and manages people who are brought to the jail by local law enforcement. The greater the number of arrests made by the various local police departments for offenses of all kinds, the greater the demand on the jail.
  - **The type of crime:** More serious crimes usually take longer to process and also result in longer sentences. In September 2022, approximately 98% of the jail population was being held (mostly pre-conviction) for a felony offense.<sup>26</sup>

<sup>26</sup> Letter from Whatcom County Sheriff Bill Elfo to Whatcom County Superior Court Judge Rob Olson, Whatcom County District Court Judge Matt Elich, Whatcom County Prosecuting Attorney Eric Richey, Whatcom County Public Defender Starck Follis, and Whatcom County Chiefs of Police, June 8, 2022.

<https://www.whatcomcounty.us/DocumentCenter/View/67485/2022-06-08---Bill-Elfo-Letter>.

- **Number of charges:** If someone has multiple charges in multiple jurisdictions, the time spent in jail can increase as the person works their way through the system. This can be true even for a series of minor crimes.
- **Pretrial and Holds:** The pretrial population typically is incarcerated because of an inability to pay for bail. Some individuals may have also failed to appear in the past, resulting in a higher bail amount, which they cannot pay. An exception to this is sex offenders, who are required to be taken into custody immediately without the possibility of bail.

In the past, pretrial defendants have been moved to other counties because of local jail capacity issues. This option has also been considered recently as a way to reduce the jail population. This creates challenges both for public defenders working with clients and for the family members of those held pretrial.

The Vera Institute found pretrial defendants comprised nearly 60% of the jail population in 2016.<sup>27</sup> Currently, an estimated 98% of the jail population is not fully sentenced and is awaiting trial on any given day.<sup>28</sup> Sixty-four percent of the respondents to the Jail Inmate Survey indicated their time in jail was longer because they were unable to pay bail. With expanded options for pretrial

defendants and/or bail reform, the size of this group could be safely reduced.

**Holds:** The jail can temporarily hold offenders who are being transferred to other facilities or jurisdictions. For example, the local jail can hold offenders awaiting transfer to Washington State Department of Corrections officials or occasionally to federal authorities. These holds are typically short in duration.

**Whatcom County's proximity to the Canadian border can result in holds of other kinds.** Offenders who re-enter the U.S. and are picked up on a fugitive warrant, along with those trying to flee the U.S. into Canada, have some impacts on jail population. Data from 2019 indicated that Whatcom County had 65 fugitives in custody, reportedly a fairly large number for the size of the county. These are either people detained at the border or extradited to the U.S. It can take up to 90 days to transport the individuals to the appropriate jurisdiction.

There are also those with in-state warrants who live outside of Whatcom County and are detained at the border. They can be similarly held for a short time in the jail. Border closures resulting from COVID-19 paused these patterns, but they can be reasonably expected to resume with a

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<https://www.whatcomcounty.us/DocumentCenter/View/67485/2022-06-08---Bill-Elfo-Letter>. Data provided to authors by Chief Wendy Jones, Whatcom County Sheriff's Office, November 2022.

<sup>27</sup> Vera Institute of Justice, "Report to Whatcom County Stakeholders on Jail Reduction Strategies," November 2017, p. 4. <https://www.vera.org/downloads/publications/Whatcom-County-Final-Vera-Report.pdf>.

<sup>28</sup> Whatcom County, Stakeholder Advisory Committee Meeting #5: Facilities, September 15, 2022. <https://www.youtube.com/watch?v=VhjlHR049n4&list=PL8OuJOt5jT9oSW4BWzvlDf0KDRreBDDfZ&index=13>.

return to pre-COVID levels of border traffic.<sup>29</sup>

- **Courts:** The jail holds those who have been sentenced by a court. The jail also holds those who are brought in on a variety of warrants. However, because of jail capacity challenges, bookings for warrants are being restricted, and people are being released back into the community.
  - **Case Processing:** There are those who have extended stays in jail awaiting processing or evaluation by other systems.
  - **Court backlogs:** Processing lesser or more serious cases all takes more time when courts lack capacity to try cases. Typical backlogs became much worse due to the COVID-19 pandemic and full or partial closures of the courts. These backlogs persist and have become a serious challenge to reducing the jail population.
- **External Systems: Whatcom County's criminal legal system is impacted by external systems that include assessments, evaluations, and/or service provision by other systems.** The process by which someone is determined to be competent to stand trial has become one path by which people are finding themselves stuck in jail. In order to be determined competent, there

is an evaluation process, followed by, in many cases, a competency restoration process. This requires that someone receive in-patient mental health services, including medications. That typically requires a wait for a bed at Western State Hospital that can extend up to six to seven months.<sup>30</sup> While the evaluation process happens fairly quickly, the competency restoration process has become a bottleneck.

Once someone is deemed competent, they are returned to jail to stand trial. Back in jail awaiting trial, however, they are then able to refuse to take the medications that led to the determination of competency. People often decompensate in jail and then have to start the whole process over again. As of mid-November 2022, 23 people in the Whatcom County Jail were waiting for competency restoration services.<sup>31</sup>

Similarly, sex offenders tend to be in jail longer before sentencing as they await evaluations that can take weeks to complete. In June, there were 14 convicted sex offenders awaiting evaluations by the

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<sup>29</sup> Data provided to authors by Chief Wendy Jones, Whatcom County Sheriff's Office, August 2, 2022.

<sup>30</sup> Data provided to authors by Chief Wendy Jones, Whatcom County Sheriff's Office, November 14, 2022.

<sup>31</sup> Whatcom County, Stakeholder Advisory Committee Meeting #3, June 8, 2022

<https://www.whatcomcounty.us/DocumentCenter/View/67473/PPT-Presentation---Justice-Project---SAC-Meeting-3060822>; Whatcom County, Incarceration Prevention and Reduction Task Force: Joint Behavioral Health and Legal and Justice Systems Committees, March 12, 2022. <https://www.youtube.com/watch?v=yDNsVUgh1AA>; Whatcom County, "Competency Determination Process," November 2022. <https://www.whatcomcounty.us/DocumentCenter/View/65084/2022-Competency-Determination-Process---Handout-from-Chief-Jones>; data provided to authors by Chief Wendy Jones, Whatcom County Sheriff's Office, November 2022.

Washington State Department of  
Corrections.<sup>32</sup>

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<sup>32</sup> Letter from Whatcom County Sheriff Bill Elfo to Whatcom County Superior Court Judge Rob Olson, Whatcom County District Court Judge Matt Elich, Whatcom County Prosecuting Attorney Eric Richey, Whatcom County Public Defender Starck Follis, and Whatcom County Chiefs of Police, June 8, 2022.

<https://www.whatcomcounty.us/DocumentCenter/View/67485/2022-06-08---Bill-Elfo-Letter>.

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## At-Risk Populations

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Improving outcomes for both those in jail and those at risk of incarceration in a way that prevents unnecessary incarceration and reduces recidivism requires a close look at population characteristics and needs.

### Paths to Incarceration

There are several factors that put people at risk of criminal legal involvement. These include:

- Individual risk factors.
- The passage of laws that criminalize certain actions or behaviors.
- The ways in which laws are applied.

### Individual Risk Factors

**Those who are at greatest risk of incarceration often have a personal history of trauma and adversity.** Factors that can increase the risk of criminal legal system involvement include:

- A history of mental health or substance use disorders.
- Childhood trauma.
- Exposure to violence or a history of violent behavior.
- A history of anti-social behaviors or values and other “criminogenic factors.”
- Friends or family members who were previously jailed.
- Poverty.

Many of these same factors put people at risk of other life challenges, like poor health and socioeconomic outcomes. The root causes of several of these risk factors are national

problems, and national data indicates that these factors often have the greatest impacts on communities of color. Service providers do the essential work of addressing these locally, but there is only so much that can be done at the local level to respond to these systemic issues.

### Legal Landscape

**Those who end up in jail are not only there because of individual actions or behaviors but also because somewhere, at some time, their action or behavior was criminalized.** At some level of government – federal, state, or local – the action or behavior was seen as posing such a risk to public safety that jail was appropriate. These might be serious felonies or lower-level offenses. At the local level, there is some ability to re-assess the public safety risk determinations made at other levels of government, but there are limits to the authority of local officials.

### The Application of the Law

Besides the legal landscape, there is the **application of law through local policies and practices.** Research shows that those who are most at risk of incarceration tend to be poor, people of color, and those living with behavioral health challenges. The Vera Institute found that:

- Native American and Black people respectively comprised 14% and 7% of the

average daily jail population in 2016.<sup>33</sup> As a percent of the total Whatcom County population in 2016, Native Americans represented only 4% of the population while Black people made up about 2% of the population.

- Native American women were five times more likely to be in the jail than white women. Among men, Black men were 4.2 times more likely to be incarcerated than white men.

Any public health, safety, and justice system must recognize and account for this.

### Characteristics of the Population

There are as many needs among those involved in the criminal legal system as there are causes of criminal legal system involvement. These include behavioral health, vocational, educational, housing, and health care service needs.

In July 2022, a survey of the 329 individuals held at the Whatcom County Jail and the Work Center was conducted. Participation was voluntary, and 109 people chose to respond to the survey.

Survey results provide a glimpse into the lives and experience of those in the local incarcerated population. Prior to incarceration:

- 43% lived on the street, in a shelter, or in a car or RV.
- 30% lived with family or friends.
- 41% were unemployed prior to entering jail, and 36% had lost their job upon entering jail.
- 69% of respondents had received treatment for a substance use issue.
- 59% had received mental health services.
- Nearly all respondents (93%) were previously incarcerated.
- 27% were jailed “too many times to count.”

When asked what might have kept them out of jail, the majority (54%) said a stable home. More than 40% stated help with mental health issues, substance use treatment, a stable income, and/or a stronger support network.<sup>34</sup>

**Behavioral health conditions are one of the most common challenges faced by those within both the jail-based and diversion populations.** On average, there are approximately 3,700 mental health referrals in the Whatcom County Jail each year.<sup>35</sup>

It is important to recognize that **mental illness is seldom the direct cause of incarceration.** Research shows, however, that when someone has co-occurring mental health and substance use disorders, the risk dramatically increases.

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<sup>33</sup> These numbers have remained relatively consistent since 2016. Data for 2019 indicate that 13% of the average daily population were Native Americans, and 8% were African-Americans. Those identified as Caucasian represented 75% of the average daily jail population. (Whatcom County Sheriff’s Office, “Incarceration Rates in Whatcom County Jail.” Data provided up to 2019.)

<sup>34</sup> Whatcom County, Public Health, Safety, and Justice Initiative, Stakeholder Advisory Committee, “Whatcom County Jail Inmate Survey Results,” August 2022. <https://www.whatcomcounty.us/DocumentCenter/View/69298/Jail-Inmate-Survey-Results>.

<sup>35</sup> Whatcom County, Stakeholder Advisory Committee Meeting #2, April 7, 2022. <https://www.youtube.com/watch?v=txiG5THTzkw&list=PL8OuJOt5jT9oSW4BWzvlDf0KDRreBDDfZ&index=8>.

Those with co-occurring disorders are at a much greater risk of having behaviors that lead to incarceration.<sup>36</sup>

It is clear, however, that behavioral health challenges are not the only issues faced by this population. Chronic and disabling health conditions are also common.

The level of crisis experienced by many in our community is significant and ongoing. When the GRACE Program was created, it focused on those who were interacting with emergency response services at a high rate. This was defined as involvement with law enforcement, Emergency Medical Services, the Emergency Department at St. Joseph Medical Center, or other crisis systems more than 100 times each year.<sup>37</sup>

#### A Note about Criminogenic Factors

Criminogenic factors are those values, behaviors, or characteristics that increase a person's likelihood of committing a crime. Researchers have identified eight factors that are closely associated with criminal legal system involvement and recidivism. These are:

- Anti-social behaviors.
- Anti-social beliefs and attitudes.
- Anti-social friends and peers.
- Anti-social personality patterns.
- High-conflict family and intimate relationships.
- Substance use disorders.
- Low levels of achievement in school and/or work.
- Unstructured and anti-social leisure time.<sup>38</sup>

Criminogenic factors typically are deep-seated and hard for adults to change. Having more standard community-based mental health services available may not be sufficient for preventing criminal behaviors among this population. When they do wind up in jail, there is an opportunity to help people with criminogenic factors to access intensive services that may help to reduce or resolve these issues. Addressing their needs may reduce recidivism when these individuals are released from jail.

Due to the lack of available resources for assessment of this population and their needs, the number of those in the Whatcom County Jail with these criminogenic factors is unknown.

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<sup>36</sup> U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, "Screening and Assessment of Co-occurring Disorders in the Justice System," 2015.

<https://store.samhsa.gov/sites/default/files/d7/priv/pep19-screen-codjs.pdf>.

<sup>37</sup> Justice Project, [Public Health, Safety, and Justice Facility Needs Assessment, SAC Meeting #2](#), April 7, 2022.

<sup>38</sup> D. A. Andrews, James Bonta and J. Stephen Wormith, "The Recent Past and Near Future of Risk and/or Need Assessment," *Crime Delinquency*, (Issue 52:7), 2006. [https://www.researchgate.net/profile/J-Wormith/publication/249718755\\_The\\_Recent\\_Past\\_and\\_Near\\_Future\\_of\\_Risk\\_andor\\_Need\\_Assessment/links/0c960530f834036e07000000/The-Recent-Past-and-Near-Future-of-Risk-and-or-Need-Assessment.pdf](https://www.researchgate.net/profile/J-Wormith/publication/249718755_The_Recent_Past_and_Near_Future_of_Risk_andor_Need_Assessment/links/0c960530f834036e07000000/The-Recent-Past-and-Near-Future-of-Risk-and-or-Need-Assessment.pdf).

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## Vision, Values, and Goals

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The primary responsibility of the SAC was to identify needs, gaps, and recommendations for incarceration facilities and behavioral health services. Through the course of learning about the criminal legal system, however, it became clear that it is important to articulate the areas of common agreement, at a more fundamental level. Over the course of several sessions, the following Vision, Values, and Goals statements were developed.

### Vision

*The vision presents the big picture of what we envision for our community. The vision is not limited by what is currently true but describes the ideal state towards which we aspire.*

Whatcom County is a model for community safety, health, and justice. We reduce the need for incarceration through early intervention and long-term investment in people and programs that support prevention, rehabilitation, and accountability in the community and within the criminal legal system.

- **Prevention:** We invest in children and families and address social, educational, economic, and racial disparities that are known risk factors for involvement with the criminal legal system and can lead to incarceration and re-incarceration.
- **Rehabilitation:** We devote sufficient resources to a variety of evidence-based behavioral health, housing, and re-entry

support services that will minimize future interactions with the criminal legal and crisis systems and reduce crime.

- **Accountability:** To protect public safety, we utilize a range of alternatives to incarceration for low-risk offenders that require personal accountability; and when incarceration is called for, we operate facilities that are humane, well-equipped, well-maintained, and adequately staffed to promote health and safety.

### Values

*Values are the core principles that guide decision-making and investments of time and resources.*

- **Protect** public health and safety
- **Prioritize timely and early interventions** to save lives, improve outcomes, and save money over the long term.
- Openly and actively **address inequities and discrimination.**
- Facilitate **public engagement in transparent decision-making processes** that reflect community priorities.
- Ensure systems, services, and facilities are **adaptable to changing circumstances and needs.**
- Identify, implement, and expand **evidence-based best practices.**
- **Use measurable goals and reliable data to evaluate the success of interventions and innovations, and drive decision-making.**



- **Honor the humanity of all parties** involved in the criminal legal system.

## Goals

*The goals statements describe what we hope to achieve and how we will achieve it. They are divided into three categories:*

1. **Systems Goals**, include shifts in practices, policies, and funding that facilitate efficient functioning of the criminal legal system, and reduce incarceration and the duration of incarceration.
2. **Services Goals**, which are the types of supports that need to be in place for people to prevent and reduce involvement with the criminal legal system.
3. **Facilities Goals**, which include a jail and a variety of residential and non-residential facilities and settings for legal and treatment services.

### 1. Systems Goals

- Low-risk offenders are safely and effectively diverted from a Whatcom County Jail sentence and provided with support to help them succeed.
- Adequate funding, staffing, resources, and service capacity are available at all points of contact so that people involved in the criminal legal system are assured of a speedy and fair resolution of legal issues and have opportunities to build productive lives thereafter.
- People working within and alongside our criminal legal system (e.g., advocates, navigators, legal counsels, jail staff, providers) are valued, fairly paid, and representative of the members of our community.

- Legislative and policy tools are used to safely limit and reduce the jail population.

### 2. Services Goals

- Community and jail-based services (e.g., treatment for mental health and substance use disorders, affordable supported housing) lead towards healing and restoration, and reduce crimes of poverty and repeat offenses. People released from jail have immediate access to behavioral health and medical care, housing, employment, and support systems to avoid reincarceration.
- Coordinated services and programs effectively close the gaps between community, legal, and jail-based services at all points of contact in the criminal legal system.

### 3. Facilities Goals

- Incarceration facilities balance compassion with accountability to promote safety, health, rehabilitation, and recovery.
- Facilities are designed and operated to meet the health, safety, and welfare needs of those incarcerated and the people who work and visit there.
- Facilities are designed to be versatile to changing needs.
- Facilities adequately serve the whole county, including cities and tribal jurisdictions.

## Summary of Needs Assessment

In alignment with the Vision, Values, and Goals statements three areas of this analysis were established:

1. Systems
2. Services
3. Facilities

These are interrelated elements of the Whatcom County Public Health, Safety, and Justice system.

In the following three chapters, context is provided for the issues, followed by a chart presenting:

- Goals
- Priority Needs/Gaps

- Recommendations to address the Needs/Gaps
- Intended Outcomes

The content of these charts was discussed over several SAC meetings, and surveys were used to gather input and test for levels of unity among SAC Members. The survey results are included in the Appendix F, which reveal the level of priority and agreement by the SAC. Members of the general public and priority audiences were also surveyed about their agreement with the needs/gaps and recommendations. Public input is included in Appendix G. Also included in Appendix H are potential funding opportunities related to each recommendation and preliminary budgets, when available.

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## Systems Needs Assessment

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Numerous obstacles stand in the way of creating the coordinated continuum of pre- and post-incarceration services needed by the at-risk population. Many of these are systemic in nature, and some require policy changes at a state or federal level. While these issues may not be resolved soon, they must be considered.

### Increased Demand, Inadequate Supply

**Several systems needed for stabilization and rehabilitation are inadequate to meet the need.** These include behavioral health and housing. Whatcom County's **affordable housing and homelessness** challenges are well-known. These are difficult under the best of circumstances. Those at-risk of incarceration or exiting jail face additional barriers. Not only can paying for the cost of housing be daunting, but also housing providers may exclude those with a criminal history from housing.

**Washington's behavioral health system has been inadequate and underfunded for decades.** There are far more adults and young people needing mental health support than can access care. Community treatment is limited. The shortage of inpatient beds is severe.

**The substance use disorder treatment system is similarly stressed.** Substance use has been a significant driver of criminal legal involvement for decades, and the opioid and methamphetamine epidemics have made matters worse. Access to treatment is limited,

and currently there is no evidence-based treatment for methamphetamine dependence.

### Access Barriers

Before the Affordable Care Act (ACA) was enacted in 2010, health insurance coverage was a significant barrier to pre- and post-incarceration health care. Thanks to the ACA, many more people now have health insurance coverage. However, gaps remain. Today, **an estimated 8% of Whatcom County residents lack health insurance.**<sup>39</sup> Those whose immigration status is undocumented, for example, are ineligible for ACA coverage.

In addition, **when a person enters jail, their Medicaid health insurance coverage is paused. When they are released, coverage should be immediately reinstated, but delays of up to three days sometimes occur.** Delays can be the result of problems in assigning Medicaid enrollees to a Managed Care Organization. Sometimes, the sudden release of an individual from jail makes a coordinated re-entry process more difficult. When coverage is interrupted, behavioral health or other health care treatments may not be received.

### State and Federal Laws and Policies

**Actions taken at the federal and state levels affect local incarceration rates and service delivery.** This includes the criminalization of some behaviors and actions that can increase the strain on incarceration, prevention, and

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<sup>39</sup> County Health Rankings and Roadmaps. Accessed November 21, 2022. <https://www.countyhealthrankings.org/app/washington/2022/rankings/whatcom/county/outcomes/overall/snapshot>.

diversion resources. It can also include changes in sentencing. Washington's 1981 Sentencing Reform Act, for example, caused some who would have previously been sentenced to state prison terms to be jailed in the County system instead. This increased demands on local systems.

**There are also some laws that, despite their merits, pose challenges to coordination between systems to address the needs of individuals.** One example is the Health Insurance Portability and Accountability Act (HIPAA), a law passed in 1996 which protects the privacy of everyone's healthcare record. Though beneficial in many ways, the confidentiality protections of the act make it challenging for service providers in different systems to work together, since they need a client or patient's permission to talk to each other. It is not impossible to coordinate care, just more difficult and often more time consuming.

**Other policies fail to recognize the degree to which jails have become health care providers of last resort.** Jail staff, for example, are unable to compel people in custody to take medications for mental illness. If these individuals were in a hospital, they could be compelled to do so. But in jail, they have the right to decline medications.

Likewise, nurses operate under different requirements when they are providing care in the jail as opposed to in a health care setting. Although their skills, expertise, and ability to provide care is the same in either setting, their practice standards differ depending on where they are providing that care.

## System Backlogs

**Local officials often are at the mercy of systems outside their control.** When system backlogs occur, length of stay in the Whatcom County Jail can increase. An example is competency hearings – the process by which someone is determined to be competent to stand trial. This determination relies on an assessment and restoration process that can take many weeks or months. The path an individual follows through this process can be filled with detours and numerous obstacles.

**The COVID-19 pandemic worsened already existing backlogs in the local court system as well.** Because access to courts was temporarily restricted, long delays in processing cases resulted and continue to be a challenge. **When cases linger pretrial, access to diversion programs is similarly delayed.**

## Operational Resources

**Efforts to overcome many of these challenges require sustainable funding, adequate staffing, and appropriate facilities.** Securing and maintaining adequate funding for services is always a challenge. A lack of funding, or unreliable funding, destabilizes systems.

Appropriate facilities are also needed for a properly functioning system. This means space is sufficient, thoughtfully designed, available, and accessible.

Hiring and retaining qualified staff is another ongoing challenge. Wages have stagnated within many service delivery systems for years. The COVID-19 pandemic exacerbated these challenges. Many providers, particularly within

the behavioral health and health care systems, left their jobs due to stress and burnout.

### Improvements within Reach

In addressing the systemic challenges described above, there are steps that can be taken to improve conditions locally. Systemic problems may not be resolved, but their negative effects can be reduced. Many of these steps involve local service delivery. These are described in the Service Needs Assessment section below.

Some involve local systems, such as data systems and local processes and procedures.

#### *Data Systems*

It is difficult to make data-driven decisions when working with multiple, independent data systems. **Data system limitations are significant.** Information about particular individuals might be recorded in one system, but not others. The data might exist, but it may be recorded in different ways, making it difficult to make comparisons across data sources. All of this makes it harder for multiple systems working with the same individual to coordinate and collaborate.

Data-driven decision-making requires access to and analysis of data from multiple systems, including:

- Law enforcement: Computer Aided Dispatch (CAD), What-Comm, Bellingham Police Long Arm.

- Superior Court records.
- St. Joseph Hospital/Emergency Department: Epic.
- Fire/Emergency Medical Services: Image Trend.
- Jail: Spillman system.
- Whatcom County Information Technology.
- Tribal data systems.
- Data systems of numerous community-based organizations involved in public safety systems.

**Efforts are underway to create a community health information system to resolve some of these problems.** Such a system would incorporate and integrate data across various sources so that multiple service providers have the data they need when they need it.

#### *Initial Detention and Court Hearings*

As described earlier, prior to the COVID-19 pandemic, a Pretrial Processes Work Group (PPWG) had been working to identify and implement pretrial reforms. These include the creation of a Pretrial Services Unit within the Superior Court and use of a Public Safety Assessment tool. The intent of these efforts was to create new options for monitoring defendants awaiting trial.

The COVID-19 pandemic interrupted this work. As court operations resume and local court system backlogs are addressed, there is an opportunity to resume these efforts.

## Systems Goals, Needs & Recommendations

The SAC set the following **systems-related goals**, and identified high priority needs for systems changes, and recommendations to address those needs, presented in the chart below:

- Low-risk offenders are safely and effectively diverted from a Whatcom County Jail sentence and provided with support to help them succeed.
- Adequate funding, staffing, resources, and service capacity are available at all points of contact so that people involved in the criminal legal system are assured of a speedy and fair resolution of legal issues and have opportunities to build productive lives thereafter.
- People working within and alongside our criminal legal system (e.g., advocates, navigators, legal counsels, jail staff, providers) are valued, fairly paid, and representative of the members of our community.
- Legislative and policy tools are used to safely limit and reduce the jail population.

<b>1. Systems Needs &amp; Recommendations</b>			
<b>#</b>	<b>Needs/Gaps</b>	<b>Recommendations</b>	<b>Intended Outcomes</b>
1a.	Increase access to inpatient and outpatient competency restoration services for people evaluated as needing these services.	<p><b>Rec 1:</b> Work with regional partners to pursue needed state policy changes to increase access to <u>inpatient</u> competency restoration.</p> <p><b>Rec 2:</b> Convene a workgroup to research <u>outpatient</u> competency restoration program models for eligible incarcerated individuals (e.g., Assisted Outpatient Treatment (AOT), prosecutorial diversion programs).</p>	<p>↑ Access to services for people with serious mental illness</p> <p>↓ # of individuals with serious mental illness in jail</p>
1b.	Reduce the number of people detained in jail before trial or other case resolution.	Expedite all Whatcom County courts' use of a shared, evidence-based, race-neutral assessment process for releasing pretrial defendants considered unlikely to threaten public safety, implemented in conjunction with court-supervised monitoring services.	<p>↑ Release options</p> <p>↓ Pretrial time in jail for people who can safely be monitored in the community as they await trial</p>
1c.	People of color are disproportionately incarcerated due to racism in our society, and biases within law enforcement practices.	<p><b>Rec 1:</b> Ensure that data collection methods used by law enforcement, courts, and the jail are designed to record people's self-reported racial/ethnic identity.</p> <p><b>Rec 2:</b> Ensure that all county law enforcement employees, staff in all court systems, and those who work in the jail maintain data systems adequate to identify racial disparities and take prompt effective actions to correct such disparities when they are identified.</p>	<p>↑ Understanding of racial bias in the criminal legal system</p> <p>↑ Commitment to practices which reduce inequities and discrimination</p>

<b>1. Systems Needs &amp; Recommendations</b>			
<b>#</b>	<b>Needs/Gaps</b>	<b>Recommendations</b>	<b>Intended Outcomes</b>
1d.	System for collecting consistent data from all intercept points in the criminal, legal, and behavioral health systems.	Build a data system for collecting consistent data from all intercept points.	↑ Ability to track service utilization and outcomes for individuals interacting with the criminal legal system and behavioral health services
1e.	Data dashboard to track trends in criminal legal system, racial disparities in the system, and incarceration prevention & reduction efforts.	Build a data dashboard to track and publicly present trends and outcomes of criminal legal system changes, efforts to address racial disparities in the system, and incarceration prevention and reduction work.	↑ Access to data measuring progress towards goals for improving Whatcom County's criminal legal system, addressing racial disparities in the system, and reducing & preventing incarceration
1f.	Additional qualified, & racially/ethnically diverse jail staff.	Offer wages and benefits that will attract qualified staff who are representative of the community's diversity.	↓ Racial bias and discrimination ↑ Safety for inmates and staff ↑ Employee retention & job satisfaction

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## Services Needs Assessment

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### A Framework for Addressing Service Needs

**A coordinated continuum of services is needed during both pre- and post-incarceration to best serve this population.** The array of services both inside and outside the jail needs to provide an appropriate level of care according to health and safety guidelines, with timely interventions and coordinated hand-offs between system providers. This requires that service systems not only exist but also have adequate capacity to meet the need.

Interventions also need to be tailored to where people are along a continuum of criminal legal system involvement. This includes:

- **Prevention and Diversion:** Those who are determined to be low-risk offenders who can be safely and effectively diverted from a Whatcom County Jail sentence.
- **Jail-based:** Those who receive a Whatcom County Jail sentence or who are temporarily held in the Whatcom County Jail, whether because of “holds” of various types or system backlogs.
- **Re-entry:** Those who are exiting the Whatcom County Jail to re-enter community life.
- **Post-Incarceration:** Those who have successfully transitioned to community life but continue to require various services to reduce the risk of reincarceration. This group has many of the same needs as the Prevention and Diversion population.

### An Overview of Service Needs

Regardless of how someone is involved in the criminal legal system, their service needs are very similar. A person could be at risk of incarceration or re-incarceration, in jail, or exiting jail. They need access to behavioral and physical healthcare, housing, educational and vocational programs, and other social services. That can make the difference between successful community restoration and continuing criminal legal system involvement. Interrupting this cycle reduces crime and incarceration rates and saves taxpayers money.

No matter how someone is involved in the criminal legal system, the factors that put them at risk of being incarcerated need to be addressed. This includes behavioral or physical health challenges, unemployment, poverty, homelessness, and criminogenic factors.

Community-based services are needed both pre- and post-incarceration. The jail must also be equipped to address numerous needs.

### Behavioral Health

Mental health and substance use disorders are very common among those involved in the criminal legal system. Whether these conditions are directly or indirectly linked to a person’s risk, the capacity of local services and programs is not as robust as it needs to be. There is, however, a strong foundation to build upon.



### *Prevention and Diversion and Post-Incarceration Populations*

**Those at risk of being jailed for the first time or returning to jail have similar needs.** Both groups **rely on diversion programs and community-based services to prevent incarceration.** The creation of the GRACE, LEAD, Community Paramedic, and MCOT programs, the new Anne Deacon Center for Hope (Crisis Stabilization Center), and the Alternative Response Team have been welcome additions to the array of diversion options. The Way Station, which will offer medical and behavioral health services to those experiencing homelessness, will launch in late 2023. These new programs and services are positive steps towards expanding capacity.

There are also a **number of programs working to prevent substance use or reduce harm.**

These include medication-assisted treatment for opiate use disorder, school-based interventions, syringe support services, and prescription take-back programs.

Despite these efforts, however, **the availability of mental health and substance use treatment is limited and inadequate.** Treatment options for opioid addiction have increased, but more are required. Substance use and mental health assessments can have long waiting lists. Whatcom County lacks a Sobering Center.

There is a particular need for services for at-risk youth.

### *Jail-Based Population*

In Washington State, **jails have become behavioral health treatment centers of last resort.** This is as true in Whatcom County as elsewhere. Jails were never designed to serve this purpose, but in the absence of adequate community-based behavioral health treatment and in-patient mental health facilities throughout the state, this is now the case. A 2016 report estimated that, of adults who had Medicaid health insurance coverage and were booked into jail statewide:

- Nearly six in 10 (58%) had mental health treatment needs.
- Over six in 10 (61%) had substance use disorder treatment needs.
- About four in 10 (41%) showed signs of having co-occurring disorders.<sup>40</sup>

The prevalence of people with substance use and co-occurring disorders in the Whatcom County Jail is likely higher than these statewide figures. Recent 2022 data show that 45% of those booked had a serious mental illness, and 80% had a substance use disorder. In April 2022, 50% of the Whatcom County Jail average daily population was taking a psychotropic medication.<sup>41</sup>

Both mental health and substance use disorder treatment services need to be readily available

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<sup>40</sup> Whatcom County, Stakeholder Advisory Committee Meeting #3, June 8, 2022.

<https://www.whatcomcounty.us/DocumentCenter/View/67473/PPT-Presentation---Justice-Project---SAC-Meeting-3060822>.

<sup>41</sup> Whatcom County, Stakeholder Advisory Committee Meeting #3, June 8, 2022.

<https://www.whatcomcounty.us/DocumentCenter/View/67473/PPT-Presentation---Justice-Project---SAC-Meeting-3060822>.

within the jail. The average jail stay is currently about 20 days, which represents both those with very short stays for offenses like driving under the influence and others incarcerated for more serious offenses.<sup>42</sup> For many with shorter jail stays, jail-based behavioral health services are unlikely to resolve someone's behavioral health challenges. Short-term interventions can, however, engage and stabilize people. For those with serious mental illness and longer-term jail stays, more robust jail-based behavioral health services are needed.

Currently, Jail-based Behavioral Health Services are provided by two mental health professionals and one re-entry case manager.

**There are not enough staff to meet the needs of those with serious mental illness in the jail.**

It can take several weeks for someone to receive mental health care. There is not enough space to provide confidential, one-on-one mental health treatment in the jail.

Substance use assessments are provided in the jail, but treatment options are limited. More treatment options for opioid use disorders are needed, both within the jail and through temporary release to treatment facilities. There are currently no treatment options for methamphetamine dependence. **There are also no in-jail substance use disorder counseling services, due to current space constraints.**

There are a few programs currently in place that can form the foundation of a robust re-

entry system. Lake Whatcom Residential and Treatment Center's Program for Assertive Community Treatment (PACT), for example, offers recovery-oriented services. This program specializes in serving people released from the jail who have severe mental health challenges. Services are available 24 hours a day, seven days a week.<sup>43</sup> It too lacks the capacity to meet the scope and range of population needs.

### Physical Health

Those at risk of incarceration face significant physical health challenges as well. These include the management of chronic conditions that are common within the general population, such as diabetes or heart disease. But these populations often have greater vulnerability. **Behavioral health conditions can make physical health conditions worse or more challenging to treat.** Physical health can often be neglected when an individual experiences behavioral health challenges, making chronic conditions more serious.

While inmates are incarcerated, the jail is legally obligated to provide for their medical care. Jail Health Program Services are provided by a physician, an ARNP, and a dentist. To properly care for those in the jail, adequate medical care facilities are needed. **The existing jail does not have adequate exam and procedure rooms.** It also lacks negative pressure rooms to treat those with infectious respiratory diseases (e.g., COVID-19). The jail lost its ability to do basic dental exams when X-

<sup>42</sup> Whatcom County, Stakeholder Advisory Committee, Meeting #4, July 14, 2022.

[https://www.youtube.com/watch?v=AnISMbVq\\_f0](https://www.youtube.com/watch?v=AnISMbVq_f0).

<sup>43</sup> For more information about the PACT program, see Washington State Health Care Authority, Program of Assertive Community Treatment (PACT). Accessed November 21, 2022. <https://www.hca.wa.gov/billers-providers-partners/program-information-providers/program-assertive-community-treatment-pact>.

ray equipment failed. In-patient capacity is needed, including hospital beds for those who have been released back into the jail from St. Joseph Medical Center.

The jail also does not meet Americans with Disabilities Act (ADA) accessibility requirements. For example, all of the cell doors are too narrow to accommodate electric wheelchairs, and the second floor cells are designed with stairs, so those with mobility issues cannot be housed on the second floor.

### Housing

**Without housing, it is difficult for anyone to maintain stability.**<sup>44</sup> It is harder to maintain employment or pursue education and training. It is much more difficult to manage behavioral and physical health challenges while experiencing homelessness.

### *Prevention and Diversion and Post-Incarceration Populations*

As stated earlier, Whatcom County's struggles with housing availability and affordability are well-known. There have been some bright spots in recent years with the creation of the Whatcom Homeless Services Center, the construction of permanent supportive housing, the work of the Opportunity Council's Homeless Outreach Team (HOT), the expansion of emergency shelter capacity, and the ongoing work of community service providers to house individuals and families.

More is needed. **There is simply not enough affordable housing and permanent supportive housing to meet the need.** Permanent supportive housing providers also need access to onsite clinical behavioral health services and intensive case management to improve the housing stability of their clients. Clean and sober options and housing for sex offenders need to be expanded. Additional emergency shelter options and safe storage would be welcomed by many. To the degree that the housing continuum can address the multiple and varied needs of the population, stabilization can be increased and incarceration risk reduced.

### *Re-Entry Population*

Where someone goes after leaving the jail – and who picks them up – can have a significant long-term effect on post-incarceration outcomes. If someone with a history of substance use leaves jail and returns to an environment of high drug use, the person is much more likely to relapse and end up back in the criminal legal system. **More housing options are needed to ensure those exiting jail have the best chance for success.**

A program like the Housing and Recovery through Peer Services (HARPS) program could help. This program is available in several counties in Washington State. It provides

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<sup>44</sup> For information about the relationship between stable housing, incarceration, and recidivism, see Leah A. Jacobs and Aaron Gottlieb, "The Effects of Housing Circumstances on Recidivism," *Criminal Justice Behavior*, September 2020; 47(9): 1097–1115. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8496894/>; Housing Law Bulletin, "The Importance of Stable Housing for Formerly Incarcerated Individuals," June 2010; Vol. 40, 60-62. <https://nhlp.org/files/Page%208%20Doc%201%20NHLP%20Bulletin%20Article%20Reentry.pdf>; Kimberly Burrowes, Housing Matters, Urban Institute, "Can Housing Interventions Reduce Incarceration and Recidivism," February 27, 2019. <https://housingmatters.urban.org/articles/can-housing-interventions-reduce-incarceration-and-recidivism>.

supportive housing services to those with a behavioral health condition or at risk of homelessness.

Reinstating The Housing Lab in Jail program could also be helpful. This program is operated through the Whatcom Homeless Service Center. The Housing Lab did good work providing funding for housing costs and utilities until it was discontinued during the COVID-19 pandemic.

### Educational, Vocational, and Social Services

Educational, vocational, and social services can help stabilize those at-risk across the continuum. These include professional and peer services offered both inside and outside the jail.

### *Prevention and Diversion and Post-Incarceration Populations*

Several community-based services are available to support this population. These include peer-to-peer programs like 12-Step and conflict resolution assistance offered through the Whatcom Dispute Resolution Center.

Numerous gaps remain, including:

- A need for more comprehensive employment assistance and support.
- Inadequate treatment services for domestic violence perpetrators. Domestic violence is a significant and ongoing cause of incarceration that has broad effects on the health and well-being of families and the community.
- Services to help young people exiting foster care.

- A lack of broad community training in trauma-informed approaches.

### *Jail-Based Population*

The jail currently provides some community services and support groups to stabilize inmates while they are in jail and prepare them for re-entry. These include Alcoholics Anonymous (AA) and Narcotics Anonymous (NA) groups, a support group for survivors of domestic or sexual violence, and faith-based groups. **What is especially lacking is adequate space and resources to offer educational and vocational services.** While some vocational and literacy training is available, with some bilingual capacity, more of these services are needed. There is not enough space to provide parenting classes, one-on-one literacy tutoring, employment counseling (e.g., coaching on resume writing, interview skills, and job search), and GED preparation. As a result, those within the jail who are preparing for re-entry are placed at a disadvantage.

### *Re-Entry Population*

The time during which a person is preparing to be released from jail is perhaps one of the most precarious. **The success of someone's return to community life largely depends on the services available in the jail leading up to release.** The degree of coordination between jail staff and community-based service providers makes a significant difference too. If services are available and coordination is strong, including co-located community-based service providers working in the jail, the chances that a person will return to jail can be minimized. If that is not the case, a person exiting jail can remain trapped in a cycle of crisis.

Those exiting jail need help to return to the workplace, reunite with family, and re-establish relationships. As described above, there is currently no available space in the Whatcom County Jail to provide job search or vocational preparation services. There are also not enough staff to consistently make referrals to community-based employment resources and family supportive services.

**Discharge planning needs to be strengthened.**

These services have been limited by both facility capacity and lack of staffing. Adequate discharge planning, as well as dedicated staff

serving as system navigators, would improve outcomes for those exiting the jail, reduce reincarceration, and support a successful return to community life.

Timely reinstatement of benefits, such as Medicaid, and service continuity would be much more likely if dedicated staff were working to ensure a smooth transition from jail-based to community-based services. With adequate staff, a system of warm hand-offs and timely referrals from inside the jail to external partners would create a seamless system of interventions for those exiting the jail.

## Services Goals, Needs & Recommendations

**Services goals** set by the SAC focus on addressing identified gaps in existing services in order to reduce incarceration. The specific needs and recommendations related to service gaps are in the following chart.

- Community and jail-based services (e.g., treatment for mental health and substance use disorders, affordable supported housing) lead towards healing and restoration, and reduce crimes of poverty and repeat offenses.
- People released from jail have immediate access to behavioral health and medical care, housing, employment, and support systems to avoid reincarceration.
- Coordinated services and programs effectively close the gaps between community, legal, and jail-based services at all points of contact in the criminal legal system.

**2. Services Needs & Recommendations**

#	Needs/Gaps	Recommendations	Intended Outcomes
2a.	Increase access to mental health (MH) & substance use disorder (SUD) assessments, on demand/no waiting.	<p><b>Rec 1:</b> Support additional positions for MH and SUD professionals with certified agencies to provide community-based assessment on demand when people are highly motivated.</p> <p><b>Rec 2:</b> Support additional positions for MH and SUD professionals with certified agencies to provide assessments in the jail and linkage with appropriate services while people are incarcerated, or immediately upon release.</p>	<p>↑ # of people prepared to enter treatment for MH &amp;/or SUD</p> <p>↑ Engagement with support services</p> <p>↓ Criminal legal system involvement due to untreated mental health &amp;/or SUD</p> <p>↑ # of incarcerated individuals who receive mental health &amp;/or SUD treatment</p> <p>↑ Service coordination</p> <p>↑ Stability at point of release</p> <p>↓ Recidivism due to untreated mental health &amp;/or SUD</p>
2b.	Increase community MH treatment capacity (in-patient & out-patient), and address lack of community SUD treatment.	Increase availability of MH and SUD treatment in the community to reduce and prevent incarceration.	<p>↓ Criminal legal system involvement due to untreated mental health &amp;/or SUD</p> <p>↓ # of incarcerated individuals admitted to mental health &amp;/or substance use disorder treatment immediately following release</p> <p>↓ # of formerly incarcerated individuals returning to jail due to charges related to mental health &amp;/or SUD</p>
2c.	Increase capacity of effective existing programs to divert more people from incarceration (e.g., GRACE, LEAD, Mental Health Court, Drug Court).	Ensure stable funding to enable expansion of diversion programs that have proven to be effective in reducing incarceration.	<p>↓ # of people engaged in diversion programs</p> <p>↓ Incarceration of people with mental health &amp;/or SUD</p>
2d.	Evidence-based services for people with SUD who are incarcerated.	Utilize SUD professionals to provide available evidence-based SUD services including for methamphetamine dependence in the jail setting, and ensure continuity of care to community-based treatment upon release.	<p>↑ # of incarcerated individuals who receive SUD treatment</p> <p>↓ Recidivism due to untreated SUD, especially methamphetamine dependence</p>

**2. Services Needs & Recommendations**

#	Needs/Gaps	Recommendations	Intended Outcomes
2e.	Increase Mental Health Professionals (MHPs)/Intensive Case Managers available for the jail.	Increase the number of MHPs/Intensive Case Managers at community agencies contracted to provide services in the jail and support re-entry staff in facilitating continuity of care when inmates are released.	<ul style="list-style-type: none"> <li>↑ Service coordination</li> <li>↑ Engagement with support services</li> <li>↑ Stability while incarcerated</li> <li>↑ Stability at point of release</li> <li>↑ Jail staff retention &amp; job satisfaction</li> </ul>
2f.	Increase jail and community re-entry case management services/support, and ensure Medicaid reinstatement upon release.	Create additional positions for jail re-entry specialists and navigators to facilitate care coordination and ensure a warm handoff to community service providers, healthcare/behavioral healthcare, peer support, housing, and vocational support.	<ul style="list-style-type: none"> <li>↑ # of incarcerated individuals nearing release who receive care coordination planning &amp; support</li> <li>↑ # people whose Medicaid benefits are reinstated immediately upon release so there is no gap in services</li> <li>↓ Recidivism due to inability to access necessary community-based services</li> </ul>
2g.	Increase capacity of Program for Assertive Community Treatment (PACT), an evidence-based program for people with severe and persistent mental illness who require intensive support services (e.g., medication, case management) to function in the community.	Increase PACT services dedicated to incarcerated individuals. Conduct evaluation for services prior to release, and facilitate immediate entry into PACT services upon release.	<ul style="list-style-type: none"> <li>↑ Access to PACT services for incarcerated individuals with serious mental illness</li> <li>↓ # of individuals experiencing serious mental illness who are reincarcerated</li> </ul>

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## Facilities Needs Assessment

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Achieving the vision set forth by the SAC for Whatcom County’s criminal legal system requires that those at risk of incarceration receive the services they need to avoid incarceration or a return to jail. They will only receive those services if there is sufficient funding, staffing, and space to support service delivery.

Whatcom County’s correctional facilities are currently not up to this task. The Interim Work Center located on Division Street in Bellingham’s Irongate district was intended to be just that – interim. It has, however, been serving as a minimum-security facility since 2006. It is showing its age and lacks the features that would make it suitable for other uses as a correctional facility.

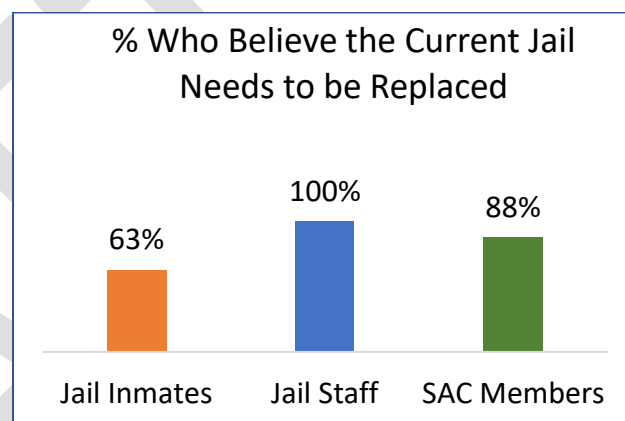
There is consensus among those who work in, visit, or have been incarcerated in the Whatcom County Jail that the jail is in disrepair. Previous studies have detailed the jail's condition, which has continued to deteriorate.<sup>45</sup> Inmates, staff, and service providers in the jail currently face considerable health and safety risks.

As described above, **the existing facility lacks the capacity to meet the needs of inmates.**

This includes everything from the most basic functions, such as laundry, kitchen, and dining facilities, to enough confidential spaces to

receive behavioral and physical health care, meet with attorneys, or attend support groups.

Justice Project surveys conducted with jail inmates, jail staff, and SAC members revealed general agreement that a new jail is needed.



More than 85% of SAC members felt the following services were absolutely essential or very important to have located within a jail facility:

- Medical services.
- Mental health services.
- Options for visits (in-person, phone, virtual).
- Treatment for alcohol and/or drug addiction.

**Regarding the design of a jail facility, the SAC considered the following.**

### Size

Previous estimates of needed jail capacity have largely been based on the size of the current

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<sup>45</sup> design2LAST, inc., “Building Assessment Studies and Cost Estimates for Capital Improvements at the Jail (Public Safety Building) and Work Center,” October 11, 2016. <https://www.whatcomcounty.us/DocumentCenter/View/23949/Design2-Last-Jail-Building-Assessment-Final-Report?bidId>.



jail population combined with population projections. There has been a roughly equal correlation between growth in the size of the Whatcom County population and projected growth of the incarcerated population.

Estimates have taken into consideration both the number of beds needed and space for operations and services.

If alternatives to incarceration are expanded and efforts to reduce recidivism are successful, this calculation could be expected to change. The jail population should rise at a slower rate than the projected population growth of the county.

That said, there is no way to account for future legislative changes at the state or federal levels that might affect incarceration rates. If the systemic risk factors that put people at higher risk of incarceration are not addressed at the state and federal levels, that could have an impact too. To estimate the current and future capacity needs of a new jail is, therefore, tricky.

In a September survey of SAC members,

- 83% felt it was absolutely essential or very important that a new facility have enough space for the services they consider important.
- 50% felt it should be big enough to hold more people as the population expands.

Inmates responding to the jail survey were asked about thoughts on the size of a prospective new facility. Seventy-one percent of respondents stated that it should be bigger

than the existing facility. Eleven percent said it should be smaller.

Asked why a new facility should be bigger, respondents cited:

- Overcrowding (34%).
- Provide more space for services (19%).
- Accommodate more offenders (14%).
- Poor condition of the building (10%).
- Increase outdoor recreational space (8%).
- Separate people with different needs (7%).

In responding that a facility of the same size or smaller is preferable, respondents noted that:

- The goal is rehabilitation, not to make people better criminals.
- The jail is in need of repair and updating, if not replacement.
- Fewer people would be in the jail if there was more diversion (e.g., bail reform, prevention, and jail alternatives).

## Design

One of the challenges of the current jail facility is that the cell layout within the housing units limits the ability of staff to clearly see and monitor inmates. The obstructed sight lines within the jail reduce the safety of staff, inmates, and service providers.

Based on these considerations and best practice recommendations for correctional facilities<sup>46</sup>, the SAC considered the pros and cons of a horizontal versus a vertical design. A horizontal design was recommended in an evaluation of the LaBounty Road site in 2010.

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<sup>46</sup> U.S. Department of Justice, National Institute of Corrections, "Jail Design Guide," Third Edition, March 2011. <https://s3.amazonaws.com/static.nicic.gov/Library/024806.pdf>.

This was based on considerations about adaptability of the facility, security of staff and inmates, and operational costs, considerations which have not changed over time.<sup>47</sup>

Information gathered as part of this Needs Assessment identified additional desirable design features:

- **Versatility:** A design that would be adaptable to:
  - Minimum-, medium- and maximum-security needs.
  - Service space needs.
  - Bed space needs.
  - A changing inmate population.
- **Reliable infrastructure:** Ability to support robust, stable technologies and operations.
- **Ease of operations:** Ability to bring services to inmates rather than bringing inmates to services.

## Location

In 2013, the LaBounty Road property in Ferndale was purchased as the proposed site of a new jail, as it was determined to meet the criteria set forth by the 2012 Jail Planning Task Force. Both during the 2015 ballot measure campaign that would have funded construction, and in post-election listening sessions, many Whatcom County residents raised objections to the site. A primary argument was that it was too far from needed services, the courthouse, and the hospital. It was also not well-served by public transit, and wetlands mitigation would be needed before construction could start.

Since the defeat of the 2015 ballot measure, alternatives to the LaBounty Road property have been discussed. As part of this Needs Assessment, the SAC considered a total of three sites currently owned by the County:

- The **LaBounty Road property** in Ferndale.
- The **Irongate District**, adjacent to the existing Work Center and the Anne Deacon Center for Hope (Crisis Stabilization Center).
- The **Civic Center**, site of the current jail, adjacent to the Whatcom County Courthouse and Bellingham City Hall.

Each of these sites have pros and cons related to location, costs to develop, and opportunities for the expansion of services or beds that might be needed in the future.

The SAC is not in a position to fully evaluate the costs and various other considerations associated with site selection. Further analysis by jail design experts is needed. However, the SAC discussed their priorities over the course of multiple meetings and completed a survey in October 2022 which weighed the importance of various criteria. The survey results indicated that:

- 80% of SAC members considered the cost to develop the property to be important or very important.
- 73% feel that available adjacent space for future expansion is important or very important.

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<sup>47</sup> HDR, "Whatcom County Adult Corrections Facilities and Sheriff's Headquarters Site Evaluation Report," July 2, 2010. <https://www.whatcomcounty.us/DocumentCenter/View/892/Site-Evaluation-Report---Draft-PDF?bidId=>.

- 60% of members prioritized a site large enough to build a facility with a horizontal design.

SAC members also rated how important it was that the jail be located in close proximity to various services and resources inmates need.

<b>% Who Rated Resources Important or Very Important (N=35)</b>	
Bus Line	86%
Courthouse	74%
Public Defender’s Office	58%
Crisis Stabilization Center	46%
Sheriff’s Office	43%
Hospital	41%
Work Center	35%
Freeway Entrance	35%

In addition to environmental impacts, other considerations related to location include:

- Distance from:
  - Schools.
  - High-density residential areas.
- Compatibility with neighboring uses.
- Aesthetic impact on community character.

## Facilities Goals, Needs & Recommendations

The Justice Project **Facilities Goals** pertain to the jail and other facilities needed to successfully implement recommended improvements to systems and services.

- Incarceration facilities balance compassion with accountability to promote safety, health, rehabilitation, and recovery.
- Facilities are designed and operated to meet the health, safety, and welfare needs of those incarcerated and the people who work and visit there.
- Facilities are designed to be versatile and adaptable to changing needs.
- Facilities adequately serve the whole county, including cities and tribal jurisdictions.

At the time of this writing, the North Sound Behavioral Health Administrative Services Organization is completing facility needs assessment for the five-county region that includes Whatcom County. The results of this assessment will influence the recommendations for facilities. In the interim, the following chart draws from the work of the SAC, IPRTF, and the Health Department to suggest the types of facilities that are needed to fully respond to Services Needs and Recommendations listed above (where appropriate, the corresponding Services Needs and Recommendations are noted in red).

<b>3. Facilities Needs &amp; Recommendations</b>			
<b>#</b>	<b>Needs/Gaps</b>	<b>Recommendations</b>	<b>Intended Outcomes</b>
3a.	Additional permanent supportive housing with on-site clinical support and intensive case management for people with severe and persistent mental illness who are involved, or at risk of involvement, with the criminal legal system.	Advocate for state funding to expand and improve permanent supportive housing with on-site clinical support and intensive case management for people with serious mental illness who are involved, or at risk of involvement with the criminal legal system.	↑ Available permanent supportive housing ↑ Clinical support and quality of life for residents of permanent supportive housing who have serious mental illness ↓ Homelessness for people with serious mental illness/ incarceration history ↓ Risk of incarceration/ recidivism
3b.	Safe, supportive housing for people engaged in diversion programs (e.g., GRADE and LEAD) and therapeutic court programs (e.g., Drug Court, Mental Health Court).	Prevent unstable housing from being a barrier to successful engagement with therapeutic court programs.	↑ # of individuals successfully diverted from jail ↑ # of people participating in diversion and therapeutic court programs who achieve housing stability ↑ Compliance for program participants

**3. Facilities Needs & Recommendations**

#	Needs/Gaps	Recommendations	Intended Outcomes
3c.	<p>A new jail that is:</p> <ul style="list-style-type: none"> <li>• Safe for inmates and those who work and visit there.</li> <li>• Designed with spaces &amp; equipment for staff and service providers to offer inmates needed services.</li> <li>• Versatile to accommodate changes in the inmate population.</li> <li>• Located near adjacent land to purchase/develop if needed.</li> <li>• Built to last.</li> <li>• Easy to maintain.</li> </ul>	<p>Build a new jail with capacity to provide needed services (e.g., visitation spaces, medical care, treatment for MH &amp; SUD, provider/staff workspace, education &amp; vocational training, outside spaces).</p> <p>Ensure that the new correctional facility is designed to reflect best practices for safety, efficiency, and technology.</p>	<p>↑ The health and safety of those who are incarcerated and the people who work with them</p> <p>↑ Inmates leave jail in better shape than when they entered</p> <p>↑ Employee retention &amp; job satisfaction</p> <p>↓ Risk of recidivism</p>
3d.	<p>Comparative cost estimates to help determine the best facility design concept and appropriate location.</p>	<p>Hire an expert to advise on the best design concept for a jail facility, considering Justice Project Vision, Values, Goals, and Recommendations. Provide cost estimates for possible facility locations before a specific site is chosen.</p>	<p>↑ Data-driven decision-making about facility location</p> <p>↑ Likelihood of a successful ballot initiative to fund new facilities</p>
3e.	<p>Jail location that is in proximity to resources inmates need and easily accessible by all jurisdictions served.</p>	<p>In selecting a jail site, prioritize ease of access to public transportation, to criminal legal system resources, and for all jurisdictions in Whatcom Cty.</p>	<p>↑ Inmates' access to service providers</p> <p>↑ Ability to fulfill obligations to all county jurisdictions served</p>
3f.	<p>Increase community MH treatment capacity (in-patient &amp; out-patient), and address lack of community SUD treatment. (See <b>Services Need/ Recommendation 2b.</b>)</p>	<p>Explore development of 24/7 Behavioral Health Urgent Care capacity to provide short-term MH and SUD services (23 hours or less).</p>	<p>↓ Criminal legal system involvement due to untreated mental health &amp;/or SUD</p> <p>↓ # of formerly incarcerated individuals returning to jail due to charges related to mental health &amp;/or SUD</p>

**3. Facilities Needs & Recommendations**

#	Needs/Gaps	Recommendations	Intended Outcomes
3g.	Increase treatment capacity for people with SUD. (See <b>Services Need/ Recommendations 2b &amp; 2d</b> ).	Research feasibility and desirability of building a secure detox facility in the region for people with SUD who are considered a risk to public safety.	<ul style="list-style-type: none"> <li>↑ # of incarcerated individuals who receive SUD treatment</li> <li>↓ # of formerly incarcerated individuals returning to jail due to charges related to mental health &amp;/or SUD</li> <li>↓ Criminal legal system involvement due to untreated mental health &amp;/or SUD</li> </ul>
3h.	Re-entry case management services/support, including systems navigation, basic needs, housing assistance, linkage with MH/SUD treatment, vocational support, and peer support. (See <b>Service Need/ Recommendations 2e and 2f</b> .)	Establish a location in close proximity to the jail from which re-entry specialists, system navigators, and peer support providers can offer re-entry support.	<ul style="list-style-type: none"> <li>↑ Service coordination</li> <li>↑ Engagement with support services</li> <li>↑ Stability while incarcerated</li> <li>↑ Stability at point of release</li> <li>↑ # of incarcerated individuals nearing release who receive care coordination planning &amp; support</li> <li>↑ # of people whose Medicaid benefits are reinstated immediately upon release so there is no gap in services</li> <li>↓ Recidivism due to inability to access necessary community-based services</li> </ul>

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*Conclusion*

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To Be Included in Final Draft

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## *Appendix*

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A full Appendix of SAC work products and references will be included in the final draft.

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