

Stakeholder Advisory Committee (SAC) for the Justice Project

Thursday, January 26, 2023

10:00 – 12:00 pm

Meeting Minutes

SAC Participants: Barry Buchanan, Stephen Gockley, Bill Elfo, Doug Chadwick, Daniel Hammill, Cliff Langley, RB Tewksbury, Peter Frazier, Arlene Feld, Teresa Bosteter, Kristin Hanna, Kendra Cook, Scott Korthuis, Perry Mowery, Michael Lilliquist, Brel Froebe, Starck Follis, Atul Deshmane, Harriet Markell, David Goldman, Deborah Hawley, Brooke Eolande, Mary Lou Steward, Daron Smith, Erika Lautenbach, Darlene Peterson, Satpal Sidhu, Tyler Schroeder, Brian Heinrich (alternate for Fleetwood), Rosalee Revey-Jacobs (alternate for Hillaire), David Crass (alternate for Mertzig), Heather Flaherty

Support: Holly O'Neil, Facilitator; Mardi Solomon, Notes; Cathy Halka, County Staff; Jennifer Moon, Needs Assessment Report Writer

Absent SAC Members/Alternates: Jack Hovenier, Kara Mitchell Allen, Maialisa Vanyo, Eli Wainman, Eve Smason-Marcus, Chad Butenschoen, Seth Fleetwood, Anthony Hillaire, Jon Mutchler, Roman Swanaset-Simmonds, Eric Richey, Rebecca Mertzig

To view video recording, click on the link in the section heading.

Call to Order, Welcome – Barry Buchanan, Council Member and SAC Chair

- On Monday, Jan. 23, the Incarceration Prevention & Reduction Task Force acting as the Whatcom County Law & Justice Council (by state statute) unanimously endorsed the Needs Assessment as ultimately approved by the Stakeholder Advisory Committee (SAC). That endorsement is an indication of great work!

Review Agenda, SAC Purpose, & Process – Holly O'Neil, Facilitator

Decision-making process: A number of amendments were submitted by the deadline on Jan. 20. These will be voted on today.

Confirm Quorum: The official number for a quorum is 12. Given a quorum, a motion passes with 50% + 1 of people in attendance.

Where we left off from last week's meeting:

- There was a **motion to approve the Justice Project Needs Assessment report to present to County Council**. The motion was made by Scott Korthuis and seconded by Satpal Sidhu. This is what we ultimately will vote on today.
- At the Jan. 19 SAC meeting, eight amendments were proposed and approved.

Proposed Amendments

Motion to approve amendment to A3, Rec 1: Moved by RB Tewksbury; 2nd by Michael Lilliquist.

Provide a range of pretrial release and monitoring options in lieu of bail (~~adhering to Court Rule CrR 3-2~~).

Rationale: There is nothing in this change that indicates we are suggesting to not follow the rules. The qualifying statement of adhering to a Court Rule dilutes this recommendation. It confuses the public. I'm

not advocating breaking any rules. We are all in agreement that if someone needs to be in jail, they need to be in jail. I'm suggesting that how much money they have should have no bearing on the pretrial incarceration decision. If we want to reduce the jail population, and address the issue that 98% of people currently in jail are pretrial, we should look for other options in lieu of cash money bail.

Discussion: (Q=Question, A=Answer, C=Comment)

Q: What would be the difference if you kept "Court Rule CrR 3.2" in there?

A: The burden of proof would be on the people who added it. This statement about reducing the jail population was already included. Also, this is something the County was informed of by the Vera Institute over five years ago. We were told that ending cash bail is best practice. This statement in the recommendation causes confusion with the public.

C - Michael Lilliquist: Embedded in Court Rule CrR 3.2 are two ideas we have never unpacked. It includes both the presumption people should be released on personal recognizance, and an endorsement of the cash bail process. We have never vetted those issues. By simply referring to this, we are invoking subject matter that has not been debated. The reason not to include this is because it is not a reference to one simple law. It says several things at the same time that we haven't reached a consensus on.

C – Scott Korthuis: I'll speak against it. If there is a rule out there that we abide by, I don't see harm in leaving it in the text. I'm going to assume the judge knows the rule and will follow it anyway. I want the public to know there is a rule out there.

Motion regarding amendment to A3, Rec 1 did not pass.

11 Approve: Arlene Feld, Atul Deshmane, Brel Froebe, Brooke Eolande, David Goldman, Deborah Hawley, Harriett Markell, Mary Lou Steward, Michael Lilliquist, Perry Mowery, RB Tewksbury

15 Oppose: Barry Buchanan, Bill Elfo, Brian Heinrich, Cliff Langley, Daniel Hammill, Darlene Peterson, Daron Smith, David Crass, Erika Lautenbach, Kendra Cook, Peter Frazier, Satpal Sidhu, Starck Follis, Stephen Gockley, Teresa Bosteter

1 Abstain: Kristin Hanna

Unofficial Absentee Votes¹: Eli Wainman – oppose; Eve Smason-Marcus – approve

Motion to approve amendment to C1, new Rec 3: Moved by Michael Lilliquist; 2nd by Kristin Hanna.

Select a location for the jail with due consideration of the comparative importance assigned to proximity to various resources and services.

Rationale: I'm trying to make sure an important thing is not overlooked. C1, Rec 1 says to meet as many criteria as possible, equally considered. That isn't the case, especially regarding the location criteria. In the Needs Assessment, it shows that some proximity criteria were prioritized by 86% of respondents (e.g., proximity to bus lines), and some were prioritized by 35% (e.g., proximity to freeway entrance). The location criteria are very different. One of the most important decisions that will be made is where to site this thing. We need to convey that there are different rankings of importance so decision-makers will consider that information.

Discussion:

C – Bill Elfo: Concerned that there are limited sites within the county where a jail could be constructed and this could delay implementation.

¹ SAC members who were unable to attend this meeting were given the opportunity to indicate how they would have voted had they been present. Their preferences are presented here but were not counted in the official vote on each motion.

- C – Arlene: Confused by the point. The list of important criteria didn't include estimated cost. That is also an important criterion, but it isn't on the list. Confused by putting extra weight on certain issues.
- C – Michael: C1, Rec 2 is all about cost. It won't be neglected. Rec 3 is about location. The relative importance of the factors related to location are important. Yes to cost, yes to all the criteria, and yes to all the location considerations. This completes the set of recommendations. It doesn't shift it towards one. It makes sure all those aspects are included together.
- C – Satpal: Since 85% of people felt it should be accessible by bus, that is very critical it be accomplished. It would solve a lot of issues we had 10-15 years ago. The criteria allow decision-makers to have a little bit more freedom to make the final decision.
- C – Bill: Based on Satpal's statement, I withdraw my objection. His office is going to have to find the location.
- C – Cliff: This is what the public thinks, but what do the agencies that will be using it think? A lot of times the public doesn't know some of the other considerations, so I'm opposed.
- C – Atul: Being on the bus is not identical to being on the same site. There are impediments to getting on/off the bus for some people.

Motion approved.

27 Approved: Rosalee Revey-Jacobs, Arlene Feld, Atul Deshmane, Barry Buchanan, Bill Elfo, Brel Froebe, Brian Heinrich, Brooke Eolande, Daniel Hammill, Darlene Peterson, Daron Smith, David Crass, David Goldman, Deborah Hawley, Erika Lautenbach, Harriett Markell, Kristin Hanna, Mary Lou Steward, Michael Lilliquist, Perry Mowery, Peter Frazier, RB Tewksbury, Satpal Sidhu, Scott Korthuis, Starck Follis, Stephen Gockley, Teresa Bosteter

1 Oppose: Cliff Langley

1 Abstain: Kendra Cook

Unofficial Absentee Votes: Eli Wainman – approve; Eve Smason-Marcus – approve

Motion to approve amendment to C1, new bullet on Need statement: Moved by Peter Frazier; 2nd by Michael Lilliquist.

[A new jail that is...] Sized to assure booking restrictions in the county and its cities will not occur.

Rationale: Our community has done a great deal of work to divert people from jail through ART, GRACE, LEAD, the Crisis Stabilization Center, and well-upstream, the Children's Initiative. In addition, local law enforcement is currently using alternatives to physical arrest and booking when possible. Our committee's work product provides a roadmap for more efforts in jail diversion in the near future.

However, it is just as important that we build a facility with enough capacity to assure that the booking restrictions destabilizing our community come to an end. Booking restrictions are unfair to victims of crime and decrease public safety by tying the hands of our community, disabling us from holding people accountable when we find it necessary. In addition, ending booking restrictions would allow local law enforcement to comply with orders of the court commanding them to take specific persons into custody.

Discussion:

- C – Kristin Hanna: I am hoping to add "sized and operated to assure booking restrictions will not occur." It's not just a matter of size. We have been talking all year about the way the jail is operated and how people are moved through the jail. I support the idea that booking restrictions should not be a thing in our county, but it's not just a matter of jail size. It's what we do when people are in there. If we add operations, it makes the priority more well-rounded.

Peter accepted this suggestion. Michael agreed.

Discussion about Robert's Rules of Order.

Amendment revised: Add new bullet to Need C1: *Sized and operated to assure booking restrictions in the county and its cities will not occur.*

Q: Wondering if the addition of "operated" would include 23 & 1, where people are held in their cells for 23 hours a day. Is that considered a booking restriction, and if so would the word "operate" encompass that as well?

A: Bill Elfo: Booking restrictions are defined by our ability to take certain categories of offenders through the front door of the jail. It doesn't affect how they are maintained once they are in the jail.

C – Stephen Gockley: I understand and share the spirit of this but don't see how this is a realistic recommendation. There is no way we could have predicted COVID and the emergency public health requirements that had to occur. There are possibilities of equipment failures. There are too many unpredictable things to use this absolutist statement.

Motion approved.

23 Approved: Rosalee Revey-Jacobs, Arlene Feld, Atul Deshmane, Barry Buchanan, Bill Elfo, Brian Heinrich, Cliff Langley, Daniel Hammill, Darlene Peterson, Daron Smith, David Crass, David Goldman, Deborah Hawley, Erika Lautenbach, Harriett Markell, Kendra Cook, Kristin Hanna, Mary Lou Steward, Michael Lilliquist, Peter Frazier, RB Tewksbury, Scott Korthuis, Teresa Bosteter

6 Oppose: Brel Froebe, Brooke Eolande, Perry Mowery, Satpal Sidhu, Starck Follis, Stephen Gockley,

0 Abstain:

Unofficial Absentee Votes: Eli Wainman – approve; Eve Smason-Marcus – oppose

Motion to approve amendment to A1, Rec 2: Moved by Kristin Hanna; 2nd by Atul Deshmane.

Note: This following amendment is revised from the version sent prior to the meeting based on a suggestion by Perry Mowery.

Explore and develop outpatient competency restoration services.

Rationale: The way it was worded before, "alternative to inpatient," was a negative way of saying "outpatient," and it was limiting competency restoration services to low-level felons. This new wording removes that restriction to allow for misdemeanors, and city courts that don't deal with felonies. It's more in line with what we have been doing this year, which is striving for inclusiveness.

Q: I wonder if it's necessary to specify outpatient services?

A: Reminder that A1, Rec 1 is "Work with regional partners to identify needed systems changes to increase access to inpatient competency restoration." Rec 2 is additive to Rec 1.

Q: I've never heard of outpatient competency restoration. These are people who are not able to appear in court. How do you do outpatient competency restoration services?

A: Perry: We have been doing research and have found that there are outpatient competency restoration programs in some counties as part of the Trueblood process. Competency restoration is accomplished in an outpatient setting and they are closely monitored by the court, the intent being that they are informed of the charge and develop the ability to assist in their own defense.

C – Starck Follis: Western State Hospital is not accepting people who aren't in custody. They won't give an estimated bed date for someone who is not incarcerated for when they can get in there for competency restoration services. People who are not in custody, who have had their proceedings stayed are in an unending limbo until outpatient competency restoration can be developed.

Motion approved.

27 Approved: Rosalee Revey-Jacobs, Arlene Feld, Atul Deshmane, Barry Buchanan, Bill Elfo, Brel Froebe, Brian Heinrich, Brooke Eolande, Cliff Langley, Daniel Hammill, Darlene Peterson, David Crass, David Goldman, Deborah Hawley, Erika Lautenbach, Harriett Markell, Kendra Cook, Kristin Hanna, Mary Lou Steward, Michael Lilliquist, Perry Mowery, Peter Frazier, RB Tewksbury, Scott Korthuis, Starck Follis, Stephen Gockley, Teresa Bosteter

0 Oppose:

0 Abstain:

Unofficial Absentee Votes: Eli Wainman – approve; Eve Smason-Marcus – approve

Motion to approve amendment to B2, Rec 1: Motion by Atul Deshmane; 2nd by Brel Froebe

Replace current recommendation with:

Rec 1: Conduct analysis of root causes of incarceration and develop targeted strategies to measurably increase diversion.

Rec 2: Ensure that all county law enforcement employees, jail staff, and staff in all court systems maintain data systems adequate to identify what factors may support diversion strategies.

Rec 3: Conduct a publicly available quarterly analysis of diversion actions taken to reduce incarceration.

Rationale: I took the approach we used for A4 in the last meeting, and have broken down the recommendation into three categories: address root cause, collection of adequate data by those in the jail incarceration system, and accountability and traceability of actions taken to support diversion. This is the same three-part approach we took before: analysis, data collection, and follow-up action.

C – Michael: I’m opposed because I don’t think this is a substitute. The original recommendation talks about stable funding, the resources to do the work. The new recommendations talk about data, and don’t talk about funding. We would lose a great deal if we dropped the current Rec 1.

C – Harriet Markell: Agree with Michael. Finding out what the root causes of incarceration are doesn’t necessarily lead to strategies that increase diversion. It’s a non-sequitur.

C – Cliff Langley: We are trying to get a facility built. We keep adding stuff that will make it more expensive when we put it out to the public. Concerned about the costs we are adding.

C – Atul: Root cause analysis is what is needed to systemically address diversion. Don’t have a quick and easy way to address Michael & Harriet’s concerns.

C – Michael: These seem like systems recommendations but they are in the services section.

Motion regarding amendment to B2 did not pass.

3 Approved: Atul Deshmane, Brel Froebe, Deborah Hawley

25 Oppose: Rosalee Revey-Jacobs, Arlene Feld, Barry Buchanan, Bill Elfo, Brian Heinrich, Brooke Eolande, David Goldman, Cliff Langley, Daniel Hammill, Darlene Peterson, Daron Smith, David Crass, Erika Lautenbach, Harriett Markell, Kendra Cook, Mary Lou Steward, Michael Lilliquist, Perry Mowery, Peter Frazier, RB Tewksbury, Satpal Sidhu, Scott Korthuis, Starck Follis, Stephen Gockley, Teresa Bosteter

0 Abstain:

Unofficial Absentee Votes: Eli Wainman – oppose; Eve Smason-Marcus – approve

Motion to add new amendment B6 Need & Recommendations: Motion by Atul Deshmane; no 2nd. **Motion does not move forward.**

Motion to approve the Justice Project Needs Assessment Report to present to County Council (Note: this includes the three amendments that passed in this meeting). Moved by Scott Korthuis; 2nd by Satpal Sidhu.

- C – Michael: I love everything in the report, but I’m worried about a glaring omission of anything having to do with the allocation of resources toward these problems. I feel we failed to address that issue. I think there needs to be guidance. The guidance is that there needs to be proportionate funding for all these needs. That’s a judgement call. county government decision-makers will have to take that up. Would have been good if we had come up with an allocation formula. I would like to see a great deal of money go into behavioral health, prevention, and re-entry support. I’d also like to see a fair amount of money going to make a safe, humane jail. We didn’t talk about funding and that seems like a mistake and it’s too late to fix it.
- C – The next part of the agenda is to talk about an implementation plan and a lot of that is about funding.
- C – Atul: I will not be voting in favor of the report and will submit my reasons in a separate document.
- Q: Will there be a chance for the SAC to come back after the county has done some of the work Michael described, to share approval or provide input on the final product.
- A: Barry: There will be opportunities over the next months to provide input. Will discuss that shortly.
- C – Appendix N in the report is a chart of funding resources that are out there. It points the way toward funding many of the recommendations in the report. Thanks to Tyler and Cathy for putting this together.
- C – Satpal: Appreciate all the work done over the year. This is a huge project. If we can accomplish parts of it and continue to work on these over time, that would be a great accomplishment for our community. We can be an example of how a community can cooperate on such a large project and make it happen a piece at a time. It can’t happen all at the same time. We are making significant steps in this direction.
- C – Arlene: If the proposal for implementation doesn’t address what the public has been asking for in sufficient size, then those of us who have been working for a year on these plans, won’t even vote for this bill. The costs are very great and we expect the administration to attend to that and perform at the level we are recommending.

Motion approved.

25 Approved: Rosalee Revey-Jacobs, Arlene Feld, Barry Buchanan, Bill Elfo, Brian Heinrich, Daniel Hammill, Darlene Peterson, Daron Smith, David Crass, David Goldman, Deborah Hawley, Erika Lautenbach, Harriett Markell, Kendra Cook, Kristin Hanna, Mary Lou Steward, Michael Lilliquist, Perry Mowery, Peter Frazier, RB Tewksbury Satpal Sidhu, Scott Korthuis, Starck Follis, Stephen Gockley, Teresa Bosteter

3 Oppose: Atul Deshmane, Brooke Eolande, Cliff Langley,

1 Abstain: Brel Froebe

Unofficial Absentee Votes: Eli Wainman – approve; Eve Smason-Marcus – oppose

Next Steps: Implementation Plan – Barry Buchanan

- The implementation plan is in development. The SAC Planning Team will transition to become the Implementation Team.
- The Needs Assessment is a roadmap. The work will be separated into the same categories: Systems, Services, Facilities, and we’ve added a fourth category of Funding.
- There will be a series of four workshops organized around these topics, focus groups with target audiences, and a Town Hall between now and May.
- A formal presentation will be made to Council in late May or early June.
- We will keep the SAC involved and reach out for participation in workshops and focus groups. All of the knowledge this group has accumulated over the course of this year is so valuable.
- Upcoming dates:

- Jan. 30: Present the outline of the Feb. 7 presentation to Council and gather feedback from interested SAC members. Cathy will send an invite to all SAC members.
- Feb. 7: Present to County Council. They will then have a couple of weeks to digest the Needs Assessment.
- Feb. 21: Present a resolution to Council that will integrate some of the implementation plan.

Reflections on a Year of Work Together

- Recognition and gratitude for the hard work this group has done over the year.
- This is a long-range plan and it won't happen instantly, but we have provided a sense of direction that reflects an incredible amount of wisdom.
- Everyone had an opportunity to share their perspectives on the process, hopes for the future, etc.

Meeting adjourned at 11:55.