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***Legal & Justice Systems Subcommittee***  
**DRAFT Meeting Summary for December 14, 2016**

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- How use of the FasTrack program may not necessarily have an impact on reducing jail population in the long-term, since those defendants may be more likely to reoffend instead of seeking help.
- The benefits to the system of a FasTrack program, including less incarceration time and lower fines, lower use of public defender attorney time, and less court time
- Which fines are mandatory

Heydrich stated he would like to hear Ms. Anderson's perspective on how the tension among the programs could be eased or made better. Then the Committee, as a group, can decide what to recommend, if anything.

**4. Selection of Committee Chair for 2017**

**-AND-**

**3. 2017 Meeting Schedule**

The Committee concurred to continue meeting on the second Monday of every month.

Bernstein stated all the Task Force members will be asked to indicate which committee they want to participate on in 2017.

Bernstein moved to appoint Stephen Gockley as the Legal and Justice System Committee Chair for 2017. The motion was seconded.

The motion carried unanimously.

The Committee discussed the accomplishments it's made so far and thanked Commissioner Heydrich for his leadership as Chair.

**6. Public Comment**

There were no public comments.

**7. Adjourn**

The meeting adjourned at 10:40 a.m.

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**Legal & Justice Systems Subcommittee**  
**Draft Meeting Summary for January 9, 2017**

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**1. Call To Order**

Committee Chair Stephen Gockley called the meeting to order at 9:15 a.m. in the Bellingham Municipal Court Fireplace Room, 625 Halleck Street, Bellingham.

Members Present: Angela Anderson, Jill Bernstein, Bill Elfo, Stephen Gockley, Fred Heydrich, Irene Morgan, Darlene Peterson

Members Absent: Dave McEachran, Moonwater

Also Present: Mark Gardner, Forrest Longman, Peter Ruffatto

Review November 14, 2016 Meeting Summary

Bernstein moved to approve the November 14, 2016 meeting summary as presented. The motion was seconded.

The motion carried unanimously.

**2. FasTrack, Drug Court, and the availability of community services**

Anderson submitted a handout of her presentation (*on file*):

- Drug Court participation has remained consistent for the past 18 months.
- According to the Drug Court coordinator, the participants struggle with finding housing options, particularly clean and sober recovery housing
- Housing is needed, particularly for participants who are legally prescribed Suboxone
- About half the Drug Court participants are in a recovery house
- Suboxone treatment is difficult to get legally because it's difficult to get in to see a doctor
- Inpatient treatment changes due to the Affordable Care Act and other factors that have resulted in faster turnover of patients, which makes it difficult for patients to set up outpatient housing
- The in-custody assessments have been very successful
- The Drug Court is generally operating very well as it is
- Lifting the ban on Drug Court to drug dealers, because most users deal to some extent

The Committee discussed:

- The legal and illegal use of Suboxone and other treatments for drug and alcohol abuse
- The need for a subsidized recovery house
- Whether the Health Department can have a program to administer Suboxone specifically to Drug Court participants, possibly based on the Lummi Nation Suboxone program model
- The Housing and Emergency Needs (HEN) Program, which is vulnerable to losing funding from the State legislature

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- The closure of Pioneer Center North in 2018 and the need to send patients to a facility farther away
- Other jurisdictions that participate with their law enforcement to transport drug court patients
- The need for additional funding for the Sheriff's transportation network
- The strain of the requirements to transport mentally ill defendants on the Sheriff's regional transport network
- The email from Judge Charles Snyder on September 30, 2016 that recommends a needs assessment of Drug Court and services available in the community to Drug Court participants
- A recovery wing built into the jails in Washington and Multnomah Counties in Oregon

Anderson stated she would talk to the Drug Court administrator about Judge Snyder's suggestion of doing a needs assessment of Drug Court.

The Committee discussed the possibility of using the consultants at VERA Institute to weigh in on whether it merits the use of resources to do a needs assessment of Drug Court, as recommended by Judge Snyder. The questions to be answered include collecting the data on the true need in the community and how Drug Court can meet that community need.

Anderson stated the motive of a needs assessment should be to get an assessment of the program, not to convince Prosecutor McEachran to change the drug court program. She continued her presentation on the Fast Track program:

- Nearly two-thirds of the cases selected for Fast Track were resolved, which totals two attorney caseloads.
- Few felonies have chosen a drop down offer to misdemeanor.

The committee discussed the importance of collecting data on whether or not the Fast Track program results in actual jail use in the long term, whether VERA consultants can provide insight into that question, the intention of the Fast Track program to clear caseloads more than to reduce jail use, and collecting data on recidivism rates of regular and Fast Track defendants compared to Drug Court participants.

Forrest Longman, County Council Legislative Analyst, stated he will talk to the VERA Institute consultants about collecting the data they need on recidivism rates of the various programs and of regular cases.

Heydrich stated he would like a future agenda item to allow time for Prosecutor McEachran and Kathy Walker to respond to the discussion and the Committee's questions.

### **3. Whiteboard List of Questions for VERA Institute**

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Forrest Longman, County Council Legislative Analyst, stated the VERA Institute consultants will teleconference with the full Task Force at its next meeting on the following items:

- A general update
- Concerns about liability of a pretrial supervision unit
- Best practices for pretrial supervision

Some questions may be outside the scope of the VERA contract, including those regarding program costs, which are mostly staffing costs that are location specific. The consultants may be able to provide information on best practices for staffing levels, which will inform the question of cost.

The Committee discussed:

- The law review article by Rob McKenna distributed after the last meeting. Ruffatto stated there are three points he gets from the article:
  - Washington is different and more friendly to plaintiffs, so local jurisdictions are more at risk than others
  - Structure programs to minimize liability based on the case law cited in the article and other case law since, such as putting programs in the jurisdiction in the court
  - The State legislature could create satisfactory checks and balances for negligence without creating quite as much risk
- Whether the topic of liability of pretrial supervision should be addressed in this Committee or the full Task Force
- Making sure they include the Prosecutor in any discussion before conclusions are made about a pretrial supervision program
- Lobbying the legislators to create the ability for local jurisdictions to be able to do these things
- Inviting the Prosecutor to present his specific concerns in light of the law review article and other legal research to either the full Task Force or this committee.

Heydrich stated there needs to be a new State statute to directly address or limit liability of pretrial supervision.

Ruffatto stated that having a gross negligent standard would be helpful.

The Committee continued to discussed the best way to lobby the legislature to create a statute.

Ruffatto stated he will work with Prosecutor McEachran on providing a summary of cases and concepts in lay terms about the issue of pretrial supervision.

#### **4. Next Steps: Ideas & Further Information**

Gockley stated three future topics include:

1. Giving the Prosecutor an opportunity to respond to the information in Ms. Anderson's report,

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2. The question of the risk assessment and liability, and
3. The development of a pretrial supervision unit, which requires Mr. McEachran's participation

The Committee discussed the possibility of changing the meeting day or time to be more accommodating to Mr. McEachran's schedule. His presence and active participation are critical to their progress.

Heydrich stated he will schedule a visit to Spokane County to gather information about their pretrial supervision unit programs.

The Committee continued to discuss whether certain advice from legal counsel may need to be done in executive session when assessing the liability of a course of action and putting it in writing, legal exposure from the interaction between the defendant and supervising individual, the court has to be the entity that chooses the risk assessment tool, the need for a pretrial risk assessment tool in conjunction with a pretrial supervision unit, the status of the Sheriff's Office implementation of monitoring through Friendship Diversion Services, when judicial immunity comes into play,

Morgan stated she would like an agenda item and discussion on the true social costs of incarceration.

The Committee discussed keeping the Committee focused on the programs they've already identified rather than expanding into other areas. Focus on solutions that forward the goal of reducing incarceration.

**5. Other Business**

Forrest Longman, County Council Legislative Analyst, reminded Committee members to connect with the VERA contractors if they haven't already.

**6. Public Comment**

Mark Gardner stated he will continue to attend the meetings on behalf of Council Member Dan Hammill, who is now a member of the Behavioral Health Subcommittee.

**7. Adjourn**

The meeting adjourned at 11:05 a.m.

## Project Brief

### **Planning for Criminal Justice, Emergency Department and EMS Diversion through Behavioral Health and Social Service Outreach and Stabilization Services**

#### 1. Introduction

The purpose of this brief is to outline a planning project being carried out by a team convened by the Whatcom County Health Department, and provide summary background, promising practices research, and a potential avenue for future funding.

#### 2. Project Overview

The County Health Department, the City of Bellingham (COB) and PeaceHealth St Joseph Medical Center (SJMC) are each contributing \$2,500 to support the cost of a three to four month, county-wide visioning process focused on improving services for people who have complex psychosocial needs and are in need of crisis intervention, stabilization, and recovery services.

Many of these individuals have one or more of the following conditions that make their cases complex: Homelessness; psychiatric impairment; chronic medical illness; substance abuse problems, including alcoholism.

Often times, these individuals receive services from multiple agencies and governmental entities resulting in a lack of information exchange, and probable duplication and inefficiencies.

The **purpose** of this project is to develop a set of recommendations to: 1) Increase public safety; 2) reduce excessive use and cost to emergency and criminal justice systems and 3) improve the health and well-being of individuals with complex needs. These recommendations will be aimed at accomplishing the following set of **objectives**:

- ↑ Appropriate and effective use of crisis services and law enforcement
- ↑ Engagement with treatment and supportive services
- ↑ Treatment compliance
- ↑ Effective deployment of limited resources
- ↓ Unnecessary ED Visits
- ↓ Unnecessary EMS Calls
- ↓ Law Enforcement Contacts
- ↓ Jail Bookings
- ↓ Jail Days

#### **Project Team**

- Anne Deacon, Manager  
Whatcom County Human Services
- Greg Winter, Executive Director  
Opportunity Council
- Dan Hamill, Council Member  
Bellingham City Council
- Chris Phillips, Dir Community Affairs  
PeaceHealth St. Joseph Medical Center
- Tara Sundin, Manager  
COB Community & Economic Development
- Mark Gardner, Policy Analyst  
City of Bellingham
- Carol Gipson, Executive Director  
WAHA

Coordinated by a cross organizational project team, the planning process will be facilitated by Timothy Corey, Colibri Facilitation (Attachment 1). The Scope of Work between the Whatcom County Health Department and the facilitator (Attachment 2) outlines the process in detail. The primary project deliverables include:

- A map that outlines current services and how a number of interacting systems work
- Identification of gaps in services and problem areas
- Review of model programs in other communities that can inform this work
- Recommendations and next steps for policy and decision makers.

The above deliverables with an executive summary will be made available to the three funding organizations and the Incarceration Prevention and Reduction Task Force.

### 3. Background

**Whatcom County:** In collaboration with human service providers, the Whatcom County Health Department develops, implements and administers community programs that build an infrastructure of supportive services for vulnerable residents. The Health Department funds these efforts with local monies, leveraging regional, state and federal dollars as opportunities arise. The North Sound Behavioral Health Organization (BHO) administers Medicaid-funded behavioral health services in the five-county region, working collaboratively with the Health Department to optimize systems of care. The majority of crisis services are funded by the BHO.

The *Incarceration Prevention and Reduction Task Force* was created by Whatcom County in March of 2016 with a charge to recommend a continuum of new or enhanced programs to divert from or prevent incarceration of individuals with mental illness or substance abuse disorders. The Task Force recently produced a well-received report with the recommendation that the County in collaboration with the BHO and area service providers develop two adjacent 16 bed units, one for acute detox and the other for mental health stabilization services. These two units would create an expanded and enhanced Crisis Triage facility, certified by the state and able to serve as a diversion from the criminal justice system as well as more costly hospital services.

**The City of Bellingham:** The City jointly developed and funds the following programs that are designed to reduce unnecessary utilization of crisis services and better serve the needs of people who are experiencing homelessness: Community Paramedic Program; WAHA Intensive Case Management Program; Opportunity Council Homeless Outreach Team (HOT).

**PeaceHealth St Joseph Medical Center:** PeaceHealth operates a fully staffed Level 2 Trauma Emergency Department that includes a 6-bed behavioral health observation area and a 20-bed inpatient behavioral health unit that accommodates involuntary hospitalizations. Additionally, PeaceHealth hosts two *Community Connectors* in the emergency department in collaboration with Unity Care NW and Sea Mar Community Health Centers. Focused on avoiding unnecessary utilization of ED and hospital services by high utilizing more complex patients, the Community Connectors link ED and primary care providers.

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#### **Project Brief**

*Planning for Criminal Justice, Emergency Department and EMS Diversion through Behavioral Health and Social Service Outreach and Stabilization Services*

#### 4. Promising Practices

The City Senior Policy and Legislative Analyst conducted a thorough review (Attachment 3) of regional promising practices focusing on the following programs:

- Law Enforcement Assisted Diversion (LEAD) programs
- Chronic Utilizer Alternative Response Team (CHART) - Everett
- Behavioral Health Unit - Portland
- Response Planning De-escalation and Referral (RADAR) - Shoreline
- Hot Spotter Program - Spokane

Quoting from the review:

These programs all work with relatively similar populations: non-violent offenders and/or those with persistent behavioral issues that manifest in the public realm. Consistent with public safety, such programs seek to solve behavioral health issues, reduce overuse of system resources, or divert or otherwise address certain low-level crimes. If the intent of such programs are met, individuals should be shifted from jail, emergency services, and the justice system and toward services such as housing, mental health and drug treatment.

Over time, such programs should also reduce incarceration and the need to treat mental health issues in jail, freeing up resources for other services. Similarly, they should allow the justice system to shift its focus toward processing more serious crimes.

#### 5. Potential Funding Opportunity

*Accountable Communities of Health* work with the Washington State Health Care Authority (HCA) to align resources and activities which will improve whole person health and wellness. ACH participants promote health equity in their respective communities and address the broader issues that affect health through regional health improvement plans.

The North Sound Accountable Community of Health is the ACH formed to serve the five-county North Sound region and will, over the next several months, be considering Medicaid waiver project proposals. Care coordination for high risk Medicaid populations is one of the project areas being required by the HCA, and thus Medicaid waiver funds could serve as an avenue for funding some of the recommendations that will be developed as a result of above outlined planning process.

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*Planning for Criminal Justice, Emergency Department and EMS Diversion through Behavioral Health and Social Service Outreach and Stabilization Services*