

**Incarceration Prevention Reduction Task Force
Justice & Legal System Committee Meeting**

November 14, 2017

Whatcom County Courthouse Conference Room 514, 311 Grand Avenue, Bellingham WA
11:30 a.m. - 1:30 p.m.

AGENDA

Topic	Requested Action	Presenter	Packet Page(s)
1. Call to Order <ul style="list-style-type: none"> • October 10, 2017 Meeting Summary Review 	Review	N/A	1 - 4
2. Phase III draft committee report	For Information Only	Stephen Gockley	To be distributed
3. Pretrial Risk Assessment tool and Supervision Unit	Update and Discussion	Deborra Garrett and Stephen Gockley	N/A
4. Committee presentation and revised motions to full Task Force on pretrial risk assessment and services unit	Discussion	Stephen Gockley	5 - 6
5. Next Steps: Ideas & Further Information <ul style="list-style-type: none"> • Next meeting topics 			
6. Other Business			
7. Public Comment			
8. Adjourn <i>The next meeting is 11:30 a.m. - 1:30 p.m. on December 12, 2017 at the County Courthouse Fifth Floor Conference Room 514, 311 Grand Avenue, Bellingham.</i>			

Incarceration Prevention and Reduction Task Force
Legal & Justice Systems Subcommittee
DRAFT Meeting Summary for October 10, 2017

1. Call To Order

Committee Chair Stephen Gockley called the meeting to order at 11:30 a.m. in the Whatcom County Courthouse Conference Room 514, 311 Grand Avenue, Bellingham.

Members Present: Angela Anderson, Jill Bernstein, John Billester, Bill Elfo, Stephen Gockley, Moonwater, Irene Morgan

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

Members Absent: Fred Heydrich, Dave McEachran, Darlene Peterson

Review September 12, 2017 Meeting Summary

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

2. Continued discussion of pretrial risk assessment and monitoring

Committee members discussed:

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

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

Incarceration Prevention and Reduction Task Force
Legal & Justice Systems Subcommittee
DRAFT Meeting Summary for October 10, 2017

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

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

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

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

Key Takeaways:

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

Outstanding Questions:

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

Possible Recommendations or Next Steps:

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

Incarceration Prevention and Reduction Task Force
Legal & Justice Systems Subcommittee
DRAFT Meeting Summary for October 10, 2017

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

3. Drug Court Updates

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

The motion carried unanimously.

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

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

4. Phase III Report

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

5. Next Steps: Ideas & Further Information

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

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

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

6. Other Business

There was no other business.

7. Public Comment

There was no public comment.

8. Adjourn

The meeting adjourned at 1:10 p.m.

DRAFT

Motion tabled at October 23 IPRTF meeting:

Phillips suggested a friendly amendment to bifurcate the motion:

- Approve the development and adoption of a pretrial risk assessment instrument under the auspices of the Superior Court Judges
- Approve the recommendation to establish a pretrial services unit

Motions from October 10, 2017 Committee meeting:

Bernstein moved to **recommend that the County create a Superior Court pretrial monitoring unit, pending endorsement of the Superior Court judges.** The motion carried 8-0-1, Walker abstained.

Bernstein moved to **support the County hiring of a .5 FTE professional staff person for Drug Court.** The motion carried unanimously.

FYI: On August 28, the full Task Force approved a motion for The Task Force to recommend that the County Council appropriate additional programmatic funding for Drug Court to provide additional support and education to drug court participants.

Motion carried unanimously, with McEachran, Winter, and Heydrich out of the room.

Incarceration Prevention and Reduction Task Force
DRAFT EXCEPRT Meeting Summary for July 10, 2016

3. Other Business

Gockley reported for the Legal and Justice Subcommittee on

- The Task Force approve work beginning under the auspices of the Superior Court judges to explore the development and adoption of a pretrial risk assessment for use in as many courts as would choose to adopt it.
- The Superior Court judges and the committee feel strongly that a pretrial risk assessment must be used with a pretrial services unit to monitor and oversee those people who are released with conditions.

Gockley moved that the Task Force approve the development and adoption of a pretrial risk assessment instrument under the auspices of the Superior Court Judges and that the Task Force approve the recommendation to establish a pretrial services unit. The motion was seconded.

The Task Force members discussed:

- Whether the judges can create a pretrial risk assessment tool
- If approved, the Task Force will make this recommendation to the County Council in the Phase III Report
- The full Task Force should have a fuller discussion about the pros and cons of the motion, beyond the committee discussion
- The specific motions approved by the Legal and Justice Systems Committee
- A meeting of the Superior Court judges, who support going forward with a pretrial assessment tool and pretrial services unit
- Submitting recommendations to the County that require funding by June 2018, to be considered for the 2019-2020 biennium budget.
- It may be possible to budget for a pretrial risk assessment tool validation study in 2018 through the mid-biennium budget process.
- A pretrial risk assessment tool should be used by all jurisdictions, including the municipalities, District Court, and Superior Court.
- Whether they can move forward with a pretrial risk assessment tool and a pretrial services unit separately.
- The cost of a risk assessment tool isn't justified without alternatives to bail, which would be some sort of monitoring that requires staffing
- They can begin creating a pretrial services unit without a risk assessment tool in place yet

Phillips suggested a friendly amendment to bifurcate the motion:

- Approve the development and adoption of a pretrial risk assessment instrument under the auspices of the Superior Court Judges
- Approve the recommendation to establish a pretrial services unit

Hovenier stated the Legal and Justice Systems Committee can write its Phase III Committee Report with the approval of a pretrial risk assessment tool and pretrial services unit. The motion will be tabled until November. The Committee will lead a discussion of the full Task Force at its meeting on November 27.