

Incarceration Prevention & Reduction Task Force / Law & Justice Council Meeting Summary March 15, 2021

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1. Call to Order

Task Force Co-Chair Jack Hovenier called the meeting to order at 9:00 a.m.

Present: Barry Buchanan, Anne Deacon, Bill Elfo, Arlene Feld, Heather Flaherty, Stephen Gockley, Daniel Hammill, Mike Hilley, Jack Hovenier, Raylene King, Scott Korthuis, Byron Manering, Moonwater, Darlene Peterson, Dave Reynolds, Eric Richey, Donnell Tanksley, Bruce Van Glubt, Greg Winter

Absent: David Freeman, Deborah Hawley, Seth Fleetwood, Eric Petersen, Tyler Schroeder, Flo Simon, Maia Vanyo

2. [Washington State Supreme Court ruling on State v. Blake on RCW 69.50.4013 \(1\), Washington's simple possession of controlled substance statute \(00:02:40\)](#)

Starck Follis, Whatcom County Public Defender, reported on the Supreme Court decision and the history of the statute.

Richey reported on the impacts across the criminal justice system, including resentencing, reimbursements and forfeitures, and whether the State legislature or local jurisdictions can create a new statute. One impact is that children are now legally allowed to be in possession of controlled substances, which is a real concern. It's up to the legislature to fix this, but there may not be the political will to do that. Local jurisdictions may create their own legislative fixes. There are also impacts to people who are in treatment, including drug court. Some people won't get treatment because it is no longer a crime. There won't seem to be any impacts to the Law Enforcement Assisted Diversion (LEAD) program, which is not a direct diversion from jail.

Tanksley reported on work in Lewis County to criminalize drug possession on a local level. The Task Force members discussed local jurisdictions creating their own controlled substance statutes.

Follis reported on the steps his office is taking to secure the release of inmates in the jail and in prison who are incarcerated solely on this drug charge. Next steps are to vacate convictions of people who are on supervision. The decision also affects those who are serving sentences on multiple charges. They are also creating a process for people who want to clean up their record.

There will be a significant reduction in his case load, but responding to the decision will have a significant impact. A motion to reconsider has been filed, and the decision amongst the judges was narrow.

Criminal ramifications are an incentive for people to get treatment. However, treatment is not as effective unless someone really wants to be treated. One of the reasons drug court works is because the people who are there want to be there.

The Task Force members discussed state preemption statute and mental status of defendant. People differ on what happens going forward, but the impact is to what happened in the past. Those things can't be fixed.

Elfo reported on the impacts to neighborhood and community safety, which include law enforcement's ability to investigate the network of large scale drug enterprises and helping people detox access medical care, and get into a treatment program. Before booking restrictions due to Covid, there were often people in jail solely on drug possession. At this time, no one in the jail is there solely on drug charges. This will have long-term, profound drug impacts. They can't charge people with trafficking based only on the quantity of drugs they have on them.

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Peterson spoke on the impact of the decision to the courts. She's not sure at this time what the impact will be to misdemeanor courts.

King stated they have already dismissed eight possession charges that have warrants and a few other pending charges. The City of Blaine has a local ordinance from 2012, so they are still in the process of working with the prosecutor on which cases to withdraw.

The Task Force members discussed whether services will be available for those people who will be released from incarceration, reentry services, housing, the possibility of creating a local controlled substance statute, whether there are impacts to involuntary treatment at the crisis stabilization center, the need for treatment, and impacts from meth use in housing units.

3. [Committee Updates \(00:50:27\)](#)

Hovenier and Gockley reported for the Steering Committee, including the timeline and components of the upcoming annual report to the County Council and Executive.

Hammill and reported for the Behavioral Health Committee's February meeting, including an update on electronic home monitoring, House Bill 1590 (2019-2020), and committee membership.

Mike Parker, Opportunity Council, continued the report for the committee on a discussion about housing vouchers available in the community and operationalizing racial equity on the committee.

Hammill moved to affirm the updated Behavioral Health Committee member list to include a representative from the Lake Whatcom Residential Treatment Center. The motion was seconded and carried unanimously with King, Gockley, Feld, Manering, Hammill, Hovenier, Buchanan, Peterson, Deacon, Elfo, Flaherty, Tanksley, Winter, Korhuis, Hilley, and Moonwater present.

King reported for the Legal and Justice Systems Committee February and March meetings, including discussion of the Blake decision and getting input on the annual report.

Caleb Erickson, Sheriff's Office, reported on the Information Needs and Data Exchange (INDEX) Committee's March meeting, including a presentation from the Administrative Office of the Courts' project to update the courts of limited jurisdiction across the State to centralize their case management system. The committee also discussed finding a system to gather data across all case management systems.

Deacon reported that the Crisis Stabilization Facility Committee has not met since the last Task Force meeting. She gave an update on the status of the Crisis Stabilization Center. The detox unit is in full use. They are accepting drop-offs from law enforcement. The mental health unit is operating at half capacity now due to issues with staffing and the building. They are working through those issues and are operating as a voluntary facility only, until they get staffed and certified for involuntary. They need to continue to advertise the opening of the facility.

6. [Working with County Council on submitting a letter of support for the legislative proviso to fund operations at the Crisis Stabilization Center \(01:15:31\)](#)

Deacon reported on the status of operational funding for the Crisis Stabilization Center:

- Nursing is available 24/7, which is a higher level of care and more expensive
- Mental health involuntary treatment certification is a higher level of care
- People with Medicaid as their health plan, the MCOs must provide adequate reimbursement rates to cover a 24/7 model, similar to a fire house model.
- For non-Medicaid population, issues are that private insurance doesn't include a medical code for this service and also there are State general fund dollars for people who don't have any insurance or Medicaid, partially through a State proviso.
- There is still a need for operational funding

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- Similar facilities are opening in other counties

Need a new State legislative proviso to identify the Whatcom county CSC as a pilot program for the state that would be able to serve as a diversion from arrest and incarceration for LE contacts, when it's appropriate. And also for \$200,000 funding to be tied to the pilot program to divert people from incarceration to the Center. The legislative proviso is moving forward at this time. In case the request stalls and they need letters of support from County leadership, she asked that this task force recommend and/or write a letter of support for the request for 200K and pilot project.

The committee discussed the outcomes associated with the pilot project: how many people were diverted, connected to care, and had fewer contacts with the emergency systems; whether the Task Force can send a letter of support directly to the State legislature.

(01:37:40) Hammill moved to write a letter of support for the County CSC to identify as a pilot project and ask for support of \$200K per year from State legislature if necessary. The motion was seconded. The vote carried unanimously with King, Gockley, Feld, Hammill, Hovenier, Buchanan, Peterson, Deacon, Elfo, Flaherty, Tanksley, Korhuis, Moonwater, Richey present. Manering abstained.

4. Updates from Jurisdictions (01:35:57)

King reported for the City of Blaine on electronic monitoring statistics.

5. Introduction on plans to develop a strategy for external communications (01:39:45)

Deacon reported that she and Mr. Hammill discussed communication for the Task Force and also for the LEAD Program, GRACE Program, behavioral health crisis response, and homeless efforts. The Health Department is also undergoing an effort to educate the public on homeless services. Existing activities include the website and talking to media from time-to-time. One question is whether they should hire a communications specialist to help the Task Force develop a communication plan.

The Task Force members discussed options for enhanced communication:

- Create a list of entities, organizations, and professionals in the medical and legal professions that need to know what they are doing
- Information that someone seeks out on the website versus information that is sent to people directly
- How to engage community members who are concerned with these issues
- Need to figure out how to convey complex information as simply as possible with graphics and other techniques
- Identify social media influencers for the local community
- The possibility of funding a year-long contract for a communications expert to simplify the message and help create an effective communications strategy

Deacon to provide information on the cost of hiring a communications expert at the next steering committee.

7. Other Business (01:55:55)

Hovenier reported on the timeline of the annual report.

8. Public Comment

There were no public comments.

9. Adjourn

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The meeting adjourned at 11:00 a.m.