

Stakeholder Advisory Committee for the Justice Project
SAC GROUP DISCUSSION – PUBLIC DEFENDER’S OFFICE
Friday, September 9, 2022; 1:00 – 2:00 pm

MEETING SUMMARY

SAC Members present: Arlene Feld, Barry Buchanan, Brel Froebe, Brooke Eolande, Cliff Langley, Dan Hammill, Darlene Peterson, David Goldman, Erika Lautenbach, Eve Smason-Marcus, Harriet Markell, Kristin Hanna, Maialisa Vanyo/Starck Follis, Michael Lilliquist, Perry Mowery, Peter Frazier, RB Tewksbury

Absent SAC Members: Anthony Hillaire, Atul Deshmane, Chad Butenschoen, Daron Smith, Deborah Hawley, Eli Wainman, Eric Richey, Heather Flaherty, Jack Hovenier, Jon Mutchler, Kara Mitchell Allen, Kendra Cook, Mary Lou Steward, Rebecca Mertzig/David Crass, Roman Swanaset-Simmonds, Satpal Sidhu/Tyler Schroeder, Seth Fleetwood, Scott Korthius, Bill Elfo/Doug Chadwick, Stephen Gockley, Teresa Bosteter

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

Call to order, Welcome – Barry Buchanan, SAC Chair, Whatcom County Councilmember
Councilmember Buchanan welcomed SAC members and introduced presenters for the meeting.

Presentation from the Public Defender’s Office, Starck Follis, Director, Whatcom County Public Defender; Maialisa Vanyo, Chief Deputy, Whatcom County Public Defender; Jane Boman, Senior Deputy Public Defender, Whatcom County Public Defender

Starck Follis welcomed the Members and provided the following information about the Public Defender’s office

- Located across the street from the Bellingham Public Library
- Staff includes 50 employees including legal assistants (8), investigators (6), behavioral health specialists (2)
- Office handles 1500+ felonies a year, 2,000 misdemeanors a year (mostly in county courts)
- Most of their clients come through the County Jail
- Cases are rising compared to last year

Starck Follis continued discussing the current challenges and ideas for improvements, including the following:

- The current problem is the same: whether the numbers can be controlled.
- Office has proposed adding two more behavioral health specialists, whose purpose is to reduce incarceration rates or find alternatives to incarceration for clients, bringing the office total to four.
- Considering a contract for services with Partners for Justice <https://www.partnersforjustice.org/>
- Opportunity to sentence to community service work instead of jail time
- Jail facility improvements are 4-5 years away at least. In the meantime, there is an immediate need to address capacity in the jail. If inmates are sent to other facilities because of capacity, it is a burden on lawyers at the public defender’s office who have to travel some distance to meet with clients.

Starck Follis discussed the following feedback he received from behavioral health specialists regarding what is important if a new jail is built:

1. Better and faster access to medical attention including anti-psychotic medication. Currently there is a wait period after booking to see medical staff.
2. Programs including substance abuse treatment (space and staffing for services like Narcotics Anonymous and Alcoholics Anonymous), GED classes, moral reconnection therapy, dialectical behavioral therapy, parenting classes, anger management and domestic violence treatment
3. Jail does people significant damage. Limited contact with people outside the jail. Many inmates are in 23/1, in their cell for 23 hours and out of cell only 1 hour. Many people are worse when than when they come into the jail. This is not in any way to criticize the work of jail staff, who do a great job and work well with the Public Defender's Office.

Maialisa Vanyo discussed elements of concern for a jail facility, including the following:

- Current access to medical services in the jail is very poor, and the timelines for seeing a medical provider are far too long.
- I hear from clients that due to a lack of jail staffing, there is balloon dosing and people are suffering because of it.
- 23 hours alone in a cell with only one hour outside of the cell has long lasting harm for all clients, not just ones with mental health issues
- Public Defender's Office can be more successful with more behavioral health help and client advocates, which would allow earlier and more in-depth representation.

Maialisa Vanyo continued to discuss mental health court, which is primarily used for felony reduction cases reduced to misdemeanors.

- There are limits to the program about who can be accepted based on their charges and if they are dual diagnosis (SUD and MH Disorders).
- State requires a 'serious mental illness' status to qualify for the program, allowing for placing people in community custody with the creation of a treatment plan with a community mental health provider. However, no one is in place to provide the community health provider service. Additionally, clients lose Medicaid when they are incarcerated, and treatment providers won't meet with clients without insurance.

Maialisa Vanyo discussed changes over the last couple of years, including the following:

- Body cameras now have to be used in all jurisdictions. There were 430 hours of footage last year and over 1,000 hours of footage this year so far. Review of the footage requires a lot of staff time to process.
- Blake decision makes it so we can't process people possessing controlled substances.
- Overall, case numbers are still going up. The nature/seriousness is changing and it's a different kind of work. It impacts usage of drug court.

Jane Boman discussed the drug court system, including the following:

- Drug court is pretrial court. Give up the right to a jury trial in order to participate in drug court. If they succeed the charges are released forever. If they are terminated from the program a judge rules on their case and sentences them.
- Drug court never responds to substance use disorder with jail time. (Whereas probation programs always use jail time) They use sanctions in coordination with treatment. They use work crew, increased reporting to case management and the court, termination and prosecution of the case (if there's a DUI or new felony charge), graduation and dismissal of the criminal case.

- 22 people are in the drug court program now. Before COVID-19, the numbers were in the 50s.
- Staff are working on updating policies and procedures to bring them in line with best practices.
- Whatcom county has lower recidivism of felonies for people that graduate Whatcom County's Drug Court program.
- 85% white, non-Hispanic population in the program as opposed to 65% in the state.
- More people enrolled in Medicaid in our program than the state average.

Stark Follis made the following final comments:

- There are good things about the jail as it currently exists.
 - o It's location across the street makes it easy to visit clients as opposed to walking across the street. It is also important that clients appear in court in person rather than on zoom – so their humanity is seen.
 - o Can pick up the phone and talk to clients over the phone. This is the case for general population (not 23/1 population).
 - o IT has set up video conferencing in a private booth for inmates. Telephone and video conferencing are, however, not the same as building trust through face to face contact.
 - o Note: there is only one pass through conference room in the jail where we can meet clients. This is a challenge, and sometimes there is a 5- to 30-minute wait for staff to move inmates.

Questions and Answers

Presenters discussed and answered the following questions from SAC Members:

- Some of the problems come from public defenders. Some attorneys don't spend enough time giving information to their clients, or they give them poor advice. Is it best to put navigators into the Public Defender's Office or would it be better to house them in an independent office?
 - o 99% of complaints received are about communication, not seeing their lawyer in a few weeks. If there are issues, we work to address them as soon as possible.
 - o Navigators should be under the Public defender's office because we are in the best position to advocate and navigate for our clients.
- Could we get an estimate about what programs would reduce your loads and the jail loads, where would you spend \$500,000?
 - o Would fund client advocates, behavioral health staff. Because of increased filings and attrition, we are finding we could use more legal staff.
 - o Staff that can navigate access to programs faster. There shouldn't be months long waits for treatment, but could there be a specialized facility for them while they wait for an opening.
 - o Rather than building office up to serve more defendants, let's try reducing the number of defendants.
- Concerns about jail location, let's say it gets placed at Irongate. Have you seen other communities that have a satellite office that works?
 - o Skagit County built a remote location in south Mount Vernon. Public Defender's Office has three locations that are a 5- minute drive from the jail.
 - o King County has offices at the Kent detention center. Most of the 250 lawyers are in downtown Seattle, but most defendants are in the Kent location. Most jails are built in a central location. Times have changed and the availability of property may impact location.
- Drug court has certain kinds of cases not allowed by the state, and some cases are allowed by the state but not allowed in our drug court. Can you give us an example?

- There is a statute that specifies who is allowed in a drug court program, and there are exclusions that the prosecutor's office has.
- The program can accommodate around 60 and we are well below capacity
- What is an ideal number for case managers?
 - Haven't had the participation to bring on more case managers. Program could grow to accommodate more. Court is held 1 hour of Thursday afternoons. Used to go for 3+ hours. We could find time in the court calendar if program became more robust.
- Are in-patient beds an issue?
 - A low intensity, men-only, treatment center is new in Whatcom County and has capacity that is not being used. It's the only in-patient program in Whatcom.
 - A person can get into a program within a week to a month for transfer to in-patient. Getting assessments for in-patient referrals can cause delay due to staff limitations.
 - Sober living situations after release from in-patient programs is an issue.
- Issue of restoration comes up, and the delay for mental healthcare can impact jail populations. There have been discussions about a mental health hospital in IPRTF meetings. Can restoration services be provided locally?
 - Not sure if that is possible under the statute. The delay could be alleviated if Western State or Eastern State could be expanded. It could be problematic for a local organization to open a hospital and do competency restorations.
 - Maialisa and Stark met with political candidates to express the concern about availability for competency restoration without delays. Delays are in violation of timelines in state code. Felony cases are being dismissed because Western State did not meet timelines.
 - Those waiting for availability at Western State Hospital could be provided an alternative location than the jail during their wait. Competency is a fluid concept, they can ask for an evaluation at any time, even during their wait for Western State Hospital.

Announcements

Councilmember Buchanan announced the conclusion of the meeting and asked that further questions on this topic be emailed to sac@co.whatcom.wa.us. Additionally, Councilmember Buchanan reminded SAC Members about the SAC meeting next week on Thursday at 10am.

Adjourn

Meeting adjourned at 2:05 pm.