

# Intake Services Unit Pilot Program

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## Background and Summary

In May 2003, the Superior Court submitted its program description of an Intake Services Pilot Program, as required in the following 2003 budget proviso:

“\$500,000 and 8.00 FTEs must be used solely for an intake services pilot program for the Superior Court after Council approval by motion of the court’s plan for this program. The program should provide resources to the Superior Court’s criminal division to expedite the release of appropriate offenders awaiting adjudication or to ensure that offenders are not incarcerated when other appropriate alternatives are available. It is the intent of the council that this intake services program provide a new service and not duplicate the work or reduce the current level of personal recognizance screening and other release programs, conducted by the department of adult and juvenile detention. The Superior Court shall develop a plan for the new unit that incorporates the recommendations of the adult justice operational master plan, ensures full utilization of the law justice technology integration plan and implements the recommendations of the county’s criminal justice council. The court should submit its plan by March 1, 2003.”

The Superior Court proposed a multi-faceted pilot program for expediting the “release of appropriate offenders awaiting adjudication” and ensuring “that offenders are not incarcerated when other appropriate alternatives are available”. At the core of the proposal is the need to provide various stakeholders with early and reliable information about persons incarcerated. The proposal also included suggestions to reduce warrants, to shorten length of stay for offenders awaiting competency evaluations, and to make other process improvements. A copy of the Superior Court’s submittal is included as Attachment B.

Upon receipt of the program description, Council staff began discussions with the County Executive’s Office and the Superior Court to determine operational details necessary to implement the program concepts. A work group was formed which included principals from the Department of Adult and Juvenile Detention, Superior Court, Prosecuting Attorney, Public Defender, Department of Judicial Administration, Department of Community and Human Services, Public Health, Council Staff, Office of Management and Budget and District Court. The primary goal of this work group was to create a logical and practical plan to phase in the vision of the Intake Service Pilot Program, with an accompanying staffing plan and budget.

The objectives of the pilot program are to make placement decisions, both pre- and post-adjudication, that maintain public safety, are consistent for similarly situated offenders, and are cost-effective.

In order to implement the pilot, 4 FTE’s (\$250,000) are recommended for an intake services unit who will provide expanded assessment, coordinated court calendaring, and felony notification of

court dates, and \$250,000 is recommended for performance based treatment contracts to support expansion of the Center for Community Alternative Programming (CCAP). Through a restructuring of current process and priorities, the 4 FTEs will be joining an existing staff in the Department of Adult and Juvenile Detention (DAJD). In addition to the existing staff, DAJD is also committing an additional 3 FTEs, which were previously tasked solely with Felony Arraignment Notification (FAN) program workload, to the intake services group, to provide felony interviews in addition to continuation of the FAN program for those with reliable contact information.

The following report focuses, in priority order, on the work group's recommendations for implementation, staffing, and budget.

### **Priority One**

#### **Intake Services Group: Expanded Intake Assessment, Central Court Calendaring Unit, and Felony Arraignment Notification**

As its highest priority, the work group recommends providing additional information to the Criminal Justice agencies to permit the court to make the best placement decision possible for individuals in our criminal justice system. The goal of this effort is to expand existing information and provide supplemental data to the courts and parties to enable better informed decision making at the earliest point possible in the criminal justice case process, ideally at arraignment. The work group completed a thorough review of how the process works and has formulated a work plan to make the process work more efficiently. The work group also has talked with participants in the criminal justice system and has a good idea of the primary information needed by Superior Court, the Prosecuting Attorney's Office, the Office of Public Defense and treatment providers to facilitate placement in alternatives at early judicial decision points in the adjudicatory process.

#### **Expanded Intake Assessment**

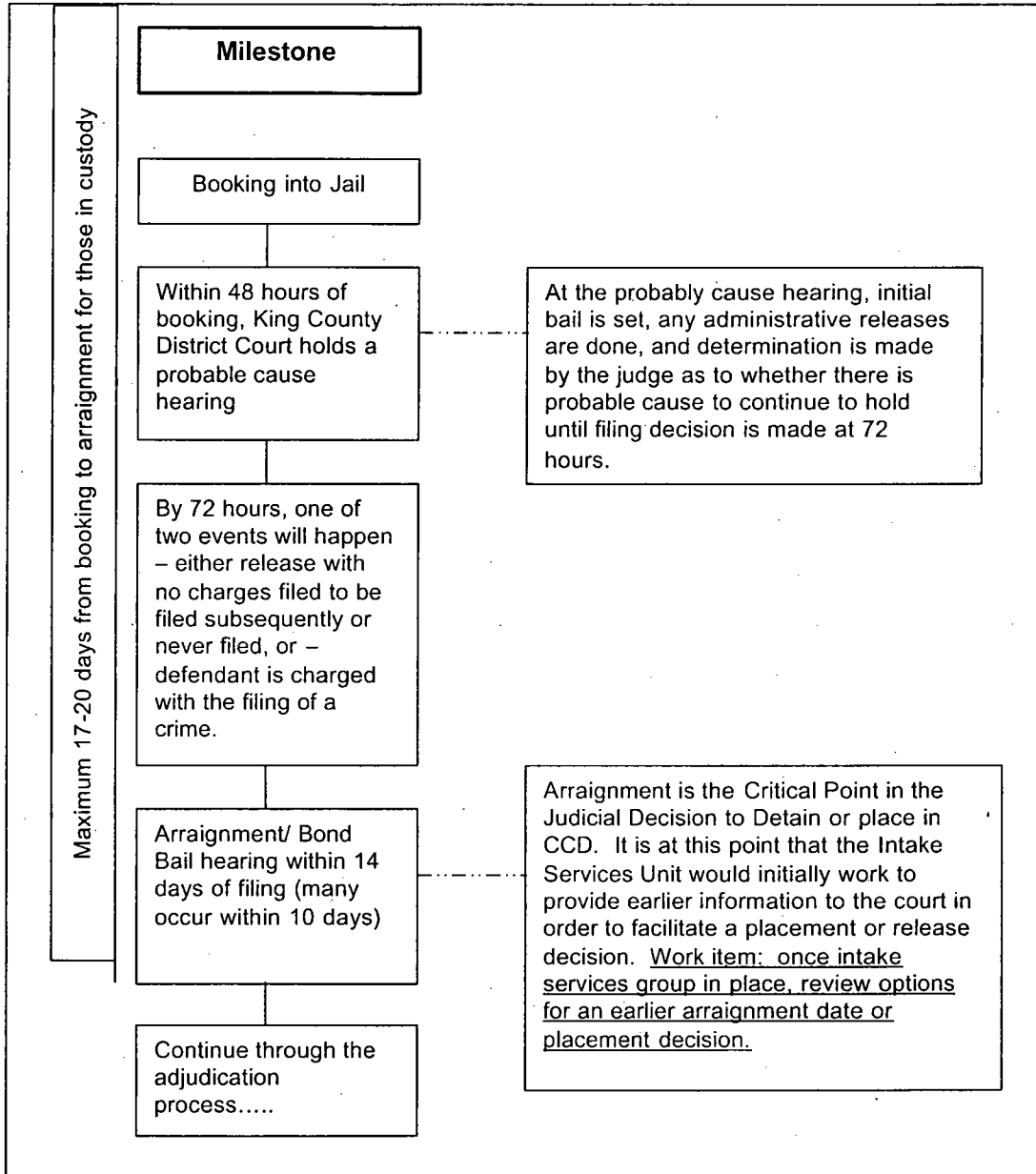
To assist in judicial decisions to detain, release or place defendants into detention options, the work group concluded that it would be optimal if all necessary information on defendants is obtained by the time of arraignment. The arraignment calendar generally occurs 11 to 14 days (the maximum is 17 to 20 days) after booking for individuals.

Chart 1, below, depicts the current timeline from booking to filing to arraignment. Once an individual is booked into the jail, the prosecutor's office has 72 hours in which to file a charge to keep the defendant in jail or the court must release the individual. If a charge is NOT filed within 72 hours, the person is released and one of three events will happen (1) no charge will be subsequently filed, (2) the person will be out of custody and a charge will be filed in a lower court of jurisdiction, or (3) the person will be out of custody and a charge will be filed in Superior Court after additional investigation is completed by police. Once filing has occurred, arraignment must occur within 14 days (current practice is to arraign in-custody defendants within 8-10 days and out-of-custody defendants within 14 days of filing).

As noted in Chart 1, a future work item for the criminal justice partners will be to determine if opportunities exist to facilitate at an earlier point than the current arraignment hearing, a faster release, detention, or placement decision. There are two options to consider for the future (1) reduce the time from filing to arraignment from the current time of 11 to 14 days and/or (2) if the information is available earlier than arraignment, to find an avenue to expedite a judicial decision for placement. Items to consider in a process change will include assignment of counsel and

information availability to defense agencies. Again, these are future work items for the criminal justice partners and will continue to be heard through the Criminal Justice Council and sub-groups.

**Chart 1: Timeline of Milestones from Booking to Arraignment**



By arraignment, the defendant’s risk of flight or risk to public safety, eligibility for release and his/her eligibility for public defender services should be determined. By polling the various criminal justice partners, the work group determined the following key supplemental information should be collected, and verified:

1. Verification of ID
  - Is this who we think it is (Name, age, address, etc.)
  - Is the prior record correct (Does the record match the person)
2. Prior Criminal History
3. Arrest Information – including victim information, existing restraining orders or domestic violence orders
4. Community Ties (employment, housing community relationships)
5. Substance abuse/chemical dependency/Mental Illness – currently the judge receives a “yes” or “no” to chemical dependency.
6. Financial Information for OPD indigence assessment.
7. Prior record of failure to appear and/or failure to comply.

Please note: There may be some additional information collected for release/detention decisions in DV cases such as victim information, existing restraining orders, contact orders, etc. This information would take the shape of a DV addendum.

In addition, the group determined it would be necessary, due to fiscal and operational realities, to implement a “triage” system to prioritize the defendant population subject to this screening. The group reviewed the jail bookings for 2003 and concluded that due to the number of defendants booked, not all defendants could receive a more comprehensive assessment prior to arraignment. Accordingly, the group identified charge categories that would most likely be afforded release or placement on a community-based program and decided to focus the new information gathering on those defendants while keeping in mind that the highest priority target population for the pilot program is the pre-sentence felony population in accordance with the Criminal Justice Council priorities.

Within the pre-sentence felony bookings, the group prioritized the population in order of assessment need, based on characteristics of the population. Such a “tiered” approach to the population does not exclude any population from assessment, but it does place in priority order those who would be assessed first as being potentially able to be released or placed in an alternative because the court would have new, additional information that is not available today.

Below are general guideline recommendations of the expanded assessment priority order. As the pilot program becomes operational, there will be a further need to define each population in greater detail. The order below starts with Tier D being the lowest priority and Tier A being the highest priority and as such the first population to assess (Again, this is a general guideline and does not prohibit any population from assessment, but in order to use resources most effectively and efficiently, it does prioritize the population to allow those most suitable for rapid placement decisions to be assessed first):

- Tier D: Anyone booked on a serious or violent (Class A) Felony (this includes homicides, and violent crimes against persons.)
- Tier C: Anyone booked with a
  - “hold” for another jurisdiction – King County has a fiduciary duty to not release those who are being charged with offenses in another jurisdiction pending adjudication of the King County charge.
  - booked on a crime against a person (this includes sex crimes, robbery)
  - held on a transport order (to DOC)

- Tier B: Anyone released or placed in an alternative at the current arraignment process (this group is already being released or placed and additional information would allow for a quicker placement).
- Tier A: This is the top priority population to target for an expanded assessment. It is defined as anyone who does not fit into Tier D, C, or B. This is the group that is currently not being released or placed in an alternative and is not being held for a violent or crime against a person and is not being held for another jurisdiction. This group will be substantially the lower level, and/or drug and property offenders who are not violent or pose a threat to public safety.

A small working group, led by the Community Corrections Division, has been convened to establish the operational processes, procedures, and to in detail define each of the tiers.

### **Court Calendaring**

In addition, to the expanded assessment prior to arraignment, the intake services unit would provide needed central court calendaring supporting, as their highest priorities, the arraignment calendars and providing liaison services between the Community Corrections alternative programs and the Court. At least one liaison/scheduling clerk would be placed at each courthouse (King County Courthouse - Seattle and the Regional Justice Center). The liaison/scheduling clerk would be responsible for a variety of tasks, including receiving the reports of compliance or non-compliance on Alternative Programs; serving as a liaison between the court, jail, defense attorneys, and Prosecuting Attorney on Alternative Program issues; setting the hearings for Alternative Program cases; and staffing the arraignment calendars.

The court liaisons also will be tasked with working with the Superior Court, the Office of the Prosecuting Attorney and the Public Defender who are responsible for the court calendaring to reduce any unnecessary delays in the case processing time for defendants who are in custody awaiting a hearing for violating their sentences. In addition, they will work with all involved agencies to ensure that the Sentencing Reform Act (SRA) noncompliance inmates that are booked due to technical violations are scheduled on the earliest possible in-custody calendar. Changes made to the in-custody SRA calendar in early 2002 have limited the number of automatic strikes from the in-custody calendar. On average, it takes between 4 and 10 days from booking to be heard on the SRA calendar, with 67% receiving additional time after their hearing date. Nearly 70 percent of the strikes today are for Domestic Violence and Special Assault Unit (SAU) related offenses.

### **Continuing the Failure to Appear Reduction Strategies through the Felony Arraignment Notification (FAN) Program**

In 2001, a NIC study found that King County's failure to appear rate (FTA) was at twice the national average (40% vs. 20%). In November of 2001, a pilot project began to deal with the high FTA rate on the Superior Court Arraignment Calendar. The FAN program has had success in reducing the failure to appear rate where contact information is recent and verifiable. Yet, the overall effectiveness of FAN is limited due to larger system issues. For example, many felony property cases are referred to the Prosecuting Attorney's Office for filing that use addresses provided months earlier by defendants. These addresses are unverified and, many times, out of date by the time the case is filed. Due to these circumstances, there have been very low success rates in contacting some defendants. Accordingly, the current staff assigned to FAN should be redirected to the high priority of implementing the new intake services unit and continuing the FAN program for those cases where there are recent, reliable addresses. The new intake services unit will work towards obtaining more reliable contact information, making FAN contacts, and

completing the enhanced screening function in addition to existing screening responsibilities. Continuation of effective notification strategies to reduce the failure to appear rate should remain a priority.

### **FTE Assumptions to Complete the Expanded Intake, Central Court Calendaring, and Felony Notification**

It should be noted that the process and workload for this new unit are still formative and, until implemented and tested, will not be precise. Therefore, it will be important to monitor the progress of this new unit in 2004 and assess whether there is sufficient staff to perform these functions effectively. As the unit demonstrates success, its functions and staffing can be refined and expanded.

In order to develop an overall FTE estimate for the Intake Services Unit, several factors were reviewed:

- Total estimated expanded felony assessments needed (this was based on 2002 actual booking data and estimating the percentage of population which would require assessments),
- The number of anticipated expanded interviews which could be completed by an individual,
- Time spent on the misdemeanor interview and other current calendaring tasks,
- Additional tasks included in the court calendaring coordination, and
- Re-tooling the felony notification program to target the program to those with verifiable contact information.

The outcome of the review determined a need for a total 18 FTEs to accomplish the expanded intake services unit. DAJD has committed current staff of 11 FTEs to the intake services unit, and in addition, committed 3 more FTEs from the current felony notification program, for a total commitment of existing staff by DAJD of 14. Even so, the total need based on review of anticipated tasks is 18 FTEs. Therefore, under this proposal, 4 FTEs will need to be added to fully staff the intake services unit. These 4 FTEs are estimated to total \$250,000 of the funded \$500,000 and 8 FTE original proviso amount.

The estimated implementation date for Priority One will begin by November 1, 2003. Transition and implementation will continue throughout 2004.

### **Priority Two**

#### **Felony Administrative Recognizance Release (FARR) Guidelines**

The second phase-in pilot priority is to review and possibly expand the FARR (Felony Administrative Recognizance Release) Guidelines. In 1980, the FARR program was implemented, giving DAJD authority to implement an administrative release program for persons not yet appearing before a judge and who were being held without bail on investigative holds. Since 1980, there have been many system changes – including the establishment of Drug Court (a therapeutic diversion court for drug offenders) and the implementation of an expedited calendar for certain drug charges – the result of both of these changes has increased the number of court ordered releases while decreasing the number of FARR releases.

While the FARR Guidelines continue to remain in place, the AJOMP reported the number of people released pursuant to the FARR Guidelines has dropped from 30% of all releases in 1990, to

5% in 2000. According to the AJOMP – Felony Report, a review of felony investigation bookings revealed that only 4% of property crimes were charged within three judicial days and 41% were not charged within three years following the booking. In addition, in 1991, the guidelines were changed to deny release of “drug traffickers.” This definition is broad and no review of the effect of this language has ever been completed. As such, felony property offenders and drug offenders are populations that should be identified and reviewed for possible immediate release. The intake workgroup together with the Criminal Justice Implementation Committee expects to review and offer potential revisions to the FARR Guideline, if such changes are warranted. No additional funding is required to complete the review, analysis, and potential revision of the FARR Guidelines.

The CJ Implementation Committee has assumed responsibility for completing this FARR Guidelines review. The review and associated analysis will focus on whether the FARR Guidelines need to be expanded or if re-implementation or re-structuring of the current FARR Guidelines would achieve additional administrative releases.

The estimated implementation date for this Priority is the first quarter of 2004.

**Priority Three**  
**Treatment for Pre-Trial Defendants**

The Office of National Drug Control Policy (ONDCP) in its 25 Cities program provides a profile of drug use in King County/Seattle. The profile indicates that King County is in a High Intensity Drug Trafficking Area with major drug threats in the area, which include heroin, methamphetamine, marijuana, and cocaine. According to the Seattle and King County Public Health’s Recent Drug Abuse Trends in Seattle/King County Area, June 2002, there are 12,000-15,000 injection drug users in Seattle and King County. Also, the 1999 Arrestee Drug Abuse Monitoring program (ADAM) data which measures the extent of drug use in the population of people who have been arrested in King county and booked into the King County Jail reported that 63.6% of adult males arrested and booked into the King County jail facilities tested positive for illicit drugs. According to the ADAM data more than 50% of the arrestees that were interviewed were booked for a drug or other non-violent crime. The AJOMP Population profile of sentenced inmates indicated that 49% appeared to be drug/alcohol dependent, 25% were in immediate need of a mental health assessment, and 16% were both drug/alcohol dependent and in need of mental health assessment. These issues may have been the underlying factor in committing the alleged crime. There is evidence that some reduction in jail time could be achieved if these defendants were deferred to certified treatment programs.

Pre-trial felony and district court defendants should be allowed the opportunity to participate in substance abuse/chemical dependency treatment, pending trial. Participation in a treatment program may reduce certain risk factors associated with a defendant and increase the possibility of the defendant’s release from confinement pending trial. Some individuals, appropriate for inpatient care, will be referred through the Drug Court to treatment providers while others will receive direct referrals from the arraignment courts at the King County Courthouse – Seattle and the Regional Justice Center. A number of other pretrial defendants’ and sentenced offenders’ drug addictions are not acute and can benefit from outpatient treatment. Outpatient treatment should be available that will accept individuals on order from the court and that will have slots available to take the referrals without an extended waiting period. The program should employ a case management model as there is a need to monitor the defendants’ participation in various programs including

treatment and because it is necessary to provide timely reports to the court when the defendants succeed or fail.

#### **Treatment for Felony Non-compliance and Pre-Trial Defendants**

To achieve the goal of opening up opportunities for defendant's to avail themselves of substance abuse/chemical dependency treatment pending trial; it is proposed that the King County Community Center for Alternative Programs ("CCAP") establish an "on-site" certified substance abuse/chemical dependency treatment program that will provide treatment and linkage to community-based treatment upon the defendant's release. RCW 9.94A.680(3) provides, "For offenders convicted of nonviolent and non-sex offenses, the court may authorize county jails to convert jail confinement to an available county supervised community option and may require the offender to perform affirmative conduct pursuant to RCW 9.94A.607." The substance abuse/chemical dependency treatment options operated by CCAP could qualify as a "county supervised community option." In addition, for defendant's who have more significant substance abuse/chemical dependency issues, it is proposed that under this program, a defendant could be referred to an inpatient treatment facility. Referral of these offenders to an inpatient program again could accomplish a reduction in the defendant's risk factors and generate an opportunity for the defendant's release prior to trial. To establish a certified program with community providers, \$250,000 of the \$500,000 proviso amount is recommended.

The estimated implementation date for this Priority is the first quarter of 2004.

#### **Examination of Credit for Time Served For Outpatient Treatment in Light of New Treatment Programs**

Currently, consideration is given for credit for time served for defendants who are undergoing inpatient treatment. Once the CCAP "on-site" substance abuse/chemical dependency treatment program is in operation and more is known about the program, consideration should be given to whether out-patient treatment programs should be treated similarly as in-patient programs, thereby allowing out-patient participants the opportunity to receive day-for-day credit as time served (in secure confinement).

The estimated implementation date for the decision on credit for time served is the second quarter of 2004.

#### **Priority Four**

##### **Work Crew for Felony Population**

If a defendant is sentenced as a nonviolent offender to a non-prison sentence, work crew is one of the alternatives to total confinement the court is required to consider pursuant to RCW 9.94A.680. (Sex offenders are not eligible for the work crew alternative.) Pursuant to RCW 9.94A.725, if the defendant's sentence is nine months or more, the defendant must serve a minimum of thirty days of total confinement before being eligible for work crew. The hours served as part of a work crew sentence may include substance abuse/chemical dependency counseling and/or job skills training. A defendant who has successfully completed four weeks of work crew at thirty-five hours per week thereafter receives credit toward the work crew sentence for hours worked at approved verified employment.

The King County Community Work Program currently operates under a Work Program Management Plan adopted by the King County District Court for convicted misdemeanor offenders. A work group comprised of Superior Court, Community Corrections, the Prosecuting



Attorney's Office and the Office of Public Defense is drafting a similar work program management plan that delineates the protocol for the Community Work Program to work with convicted felony offenders ordered to complete community restitution hours. The plan should be completed by the end of November 2003. The Community Work Program currently operates 6 work crews and will have 2 additional crews in service in early October and an additional 2 work crews proposed in 2004 for a total of 10 work crews. All work crews are revenue backed and therefore require no additional funding for expansion. Once the plan has been approved for implementation, procedures and an education process for decision makers will be initiated.

The estimated implementation date for the Priority is 3<sup>rd</sup> quarter 2004.

**Priority Five**

**In Jail Competency Evaluations and Forced Medication Hearings**

Several of the intake services pilot initiatives are devoted to improving King County's coordination with the Department of Social and Health Services, and in particular, Western State Hospital. Presently, the King County courts encounter numerous cases in which the mental health of the defendant is raised as an issue and must be assessed by Western State Hospital. In most cases, all action on these cases stops pending the defendant's mental health evaluation. In addition, most all defendants remain in custody pending their evaluations. A review of in-jail competency evaluations indicates that a minimum of 104 such evaluations are ordered annually by the court. In a random sampling of 19 in-jail evaluations ordered by the court, between July 1, 2002 and January 10, 2003, the following was indicated:

# of cases	Delay in Receiving Report	Jail Days
1	> 30 days	30
5	20-30 days	100
10	10-19 days	100
3	< 10 days	---
19		230

Jail time may be saved if, when a mental health specialist meets with the defendant in jail, a more rapid assessment is completed and the court's involvement in the competency process is expedited. Faster in-jail evaluations could help reduce ADP by either getting the defendant back on the speedy trial clock or sending the defendant to Western State Hospital for competency restoration. Based on the sampling of the 19 random cases, an estimated 1,050 total jail days could have been saved, assuming that a mental health specialist could have completed an assessment within five days, for all defendants in the sampling.

To accommodate this need, the new services available at the Seattle Justice Center should be fully utilized. Of specific potential benefit is using the Facilities' connection with Western State Hospital. For Seattle Municipal Court, the Program for Forensic Evaluations in Corrections and the Community (PF ECC) provides pretrial criminal forensic evaluations on issues of Competency to State Trial, Mental State at the Time of Offense, and Dangerousness. Western State Hospital staff should be provided a spot for a full time evaluator at the Seattle Justice Center. This evaluator could then devote the necessary hours to complete in-jail competency evaluations, thus reducing jail days (see item 1). The Resource Center also provides Job Readiness Training, Mental Health

Services (Seattle Mental Health), DOC Moral Reconciliation Therapy (MRT), Access to BI – an Electronic Home Monitoring Vendor, a DSHS outstation for services, and the King County Housing Voucher Case Management Project. These programs may be of benefit to the Superior Court's Drug Court program and community alternative programs.

Second, hearings are currently held to preemptively establish, prior to transport to Western State Hospital, that a defendant will take medication, if recommended by Western State. The law permits the court to compel that forced medication will occur. These hearings can delay transport by 2 to 4 weeks, for each defendant. Of the nine competency hearings in Seattle in January 2003, 7 required forced medication hearings, with one hearing being stricken before the hearing. Assuming that 6 hearings occur each month and that each hearing delays transport by 3 weeks (21 days), 126 jail days could have been saved per month, or 1,512 jail days per year.

The necessary coordination to implement these fixes will take several months to conclude. The estimated phase-in of these two components is February 2004. No additional costs should be incurred in this implementation.

#### **Conclusion/Next Steps for the Intake Services Pilot**

At the core of this proposed Intake Services Pilot project is the need for increased information to be available to the court system, to facilitate at the earliest possible point a release, detention, or placement to alternatives thereby reducing the reliance on the secure detention facilities. The cost of piloting the intake services unit to provide the supplemental information, needed court calendaring coordination, and continuation with felony notifications is 4 additional FTEs for a total estimated cost of \$250,000. To fully staff the intake services unit, DAJD is restructuring processes and priorities to bring the total FTEs providing intake services (including the addition of 4 FTEs under this proposal) to 18 FTEs. In addition, there is evidence that a reduction in jail time could be achieved if pre-trial defendants and post-adjudicated offenders were deferred to certified treatment programs. This proposal recommends that the King County Community Center for Alternative Programs ("CCAP") establish an "on-site" certified substance abuse/chemical dependency treatment program that will provide treatment and subsequent linkage to community based treatment upon the defendant's release. The estimated cost of treatment for this pilot is at \$250,000. Finally, this proposal promotes, with no additional funding required, the continued utilization and expansion of work crew, the review and analysis of the FARR Guidelines, and process improvements in dealing with jail competency hearings and forced medication hearings.

As the Intake Services Group becomes operational, there are several challenges, including technology to communicate information between agencies, and rules and regulations on information exchange. These challenges will require continued collaboration between all criminal justice partners. As such, the Community Corrections Division has convened an operational implementation group. The group consists of representation of each area of the criminal justice arena (Prosecuting Attorney's Office, Department of Adult and Juvenile Detention, Office of the Public Defense, Community Corrections, Department of Judicial Administration, District Court, Superior Court and Department of Human Services) who will be meeting regularly to develop and implement the needed processes and procedures to pilot the Intake Services Group.

## **Attachment A**

### **Members of the Intake Services Unit Proviso Workgroup:**

Paul Sherfey, Co-Chair, Superior Court

Nate Caldwell, Co-Chair, Dept. of Adult and Juvenile Detention, Community Corrections Division

### *In alpha order:*

Tricia Crozier, King County District Court

Cilf Curry, King County Council Staff

Michael Gedeon, Department of Adult and Juvenile Detention

Beth Goldberg, Office of Management and Budget

Teri Hansen, Department of Adult and Juvenile Detention

Anne Harper, Office of Public Defense

Lucia Meijer, Department of Community and Human Services

Barb Miner, Department of Judicial Administration

Bette Pine, Public Health

The Honorable Jeffery Ramsdell, Superior Court

Toni Rezab, Office of Management and Budget

Amnon Shoenfeld, Department of Community and Human Services

The Honorable Michael Spearman, Superior Court

Kathy Van Olst, Prosecuting Attorney's Office

# **Attachment B**

Superior Court Original May 2003 Proviso Submittal

Superior Court of the State of Washington  
for the County of King

Richard D. Eadie  
Presiding Judge

516 Third Avenue  
Seattle, Washington 98104

May 6, 2003

The Honorable Cynthia Sullivan  
Chair, King County Council  
Room 1200  
COURTHOUSE

Re: Intake Services Pilot Program

Dear Councilmember Sullivan:

The Superior Court has completed its plan for an Intake Services Pilot Program, as required by the 2003 budget proviso. The attached pilot program description focuses on methods to expedite release of appropriate offenders awaiting adjudication and to ensure that offenders are not incarcerated when other appropriate alternatives are available.

I will make myself and our staff available to you, or your staff, to answer any questions you may have about our proposed pilot program.

Sincerely,

Richard D. Eadie

PLS:RDE:jmt

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## **King County Superior Court Proviso Requirements:**

Included in the Superior Court's 2003 Budget is a proviso which provides:

"\$500,000 and 8.00 FTEs must be used solely for an intake services pilot program for the Superior Court after Council approval by motion of the court's plan for this program. The program should provide resources to the Superior Court's criminal division to expedite the release of appropriate offenders awaiting adjudication or to ensure that offenders are not incarcerated when other appropriate alternatives are available. It is the intent of the council that this intake services program provide a new service and not duplicate the work or reduce the current level of personal recognizance screening and other release programs, conducted by the department of adult and juvenile detention. The Superior Court shall develop a plan for the new unit that incorporates the recommendations of the adult justice operational master plan, ensures full utilization of the law justice technology integration plan and implements the recommendations of the county's criminal justice council. The court should submit its plan by March 1, 2003.

The plan required by this proviso must be filed in the form of 16 copies with the clerk of the council, who will retain the original and will forward the copies to each councilmember and to the lead staff of the law, justice and human services committee and the budget and fiscal management committee or their successors."

## **Summary of Proposals by King County Superior Court:**

This proviso response focuses on 1) expediting the release of appropriate offenders awaiting adjudication and 2) ensuring that offenders are not sentenced to incarceration when other appropriate alternatives are available as required by statute. RCW 9.94A.680 provides "For sentences of nonviolent offenders for one year or less, the court shall consider and give priority to available alternatives to total confinement and shall state its reasons in writing on the judgment and sentence form if the alternatives are not used." This response also describes potential process improvements which involve the Department of Juvenile and Adult Detention and the Prosecuting Attorney's Office that the court believes will reduce the jail population through improved efficiency and effectiveness in criminal case management.

These proposed intake services will assist the court and others to determine reasonable alternatives to incarceration by obtaining valuable information more quickly; by providing longer-term solutions through treatment for those charged with nonviolent crimes involving drugs or property, and by assuring that the recommendations of the CJ Implementation Group are implemented, monitored and modified, as appropriate.

In considering an intake services pilot, the Superior Court looked not only at its own operations, but sought to enhance services available to others involved in the criminal justice system. Development of the intake services pilot program is based on the enclosed flow chart, with the portions indicated in blue as the key custodial decision points involving Superior Court.

The Superior Court recommends the following components for inclusion in an intake services pilot program:

1. **Additional information is needed at arraignment and sentencing to make timely and informed decisions on release and bail.** Jail Screening, which was reduced by 3 FTEs in 2002, screens a portion of all cases for possible FARR Guideline Releases. In 2002, the screeners released only 175 non VUCSA FARR and 58 VUCSA FARR. This reduces the population subsequent to booking, but does not assist the court at either in-custody arraignment or at sentencing, with information pertinent to alternative placements for detainees who may not have been initially screened.

To more thoroughly review all cases at booking, an estimated 5 FTEs would be needed. The responsibility of these FTEs would include preparing a summary of booking information, criminal history, court dates and pending matters. They would also complete a financial review, helpful to OPD for early assignment of counsel and to DJA on LFO collection efforts. They could further be used to determine placement via preliminary ADATSA screening. These positions could be used to complete preadjudication screening which would facilitate early placement into alternative programs. The proposed placement of these positions is into the new Community Corrections Division, since the positions would focus on placement into the alternative programs.

2. **Additional background is needed prior to arraignment, sentencing and perhaps at warrant return to enable judges to make responsible decisions regarding the use of alternatives to total confinement.** When a judge considers a defendant for possible alternative placement, the judge must be confident that accurate information is provided. This accurate information is critical in at least three different points in the detention process. At each point the possibility of alternatives exists. The first point is when a defendant's counsel requests release on Personal Recognizance, but this is denied. If the judge has accurate information, alternative placement is an option when Personal Recognizance may not be. Second, during the negotiating phase between defense counsel and the Prosecuting Attorney's Office, a request by defense counsel for an assessment broadens the options which may be suggested for court consideration. And third, in preparation for sentencing, a request can be made for an assessment, so that the Prosecuting Attorney may subsequently recommend alternatives. The court is also currently looking at ways to effectively use additional information on warrant returns as well as to establish a procedure for a "next day" warrant return calendar for those defendants who fail to appear for various court dates resulting in the issuance of a warrant as well as for those who have had warrants issued on sentence modifications.

At each of these steps, factual information is critical. The recommendation is for 2 FTE's, to complete the assessments. This estimate is based on an average of 40 cases per case worker. The case workers would not be making any decisions regarding release. It is recommended that these positions also be managed within the new Community Corrections Division, as part of the appropriate placement into these alternative programs.

3. **Pretrial defendants should be offered treatment, and subsequently allowed to apply that treatment time, if successfully completed, toward any required incarceration time.** Numerous defendants in jail for drug or other nonviolent crimes (pretrial,

sentenced or sentence violation), have significant drug, alcohol or mental health issues. These issues may have been the underlying factor in committing the crime. Significant reduction in jail time could be achieved. Additionally, once treatment had concluded, judicial officers would have further options for placing these individuals into alternatives to incarceration, such as EHD, WER or Work Crew, for any remaining required time of sentencing.

A pilot is proposed, beginning with nonviolent property and drug offenses. In a program similar to one already implemented in Spokane County, the court would review drug/alcohol/mental health data on each eligible defendant at the time of first appearance or arraignment to determine if benefits might be realized through treatment. Credit would be given for time served post-arraignment, at the time of sentencing, for all time spent in an approved inpatient treatment facility. RCW 9.94A.680(3) provides: "For offenders convicted of nonviolent and nonsex offenses, the court may authorize county jails to convert jail confinement to an available county supervised community option and may require the offender to perform affirmative conduct pursuant to \*RCW 9.94A.607. For sentences of nonviolent offenders for one year or less, the court shall consider and give priority to available alternatives to total confinement and shall state its reasons in writing on the judgment and sentence form if the alternatives are not used." RCW 9.94A.680(3) allows conversion of jail time to "an available county supervised community option". This may eliminate the ability to use private, but state certified, treatment programs. A legislative change is currently pending to make full use of the provision. A suggestion has been made to change "supervised" to "approved."

We believe that implementation of a similar program in King County could have significant impact on jail population.

As a related matter, the Felony Arraignment Notification program (FAN) should receive ongoing funding. FAN, which is operated by DAJD, has been highly successful in reducing the need for warrants for defendants who fail to appear for a court hearing. The effect of the FAN program in Kent has resulted in significant savings. Planning for expansion of the program into Seattle is currently underway. A similar proportionate benefit is anticipated for Seattle. It is our understanding that this project is currently funded from the Inmate Welfare Fund, which begins to run a negative balance in 2004. The negative balance is due in part to the reduction in jail population and the corresponding reduction in collect telephone calls made by inmates, which is the revenue source for the Inmate Welfare Fund. Given the significant program value, ongoing funding appears appropriate.

- 4. Quicker in-jail competency evaluations are needed.** The criminal department encounters numerous cases in which the mental health of the defendant may be an issue. A review of in-jail competency evaluations indicates that a minimum of 104 such evaluations are ordered annually by the court. In a random sampling of 19 in-jail evaluations ordered by the court, between July 1, 2002 and January 10, 2003, the following was indicated:



# of cases	Delay in Receiving Report	Jail Days
1	> 30 days	30
5	20-30 days	100
10	10-19 days	100
3	< 10 days	---
19		230

While the evaluations are being completed, the defendant remains in jail. Jail time may be saved if, when a mental health specialist meets with the defendant in jail, a more rapid assessment is completed. Faster in-jail evaluations could help reduce the ADP by either getting the defendant back on the speedy trial clock or sending the defendant to Western State Hospital for competency restoration. Based on the sampling of the 19 random cases, an estimated 1,050 total jail days could have been saved, assuming that a mental health specialist could have completed an assessment within five days, for all defendants in the sampling.

To accommodate this need; the new services available at the Seattle Justice Center should be fully utilized. Of specific potential benefit is using the connection with Western State Hospital. For Seattle Municipal Court, the Program for Forensic Evaluations in Corrections and the Community (PFECC) provides pretrial criminal forensic evaluations on issues of Competency to State Trial, Mental State at the Time of Offense, and Dangerousness. If Western State Hospital has staff available at the Seattle Justice Center who could go to the jail and complete in-jail competency evaluations, this would reduce jail days (see item 1). The Resource Center also provides Job Readiness Training, Mental Health Services (Seattle Mental Health), DOC Moral Reconciliation Therapy (MRT), Access to BI – an Electronic Home Monitoring Vendor, a DSHS outstation for services, and the King County Housing Voucher Case Management Project. This later program may be of benefit to the Superior Court’s Drug Court program.

5. **Preemptive forced medication hearings should be eliminated.** Forced medication hearings are held to preemptively establish, prior to transport to Western State Hospital, that the defendant will not be required to take medication, if recommended at Western State. The law permits the court to compel that forced medication will not occur. These hearings can delay transport by 2 to 4 weeks, for each defendant. Of the nine competency hearings in Seattle in January 2003, 7 required forced medication hearings, with one hearing being stricken before the hearing. Assuming that 6 hearings occur each month and that each hearing delays transport by 3 weeks (21 days), 126 jail days could have been saved per month, or 1,512 jail days per year.
6. **To maximize EHD, WER, work crew and day reporting, additional liaison and scheduling is necessary.** Similar to work performed by supervised release, the placement of at least one scheduling clerk is recommended at both courthouses. The scheduling clerk would be responsible for a variety of tasks, including receiving the reports of compliance or non-compliance on Electronic Home Detention cases; serving as a liaison between the court, jail and Prosecuting Attorney on EHD, WER, WC or DRC program issues; setting the EHD and WER hearings; and assuring no delays in SRA

calendar scheduling. The scheduling clerks would focus on accountability and administratively implementing all other CJ Implementation Committee recommendations.

Changes to increase use of EHD are already well under way. Potential jail savings also exist on the in-custody SRA calendar. Changes made to the in-custody SRA calendar in early 2002 have significantly reduced strikes from the calendar. On average, it now takes 10 days from booking to be heard on the SRA calendar, with 67% receiving additional time after their hearing date. Even so, 19% of the cases continue to be stricken from the calendar, and of those 19%, it took 32 days from booking to modification hearing (excluding people with new felony charges). Of those stricken, 50% were released on the day of their sentencing with credit for time served; half received additional time after the sentence. The scheduling clerks could be given additional responsibility to reduce the 32 day delay through improving coordination between scheduling agencies and the court. The proposed placement of these positions is into the Community Corrections Division.

7. **The FARR Guidelines should be reviewed and possibly expanded.** In 1980, the FARR program was implemented, giving DAJD authority to implement an administrative release program for persons not yet appearing before a judge and who were being held without bail on investigative holds. While the FARR Guidelines remain in place, the number of people released pursuant to the FARR Guidelines has dropped from 30% of all releases in 1990, to 5% in 2000. A review of the FARR Guidelines is appropriate. A large percentage of property offenders are never charged, so early release should perhaps be considered. According to the AJOMP – Felony Report, a review of felony investigation bookings revealed that only 4% of property crimes were charged within three judicial days and 41% were not charged within three years following the booking. In addition, in 1991, the guidelines were changed to deny release of “drug traffickers.” This definition is broad and no review of the effect of this language has ever been completed.

Reinstituting the FARR Guidelines was recommended as part of the AJOMP report. While concern was raised by the Prosecuting Attorney’s Office and police regarding inclusion of property offenders, the possibility of applying FARR Guidelines to certain drug related cases should remain an option for discussion. If the FARR Guidelines are reinstated, administrative support in DAJD may be appropriate to assist with compliance monitoring.

8. **Work crew should be expanded to include sentenced felony cases.** According to the DAJD variance report, use of work crew already significantly exceeds goal. Perhaps further capacity in this program should be developed.

**Costs/Benefits**

The Budget proviso provided up to 8 FTE and \$500,000 to form an Intake Services pilot program, based on 6 months of operation. While still preliminary, the estimated costs of establishing this unit include the following:

**Costs**

1. Additional Information at Arraignment	
5 FTE Case Workers	\$335,000
Range 52	
2. Quicker In-Jail Competency Evaluations	
Contract Estimate	\$60,000
3. Alternatives to Incarceration Liaison and Scheduling	
2 FTE Scheduling Clerks	\$106,244
Range 47	
4. Assessments Prior to EHD Placements	
2 FTE Case Workers	\$119,602
5. Treatment for Pretrial Defendants	
1 FTE Case Manager (Range 58)	\$74,374
Treatment Funding	\$ (Separate source)
6. FAN	Encourage ongoing funding from Inmate Welfare Fund
7. Expansion of Work Crew	To be determined
	<hr/>
	<b>Total:</b>
	10 FTE's
	\$695,220 Annualized

