



## King County

### Law, Justice, Health and Human Services Committee

#### STAFF REPORT

<b>Agenda Item:</b>	7	<b>Name:</b>	Polly St. John
<b>Proposed No.:</b>	2010-0616	<b>Date:</b>	March 29, 2011
<b>Invited:</b>	Jonathan Swift, Chief of Administration, Department of Adult and Juvenile Detention Gail Stone, Law and Justice Policy Advisor, Office of the Executive		

#### SUBJECT

A MOTION that would accept a report on pretrial defendants who were charged with a violent or sex crime and who participated in community corrections alternatives to detention programs in 2009 and the first half of 2010. The proposed legislation is in response to requirements of Ordinance 16953, adopted by the Council on November 3, 2010.

#### SUMMARY

This is the second hearing for Proposed Motion 2010-0616. In response to the Council's request in Section 4 of Ordinance 16953, the Executive has forwarded a report on pretrial defendants charged with violent or sex crimes who were participants in Community Corrections Division (CCD) alternatives to detention programs in 2009 and the first half of 2010. The report includes the defendant's history of convictions for violent or sex crimes in the prior ten years, the rate at which the defendant failed to appear in court during the defendant's participation in the alternative, program, the number of defendants booked into the King County jail on a new crime during participation in the alternative program and the number of defendants who failed to comply with the conditions of pretrial release using an alternative program.

Pursuant to the requirements of the legislation, the report contains information on defendants with a prior conviction of violent/sex crimes; the report does not reflect data of all pretrial defendants who were charged with an alleged violent/sex crime during the time period requested. According to Executive staff, the inclusion of individuals with a prior history rather than the entire "universe" of pretrial defendants in the alternative program is due to the limits of the data systems and constraints of manual compilation of data and interpretation of the items requested in Ordinance 16953.

Of 957 active pretrial cases enrolled in CCD in 2009, 1.04% are in the category of having both current and prior history of violent or sex charges. Of 595 active pretrial cases enrolled in CCD from January through June 2010, 1.51% fell into the category. This data shows that approximately 99% of pretrial defendants enrolled in CCD alternative programs did not have both a current sex charge and a prior conviction.

**BACKGROUND:**

Alternatives programs and services are available to persons charged with an offense who are incarcerated or who are facing incarceration upon judicial order. In order to participate in an alternatives program, a person must be statutorily eligible (according to state law) and be ordered to the program by the Court.

The Court currently uses information compiled from a number of sources to aid in judicial decisions as to whether a pretrial defendant will be required by the Court to participate in one of three alternative programs. The programs are:

1. Electronic Home Detention (EHD) – EHD allows those charged with offences and sentenced offenders to serve all or some portion of their pretrial and/or sentenced time at home. Offenders are monitored electronically and are confined to their homes, except when following a set schedule that may include attendance at work, school, or treatment. The offender is equipped with an electronic bracelet in order to allow monitoring. The alternative uses an active electronic monitoring system that works with telephones using computerized random calling to the offender's residence. The Department is immediately alerted if the equipment has been tampered with or the offender is not within the required distance of the monitoring device.
2. Work Education Release (WER) – This program is an alcohol and drug free residential alternative where offenders go to work, school, or treatment during the day and return to a secure facility at night.
3. Community Center for Alternative Programs (CCAP) – CCAP Enhanced, formerly Day Reporting, holds those charged with offenses and sentenced offenders accountable to a weekly itinerary directed at involving the offender in a continuum of structured programs. The goal of CCAP is to assist offenders in changing those behaviors that have contributed to their being charged with a crime. CCAP provides on-site services as well as referrals to community-based services. Random drug tests are conducted to monitor for illegal drug use and consumption of alcohol. Offenders participating in CCAP receive an individual needs assessment and are scheduled for a variety of programs. Program participants also can receive case management services allowing them to access services such as housing, chemical dependency, and mental health treatment within the community. CCAP Basic requires the defendant to call in to a supervisor daily and to submit to periodic drug and alcohol tests.

The Council adopted Ordinance 16953 in November, 2010, that set policies regarding the development, adoption and use of a pretrial risk assessment tool for the adult detention population. A pretrial risk assessment tool could be used to identify common factors that may be predictive of failure to appear in court and that could possibly result in a danger to the community. An assessment tool is intended to equitably classify defendants regardless of their race, ethnicity, gender, or financial status to ensure equal and fair treatment. King County currently does not utilize a risk assessment tool for pretrial alternative programs.

The use of a pretrial assessment tool is an emerging practice that may assist courts by providing researched-based risk information on pretrial defendants booked into jail. Some common factors used to generate probabilities are similar to those already considered by the Court, such as current charge, pending charges at time of arrest, history of criminal arrest and convictions, active community supervision at the time of arrest, history of failure to appear, history of violence, residence stability, community ties, and substance abuse. The tool would combine these and possibly other factors, to generate a risk score. The judges could take into account the score when considering pretrial alternative placement of individuals.

The objective of an assessment tool is to identify:

1. "low risk" defendants who can be safely released into the community with limited or no conditions pending trial,
2. "moderate and higher risk" defendants whose risk can be minimized by utilizing appropriate release conditions, community resources, and/or interventions upon release, and
3. the "highest risk" defendants for whom no condition or combination of conditions can reasonably assure appearance at court or could risk public safety.

Ordinance 16953 requires the following:

Section 1. a request that the Superior and District Courts consider approval of screening criteria for participation by pretrial defendants in alternative programs and notify the Council of the status of criteria development by March 1, 2011;

Section 2. that the pretrial risk assessment workgroup proceed with development of a tool and to report quarterly on the progress toward development and implementation;

Section 3. that upon approval and use of a validated tool to forward a motion that describes implementation of the tool within six months;

Section 4. that the budget office, in consultation with DAJD and the courts, report on participants in alternative programs for 2009 and the first half of 2010; and

Section 5. that a supplement to the detention and alternatives report is reported that includes information on pretrial adults participating in alternative programs.

Proposed Motion 2010-0616 responds to the requested report in Section 4 on pretrial defendants participating in community corrections alternatives to detention programs in 2009 and the first half of 2010. Ordinance 16953 asked for the report by December 1, 2010 which was prepared by the Office of Performance, Strategy and Budget (OPSB) and the Department of Adult and Juvenile Detention (DAJD). Ordinance 16953, Section 4 requests the following:

*"a report on the pretrial defendants charged with violent or sex crimes who were participants in community corrections alternatives to detention programs in 2009 and the first half of 2010. The report shall include, but not be limited to, an examination of the defendant's history of convictions for violent or sex crimes in the prior ten years, the rate at which the defendant failed to appear in court during the defendant's participation in the alternative, the number of defendants booked into the King County jail on a new crime during participation in an alternative, and the number of defendants who failed to comply with the conditions of pretrial release using an alternative program."*

#### **ANALYSIS:**

Pending trial, judges have the option to release a defendant on personal recognizance, to allow the defendant to post bail or an appearance bond, to order the defendant to an alternative program, or a combination of conditions. Pretrial defendants ordered to an alternative program are the focus of Ordinance 16953 and Proposed Motion 2010-0616.

Proposed Motion 2010-0616 would accept the Executive's report providing the requested data on pretrial defendants for 2009 and the first six months of 2010. Defendant information for the report was manually compiled from a number of system sources. CCD staff matched data from the SIP/SeaKing data system with data from the Administrative Office of Courts (AOC) system to generate the information included in the report.

The report data narrows the focus of the pretrial population to only those with a previous history (past ten years) of violent and sex crimes; it does not report on all pretrial defendants charged with an alleged violent/sex crime<sup>1</sup>. Of the narrowed population, that is those with previous history, the DAJD review

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<sup>1</sup> Violent crimes are defined as those enumerated in RCW 9.94A.030 (53) as violent offenses. Sex crimes are defined as those enumerated in RCW 9.94A.030 (45) as sex offenses.

identified 421 defendants (246 in 2009 and 175 in 2010) that were charged with an alleged violent or sex offense, based on the statutory definition of these crimes. For this set of defendants, the report does not provide data on the failure to appear to court or commission of a new crime. According to Executive staff, this data was not provided due to the constraints of manual compilation of data and interpretation of the requested data sets. *The Committee may wish to further explore whether data on all pretrial alleged violent/sex charges would be helpful in on-going analyses.* However, it should be noted that due to the process of manual compilation of data, the body of work could require additional staffing to accomplish the task.

As noted, the information for the report was compiled manually from the Administrative Office of Courts (AOC) data system, which is the Superior Court system to determine violations of court orders or failures to appear for a court activity and the County SIP/SeaKing data system. The DAJD booking record data was reviewed manually for this report to determine if a booking for a new charge occurred during the time period. Ad hoc reports cannot be generated by the current County data systems; information must be cross referenced by individual staff review.

The report that is the subject of this motion focuses on pretrial defendants with an alleged violent or sex crime and who also have a prior violent/sex conviction in the previous ten years. The ordinance stated that the report shall include, but not be limited to:

- an examination of the defendant's history of convictions for violent or sex crimes in the prior ten years,
- the rate at which the defendant failed to appear in court during the defendant's participation in the alternative,
- the number of defendants booked into the King County jail on a new crime during participation in an alternative, and
- the number of defendants who failed to comply with the conditions of pretrial release using an alternative program.

Table 2 from the report is duplicated below, which shows CCD pretrial cases for violent/sex charges:

**CCD Pretrial Population by Current Charge and Prior Violent/Sex Conviction  
2009 Through June 2010**

Program	Pretrial		Pretrial Alleged Violent or Sex Charge		Pretrial Alleged Violent/Sex Charge AND Prior Violent/Sex Conviction		Percent of Pretrial Violent or Sex Charge AND Prior Violent/Sex Conviction	
	2009	2010	2009	2010	2009	2010	2009	2010
CCAP Basic	319	134	113	57	8	4	2.5%	3.0%
CCAP Enhanced	418	260	68	43	2	3	0.5%	1.2%

EHD	74	67	37	48	0	1	0.0%	1.5%
WER	146	134	28	27	0	1	0.0%	0.7%
<b>Total</b>	<b>957</b>	<b>595</b>	<b>246</b>	<b>175</b>	<b>10</b>	<b>9</b>	<b>1.0%</b>	<b>1.5%</b>

2009

Of 957 active pretrial cases enrolled in CCD in 2009, 1.04% fell into the category of having both current and prior history of violent or sex charges. DAJD examined information on the disposition of each case for which the individuals were ordered into the alternative and found the following data related to Failure to Appear, completion of the program, and violations of the program:

- 2 out of the 10 (20%) Failed to Appear to Court: 1 for an omnibus hearing, 1 for a case setting.
- Of the 10 total cases, 40% successfully completed the program, 50% failed and there is 1 pending case.
- 6 out of the 10 cases violated the program in some way, including falsifying a UA or having a positive UA, failing to call, or failing to report to CCAP; 3 of the 6 were reinstated by the court.

2010

Of 595 active pretrial cases enrolled in CCD from January through June 2010, 1.51% fell into the category. DAJD examined the disposition of each case for which the individual was ordered into the alternative.

- 5 cases from CCAP were carried over from 2009.
- 3 out of the 9 (33%) Failed to Appear to Court: 1 for an omnibus hearing, 1 for a case setting, and the other due to being in-custody at the City of Kent.
- Of the total 9 cases, only 1 was successful as of June, 5 failed and there are 3 pending cases.
- 7 out of the 9 cases violated the program in some way including falsifying a UA or having a positive UA, failing to call, or failing to report to CCAP; 4 of the 7 were reinstated by the court.

For 2009 and 2010 combined, 3 defendants were booked into jail on new charges and there were 3 new cases filed – one for a violent offense and two for a nonviolent offense.

Technology Issues

During Council deliberation prior to adoption of Ordinance 16953, it became evident that compiling statistical information for pretrial defendants was difficult, as data was needed from several separate and antiquated data systems; the county does not have one system where all justice users input and extract data. Consequently, the county does not currently have the technological capability to provide data that could, with any ease, be gathered

to use in order to evaluate alternative programs. Although a great deal of data is available, it is not easily compiled. **Compilation of the requested data must be done manually and requires significant staff resources to assemble, collate, and re-package for reporting.** County technology systems lack the capability to produce standard or Ad Hoc reports. As a result, significant inefficiencies exist, including substantial redundancy. The current criminal justice data systems do not provide tools and resources for budget, planning, and program evaluation.

Most of the CJ data systems are 15 to 30 years old. Further, it was determined that there is not currently an inter-agency/departmental group to discuss and coordinate information related to upgrading the County's various criminal justice data systems, though in the past, the CJ departments and agencies did work collaboratively on technology issues. Additionally, upgrading or replacing criminal justice IT systems is an expensive proposition for a time when the economic downturn is severely limiting resources. Unless a technology solution is developed, the information would need to be input into the "tool" by manually entering data from other systems. *The Council may wish to further explore technology systems to enhance reporting for DAJD.*

#### Update on Monthly Reporting

As noted on page four of this staff report, Section 5 of Ordinance 16953 required that the monthly detention and alternatives report (DAR) include information on pretrial adults participating in alternative programs – beginning in January 2011. Due to an oversight, the January report did not include these numbers. When made aware of the omission, the Department of Adult and Juvenile Detention began working to provide that information and will ensure that when compiled the data will be sent to the Council.

The data is now being compiled and reported monthly at the Criminal Justice Council and the Pretrial Risk Assessment Work Group. Copies of the January and February 2011 reports are **Attachment 5**.

#### REASONABLENESS:

Approval of Proposed Motion 2010-0616 would accept the report provided in response to Ordinance 16953 and would appear to constitute a reasonable decision by the committee.

#### ATTACHMENTS

1. Proposed Motion 2010-0616, including Attachment A (report)
2. Transmittal letter, dated December 1, 2010
3. Ordinance 16953
4. RCW 9 definitions of violent and sex crimes
5. Community Corrections report on violent/sex vs. non-violent/sex offenses, dated January 2011 and February 2011







KING COUNTY

Signature Report

December 2, 2010

Motion

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

Proposed No. 2010-0616.1

Sponsors Ferguson

1 A MOTION accepting a report on the pretrial defendants  
2 charged with violent or sex crimes who were participants in  
3 community corrections alternatives to detention programs  
4 in 2009 and the first half of 2010, as required in Ordinance  
5 16953, Section 4.

6 WHEREAS, the King County council in Ordinance 16953, Section 4, required the  
7 approval by motion of a report on the pre-trial defendants charged with violent or sex  
8 crimes who were participants in community corrections alternatives to detention  
9 programs in 2009 and the first half of 2010, and

10 WHEREAS, the executive has transmitted to the council with this motion the  
11 report called for in the proviso, and

12 WHEREAS, the report includes the defendant's history of convictions for violent  
13 or sex crimes in the prior ten years, the rate at which the defendant failed to appear in  
14 court during the defendant's participation in the alternative, the number of defendants  
15 booked into the King County jail on a new crime during participation in the alternative  
16 and the number of defendants who failed to comply with the conditions of pretrial release  
17 using an alternative program;

18 NOW, THEREFORE, BE IT MOVED by the Council of King County:

19           The report identifying pretrial defendants charged with violent or sex crimes who  
20 participated in community correction alternatives to detention programs in 2009 and the  
21 first half of 2010, which is Attachment A to this motion, is hereby accepted.  
22

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

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Robert W. Ferguson, Chair

ATTEST:

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Anne Noris, Clerk of the Council

APPROVED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Dow Constantine, County Executive

**Attachments:** A. Pretrial Defendants Charged with Violent or Sex Crimes Participating in Community Corrections Alternative to Detention--December 1, 2010

## Pretrial Defendants Charged with Violent or Sex Crimes Participating in Community Corrections Alternatives to Detention December 1, 2010

### Ordinance 16953

SECTION 4. *By December 1, 2010, the office of management and budget, working in consultation with the department of adult and juvenile detention and the courts, shall submit to the council for its review and acceptance by motion a report on the pretrial defendants charged with violent or sex crimes who were participants in community corrections alternatives to detention programs in 2009 and the first half of 2010. The report shall include, but not be limited to, an examination of the defendant's history of convictions for violent or sex crimes in the prior ten years, the rate at which the defendant failed to appear in court during the defendant's participation in the alternative, the number of defendants booked into the King County jail on a new crime during participation in an alternative, and the number of defendants who failed to comply with the conditions of pretrial release using an alternative program. The report and legislation required to be submitted by this ordinance must be filed in the form of a paper original and an electronic copy with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers and to the lead staff of the law, justice, health and human services committee or its successor.*

### I. Methodology

In order to examine the criminal history of the pretrial Community Corrections Division (CCD) population, Department of Adult and Juvenile Detention (DAJD) staff matched data from the SIP/SeaKing system with data from the Administrative Office of Courts (AOC) system. DAJD examined the total pretrial population for 2009 and 2010 through June (estimated 1,552 cases) and reviewed the cases that had a current violent or sex charge (421), based on the statutory definition of "violent" and "sex" crimes, and performed a manual look up of all cases.

To determine criminal history for whether there was a prior violent or sex conviction in the last 10 years for each of these groups, Washington State Institute for Public Policy (WSIPP) law category values 110-142 were used to define a prior violent or sex offense. Convictions from 1999-2008 were used for those cases from 2009 and convictions from 2000-2009 for those cases from 2010. If a case occurred in both years, the 1999 starting point was used for historical convictions.

Further manual review of the Superior Court information system determined if there were any violations of court orders or failures to appear for a court activity. Manual review of the DAJD booking record system was conducted to determine if a booking on a new charge occurred.

## II. Pretrial Defendants Charged with Violent or Sex Crimes

(NOTE: Values presented below may differ slightly from those previously presented due to further manual review, refinement, and cross checks of the data by DAJD staff using DAJD, the Washington State Administrative Office of the Court, and King County Superior Court data systems.)

As requested, the data on pretrial defendants in alternative-to-detention programs and charged with violent or sex crimes has been compiled by DAJD, the Department of Judicial Administration and the Superior Court. The results are shown below.

**Table 1.**  
**Summary of Program Participants**  
**Through 2009 and June 2010**

Program	All Active Cases <sup>1</sup>		Active Pretrial Cases		Percent Pretrial	
	2009	2010	2009	2010	2009	2010
CCAP Basic	323	137	319	134	99%	98%
CCAP Enhanced	607	450	418	260	69%	58%
EHD	599	394	74	67	12%	17%
WER	1,216	664	146	134	12%	20%
<b>Total</b>	<b>2,745</b>	<b>1,645</b>	<b>957</b>	<b>595</b>	<b>35%</b>	<b>36%</b>

1. See Methodology on page 3 for definition

**Table 2.**  
**Community Corrections Division (CCD) Pre-Trial Population by Current**  
**Violent/Sex Charge and Prior Violent/Sex Conviction through 2009 and June 2010**

Program	Pretrial		Pretrial Alleged Violent or Sex Charge		Pretrial Alleged Violent/Sex Charge AND Prior Violent/Sex Conviction		Percent of Pretrial Violent or Sex Charge Pretrial AND Prior Violent/Sex Conviction	
	2009	2010	2009	2010	2009	2010	2009	2010
CCAP Basic	319	134	113	57	8	4	2.5%	3.0%
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<b>Total</b>	<b>957</b>	<b>595</b>	<b>246</b>	<b>175</b>	<b>10</b>	<b>9</b>	<b>1.0%</b>	<b>1.5%</b>

### **III. CCD Performance History**

Of the 957 active, pretrial cases enrolled in CCD in 2009, ten (or 1.0%) fell into the category of having both current violent/sex charges and prior history of violent/sex convictions. All of these cases were in the Community Center for Alternative Programs (CCAP). DAJD examined information on the disposition of each case for which the individuals were ordered into the alternative and found the following data related to Failure to Appear, completion of the program, and violations of the program:

- 2 out of the 10 (20%) Failed to Appear to Court: 1 for an omnibus hearing, 1 for a case setting.
- Of the 10 total cases, 40% successfully completed the program, 50% failed and there is 1 pending case.
- 6 out of the 10 cases violated the program in some way, including falsifying a UA or having a positive UA, failing to call, or failing to report to CCAP; 3 of the 6 were reinstated by the court.

Of the 595 active, pre-trial cases enrolled in CCD through June 2010, 9 (or 1.5%) fell into the category of having both current violent/sex charges and prior history of violent/sex convictions. Seven of these cases were in CCAP and 1 each in Work-Education Release (WER) and Electronic Home Detention (EHD). DAJD examined the disposition of each case for which the individual was ordered into the alternative.

- 5 cases from CCAP were carried over from 2009.
- 3 out of the 9 (33%) Failed to Appear to Court: 1 for an omnibus hearing, 1 for a case setting, and the other due to being in-custody at the City of Kent.
- Of the total 9 cases, only 1 was successful as of June, 5 failed and there are 3 pending cases.
- 7 out of the 9 cases violated the program in some way including falsifying a UA or having a positive UA, failing to call, or failing to report to CCAP; 4 of the 7 were reinstated by the court.

For 2009 and 2010 combined, 3 were booked into jail on new charges and there were 3 new cases filed; 1 violent and 2 nonviolent.

### **IV. Definitions**

“Active Case” is defined as any case for which a DAJD record has been opened or active in a calendar year. These are not counts of persons, but cases assigned to alternative programs during the period. Persons assigned more than once to an alternative program during the period will be counted more than once. Additionally, as a case may span more than one year, one case may be active and counted in both 2009 and 2010.

“Sex Crimes” are those enumerated in RCW 9.94A.030 (45) “Sex Offenses.”

“Violent Crimes” are those enumerated in RCW 9.94A.030 (53) “Violent Offenses.”





**King County**

**Dow Constantine**  
King County Executive  
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KING COUNTY COUNCIL

**2010-616**

December 1, 2010

The Honorable Bob Ferguson  
Chair, King County Council  
Room 1200  
COURTHOUSE

Dear Councilmember Ferguson:

As required by Ordinance 16953, enclosed please find a motion that provides for County Council review and acceptance of a report on the pretrial defendants charged with violent or sex crimes who were participants in community corrections alternatives to detention programs in 2009 and the first half of 2010.

The report includes the defendant's history of convictions for violent or sex crimes in the prior ten years, the rate at which the defendant failed to appear in court during the defendant's participation in the alternative, the number of defendants booked into the King County jail on a new crime during participation in the alternative and the number of defendants who failed to comply with the conditions of pretrial release using an alternative program.

The Honorable Bob Ferguson  
December 1, 2010  
Page 2

If you have any questions, please contact Claudia Balducci, Director Designee, Department of Adult and Juvenile Detention at 206-296-1268.

Sincerely,



Dow Constantine  
King County Executive

Enclosures

cc King County Councilmembers  
    ATTN: Tom Bristow, Chief of Staff  
          Anne Noris, Clerk of the Council  
Claudia Balducci, Director Designee, Department of Adult and Juvenile  
    Detention (DAJD)  
Jonathan Swift, Chief of Administration, DAJD  
Nate Caldwell, Director, Community Corrections Division, DAJD  
Dwight Dively, Director, Office of Performance, Strategy, and Budget (OPSB)  
Krista Camenzind, Budget Supervisor, OPSB  
Fred Jarrett, Deputy County Executive, King County Executive Office (KCEO)  
Rhonda Berry, Assistant Deputy County Executive, KCEO  
Sung Yang, Director of External Affairs and Government Relations, KCEO  
Carrie Cihak, Strategic Initiatives Director, KCEO  
Frank Abe, Director of Communications, KCEO  
Gail Stone, Law and Justice Policy Advisor, KCEO





**KING COUNTY**

**Signature Report**

**January 28, 2011**

**Ordinance 16953**

**ATTACHMENT 3**  
1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

**Proposed No. 2010-0430.3**

**Sponsors Ferguson and Phillips**

1 AN ORDINANCE relating to the development, adoption  
2 and use of a pretrial risk assessment tool for the adult  
3 detention population that will provide a uniform, objective  
4 measure of the relevant risk factors for presenting a danger  
5 to the community or failing to appear in court; requiring  
6 enhanced reporting on the pretrial defendant population and  
7 notification of screening criteria for alternatives to secure  
8 detention.

9 **STATEMENT OF FACTS:**

10 A. The King County department of adult and juvenile detention, through  
11 its community corrections division, operates a series of alternatives to  
12 incarceration for pretrial defendants unable to post bail and sentenced  
13 offenders, including work education release, electronic home detention  
14 and day reporting programs through the community center for alternative  
15 programs. These alternatives provide the courts with options between jail  
16 and release to the community.

17 B. In order to be eligible to participate in the alternatives to detention  
18 provided by the community corrections division, a defendant must be  
19 ordered to the program by the court and must be statutorily eligible for the

20 program. Washington state law governs eligibility for post conviction  
21 participants. There are currently no uniform eligibility conditions for  
22 pretrial defendants.

23 C. The community corrections division operates the intake services unit.  
24 This unit serves the function of a pretrial services program for King  
25 County courts, interviewing defendants shortly after arrest to gather  
26 information about residence, ties to the community, employment, criminal  
27 history and substance abuse and mental health status, and investigating  
28 defendants' past criminal history. The unit presents the results of its  
29 interviews and investigations to the court at initial appearance or  
30 arraignment to aid the courts in reaching a pretrial release decision. There  
31 is no uniform tool to objectively assess risk based on these results for the  
32 adult population.

33 D. In 2007, the council unanimously adopted as part of the 2008 budget, a  
34 provision requiring the office of management and budget to review the  
35 current use of community corrections alternatives and programs and  
36 evaluate whether changes in screening, processing, sentencing or  
37 monitoring compliance could lead to a better utilization of these programs.

38 E. In May 2008, the office of management and budget recommended that  
39 the county explore the implementation of a pre-trial risk assessment tool to  
40 be administered by the intake services unit to help the court identify risk  
41 levels when making pretrial releases decisions. In August 2008, the

42 Justice Management Institute issued a report supporting this  
43 recommendation.

44 F. Pretrial risk assessment tools use objective criteria and actuarial  
45 calculations to assess the risk that a defendant will fail to appear before the  
46 court or will reoffend while awaiting trial, presenting a danger to public  
47 safety.

48 G. King County juvenile court services successfully utilize a risk  
49 assessment tool to screen offenders and guide placement in detention or  
50 alternatives to detention.

51 H. King County established a pretrial risk assessment work group and  
52 hired a national expert to explore the feasibility of implementing a risk  
53 assessment tool for pretrial defendants in the adult population. In 2009,  
54 the work group reached consensus that a risk assessment tool would have  
55 multiple benefits, including: increasing efficiency by better organizing  
56 intake reports, speeding up pretrial release decisions, and better managing  
57 the jail population; protecting public safety by identifying higher risk  
58 defendants; reducing the likelihood of biases that might result in  
59 disproportionate confinement of minorities or other groups or individuals;  
60 and helping the public better understand decisions that are made. The  
61 workgroup recommended that a risk assessment tool was needed and  
62 selected a plan for developing and implementing a tool.

63 I. A risk assessment tool will aid the court in making pretrial release  
64 decisions and uniformly assessing risk, reducing the potential for high risk

65 offenders to be released into the community and for low risk offenders to  
66 serve time in detention, costing additional taxpayer dollars.

67 J. Collecting and reporting data on the pretrial population participating in  
68 alternatives to detention programs will allow county policy makers, the  
69 courts, and the division to evaluate these programs and ensure that they  
70 continue to reduce recidivism, save taxpayer dollars, and protect public  
71 safety.

72 BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

73 SECTION 1. K.C.C. 2.16.120.A.2. and 2.16.122.B.1. provide that the department  
74 of adult and juvenile detention and its community corrections division shall implement  
75 alternatives to adult detention based on screening criteria approved by the superior and  
76 district courts. The superior and district courts are respectfully requested to consider  
77 approval of screening criteria for participation by pretrial defendants in the alternatives to  
78 adult detention programs, specifically for defendants with a prior felony conviction, and  
79 are respectfully requested to notify the council of the status of screening criteria by  
80 March 1, 2011. The notification should be filed in the form of a paper original and an  
81 electronic copy with the clerk of the council, who shall retain the original and provide an  
82 electronic copy to all councilmembers and to the committee coordinator for the law,  
83 justice, health and human services or its successor. Based on the findings of the report,  
84 the council may consider further legislative action.

85 SECTION 2. The pretrial risk assessment workgroup convened by the adult  
86 justice operational master plan advisory group in 2009 shall proceed with the  
87 development of a validated risk assessment tool to inform the court when making pretrial

88 release decisions. The tool shall provide a uniform, objective measure of the relevant risk  
89 factors that a pretrial defendant will be not likely to appear when required or presents a  
90 likely danger of committing a violent crime, seeking to intimidate witnesses or otherwise  
91 unlawfully interfering with the administration of justice as set forth in Washington state  
92 Court criminal rules CrRLJ and CrR 3.2. These risk factors include, but are not limited  
93 to, past history or record of committing offenses, employment status, family and  
94 community ties, reputation, character, mental condition, length of residence in the  
95 community, and the nature of the charge. The workgroup shall report to the council  
96 quarterly, beginning in the fourth quarter of 2010 on the progress of the development of  
97 and the implementation plan for the tool. The quarterly reports shall be filed in the form  
98 of a paper original and an electronic copy with the clerk of the council, who shall retain  
99 the original and provide an electronic copy to all councilmembers and to the committee  
100 coordinator for the law, justice, health and human services committee or its successor.

101 SECTION 3. Upon the approval and use of a validated pretrial risk assessment  
102 tool by the courts, the department of adult and juvenile detention, working in consultation  
103 with the courts, shall transmit to the council for acceptance by motion a report that  
104 describes the implementation and use of the tool for the first six months after validation.  
105 The report shall be filed in the form of a paper original and an electronic copy with the  
106 clerk of the council, who shall retain the original and provide an electronic copy to all  
107 councilmembers and to the committee coordinator for the law, justice, health and human  
108 services committee or its successor.

109 SECTION 4. By December 1, 2010, the office of management and budget,  
110 working in consultation with the department of adult and juvenile detention and the

111 courts, shall submit to the council for its review and acceptance by motion a report on the  
112 pretrial defendants charged with violent or sex crimes who were participants in  
113 community corrections alternatives to detention programs in 2009 and the first half of  
114 2010. The report shall include, but not be limited to, an examination of the defendant's  
115 history of convictions for violent or sex crimes in the prior ten years, the rate at which the  
116 defendant failed to appear in court during the defendant's participation in the alternative,  
117 the number of defendants booked into the King County jail on a new crime during  
118 participation in an alternative, and the number of defendants who failed to comply with  
119 the conditions of pretrial release using an alternative program. The report and legislation  
120 required to be submitted by this ordinance must be filed in the form of a paper original  
121 and an electronic copy with the clerk of the council, who shall retain the original and  
122 provide an electronic copy to all councilmembers and to the lead staff of the law, justice,  
123 health and human services committee or its successor.

124        SECTION 5. As directed in Ordinance 14430, which adopted the adult justice  
125 operational master plan, the executive, in consultation with the criminal justice council,  
126 regularly reports on the status of adults in secure detention and in the community  
127 corrections alternative programs. The executive shall also include a supplement to the  
128 detention and alternatives report in January 2011, February 2011 and April 2011, and  
129 monthly beginning in May 2011, that provides information on the pretrial adults  
130 participating in alternative programs, including but not limited to: the current pending  
131 charge, including whether it is a felony or misdemeanor, whether it meets the definition  
132 of "violent offense" in RCW 9.94A.030 and whether it meets the definition of "sex  
133 offense" in RCW 9.94A.030; any prior felony conviction in the state of Washington in

134 the last ten years; failure to comply with the conditions of pretrial release or notice of  
135 reported violations that have been sent to the court or the King County prosecuting  
136 attorney in the current case or in past cases in King County; failure to appear before the  
137 court that ordered the alternative and failure to appear history in the last ten years in King  
138 County; and whether participants were rearrested by the King County sheriff, rebooked  
139 into the King County jail facilities or charged with a new offense by the King County  
140 prosecuting attorney. The executive shall also make every effort to include in the  
141 supplement other available information on the pretrial adults participating in alternative  
142 programs, including but not limited to: any prior felony conviction outside the state of  
143 Washington in the last ten years; any previous failure to comply with conditions of  
144 release outside of King County; failure to appear history in the last ten years outside of

145 King County; and whether participants were rearrested, rebooked, or charged with a new  
146 offense by another agency or jurisdiction.  
147

Ordinance 16953 was introduced on 8/23/2010 and passed as amended by the  
Metropolitan King County Council on 10/25/2010, by the following vote:

Yes: 9 - Ms. Drago, Mr. Phillips, Mr. von Reichbauer, Mr. Gossett,  
Ms. Hague, Ms. Patterson, Ms. Lambert, Mr. Ferguson and Mr. Dunn  
No: 0  
Excused: 0

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON

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Larry Gossett, Chair

ATTEST:

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Anne Noris, Clerk of the Council

APPROVED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

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Dow Constantine, County Executive

Attachments: None



**RCW 9.94A.030 (45)**

**"Sex offense" means:**

- (a)(i) A felony that is a violation of chapter 9A.44 RCW other than RCW 9A.44.132;
- (ii) A violation of RCW 9A.64.020;
- (iii) A felony that is a violation of chapter 9.68A RCW other than RCW 9.68A.080;
- (iv) A felony that is, under chapter 9A.28 RCW, a criminal attempt, criminal solicitation, or criminal conspiracy to commit such crimes; or
- (v) A felony violation of RCW 9A.44.132(1) (failure to register) if the person has been convicted of violating RCW 9A.44.132(1) (failure to register) on at least one prior occasion;
- (b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a sex offense in (a) of this subsection;
- (c) A felony with a finding of sexual motivation under RCW 9.94A.835 or 13.40.135; or
- (d) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a sex offense under (a) of this subsection.

## RCW 9.94A.030 (53)

### "Violent offense" means:

- (a) Any of the following felonies:
  - (i) Any felony defined under any law as a class A felony or an attempt to commit a class A felony;
  - (ii) Criminal solicitation of or criminal conspiracy to commit a class A felony;
  - (iii) Manslaughter in the first degree;
  - (iv) Manslaughter in the second degree;
  - (v) Indecent liberties if committed by forcible compulsion;
  - (vi) Kidnapping in the second degree;
  - (vii) Arson in the second degree;
  - (viii) Assault in the second degree;
  - (ix) Assault of a child in the second degree;
  - (x) Extortion in the first degree;
  - (xi) Robbery in the second degree;
  - (xii) Drive-by shooting;
  - (xiii) Vehicular assault, when caused by the operation or driving of a vehicle by a person while under the influence of intoxicating liquor or any drug or by the operation or driving of a vehicle in a reckless manner; and
  - (xiv) Vehicular homicide, when proximately caused by the driving of any vehicle by any person while under the influence of intoxicating liquor or any drug as defined by RCW 46.61.502, or by the operation of any vehicle in a reckless manner;
- (b) Any conviction for a felony offense in effect at any time prior to July 1, 1976, that is comparable to a felony classified as a violent offense in (a) of this subsection; and
- (c) Any federal or out-of-state conviction for an offense that under the laws of this state would be a felony classified as a violent offense under (a) or (b) of this subsection.

January Pre-Trial Community Custody Participants Summary

- 506 persons participated in an alternative to secure detention program in January 2011, with 64 of them accused of a violent or sex crime and awaiting trial.
- 153 of these cases were closed in January. 53 of the cases were pre-trial and 100 post sentence.
- For pre-trial defendants accused of violent or sex offenses whose CCD case was closed in January (14 participants) 12 were successful and 2 were not successful.
- The non successful Work Release participant was found to have used cocaine and removed to secure detention.
- The non successful CCAP (Basic) participant failed to call in as required and the court informed. Further research shows that a warrant was not issued as the defendant was hospitalized at the time the failure to call in occurred. Court records available to DAJD do not indicate why he was hospitalized, nor did the court reinstate the defendant to CCAP.

### January 2011 Community Corrections Breakdown of Participants

#### All Participants

	Participants		Pre Trial		Sentenced	
	V/S*	Non	V/S	Non	V/S	Non
WER	26	171	14	41	12	130
EHD	21	103	20	16	1	87
CCAP Basic	16	39	16	39	-	-
CCAP Enhanced	14	116	14	59	-	57
Total	77	429	64	155	13	274

\* Participants accused of a Violent or Sex offense

### Cases which closed in January 2011 by Closure Type

#### Pre-Trial

	Closures		Successful		Not Successful	
	V/S	Non	V/S	Non	V/S	Non
WER	2	7	1	3	1	4
EHD	6	3	6	1	-	2
CCAP Basic	5	12	4	7	1	5
CCAP Enhanced	1	17	1	6	-	11
Total	14	39	12	17	2	22

#### Sentenced

	Closures		Successful		Not Successful	
	V/S	Non	V/S	Non	V/S	Non
WER	3	41	3	39	-	2
EHD	-	36	-	30	-	6
CCAP Basic	-	-	-	-	-	-
CCAP Enhanced	-	20	-	7	-	13
Total	3	97	3	76	-	21

#### All Closures

	Closures		Successful		Not Successful	
	V/S	Non	V/S	Non	V/S	Non
WER	5	48	4	42	1	6
EHD	6	39	6	31	-	8
CCAP Basic	5	12	4	7	1	5
CCAP Enhanced	1	37	1	13	-	24
Total	17	136	15	93	2	43

### Comparison of Success Rates: Persons charge with Violent or Sex offenses vs. Persons charged with Non violent or sex offenses.

#### Pre-Trial

	Closures		Successful		Not Successful	
	V/S	Non	V/S	Non	V/S	Non
WER	14%	17%	50%	43%	50%	57%
EHD	30%	19%	100%	33%	0%	67%
CCAP Basic	31%	31%	80%	58%	20%	42%
CCAP Enhanced	7%	29%	100%	35%	0%	65%
Total	22%	25%	86%	44%	14%	56%

## February Pre-Trial Community Custody Participants Summary

- 495 persons participated in an alternative to secure detention program in February 2011, with 78 of them accused of a violent or sex crime and awaiting trial.
- 129 of these cases were closed in January. 47 of the cases were pre-trial and 82 post sentence.
- For pre-trial defendants accused of violent or sex offenses whose CCD case was closed in February (7 participants) 5 were successful and 2 were not successful.
- The first non successful CCAP (Basic) participant failed to call in. The court was notified and a warrant requested. There appears to be a subsequent order to CCAP Enhanced, but no indication that the defendant reported. Per Superior Court ECR, a guilty plea was accepted on the date the defendant was to report. Jail data shows that he was subsequently booked and released on bond pending sentencing.
- The second participant tested positive for THC, and was returned to the court. The court subsequently set bond and the defendant posted on the same day, without being booked into custody.

**February 2011 Community Corrections Breakdown of Participants**

All Participants 495

	Participants		Pre Trial		Sentenced	
	V/S*	Non	V/S	Non	V/S	Non
WER	28	167	15	41	13	126
EHD	17	84	16	9	1	75
CCAP B	16	48	16	48	-	-
CCAP E	17	118	16	71	1	47
Total	78	417	63	169	15	248

\* Participants accused of a Violent or Sex offense

**Cases which closed in February 2011 by Closure Type**

Pre-Trial 47

	Closures		Successful		Not Successful	
	V/S	Non	V/S	Non	V/S	Non
WER	2	6	2	4	-	2
EHD	-	-	-	-	-	-
CCAP B	4	12	2	3	2	9
CCAP E	1	22	1	6	-	16
Total	7	40	5	13	2	27

Sentenced 82

	Closures		Successful		Not Successful	
	V/S	Non	V/S	Non	V/S	Non
WER	-	36	-	32	-	4
EHD	-	25	-	23	-	2
CCAP B	-	-	-	-	-	-
CCAP E	-	21	-	12	-	9
Total	-	82	-	67	-	15

All Closures 129

	Closures		Successful		Not Successful	
	V/S	Non	V/S	Non	V/S	Non
WER	2	42	2	36	-	6
EHD	-	25	-	23	-	2
CCAP B	4	12	2	3	2	9
CCAP E	1	43	1	18	-	25
Total	7	122	5	80	2	42

**Comparison of Success Rates: Persons charge with Violent or Sex offenses vs. Persons charged with Non violent or sex offenses.**

Pre-Trial

	Closures		Successful		Not Successful	
	V/S	Non	V/S	Non	V/S	Non
WER	13%	15%	100%	67%	0%	33%
EHD						
CCAP B	25%	25%	50%	25%	50%	75%
CCAP E	6%	31%	100%	27%	0%	73%
Total	11%	24%	71%	33%	29%	68%