**City of Seattle’s Utilization of Secure Detention for Misdemeanants Subject to the Provisions of the Contract Adopted with Ordinance 17199**

November 2021



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# Proviso Text

Ordinance 19307, Section 31, Department of Adult and Juvenile Detention P5[[1]](#footnote-2):

*A.  Of this appropriation, $100,000 shall not be expended or encumbered until the executive transmits reports, beginning October 15, 2021, documenting the city of Seattle's utilization of secure detention for misdemeanants subject to the provisions of the contract adopted with Ordinance 17199 and a motion that should acknowledge receipt of the first secure detention utilization report and a motion acknowledging receipt of the last monthly secure detention utilization report is passed by the council.  The motions should reference the subject matter, the proviso's ordinance number, ordinance section and proviso number in both the title and body of the motion.*

*B.  To provide oversight of the executive's proposal to use revenue from the city of Seattle for community diversion services rather than for secure detention of misdemeanants, the department of adult and juvenile detention is required to provide monthly reports that shall include, but not be limited to:*

*1.  The number of city of Seattle-responsible city misdemeanant beds that the city is contractually obligated to pay for during each month of the reporting period along with the total projected revenue based on the contract;*

*2.  The actual average daily bed use of city of Seattle-responsible misdemeanants during each month of the reporting period and the actual revenues for secure detention charged to the city; and*

*3.  A confirmation from the executive that the number of city of Seattle-responsible misdemeanant beds actually utilized during the reporting period and the revenue received from the city fully supports the transfer of revenues from the department to support the contracts for community diversion services.*

*C.  The following secure detention utilization reports should be transmitted to the council:*

*1.  A report by October 15, 2021, covering all months from January 1, 2021 through August 31, 2021; and*

*2.  Monthly reports thereafter, to be transmitted in accordance with this proviso by the 15th of each month reporting on the previous month's data, with the last monthly report due by October 15, 2022.*

*D.  The executive should file each secure detention utilization report and the motions required by this proviso in electronic format with the clerk of the council, who shall retain the original and provide an electronic copy to all councilmembers, the council chief of staff and the lead staff for the law and justice committee, or its successor.*

# Background

**Department Overview:** The Department of Adult and Juvenile Detention (DAJD) operates three detention facilities and various community supervision programs for pre- and post-trial defendants throughout King County. The two adult secure detention divisions are the Seattle Division and the Kent Division. The Seattle Division operates the King County Correctional Facility, and the Kent Division operates the secure detention portion of the Malang Regional Justice Center. During September 2021 the secure detention population averaged about 1,305 persons per day.

**Historical/Current Context**: The City of Seattle contracts with King County to provide misdemeanant incarceration, as provided for in state law. Under Washington State law, municipalities are required to provide for the “incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions…”[[2]](#footnote-3). Incarceration may be done “through the use of their own…facilities, or by entering into contracts or interlocal agreements…”.[[3]](#footnote-4) The City of Seattle has elected to fulfil this requirement through an interlocal agreement with King County for incarceration service.

The 2012 Interlocal Agreement between King County and the City of Seattle for jail services (JSA contract) includes a provision for a minimum number of bed days for Seattle’s use, known as secure bed floor. [[4]](#footnote-5) The agreement states that Seattle agrees to compensate the County for the minimum number of billed bed days regardless of the actual number of bed days used for City subjects housed in secure detention[[5]](#footnote-6). The JSA contract also includes a provision to allow the City to make changes to the secure bed floor over time.[[6]](#footnote-7) Seattle exercised this option in 2018, lowering the secure bed floor to a minimum average daily bed use of 188 beds in 2021.

In March of 2020 in response to the COVID-19 pandemic, King County instituted restrictions on the types of crimes for which the County would allow misdemeanor and gross misdemeanor bookings. These restrictions were placed on contracting cities and agencies for which the County is responsible for providing jails services, such as the King County Sheriff’s Office. Because of the speed of COVID-19 infections and the need to enact immediate restrictions to protect public health, the County was not able to provide notice of this action to Seattle as called for in the contract. Therefore, adherence to the secure bed floor adjustment process was not possible and the County waived the minimum fee payment provision of the JSA contract.[[7]](#footnote-8)

Rather than making an adjustment to the bed floor number based on use, the City and the County have agreed to shift $8,000,000 per year in 2021 and 2022 from funding incarceration to investing those funds into community-based supports that promote health and housing for communities that are disproportionately affected by the legal system and incarceration within the City Seattle. Revenues from the JSA contract that exceed the actual use of the City of Seattle for misdemeanor incarceration will be transferred to the Department of Community and Human Services (DCHS) as described.

**Report Methodology:** This is the second of 13 monthly reports as required under Ordinance 19307, Section 31, Department of Adult and Juvenile Detention P5, and is cumulative to the report filed on October 15, 2021.

Data for the City of Seattle usage of secure detention for misdemeanors under the JSA contract is taken from DAJD’s Detention Billing Information System (DBIS). DBIS is used to track contract agency use of secure detention and the associated billing rate for this use, creating the appropriate invoices for each contracting agency.

The projected year end amount for City of Seattle usage was developed by averaging the last two months of actual use. The August-September average was then used to estimate the October through December use.

# Report Requirements

1. **The number of City of Seattle-responsible city misdemeanant beds that the city is contractually obligated to pay for during each month of the reporting period along with the total projected revenue based on the contract;**
2. **The actual average daily bed use of city of Seattle-responsible misdemeanants during each month of the reporting period and the revenues for secure detention charged to the city.**

The tables below provide the required data in response to items A and B.

Table 1: Seattle Jail Contract Minimum Usage 2021

|  |  |  |  |
| --- | --- | --- | --- |
| ***Year to date - September 2021*** | ***JSA Contract Minimum*** | ***Actual***  | ***Actual less Minimum*** |
|  **Average Bed Days**  |  **188**  |  **63.0**  |  **(125.0)** |
|  **Revenue**  |  **$ 9,352,428.48**  |  **$ 3,531,010.56**  |  **$ (5,821,417.92)** |
|  |  |  |  |
| ***Projected Annualized 2021\**** | ***JSA Contract Minimum*** | ***Estimated Actual*** | ***Actual less Minimum*** |
|  **Average Bed Days**  |  **188**  |  **66.8**  |  **(121.2)** |
|  **Revenue**  |  **$ 14,047,886.40**  |  **$ 5,008,708.58**  |  **$ (9,039,177.82)** |
|  |  |  |  |
| *\*Using the average of the last two months for the remainder of the year* |  |  |

Table 1 *Year to date* shows:

* The JSA contract agreed minimum usage for average bed days and associated revenue at the JSA contract rate of $204.72 per Bed Day;
* Actual average bed days used by Seattle for the period January 1, 2021 through September 30, 2021, and actual billed Bed Day revenue; and
* The differential between the JSA minimum usage and the actual use, along with the associated revenue.

Table 1 *Annualized* shows a projection through the end of the year in the same categories. Due to the variable nature of Seattle’s use of bed days, the most recent two months of bed day usage were annualized and added to the *Year-to-date* actual use to most accurately reflect the current use by Seattle.

Table 2: Monthly Use by City of Seattle January through September 2021

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Month** | **Secure Bed Floor** | **JSA/Contract Planned Revenue** | **Actual Average Bed Use** | **Actual Use Revenue** | **Revenue Available for Transfer** |
| January-21 | 188 | $1,193,108 |  55.19  | $350,276  | $842,832  |
| February-21 | 188 | $1,077,646 |  58.04  | $332,670  | $744,976  |
| March-21 | 188 | $1,193,108 |  59.13  | $375,252  | $817,856  |
| April-21 | 188 | $1,154,621 |  61.97  | $380,574  | $774,046  |
| May-21 | 188 | $1,193,108 |  57.71  | $366,244  | $826,864  |
| June-21 | 188 | $1,154,621 |  33.77  | $207,381  | $947,239  |
| July-21 | 188 | $1,193,108 |  84.55  | $536,571  | $656,537  |
| August-21 | 188 | $1,193,108 |  89.52  | $568,098  | $625,010  |
| September-21 | 188 | $1,154,621 |  67.40  | $413,944 | $740,677 |

Table 2 contains data for January 2021 through September 2021

* Actual Use Revenue is revenue associated with the Actual Average Bed Use based on the JSA/Contract rate of $204.72 per Bed Day in 2021
* Revenue Available for Transfer is the difference between the JSA/Contract Planned Revenue and the Actual Use Revenue
1. **A confirmation from the executive that the number of City of Seattle-responsible misdemeanant beds actually utilized during the reporting period and the revenue received from the city fully supports the transfer of revenues from the department to support the contracts for community diversion services**

Submittal of this report is confirmation by the Executive that that the number of City of Seattle-responsible misdemeanant beds actually utilized during the reporting period and the revenue received from the city fully supports the transfer of revenues from the department to support the contracts for community diversion services.

The next report called for by this Proviso will be submitted by December 15, 2021.

1. Ordinance 19307 [LINK](https://mkcclegisearch.kingcounty.gov/LegislationDetail.aspx?ID=4916079&GUID=B39A46A6-99AF-4D3B-9990-DA184629B50C&Options=Advanced&Search=) [↑](#footnote-ref-2)
2. RCW 39.34.180 (1) [LINK](https://app.leg.wa.gov/RCW/default.aspx?cite=39.34.180) [↑](#footnote-ref-3)
3. Ibid. [↑](#footnote-ref-4)
4. Approved by King County Ordinance 17239 [LINK](https://mkcclegisearch.kingcounty.gov/LegislationDetail.aspx?ID=1009815&GUID=84053675-95D9-4F8E-9ECD-D21CB83ED816&Options=Advanced&Search=) [↑](#footnote-ref-5)
5. JSA Section 1.35 and Exhibit III, Section 6 [↑](#footnote-ref-6)
6. JSA Section 6.2.1 [↑](#footnote-ref-7)
7. JSA Section 6.2.2 [↑](#footnote-ref-8)