## STAFF REPORT

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| **Agenda Item:** | 9 | **Name:** | Leah Krekel-Zoppi |
| **Proposed No**.: | 2021-0369 | **Date:** | April 5, 2022 |

**SUBJECT**

A Motion in response to a proviso, acknowledging receipt of a report detailing alternatives to the Department of Adult and Juvenile Detention community work program.

**SUMMARY**

The Council included a proviso in the 2021-2022 Biennial Budget requiring that the Executive transmit a report detailing alternatives to the Department of Adult and Juvenile Detention (DAJD) community work program (CWP). This proposed motion would acknowledge receipt of such a report. The report assessed alternatives to the CWP, which was cut as a result of COVID-19 restrictions and budgetary constraints, and indicated that a revised or hybrid CWP option may be considered during the 2023-2024 budget process. The report appears to meet the requirements of the proviso.

**BACKGROUND**

**Adult and Juvenile Detention and the Community Work Program**

King County's Department of Adult and Juvenile Detention (DAJD) operates three detention facilities as well as community supervision programs for pre- and post-trial defendants in King County.

According to the report transmitted with Proposed Motion 2021-0369, the Community Work Program (CWP) began in 1981. Initially, the program was started and administered by Public Health – Seattle and King County.[[1]](#footnote-1) Then from 1989 to 2002, the DAJD and Facilities Management Division administered the program. Since 2003, until it closed in at the end of 2020, the DAJD's Community Corrections Division operated the program.

According to the DAJD, since 2003, the purpose of the CWP was to provide diversion from jail and an opportunity to satisfy court-ordered sanctions and/or legal financial obligations. The program was available to individuals with low-level felony or misdemeanor charges and considered low-risk for violating conditions of the court, and program participants were sentenced to the CWP by participating courts. The program was also expanded to serve participants in the Regional Relicensing Program. CWP participants would work in crews on projects including landscaping, habitat restoration, invasive species removal, and litter removal. The CWP contracted with fourteen municipalities and agencies to provide work crews for services.

According to the report, since 2015, operating the CWP has involved space in a warehouse in south central Seattle to store equipment and vans, GPS tracking devices on work crew vans, a program manager, crew chiefs, and case workers. In King County's 2019-2020 Biennial Budget, staff for the CWP was reduced from eight crew chiefs to four, and from two caseworkers to one. In March 2020, the CWP was suspended due to the COVID-19 state-mandated stay-at-home order. The CWP was permanently closed as of January 1, 2021, due to loss of funding from the general fund and agency contracts.

**CWP Proviso**

In the 2021-2022 Biennial Budget, the Council included Proviso P4 to the Department of Adult and Juvenile Detention section (Section 50). Proviso Section 50, P4 states:

*Of this appropriation, $100,000 shall not be expended or encumbered until the executive transmits a report providing information on the department of adult and juvenile detention's community work program and alternative ways to serve the needs of program participants and a motion to acknowledge receipt of the report and a motion acknowledging receipt of the report is passed by the council. The motion should reference the subject matter, the proviso's ordinance number, ordinance section and proviso number in both the title and body of the motion.*

*The executive shall convene a work group that shall include, but not be limited to:*

*(1) one or more employees from the department of adult and juvenile detention; (2) one or more employees from the office of performance, strategy and budget; and (3) representatives from one or more community-based organizations serving individuals who have either participated in the community work program or have been considered for participation in the community work program, or both. The work group shall provide input into the preparation of the report.*

*If the following departments do not participate in the work group, the executive should consult with each of the following, or designee, before finalization of the report: (1) the district court chief judge; (2) the prosecuting attorney; (3) the department of public defense director; and (4) the department of community and human services director.*

*The report shall include, but not be limited to, the following:*

*A. A review of the legal restrictions, under state statute and county code, on who can participate in a community work program, either as an alternative to secure detention or for the mitigation of legal financial obligations;*

*B. Annual data from January 1, 2017, through December 31, 2019, identifying the number of unique participants placed in a community work program, the criminal charges filed against or criminal conviction of each participant at the time of placement, the court making the placement, the number of community work program hours assigned, whether the participant was placed on community work program pretrial or post-adjudication and the number of participants who successfully completed the program;*

*C. Financial data for the community work program showing all program expenditures and revenues, including a list of entities purchasing community work crew services, for January 1, 2017, through December 31, 2019;*

*D. A list and description of potential alternative program options considered by the work group, including reestablishment of the pre-coronavirus disease 2019 community work program and other options under the direction of the department of adult and juvenile detention, another county department or agency or a community-based provider; and*

*E. An assessment of the potential options developed by the work group including the executive's preferred option.*

*The executive should electronically file the report and motion required by this proviso no later than September 1, 2021, with the clerk of the council, who shall retain an electronic copy 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.*

Proposed Motion 2021-0369 was transmitted on September 28, 2021, in response to P4.

**CWP Alternatives Work Group and Participant Feedback**

According to the report, the DAJD convened a work group per the requirements of P4. The work group included representatives from:

* The Community Corrections Division;
* The Department of Public Defense;
* The Office of Performance, Strategy and Budget;
* Drug Court;
* Department of Community and Human Services;
* Neighborhood House; and
* The District Court Chief Presiding Judge

The work group met monthly between February and June 2021 to identify and consider alternates to the CWP.

Additionally, Executive staff surveyed former CWP participants to provide the CWP work group with input from the CWP participant perspective. Survey responses were received from 107 former CWP participants.

**ANALYSIS**

Proposed Motion 2021-0369 would acknowledge receipt of the report entitled Community Work Program Proviso Response in response to P4. Passage of Proposed Motion 2021-0369 would the allow the DAJD to expend or encumber $100,000 that is currently restricted by P4.

The Community Work Program Proviso Response report contains the following information in response to the requirements of P4.

**Requirement A: Review of CWP Legal Restrictions**

According to the report, the following legal statutes govern eligibility to participate in the CWP:

* **King County Code** (K.C.C.): requires that the community corrections division provide "work crews" as an alternative to adult detention, subject to the screening criteria approved by the superior and district courts.[[2]](#footnote-2)
* County code also requires that work crews accept people from the prosecuting attorney's prefiling diversion program, subject to CWP capacity. Prefiling diversion program participants are eligible for work crews if they would be charged with possession of less than forty grams of marijuana, minor in possession of alcohol, possession of drug paraphernalia, and unlawful bus or transit conduct, according to state law.[[3]](#footnote-3)
* State law restricts offenders sentenced for a sex offense from being sentenced to full time work crews.[[4]](#footnote-4)
* Also in state law,[[5]](#footnote-5) work crews for less than full time (called "community restitution" in the RCW) can be imposed under the following circumstances:
  + When no sentence range exists for the crime,
  + In lieu of confinement for violating conditions of a sentence,
  + To satisfy legal fines when the person is unable to pay, and
  + As part of the Special Sex Offender Sentencing Alternative suspended sentence.

**Requirement B: Annual Data from 2017 – 2019**

Proviso P4 requested the following annual data about the CWP from 2017 – 2019. Below are the data provided in the report.

**Number of unique CWP participants**: 6,027 unique individuals with 8,375 cases

**The criminal charges filed against or criminal convictions of participants**

|  |  |
| --- | --- |
| Felony | 1167 |
| Misdemeanor | 1290 |
| Misdemeanor Traffic | 4679 |
| Non-Criminal Traffic | 934 |

**Court Assigning CWP and Number of Hours Assigned[[6]](#footnote-6)**

|  |  |  |
| --- | --- | --- |
| **Court** | **# of Cases** | **# of Hours**  **Sentenced** |
| Auburn District | 2 | 64 |
| Bellevue District Court | 332 | 18964 |
| Bothell Muni | 39 | 2408 |
| Burien District Court | 1082 | 33760 |
| Drug Court | 509 | 7968 |
| Federal Way Muni | 1 | 160 |
| Issaquah District Court | 122 | 11020 |
| Kent District Court | 1 | 240 |
| King County Superior Court | 560 | 56096 |
| Lake Forest Park Muni | 6 | 320 |
| Mental Health Court | 7 | 88 |
| MRJC District Court | 1530 | 42140 |
| Other Court | 23 | 1360 |
| PAO Referral | 81 | 648 |
| Redmond District Court | 1585 | 58776 |
| Redmond Muni (DC) | 1 | 64 |
| Seattle District Court | 2296 | 76284 |
| Shoreline District Court | 131 | 7672 |
| Tukwila Muni | 65 | 2076 |
| Vashon Island (DC) | 2 | 56 |
| **Grand Total** | **8375** | **320164** |

**Participants placed on CWP pretrial or post-adjudication**: According to the report, approximately 5 percent of CWP participants were pretrial orders, while approximately 95 percent were post-trial orders

**Number of participants who successfully completed the program**: According to the report, approximately two-thirds of participants completed the assigned number of CWP days.

**Requirement C: Program Expenditures and Revenues 2017 – 2019**

The following financial program was provided in the report.[[7]](#footnote-7)

|  |  |  |  |
| --- | --- | --- | --- |
| **CWP Expenditures and Revenues 2017 – 2019** | | | |
| **Expenditures** | **2017** | **2018** | **2019** |
| SALARIES/WAGES | 698,523 | 782,000 | 564,630 |
| PERSONNEL BENEFITS | 315,569 | 381,711 | 246,942 |
| SUPPLIES | 59,327 | 52,402 | 44,211 |
| SERVICES-OTHER CHARGES | 159,664 | 28,839 | 36,058 |
| INTRAGOVERNMENTAL SVCS | 151,023 | 123,338 | 66,122 |
| APPLIED OVERHEAD |  | 1,264 | 747 |
| CAPITAL OUTLAY |  |  |  |
| **TOTAL EXPENDITURES** | **$1,384,106** | **$1,369,555** | **$958,710** |
|  | | | |
| **Revenues** | **2017** | **2018** | **2019** |
| **TOTAL REVENUES** | **$533,626** | **$719,836** | **$453,053** |

As shown in the table above, total program expenditures exceeded program revenues by approximately $500,000 - $850,000 each year. The main expenditures for the CWP were personnel costs.

**Requirement D: Potential Alternatives to CWP**

According to the report, the CWP work group considered the following alternatives for replacing the CWP:

* **Economic sanctions and monetary penalties:** individuals would be ordered to pay a fine as an alternative to detention
* **Confiscation or an expropriation order:** individuals would be ordered to pay a sum of money, similar to a fine
* **Restitution to the victim or compensation order:** individuals would pay a fine to victims of the offense
* **Verbal sanctions:** individuals would receive a warning or reprimand
* **Conditional discharge:** individuals would be on parole or probation subject to following all laws and having regular contact with case managers
* **Suspended or deferred sentence:** individuals would be released from detention with a promise not to reoffend for the remainder of their sentences
* **Probation and judicial supervision:** individuals would have regular check-ins with case managers
* **Self-directed community service order:** individuals would volunteer time with community organizations to fulfill court orders
* **Referral to a day center:** individuals would be referred to the Community Center for Alternative Programs (CCAP) or a similar program
* **Electronic Home Detention:** individuals would serve their sentences at their home, with electronic monitoring
* **Reinstating the CWP**
* **Eliminating Legal Financial Obligations (LFOs):** individuals unable to pay would not be assigned LFOs.

Note that some of the alternatives considered by the work group are already used as alternatives to adult detention.

**Requirement E: Assessment of Potential Options and Identification of Preferred Option**

Pages 19 through 22 of the transmitted report provide an assessment of the five most promising options for replacing the CWP, avoiding consideration of options already used by King County. According to the report, the Executive declined to identify a preferred alternative for the CWP at this time, "due to the continued uncertainties of COVID-19." The report did indicate that a revised or hybrid CWP option would be considered during the 2023-2024 budget process.

**INVITED**

* John Diaz, Director, Department of Adult and Juvenile Detention
* Saudia Abdullah, Community Corrections Division Director, Department of Adult and Juvenile Detention
* Steve Larsen, Chief of Administration, Department of Adult and Juvenile Detention

**ATTACHMENTS**

1. Proposed Motion 2021-0369 (and its attachments)
2. Transmittal Letter

1. At the time the agency was called Seattle-King County Department of Public Health. [↑](#footnote-ref-1)
2. K.C.C. 2.16.122 [↑](#footnote-ref-2)
3. RCW 69.50.4014, RCW 66.44.270, RCW 9.91.025 [↑](#footnote-ref-3)
4. RCW 9.94A.725 [↑](#footnote-ref-4)
5. RCW 9.94A.505, RCW 9.94A.633, RCW 9.94A.670, RCW 9.94A.680 [↑](#footnote-ref-5)
6. Community Work Program Proviso Response, Figure 2, page 12 [↑](#footnote-ref-6)
7. Community Work Program Proviso Response, Figure 7, page 12 [↑](#footnote-ref-7)