

**Incarceration Prevention Reduction Task Force
Legal/Justice Programs & Services
Ad Hoc Committee Meeting**

January 25, 2016

Bellingham Municipal Court, Fireplace Room, 2014 C Street Bellingham WA

9:00 – 11:00am

AGENDA

Time	Topic	Purpose	Responsible	Attachment
9:00 5 minutes	1. Welcome and Introductions <ul style="list-style-type: none"> • Review Agenda • Meeting Summary January 04, 2016 		Fred Heydrich	Meeting Summary
9:05 60 minutes	2. Drug Court / FasTrack (Speakers: Dave McEachran, Charles Snyder, Dave Graham and Starck Follis)	Information		
10:05 50 minutes	3. Review Draft Phase One Report <ul style="list-style-type: none"> • DWLS 3rd Proposal 	Decision	Dean Wight Jill Bernstein	To be distributed
10:55 5 Minutes	4. Next Steps <ul style="list-style-type: none"> • Next meeting • Review assigned tasks 			
	5. Meeting Schedule <ul style="list-style-type: none"> • Task Force Meeting – February 01, 2016; 311 Grand Avenue, Rooms 513/514 9 – 11am 			
11:00	6. Adjourn			

Incarceration Prevention and Reduction Task Force
Legal Systems Ad Hoc Committee
Meeting Summary, January 04, 2016
 Bellingham Municipal Court, Fireplace Room, 2014 C Street,
 Bellingham WA
 9:00 – 11:00am

Attendance

Present	Representing
Bernstein, Jill	Citizen Representative
Elfo, Bill	Whatcom County Sheriff
Garrett, Deborra	Whatcom County Superior Court
Gockley, Stephen	WAHA
Hammill, Daniel	City of Bellingham, City Council
Huffman, Matt (proxy for M. Knapp)	Small Cities Caucus
Heydrich, Fred - Chair	Whatcom County Superior Court
McEachran, Dave	Whatcom County Prosecutor's Office
Moonwater	Whatcom Dispute Resolution Center
Morgan, Irene	Restorative Community Coalition
Parks, Jeff (proxy for Sheriff Elfo)	Whatcom County Sheriff's Office
Peterson, Darlene	City of Bellingham, Municipal Court
Ruffatto, Peter	City of Bellingham, Mayor's office
Walker, Kathy (proxy for Dave McEachran)	Whatcom County Prosecutor's Office
Guests	
Adrian, Randy	WCSO, Jail Alternatives
Erickson, Caleb	WCSO, Jail Alternatives
Staff	
Wight, Dean	WAHA Lead Facilitator
Smith, Veronica	WAHA

Meeting Summary

1. Welcome and Introductions

Alfred Heydrich called the meeting to order, and introduced Dean Wight as WAHA's Lead Facilitator . Jill Bernstein introduced Randy Adrian and Caleb Erickson to the group.

2. Jail Alternatives Program Review

Eligibility for Jail Alternatives Program was reviewed by the guest speakers. The current census is at 85% of capacity; key points from program review include:

- Current system assigns "points" to previous history and behaviors, ranks and generates a list.
- That list is cross-referenced with medical eligibility to determine possible transfers
- This process is a daily (M-F) process.
- There are not enough qualified people to be there
- Facility has dorms
- There is a population of people waiting to serve time in one of the available programs, generally because there is an unresolved issue that they need to address prior to entering a program.

Extensive Q & A about fees for programs, and minimum security nature of the facility

Incarceration Prevention and Reduction Task Force
Legal Systems Ad Hoc Committee
Meeting Summary, January 04, 2016
Bellingham Municipal Court, Fireplace Room, 2014 C Street,
Bellingham WA
9:00 – 11:00am

Electronic Monitoring (EHD and EHM) were discussed, as were risk factors associated with these programs.

What can we do better?

- Expand scope and put pre-trial people into the program
- Earlier adjudication
- Consider adding staff to increase monitoring program capacity
- Address treatment need as a part of monitoring support
- Improve communications between departments and jurisdictions
- Implement technology solutions to increase efficiency
- Help clients follow through with their obligations
- Consider on-site substance use disorder assessments

3. Refine Brainstorming Session Material

See attached Excel file. (Note: Ideas submitted to the full Task Force have been added to this document as well, and are noted as such)

4. Statement of Work (deferred)

5. Next Steps

- Committee will meet January 25, 2016 from 9 – 11am, at the Bellingham Municipal Court, Fireplace Room, 2014 C Street, Bellingham WA
- WAHA Staff will provide a draft of the Phase One Report for review prior to the next meeting of this Committee
- Meeting of the Task Force is February 01, 2016 from 9 – 11am, 311 Grand Avenue, Bellingham WA Rooms 513/514.

Current Program	Possible Improvement Under Consideration	Source	Other Sources
Bail	review bail standards and the amounts set; develop consistency between municipal and superior courts	Legal Ad Hoc	RCC
Health Care	Improve and expand In-custody chemical dependency and mental health evaluations	Legal Ad Hoc	
Jail Alts	Modify guidelines for jail alts	Legal Ad Hoc	
Jail Alts	develop a courthouse based jail alternatives screening kiosk to link jail alternatives staff with possible users of jail alt system	Legal Ad Hoc	
Jail Alts	Improve timeframes for jail alts reviews	Legal Ad Hoc	
Jail Alts-Electronic Monitoring	Review policies for electronic monitoring pre and post trial	Legal Ad Hoc	
Jail Alts-Electronic Monitoring	Find government resources to pay for EHM for indigent offenders	Legal Ad Hoc	
Jail Alts-Facility	Make better use of the Division Street Facility/review its usage	Legal Ad Hoc	
Jail Alts-Work Crews	allow in-custody work crews during the pre-trial phase	Legal Ad Hoc	
Jail Alts-Work Crews	Consider a voluntary in-custody work crew	Legal Ad Hoc	
Jails Alts-Work/School Release	Expand the scope to include pre-trial (requires agreement from all jurisdictions)	Legal Ad Hoc	Mann
RoR	facilitate communication between courts and LE; set standards or guidelines for LE warrant discretion	Legal Ad Hoc	
Therapeutic Courts	accelerate the application process to drug court, expand drug court	Legal Ad Hoc	RCC
Therapeutic Courts	Expand mental health courts for multiple jurisdictions	Legal Ad Hoc	
Therapeutic Courts	More \$ more staff for drug court	Mann	
LE/EMS	Expand Crisis Intervention Training for Officer	Mann	
Courts	Extended court schedule	Mann	
Bail	Examine non-profit alternatives to bail bondsmen	Mann	
Therapeutic Courts	Increase eligibility for diversion courts (MH and Drug)	Hovenier	
Probation	Continue to fund and possibly expand probation for people with behavioral health issues	Hovenier	
Crisis Triage	Increase # of beds for detox	Hovenier	
Therapeutic Courts	Expand mental health court		RCC

Program Category	Suggestions/Considerations	Source	Other Sources	Other Sources
Access	Create a 'one-stop-shopping' experience for individuals upon discharge (id, insurance, social services, referrals to treatment)	Legal Ad Hoc		
Access	Video conferencing services to improve communications and access	Legal Ad Hoc		
Access	improve access to community based resources (options for community services, id, insurance, social services, housing)	Legal Ad Hoc		
Community Court	resource intensive, one stop shopping with social services embedded and colocated with criminal justice	Legal Ad Hoc		
Diversion/Decriminalization	Implement restorative justice practices to assist offenders in 1. understanding impact of offense, 2. empowering them to take responsibility, and 3. stay connected to community	Legal Ad Hoc		
Diversion/Decriminalization	Review good-time ratio	Legal Ad Hoc	RCC	
Diversion/Decriminalization	Alternative sentencing	Legal Ad Hoc		
Diversion/Decriminalization	more charge specific diversion programs	Legal Ad Hoc		
Diversion/Decriminalization	DWLS 3rd relicensing program	Legal Ad Hoc	Mann	
Diversion/Decriminalization	out of custody drug and alcohol screening (on-demand)	Legal Ad Hoc		
Diversion/Decriminalization	Consider decriminalization of status offenses	Legal Ad Hoc		
Diversion/Decriminalization	Review strategies for reducing fines and interest in light of recent legislative changes	Legal Ad Hoc		
Diversion/Decriminalization	Identify places that will provide community service hours to released individuals	Legal Ad Hoc		
Diversion/Decriminalization	Explore LEAD for non-Bh	Legal Ad Hoc		
Diversion/Decriminalization	Reconsider fines assessed for incarceration (incarceration fees)	Legal Ad Hoc		
Diversion/Decriminalization	Review probation violations and length assigned; develop an understanding of the 'why'	Legal Ad Hoc		
Health Care	In-custody chemical dependency and mental health evaluations	Legal Ad Hoc		
Health Care	Relocate county Bh providers aware from the court system to remove the perception of bias	Legal Ad Hoc		
other	Review Spokane's Smart Justice Program	Legal Ad Hoc		
Portability Court	Create a portability court in Whatcom County	Legal Ad Hoc		
social supports	Expand capacity of the behavioral health providers	Legal Ad Hoc		
social supports	Create a RestoraLife Center with programs for housing, employment, education, wellness and farming	Legal Ad Hoc	RCC	
Social Supports - at release	Provide a 'cheat sheet' of where to go for help at release	Legal Ad Hoc		
Social Supports - at release	Improve reentry services (relicensing, ealth insurance, access to care)	Legal Ad Hoc		
Social Supports - at release	Provide reentry mediation	Legal Ad Hoc		
Social Supports - in system	Support services through the public defenders office; social workers embedded	Legal Ad Hoc	Mann	
Transportation	bus passes, free bus rides for court appearances, improve transportation for court clients, improve bus routes	Legal Ad Hoc		
Pre-Trial	Create and/or Adopt a pre-trial risk assessment tool	Mann	Spokane	
social supports	Housing First Model (where it is okay to still be using drugs/alcohol)	RCC		
social supports	Crisis Care Center	RCC		
social supports	Detox/Mental Health Center	RCC		
social supports	24/7 Activity Center Downtown	RCC		
social supports	Phoenix Housing (clean and sober housing)	RCC		
social supports	Veterans/Homeless/Tiny Home Communities	RCC		
social supports	Sustainable Farm/Food Education	RCC		
social supports	Animals as Natural Therapy/Anger Understanding Center	RCC		
LEAD	Law Enforcement Assisted Diversion	TF	Mann	WC Civil Rights Project
civil rights	Mandate racial bias training for judges and LE; mandate complete collection of race data; share data	WC Civil Rights Project		
civil rights	Implement a civilian oversight commission that audits data	WC Civil Rights Project		
Bail	Eliminate bail system	WC Civil Rights Project		
social supports	Implement WWU's Homeless Project (powerpoint on file)		RCC	
Diversion/Decriminalization	Develop a clear perspective of non-profit providers of diversion and alternate programming (community scan)		WDRC	
Other	Focus on prevention and the juvenile population		WDRC	
Other	Restorative Justice and Restorative Justice Practices		WDRC	RCC

RE-LICENSING PROGRAM - A PROPOSAL

THE PROBLEM

A person's license is suspended in the third degree (DWLS 3rd) when they have failed to respond to a notice of a traffic infraction, failed to appear at a scheduled hearing or failed to pay the fines or fees that were ordered as a result of a moving violation. When a person fails to respond, appear or pay, notice is sent to the Department of Licensing and DOL then suspends the person's driving privilege. This status remains until such time as the problem has been corrected.

In this way, a small mistake - like an unpaid ticket for speeding- can become an enormous problem with consequences that include a jail sentence. A driver does not need to commit an infraction to be stopped by law enforcement for this offense. The police are authorized to run the license plates for all cars. If the computer shows that the registered owner of the vehicle is in suspended status, and the driver of the vehicle resembles the description of the registered owner, the vehicle can be stopped and an investigation can proceed. Cars operated by low income persons are more likely to have small equipment violations (light out over the license plate) further increasing the likelihood that their vehicle will be stopped.

The snowball effect of this can be seen with drivers who do not have the funds to pay the original ticket, leading to a suspended license, leading to an arrest, leading to more fine and fees, etc. A ticket for DWLS 3rd requires an appearance in Court, held during business hours. Missed work costs money and further reduces the funds that a driver has available to pay fines. Lawyers and Judges in the local courts have all witnessed drivers with thousands of dollars owing to the Courts who feel hopeless about ever changing their status but continue to drive, to work, to the doctor, to child care, to school and to the grocery store.

DWLS 3rd is a misdemeanor and carries a potential punishment of up to 90 days in jail and a \$1,000.00 fine. A criminal conviction can impact employability, eligibility for housing, financial aid and credit as well as have other implications for a person's life.

In 2014 there were **1460** citations issued for Driving While License suspended in the Third Degree. (DWLS 3rd). This year, as of November there were **2,713** citations issued in Whatcom County for this offense. According to jail statistics in 2014 DWLS 3 was listed as an offense on 898 bookings. Of those, 98 had more than one booking where DWLS3 was listed as an offense. This would mean that there were 800 unduplicated offenders who were booked on DWLS 3 in 2014. The impact on jail space for those serving commitments on this charge is not known with certainty, but is not believed to be a large number. (Likely less than 100). Also, it is unknown how many persons reporting to jail only for the charge of DWLS 3 were there because they had been arrested on warrants vs those that were freshly arrested on probable cause.

LOCAL COLLECTIONS OF FINES AND FEES

Clerks of the local courts (with the exception of the Whatcom County District Court) have created mechanisms for an outside business (Signal) to collect the fines and fees owed in their jurisdiction. This outsourcing was intended to reduce the work load on their staff. However, the work done by Signal comes at a cost to the offender. There is a \$15.00 charge to set up an account. Each month there is an additional charge of \$4.75 if the individual has only one ticket at Signal. That monthly charge is increased to \$8.25 if the individual has more than one ticket. However, if the individual misses a payment, the monthly service charge for one ticket becomes \$7.75 and \$11.25 for multiple tickets.

If the payment plan becomes delinquent, the tickets are then sent to collections (triggering a DOL suspension). The Collection agency used locally is Alliance One. Alliance One and Signal are both arms of a single entity. Alliance One adds interest and collections costs to the ticket which must be paid before they will send a release notice to DOL. If an individual contacts Alliance One, they will often agree to send the release notice if the person can provide a lump sum payment equal to ½ of the total fines and fees that they are owed.

LOCAL SOLUTIONS

Locally, prosecutors and courts have developed ways to handle these charges that for the most part do not include a jail sentence. The prosecutor who supervises the District Court estimates that 85 percent of these charges are amended at the Defendant's first appearance to an infraction of "No Valid Operator's License". This infraction does not carry with it the potential for a jail sentence. Several of the municipal court prosecutors will similarly reduce this criminal charge to an infraction. This consideration is often shown to first time offenders and to individuals who live outside of Whatcom County. In other cases, Judges will continue cases out for 6 months or longer to give the offender time to get re-licensed. If they return with a license, the Court will then show them consideration for their efforts.

When a case has been sent to Alliance One for collections, our local courts are often willing upon request, to pull the case and waive the interest and collection costs. This action will then allow the individual to make application with DOL to get re-licensed. The circumstances under which a Court is willing to pull a case from collections varies by jurisdiction, the circumstances of the case and the criminal history of the offender.

These solutions are imperfect for a number of reasons:

- 1) A reduction to an infraction does not get the offender re-licensed.
- 2) If an offender fails to pay the fine for an infraction (not a moving violation), the matter will be

referred to a collection agency. The Clerk can also impose a \$52.00 penalty for this failure to pay the infraction.

3) When a case is continued for months at a time there are often multiple appearances required in Court. Each court appearance can require missed work, the need for child care and other burdens that while meant to benefit the offender creates an increased likelihood of a missed a Court appearance. This failure to appear leads to the issuance of a warrant for the person's arrest and incarceration upon service of the warrant. At this point, it is unlikely that the individual will be shown any consideration by the Court.

4) Individuals in this status often have cases in collections in a number of Courts with difficulty in navigating the system, scheduling court hearings and getting all of the judges to agree to pull 'their' case from collections. Multiple payment plans, multiple court appearances, multiple judges, multiple prosecutors create difficulty for the person who is making an effort to get re-licensed.

5) The current system results in unequal protection under the law. Similar defendants receive disparate outcomes depending on the jurisdiction where they have an unpaid fine and whether attempts are made to pull files from collections, and whether those attempts are successful.

A PROPOSED SOLUTION

In communities around Washington, these problems are being addressed with programs that assist the offender in navigating the system, getting their fines out of collections and getting re-licensed. Whatcom County had a program like this until 2004. In 2004 the Washington Supreme Court decided a case called Redmond v Moore. The Court held that the suspension notices from DOL were constitutionally defective and released all of the suspensions that were in then in place related to the improper notices. The problem identified by Redmond v Moore has since been resolved and there is again a need for systemic solution for this problem.

A possible solution would involve a cadre of trained volunteers who would assist offenders in making application to the Courts to pull their tickets from collections, request waiver of collection costs and interest and allow them to set up an affordable payment plan to take care of the original amount owed to the Court. In other communities, similar programs have led to increased collection rates. For instance, in Spokane from 2008 until 2014 the re-licensing program led to the collection of over 5 million dollars. In contrast, only \$623,471.98 was collected from drivers who were assigned to the collection agency.

In Whatcom County, we have an established venue for this program. There is a program called Access ID which is run by LAW Advocates. This program has trained volunteers who help (primarily homeless) individuals to get identification. They are situated at the Bellingham Public Library on Saturday afternoons twice a month with computers, a printer and knowledge of the DOL requirements for the issuance of identification. It is hoped that these individuals could

be cross-trained to help people through this program.

The volunteers could access the DOL website and identify which courts have sent citations to collections that are holding the person's license. They could then help the individual complete a request that the Court remove these tickets from collections and set up an affordable payment plan for them to meet their obligations. The volunteers would then assist the individual in getting this request filed with the Court and having an Order entered which removes their tickets from collections and would then show proof that the individual is re-licensed. It is anticipated that the person would have to show good faith by meeting their financial obligations for at least three months before receiving consideration from the Court. Ideally, the Whatcom County Courts could follow the lead of other licensing programs and dismiss the pending DWLS 3rd charge at the conclusion of this process.

LIMITATIONS ON THIS SOLUTION

This proposal will not meet the needs of all persons charged with DWLS 3rd as there will be some individuals who are so indigent that a realistic payment plan can not be created. There will also be persons who have tickets that are holding their licenses from outside of Whatcom County. It is not likely to be in the purview of our volunteers to help them to address matters from other jurisdictions. There will also be people who have their licenses suspended for reasons (uninsured accidents, unpaid taxes etc) that can not be addressed by our program. In each of these cases, it is anticipated that the volunteers would send a notice to the Court of the persons ineligibility.

We have met with the Judges and Court personnel from the District, Bellingham Municipal, Sumas, Everson, Lynden and Ferndale Courts. While they have agreed in principal to a program like the one that is described herein, not all of them have committed to a dismissal of a criminal charge at the end of the process. Some of the Courts would like to have more flexibility based upon the person's criminal history and other individual circumstances.

Another potential problem may arise if the Courts continue to use the Signal program to collect on the payment plans. The costs added by Signal may destroy any opportunity for a payment plan to be truly affordable and may destroy the ultimate goal of not only getting a person re-licensed but also keeping them licensed. Some of the Courts have expressed a willingness to review their continued use of Signal and others have expressed a belief that they can find a way to get Signal to be flexible for the clients of this program.

Submitted by: Jill Bernstein
Stephen Gockley
Jane Boman
Stephen Jackson
Amy Mann

DWLS 3rd, Cases Filed 1/1/2014 12:00:00 AM - 12/31/2014 12:00:00 AM

WHATCOM COUNTY DISTRICT COURT

Charge Law Numb	Charge	Cases
46.20.342.1C	DWLS 3RD DEGREE	1117

SUMAS MUNICIPAL COURT

Charge Law Numb	Charge	Cases
46.20.342.1C	DWLS 3RD DEGREE	119

LYNDEN MUNICIPAL COURT

Charge Law Numb	Charge	Cases
46.20.342.1C	DWLS 3RD DEGREE	233

FERNDALE MUNICIPAL COURT

Charge Law Numb	Charge	Cases
46.20.342.1C	DWLS 3RD DEGREE	281

EVERSON-NOOKSACK MUNICIPAL COURT

Charge Law Numb	Charge	Cases
46.20.342.1C	DWLS 3RD DEGREE	84

BLAINE MUNICIPAL COURT

Charge Law Numb	Charge	Cases
46.20.342.1C	DWLS 3RD DEGREE	364

BELLINGHAM MUNICIPAL COURT

Charge Law Numb	Charge	Cases
46.20.342.1C	DWLS 3RD DEGREE	515

DWLS 3rd, Cases Filed 1/1/2015 12:00:00 AM - 12/31/2015 12:00:00 AM

WHATCOM COUNTY DISTRICT COURT

Charge Law Number	Charge	Cases
46.20.342.1C	DWLS 3RD	1159

SUMAS MUNICIPAL COURT

Charge Law Number	Charge	Cases
46.20.342.1C	DWLS 3RD	96

LYNDEN MUNICIPAL COURT

Charge Law Number	Charge	Cases
46.20.342.1C	DWLS 3RD	193

FERNDAL MUNICIPAL COURT

Charge Law Number	Charge	Cases
46.20.342.1C	DWLS 3RD	186

EVERSON-NOOKSACK MUNICIPAL COURT

Charge Law Number	Charge	Cases
46.20.342.1C	DWLS 3RD	70

BLAINE MUNICIPAL COURT

Charge Law Number	Charge	Cases
46.20.342.1C	DWLS 3RD	298

BELLINGHAM MUNICIPAL COURT

Charge Law Number	Charge	Cases
46.20.342.1C	DWLS 3RD	592