

Incarceration Prevention and Reduction Task Force

Meeting Summary for September 20, 2021

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1. Call to Order

Task Force Co-Chair Stephen Gockley called the meeting to order at 9:00 a.m. The meeting was held remote-only via Zoom Webinar.

Members Present: Barry Buchanan, Bill Elfo, Arlene Feld, Heather Flaherty, Seth Fleetwood, Stephen Gockley, Daniel Hammill, Mike Hilley, Raylene King, Scott Korthuis, Byron Manering, Moonwater, Perry Mowery, Darlene Peterson, Dave Reynolds, Eric Richey, Flo Simon, Donnell Tanksley, Maia Vanyo, Greg Winter

Members Absent: David Freeman, Deborah Hawley, Jack Hovenier, Eric Petersen, Tyler Schroeder, Bruce Van Glubt

2. [Criminal Justice System Racial and Ethnic Data Collection \(00:06:07\)](#)

Gockley introduced Dr. Harris and described her background.

Dr. Alexes Harris, Professor of Sociology, University of Washington, submitted and read from a presentation on her background; her multi-state study of monetary sanctions by racial and ethnic group, focusing on fines and fees; race and ethnic categories in data collection; problems with capturing the nuances of race and ethnic data; using surname analysis in data analysis; disproportionality versus disparity; study findings on disparity in traffic stops and legal financial obligations (LFOs), and; the impact of LFO debt in relation to neighborhoods.

Task Force members, Dr. Harris, and guests discussed whether the study data looked at original LFO debt vs. LFO debt with accrued late fees and interest; whether the study considered disparity in length of sentence and pretrial data; recent changes to the driving while license suspended 3rd degree (DWLS3) charges in counties around the state; how to build strategies to reduce disparity; the importance of tracking disproportionality in the community that may lead to adjudication; the best method for identifying race and ethnicity; whether the difficulty of data collection is that it's not collected, or collected but difficult to access; how they can implement qualitative analysis locally; partnering with foundations to help create and collect data through grant funding, and; lobbying the State legislature to fund local analyses.

3. [Update on police reform legislation: IPRTF Acting as the Law and Justice Council \(01:01:37\)](#)

Gockley introduced Representatives Alex Ramel and Sharon Shewmake and the discussion on the status, effects, and potential new developments regarding the police reform legislation that came out of the 2021 legislative session, including the opinion from the Attorney General's Office.

Representative Shewmake spoke about her experiences talking to the community. There are three principles that everyone agrees on: police and public servants need to be held accountable, prioritize de-escalation, and provide mental health services instead of punishment whenever possible. The legislation passed evolved from its original form after speaking with law enforcement, and may need to continue to evolve.

Representative Ramel spoke about the common topics that come up in the community and with law enforcement and the policies versus legislative intent. Topics include House Bill (HB) 1310 interpretation that it limits the law enforcement's ability to respond to behavioral health welfare check and use of force for reasonable suspicion versus probable cause. The legislature needs to make sure the intent of the law is clear regarding use of force in cases regarding involuntary treatment, other kinds of court orders, and youth runaway situations. Regarding HB 1054, the use of force bill, the two concerns include law enforcement pursuit circumstances and use of less lethal weapons. The legislature will likely clarify their intent in the coming year. There are also concerns about the potential

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for decertification, which should be applied in the most serious cases of law enforcement officers who abuse their authority and power. It would be helpful to get clear policy statements and guidance from the criminal justice task force, which will help alleviate those concerns from law enforcement. They've heard about challenges with law enforcement recruitment, and that the policy changes will make it more difficult to bring in new officers and that it's accelerating retirements. He hopes that people will want to be peace officers when they do a better job of building trust with the community. Getting this legislation right will address the concern, not exacerbate it.

Task Force members commented on their perspectives of the legislation:

- Legislative intent is applied only when the words in the statute are unclear, but the words in the use of force statute are clear and don't provide room for considering legislative intent. Police can respond, but they can't use force when necessary to help people get mental health treatment that they need. That legislation needs to be fixed.
- Legislation about less lethal methods is also clear language in the bill.
- The definition of types of crimes eligible for pursuit is too narrow. The time it takes to initiate a call to a supervisor creates an issue. Create language that requires law enforcement to seek permission as soon as is practical.
- Statutes allow people from the emergency medical services (EMS) and medical community to ask for support from law enforcement to help them take people to treatment, but the new legislation limits use of force unless there is probable cause of a crime.
- Attorney General guidance and opinion needs to be official in terms of involuntary treatment and juveniles.
- It's necessary to review of reasonable suspicion and probable cause standards as they apply to Terry Stops.
- The Sheriff's Office has resolved issues around use of force and less than lethal methods by buying air guns that are more expensive, but more accurate and have a higher probability of reducing injuries and unintended consequences.
- Most sheriffs around the state are receiving similar advice from their attorneys. The representatives should hear from the Washington Association of Sheriffs and Police Chiefs.
- There needs to be clarification on grounds for causes and methods for decertification. The Criminal Justice Training Commission should have the authority to look into cases for decertification.
- Decertification should not be done on the basis of derogatory social media posts, which could be attributed to political or religious affiliations, but the legislation needs to clarify what would be grounds for decertification.
- Deputies are all trained in mental health de-escalation and available to the small cities when they need them.
- Officers should be able to accompany the alternate response team to respond to certain behavioral health calls.
- Consider whether anyone would want to go through the behavioral health officer program, given the legislation.
- Behavioral health providers have said their clients end up in jail because there is a lack of an involuntary treatment intervention.
- There are concerns from law enforcement who are not sure how to interpret the legislation, and they will become more reactive than preventative.
- Funding must be easily available to satisfy the mandates to have bodycams.
- The shortage of mental health providers statewide and across the nation is an issue. They need to provide incentives to treatment providers.
- Law enforcement appreciate certain policy changes, such as HB 1089, the compliance audit: Senate Bill (SB) 5051, oversight and accountability, and; SB 5066, the duty to intervene.

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- HB 1223 is the electronic recording mandate is an unfunded mandate to every agency to do recording. Think about how the smaller agencies will pay for these types of laws.
- HB 1054, police tactics and pursuits, is very restrictive, especially for smaller agencies. They embrace many of the new reform laws, but some need to be tweaked.
- Regarding behavioral health alternatives, the crisis stabilization center is not functioning as an involuntary facility, which is necessary.
- Requiring two referrals to treatment before arrest is not a meaningful diversion.
- Quantify the quantity of drugs a person has in their possession, which goes to a presumption of intent to traffic or deliver. Review the quantity limits.
- Acknowledge the work they've done locally to reduce and prevent incarceration, and make it a priority to consider the fiscal needs to expand the workforce and system capacity.
- There is a fair bit of consensus on necessary changes in the upcoming session. However, the community uncertainty is critical. Getting these changes passed and in places should be a priority for the legislature.

Representatives Ramel and Shewmake responded to comments:

- A key part of the legislative response to the Blake Decision includes funding for behavioral health resources.
- Regarding reasonable suspicion and Terry stops, they need to consider disproportionality in criminal justice, as was discussed in the previous agenda item. The standard in which reasonable suspicion and Terry stops are used is complicated.
- The legislation allocated \$30 million to counties and \$20 million to cities for implementation. If used for capital equipment, that amount may not be enough.
- No one in the legislature indicated they intend to punish the police by defunding them. They talked about the best way to help people in the communities.
- Many agencies were already implementing many of these policies. The law wasn't necessarily focused on those agencies.
- The legislature should be able to fix the involuntary treatment reference and make it clear that the use of force should not interfere with it.
- Part of the Blake Decision response was to create a recovery navigator program. Make sure that when someone gets out of drug treatment, they aren't going back on the street.
- Any innovative ideas and solutions that may not fit into a grant should be timed to the legislative cycle, so the Representatives can advocate for the solutions in the legislature. Data is also important.

4. [Recommendation for expenditures of ARPA funds \(01:50:12\)](#)

Hammill and Flaherty introduced and described the genesis and content of the proposed letter of recommendation, which originated in and was approved by the Behavioral Health Committee.

Gockley stated the Legal and Justice Systems Committee also endorsed the letter.

Richey moved to approve the letter as presented in the meeting packet. The motion was seconded and carried unanimously by the members present at the time of the vote: Barry Buchanan, Bill Elfo, Arlene Feld, Heather Flaherty, Stephen Gockley, Dan Hammill, Mike Hilley, Raylene King, Scott Korthis, Byron Manering, Moonwater, Perry Mowery, Dave Reynolds, Eric Richey, Flo Simon, Donnell Tanksley, Maia Vanyo.

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5. Committee Updates

There were no committee updates.

6. Other Business

There was no other business.

7. Public Comment

There were no public comments.

8. Adjourn

The meeting adjourned at 10:59 a.m.