

Report of the Criminal Justice Task Force
to
The Pierce County Council

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By Teri K. Martin, Ph.D.

Consultant to the Criminal Justice Task Force

Law & Policy Associates
4388 NW Bethany Boulevard, Suite K-5, #215
Portland, Oregon 97229-9260
(503) 690-6110 phone & fax
LPATKM@comcast.net

EXECUTIVE SUMMARY

The Pierce County Council re-established the Criminal Justice Task Force (CJTF) in March 2008 and charged it with analyzing the criminal justice system and delivering a report to the Council and the County Executive that includes "a multi-step plan for how Pierce County should seek additional information and approach decisions about a new jail facility." This report is submitted in fulfillment of that charge.

The jail population spiked in 2007, prompting some policymakers to ask whether the County should begin planning to build additional jail capacity. In 2008, the jail's average daily population (ADP) declined significantly. Another notable trend is that annual bookings have declined about 10% since 1995, despite the steady increase in county population. Because of these trends and the sizeable reserve of unused potential bed space at the current facility, the CJTF chose to focus on exploring ways to manage the size of the jail population so that the need to staff or construct additional jail space can be deferred as long as possible.

The CJTF consensus is that Pierce County should aggressively pursue every viable means of limiting the need for additional jail bed space before planning to construct additional jail capacity or to staff currently unoccupied jail beds. It is likely that implementing strategies to control jail population size will also change the composition of the inmate population. Therefore, the CJTF recommends that the Corrections Bureau and the County track and document the impacts of recommended jail population control initiatives on needs for bed space in various custody levels, for female housing, and for program and support spaces.

A 1995 federal court order requires Pierce County to avoid jail overcrowding. To control the size of the jail population, the Corrections Bureau currently uses two primary methods of keeping the inmate population within funded capacity limits: (1) SIP (Special Identification Process) release of arrestees with low-level charges, and (2) compliance release of sentenced inmates who have a relatively short time left on their sentences.

In addition, Pierce County has other programs that help to control jail population size. Most important are efforts to control the size of the pretrial jail population. For example, Pretrial Services, a unit within the Corrections Bureau, is authorized to make administrative releases of certain pretrial inmates charged with misdemeanors.

In-custody pretrial felony cases are a major driver of the size of the jail population. The bed days associated with these cases increased from 47% of the total jail bed days in 2002 to 67% in 2007. In 2008, pretrial felony bed days are projected to decline to 64% of total bed days. This appears to reflect the current effort by Superior Court, prosecutors, and defense counsel to expedite felony case processing and thus reduce the number of pending felony cases.

In addition to the current jail population control measures, the CJTF recommends that Pierce County decision-makers take steps to:

1. Implement a cohesive and comprehensive approach to pretrial release decision-making and supervision.
2. Develop alternatives to arresting and jailing chronic minor offenders ("frequent fliers") that can help break their cycle of dysfunctional behavior.
3. Establish a system of jail discharge planning to encourage successful re-entry into the community.
4. Implement a mechanism for ongoing performance monitoring of justice system programs that provides basic performance measures and can document results of jail population management initiatives.

Implementing each of these recommendations will require specialized knowledge and information. The CJTF, with the concurrence of the Council, proposes appointing work groups composed of interested task force members and others with the experience and expertise needed to take the next steps in implementing these jail population management strategies. These steps are detailed in the recommendations section of this report (pp. 23-25).

ACKNOWLEDGMENTS

This report is based on the collective knowledge and consensus-building work of the Criminal Justice Task Force appointed by the Pierce County Council in March 2008. Task force members included key decision-makers from the County's criminal justice system along with interested citizens. Task force members attended numerous meetings, were interviewed by the consultant, and took time to provide additional information and feedback to the consultant and to Performance Audit staff regarding their presentations.

The data analyses conducted by William Vetter, Performance Audit Research Analyst, provided an essential quantitative foundation for the task force's work. He analyzed compliance releases, SIP (Standard Identification Procedure) releases, other types of releases, and arrest data. Each analysis broke new ground, as it was the first time these topics have been systematically analyzed in Pierce County. In addition, Mr. Vetter compiled the basic Pierce County data on jail bookings, average daily population, types of bed days, and other trend data referenced in this report.

Matt Temmel, Performance Audit Coordinator, helped to shape the data analyses, worked with the consultant retained to assist the CJTF to ensure that she had access to necessary background information, and assisted her with composing this report and other documents prepared for the task force.

Special thanks go to Rob Masko, Pierce County Corrections Chief, for providing access to the arrest and release data analyzed in the report and being very responsive to other requests for information.

Carolyn Pendle, Senior Legislative Analyst, and Jenifer Schultz, Committee Clerk, provided indispensable assistance in coordinating meetings of the CJTF, facilitating communications between the consultant and task force members, and providing a variety of background information to the CJTF and the consultant.

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I. BACKGROUND

The Pierce County Council re-established the Criminal Justice Task Force in March 2008 by passing Resolution No. R2008-20s. [Appendix A](#) includes the resolution and another measure that extended the reporting date to September 10, 2008. Councilmembers Tim Farrell and Dick Muri co-chaired the task force, which comprised criminal justice system stakeholders and concerned citizens appointed by the Council. [Appendix B](#) lists the task force members.

The Council charged the CJTF with responsibility to analyze the criminal justice system and deliver a report and recommendations to the Council and the County Executive. The resolution directs that the report include "a multi-step plan for how Pierce County should seek additional information and approach decisions about a new jail facility."

The resolution also asks that the CJTF consider "when and how the County should address the need for additional jail capacity and, at the same time, how the criminal justice system can adjust to make the best use of the existing jail space and to minimize the need for more jail capacity." The resolution suggested that the task force review the existing criminal justice system, gather ideas for improvement from those who work in or are affected by the system, and examine best practices and evidence-based alternatives to incarceration.

In March and April 2008, after discussing how to focus its work, the CJTF decided not to examine current jail facility issues because the Corrections Bureau planned to work with a facility consultant to determine the best uses of existing jail space. That consultant's report is due soon. Although no jail renovations are in progress, the Corrections Bureau hopes eventually to renovate some unused space (known as 4T) to provide housing for inmates who need a higher level of custody.

The CJTF was assisted by Teri K. Martin, Ph.D., of Portland, Oregon, a criminal justice systems consultant retained by the County's Performance Audit Committee early in the study process. The consultant's work included the following:

- ❑ Conducted interviews with task force members and other key justice system stakeholders. (See pp. 3 – 5 below.)
- ❑ Reviewed information about the current County justice system.
- ❑ Worked with Performance Audit staff as they prepared data analyses for the CJTF.
- ❑ Provided written and verbal information about best practices for jail population management used by other jurisdictions.

- Facilitated CJTF discussions.
- Drafted this report with substantial input from the CJTF.

The CJTF met ten times between March and September 2008. In addition to attending task force meetings, the members have provided information, offered opinions, and given feedback to Dr. Martin and the Performance Audit staff regarding their presentations and analyses.

In 2007, before the Council re-established the CJTF, there was a temporary upswing in jail population that threatened to exceed the funded capacity of 1,465 inmates and caused some policymakers to ask whether it was time to begin planning to build additional jail capacity.

In 2008, the average daily population (ADP) declined to approximately 1,346 (as of August 19), which is 92% of the funded capacity and 75% of the available bed space if all parts of the jail were open and staffed. The potential capacity of the current jail is 1,787 beds, or 322 beds more than the budgeted capacity and 441 beds more than the average daily population as of mid-2008. It is likely that no other jail in Washington State has such a large reserve of unused bed capacity.

However, the unfilled space is not designed to accommodate inmates that need a higher level of custody, which is the greatest current need, according to the Corrections Bureau. (The task force did not examine classification issues.)

In these circumstances, the Criminal Justice Task Force chose to focus its energies on exploring ways to manage the size of the jail population so that the need to staff or construct additional jail bed space can be deferred as long as possible.

If the jail population management initiatives recommended later in this report are fully implemented, it is likely that the mix of inmates in various custody classifications, and perhaps the ratio of female to male inmates, will change. This may in turn require re-assessment of the adequacy of existing jail space to meet classification and separation needs.

Thus, as policy and program changes are implemented, it will be important for Pierce County decision-makers to monitor the impacts of recommended initiatives on both the size and the characteristics of the inmate population (required custody levels, program needs, and gender). Determining the scope of jail facility changes that may be required to meet future inmate population demands is beyond the scope of the CJTF's current work.

This report summarizes the work of the CJTF, and recommends for the Council's consideration some key approaches to jail population management on which the CJTF has reached consensus.

II. PERSPECTIVES OF TASK FORCE MEMBERS

Soon after beginning her work with the CJTF, Dr. Martin interviewed task force members and prepared a summary of themes, ideas, and goals for the future for CJTF review. The complete interview summary is included as Appendix C.¹

Task Force members pointed out several justice system strengths and assets that provide a foundation for continued improvements in system efficiency and effectiveness. They noted that justice system professionals are open to collaboration and that system leaders are willing to acknowledge issues and work to resolve them. According to members, the Corrections Bureau has maintained a safe and uncrowded jail environment, and there are several non-jail programs that can serve as the core of an expanded menu of pretrial and post-trial supervision and treatment options.

In addition, reports prepared by the Justice Management Institute (JMI) working with the Performance Audit Committee have provided momentum for changes in Superior Court case processing intended to reduce both the pending case backlog and the average length of stay of pretrial felons in jail. Local citizens and organizations care about reducing crime in their neighborhoods both through prevention and intervention, and they are willing to invest time and energy in this work. Finally, the current funding crunch may spur creativity and enhance the cost-effective use of resources. As one member noted, "it makes us think before we build more jail space."

When asked to outline their highest priorities for County action to ensure that jail capacity will meet future demands, CJTF members focused on initiatives that would manage the demand for jail space rather than on opening or constructing additional jail beds.

¹ The interviewees were Judges Tom Larkin, Jim Heller, and David Ladenburg; Prosecuting Attorney Gerald Horne (with Dawn Farina and Ed Murphy of his office); Michael Kawamura, Director of Assigned Counsel; Patrick Kenney, Director of Budget and Finance; Harry Steinmetz, private defense counsel; Captain Mark Langford, Tacoma Police Department; Rollie Herman, Westpac Marine Services; Jeanie Peterson, Hilltop Action Coalition; Connie Brown, citizen at large, Affordable Housing Consortium; Ken Witkoe, citizen at large; Sheriff Paul Pastor; Corrections Chief Rob Masko (with Pat Kelly, Marvin Spencer, and Rich Morvel); and Matt Temmel, Performance Audit Coordinator (with Bill Vetter). Dr. Martin also spoke with co-chairs Dick Muri and Tim Farrell. County Executive John Ladenburg did not attend task force meetings and declined an offer to be interviewed.

In particular, members suggested that the justice system and the County should focus on the following:

1. Continue to implement more efficient Superior Court case processing and backlog reduction measures and monitor progress toward these goals.
2. Develop a more cohesive and comprehensive pretrial release system incorporating objective risk assessment and a richer continuum of supervision and notification options that will minimize failures to appear for court proceedings (FTAs) and re-offending by pretrial releasees. This work should be done through collaboration of the courts, law enforcement, and Corrections.
3. When dealing with arrests for minor offenses, develop methods for police to obtain positive identification (Special Identification Procedure, or SIP) at locations other than the jail. For example, this work might be done at kiosks at Sheriff's or police department locations (see below, pp. 11-12).
4. Develop a richer continuum of options for sentenced offenders that balances accountability with treatment and other services that can reduce the likelihood of recidivism and reconnect offenders to their communities.
5. Invest in prevention and early intervention initiatives that can keep more people from ever entering the justice system and jail.
6. Put in place alternatives that can reduce the recidivism of chronic minor offenders ("frequent fliers").
7. Promote the successful reentry of jail inmates into the community.
8. Create an on-going system for monitoring justice system performance indicators on an ongoing basis, documenting results, identifying issues, and proposing solutions for consideration by all key stakeholders.
9. Involve the community, with appropriate public information and engagement efforts, in setting priorities for the use of jail and other resources.

Most CJTF members agreed that only when every effort has been made to minimize the need for jail beds (i.e., to effectively manage the size of the jail population) should the County plan to expand jail capacity.

Task Force members also agreed that because the jail is by far the most expensive option in the local justice system, it should be reserved for those who must be jailed for one of the following reasons:

- ❑ To protect the public, or
- ❑ To ensure their appearance at court, or
- ❑ To hold them accountable for their criminal behavior, or
- ❑ To sanction them for serious or repetitive violations of conditions of community-based pretrial and sentencing options.

There are alternatives to incarceration (discussed later in this report) that can effectively accomplish these goals for many lower-risk, less serious offenders at a much lower cost than jail.

Interviewees mentioned a few issues that must be addressed in order to move forward with jail population management efforts. One area of concern is the use of Special Identification Procedure (SIP) releases and compliance releases as the primary tools for jail population management. Members wanted more information about the types of arrestees and sentenced inmates who are released by these means, and more information about their failure-to-appear and re-arrest patterns.

Another ongoing challenge, according to interviews, is sustaining the recent changes in Superior Court policies and practices and thus significantly reducing the average pretrial length of stay of those held in jail on felony charges.

Finally, task force members are concerned that as County budgets tighten, existing alternatives to incarceration may be reduced or cut in order to maintain services regarded as more essential (e.g., the Sheriff's Department jail and law enforcement functions). Unless the public is persuaded that alternatives to incarceration can adequately serve public safety and accountability goals, decision-makers may feel pressed to make budget choices that impede expansion of the continuum of non-jail options for arrestees and sentenced offenders.

III. MANAGING THE SIZE OF THE JAIL POPULATION

The CJTF consensus is that Pierce County should aggressively pursue every viable means of limiting the need for additional jail bed space before any decision is made to plan for new construction of additional jail capacity or to staff currently unoccupied jail beds. As of this writing (August 2008), the jail's potential capacity of 1,787 beds is 322 beds more than the budgeted capacity and 441 beds more than the 2008 average daily population.

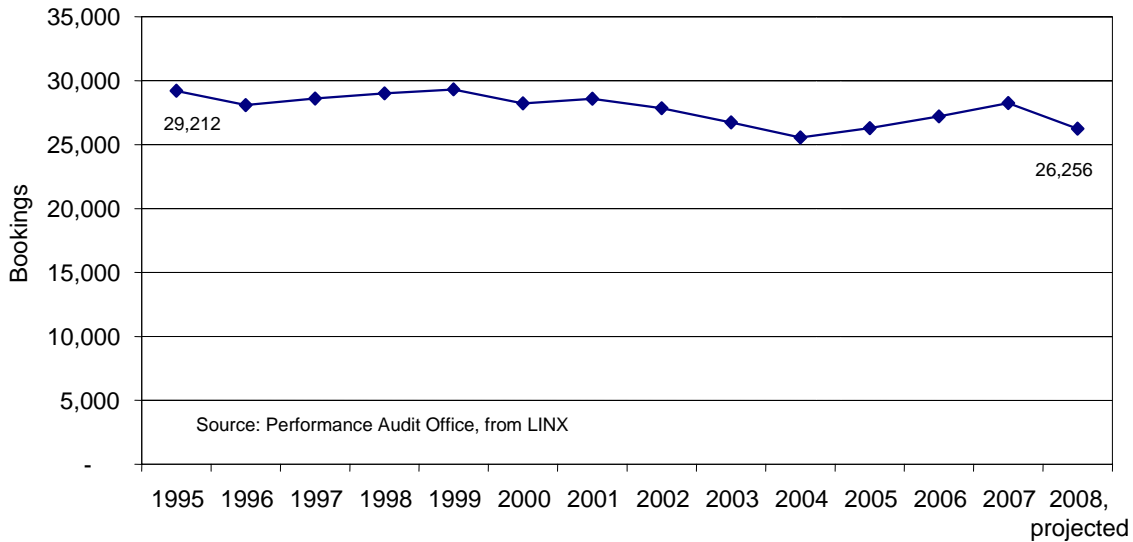
However, as noted earlier, implementing strategies to control jail population size will likely also change the composition of the inmate population. The CJTF recommends that the Sheriff's Department and the County track and document the impacts of recommended population control initiatives on the needs for bed space in various custody levels, female housing, and program and support spaces.

Pierce County's population continues to grow at a steady pace, but jail average daily population (ADP) is not simply a result of general population trends. As the data and information presented in this section demonstrate, ADP is largely determined by policies and practices that affect how many individuals are admitted to jail and how long they stay before being released or transferred to another facility.

A. Trends in Bookings and Jail Population

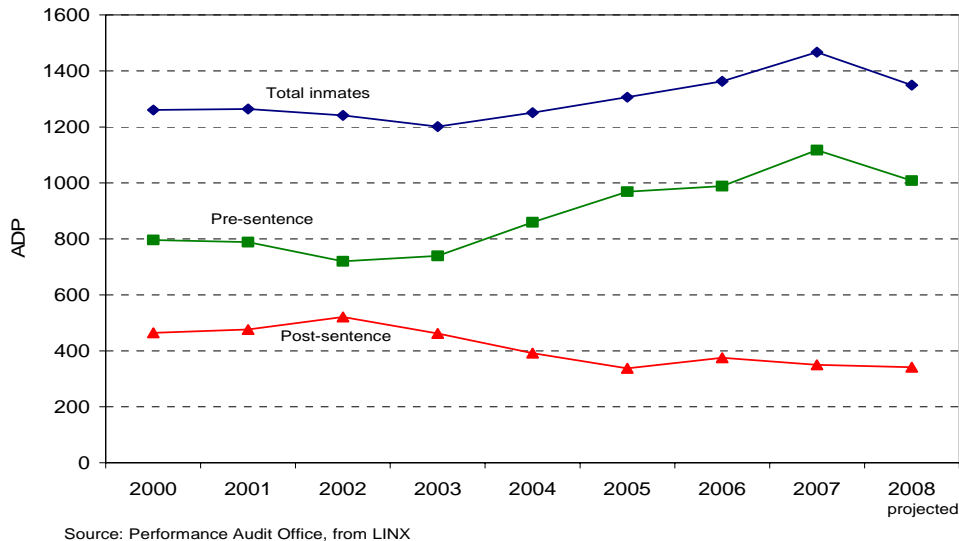
As in many other jurisdictions, Pierce County's jail population size has been far more influenced by how long inmates are staying than by how many arrestees are being booked into the jail during a given period of time. Exhibit 1 (next page) shows a declining trend in annual bookings over the past 13 years.

Exhibit 1
Pierce County Jail Bookings, 1995 – 2008



Since 2000, the jail's average daily population has increased about 7%, but the 2008 ADP is projected to decline about 8% from the 2007 ADP. In 2000, pretrial (pre-sentence) inmates (combining those charged with felonies and misdemeanors) comprised 63% of the total inmate population. By 2007, the pretrial proportion had grown to 76% of all inmates. Exhibit 2 illustrates fluctuations since 2000 in total, pretrial, and sentenced inmates.

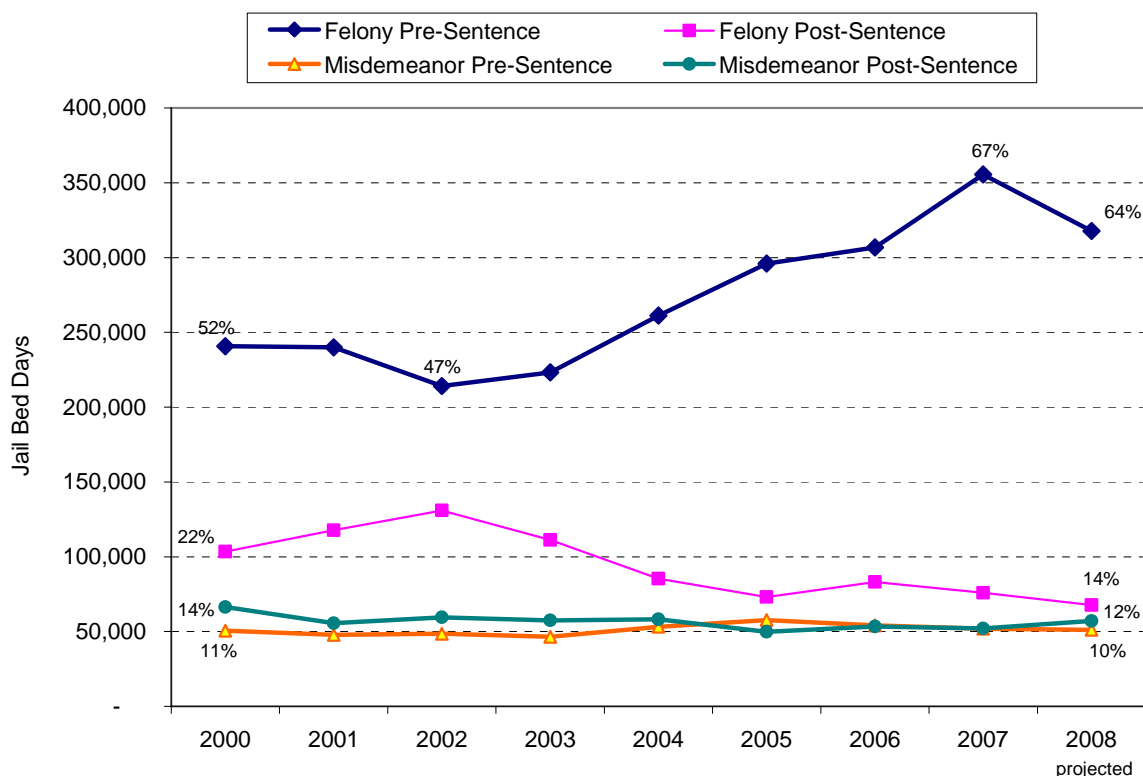
Exhibit 2
Pierce County Jail Average Daily Population, 2000 – 2008



The next chart illustrates changes over time in the proportion of jail bed days used by inmates with different legal statuses. Since 2002, the proportion of bed days used by pre-sentence and post-sentence misdemeanants has declined slightly. However, the proportion of bed days used by pre-sentence felons rose significantly, from a low of 47% in 2002 to a high of 67% in 2007.

Exhibit 3

Bed Days by Type since 2000



Source: Performance Audit Office, from LINX jail occupancy reports

Trends in pre-sentence felony ADP and bed days coincide with the trends detailed in JMI's 2007 report,² which noted that changes in case processing during 2001-02 produced measurable results that were followed immediately by the 2002 dip in pre-sentence felony ADP. The JMI report also indicated that "since 2002, the handling of felony cases has slowed according to several measures." As shown above, pre-sentence felony bed days climbed steadily between 2003 and 2007.

² Alan Carlson, Justice Management Institute, "Follow-up Study of Felony Case Management in Pierce County Superior Court: Final Report and Recommendations" submitted to Pierce County Performance Audit Committee and Pierce County Superior Court, October 2007, available at www.co.pierce.wa.us/performance-audit.

The overall average length of stay (ALOS) for all jail inmates increased 15% between 2000 and 2008, from 16.4 to approximately 19 days. If observed patterns hold through year's end, 2008 will be the first year since 2001 that overall ALOS has declined from the previous year. This downturn probably reflects the initial impact of recent changes in court practices regarding felony case processing. However, the data must be studied further to determine whether cases are being completed more quickly or whether other factors, such as decreased filings, are mainly responsible for the decrease in pending cases and average lengths of stay in jail.

Pierce County's incarceration rate of 1.8 inmates per 1,000 county residents is considerably lower than the reported 2007 national jail incarceration rate of 2.59 inmates per 1,000 population.³ Because of such data, and because of the projected steady increase in the county's population, it is sometimes suggested that Pierce County's incarceration rate might be expected to rise to the national average over time, thus greatly increasing the need for jail beds. However, as the preceding analysis shows, jail ADP in any jurisdiction is primarily the result of local policies and practices, many of which are controlled by local decision-makers.

Other large counties in Washington have jail incarceration rates that are closer to Pierce County's rate, presumably because they operate under the same criminal statutes and statewide justice system policies. However, even among these counties, rates vary due to local policies such as those regulating admission of misdemeanants and prescribing the scope of contracts for jail services with municipalities.⁴ Neither the national jail incarceration rate nor any other county's rate is a standard to which Pierce County should aspire or an inevitable outcome of current Pierce County trends. Pierce County policymakers can choose to control the size of the county's jail population, and thus the county's incarceration rate.

B. Existing Methods to Manage Jail Population Size

The data indicate that the biggest recent change in Pierce County's jail population has been the disproportionate rise in bed days used by felony defendants. Since bookings have not increased significantly in more than a decade, the growth in bed days used by pre-sentence felony defendants is clearly driven by increases in the time it takes to resolve their cases. If the Superior Court is successful in its recently-renewed efforts to expedite case processing, it is likely that the bed days

³ U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics. "Jail Inmates at Midyear 2007." June 2008. <http://ojp.usdoj.gov/bjs/pub/pdf/jim07.pdf>

⁴ According to data reported by the Washington Association of Sheriffs and Police Chiefs, Clark and Thurston counties have higher jail incarceration rates than Pierce County, while King, Kitsap, Snohomish, and Spokane have lower incarceration rates. See WASPC website for reported ADP.

used by pretrial felony inmates will decrease. That approach is far more cost effective than planning to add jail capacity.

Managing jail population size has been a high priority for the Sheriff's Department since 1995, when the county agreed to a federal court order that requires Pierce County to avoid overcrowding its jail facility in order to enhance the safety of both inmates and staff. The two main mechanisms currently employed by the Corrections Bureau to keep jail population within funded capacity are Special Identification Procedure (SIP) releases of arrestees and compliance releases of sentenced inmates.

The Performance Audit Office provided the CJTF with a descriptive analysis of SIP and compliance releases, along with an analysis of re-arrests of SIP releases in the Hilltop and other nearby neighborhoods. The complete memoranda are included as Appendix D. Key points are summarized below (pp. 10-12).

1. Compliance Release

When the inmate population approaches the jail's funded capacity, the Corrections Bureau selects certain sentenced inmates (only those convicted of non-violent offenses) for "compliance release" prior to the end of their court-ordered jail sentence. While the time cut from sentences by compliance release varies each year by the type of inmate released (male, female, felony, and misdemeanor), the time generally ranges from 5 to 21 days.

The Performance Audit analysis examined the 1,070 compliance releases that took place during 2007 and the first five months of 2008. Just over one-third (34%) of those released early had been sentenced for unlawful possession of a controlled substance, driving while license suspended or revoked (DWLS/R), shoplifting, or misdemeanor theft.

If compliance release had not been used during 2007, an average of 43 additional beds would have been needed to hold released inmates until their sentences expired (assuming no change in SIP releases during that year). In 2008, as of August 20, the average daily number of additional beds that would have been needed to hold compliance releasees to the end of their sentences fell to 19.

2. SIPs

SIP release ("book and release") has been used by law enforcement officers since 1989 as a means of fingerprinting and confirming identification of arrestees charged with non-serious offenses prior to releasing them at booking. According to anecdotal information, some cities such as University Place have a high rate of officer-initiated SIPs. The jail does not maintain data on how many SIP releases are officer-initiated and how many are jail-initiated. More information is needed about the frequency and reasons for officer-initiated SIPs.

About three years ago, in addition to officer-initiated SIPs, Pierce County jail staff began to use SIP releases as a means of controlling the size of the jail population. A total of 5,072 SIP releases occurred from January 2006 through May 2008. The annual number of SIP releases increased four-fold between 2006 and 2007, when the jail ADP reached a high point. As jail ADP declined in 2008, so has the rate of SIP releases.

The current SIP data clearly show that over half of the SIP releases were charged with driving offenses (34% charged with DWLS/R and another 19% charged with a variety of other driving offenses). Objective analysis indicates that the vast majority of the SIP releases were charged solely with low-level offenses.

Task force members are interested in how many SIP releasees were later rearrested in neighborhoods surrounding the jail. The Performance Audit Office analyzed SIP release re-arrests in 22 census blocks encompassing the Hilltop and other nearby parts of central Tacoma and found that:

- ❑ Of the 5,072 SIP releases since 2006, only 295 persons (6% of the total) were later re-arrested on the Hilltop or in nearby parts of central Tacoma.
- ❑ Of the 295 SIP releasees who were later rearrested in the study area, 53% had originally been arrested in that area, another 32% had originally been arrested elsewhere in Tacoma, and only 15% (44 persons) were originally arrested outside of Tacoma.
- ❑ Only 44 persons, or less than 1% of all SIPs since 2006, came from outside Tacoma and were later rearrested in the study area.

It is true that criminal activity can occur and not result in an arrest. Overall, however, the arrest data suggest that local resident concerns about SIP releasees committing a significant number of additional crimes appear to be over-stated. In particular, fears that people arrested outside Tacoma and then SIP-released from jail are committing a large number of new crimes in the area surrounding the jail are not supported by the arrest data.

The current SIP practice is that a law enforcement officer transports the arrested person to the Pierce County jail, where identification is confirmed and the person is fingerprinted and then released. If SIPs are to continue, both officer-initiated and jail-initiated, patrol officers could save a significant amount of travel time by being able to conduct the SIP procedure at a non-jail location, such as a kiosk at a sub-station. The CJTF discussed this issue and heard a presentation from the Corrections Bureau on the estimated cost (approximately \$35,000 per kiosk per year per remote SIP location).

The task force, without endorsing the cost estimate, agrees that developing a remote SIP capability could save a significant amount of officer and jail booking staff time.

Another related issue is the number of SIP releasees who fail to appear at their court hearing. Data compiled by Pierce County District Court show that between February 1 and August 14, 2008, 25% of those arrested on District Court misdemeanor charges and then "SIP'ed" failed to appear at their scheduled court hearing. (This included 19% of those arrested on new charges and 29% of those arrested on a warrant for a previous failure to appear at a court hearing.) During this period, the 25% failure-to-appear rate of those who had been SIP'ed is nearly the same as the 24% failure-to-appear rate for those released on personal recognizance by the Pretrial Services unit of the Corrections Bureau.

The Criminal Justice Task Force is concerned that all of these FTA rates are unacceptably high, and recommends implementing new approaches to pretrial release supervision and notification options that are discussed below.

3. Recommendation on Compliance Release and SIPs

The CJTF recommends that Pierce County develop a more cohesive and comprehensive approach to pretrial release that may eventually replace the SIP "emergency valve" with a system that can minimize FTA and re-arrest for those released awaiting disposition of their cases. Consideration should also be given to eventually phasing out compliance release as other approaches to jail population management are brought online. Recommended approaches and options are discussed in the next section (pp. 14-18).

C. Future Options to Manage Jail Population Size

The CJTF recommends that the County Council support policy and program changes that enable justice system agencies and their partners to better manage jail population size. Although there may be concerns that the County cannot afford new initiatives, it could also be said that the County cannot afford not to invest in alternatives to jail that will defer and minimize the need to expand jail capacity. In the long run, compared to the costs of new jail construction and operation, it is far more cost-effective to aggressively manage the size of the jail population.

The five options most likely to be cost-effective, if initiatives are properly designed and managed, are as follows:

1. Expedite Superior Court case processing and monitor in detail the impact on the jail population.
2. Implement a cohesive and comprehensive approach to pretrial release decision-making and supervision.
3. Develop alternatives to arresting and jailing chronic minor offenders ("frequent fliers") that can help break their cycle of dysfunctional behavior.
4. Establish a system of jail discharge planning to encourage successful re-entry into the community.
5. Provide a mechanism for ongoing performance monitoring of justice system decision-making and programs that can document results of jail population management initiatives.

Each of these options will require specialized knowledge and information to implement. The CJTF may wish to appoint work groups composed of interested task force members and others with the experience and expertise needed to take the next steps in implementing these jail population management strategies.

1. Superior Court Case Processing

Most observers agree that the number of pending felony cases is too high and that progress has been made in reducing the backlog since JMI presented its report in October 2007. The CJTF considers the number of pending felony cases as a major driver of the size of the jail population. The Superior Court, prosecution, and defense attorneys continue to work on the issues. Justice Management Institute is scheduled to present a follow-up report in October 2008.

One concern not previously addressed by JMI is that the existing data reports on the jail population and on old court cases do not permit analysis of the relationship between the size of the court backlog and the average length of pretrial stay in jail. Improved reporting on this matter is needed to provide an effective “dashboard report,” a topic discussed later in this report.

2. Comprehensive Pretrial Release System

As background for the task force’s discussion of pretrial release issues, the Performance Audit staff developed a preliminary analysis of the ways that inmates currently are released from the Pierce County jail, included as Appendix E. The data are preliminary because of complexities resulting from an excessive number of release codes and inconsistency in how the codes are used. While these data problems remain to be resolved, the preliminary results point to some fundamental concerns.

Of those inmates who are reported as released from jail to await resolution of their cases, it appears that nearly half are released via bail, another one-quarter are SIP’ed, 13% are released by the Pretrial Services unit in the Corrections Bureau, and a similar percentage are released on personal recognizance (PR) by judges. Although the data are preliminary, the current number of inmates released on personal recognizance is probably too low. The current system relies heavily on release through financial means, which is inherently unfair and works against lower-income people who cannot meet bonding requirements.

An improved pretrial release system is one of the most important alternatives to incarceration that Pierce County should consider if it wishes to manage the size of its jail population and avoid having to build additional jail beds in the foreseeable future. Dr. Martin reviewed what is known about current pretrial release practices in Pierce County and provided to the task force a summary of “Pretrial Release System Information.” See Appendix F for the full document.

Improving the cost-effectiveness of Pierce County’s pretrial release system will require more than simply reassigning current responsibilities or expanding the authority of any one agency, group, or individual. By itself, the current Pretrial Services unit of the Corrections Bureau does not have the capacity, expertise, or breadth of authority necessary to design or operate the comprehensive pretrial release system recommended in this report. All of the key policymakers who share decision-making authority and responsibility for outcomes (i.e., courts, corrections, and law enforcement) should collaborate in restructuring the pretrial release decision-making and supervision process from the ground up.

This re-structuring should include modifying decision-making policies and practices and establishing a comprehensive menu of release options. Implementing a continuum of pretrial release supervision and notification options will require new and/or reallocated resources. However, if the new system is properly designed and implemented, it will reduce failures to appear and re-arrests, and thus save court, law enforcement, and corrections staff time and other resources that will more than match the investments.

The broad goals of re-organization should be to enhance the objectivity, consistency, and effectiveness of the pretrial release system. A well-functioning comprehensive approach to pretrial release has the following characteristics:

- ❑ Use of an actuarial risk assessment tool that enables objective evaluation of defendants' potential for re-arrest and risk of failure to appear for court events.
- ❑ Availability of a continuum of non-financial pretrial release options, such as release on personal recognizance or, when necessary, more restrictive means such as electronic monitoring.
- ❑ Guidelines for matching defendants assessed as having various degrees of risk to appropriate types of supervision and support that will address their specific risk profile.
- ❑ Continuous monitoring of outcomes (FTA and re-arrest) and adjustment of the actuarial risk assessment scale as needed to stay within acceptable limits.

Each of these points is discussed below.

Actuarial Risk Assessment

Using a validated actuarial risk assessment tool enables professional staff, whether civilian or uniformed, to:

- ❑ Objectively assess the nature and seriousness of defendants' risk (If released) of re-arrest and of failure to appear for court hearings.
- ❑ Administratively release those arrestees authorized by system policies.
- ❑ Prepare recommendations for the court concerning conditions of release necessary to minimize risks.

An actuarial system preserves the exercise of professional judgment via overrides, for specified reasons, of release decisions and recommendations derived from applying the objective tool.

Pretrial Services, a unit within the Corrections Bureau, is responsible for determining eligibility for public defense and running criminal histories for jail classification purposes. In addition, the unit is authorized (since 1997) to make administrative releases on personal recognizance (PR) of certain inmates charged with misdemeanor offenses. Currently, the unit releases on PR approximately 1,500 inmates per year.

The consultant conducted a brief review of this unit's release work by reading the 2004 performance audit report,⁵ reviewing the current pretrial release procedures manual, interviewing two of the six staff, observing release procedures in action, and studying the unit's risk assessment instrument, known as the "Vera" scale, a tool developed in the 1960's.

As part of redesigning Pierce County's pretrial release system, it will be important to re-examine the Vera scale in the context of more contemporary and well-researched actuarial assessment tools available for purchase or through the public domain. For example, the VPRAI (Virginia Pretrial Risk Assessment Instrument) is grounded in extensive research and practical experience with effective pretrial release processes.⁶

Making the most effective use of an actuarial/objective pretrial release assessment method will require that the courts, Corrections Bureau, and law enforcement agencies in Pierce County collaborate on the choice or design of a tool that all can endorse. No matter what organizational structure is chosen to implement the revamped pretrial release system, using a structured interview process with a new actuarial assessment tool will require initial staff training and frequent "booster sessions" in which staff input is solicited. It will also be very important to assess whether the assessment process is being implemented in the manner in which it was designed.

A revamped system should clearly define those categories of arrestees who may be administratively released (defined by offense and risk level), those who can be released solely through judicial decision-making, and those who are not considered eligible for release through either means. Optimally, all arrestees who do not post bail and who will be considered for either administrative or judicial release should be assessed soon after being booked. If possible, judges should receive pretrial release risk assessment results as part of the information available to them at an inmate's first court appearance.

⁵ Ben Adkins, Sue English, and Matt Temmel, Performance Audit Report, Pierce County Pre-Trial Services, November 4, 2004, available at www.co.pierce.wa.us/performance-audit.

⁶ For the VPRAI, see <http://www.dcss.virginia.gov/corrections/riskAssessment/?menuLevel=5&mID=12>.

Continuum of Release Options

By expanding and strengthening the array of supervision tools available to pretrial release decision-makers, it is likely that a larger proportion of defendants could be released more quickly while preserving public safety and increasing the proportion of released defendants who appear for scheduled court hearings.

A number of strategies used in other jurisdictions across the country could be employed at relatively low cost, particularly when compared to the cost of jail. Some examples includes electronic monitoring, daily or weekly reporting in person, automated reporting at a kiosk, and automated phone notification (of court dates). It will be important to ensure that indigent defendants are not barred from pretrial release options (such as electronic monitoring) simply because of inability to pay.

As the pretrial release system is retooled, it will be important to inventory existing options in Pierce County to document their capacity, eligibility criteria, and outcomes, so that they may be incorporated as appropriate in the expanded continuum of release options.

Use of the most restrictive pretrial release options in a comprehensive continuum should require court approval. Many of these pretrial release options may also be appropriate as alternatives to incarceration for sentenced individuals.

Matching Releasees to Pretrial Supervision and Support Options

Conditions of release should be matched to defendants' risk factors as assessed using an actuarial risk tool combined with professional judgment. Some individuals booked into jail clearly do not need external controls, as they are motivated and have a support system that reinforces responsible behavior. These individuals should be considered for pretrial release on personal recognizance. For others who are assessed as needing significant structure to avoid FTA or re-offending, release with some combination of supervision and support techniques is more appropriate. For still others accused of serious offenses and assessed as at high risk of re-offending, pretrial detention is the most appropriate option.

Policymakers can create a matrix that will suggest the type of supervision or structure that is most appropriate for defendants charged with offenses of differing severities who are assessed as having various levels of risk. Individuals accused of violent or other serious crimes would not be eligible for simple release on PR no matter their assessed risk level, since the stakes are too high and public sentiment too strong to consider anything less restrictive than structured supervision, with drug testing or treatment as appropriate, for these defendants.

Monitoring Results

Once a new system of pretrial release has been designed and implemented, it will be essential to track and review FTA and re-arrest rates for all means of pretrial release, including bond, release on PR, and any supervised release or notification options that are developed. This will require that release and FTA data be recorded more clearly and consistently by the Corrections Bureau and the courts.

3. Alternatives for Frequent Fliers

The Performance Audit analysis of arrests in the 22 census blocks surrounding the jail between January 1, 2006 and June 18, 2008 shows that 20% of those arrested were arrested more than once in that time period. This is a much higher re-arrest rate than for SIP releasees. Among these "frequent fliers," at least 30% were homeless or transient. Most of their arrests were for minor offenses such as SODA (stay out of drug area) violations, SOAP (stay out of area of prostitution) violations, shoplifting, and misdemeanor assault.

Clearly, the practice of repeatedly arresting, for minor offenses, homeless or transient individuals who are also likely to be substance abusing and/or chronically mentally ill is not very effective in changing their behavior.

The issue of "frequent fliers" or "high-demand users" of public resources has received increasing attention across the country. Public policy analysts point out that "jails are a safety net – the last resort for law enforcement and families when social and community support systems have failed. In an era of diminishing resources for social programs, there is greater pressure on jails to assume . . . more health-related roles and responsibilities, despite the fact that jail budgets have not had a corresponding increase in funding."⁷

The CJTF concluded that Pierce County should consider other options for helping these individuals to break the cycle of dysfunction in which they have become trapped. The objective is to establish more effective interventions for these "frequent fliers" that can reduce their arrest rate or at least their jail stays while making a more cost-effective investment of tax dollars.

This does not mean that police should ignore disruptive or illegal behavior, but rather that there must be reliable and effective alternatives to jail available for minor offenders with mental health and/or substance abuse problems. These options should be available to law enforcement officers who choose to refer

⁷ Marilyn Chandler Ford, "Frequent Fliers: The High Demand User in Local Corrections," *Californian Journal of Health Promotion*, 2005, Vol. 3, Issue 2, 61-71; and D. Leach, "Mission creep and the role of the jail in public health policy," *Large Jail Network Exchange*, 2004, 37-44.

chronic minor offenders to them. They also may serve as pretrial release or sentencing options.

Developing a coordinated system that can stabilize and treat these individuals will require the collaborative efforts of treatment professionals, housing and employment specialists, public and private health care providers, and law enforcement and corrections agencies, perhaps in the next phase of CJTF work. This working group should obtain a more detailed profile of the characteristics of Pierce County's "frequent fliers" so that a system of interventions can be designed to address their needs and issues. A systematic inventory of existing housing, treatment, and health care options available to these individuals should be conducted to document strengths and identify gaps in the continuum of services. Promising approaches developed by other jurisdictions for dealing with this population can provide Pierce County policymakers and program designers with guidance as they retool and reorganize local responses to frequent fliers.

Some frequent fliers have experienced years of substance abuse and mental health issues, and standards for their success should be tempered with realism. Any decrease in the frequency with which they relapse or re-offend will save taxpayer dollars and enhance the overall quality of life for all community members. In the longer run, it will be vital to develop assessment tools that help identify those at risk of becoming frequent fliers, and to develop intervention strategies to interrupt their cycle of dysfunction before they become "high-demand users."

4. Jail Discharge Planning

All inmates in the Pierce County jail eventually get out of jail. Some are transferred to prison, but many inmates serve their full sentence in jail and are released. It is also true, as shown above, that many releasees have a history of low-level offenses and are likely to be re-arrested.

The current system in Pierce County includes no discharge planning and very limited educational and treatment opportunities while in jail or soon after release. The task force considered these issues in general and agreed that jail discharge planning and referrals to community-based programs for both pretrial and post-trial releasees are promising approaches that should be considered as part of the "frequent flier" initiative outlined earlier in the report.

The CJTF recommends that the Corrections Bureau, in collaboration with community agencies (housing, employment, public health, mental health, substance abuse treatment, and education) establish a system of jail discharge planning to encourage successful re-entry into the community. In particular, it is important to identify the factors in inmate backgrounds that contribute to their risk

to re-offend, and provide in-jail programs and re-entry referrals to community programs that can address the needs.⁸

Effective re-entry programs require assessment and intervention starting early during an inmate's stay in jail.⁹ Several objective assessment instruments have been developed in other jurisdictions and could be adopted for use by Corrections Bureau staff or contractors.¹⁰ Based on the assessment, inmates could be referred to in-jail or community-based programs.

As a pilot program, Pierce County policymakers may wish to target a sub-section of the jail population, such as sentenced misdemeanants or felony inmates whose entire sentence will be served in the jail.

Research has established that successful re-entry into community life is best accomplished by offering education, training, or treatment to inmates while they are incarcerated.¹¹ Examples of successful in-jail programs include G.E.D. offerings and short modules on domestic violence, addiction, and job-seeking. Another benefit is that re-entry planning and in-jail programs may provide incentives for good behavior while incarcerated.

Some jurisdictions are able to provide a cost-effective range of in-jail programs by inviting community service providers into the jail. This approach could enhance the continuity of in-jail and re-entry treatment and training opportunities.

Pretrial inmates cannot be required to participate in jail discharge planning or in treatment or educational programs during their stay. However, many choose to do so in other jurisdictions because their participation may be viewed favorably by

⁸ These factors are called "criminogenic" needs, a term coined by corrections researchers in the 1990s to describe characteristics or traits that contribute to recidivism and are capable of change through treatment or training.

⁹ King County is reported to have a "release planner" on the jail staff. See also Marta Nelson & Mindy Tarlow, "Jail Re-Entry and Community Linkages: Adding Value on Both Sides of the Gate," and John Roman & Aaron Chalfin, "Does it Pay to Invest in Jail Re-entry Programs?"; both papers are part of a larger series of publications for the *Jail Re-entry Roundtable Initiative*, Washington, D.C., June 27-28, 2006. <http://www.urban.org/projects/reentry-roundtable/roundtable9.cfm>

¹⁰ For example, see an overview of the Level of Supervision Inventory (LSI-R) at http://www.assessments.com/catalog/LSI_R.htm, and a validation study of the LSI-R at http://www.pccd.state.pa.us/pccd/lib/pccd/stats/lisi_r_final_report.pdf.

¹¹ For more information, see *Increasing Public Safety Through Successful Offender Reentry: Evidence-Based and Emerging Practices in Corrections*, Center for Effective Public Policy, Bureau of Justice Assistance, 2007, at http://www.ojp.usdoj.gov/BJA/pdf/SVORI_CEPP.pdf; and *Short-Term Strategies to Improve Reentry of Jail Populations: Expanding and Implementing the APIC Model*. Fred C. Osher, M.D., American Jails, January/February 2007, at http://www.ojp.usdoj.gov/BJA/pdf/APIC_Model.pdf

the court and/or because they are genuinely interested in taking advantage of opportunities to improve their health and well-being.

In conclusion, jail discharge planning, related in-jail programs, and coordinated after-care services are needed if Pierce County wants to break the cycle of frequent re-arrest and promote successful re-entry into the community.

5. Performance Monitoring

The CJTF recommends that Pierce County's justice agencies and their public and private sector partners establish a jail population management monitoring system. The main purposes are to:

- ❑ Improve the quality of available data and make the reporting process more efficient by eliminating ad hoc, duplicative, or overlapping requests for data or reports.
- ❑ Track the success of policy change efforts such as those suggested above.
- ❑ Identify areas where improvement or fine-tuning may be necessary to keep jail population management initiatives on track.

Developing a single "dashboard report" format to which law enforcement agencies, corrections, the courts, prosecution, and defense contribute requisite data will make the process of sharing relevant information with policymakers much more efficient. Eliminating ad hoc, duplicative requests for reports will enable justice system staff to focus on providing high quality data on key indicators at agreed-upon intervals.

As part of the monitoring system, it will be important to establish performance benchmarks or targets so that analysts will have standards against which to measure progress. For example, targets related to monitoring the revamped pretrial release system might be:

- ❑ 70% of those reviewed for non-financial pretrial release will be placed on some form of release.
- ❑ Their re-arrest rates will not exceed 8%.
- ❑ Their FTA rates will remain at 5% or lower.

These examples have been taken from Hennepin County, Minnesota (Minneapolis-St. Paul). Pierce County policymakers should tailor targets to fit policy goals and program characteristics.

Appendix G includes a paper by the consultant suggesting a number of key indicators that the CJTF agreed should be tracked. These indicators are core measures of criminal justice system status or performance as it relates to jail population management goals.

The County Council must ultimately decide how best to implement this monitoring system and dashboard report concept within the County's organizational structure.

IV. RECOMMENDATIONS

1. Pierce County should aggressively pursue every viable means of limiting the need for additional jail space before any decision is made to plan for new construction of additional jail capacity or to staff currently unoccupied jail beds. Cost-effective means of managing jail population size include:
 - a. Expedited Superior Court case processing (already under way).
 - b. A cohesive and comprehensive approach to pretrial release decision-making and supervision.
 - c. Alternatives to arresting and jailing chronic minor offenders (“frequent fliers”).
 - d. In-jail and community-based re-entry programs.
 - e. Ongoing performance monitoring of justice system decision-making and programs.

2. The key policymakers who share decision-making authority and responsibility for outcomes (i.e., courts, corrections, and law enforcement) should collaborate in restructuring the pretrial release decision-making and supervision process from the ground up.
 - a. Improve jail release data collection and analyze current release patterns and outcomes.
 - b. Inventory current pretrial supervision options (capacity, eligibility criteria, outcomes).
 - c. Update actuarial risk assessment tool and process.
 - d. Expand continuum of supervision and notification options for pretrial releasees (e.g., reporting kiosks, notification of court dates, electronic monitoring, and day reporting).
 - e. Establish an organizational structure that will cost-effectively accomplish pretrial release goals and objectives.
 - f. Monitor use of assessment process and release options.
 - g. Monitor pretrial release outcomes and impacts on jail bookings, average length of stay, and average daily population.

3. The task force should work toward establishing effective interventions for chronic minor offenders (“frequent fliers”) that can divert them from jail while making more cost-effective use of tax dollars.
 - a. Appoint a working group of treatment professionals, housing and employment specialists, public and private health care providers, law enforcement and corrections professionals, and concerned citizens to design a system that can stabilize and treat these individuals.
 - b. Obtain a more detailed profile of the characteristics of Pierce County’s “frequent fliers.”
 - c. Conduct a systematic inventory of existing housing, treatment, and health care options already available to these individuals.
 - d. Consider promising approaches developed by other jurisdictions for dealing with this population.
 - e. Organize, implement, and monitor the impacts of a system of interventions that address the needs and issues of chronic minor offenders in Pierce County.

4. In order to decrease recidivism, the task force should work toward establishing a system of effective jail discharge planning to encourage successful re-entry into the community. The system should include needs assessment, coordination with community programs, and in-jail programs as needed.
 - a. Appoint a working group of corrections, housing, employment, public health, mental health, substance abuse treatment, and education professionals to design a continuum of in-jail and re-entry program options for inmates (possibly beginning with a pilot for a specific inmate group, such as sentenced misdemeanants).
 - b. Adopt an objective assessment tool for use by Corrections Bureau staff and/or their community partners to identify inmates’ criminogenic needs when they are admitted to jail.
 - c. Establish a system of transition or reentry planning that begins early in an inmate’s jail stay and is connected to after-care resources in the community.
 - d. Implement a continuum of jail and after-care programs, building on existing community resources.

- e. Monitor the impacts of this system on inmates and releasees (for example, on their behavior while in jail, recidivism, physical and mental health, housing and employment status).
5. The County Council, working with the justice system agencies and their public and private sector partners, should establish a jail population management monitoring system.
- a. Develop a single “dashboard report” format to which law enforcement agencies, corrections, the courts, prosecution, and defense contribute requisite data (initial draft developed by CJTF).
 - b. Establish performance benchmarks or targets so that analysts will have standards against which to measure progress.
 - c. Assign responsibility and provide any resources necessary for jail population management performance monitoring within the County organization.
 - d. Track and document the impacts of recommended population control initiatives on the needs for bed space in various custody levels, female housing, and program and support spaces.