

**Draft Final Report
Implementation of SSB-5533
In Washington State Counties & Cities**

March, 2008

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Funding for this report was made possible in part by the Mental Health Transformation State Incentive Grant Award No. 6 U79 SM57648 from the Substance Abuse and Mental Health Services Administration (SAMHSA) to the State of Washington. The views expressed in this report do not necessarily reflect the official policies of the U.S. Department of Health and Human Services or agencies of the State of Washington, nor does mention of trade names, commercial practices, or organizations imply endorsement by the U.S. Government.

Introduction

This report summarizes the implementation status of SSB-5533 which was enacted on July 22, 2007. The survey, upon which this report is based, was conducted by the Washington Institute for Mental Health Research and Training at WSU Spokane in the winter of 2007. Funding was provided by the Mental Health Transformation Project.

SSB-5533 allows local prosecutors and law enforcement officers to divert from the criminal justice system individuals who have committed non-serious and non-felony crimes, if they are known by the Regional Support Network to suffer from a mental disorder. Local jurisdictions must establish minimum requirements for program participation. The individuals can be held in a crisis stabilization unit for up to 12 hours, but they must be examined by a mental health professional within three hours of arrival. The individual must agree to voluntary participation in outpatient treatment.

All Washington State counties and 14 cities were included in a telephone survey inquiring about the implementation of this bill. The cities included: Bellevue, Bellingham, Ellensburg, Everett, Kennewick, Olympia, Pasco, Port Angeles, Richland, Seattle, Spokane, Tacoma, Vancouver, Walla Walla, Wenatchee, and Yakima. The findings in this report are based on telephone interviews and support documents provided by key informants from police departments, mental health agencies and court systems. A copy of the interview protocol, interview questions and SSB-5533 are included in Appendix A.

Findings

Of all the counties, it appears only Yakima and Pierce Counties are using the authority of SSB-5533 to divert offenders from jail at this time. Each county has a 24 hour crisis triage center allowing them to secure and divert people who have committed a misdemeanor crime and also exhibit symptoms of a mental or substance abuse disorder. Both serve voluntary and involuntary admissions (ITA). Their programs are described below. Other counties may have a crisis intervention unit, but they depend upon hospital emergency rooms or jail for holding people. Few hospitals have secure holding areas. While most counties and cities are not fully implementing SSB-5533, significant changes toward diversion from jail are occurring. These changes range from informal collaboration between law enforcement and mental health professionals, Crisis Intervention Team (CIT) training of law enforcement officers, PACT teams and a range of post-booking court options, such as: therapeutic, mental health, drug and family courts.

Two Models for Implementing SSB-5533

Even though **Pierce County** is in a state of flux due to the changes in mental health administration, they are one of two counties who are complying with SSB-5533. In the early 1990's, the County saw the need for a secure alternative to incarceration.

Law enforcement officers were faced with the choice of arrest or long drives and wait times in hospital emergency rooms. Through reorganization and in partnership with local law enforcement, the County designed a crisis triage service that accomplishes the goals outlined in SSB-5533. It is secure and they have the ability to seclude or restrain. People may be placed on protective custody holds under RCW 70.96A. It is staffed by medical, chemical dependency, and mental health specialists, and guarantees that law enforcement officers can access admission more quickly than booking someone into jail. They admit over 300 people per month to this 18 bed facility; 100 or more of which are law enforcement referrals. Average length of stay is just under 24 hours, but people can stay up to 72 hours. They remain until they are safe to be discharged to appropriate follow-up care in the community or are referred for more intensive inpatient treatment under 70.96B or 71.05 as indicated. Operating since 1996, they report favorable responses from local law enforcement, community hospital emergency rooms, and community mental health providers.

Yakima County has been using the authority of SSB-5533 in a pilot diversion project since November, 2007. Using surplus funds from a SAMHSA grant, Central Washington Comprehensive Mental Health of Yakima has been implementing SSB-5533 through collaboration with the City and County law enforcement officers and the Yakima County court system. The triage center treats diversion and involuntary (ITA) processes separately, and professionals have the ability to switch someone to ITA if necessary. This program is presented more fully on the agency's project website. ¹

The Jail Diversion Program serves chronically and acutely mentally ill adults ages 18 and older who come into contact with Yakima County or City of Yakima law enforcement. In a previous project, Yakima County documented a need to divert people prior to arrest. For the current project, they are using a pre-booking diversion model based on programs in Memphis and San Antonio. Crisis Intervention Team (CIT) training of officers is a major component of this successful program. In total, and partially funded by this project, 130 police officers, deputies, correction officers and probation officers completed CIT training. Feedback from officers has been positive. Officers see the training as useful for their work on the streets. CIT appears to be the most effective tool for generating referrals into the diversion program.

Results from this pilot project have been positive. In four months, they diverted approximately 60 people from jail and received one or more referrals each day. The agency presented a PowerPoint report summarizing the results of this pilot project to the Yakima County Commissioners.² On March 6, 2008, the Commissioners announced they would fund this program based on data provided. The source of funds has not been identified by the Commissioners.

The Diversion Pilot Program admitted 56 people from jail from November, 2007 through February, 2008. Of the 52 people served (four opted out of treatment), none were re-arrested in the time period studied. Referring officers reported all of these individuals would have gone to jail without this program. Their charges would have included the following:

- Drug use;
- Possession of drug paraphernalia;
- Harassment;
- Petty larceny;
- Trespassing; and
- Probation violation and others such as: dine and dash and driving without a license.

All admitted were assessed for chemical dependency; 63 percent had alcohol/drug involvement and 45 percent had co-occurring disorders. Of those with drug involvement, 32 percent used methamphetamines. Table I shows the behaviors observed by officers at the time of admission.

Table I
Behavior Observed by Officers

Behaviors	% Total N=52
Alcohol/Drugs	42
Disorientation/Confusion	18
Disorganized Speech	6
Depressed	39
Scared/Frightened	9
Belligerent	6

Of those served, 39 percent had no previous mental health treatment and 76 percent had no previous chemical dependency treatment. Table 2 shows the diagnosis assigned to each person upon evaluation by Designated Mental Health Professional (DMHP),

Table 2
Diagnosis of Clients Served

Diagnosis	% Total Served N-52
Schizophrenia	15
Depression	63
Post Traumatic Stress Disorder	6
Bipolar	12
Substance Abuse	18
Developmental Disabilities	6

The annual program costs for the pilot project were projected at approximately \$585,000. Assuming a person would likely spend ten days in jail, the annualized saving was \$900,480 for one arrest per individual and \$3,601,920 for four arrests per individual.

Other Diversion Activities

While not meeting the full intent of SSB-5533, either formally or informally, at least 20 counties, and cities within are working toward diversion from jail for those with a mental or chemical dependency disorder. All Cities are working in conjunction with their respective counties.

Enactment of E2SSB-5763 has allowed counties to exercise a 1/10th of one percent sales tax for mental health and substance abuse treatment including support of therapeutic and drug courts. While not meeting the full intent of SSB-5533, all eight counties that passed the sales tax provision are expanding or creating programs that will facilitate diversion following arrest. The eight counties with the sales tax are: Clallam, Clark, Island, Jefferson King, Okanogan, Skagit, and Spokane. A separate report entitled: *Final Report, Implementation of E2SSB-5763 in Washington State Counties* summarizes the status of the funding plans.³ King County is considering funding a crisis triage center with their tax revenues, but they are not sure it will fully comply with SSB-5533 when developed. They are hiring a consultant to help them design the best program for the County. They indicated the requirement for voluntary treatment-only was an impediment.

Six counties, Clallam, Clark, King, Skagit, Spokane and Thurston, had mental health or therapeutic courts in place before the enactment of the 1/10th of one percent sales tax.⁴ Thirteen counties had drug courts with another three more creating them with revenues from the 1/10th of one percent sales tax. Counties with drug courts included: Clallam, Clark, Cowlitz, King, Kitsap, Pacific, Pierce, Skagit, Snohomish, Spokane, Thurston, Whatcom and Yakima.⁵ Island, Jefferson and Okanogan sales tax spending plans include creating drug courts.

Benton, Franklin and Yakima Counties are considering the use of Law and Justice funding and possibly the one-tenth of one percent option to expand services. In addition, Lewis, San Juan, Snohomish and Whatcom Counties have started meeting and are beginning to consider proposing a sales tax for mental health and substance abuse services. Lincoln and Stevens Counties have been using State-only dollars for some diversion programming. Chelan-Douglas Counties received Community Trade & Economic Development (CTED) funding for diversion housing.

Several months ago, the Clark County District Court provided a critique of the impact of SSB-5533. A draft of these comments is included in Appendix B. Clark County is not implementing this bill because their existing service delivery system already meets the intent of the bill without additional jurisdictional burdens on the designated mental health professionals, law enforcement, the courts, and the prosecutors.

In February, 2008, a workgroup discussed the bill, its impacts if implemented, and the current cross-systems coordination currently in place. Representation on the workgroup included: city and county law enforcement; local hospital emergency departments; hospital inpatient services, including the evaluation and treatment center; service providers, including PACT and Jail Transition Services; and the Mental Health Court. It was the consensus of the group that Clark County has an

effective cross-systems process with good working relationships between all the involved entities. While there are challenges (e.g., increase in requests for services, lack of crisis stabilization beds, treatment for individuals with co-occurring disorders), law enforcement works well with the agencies, hospitals, mental health courts, and the jail to get people the services they need.

The work group identified CIT as one effort that significantly helps people with mental illness who come into contact with law enforcement. CIT training has been provided biannually since 2003, primarily to law enforcement staff of Vancouver Police Department and the Clark County Sheriff's Office, but other municipal police departments in the county have been included as well. Increasingly, people specifically request a CIT officer when asking for law enforcement assistance for individuals who have or are suspected of having a mental illness.⁶

The provision of crisis intervention training to law enforcement officers is an important advancement in many counties. Most major cities now have some officers trained in mental health crisis intervention through the Crisis Intervention Team (CIT) training program. At least ten counties and five cities have officers trained in CIT. Appendix C shows a list of cities and counties that participated in CIT training by Edgework from 2004-2007.⁷

Other counties practice informal diversion. At the lower end of the spectrum, law enforcement officers may call a mental health center to request an evaluation of someone in jail. In communities where relationships are well developed, law enforcement officers call the mental health center to go out on a crisis call when they suspect a person has a mental health or substance abuse disorder. Further research is needed to document the extent of informal diversion.

Diversion Protocols

Aside from Pierce and Yakima Counties, the author found only one other county (Thurston) with a written protocol for diversion from jail. Protocols for Thurston⁸ and Pierce⁹ Counties are attached in Appendices D and E. Yakima County's protocol is on their website: <http://www.cwcmh.org/jail.asp> (3-10-08).

Pierce County distributed their draft diversion protocol at a meeting of the Washington Association of Prosecuting Attorneys earlier this year. While the attorneys acknowledged the merit of SSB-5533, they recognized limitations due to the restrictions to lower levels of crime, and lack of resources statewide to develop crisis triage programs. However, a key informant from a Sheriff's Department felt local police would comply if the prosecuting attorney's get behind the legislation.

Barriers to Implementation SSB-5533

Informants mentioned specific barriers to implementing this legislation. The barriers ranged from lack of funding to philosophical differences in how to manage diversion programs. The stated barriers included:

- Lack of funding attached to legislative mandate;
- Requirements for and lack of a 24-hour crisis stabilization facility that meets standards required;
- Rigidity of criteria for eligibility and assessments, such as; limited types of crimes allowed under the law and limitations of voluntary-only treatment;
- Time restrictions, particularly, the three-hour requirement for examination by a mental health professional;
- Lack of support or collaboration among law enforcement officers, mental health professionals and prosecuting attorneys;
- Strain on limited agency staffs;
- Other higher community priorities and too few consumers to place priority on diversion;
- Lack of knowledge about legislation and how to go about implementing bill; and
- Professional disagreement about treatment philosophy regarding diversion rather than holding a person accountable to their crime.

Of the barriers listed, lack of funding was most frequently stated. Generally this meant lack of funding for a secure crisis facility, mental health and court staff and CIT training.

Next Steps

Strategies and next steps for implementing diversion options for cities and counties do not necessarily bring them into compliance with SSB-5533. However, there is movement toward more diversion from jail and into treatment. Statewide, there is a need for more professional awareness and discussion about the intent of the bill, especially to local law enforcement officers, mental health professionals and prosecuting attorneys. A positive step in this direction was made by the Washington Association of Prosecuting Attorneys. As mentioned earlier, they addressed the SSB-5533 in their statewide meeting.

Further discussions among the involved professionals are needed to clarify and refine the law. The collaboration among these private and governmental organizations is critical to implementation. Modifications may be needed to facilitate enactment based on feedback from those impacted by the new law. For Counties and Cities interested in implementing the bill, their next steps included:

- Educating professionals, community members and commissioners about the need for services and the new options available through the law;
- Preparing program needs assessments and plans for services;
- Preparing for a tax initiative or other methods of funding;
- Establishing mental health/therapeutic and drug courts;
- Establishing a fully staffed crisis stabilization center; and

- Changing from a pilot project supported by surplus funds from a SAMHSA project into an agency program funded by the County.¹⁰

Community Champions

Local champions include law enforcement, mental health and court systems in some communities. Since county employees cannot advocate for legislation, they have played a supportive role in the counties. Counties without champions for this legislation tended to have a small client population, had other higher community priorities and lacked a source of funding.

Synopsis of City Involvement

Fourteen cities were included in this survey. While larger cities tend to have their own police force, behavioral health and court services tend to be mostly county managed. Smaller counties depend upon county sheriffs for law enforcement. Implementation of SSB-5533 is dependent upon collaboration among the local police/sheriff, mental health professionals and city/county prosecuting attorneys. For most cities, one must consider the county government as part of the inquiry. Below is a synopsis of what the author learned from cities surveyed.

Bellevue (King Co.) The city is working with the county to implement programs funded under E2SSB-5763. These funds are being partially used to develop a system that responds to SSB-5533. Like Seattle and all of King County, Bellevue needs a facility to place people in need of crisis stabilization. Bellevue began to develop standards for SSB-5533, but they stopped because the county lacked a crisis intervention center that met the standards of the legislation. Besides a facility, the police need more CIT training. Mental health professionals and advocates are very supportive, but they believe more time and thought is needed to develop the infrastructure for this legislation.

Bellingham (Whatcom Co.) The County passed the 3/10th of one percent sales tax for law and justice. The city is working in conjunction with the County to provide mental health services. At this point, they are not implementing SSB-5533. A Re-Entry Coalition has been working with the county regarding the service inventory and other requirements for people released from jail. Lack of state funding was mentioned as an impediment to implementation.

Ellensburg (Kittitas Co.) The County passed a 3/10th of one percent sales tax for law and justice. At this time, the Ellensburg Police Department is not actively involved with implementing SSB-5533. The local prosecutor, the district court judge, and the local mental health provider have had some discussion about the issues, but nothing formal.

Everett, (Snohomish Co.) The County has an active group working on mental health and substance abuse issues. The City has not implemented SSB-5533, however the county is working toward providing enhanced services. They have a Blue Ribbon Commission for Criminal Justice which is examining mental health and substance abuse issues, as well.

Recently, they reviewed and commented on a preliminary plan developed by the Snohomish County Human Services office. The Commission's comments were sent back to the Council for review in late February.

Kennewick and Richland (Benton Co.) and **Pasco** (Franklin Co.) These three cities and corresponding counties have been undertaking much analysis of the behavioral health system and its crisis response capabilities. The two counties are working together to try to come up with a way to fund and design a full crisis triage center. Voters did not approve a law and justice sales tax last year.

Olympia (Thurston-Mason Counties) The Olympia Police Department handles most of the misdemeanor cases and they have traditionally diverted mentally ill people away from jail and connected them to services, when possible. Thurston County has an active mental health court. The Sheriff's office has a protocol for diversion. A copy is included in the Appendix D.

Seattle (King Co.) is not implementing SSB-5533 at this time. The City and County lack a crisis stabilization facility meeting the criteria required by the law. The Seattle Police Department has a crisis intervention team and about five percent of the officers have received CIT training. More training is planned for both city and county officers. Currently, city and county officers will call a Case Manager if they know of one, or call the designated mental health professional and take people to the emergency room. Local officers use Harborview Medical Center mostly. At one time Harborview had a crisis triage center, but when State funding was cut, it was changed back to an "emergency room" because it did not meet the legal definition of crisis triage center. Harborview's emergency room does meet the requirement of having a mental health professional see a person within three hours of confinement.

The County has used funds from closure of two other facilities to support some "backdoor" diversion activities, such as housing vouchers, co-occurring disorder treatment, escorts to treatment, liaison in jail, case management and mental health staff in jail and methamphetamine treatment. Two state funded Aggressive Community Treatment (PACT) teams are helpful for diverting people from jail, but they only serve 180 individuals. The County has approximately 2000 homeless mentally ill people and about 27,000 on their rolls.

With some State Mental Health Transformation Grant funding, the County is hiring a consultant, Hank Steadman, to help them design a crisis triage facility which may or may not meet the criteria of 5533. They plan to use revenues from the new sales tax to fund the new crisis triage center and other diversion activities. While the county expects to gain about \$50 million in revenues next year, they cannot use the funding for basic services. It must be used for new services. Therefore, the County and City of Seattle still face many challenges because releasing people following crisis intervention without housing and follow-up treatment generally does not keep them from returning.

The City and County have further concerns with the limitations stipulated in SSB-5533. They suggest that the law is too limiting with voluntary treatment only. They want the option to use involuntary commitment ITA for mental health and substance abuse. There is no real incentive to be as restrictive as the law when so many people need involuntary treatment.

Spokane (Spokane Co.) In the County and City of Spokane people are initially charged, and then if determined appropriate they will divert them from jail and eventually erase their records. Many cases are dismissed to get people out of jail as soon as possible. The City has a Mental Health Court. They have no written diversion protocol for officers at this time. Through collaboration with prosecutors, the individuals are identified and placed in mental health court. They report that about 50 percent of the people booked had not been connected to treatment services. They are using the 1/10th of one percent sales tax to fund services.

Tacoma (Pierce Co.) Even though the County Mental Health System is in transition, the City of Tacoma and Pierce County are diverting people from jail through their county operated crisis triage center. As described earlier in this report, the center has served the City and County since 1996. They are able to comply with SSB-5533.

Vancouver (Clark Co.) is not applying the new law at this time. However, the District Court has mental health, substance abuse and homeless courts serving the City and County. Also, over the years various PACT teams have helped to divert people from jail by helping them remain stable in the community. The Department of Court Services provided a good review of the new legislation stating the potential impacts on the existing system and questioning parts of the new bill. A copy of the comments is attached in Appendix A.

Walla Walla (City and County) City police officers call the crisis intervention team if they have someone who is exhibiting mental health or substance abuse symptoms. For minor offenses, they usually will let a person go because there is no place else to take them. Officers see their only options are to let a person go or arrest them. The officer on duty may favor jail in instances where a person needs a controlled environment for their own safety. Officers would like more options, but there is no secure place to take people other than jail. The city and county have a low client population who would benefit from the legislation so they are not considering implementation at this time. The officer interviewed expressed a need for more wide-spread understanding of the issues.

Wenatchee (Chelan Co.) Chelan and Douglas Counties work together to provide mental health and substance abuse services for Wenatchee and other towns in the two counties. Douglas County provides mental health services for both counties and Chelan County provides detoxification and substance abuse services. They lack a crisis intervention center and therefore are not considering implementation of SSB-5533. However, they do have two houses they use for mental health hospital diversion beds funded by a Community Trade and Economic Development grant. Individuals are allowed to stay in the houses for up to two weeks.

A subcommittee of the mental health stakeholders group was formed to address the issues and look at the possibilities for a 1/10th of one percent sales tax. They had a representative from Okanogan County talk to them about how they passed the sales tax provision. Also, they have visited Yakima Comprehensive Mental Health to see how crisis intervention units work there. Chelan County hopes to pass a 1/10th of one percent sales tax. Two of the three Chelan County Commissioners are supportive of a 1/10th of one percent sales tax to fund a crisis center. The prosecutor is agreeable. NAMI is very active in Chelan County and they push the authorities to provide good services. Police, prosecutors and at least one district court judge are in favor of the tax. Chelan County has done a good job of training police officers in crisis intervention. Recently, Douglas County asked to have police CIT training.

Yakima (City of Yakima and Yakima County) The City of Yakima is complying with SSB-5533 through a pilot project. Recently presented data convinced the County Commissioners of the cost benefit of pre-booking diversion. They plan to continue funding of the program. This project was described earlier in his report.

Conclusions

Statewide, SSB-5533 itself has had minimal impact on jail diversion. Many professionals, including: mental health, law enforcement officers and prosecuting attorneys do not see the ability to carry out the intent of the law in their communities primarily because of lack of funding. They see the intent of the bill as good, but without outside funding there was no way they can develop the crisis response facilities or have the professional support necessary to comply. Only two counties, Pierce and Yakima are in compliance with the legislation at this time. Both counties have secure and fully staffed crisis triage centers, and good collaboration among mental health, substance abuse, law enforcement, prosecuting attorneys and judges.

While there is considerable interest and local attempts being made toward jail diversion, SSB-5533 is not the driving force. Smaller counties, where the clientele is known, may handle complaints informally by officers contacting the mental health center to intervene prior to arrest. Clark County is not complying with SSB-5533, yet they are diverting many people using their complex web of providers, law enforcement officers and their mental health, drug and homeless courts. Communities fortunate enough to have PACT programs are able to keep some from the revolving door in and out of jail and hospitals.

Enactment of E2SSB-5763 has enabled eight counties to generate revenue for mental health and substance abuse services, as well as, therapeutic and drug courts. Generally, specialized courts are used to divert people out of the criminal justice system and into treatment following arrest. While these courts are useful, pre-booking diversion may be more cost effective. Officers in most communities still have few pre-booking choices. They either have to let a person go, take them to an emergency room or book them in jail prior to court hearings

CIT training for law enforcement has been a key factor in successful diversion programs. The training has helped officers manage people who are out of control on the street and, when resources are available, officers have been able to divert people from jail when appropriate. Clearly, law enforcement officers would like an appropriate place prior to booking to take people who have committed misdemeanor crimes and who are exhibiting severe mental or substance abuse disorders. Yakima County determined CIT Training was a critical factor in their diversion program and pre-booking diversion was much more cost effective than post booking referrals.

Beyond the complaint of lack of funding, professionals want the standards for SSB-5533 to be more flexible. For example: the requirement for a mental health assessment within three hours of confinement is impractical for many small communities. This timing severely challenges communities where staff is limited and travel times may be great. Likewise, limiting the provision to voluntary-care only may force officers and mental health professionals to use the jail alternative when involuntary treatment may be more appropriate.

Refining the legislation with input from law enforcement, prosecutors and mental health professionals may facilitate local support. Also, developing creative funding strategies for small counties may facilitate implementation. While sales tax revenues may be a good source of funding for larger counties, they may not be for smaller counties because the revenues are small and the support is more difficult to attain. Clearly continued CIT funding and training of officers is an important component to any diversion program. Finally, more education is needed about the legislation in professional circles. As one legal advisor noted: "if the prosecuting attorneys get behind it, it will happen."

Appendix A

Telephone and Email Survey Protocol & Interview Guide

Hello,

I am a Research Associate with the WA. Institute for Mental Illness Research and Training at WSU Spokane. We are under contract with the Governor's Office Mental Health Transformation Grant to assess the implementation of SSB5533 passed by the 2007 Legislature.

This bill allows local prosecutors and law enforcement officers to divert from the criminal justice system individuals who have committed non-serious and non-felony crimes if they are known by the Regional Support Network to suffer from a mental disorder. Local jurisdictions must establish minimum requirements for program participation. The individuals can be held in a crisis stabilization unit for up to 12 hours and they must be examined by a mental health professional within three hours of arrival. The individual must agree to voluntary participation in outpatient treatment.

I have a few questions regarding the extent of implementation of this bill in your county. May I ask you these questions, or can you refer me to the best person to interview? I have attached a copy of the legislation and my interview questions for your reference and convenience.

Interview Schedule SSB 5533

Diversion of mentally ill individuals from the Criminal Justice System

Rev. 12-10-07

County or City: _____

Contact information of person completing questionnaire:

Rev. 12-10-07

Summary of SSB5533 passed April, 2007.

This bill allows law enforcement officers to divert from the criminal justice system individuals who have committed non-serious and non-felony crimes if they are known by the Regional Support Network to suffer from mental disorder. The individuals can be held in a crisis stabilization unit for up to 12 hours and they must be examined by a mental health professional within three hours of arrival. The individual must agree to voluntary participation in outpatient treatment

Interview Questions

1. Are you applying this initiative for your jurisdiction?

Yes _____

No _____

2. IF yes, do you have written protocols for officers indicating who they can divert and where they must take the person? 2a. If so, may I get a copy of your protocol?

3. How are you financing implementation (diversion)?

4. Are their specific provisions of this legislation that are of particular interest to your jurisdiction?

5. If your jurisdiction is considering adoption, what strategies do you anticipate using to achieve implementation?

6. If not considering adoption, what are the perceived barriers and challenges of implementation?

7. Are local community champions favoring adoption? 7a. If so, who are they?

8. What are the jurisdiction's next steps?

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SB 5533 - DIGEST

(SUBSTITUTED FOR - SEE 1ST SUB)

Finds that RCW 10.77.090 contains laws relating to three discrete subjects. Therefore, one purpose of this act is to reorganize some of those laws by creating new sections in the Revised Code of Washington that clarify and identify these discrete subjects. Finds that there are disproportionate numbers of individuals with mental illness in jail. The needs of individuals with mental illness and the public safety needs of society at large are better served when individuals with mental illness are provided an opportunity to obtain treatment and support.

Declares that if reasonable cause exists to believe that an individual with a mental disorder has committed acts constituting a non-felony crime that is not a serious offense as identified in RCW 10.77.092, **in lieu of charging the prosecutor may refer the individual to a mental health professional for evaluation for initial detention and proceeding under chapter 71.05 RCW or voluntary participation in outpatient treatment.**

Provides that any jurisdiction that establishes a mental health treatment alternative pursuant to this act shall **establish minimum requirements for the participation of individuals in the program**. The mental health treatment alternative may adopt local requirements that are more stringent than the minimum. The minimum requirements are:

- (1) Psychiatric treatment is clinically indicated by history or upon consultation with a mental health professional as defined in RCW 71.05.020;
- (2) The individual has not previously been convicted of a serious violent offense or sex offense as defined in RCW 9.94A.030; and
- (3) Without regard to whether proof of any of these elements is required to convict, the individual is not currently charged with or convicted of an offense: (a) that is a sex offense; (b) that is a serious violent offense; (c) during which the individual used a firearm; or (d) during which the individual caused substantial or great bodily harm or death to another person.

Creates a joint task force on decreasing the number of individuals with mental illness entering the criminal justice system. Requires the task force to review and make recommendations to the legislature and the governor regarding increased access to mental health services for those within the criminal justice system and strategies that will decrease the number of people with mental health illness entering and reentering the criminal justice system. Requires the task force to report its findings and recommendations to the legislature by November 15, 2007. Repeals RCW 10.77.090.

Appendix B

Clark County DCS Comments on SSB-5533

Impacts:

1. New Section 2, page 2, lines 3 through 4: "...in lieu of charging the prosecutor may refer the individual to a mental health professional for evaluation for initial detention and proceeding under chapter 71.05 RCW or voluntary participation in outpatient treatment." We feel this needs to be clarified: Does this mean any MHP or DMHP? Either way, this will increase workload. If this is a DMHP, the staffing pattern was not developed based on another stream of individuals from the prosecutor's office and could result in requiring more staff which drives the expenses up for the RSN.
2. New Section 2, page 2, lines 14 through 17: The prosecutor is charged with the responsibility of selecting treatment options (working with DSHS, RSN, and defense counsel) for persons appearing before him/her who may be eligible for voluntary services through this bill. This presents a number of problems: Is a prosecutor trained to select treatment options? Is a defense attorney trained to select treatment options? How will the prosecutor coordinate this with the RSN and DSHS? What if the prosecutor selects inpatient treatment that is not medically necessary? The impact here is three-fold: First, it places a treatment decision in the hands of persons not trained, and second, it could result in treatment not medically necessary and third it creates additional layers of coordination which will increase operating expenses as well as placing persons in levels of care not medically necessary.
3. New Section 2, page 2, number (3) lines 18 through 24: This section requires mandatory monthly reports ("individuals' relative progress in treatment for 90 days") to the prosecutor's office and sets a minimum requirement for the content of the report. This increases paperwork burden and will likely result in push back by providers for additional funding.
4. New Section 2, page 2, number (4) lines 25 through 29: This section requires the development of minimum requirements for participation in services within each jurisdiction and establishes minimum requirements (4) (a) (b) (c) (i) through (iv). Again this will drive expenses up since it will require planning, training, and ongoing monitoring.
5. New Section 3, page 3: This section modifies RCW 10.77 (statute on criminally insane) and issues guidelines for evaluating persons found incompetent and providing, within funding, services for those with developmental disabilities in a setting that meets standards of this bill. (page 8, line 30 through page 5 ending on line 29).
6. New Section 3, (c) page 4: This section has to do with restoration after a person is determined competent. A mental health professional makes this determination. It is important to understand that DMHPs are experts in civil not forensic

evaluation and it is not clear who this responsibility may fall to. Sections (d) (ii) (beginning on line 34, page 4) indicates a defendant in custody and not on conditional release at the time of dismissal shall be detained and sent to an E & T for up to 72 hours—what if the person doesn't meet detention criteria? Do they still get 72 hours? Also, this section seems to mix the duties of the DMHP as both civil and forensic, that is, detaining a person in accordance with RCW 71.05 and having some function with determining competency. If this is the intent, CCCS and other counties will need to add to their DMHP teams, professionals capable of determining competency. This again will increase costs.

7. New Section 4, page 5: This section adds felony procedures requirements to RCW 10.77. Not sure what impact this has on the prosecutor's office.
8. New Section 5, page 7: Also do not know impact on prosecutor's office.
9. Section 6, page 8, (6), lines 19 through 25: This section adds language for a "crisis stabilization unit" which seems to be a term that also covers E & T's. Is there talk that an E & T may be used for short term interventions for those determined criminally insane? There is no language that speaks to this, but the juxtaposition of these sections does cause some concern.
10. Section 7, page 12 amends 71.05.150. The non-emergent detention section (page 12, beginning on line 31) cleans up areas that still reference "county" in DMHP, and removes "presents a likelihood of serious harm." On page 13, line 7 and 8, add language for triage facility or crisis stabilization unit, which may also be other terms for E & Ts as mentioned in Section 6. Section 1 (b) (page 13) contains the petition guidelines in superior court and is deleted and adds section (2) which is succinct and to the point concerning the petition. Page 14, beginning on line 14 deletes number (2) which was the description of what a DMHP does upon receiving information alleging that a person may need detention and creates a new section number 11.
11. New Section 8, EMERGENT DETENTION, beginning on page 15, line 30: This amends the existing law and with the exception of section 2© (page 16, line 17) no problems were identified. The problems in 2 © is "When the peace officer has reasonable cause to believe that the individual has committed acts constituting a crime and the individual is known by history of consultation with the RSN to suffer from a mental disorder" officers can take people to ED, E & T, or crisis stab. Unit. This could create a significant demand on services since it includes anyone that an officer has "reasonable cause to believe committed a crime" and is known to have a mental disorder.

Appendix C

Crisis Intervention Team Training

This is only one company's list. There may be other trainers providing CIT as well.

Edgework CIT Trainings in Washington State

Grace under Fire - "De-escalation of Aggressive and Mentally Ill Individuals for Law Enforcement" – Including CIT (Crisis Intervention Team) trainings at multiple locations

- Chelan-Douglas County CIT Training – (Multiple Trainings) - Wenatchee, Washington
- Clark County/Vancouver Police Department CIT training – (Multiple Trainings) – Vancouver, Washington
- Cowlitz County Consortium of Police Agencies – CIT training – (Multiple Trainings) – Washington
- Harborview Hospital Public Safety Academy – (Multiple Trainings) – Seattle, Washington
- Kent Police Department – (Multiple Trainings) – Kent, Washington
- King County Eastside CIT training
- Kitsap County - Law enforcement and corrections agencies (multiple trainings)
- Mercer Island Police Department – (Multiple Trainings) – Mercer Island, Washington
- Montlake Terrace Police Department - Montlake Terrace, Washington
- Redmond Police Department - Redmond, Washington (Multiple Trainings)
- Seattle Police Department's Crisis Intervention Team (CIT), Hostage Negotiation Team and First Response Officers – (Multiple Trainings) – Seattle, Washington
- Snohomish County Sheriff's Office – Everett, Washington
- Skagit County, Washington - CIT Training
- Thurston County, Washington Consortium of Police Agencies – CIT training – (Multiple Trainings) – Olympia, Washington
- Tukwila, Washington Police Department – (Multiple Trainings) – Tukwila, Washington
- Tumwater, Washington Police Department – (Multiple Trainings) – Tumwater, Washington
- Washington State Criminal Justice Training Commission – Field Training Officers
- Washington State DARE Officers Association – 2004 & 2005 Conference – King County, Washington
- Yakima, Washington - CIT program - Yakima, Washington (Multiple Trainings)

Grace under Fire - "De-escalation of Aggressive and Mentally Ill Individuals for Corrections Officers"

- Airways Correctional Facility – Airway Heights, Washington
- Charles Denny Youth Center – Snohomish County, Washington
- Clark County Sheriff's Office
- Washington Correctional Association, National Association of Blacks in Criminal Justice, & Women in Criminal Justice – 2004 Conference – Seattle, Washington

"Scenario Training For Crisis/Hostage Negotiation Teams Dealing with Mentally Ill Individuals"

- Snohomish County Sheriff's Office – (Multiple Trainings) – Everett, Washington
- Seattle Police Department – (Multiple Trainings) – Seattle, Washington
- Airways Correctional Institute – CERT team – Airway Heights, Washington
- 2004 & 2007 Washington State Conference for Hostage Negotiators - Everett, Washington

EDGEWORK

Crisis Intervention Resources
20126 Ballinger Way NE
PMB 85
Shoreline, WA 98155

206-781-3588 For classes completed in WA. State: http://www.edgework.info/client_list.html .

Appendix D Thurston County Protocol

THURSTON COUNTY OFFICE OF THE SHERIFF OPERATIONAL DIRECTIVE

MENTAL COMPLAINTS

Approved by: ___Chief J. Chamberlain___
Date: ___01/31/2008___

A. PURPOSE

The purpose of the Mental Health Complaints Directive is to give deputies guidance in the proper handling, processing and documenting of these types of complaints.

B. DEFINITIONS

Protective Custody - When a subject is a danger to themselves or others, or they pose a threat to public safety, they may be taken into custody by law enforcement and transported to a treatment facility for a mental health evaluation, as per R.C.W. 70.96B.045. In cases where a subject is taken into protective custody they are not free to leave the treatment center unless they are released by the County Mental Health Professional.

Involuntary Commitment - When a subject is threatening to harm themselves or has taken a substantial step towards harming themselves, the deputy will have no other option than to take the subject into protective custody. They will be transported to the County designated Mental Health Professional for an evaluation.

Voluntary Commitment - When a subject is in crisis and wants to talk to a mental health professional, the deputy will transport non-violent subjects to the Behavioral Health Resources (BHR) Triage Center for voluntary treatment.

Violent Subject - When a subject is threatening, combative, harming or attempting to harm themselves, or harming or attempting to harm others.

Non-Violent - When a subject is in crisis, however they are compliant and not combative. The subject may have done minor harm to themselves but has stopped the behavior. The subject is requesting our help to see a mental health professional.

C. RESPONSE

When deputies are dispatched to respond to mental health complaints, they will respond to the location in the appropriate manner, using any

necessary officer safety tactics deemed prudent. The deputy will make contact with the complaining party or patient.

The deputy will make a determination if a crime has been committed and that the subject committing the crime has mental health issues. The deputy will use the following rules to determine a course of action:

CRIME COMMITTED W/ PROBABLE CAUSE

1. Violent - Felony or Misdemeanor / major offenses where the subject poses a threat to public safety.

a. Arrest and book the subject into the Thurston County Jail.

b. Notify County Mental Health of the arrest and inform that there are mental issues.

2. Non-Violent - Felony or Misdemeanor / minor offenses where there is no threat to public safety.

a. Contact the BHR Triage Center via cellular phone or land line for direction and/or possible treatment options.

b. The deputy may refer the subject or issue a citation for the crime committed and release.

1. When a referral is the preferred course of action, the deputy will write a detailed report and submit all necessary documentation as any other referral.

2. When releasing the subject on signature, the proper citation will be filled out and a report written. All necessary documentation will be turned in following the set protocol.

If a deputy makes the determination that no crime was committed or there is a lack of probable cause but the subject still poses a threat to the public or him/herself, the following will be the course of action.

NO CRIME COMMITTED OR LACK OF PROBABLE CAUSE

Protective Custody:

Violent - The subject is combative, threatening or harming someone (physically or verbally).

1. If the deputy makes a determination that the subject does pose a threat to him/herself or others, then the deputy will place the subject into protective custody under R.C.W. 70.96B.045.

a. The subject has taken a significant step towards harming him/herself.

b. The subject is acting in a manner that has caused or may cause harm to another person.

c. The subject has caused significant damage to property other than their own.

2. The subject will be placed into protective custody and transported to St. Peter Hospital for MHP evaluation. The subject will be logged into the hospital with the appropriate intake form filled out by the deputy.

3. While the deputy is transporting the subject, the deputy will call the BHR Triage Center and advise them of the subject in crisis. This will be done to verify that the Triage Center is not able to take the subject due to the violent nature.

Non-Violent - The subject is not combative towards law enforcement; however they have taken a substantial step towards harming him/herself.

1. If the deputy makes a determination that the subject does pose a threat to him/herself but not to others, the deputy will place the subject into protective custody.

a. The subject has taken a significant step towards harming him/herself.

b. The subject has caused significant damage to property other than their own.

2. The subject will be placed into protective custody and transported to BHR Triage Center for MHP evaluation. The subject will be logged into the center with the appropriate intake form filled out by the deputy.

3. While the deputy is transporting the subject, the deputy will call the BHR Triage Center and advise them that they are en route.

NOTE - When a deputy takes someone into Protective Custody, they may Only be released by the County designated Mental Health Professional.

If an individual is making statements to harm themselves or has taken a Substantial step towards harming themselves, then the deputy must take the subject into Protective Custody for an involuntary commitment.

D. FACILITIES

There are two primary mental health facilities in Thurston County. The two have different requirements and facilitate different cliental.

1. St. Peter Hospital - St. Peter Hospital is primarily used for violent patients who need a more secure facility. The patients brought here are involuntary commitments that may be in crisis and will remain there until they are seen by the County designated Mental Health Professional. The patients may or may not be under the influence of intoxicants.

2. BHR Triage Center - The Triage Center is primarily set up for patients who may or may not be in crisis. The primary patients who are accepted are subjects who are seeking voluntary or involuntary help or

counseling. Generally, the patients must not be intoxicated or violent. The general rule is deputies will call the BHR Triage Center to find out whether or not the subject meets the admission criteria.

E. DOCUMENTATION

Deputies will document all Involuntary Commitments and Protective Custody cases where a subject has been turned over to the Mental Health Professional. In cases where force was used (above mere touching or guiding) or other enforcement action was involved a report is required.

In situations where the deputy only assists an individual with transportation so the subject can receive help (voluntary commitment) the deputy does not need to write a report. Supervisors will forward a copy of all mental health reports to the County Mental Health Department.

F. TRANSPORTATION

Deputies will transport in all situations where a subject is taken into protective custody unless a medical condition warrants other transportation. An aid unit will not be called by deputies for general transports.

Private ambulance transports are only to be used after approval of a Captain or above. Supervisors may make exceptions in cases of emergency where time or circumstances do not allow for contacting a superior

Appendix E

Pierce County Protocol

MISDEAMEANOR REFERRAL FOR TREATMENT STANDARDS

Authority: Chapter 375, Laws of 2007 (SSB 5533).

Statement of Authority: Section 2 of Chapter 375, Laws of 2007 adds a new section to RCW 10.31. That section, in subpart (2) provides that police officers are to be guided by standards mutually agreed upon with the prosecuting attorney. These standards are the standards mutually agreed upon.

Statement of law: When a police officer has reasonable cause to believe that an individual has committed acts constituting a certain non-felony crimes, the officer MAY:

1. take the individual to a crisis stabilization unit and be held up to 12 hours;
2. refer the individual to a mental health professional for evaluation for detention and processing under RCW 71.05;
3. release the individual upon agreement to voluntary participation in outpatient treatment

In deciding whether to refer the individual to treatment, the officer shall be guided by these standards.

Types of crimes covered: Any non-felony crime EXCEPT the following:

1. Any DV crime;
2. Any harassment crime as set forth in RCW 9A.46
3. Stalking
4. DUI, Physical control, Hit and Run (attended), Reckless driving
5. Non felony violations of RCW 9.41 (firearms issues)

Criminal history: The individual may not be referred if they have the following criminal history:

1. Any conviction for class A felony in past 10 years;
2. Any conviction for class B or C felony in past 5 years;
3. Any conviction for gross misdemeanor or misdemeanor in past 5 years;
4. Any conviction for like offense (same as current offense) in past 2 years.

Mental health history: The statute requires consideration of the mental health history of the individual (if known). Due to state and federal privacy laws this will typically not be known. It will up to the knowledge and discretion of the officer handling the case. If the officer believes or knows that the individual has a history of mental health issues and the officer believes that the individual would benefit from referral to treatment and otherwise would qualify for this option, it is within the discretion of the officer to so do.

Circumstances surrounding commission of alleged offense: The statute requires consideration of the circumstances surrounding the commission of the alleged offense. Some offenses will appear to be strongly related to instances of mental illness. Such offenses and their relationship to any issues of mental illness will up to the knowledge and discretion of the officer handling the case. If the officer believes or knows that the individual has a history of mental health issues and the officer believes that the individual would benefit from referral to treatment and otherwise would qualify for this option, it is within the discretion of the officer to so do. Such offenses may include; but, not be limited to: public intoxication, attempt suicides, destruction of personal property, illegal bus conduct and other like crimes.

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