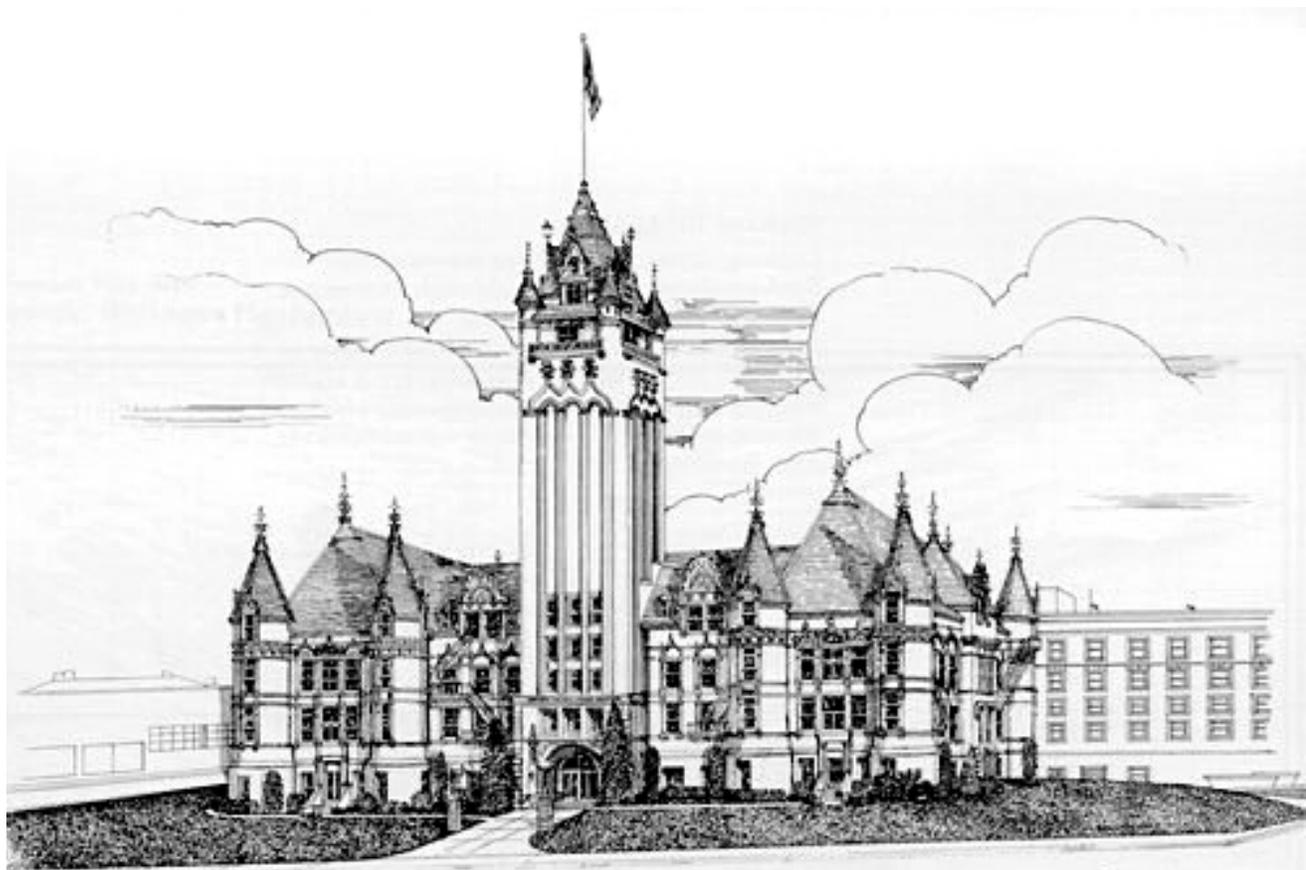


BLUEPRINT FOR REFORM STATUS REPORT

OCTOBER 2020

A review of the Region's progress towards creating an efficient, effective, and equitable criminal justice system



THE BLUEPRINT FOR REFORM - STATUS REPORT

By the

Spokane Criminal Justice Commission

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October 2020

BLUEPRINT FOR REFORM – STATUS REPORT

INTRODUCTION

In 2013 we were privileged to publish *A Blueprint for Reform – Creating an Efficient and Effective Regional Criminal Justice System* (the Blueprint). In that report we wrote that true effective reform would require no miracles, “just the intercession of a thousand small sanities.”

We are pleased that there is a continued commitment to reform and welcome the opportunity to report on whether the criminal justice community has succeeded in implementing those small sanities and improving the overall criminal justice system within the City of Spokane and Spokane County. We were tasked by the Spokane County Board of Commissioners to:

“[P]rovide a progress report. . . to the Board on the recommendations set forth in the ‘Blueprint for Reform’ as well as efforts undertaken since the ‘Blueprint for Reform’s’ publication that were not included in the document’s recommendations.”

Under this charge, we took the opportunity to interview many officials who play key roles in all aspects of the City/County criminal justice system and we appreciate their candor and willingness to honestly assess the “good, the bad and the ugly.” We greatly benefited by our participation in a listening session with community stakeholders and received valuable input from a number of groups, including but not limited to: the Center for Justice, Disability Rights Washington, NAACP, the Native Project, the Northwest Justice Project, the Spokane Regional Law & Justice Council’s Racial Equity committee, Spokane Community Against Racism, and the Spokane Regional Health District. We appreciate their concerns and sincere input.

As we reviewed the slow, sometimes steady, and sometimes halting progress over the past seven years, current events shocked the system, resulting in seismic shifts that must be examined as a part of this report. In addition to issuing a progress report on the recommendations of the Blueprint, we were asked to report on efforts undertaken since the publication of the Blueprint that were not included in the document’s recommendations. The COVID-19 crisis forced a quick, effective response from the entire system. The jail population at one point following the pandemic had been cut by roughly 40 percent. There were warnings of increased crime rates, but they have not been realized. Further study is necessary to determine whether the measures that have been undertaken in response to the pandemic should be permanent.

Recent events have also spurred the Washington Supreme Court and the Spokane County Superior Court to publicly “...acknowledge shortcomings that have resulted in systemic racial injustice against Black Americans...” We abhor the crimes committed during otherwise peaceful protests and support full prosecution of those responsible. We fully support the brave and honorable police officers who perform their duties justly and equitably. We incorporate and attach the public statements of these courts and urge the entire system to “listen better, do better and be better, where and when we can, to eradicate racism and establish systemic reforms in our justice system.”¹

We provide this Report with the utmost respect for the many public servants who dedicate themselves to justice every day. As noted in the original Report, we do so mindful of the roles that each actor plays and not as an attack on judicial independence, prosecutorial discretion, or other forms of discretion exercised by those individuals whose job it is to maintain public safety, administer justice and uphold the Washington State and United States Constitutions.

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5.1 GOVERNANCE AND GENERAL OPERATIONS

The Blueprint identified new government structures and partnerships to improve project development, management, and oversight. The CJC met with all County Commissioners and the Office of Law & Justice.

5.1 (1) Create Spokane Regional Justice Commission (RJC) and Hire Support Staff

Any significant and structural change requires collaboration across multiple government actors, which is why the CJC outlined a governing structure to increase collaboration, coordination, accountability, and transparency. The recommended Regional Justice Commission (RJC) was never established, and the CJC recognizes that the proposed model was politically unrealistic since a five-member council does not have the authority to dictate policy decisions for other elected officials, who may or may not serve on the RJC.

To their credit, however, the City and County collaboratively established the Office of Law & Justice, jointly funding the Regional Law & Justice Administrator and a Staff Assistant.ⁱⁱ This Office is responsible for managing the Spokane Regional Law & Justice Council and its three active committees, responding to requests for support from various elected and unelected officials at both the City and County and members of the public; managing relevant grants; developing and leading locally funded projects; and supporting efforts to increase data reporting capacity across the criminal justice system. At the time of publication, the Office of Law & Justice was managing two grants along with four projects funded by CARES Relief dollars (in partnership with other agencies/departments), including the Intake & Releasing Center, Cab Vouchers at Jail Release, a Remote Court Pilot, and Criminal Justice Information Hotline, plus other duties. Given the demands and scale of responsibility, it is critical that local jurisdictions continue to adequately staff this Office, which may include additional investments in the future for analysts, project managers, and/or other consultants.

► **Bottom Line: Establishing the Office of Law & Justice is a significant achievement for the City and County. The region must ensure that the Office receives adequate resources and support that are not dependent on grant funds in order to sustain critical reform efforts.**

5.1 (2) Reestablish the Law & Justice Coordinating Committee & Supporting Workgroups

The Spokane Regional Law & Justice Council (SRLJC) and its committees were reestablished shortly after the Blueprint's publication. Since then, the Council has clarified that it is strictly an advisory body (consistent with RCW 72.09.300 and SRLJC bylaws) and cannot manage, direct, or implement initiatives. Although we commend the efforts of the SRLJC, the body has struggled to live up to its original charge due to the unwieldy number of participants, internal disagreement over the Council's purpose and authority, and ongoing public scrutiny. As a result, local jurisdictions have established and disbanded a slew of other committees, task forces, and working groups over the past several years in order to manage and move projects forward. In many cases, such committees have been productive, but in other cases, they have thwarted centralized communication, planning, and public transparency.

Moving forward, the CJC recommends shifting or replacing the SRLJC with a Criminal Justice Coordinating Committee, as endorsed by the National Institute of Corrections.ⁱⁱⁱ

► **Bottom Line: The SRLJC struggled to grow into an agile and effective working group necessary to catalyze change. County Commissioners and other officials should seriously consider replacing the SRLJC with a Criminal Justice Coordinating Committee.**

5.1 (3) Ensure there is a Role for Outside Agencies, Non-Profits and Public by Furthering Community Partnerships

Local government has made strides improving community-based partnerships and transparency. Related efforts include but are not limited to: public participation in relevant Request for Proposals, the creation of a community advisory board for the implementation of the Public Safety Assessment, the establishment of the Office of Law & Justice's five-member Community Advisory Board, and the appointment of four community representatives to serve on the SRLJC. Local leaders should continue to expand and deepen the role of outside partners by filling the vacant seats, increasing opportunities for public-private partnerships in reform efforts, and formalizing community engagement.

► **Bottom Line: The region has made significant improvement in this arena and should focus on pursuing public-private partnerships to further reform efforts.**

5.1 (4) Adoption of Evidence-Based Portfolio & Risk/Needs Assessment Instrument for Criminal Justice System Management Across All Agencies

There have been some modest improvements under this recommendation. For instance, in April 2019, Spokane implemented the Public Safety Assessment, a pre-trial risk assessment tool.^{iv} The implementation team included a three-member community advisory board and stakeholders from across the system (including representation from prosecution, defense, the courts, law enforcement and the Office of Pre-Trial Services). The Implementation Team now meets on a quarterly basis to review relevant data and provide oversight. Additionally, the City Probation Department adopted the Ohio Risk Assessment System (ORAS), a risk/needs assessment to better develop case plans for individuals ordered to probation and tailor supervision accordingly. County probation is exploring the adoption of the tool as well; judges and probation officers have been trained on the tool. Neither the ORAS nor the PSA have been validated on local populations yet, which is a best practice when a risk assessment tool is in use. And neither jurisdiction has established a working group dedicated to evaluating, developing, and managing evidence-based practices unrelated to risk and needs assessments.

We recognize the controversy around the use of risk/needs tools, specifically regarding the potential for worsening racial disparities. These tools should not determine decisions, but do provide additional information for consideration, which can be particularly helpful to judicial officers, public defenders, and prosecutors in fast paced, high-stakes environments.

In addition to risk/needs tools, local jurisdictions should pursue other evidence-based reforms starting with the portfolio of recommendations by the Justice Task Force.^v The Task Force, which included representatives from local government, the criminal justice system, service providers, business leaders, and community members, met for nearly a year to study the local jail and justice system. The recommendations endorsed by the body include promising practices and evidence-based programs that create a strategic vision for the future of the region’s criminal justice system.

► **Bottom Line: Some modest improvements achieved. If the PSA and ORAS remain in use, jurisdictions should prioritize investments in validation. Jurisdictions should also evaluate and implement other evidence-based reforms where appropriate.**

5.1 (5) Establish Semi-Annual Reporting – the Creation of “Report Cards”

Overall, there has been little to no progress under this recommendation. Data and outcomes remain obscured from public view. And while we applaud the hire of a Criminal Justice Data Analyst and the recent publication of a criminal justice data dashboard,^{vi} such efforts fall short of focusing on the outcomes achieved (or not achieved) by relevant agencies, departments and offices. At a minimum, the Office of Law & Justice should continue reviewing progress under the Blueprint annually.

► **Bottom Line: The City and County failed to establish recurring performance reports. Both jurisdictions should take steps to identify performance measures and publish progress immediately.**

5.2 COORDINATED INFORMATION SYSTEMS

The Blueprint identified opportunities for improvements in technology, including court hearings, shared information and reduction in paper use. The CJC met with representatives from the County Information Technology (IT) Department and with Municipal Court Administrator Howard Delaney.

5.2 (1) Technological Improvements in Court and Jail

We reported that efficiencies could be realized by a more robust use of video conferencing for court hearings, and for communication between defense lawyers and clients in jail.

(A) Video Conferencing in Courtrooms

The County IT Department reported that the Department has completed initial technology improvements. These are large monitors, and wireless connections, in all Superior Court and District Court courtrooms. The County IT Department intends to continue improving courtroom technology, adding Zoom Video conferencing and other technologies as they become available.

Currently, the courts routinely use video conferencing for first appearances and bail hearings. The judge and court staff conduct the hearings from the Spokane County Courthouse and Public Safety Building. The defendant, prosecutor and defense lawyers participate via video and audio connections from a small room in the Spokane County Jail. The defendants are led into this room by jailers. This room is colloquially known as the “jail courtroom.” It is typically overflowing with Deputy Prosecutors, Public Defenders and defendants. Courtroom decorum, privacy and formalities are compromised.

Municipal and District Courts are using video conferencing for first appearances. Both courts are also exploring hearing other criminal proceedings remotely to support social distancing during the COVID-19 pandemic, increase access to courts, and facilitate efficient resolution. This includes participating in an effort to partner with shelters to facilitate residents’ appearance via remote court platforms, funded through the end of the year with CARES Relief.

Security and jail transport costs have improved.

The COVID-19 crisis has introduced an urgency for improvement in this area, and further information is necessary to evaluate the emergency reforms implemented in response to the pandemic.

► **Bottom Line: The IT departments have improved video and audio conferencing in the courtrooms.**

(B) Technological Solutions for Communicating between Public Defenders and Incarcerated Clients

This may seem like a simple issue. But it is a significant issue. At present, Public Defenders report that the process of walking to the jail, checking in, waiting for an elevator, waiting for a client to be brought to the secure attorney’s booth, waiting for the elevator when they are done with the client interview and walking back to their offices, consumes at least an hour, even for a very short meeting. Technology that facilitates more efficient communication with clients will increase attorney

productivity by decreasing the amount of time they spend at work waiting and traveling for meetings with clients.

Currently, incarcerated individuals are allowed to make phone calls to lawyers during their time when they are out of their cells. This may be a short window of time depending on the fluctuating conditions of the jail. There are very few phones available on a floor and this can result in inmates having restricted access to the phones.

Other jurisdictions have implemented effective email and Skype communications providing Public Defenders easy access to clients from their desks.

Detention Services has entered into an agreement with a new service provider to achieve this goal. The current providers will not be replaced until 2021, due to contract obligations. While improvements are on the way, a delay will occur.

► **Bottom Line: There are approximately 89 public defenders who visit clients in the jail. Any improvement in their ability to communicate with clients will yield substantial savings and efficiencies. Video conferencing and email communications should be implemented with all due haste.**

(C) Reduction in Paper Use

The Spokane Municipal Court, Prosecutor and Public Defender significantly transformed to electronic records and reports. Superior and District Courts have not significantly transformed to electronic records and reports, although this is being discussed and this change is intended.

► **Bottom Line: Superior and District Courts should move to electronic records with all haste.**

5.2 (2) Create a Coordinated Case System Processing for IT Purposes

In 2013, we reported that the criminal justice system used information from at least 12 different systems; Caseman, Supercal, Superman, Jail Management System, PD Man, Pretrial Services Application, JustWare, JIS, Juvenile Information Management Systems, AOC, Jail Transport Notification System, Jail Visit Application, and others. Astonishingly, these systems do not talk to each other.

We recommended that all stakeholders collaborate to create or purchase a single system.

In 2013, we learned that the implementation of the JustWare System for the Municipal Court, Probation, Prosecutor and Public Defender was transformative. The JustWare System allowed easy, comprehensive communications among all municipal agencies. The City is seeking to upgrade its Justware System to “E-Suite” which will result in even greater efficiencies.

While there has been progress in quick delivery of police reports to Public Defenders, there has not been progress in the implementation of a comprehensive information system.

► **Bottom Line: The County must implement a comprehensive information system with all due haste. And any new systems procured by the City and/or County should be programmed to interface across agencies and jurisdictions.**

5.2 (3) Create Standard Program Performance Reports

In 2013, we recognized that the implementation of needed reforms would be accomplished or frustrated primarily by elected officials – judges, prosecutors, and other policymakers.

These officials are not accountable to other government agencies, but only to the voters. Thus, it is imperative that the performance of these officials be openly and fairly reported so that the often murky world of criminal justice can be fully illuminated. The Office of Law & Justice is working to expand a data dashboard to share relevant data with the public. Several agencies have already agreed to participate in this endeavor, however Municipal Court, and the Offices of the City Prosecutor and City Public Defender, along with the Office of the Spokane County Prosecuting Attorney have not yet agreed to share data. Thus, their work will remain concealed from public oversight.

There has been no progress by any agency in the creation of program performance reports.

► Bottom Line: Performance reports are a central requirement of a transparent, accountable criminal justice system. Evidence-based policies have proven to guarantee greater community safety at reduced costs. All agencies must implement performance reports, supported by evidence, which measure outcomes and not merely output.

Note: The County IT Department has been helpful and responsive to all agencies that have requested assistance in criminal justice reform. The Department has spent 2,398 hours collecting data for requests for the McArthur Grant. It has provided support to the Office of Pre-trial Services in the creation of a Public Safety Assessment. It has provided support to Public Defenders in creating the ability to text clients. It has provided support for Pre-trial Monitoring. It has assisted the Law & Justice Council in gathering data for further analysis.

This responsiveness and competence must be viewed as highly encouraging in the ongoing search for facts and analysis.

5.3 LAW ENFORCEMENT

The Blueprint made several recommendations related to law enforcement, informed in part by the Death of Otto Zehm in police custody. The Spokane Police Department (SPD) fulfilled all of the Use of Force Commission recommendations and successfully completed a collaborative reform process with the Department of Justice. Given increased national and local attention on law enforcement conduct, training, and resulting racial disparities, the CJC strongly encourages law enforcement across the region to redouble efforts to ensure community safety and ensure racial equality in local policies and practices. The CJC met separately with Chief Craig Meidl and Assistant Chief Justin Lundgren, and Sheriff Ozzie Knezovich.

5.3 (1) Establish a Law Enforcement Assisted Diversion (LEAD) Program

Local law enforcement has not established a LEAD program as in Seattle, Washington, however, both SPD and the Spokane County Sheriff's Office (SCSO) launched a regional behavioral health unit in partnership with Frontier Behavioral Health that sends co-deployed teams (law enforcement and mental health clinicians) to respond to behavioral health related calls. The program began in 2016 with separate units within the respective departments (SPD had 4 clinicians, and SCSO had 1 clinician). Both programs achieved impressive diversion rates. For instance, between 2018 and 2019, SPD only brought 63 out of 696 contacts (9%) to jail.^{vii} In roughly the same period, only 1.8% of contacts were arrested by the SCSO co-deployed team, and an estimated 19,610 minutes of time saved for the co-deployed unit for patrol officers.

In addition to the co-deployed teams, SPD continues to partner with Community Court, which shares some similarities with LEAD. Moreover, both the SPD and SCSO support the creation of a Mental Health Crisis Stabilization Facility for misdemeanor charges. The facility will provide patrol officers with an opportunity to take individuals in crisis to treatment rather than jail booking. Pioneer Human Services will operate the facility, which is anticipated to come online in June 2021. Individuals who successfully engage with treatment will avoid criminal charges.

- ▶ **Bottom Line: Much progress in this area. Efforts for pre-arrest diversion opportunities need to expand and continue.**

5.3 (2) Consideration of Ceasefire Program Efforts

Local law enforcement has not pursued the implementation of the Ceasefire model, however, the Safe Streets Taskforce focuses on gangs and human trafficking.

- ▶ **Bottom Line: Advised that the Ceasefire Program is not suitable for this area.**

5.3 (3) Renew Efforts and Expand Neighborhood Crime Prevention Programs

Law enforcement agencies have pursued and implemented additional programs, including but not limited to newly opened Sheriff Community Oriented Policing Effort (S.C.O.P.E.) and SPD's

Community Oriented Policing Services (C.O.P.S.) offices. SPD also operates several community-based programs such as: Paws on Patrol, Youth and Police Initiative, Police Activities League, Neighborhood Resource Officers, Coffee with a Cop Event, attending community meetings and presenting community safety strategies.

► **Bottom Line: Excellent community outreach programs in place and should be continued.**

5.3 (4) Expand Crisis Intervention Teams Across All Local Law Enforcement Agencies

SPD requires all officers to complete the basic Crisis Intervention Team (CIT) training. Currently, every SPD officer has completed the mandatory 40 hours of training. New hires complete training within first 18 months on the job (during a probationary period). SPD also created a specialty team of 22 officers who complete Enhanced CIT training (ECIT)

The SCSO provides 8 hours of CIT training, plus two hours of annual in-service training. The SCSO is currently implementing new software that will provide for additional online learning opportunities, including additional CIT material. Finally, the SCSO proposed a 26-week academy for all new hires that would include 40 hours of CIT training. The State's Criminal Justice Training Commission, however, recently denied the request. The SCSO is seeking reconsideration.

► **Bottom Line: Excellent progress by SPD regarding CIT and ECIT training. County needs to obtain funds for more CIT and ECIT training.**

5.3 (5) Combine Various Law Enforcement Functions

We recognize that collaboration among law enforcement agencies and jurisdictions will leverage existing resources and potentially improve investigative capabilities. After initial resistance, various jurisdictions are working together to consolidate dispatch operations (SREC – Spokane Regional Emergency Communications), including the City, although the City was not initially committed to joining over labor concerns. In addition to the newly established regional behavioral health unit (see 5.3.1), law enforcement combines training opportunities for new recruits, shares records through a joint software system (New World), and participates in joint task forces including Safe Streets, Family Justice Center, and the Auto Theft Prevention Authority.

The SCSO also points to collaboration with federal law enforcement agencies through training and surveillance functions. The SCSO is open to further collaboration with the SPD, but reports resistance when attempting to create a regional forensic lab and training efforts.

► **Bottom Line: Significant progress in this area. Some resistance to combination of some programs and advised by agencies that legal barriers prevent some joint purchase efforts.**

5.4 PRE-TRIAL SERVICES

The Blueprint identified new opportunities for investments in Pre-Trial Justice. The CJC met with Cheryl Tofsrud, Director of the Office of Pre-Trial Services (OPTS). Since our meeting with Ms. Tofsrud, we have learned the OPTS is facing a significant budget shortfall in the coming year due to a loss of grant funding. Although there are opportunities for improvement within the Office, we strongly encourage the Board of County Commissioners to fund OPTS so that they may continue to collect and provide information to the courts, public defenders, and prosecutors that is critical to release decisions. Without this support, operations across the courts and parties could be stalled, damaged, or tossed into disarray.

5.4 (1) Use of Functional Risk/Needs Assessment Tool and Proper Intake Screening

In addition to interviewing everyone booked into the jail for a felony, DUI or DV charge, the Office of Pre-Trial Services completes the Public Safety Assessment, a pre-trial risk assessment tool for all jail admissions.^{viii} This tool measures risk of failure to appear, risk of committing new crimes and risk of committing new violent crimes (see 5.1.4). The tool, however, is not a needs tool. This, coupled with fact that the staff are not trained to develop and implement case management plans, indicates there is still work to do before the Office is able to develop and provide viable release plans as originally recommended.

► **Bottom Line: Moderate progress has been made through the implementation of the Public Safety Assessment.**

5.4 (2) Create Twenty-Four Hour Intake Facility

The Board of County Commissioners recently approved just over 1 million dollars in CARES Relief funding for the creation and operation of an Intake and Releasing Facility. The proposed facility would ultimately run nearly 24-hours a day and handle all misdemeanor jail admissions, including booking and First Appearances. The program is still in development with plans for a soft launch before December 30, 2020. If successfully implemented, the model would alleviate stress on jail booking, reduce the wait time of patrol officers (meaning they will spend more time on the streets than waiting at the jail), and ensure that individuals who are going to be released home by a judicial officer do not needlessly spend a night in jail, which is costly not only for the arrested individual but for taxpayers as well. The success of this project will rely upon the coordination and collaboration across various jurisdictions, law enforcement, public defender's offices, prosecutor's offices, and the lower courts. It is critical that all relevant parties take the necessary and difficult measures to alter business practices in order gain the program's full benefits. Furthermore, the model must account for transportation and appropriate referrals if it is to meaningfully interrupt cycles of recidivism. Finally, sustainable funding must be secured for the project beyond December 30, 2020, when CARES Relief funding is set to expire.

► **Bottom Line: The County is beginning to make progress under this recommendation, however sustainable funding and robust support and coordination is required across jurisdictions and agencies to ensure the project's success.**

5.4 (3) Expand Diversion and Alternative Programs for Low-Level and First-Time Arrests

The Office of Pre-Trial Services operates a Felony Diversion Program that has capacity for up to 150 individuals. Detention Services Mental Health Staff and the Department of Community Services and Housing

operates a state funded diversion program (5177 Diversion) for behavioral health patients specifically. Both programs are reportedly well respected and operating smoothly, however, they are not always at capacity. This has little to do with Pre-Trial Services and much to do with the role of the prosecutor in approving and referring individuals to diversion. However, if OPTS loses funding, the Felony Diversion Program will likely fold, forcing prosecution to return completely to traditional practices, which are more resource intensive and do not incorporate many strengths of the Felony Diversion program.

We applaud the efforts of relevant stakeholders including but not limited to law enforcement, Detention Services, and prosecution to create a Mental Health Crisis Stabilization Facility. Moving forward, we encourage the expansion of diversion programs, including pre-filing diversion. Moreover, we encourage that current and future diversion programs expand eligibility criteria, rather than creating more options solely for low-level, first-time arrests.

- ▶ **Bottom Line: Only slight progress under this recommendation. The County Prosecutor should work quickly to implement a pre-filing diversion program. The County and City should invest in OPTS as they manage relevant programming. The City Prosecutor should likewise explore additional opportunities for expanded diversion.**

5.5 COURTS

The Blueprint laid out recommendations regarding innovative, more efficient, and more effective judicial operations. The CJC met with Judge Harold Clarke, Judge Jeffrey Smith, Judge Matthew Antush, Commissioner John Stine, and Juvenile Court Administrator Tori Peterson.

5.5 (1) Emulate Reform Efforts Carried out by Spokane County Juvenile Court

Juvenile Court continues to set the bar for meaningful reforms at the local level, including gender-specific programming, therapeutic interventions, and trauma-informed responses. Yet the adult system has not emulated any of Juvenile Court's progress. Often, actors in the adult system dismiss potential lessons from the juvenile system because of differences in population, age, brain development, etc. However, the juvenile system recognizes that instability in young lives can result in law enforcement contact. Such instability, caused by a myriad of underlying factors, can also play a significant role in the adult population. As a result, local government officials should examine the success enjoyed by the juvenile system and import relevant practices to the adult system.

► **Bottom Line: No progress has been made in this area.**

5.5 (2) Collaborative Efforts Should be Undertaken to Avoid Unnecessary Court Hearings

In July 2020, Municipal Court implemented Differentiated Case Management across their court rooms in an effort to ensure cases move efficiently and fairly through the system. It is too early to draw conclusions about the impact of the program, but it should be studied closely for lessons that can be applied to the other courts.

► **Bottom Line: Very little progress has been made in this area. All courts and parties should urgently review and update policies to eliminate unnecessary court hearings and appearances.**

5.5 (3) Individuals with Pending Criminal Cases in More than One Spokane County-Based Court Should Have All Pending Matters Handled by a Single Court and Prosecuting Attorney's Office

Efforts to consolidate across the courts are sorely lacking. Individuals facing multiple charges are still required to appear in multiple courts, typically on different days and at different times, and frequently resulting in confusion for individuals navigating the system, plus the multiplied burden of missing work, treatment, and/or paying for transportation for bifurcated court hearings. Such consequences could be avoided by consolidating cases. We understand that consolidation may only affect a fraction of individuals moving through the courts. We also understand that consolidation would likely elicit logistical headaches during planning. Still, we reiterate our strong support for consolidating operations to improve both the system's navigability and efficiency.

► **Bottom Line: No progress. All relevant parties must reengage with relevant planning.**

5.5 (4) The Court, Prosecution and Defense Should Collaborate to Eliminate Mandatory Court Appearances of Defendants for All Hearings Except for Trials and Sentencing Hearings

All three courts have instituted measures in an attempt to improve case processing. Better case processing would reduce the number of continuances. It would also reduce the number of hearings a defendant is required to attend. Each hearing is another opportunity for a missed court appearance, so such efforts are an important measure in reducing missed court dates and related consequences and inefficiencies. Eliminating mandatory court appearances for all hearings (excepting trials and sentencing) would go even further. Currently, Municipal Court does not require defendants to appear for hearings other than First Appearances, Trials and Sentencing. In response to COVID-19, District Court has waived mandatory appearances for continuances and some pre-trial hearings and anticipates making this policy permanent in the future. Veteran's Court, which operates in District Court, is also waiving nearly all mandatory appearances, with the exception of contested show cause hearings, graduations, and pleas. Finally, Superior Court also has waived several court appearances for the defendant in response to the pandemic, while other efforts related to efficient case management have been placed on pause due to emergent circumstances. We encourage the courts to formalize appearance waivers beyond the pandemic for the reasons explained here and in the Blueprint.

► **Bottom Line: Limited Progress. Courts should eliminate mandatory appearances for hearings, except for First Appearances, Trials, and Sentencing.**

5.5 (5) Trial Courts Should Minimize Issuance of Warrants, Arrest, and Incarceration for Non-Payment of LFOs and Should Make Use of Alternative Sanctions to Substitute for Payment of LFOs as Deemed Appropriate

Since the Blueprint was published, new legislation eliminated several mandatory fees. Today, only CVAP and restitution are mandatory costs imposed by the Court. In 2016, Superior Court established a new legal financial obligation (LFO) policy, dictating that Superior Court will work with individuals who make payments so they are not charged an annual fee for service. As a result, Superior Court reduced LFO files from 32,000 to 9,000. Prior to COVID-19, all three courts and the Court Clerk were working with community organizations to organize an LFO assistance event. In addition to joint LFO efforts, all three courts are now participating in Warrant Fest in order to resolve as many warrants as possible in a short amount of time

► **Bottom Line: Significant progress under this initiative but little in the way of alternative sanctions.**

5.5 (6) Develop a Process by which Technical Probation Violations Are Resolved by Sanctions which Are Swift and Certain, but Not Lengthy

Municipal and District Courts agree that that “swift and certain sanctions” are not working as efficiently, and therefore not as effectively, as they should. With the exception of the Department of Corrections, these sanctions are only found in therapeutic courts, and Municipal Court states that swift sanction of a quick trip for an overnight in jail is difficult due to limited jail space.

Attention should be paid to other programs such as the Louisiana Department of Corrections’ Incentivized Probation. They have seen a significant decrease in total supervised population and average caseload of probation officers by using new incentives that allow people to earn time off supervision based upon compliance with supervision conditions.^{ix}

► **Bottom Line: Little progress in the area of effective “swift and certain sanctions.”**

5.5 (7) All County and Municipal Courts, Prosecuting Attorney Offices, and Public Defense Agencies in the Region Should Use the Same Case Management System

Case management is currently a hot topic. All three courts have worked with the National Center for State Courts to improve case processing, but have yet to fully implement all relevant recommendations. The three courts currently use three different case management systems. Superior Court Clerk’s Office is mandated by the State Administrative Office of the Courts to implement Odyssey and did so in 2019. Superior Court Administration continues to use a locally developed case management tool.

In Washington State, 37 of 39 counties use the same case management system, but it is not integrated with Municipal and District Courts. The City is attempting to implement Esuite Software in Municipal Court and later across the Prosecutor and Public Defender’s Offices. District Court continues to use JIS but is exploring opportunities to implement Ecourt (one component of Esuite).

► **Bottom Line: Limited progress.**

5.5 (8) The Language and Spirit of Washington State Superior Court Rule 3.2 Should be the Basis of Pretrial Release Decisions

The language and spirit of Washington State Criminal Rule 3.2 should serve as the basis of pre-trial release decisions. Roughly 75% of the Average Daily Jail Population is comprised of those awaiting trial. The determining factor on who is detained in jail is Criminal Rule 3.2. The proper administration of the rule is the most important issue on jail population and our ability to manage it.

Criminal Rule 3.2 is a carefully drafted directive which implements the constitutional imperative of the presumption of innocence and provides courts with effective, constitutional, tailored methods to ensure future appearance and community safety. It provides for decisions based upon public hearings giving parties the opportunity to present evidence of flight risk and danger.

We have found that the administration of the rule has been uneven. There are 26 judicial officers involved in criminal cases in Spokane County. There are individual judges who are clearly outliers in their persistent refusal to follow the rule. Prosecutors who make bail recommendations outside the framework of CrR 3.2

only serve to expose judges to unjust criticism for making difficult, legally correct decisions. Similarly, law enforcement officers who criticize judges for difficult, legally correct decisions who have failed to alert courts to flight risk or dangerousness must accept their own responsibility rather than criticize the judge who was not provided relevant evidence. All participants, including law enforcement and the public, are reminded that setting a high bail only to ensure the confinement of an accused person is a violation of the Constitution judges are sworn to uphold.

We have found several practices in the administration of Criminal Rule 3.2 that are improper.

1. A judge who has issued a warrant for the arrest of an accused requires that upon arrest, that person will not be released at the First Appearance - and may not be afforded a hearing on the issue - but must be brought before the issuing judge, sometimes up to two weeks later.
2. A judge who has an unwritten rule of requiring a high bail amount for every domestic violence case.
3. Judges who routinely neglect to consider the financial circumstances of the defendant when setting bail. (CrR 3.2(d)(6)).
4. Pre-trial release officers fail to report on the factors outlined in Criminal Rule 3.2.
5. Judges fail to follow Criminal Rule 3.2 upon arrest for pre-trial release violations. See CrR 3.2(L).

In the Blueprint, we identified pockets of excellence. We do so again.

Superior Court Commissioner John Stine has been commended by several parties. He is responsible for the administration of Criminal Rule 3.2 for felony cases in Superior Court. He has been called upon to steer the pre-trial release decisions through the COVID-19 crisis. His decisions have been faithful to the rule. The jail population has been reduced by 40% in April and the crime rate decreased. There is no evidence that the persons released have contributed to a crime increase as had been predicted by critics.

Similarly, Judge Jeffrey Smith of the Spokane County District Court has been aggressive in his role as presiding judge in implementing the spirit of CrR 3.2. He has insured that probation arrestees are promptly brought to court - typically within 24 hours - and given a proper hearing. He has insisted on giving hearings for first appearances - as required by law - even where a previous issuing judge has ordered that an arrestee be held without a hearing. He has installed his own early case resolution procedure, by routinely inquiring the status of detainees and getting them into court expeditiously.

► Bottom Line: Twenty-six different judges, as well as prosecutors, law enforcement, defense lawyers and pretrial release officers play significant roles in implementing the rule. For the first few years after the release of the Blueprint, there was simply too much lip service to the rule without a commitment to its spirit. The Courts' response to the COVID-19 crisis (including an increased use of summons and citations) has demonstrated that more faithful attention to Criminal Rule 3.2 will result in less pretrial confinement, continued community safety and effective appearance rates. The Courts bear the ultimate responsibility to enforce the Rule and should strive to follow its letter and spirit.

5.5 (9) Expand Adult Drug Court

Drug Court continues to enjoy support from Superior Court. Only one Drug Court docket currently exists, with a cap of 125 participants at any given time. The Office of the Spokane County Prosecuting Attorney is interested in a post-conviction Drug Court, but there is limited capacity/resources to establish this docket. If Drug Court is to expand, another docket would need to be established with another judge and additional staff. Expansion is not currently pressing, however, since admissibility standards are still limited and funding

has slowed efforts to expand Drug Court. Aside from expanding Drug Court, participation has largely remained racially homogenous. Moving forward, the program should implement an equity screen to ensure that Drug Court (and all therapeutic court) participants properly represent the population of individuals facing charges/held in jail.^x

- ▶ **Bottom Line: Nearly no progress made under this recommendation. Efforts and investments should be made immediately to expand participation and ensure equitable referrals across various demographic factors.**

5.5 (10) Conduct Independent Evaluation of All Therapeutic Court Models

The City commissioned an evaluation of Community Court, which was completed by Washington State University in 2019.^{xi} Drug Court's most recent independent evaluation was completed in 2017.^{xii}

- ▶ **Bottom Line: Relevant courts should swiftly pursue evaluations of therapeutic courts, including but not limited to Veteran's Court, Mental Health Court, ISTC Court, DUI Court.**

5.5 (11) Explore Legislation that Removes Requirements and Have the Effect of Unfunded Mandates on Local Jurisdictions

No progress has been made under this recommendation.

- ▶ **Bottom Line: No progress.**

5.6 PROSECUTION

The Blueprint recommended investments in software, programs, alternatives to incarceration and therapeutic courts to prioritize resources and improve outcomes. The CJC met separately with City Prosecutor Justin Bingham and County Prosecutor Larry Haskell.

Several agencies reported to us that the number of felony filings has strained the system. The ECR Courts, Therapeutic Courts, trial courts, jail, and public defenders have been overwhelmed by the number of filings. Spokane County files more felony cases than King County.

Prosecutor Haskell has reported to us that he has no choice but to file felony cases when the probable cause is presented.

We disagree.

The passage of the Sentencing Reform Act (SRA) shifted substantial sentencing power to the prosecutor, since the charge of conviction became the primary determining factor in the sentence imposed. As Professor Boerner, an author of the SRA, points out:

“[I]t is well established in Washington, as elsewhere, that “[p]rosecutors are vested with wide discretion in determining whether to charge suspects with criminal offenses.” Boerner, *Sentencing in Washington* (section 12.2)

Mr. Boerner further explains:

As the Supreme Court has said,

“We have consistently held that it is within the prosecuting attorney’s discretion to file charges or refuse to charge for reasons other than the mere ability to establish guilt. He may consider a wide range of factors in addition to the strength of the state’s case in deciding whether prosecution would be in the public interest.”

We recommend that this policy be reviewed, and that the SRA be followed on the decision to prosecute and the selection of charges.

Minority view, Jim McDevitt:

On this point I must disagree with my learned colleagues. As a former federal prosecutor, I am mindful of the importance of prosecutorial discretion and was never known to be "soft on crime." We have been told that felony filings have "strained the system." I submit that this is not the fault of the Prosecuting Attorney. In our introduction to the original Blueprint (1.2) we acknowledged the important role of the Prosecuting Attorney "in deciding when criminal charges should be filed . . ." As well at 2.2 of the Blueprint we stated that it was our hope that our recommendations would "address reduction of crime." These are felony filings, not misdemeanors. We do not "address reduction of crime" by ignoring it. Likewise, the Prosecuting Attorney is elected to prosecute crime, not overlook it. Nor is King County any jurisdiction that we should try to emulate. The remedy here is either with the Legislature to change the criteria for certain felonies or the ballot box if the public does not like what it sees. If legitimate, provable felony filings are straining the system, supplement the system but do not give a free pass to felony criminal activity.

5.6 (1) City and County Prosecuting Attorney’s Offices Should Provide Disclosure to Defense Counsel Immediately Upon Receipt from Law Enforcement Agencies via Centrally-Based Secure Computer System and Appropriate Software

Beginning in 2015, prosecutor offices began receiving police reports electronically. The City Prosecutor can provide electronic disclosure through Justware, although the process of discovery still takes time and does not happen consistently across all cases. Private counsel receives an email with a link to discovery, which is all electronic. The County Prosecutor’s Office has also moved discovery electronically.

► **Bottom Line: Much improvement in this area.**

5.6 (2) Spokane County Should Develop a Driving While License Suspended Diversion and Relicensing Program

At the time we began to gather information for this Status Report the City and the County were jointly running a Driving While License Suspended (DWLS) Relicensing Program by means of an agreement between the two entities.

That relationship is about to change for a number of reasons:

First, the number of enrollees in the joint program has drastically dropped. In 2016 the joint program had 1,145 enrollees. In 2019 that number fell to 721 and in 2020 to date that number is 292. In 2020 the program was closed for 2.5 months, but even taking that into account, it can be seen that the 2020 number of enrollees will only be around one-third of the 2016 number. The drop in enrollees is due in part to diversion of DWLS 3rd criminal cases as well as an easing of the law as to which violations will result in a license suspension.

Second, it appears that due to increases in domestic violence felony filings and office turnover, the County must make some tough prioritization decisions regarding programs and staffing. As a result, the County is terminating its participation with the City on December 31, 2020.

The Office of the Spokane County Prosecuting Attorney indicates that it will have a form of a Relicensing Program in the future, but details are unknown at this time. Meanwhile, the City indicates that it isn’t in a position to take on the full expense of running the program. This presents an unfortunate situation, since joint collaboration is the key to a successful program in this region.

Even with decreased participation, the regional Relicensing Program has been very successful. Duplication of effort or programs has been the bane of criminal justice efforts in the City and County, something we criticized quite often in our original Blueprint.

► **Bottom Line: A successful Relicensing Program may be severely impacted by the City and County going their separate ways. We recommend that the legislative authorities of both the County and City establish the funding that will allow the City and County to continue joint participate in a region-wide Relicensing Program.**

5.6 (3) Spokane County Should Commission an Independent Evaluation of the Spokane County Superior Court Early Case Resolution (ECR) Program

There has never been an evaluation of the ECR program. Before determining its impact, or making changes, the evaluation should be conducted.

► **Bottom Line: No progress in this area.**

5.6 (4) Spokane County Should Make Specific Modifications to ECR Program Based on Differentiated Case Management Best Practices

There are more cases in ECR in 2019 than in 2018 – 1,124 in 2018 and 2,064 in 2019. However, there has not been any quantitative analysis of the impact and outcomes produced by this program. Simply referring more individuals into ECR, does not necessarily mean that these cases are being adjudicated more efficiently. An objective, third-party evaluation (recommended above) is needed to adequately determine the progress under this recommendation.

► **Bottom Line: No progress in this area.**

5.6 (5) Adult Drug Court Prosecutor Should Review Program Admissibility Standards

The County Prosecutor reports that Drug Court eligibility criteria have expanded, however, it still excludes individuals charged with violent offenses and sex crimes, gang membership, and drug delivery. Prosecutors can waive individuals into the program, which may raise issues regarding arbitrary or inequitable referrals. The County Prosecutor recently tried to establish a post-conviction Drug Court, but the proposal stalled due to limited interest and/or resources across the parties. The County Prosecutor must ensure that Drug Court eligibility criteria are informed by national best practices. Additionally, the Drug Court should implement an equity screen to ensure that Drug Court (and all therapeutic court) participants properly represent the population of individuals facing charges/held in jail.^{xiii}

► **Bottom Line: Some improvement but should revisit admissibility criteria.**

5.7 INDIGENT DEFENSE

The Blueprint emphasized the need for improved access to clients in order to enhance public defense. The CJC met with Interim Director of the City Public Defender's Office Nick Antush, Director of Counsel for Defense Scott Mason, Director of the County Public Defender's Office Tom Krzyminski, Deputy Director of the County Public Defender's Office Matt Harget, and Therapeutic Court Attorney Robert Anderson.

5.7 (1) & 5.7 (2) Implementation of Efficient Communication Between Defense Lawyers and Jailed Clients

In 2013 we recommended that the Indigent Defense Offices work with Detention Services to implement a video conferencing system in which counsel could meet with clients from their desks.

This recommendation has not been implemented, but plans are in place for a system in which incarcerated individuals would have access to tablet computers to contact their lawyers by email and video. The defense agencies are enthused about the promise of this system. They report that the system is to be implemented in 2021. The delay is due to a contractual obligation to the current telephone provider.

▶ **Bottom Line: The plans are promising and should be implemented with all due haste.**

5.7 (3) Quick and Easy Meeting Area Access Should be Established for Use by Attorneys Visiting Client Inmates when a Face-to-Face Visit is Desired

We recommended implementation of a quick and easy meeting area for use by attorneys when a face-to-face meeting with an inmate is desired.

This recommendation has not been implemented.

▶ **Bottom Line: Space for regular face-to-face meetings between lawyers and clients should be provided with all due haste.**

5.8 DETENTION SERVICES

The Blueprint identified several innovations to create a more efficient, humane, and effective system of incarceration. The CJC met with Detention Services' Director Mike Sparber.

5.8 (1) Create a Community Corrections Center

This remains an excellent idea but little to no progress to date (in spite of support from a broad cross-section of leadership and community members). At present, there appears to be too much outside interference. Such a facility must be designed correctly, staffed adequately and be a good mix of safety and security, as well as the appropriate programs designed to reduce recidivism. Such design is a job is not for special interest groups, but for the experts, which can include specialists outside of local of government. Similarly, design for a new jail is for the experts, both as to size and function. We look to the Intake and Releasing project (see 5.4.2), however, as a promising first step toward establishing a Community Corrections Center.

► **Bottom line: Slight progress under this initiative in light of Intake and Releasing efforts, but much work still to do.**

5.8 (2) Develop Alternative Sentencing Programs, and Expand Electronic Home Monitoring to All Courts

The development of alternate sentencing programs are not necessarily within the purview of Detention Services but requires input/action from courts and policymakers.

Detention Services is significantly involved in managing Electronic Home Monitoring (EHM), which can serve as a great alternative, especially for a sentenced and compliant population. It is therefore important that EHM does not inadvertently exclude individuals from participating if they are unable to pay for the initiation and daily fees.^{xiv} The County and Detention Services should examine how to facilitate increased participation without shifting the cost of the alternative on its participants. Work crew can also provide an alternative to incarceration but is not used to its capacity. There are several other alternatives to incarceration implemented across the country that should be evaluated and adopted locally wherever possible.^{xv}

Again, there is too much outside interference standing in the way of full use of EHM, work crew, and other alternatives.

► **Bottom line: Some action on this initiative, but Detention Services has limited authority regarding referrals into EHM, work crew and alternative sentencing programs.**

5.8 (3) Ensure Greater Coordination of Transportation and Scheduling

Transportation remains a problem. There is a lack of coordination between Detention Services and the Courts. High volume criminal courts (Municipal, District and Superior) should be collocated and proximate to easy exits. If achieved, Detention Services management states that they could “fly

through the docket” in much less time than it takes now. In order to identify opportunities for increased efficiencies, the City and County should consider hiring a business analyst or other consultant to develop alternative schedules that will decrease wait times in court and increase response time by transport.

► **Bottom line: No action on this initiative. Still a problem, but out of the hands of Detention Services.**

5.8 (4) Ensure Proper Classification and Identification of Specialized Populations

No changes or new efforts have been instituted under this recommendation. The jail continues to use the Objective Jail Classification. We recommend the jail apply a professionally recognized behavioral health screen at booking or classification to ensure individuals with behavioral health issues are swiftly identified and connected to appropriate treatment.^{xvi}

Although not directly responsive, it is worth noting that the Detention Services has made significant changes in response to COVID-19 to create a quarantine process for individuals booked into jail. We applaud these efforts and staff’s success at preventing an outbreak in the jail to date.

► **Bottom Line: No progress has been made. The jail should take swift action to ensure the behavioral health population is properly and timely identified at booking for proper housing and treatment.**

5.9 PROBATION SERVICES

The Blueprint recommended changes to probation offices at both the City and County in order to improve case management and reduce duplication of services. The CJC met with the directors of probation at the City, Michael Diamond, and the County, Shannon Koutecky.

5.9 (1) Develop Inter-local Agreement to Combine City and District Court Probation Services to Remove Duplication

Both City and County opined that consolidation was possible but not probable under present conditions. There is still overlap, i.e., both City and County dealing with the same individual on different criminal matters. Current barriers to any form of consolidation include:

- Large pay disparity between City and County. City Probation Officers (POs) receive over \$20,000 more than County POs, thus County regularly loses POs to City increasing turnover;
- Union resistance to consolidation; and
- Probation Offices ultimately answer to judges and judges do not want to lose control of Probation Services. As well, implementation of new procedures and probation policies are slowed down by having to work through (satisfy) eight District Court judges and three Municipal Court judges.

► **Bottom line: No action has been taken to further this initiative.**

5.9 (2) Application and Use of Standardized Risk/Needs Case Management System & Use of Evidence-Based Practices

Ohio Risk Assessment System (ORAS) has been fully implemented by City Probation. It is “offender centered” and seems to be working well. Training on ORAS has been conducted by County Probation and District Court aims to pilot the ORAS in early 2021. Both City and County would like to use more “swift and certain” options (i.e. jail or community service) as soon as possible. There has been some resistance to this by public defenders.

► **Bottom line: Action has been taken by City on this initiative and County is catching up.**

5.9 (3) Collaboration with Law Enforcement and Community Agencies

This is an area that is constantly improving, especially in the Domestic Violence Task Force, GPS monitoring, etc. There is some concern that Prosecutors’ Offices won’t regularly call Probation Officers (POs) as witnesses in contested hearings.

► **Bottom line: Much improvement in this area, but more needs to be done.**

5.9 (4) Probation Caseloads Reduced to Workable Numbers

There is a constant attempt by both City and County to reduce caseloads to workable numbers and determine appropriate levels of supervision. By using ORAS and other tools Probation attempts to determine the barriers to an outcome of changing the individual's behavior. This is done, in part, by shifting cases to administrative supervision, if possible. The City states that it is down to roughly 220 cases per PO and the County states that it is down to roughly 250 to 300 cases per PO. There exists no real program to work out situation where a defendant has cases in both Municipal and District Court and is being supervised by both City and County Probation Services. It is noted that there is some informal collaboration between individual POs if such circumstances exist.

Other models, like the incentivized release model implemented by the State of Louisiana should be examined and potentially applied in Spokane. This model allows for a reduction in probation sentence when individuals are successful, allowing probation staff to reallocate resources to individuals who are in the most need of supervision, while decreasing caseloads.^{xvii}

► **Bottom line: Much improvement in this area. As above, it appears that consolidation is key.**

REFERENCES

ⁱ For the Washington State Supreme Court's statement, see Statement from the Washington State Supreme Court, June 4, 2020, <http://www.courts.wa.gov/content/publicUpload/Supreme%20Court%20News/Judiciary%20Legal%20Community%20SIGNED%20060420.pdf>. For Spokane County's Superior Court statement, see Statement from the Spokane Superior Court, 2020, <https://www.spokanecounty.org/4625/Superior-Court>.

ⁱⁱ Spokane Regional Law & Justice, Spokane County, <https://www.spokanecounty.org/4620/Spokane-Regional-Law-Justice>.

ⁱⁱⁱ Criminal Justice Coordinating Committees, Nat'l Inst. of Corr., <https://nicic.gov/criminal-justice-coordinating-committees#:~:text=Justice%20Coordinating%20Committees-.Criminal%20Justice%20Coordinating%20Committees,system%20and%20its%20constituent%20agencies>.

^{iv} The PSA is a non-proprietary risk tool validated on a national population. You can learn more about the tool here. About the Public Safety Assessment, Advancing Pre-trial Policy & Research, <https://advancingpretrial.org/psa/about/>.

^v Justice Task Force, Spokane County, <https://www.spokanecounty.org/4470/Justice-Task-Force>.

^{vi} The dashboard can be viewed at: Criminal Justice Data, Spokane County, <https://www.spokanecounty.org/4248/Criminal-Justice-Data>.

^{vii} Community Diversion Unit, Frontier Behavioral Health, <https://www.spokanecounty.org/DocumentCenter/View/24311/Trueblood-ppt-presentation-for-SRJLC-distribution-021919>.

^{viii} About the Public Safety Assessment, Advancing Pre-trial Policy & Research, <https://advancingpretrial.org/psa/about/>.

^{ix} ANNUAL REPORT, LA. DEP'T OF CORR. (2019), <https://s32082.pcdn.co/wp-content/uploads/2020/01/Fiscal-Year-2019-Annual-Report-FINAL-1.17.20.pdf>

^x For additional information regarding relevant screenings, please see: EQUITY & INCLUSION, NAT'L DRUG COURT INST., <https://www.ndci.org/resource/training/equity/>; and EQUITY & INCLUSION, NAT'L ASSOC. OF DRUG COURT PROFESSIONALS <https://www.ndci.org/wp-content/uploads/2019/02/Equity-and-Inclusion-Toolkit.pdf>.

^{xi} HAMILTON, ZACHARY K. ET AL., CITY OF SPOKANE MUNICIPAL COMMUNITY COURT: PROCESS AND OUTCOME EVALUATION, WASH. STATE UNIV., (AUG. 2019), <https://static.spokanecity.org/documents/municipalcourt/therapeutic/smcc-evaluation-report-2019.pdf>.

^{xii} HAMILTON, ZACHARY K. ET AL., SPOKANE COUNTY BEHAVIORAL ADULT FELONY THERAPEUTIC DRUG COURT: PROCESS AND OUTCOME EVALUATION, DEC. 16.

^{xiii} *See supra*, note ix.

^{xiv} Prior to COVID-19 the EHM initiation fee was \$25, plus \$4/day paid by the individual for the duration of their monitoring. Following the pandemic, the fees were often waived to increase participation. The County should permanently waive EHM fees for indigent participants.

^{xvi} See Brief Jail Mental Health Screen, Policy Research Associates, <https://www.prainc.com/?product=brief-jail-mental-health-screen>.

^{xvii} *Supra*, note viii.

APPENDIX

The Supreme Court State of Washington



June 4, 2020

Dear Members of the Judiciary and the Legal Community:

We are compelled by recent events to join other state supreme courts around the nation in addressing our legal community.

The devaluation and degradation of black lives is not a recent event. It is a persistent and systemic injustice that predates this nation's founding. But recent events have brought to the forefront of our collective consciousness a painful fact that is, for too many of our citizens, common knowledge: the injustices faced by black Americans are not relics of the past. We continue to see racialized policing and the overrepresentation of black Americans in every stage of our criminal and juvenile justice systems. Our institutions remain affected by the vestiges of slavery: Jim Crow laws that were never dismantled and racist court decisions that were never disavowed.

The legal community must recognize that we all bear responsibility for this on-going injustice, and that we are capable of taking steps to address it, if only we have the courage and the will. The injustice still plaguing our country has its roots in the individual and collective actions of many, and it cannot be addressed without the individual and collective actions of us all.

As judges, we must recognize the role we have played in devaluing black lives. This very court once held that a cemetery could lawfully deny grieving black parents the right to bury their infant. We cannot undo this wrong—but we can recognize our ability to do better in the future. We can develop a greater awareness of our own conscious and unconscious biases in order to make just decisions in individual cases, and we can administer justice and support court rules in a way that brings greater racial justice to our system as a whole.

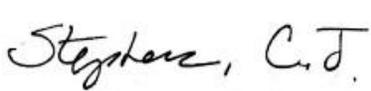
As lawyers and members of the bar, we must recognize the harms that are caused when meritorious claims go unaddressed due to systemic inequities or the lack of financial, personal, or systemic support. And we must also recognize that this is not how a *justice* system must operate. Too often in the legal profession, we feel bound by tradition and the way things have "always" been. We must remember that even the most venerable precedent must be struck down when it is incorrect and harmful. The systemic oppression of black Americans is not merely incorrect and harmful; it is shameful and deadly.

Finally, as individuals, we must recognize that systemic racial injustice against black Americans is not an omnipresent specter that will inevitably persist. It is the collective product of each of our individual actions—every action, every day. It is only by carefully reflecting on our actions, taking individual responsibility for them, and constantly striving for better that we can address the shameful legacy we inherit. We call on every member of our legal community to reflect on this moment and ask ourselves how we may work together to eradicate racism.

As we lean in to do this hard and necessary work, may we also remember to support our black colleagues by lifting their voices. Listening to and acknowledging their experiences will enrich and inform our shared cause of dismantling systemic racism.

We go by the title of “Justice” and we reaffirm our deepest level of commitment to achieving justice by ending racism. We urge you to join us in these efforts. This is our moral imperative.

Sincerely,



Debra L. Stephens,
Chief Justice



Charles W. Johnson,
Justice



Barbara A. Madsen,
Justice



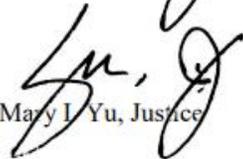
Susan Owens, Justice



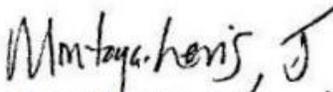
Steven C. González,
Justice



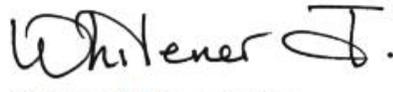
Sheryl Gordon McCloud,
Justice



Mary I. Yu, Justice



Raquel Montoya-Lewis,
Justice



G. Helen Whitener, Justice

Dear Members of the Spokane County Community,

The judicial officers of Spokane County Superior Court each swear an oath to support the Constitution of the United States and of the State of Washington. We are charged to faithfully and impartially discharge the duties of office to the best of our ability. Our Code of Conduct recognizes that the judiciary plays a central role in preserving the principles of justice and the rule of law that is the basis of our United States legal system. This code also requires that we avoid comment in-order to maintain the neutrality demanded of us and to avoid the appearance of endorsing a position on an issue that might come before us. In the face of recent reminders of the persistent devaluation and degradation of Black lives in America, we believe in the importance of not maintaining our silence in this instance.

There can be no debate that the constitutions we are sworn to uphold are intended to make all of us equal in the eyes of the law. It is with painful awareness that we acknowledge shortcomings that have resulted in systemic racial injustice against Black Americans and Black citizens of our state and county. It is with candid honesty that we recognize the role that the courts have played in these injustices. We must be better about recognizing shortcomings in ourselves, in our systems and in our leaders. It is only then that we can roll up our collective sleeves and begin the hard work of instituting and institutionalizing real change.

We do not claim to possess immediate answers to longstanding questions. We do, however, pledge to listen better, do better, and be better, when and where we can, to eradicate racism and establish systemic reforms in our justice system.

Sincerely,
Spokane County Superior Court