**Law & Justice Council – Mentally Ill Offenders**

Based on the Thurston County Law and Justice Council’s work plan for the for 2013, staff is developing background materials and presentations for the Law and Justice Council meetings. The first topic of the Council's 2013 work plan will be current gaps and future needs for mental health and chemical dependency services for justice involved mentally ill adults and juveniles as well as current gaps in other community services like housing.

The purpose of the presentation and conversations with Law & Justice Council is:

1. Educate Council members on current mental health, chemical dependency, and housing service array for contacted, arrested, incarcerated and released persons and how these services impact jail population counts, length of stay and recidivism rates;

2. Educate Council members on current gaps in services in the community, such as medical services, mental treatment and support, supported housing, and employment; also examine how these gaps impact jail population counts, lengths of stay and recidivism rates.

3. Educate Council members on potential impacts on mental health, chemical dependency and housing service availability and delivery systems - particularly for offenders and delinquents - should the current proposals for Medicaid managed care systems be put in place.

4. Educate Council members on the current and potential financial impacts of the lack of mental health services for MIO and MIJOP populations on county staff, daily jail/detention bed counts, jail/detention security, and recidivism rates.

5. Guide Council members through a study and deliberation process to help them come up with recommendations for the County Commissioners and other elected officials in order to increase inmate safety and reduce County costs.

Preferred outcomes of presentations and discussions with the Thurston County Law & Justice Council:

1. Greater understanding of issues, gaps and threats to local government law enforcement/corrections related to current mental health, chemical dependency and housing service array and proposed changes;

2. Discussion of potential options, system changes and service enhancements that could be accomplished at the county level.

3. Development of selected recommendations for the Thurston County Board of Commissioners, local elected officials and state legislative committees.

4. Agreement to inform local and state elected and appointed officials of issues and potential impacts of changes to Medicaid services, particularly related to behavioral health services (M.H. and C.D.) and housing.
Background:

In 2012, the average daily population of the Thurston County Jail was 420 adults, including work release, home monitored and incarcerated individuals. In 2008, about 18-20 percent of jail inmates were assessed to be seriously mentally ill. In October, 2012, 35% of the Thurston County Jail population was assessed to have severe or acute mental illness (this assessment is made by licensed mental health staff using the mini international neuro-psychological assessment tool-5.0.0).

In 2012, there were 14 homicides in Thurston County; three times higher than in past years. There has also been a shift in the underlying factors in homicides in Thurston County. In the past 5 years, the major underlying factor has been domestic violence, but in 2012 at least 3 of the murders involved individuals with serious mental illness.

There are three major issues to consider:

1. Safety of inmates and staff in the jail:
   • Are individuals being booked into jail inappropriately because there is no other place to put them like a secure triage facility;
   • Are the jail facilities adequate to handle severely mentally ill adults, both male and female;
   • Are staffing ratios adequate to ensure the safety of both corrections officers and inmates;
   • Are mental health assessments, mental health treatment services and/or co-occurring disorder treatment services in the jail appropriate and adequate for the individuals now being housed in the jail;
   • Is there a system in place to transition jail inmates from the jail to the community in a manner that increases the individual’s stability and decreases the likelihood of recidivism?

2. Limited mental health treatment capacity in the community, both inpatient and outpatient services:
• Due to the reduction of state-run mental health in-patient beds at Western State, some mentally ill adults stay in jail 2 to 3 times longer than other inmates; is there a way to reduce costly length of stays for these individuals;
• Lack of adequate case management capacity to ensure that mentally ill individuals leaving the jail have adequate treatment, keep treatment appointments, have appropriate community supports, medical care and medication;
• Concerns about changes in health care funding and systems which may further reduce Thurston County’s ability to procure quality mental health services and maintain those services;
• Current lack of ability to secure consistent and appropriate psychotropic medications for inmates upon their release from jail and to help these inmates find financial support for those medications.

3. The loss of mental health residential beds is further complicated because there are two primary ways to obtain services at Western State Hospital, but these are discrete functions from each other:
   a. Admittance to WSH through the “forensic side” under “10.77”. The access is through an evaluation for a felon who is determined to not be competent to stand trial. WSH staff perform the evaluation for competency. This service is not provided by or with oversight by the Regional Support Network (RSN).
   b. Civil Commitment, under WAC 71.05, involves several steps for determination that an individual is dangerous to self or other due to a mental disorder. The initial step for this process is for an RSN funded Designated Mental Health Professional (DMHP) to make this determination for a 72 hour hold. After the initial 72 hours, a Superior Court Judge (or Commissioner) will hold a separate court to make the determination for a 14 day or a 90 day hold. If 90 day then the venue for the hold will be WSH, (if there is an available bed). The RSN is held responsible for discharge and outpatient services from WSH for those individuals with Medicaid funding.
   c. By practice in Thurston County, Civil Commitment involuntary holds for 72 hours and 14 days is carried out at the Evaluation and Treatment Facility (E&T). Forensic placements cannot occur at the E&T, only at Western State Hospital. Providence St. Peters Hospital no longer has any “involuntary beds” and therefore does not take Civil Commitment clients and never any forensic client referrals. Capital Medical Center does not have beds for mentally ill individuals either.
Thurston County is not alone. Other counties in Washington are also reporting a rapid rise in mentally ill offenders in jail. As state budget reductions have impacted the availability of in-patient and out-patient treatment services for adults (particularly for adults who are not insured nor are eligible for Medicaid), jails across the state have seen increases in the number of mentally ill persons who have committed crimes. These increases are challenging county budgets already stretched thin, compromising the safety of both mentally ill offenders and corrections staff in local jails and failing to help adults address the devastating impacts of their mental illness. In fact, the incarceration of mentally ill adults not only hinders their recovery, but adds additional roadblocks to education, employment and stable housing as a result of their criminal record and incarceration.

Snohomish County is one county that has actively begun to address these issues primarily through: a) co-funding a 16-bed community triage facility where mentally ill can be taken by law enforcement rather than to jail or the emergency room; b) funding jail transition staff and Veteran’s staff who work with mentally ill offenders to get placements upon release from jail; c) funding a new diversion program for mentally ill offenders (Therapeutic Alternatives to Prosecution) financed by sales tax monies; d) use sales tax funds to pay for psych meds for persons in the jail; and e) developing local protocols to share data between the RSN, treatment providers, the jail and the courts to track individuals in need of services and track outcomes. 1

The Council of State Governments Justice Center has recently issued a study, “Adults with Behavioral Health Needs Under Correctional Supervision: A Shared Framework for Reducing Recidivism and Promoting Recovery” which that “jails are becoming the largest institutional setting for people with serious mental illness in the country.” 2 The Council of State Governments paper further notes that the majority of people with mental illness are not violent and do not commit crimes. Research does suggest that some people under the influence of drugs or other substances are more likely to be violent – whether or not they have a mental illness. 3 People with mental illness and co-occurring disorders tend to have greater difficulties under correctional supervision than those without mental illness, both in correctional facilities and the community. National research and anecdotal information from the Thurston County

1 These efforts have had varying results depending on whom you talk to in Snohomish County. The County Jail is still overcrowded and still has difficulty responding to the needs of mentally ill offenders.
3 Ibid, page 5.
Corrections facility staff indicates that these adults tend to stay incarcerated longer than individuals charged with similar crimes who do not have a mental illness.

### Table 1. Estimated Proportion of Adults with Mental Health, Substance Use and Co-Occurring Disorders in the U.S. Population and under correctional control and supervision.\

<table>
<thead>
<tr>
<th></th>
<th>General Public</th>
<th>State Prisons</th>
<th>Jails</th>
<th>Probation and Parole</th>
</tr>
</thead>
<tbody>
<tr>
<td>Serious Mental Illness</td>
<td>5.4%</td>
<td>16%</td>
<td>17%*</td>
<td>7-9%</td>
</tr>
<tr>
<td>Substance Use Disorders; Abuse and/or Dependence</td>
<td>16%</td>
<td>53%</td>
<td>68%</td>
<td>35-40%</td>
</tr>
<tr>
<td>Drug Abuse Only</td>
<td>1.4%</td>
<td>17%</td>
<td>18%</td>
<td>N/A</td>
</tr>
<tr>
<td>Drug Dependence Only</td>
<td>0.6%</td>
<td>36%</td>
<td>36%</td>
<td>N/A</td>
</tr>
<tr>
<td>A co-occurring substance use disorder with diagnosed serious mental illness</td>
<td>25%</td>
<td>59%*</td>
<td>72%</td>
<td>49%</td>
</tr>
</tbody>
</table>

*The Thurston County Jail was reporting 18-20% mentally ill in their daily population counts in 2011. This percentage has recently jumped to 35% after state in-patient beds were reduced in the summer, 2012.

### TABLE 2 Number of Inmates assessed as having serious Mental Illness in Thurston County Jail

<table>
<thead>
<tr>
<th></th>
<th>2008</th>
<th>2010</th>
<th>2011</th>
<th>2012</th>
</tr>
</thead>
<tbody>
<tr>
<td>% of average daily population with serious or chronic mental illness</td>
<td>20%</td>
<td>33%</td>
<td>32%</td>
<td>30-35% (changes daily)</td>
</tr>
</tbody>
</table>

*There is an average of 14 inmates/month on suicide watch. Single cell housing for inmates with MH issues currently is 16; this does not include those on suicide watch or housed in Intake. Over the last 3 years, the jail has doubled the number of inmates seen by our medical staff (Doctor/Psych ARNP) for MH issues. These inmates are referred by BHR staff to the Psych ARNP or Doctor. The increase is undoubtedly due to the severity of mental illness in our population.

### Issue(s):

1. **Impacts on jail services from a rapid increase in mentally ill inmates – cost of overtime for supervision, medical costs, security issues, inmate management (including medication management & payment); overcrowding due to need to use single cells; extended length of stay, recidivism, re-entry issues.** Mentally ill inmates have posed liability, security and inmate management challenges for the Thurston County

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4 Ibid, page 6
Corrections facility for many years. What was different in 2012 was the rapid increase in the number of seriously mentally ill offenders as a percentage of the average daily population due to the lack of availability of residential treatment beds and appropriate outpatient treatment services. Therefore, when a seriously mentally ill adult is arrested for a crime, there are very few options for placement/treatment once the person is booked in the jail.

2. **Lack of a facility for pre-booking hold of severely mentally ill adults.** There is no secure facility in Thurston County where adults charged of a crime can be taken by law enforcement for triage and assessment services (including medication assessments), prior to booking in the jail for the crime. Historically Use E.R. but hospital question appropriateness. Therefore, the Corrections facility staff are required to provide initial services for often very disturbed and/or violent adults. While jail staff are trained, they are not mental health professionals which make initial booking very difficult and dangerous. There are potential risk and liability issues for the County that are growing due to the increase in the numbers of violent mentally ill adults being placed in the jail. (NOTE: the ENT is physically designed for and is staffed for involuntary commitment of seriously mentally ill adults. The ENT facility is not a secure facility designed to hold criminally charged or violent mentally ill adults. Currently, some seriously mentally ill offenders are taken to Providence or Emergency Rooms for initial treatment, but wait times can be extensive and the ERs are not secure facilities.

3. **Impact on juvenile detention services from increase in mentally ill inmates** – Juvenile Detention is trying to address this increase with the use of improved evidence-based services; however, there are not adequate services for youth who are not in the juvenile justice system. There are also gaps in continuum of care services for youth who are released from state JRA facilities.

4. **Reduction in available involuntary and voluntary in-patient treatment.** Serious reductions in state funding and reimbursement rates for in-patient mental health treatment as well as changes in insurance/Medicaid coverage for mental health services have resulted in reduction in the number of both voluntary and involuntary in-patient beds. Washington State has the fewest mental health inpatient beds per capita than any other state. These reductions result in lack of bed availability at Western State Hospital for both forensic and Civil Commitment beds. In addition this also results in the limited availability of community based involuntary and voluntary beds. For example, Providence St. Peter’s no longer has any involuntary beds. This reduction has resulted in

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5 The current reality could be impacted even more under various payment scenarios with the implementation of the federal Health Care Reform Act.
several impacts on jail services. First, there is a very lengthy wait time for mentally ill offenders being referred for forensic evaluations and placement at WSH. It can take up to 12 weeks now for a referral to Western State to be accepted; this lengthy wait time seriously impacts the safety of the mentally ill offender and the safety/security of jail staff. Secondly, the lack of appropriate community inpatient beds has resulted in an increase in the number of individuals with a severe mental illness committing a crime and detained in the jail. Once in the jail, mentally ill offenders are typically in jail 3 to 4 times longer than non-mentally ill offenders; the average length of stay for an inmate is 34 days; most mentally ill offenders are in jail for at least 3-4 months.

5. **Assessments:** There has been an ongoing discussion regarding use of standardized assessment tools by the jail, District Court, Superior Court and the therapeutic courts (Drug Court, DUI Court, Mental Health Court and Veterans Court). There are assessments required for forensic placement at Western State Hospital that can take several days to schedule. The courts require different assessments to determine competency. Questions have been raised regarding whether Thurston County is using the right tools, whether there are adequate staff resources to conduct timely assessments and whether separate assessments can be consolidated to reduce workload, duplication of information and stress on inmates.

6. **Psych meds.** There are several issues to be addressed here including the costs of purchasing and administering psych meds for inmates while they are jail, the lack of ability of jail staff to administer psych meds to inmates who refuse (requires a court order for which Thurston County does not have a streamlined process), and an extreme lack of continuity of medication administration once a person is released from jail for those who do not have Medicaid. This lack of continuity is related to several factors: 1) the length of time it is now taking for inmates to get onto Medicaid once they are released (used to take 2-3 weeks; can now take 2-3 months); 2) the lack of outpatient and recovery care services in the community for those without Medicaid; and 3) the difficulty of getting mentally ill adults to stay on medication without consistent case management and support services during the transition to Medicaid funded treatment services.

7. **Lack of services for mentally ill/PTSD individuals upon release, i.e. housing, community supervision, medications, employment, which increases the likelihood of repeat offenses for these individuals.** The most critical shortage at this time is the lack of housing for released inmates with mental illness. These inmates usually end up moving in with a relative or a friend, or ending up on the streets. The lack of safe housing makes the provision of a continuum of care extremely difficult and hampers the individual’s ability to remain stable.
8. **Issues related to the two different systems of responding to mentally ill individuals, i.e. civil commitment vs. criminal (forensic) charges.**

By practice in Thurston County, Civil Commitment involuntary holds for 72 hours and 14 days is carried out at the Evaluation and Treatment Facility (E&T). Forensic placements cannot occur at the E&T, only at Western State Hospital. Providence St. Peters Hospital no longer has any “involuntary beds” and therefore does not take Civil Commitment clients and never any forensic client referrals. Capital Medical Center does not have beds for mentally ill individuals either.

9. **Impacts on other law & justice agencies in Thurston County.** The inability to triage and serve mentally ill adults in appropriate facilities means that once arrested they are likely to stay in jail 2 to 3 times longer than a person who committed the same crime but was not mentally ill. There are also delays in court hearings, a greater work load required from both the Prosecuting Attorney’s Office and the Office of Assigned Counsel as well as a larger impact on law enforcement workloads due to the complexity of these types of cases and the increased likelihood of recidivism. The increase in mentally ill adults in the jail does increase staff safety risks and add to costs for Thurston County government.

**Current Services Available:**

- Outpatient mental health treatment services are offered in the community for adults with Medicaid benefits. Services include: case management, individual and group therapy, medication evaluation and pharmaceutical expenses and chemical dependency treatment. These services are all voluntary and require “medical necessity” for eligibility.
- Voluntary Inpatient Mental Health services are available for those with Medicaid benefits.
- Detox services are available on a limited basis.
- Crisis mental health services are available for acute care.
- Treatment services offered in jails (Thurston County, Nisqually, Olympia); includes medication evaluations for psychiatric disorders, appropriate (not all psychoactive medications are available) prescriptions, prescription management; short term continuity of prescriptions upon release from jail for limited population; some case management transition services and care for acute mental illness
- Mental Health and Chemical Dependency treatment services are available in community, for those with Medicaid and medical necessity.
• Mental Health and Chemical Dependency services are available in detention for juveniles and juvenile offenders, including family services and post discharge.

**Gaps in Services:**

• Lack of treatment services (uninsured, non-Medicaid, other barriers)
• Lack of consistency in medication monitoring and lack of ability of MIO adults to get medication once they are released from jail due to inability to pay
• Don’t know what this means;
• Due to client confidentiality limited information sharing issues between systems - barriers established between treatment facilities and law enforcement agencies due to different confidentiality rules and information release guidelines
• Lack of “specialized population” housing/supervised housing
• Lack of employment options

**Evidence-Based/Best Practice Models**

• Consensus Project report
• U.W. Research into various mental health and chemical dependency models of care.

**NEXT STEPS (for discussion by the Thurston County Law and Justice Council):**

1. **Desired Outcomes in Thurston County**

2. **Recommendations**
Spectrum of Mental Health Care for MIO

In-House Services Model

- Pre-Booking
- Diversion/Assessment
- Acute Stabilization
- Long Term Rehabilitation
- Post Booking
- Discharge/Placement

Risk Assessment Model

- High
- Community Risk
  - Goal: to increase community safety
- In-house Safety
- Linkage to Comm. Services
- Day Program
- Force Meds. Isolation
- Acute Stabilization
- Low

Assessment and referral

Severity of Mental Health Illness
- Goal: Acute episode stabilization AND Long-term recovery

Goal: to increase community safety