



## **A STRUCTURAL FRAMEWORK FOR IMPLEMENTING SMART JUSTICE POLICY RECOMMENDATIONS IN SPOKANE COUNTY**

Presented to Spokane Regional Criminal Justice Commission July 8, 2013,  
by the Smart Justice Campaign Coalition

### **Purpose**

The purpose of this document is to suggest a structural framework for implementing the “Smart Justice Policy Recommendations” in Spokane County (attached as Appendix A). The Smart Justice Campaign Coalition and other stakeholders developed this plan to address the administrative structure of a Spokane Regional Criminal Justice System, regional consolidation, facilities, funding, and the racial, economic and other problematic disparities in the Spokane criminal justice system.

We continue to believe that the most effective means of creating lasting criminal justice reform is to adopt a Smart Justice Lens. That means examining every current practice and proposed reform to determine if it creates greater community safety, is cost effective and reduces recidivism so that there are fewer victims and offenders. In order to achieve Smart Justice in Spokane, we will need to redirect money from pre-trial warehousing towards proven programs that hold offenders truly accountable to their community. This will require a substantially higher level of communication and coordination across county and city jurisdictions. In the long term, adopting a Smart Justice Lens will cost taxpayers less and provide them with more safety. In the short term, pre-trial jail costs, which are unrelated to punishment, can be re-directed to fully fund the alternatives that will likely reduce the need for the large capital expense of a new jail.

Enhanced communication and coordination can be achieved with some consolidation, a new administrative structure for a regional criminal justice system, targeted funding sources and more citizen involvement. These changes will make it possible to address the current problems in the system and achieve the Smart Justice goals to lower costs, reduce recidivism, make the community safer, and improve outcomes for victims and offenders. The current problems include inadequate assessment of offender risk and needs and over reliance on incarceration of non-violent individuals, those with substance addictions and disabilities (cognitive, mental and/or physical), people of color and those who are low-income. The current programs that offer alternatives to incarceration and services are available to only a fraction of the individuals eligible or in need of the programs. By expanding evidence-based programs and regularly evaluating the programs we can create a 21<sup>st</sup> century model regional criminal justice system in Spokane that is humane, respectful, and free of racial bias and that creates opportunities for change for offenders.

## Creating a Spokane Regional Criminal Justice System<sup>1</sup>

### Objectives:

- Coordinated cooperative criminal justice system that will implement smart justice
- Structure that satisfies statutory mandates and has already received favorable reviews by stakeholders working directly in the system
- County wide executive and legislative representatives, along with citizen representatives, creating general criminal justice policy
- Executive level administrator who is charged with facilitating communication and cooperation
- Forum where those working directly in the system come together regularly to identify and solve problems and implement general smart justice policies
- Structure that respects the constitutional, statutory, and ethical obligations of the various stakeholders in the system
- Centralized departments/agencies that cross jurisdictional lines

The Coalition recommends that Spokane County create a Regional Criminal Justice System using the Law and Justice Council model mandated by state law. RCW 72.09.300 requires that every county establish a local Law and Justice Council, by ordinance or resolution, to facilitate cooperation and coordination of local criminal justice systems. RCW 72.09.300. The statute mandates that membership in the Council include specific legislative and executive policy makers, as well as certain departments that work directly with offenders.<sup>2</sup> Beyond those prescribed members, however, the law leaves each county with discretion to expand membership and to organize each council so that it meets local needs. In enacting RCW 72.09.300, the legislature described the statute's purpose as follows:

... [T]o encourage local and state government to join in partnerships for the sharing of resources regarding the management of offenders in the correctional system. The formation of partnerships between local and state government is intended to reduce duplication while assuring better accountability and offender management through the most efficient use of resources at both the local and state level. [1987 c 312 § 1.]

Spokane County enacted a resolution in 1992, establishing a Law and Justice Council (Resolution 92-0769). The Law and Justice Council replaced the previously established Confined Population Management and Review Board (Resolution 91-235). Part of the mission of the Law and Justice Council was to recommend alternatives to incarceration. It was also charged with developing a Local Law and Justice Plan. We have been told that the Council previously functioned for a number of years under

---

<sup>1</sup> See Appendix A for the Statement of the Problem, Comparative Regional Cooperation Models, and Legal Authority for Interlocal Agreements.

<sup>2</sup> "... the county sheriff and a representative of the municipal police departments within the county, the county prosecutor and a representative of the municipal prosecutors within the county, a representative of the city legislative authorities within the county, a representative of the county's superior, juvenile, district, and municipal courts, the county jail administrator, the county clerk, the county risk manager, and the secretary of corrections and his or her designees." RCW 72.09.300.

primarily judicial leadership, but ceased to meet around 2000. Past participants told us that it provided a helpful forum for discussion. To our knowledge no Local Law and Justice Plan was developed.

We recommend that the Board of County Commissioners adopt an ordinance, rather than an advisory resolution, that implements a Law and Justice Council in Spokane County; this Council could serve a plenary function for the administration of a Regional Criminal Justice System. The role of this Council should be to facilitate cooperation and coordination within the region's criminal justice system in order to meet the following goals: 1) reduce crime, 2) lower costs, 3) create safer communities, and 4) improve outcomes for victims and offenders.

### **Specific Recommendations for Creating a Spokane County Law and Justice Council:**

#### Adopt an Implementing Ordinance

The Board of County Commissioners should adopt a Spokane County Law and Justice Council Ordinance that includes the provisions below.

#### Membership of the Law and Justice Council

The Spokane County Law and Justice Council should expand membership beyond what is required by the statute so that the Council has broad regional representation include the following members (members in italics are those mandated by statute to be included):

- County Executives: Three County Commissioners and the *County risk manager*.
- Municipalities: City of Spokane Mayor, City of Spokane risk manager, two Spokane City Council members, two Spokane Valley City Council members, and *one person representing the legislative authorities from the smaller cities/towns within Spokane County*.
- Courts: *Representatives from Spokane County's Superior, Juvenile, and District Court, a representative for City of Spokane Municipal Court (also representing specialty courts<sup>3</sup>) and one representative from other municipal courts (Airway Heights, Cheney, Medical Lake)*.
- Prosecution: *County Prosecutor, City of Spokane Prosecutor, and one representative from other municipal prosecutors in Spokane County*.
- Public Defense: Representatives from City Public Defenders, County Public Defenders, Counsel for Defense, and Private Defense (Selected by Spokane County Bar Association).
- Law Enforcement: *Sheriff, Spokane Police Chief, and one representative from other municipal police departments in Spokane County*.
- Facilities: *County Jail administrator (representing Transport, Classification & Mental Health), and the Community Corrections Center Administrator (to be created)*.
- Clerks: *County Clerk and the Spokane City Clerk*.

---

<sup>3</sup> Special Courts - Superior Court (Behavioral Health Therapeutic Drug Court, ECR, Family Court; District Court (Mental Health, Veterans, ISTC (DUI), DV); Municipal Court (Veterans, Community)

- Community Supervision: Representatives from Pretrial Services, Municipal Probation, County Probation, and the *Secretary of Department of Corrections or designee*.
- Labor: One representative from County and one from the City of Spokane labor unions.
- Citizens: Three citizens who represent the communities that are disproportionately represented in our offender population. This is similar to the citizen representation on the Spokane Regional Health District.

### Law and Justice Executive Committee and Coordinating Committee

The Ordinance implementing the Spokane County Law and Justice Council should provide for an Executive Committee and a Coordinating Committee which will meet more frequently and serve as the functional groups of the Law and Justice Council.

#### *Executive Committee:*

The Law and Justice Executive Committee should include the following members from the larger Law and Justice Council: The City of Spokane Mayor, two Spokane City Council members, three Spokane County Commissioners, two Spokane Valley City Council members, one representative from the small cities/towns, and the three citizen representatives from the Law and Justice Council.

The Executive Committee should have the following responsibilities:

- Appoint a Criminal Justice Administrator (position described below);
- Develop general smart justice policy goals for the criminal justice system, which include recommendations of the Spokane Regional Criminal Justice Commission;
- Review outcome reports supplied by the Criminal Justice Administrator and prepare an annual report to the community;
- Recommend that the legislative and executive members of the Law and Justice Council adopt interlocal agreements that are found to be necessary for the efficient and effective functioning of the criminal justice system;
- Enter a Memorandum of Understanding [MOU] with Washington State University Spokane, Department of Criminal Justice and Criminology, to assist in the analysis of data and to conduct research related to outcomes in the criminal justice system;<sup>4</sup>
- Actively pursue sustainable funding sources for criminal justice programming; and
- Recommend and support legislative changes that are necessary for an efficient and effective criminal justice system that: reduce recidivism, create a safer community, reduce costs, eliminate institutional racism, reduce the number of people with disabilities (cognitive, mental and/or physical) or drug/alcohol issues in our jail, and improve the psycho-social functioning of the offenders.

---

• <sup>4</sup> WSU has such an MOU with the Washington State Department of Corrections. WSU can also offer consultation to the Law and Justice Council and Criminal Justice Administrator.

### *Law & Justice Coordinating Committee:*

The Law and Justice Coordinating Committee should include representatives from all of the criminal justice units that provide direct services in the criminal justice system.<sup>5</sup> This can include individuals who do not serve directly on the Law and Justice Council.

The Coordinating Committee should have the following responsibilities:

- Discuss topics suggested by the RCW 72.09.300, policy directions, how to continue to improve system efficiency and effectiveness, how to change to a system driven by a valid risk/need assessment of the offender, how to reduce and end racial, economic and other disparities in the criminal justice system, and how to robustly implement and expand evidence-based alternatives to incarceration and needed support services (e.g., treatment, housing, education, training, etc.) (Juvenile Court can be used as model for the implementation of evidence-based practices);
- Identify and solve problems through working groups, as needed, e.g., Courts, law enforcement or groups addressing specific programs;
- Ensure that the Regional Criminal Justice Commission's recommendations are implemented;
- Review outcome data to verify that all programs within the system are reducing recidivism, creating a safer community, reducing costs, eliminating institutional racism, reducing number of people with disabilities (cognitive, mental and/or physical) or drug/alcohol issues in our jail, and improving the psycho-social functioning of the offenders. Under-performing programs must be improved or replaced; and
- Recommend to the Law & Justice Executive Committee necessary interlocal agreements and legislative changes, and identify funding needs.

### Criminal Justice Administrator

The Ordinance implementing the Spokane County Law and Justice Council should provide for the appointment of a Criminal Justice Administrator by the Council's Executive Committee.

Role and Qualifications: We recommend that the Ordinance clearly define the role of the Criminal Justice Administrator as holding the centralized position of leadership and accountability for the region, with a focus on outcomes for the whole criminal justice system. The Ordinance should clearly mandate that the person appointed be an executive level professional that is innovative, committed to facilitating the creation of a new level of regional cooperation in the criminal justice system, and who is dedicated to building coalitions to implement evidence-based programs and practices in the system. The person must have knowledge of, and respect for the constitutional, statutory, and ethical obligations of the various stakeholders in the criminal justice system. In addition, the Ordinance should require that the person selected have demonstrated experience applying an equity analysis (racial, economic, and

---

<sup>5</sup> There are many dedicated and talented professionals in the criminal justice system that can be further empowered by this structure to collaborate to achieve better outcomes for the system.

disability), excellent communication skills and the ability to supervise units that cross jurisdictional boundaries.

The Criminal Justice Administrator should report to the Executive Committee, and serve a term of 5 years, which is renewable.

The Duties and Responsibilities of the Administrator should include the following:

- Supervise an Integrated Justice Information Technology Department that is responsible for: 1) developing and maintaining an integrated criminal justice management information system to ensure seamless communication between all criminal justice units; and 2) to collect data and to analyze and report on outcomes of all criminal justice units, in collaboration with the Washington State University, Department of Criminal Justice and Criminology;
- Supervise a fund development coordinator/grant writer (see funding recommendations);
- Supervise a training department that will ensure that all criminal justice unit and program staff receive appropriate and up-to-date training (which is a requirement of evidence-based programs);
- Supervise Detention Services which cross jurisdictional boundaries;
- Supervise Pre-trial Services and Probation (community supervision); and
- Coordinate and Facilitate regular meetings of the Law and Justice Council, Executive Committee, Coordinating Committee and working groups, and ensure that these meetings comply with the Open Public Meetings Act, RCW 42.30.

## **Regional Consolidation**

### Objectives:

- Shift resources from pre-trial warehousing model to more effective and less costly community accountability model by substantially increasing the use of problem-solving courts.
- Coordinate robust pre-trial risk and need assessment under one management authority.
- Choose data driven effectiveness and efficiency over historical practice in consolidating criminal justice functions.
- Utilize interlocal agreements to minimize any current duplication of services.

Spokane County Consultant David Bennett recommends the consolidation of several city and county departments or units. If consolidation occurs, it would be expected that the County would take the lead over some of the consolidated units and the City would take the lead over others based upon proven efficiency (measured by cost per offender served for offenders of equal status), effectiveness in reduction in recidivism, and reduction in disproportionate incarceration of people of color, people with mental illness, people with addictions, and other inequities.

### **Recommendations regarding Possible Consolidations:**

#### Courts:

The District and Municipal Courts should substantially increase the number of offenders participating in therapeutic courts. Because offender participation is voluntary, the District and Municipal Courts can rotate judicial leadership of therapeutic courts by interlocal agreement and pro tem arrangements. Costs can be allocated between participating jurisdictions based on the proportional number of similarly situated offenders. The criteria for acceptance into therapeutic courts should be expanded so that it is based on the offenders' needs as opposed to the offense with which they are charged, and people of color should not be screened out based on allegations of gang affiliation. Consideration should be given to whether specially designated and trained judicial commissioners can be used to expand therapeutic courts at a lower cost than full judicial officers.

Establish an interlocal agreement for the unified adjudication of the 15% of misdemeanor offenders who are being prosecuted concurrently in District and Municipal Court. This would result in a single prosecutor, public defender, judge and probation officer for the offender and a likely more consistent intervention and outcome. The agreement would likely designate the Court with the first offense in time to adjudicate all pending misdemeanor offenses. Current state law would preclude Municipal Court from adjudicating District Court offenses without the consent of the offender. A unified request to the legislature would likely resolve this issue. In the meantime, the interlocal agreement should be designed to minimize the number of District Court offenders who would not agree to voluntarily participate in Municipal Court adjudication.

In the long term, consider reducing the number of District Court Departments by two or designating three District Court Departments that are elected by and serve the City of Spokane boundaries in lieu of

a separate Municipal Court. RCW 3.38.070 provides for the creation of sub-county district court departments that follow municipal boundaries in order to more closely tie the elected judges to the constituency they serve.

When the current three departments of the Municipal Court were created, only one District Court Department was eliminated leaving a net excess of two judicial departments. Under RCW 3.50.095, the current three Municipal Judges can't be removed involuntarily until January of 2018. District Court Departments can be eliminated by January 2015 as long as notice is given prior to the electoral filings in May of 2014. If the Municipal Court Judges consent, they could be appointed as District Court Judges for the newly created City of Spokane sub-county departments under RCW 3.38.070 as soon as January of 2015.

#### Public Defense.

Retain the current public defender model of separate departments in order to preserve the ability to manage legal conflicts between clients. Establish interlocal agreement for cost-sharing based on proportional representation of similarly situated offenders.

#### Prosecution.

In order to create one consistent policy voice in the region, all misdemeanor prosecutions could be consolidated into the City by interlocal agreement, with the County focusing on felony prosecutions. This will allow for one prosecutor in cases that have pending misdemeanor matters in both the city and county. This would be especially helpful when felonies committed within Spokane city limits are reduced to misdemeanors. If full consolidation is not possible, an interlocal agreement could be created to use a single prosecutor for offenders with concurrent charges in District and Municipal Court.

#### Probation (Community Supervision).

One potential reason advanced for consolidation of probation services is that one defendant may have multiple probation officers due to having charges in several courts. The scope of this problem has not been well documented. The Municipal Court reports that 15% of the individuals with Municipal Court cases also had misdemeanor cases in District Court. An interlocal agreement could determine which probation department, City or County, would provide community supervision so that each individual would have only one probation officer.

If consolidation is considered appropriate, the lead agency should be chosen based upon proven efficiencies and effectiveness in the delivery of community supervision at the lowest cost per similarly situated offender served. All Pretrial and Probation Departments, whether consolidated or separate, should report directly to the Criminal Justice Administrator.



### Pretrial Services.

Implement a far more robust Pretrial Services Department than currently exists, based off model programs. This Pretrial Services Department, whether or not combined with the Probation Department, should report directly to the Criminal Justice Administrator.

A substantial benefit of a robust Pre-Trial Services Department is the ability to shift numerous pre-trial detainees out of the jail and on to programmed Electronic Home Monitoring or other appropriate interventions that preserve community safety. Currently, the vast majority of jail inmates are awaiting trial and not serving a sentence. By conducting dynamic risk and needs assessment and providing appropriate real time monitoring, these individuals could be diverted out of the high cost jail and into a setting that is far less expensive, maintains community safety and reduces recidivism. The estimated cost savings is at least \$100/day/inmate, and could be applied to several hundred inmates each day based on current jail census data.

See Appendix C for specific recommendations and resources concerning Pretrial Services.

## **Facilities**

### Objective:

- Facilities that support the implementation of smart justice throughout the system including law enforcement diversion, alternatives to incarceration and comprehensive re-entry services

### **Recommendations:**

Intake Unit. A 24/7 intake/receiving unit should be constructed where evaluations can be performed of those individuals contacted by law enforcement who may require assistance (treatment, housing, etc.) but can be diverted from booking into the criminal justice system. The Pretrial Services department should be housed in this facility.

Community Corrections Center. A community corrections Center [CCC] should be constructed near the Courthouse to provide a central location for re-entry/ transition to the community services and secure treatment options. Once the Community Corrections Center is in place, Geiger should be closed.

Jail. The County should continue its ongoing renovation of the downtown jail and add expanded space for booking. The County should defer any construction of a new jail facility until criminal justice reforms have been in place long enough to analyze the need for any additional jail beds, if any.

## Funding

### Objectives:

- Fund reforms that will create long term safer communities and lower costs by using current designated jail operating funds to expand Early Case Resolution, Electronic Home Monitoring, Problem Solving Courts and other community accountability models that reduce recidivism.
- Create a unified schedule of proportional cost-sharing for similarly situated offenders accessing similar criminal justice services that apply to all jurisdictions within the region.
- Create a unified and more effective system that will attract outside funding and voter support.

Spokane City and County criminal justice professionals have developed some life-changing alternative to incarceration programs and treatment and support services. As the testimony before the Commission has shown however, the programs and services are available to only a fraction of the individuals eligible or in need of the programs. Successful change will require that these programs and services be taken to scale. Funding is critical.

### **Recommendations:**

1. Reallocation. Because the cost of incarceration far exceeds more effective alternatives, these alternatives can be funded by reduced jail costs in both the short and long terms without seeking a vote of county residents. The three easiest methods of reducing jail costs are: 1) Reducing the time from booking to adjudication; 2) Increasing the number of pre-trial detainees that are moved to electronic home monitoring; and, 3) Increasing the number of offenders that are promptly diverted out of the of the traditional justice system into more effective alternatives. For every 100 bed daily reduction in the jail census in favor of alternatives, the system would save at least \$3.65 million/year<sup>6</sup>. However, appropriate cost accounting must be implemented that allows for the smooth transfer of funds for jail costs to alternatives across jurisdictional budgets.
2. Proportional Participation. Funding for misdemeanor criminal justice should be allocated by proportional participation by similarly situated offenders in each jurisdiction rather than by flat fee contract.
3. Sales Tax. The County Commissioners should consider giving voters the option to pass either 1/10<sup>th</sup> (\$7.5 million/year) or 2/10<sup>th</sup> (\$15 million/year) of one percent sales tax for seven years in order to expedite criminal justice reform and long term savings as authorized by the legislature. This is cheaper than the currently projected cost of \$260 million to build and finance a new jail (or \$13 million/year for 20 years). Similar to the emergency communications and crime check levy, these funds could be earmarked both for programming costs and the construction of facilities that would support alternatives

---

<sup>6</sup> This assumes a daily jail cost of \$120/bed and an average alternative cost of up to \$20/day. Savings would of course be more for quicker processing of pre-trial felony detainees who make up a substantial portion of the current jail population.

to incarceration like the Community Corrections Center. These funds should not be used for traditional jail or criminal justice operations which already have their own funding.

**4. State and Federal funds.** The City and County must continue to pursue state and federal funds for the criminal justice system. Although some grants can have difficult compliance measures attached and may not provide long-term funding, they still have provided needed start up funds for programs like SHARPP Re-entry Program (housing), the Behavioral Health Therapeutic Drug Court, and Veteran's Court. Other grants provide more sustainable funding for programs in Juvenile Court and Community Services. According to the Behavioral Health Therapeutic Drug Court, the Criminal Justice Treatment Account (CJTA) is an example of one state program that provides funds for substance abuse treatment that is critically needed. Important community treatment providers have also been forced to reduce staff and services as public funding has decreased. A unified Regional Criminal Justice Plan will make it far easier to attract grant funding.

The Criminal Justice Administrator should employ a full time fund development coordinator/grant writer. This role is critical to achieve sustainability because individual criminal justice agency leadership does not have the system-wide knowledge, resources, or time to manage a large network of grants. The fund development coordinator would work closely with and report to the Criminal Justice System Administrator. This position would be responsible for seeking out, applying and reporting on State and Federal grants. In addition to managing grant funds, this position would be responsible for leveraging innovative sources of funding listed in number (5) below.

**5. Innovative funding sources.** In addition to the traditional sources of funding for local governments listed above, the regional criminal justice system should consider seeking creative sources to secure funding for alternatives to incarceration. *e.g.*, social impact bonds.

See Appendix D for additional information and resources on funding.

## Recommendations to End the Disproportionate Impact Based on Race and Ethnicity

### Objectives:

- Set a goal of eliminating the disproportionate impact of our criminal justice system on people of color
- All criminal justice departments make a commitment to achieve racial equity
- Identify and use effective tools to achieve racial equity
- Fund culturally appropriate programs and support services for offenders

The Smart Justice Campaign Coalition strongly recommends that any administrative structure for a Spokane Regional Criminal Justice System that is developed must adopt a goal of eliminating the disproportionate impact of the criminal justice system on people of color. In order to do this we must take intentional steps to achieve racial equity.

### **Recommendations:**

1. The Law and Justice Council recognize the problem of racial disparity in the criminal justice system and commit to addressing it. The Juvenile Court has already established a goal to reduce disproportionate minority contact.
2. Ordinance implementing the Law and Justice Council would include the charge of ending racial disparities in Spokane's criminal justice system. An example of such a disparity is the process by which African Americans are excluded from drug court participation by assertions of gang affiliation by law enforcement.<sup>7</sup>
3. The Law and Justice Council would use a Racial Equity Toolkit to conduct comprehensive reviews of all programs, policies and budgets to identify needed changes to increase racial equity. The City of Seattle Race and Social Justice Initiative developed the Toolkit. Glenn Harris, the manager of the City of Seattle Race and Social Justice Initiative should be asked to present to the Law and Justice Council to guide them on how to use and implement the Racial Equity Toolkit. The Criminal Justice

---

<sup>7</sup> A recent Report on Racial and Ethnic Fairness in Drug Courts from the National Association of Drug Court Professionals' *Chief of Science, Policy and Law*, Dr. Douglas Marlowe found that *Drug Courts on the right track, but more work is needed to address racial and ethnic disparities*. The National Association of Drug Court Professionals is working to achieve racial and ethnic fairness in all Drug Courts. "[D]rug Courts cannot and do not accept disproportionate minority representation in their programs, no matter how small the magnitude," said Dr. Marlowe. His review of the research also indicates that graduation rates of minority participants may be substantially increased by providing vocational services and assistance, administering structured, cognitive-behavior treatment curricula, and administering culturally tailored interventions. <http://aja.ncsc.dni.us/publications/courtry/cr49-1/CR49-1Marlowe.pdf> (7.5.13)

Administrator would work with each department/program to develop and implement plans to increase racial equity.

4. Fund culturally appropriate programs and support services for offenders (as described in the Smart Justice Campaign Policy Recommendations) that are designed to be most effective for people of color, which allow people to heal within their own communities. This would also include providing essential translation and interpretation services for non-English speaking people – for both offenders and family members. Experts and providers of culturally appropriate programs should serve on a subcommittee of the Law and Justice Coordinating Committee to develop a plan for creating new and supporting existing programs.
5. The Administrator would be charged with collecting race and ethnicity data throughout the Spokane criminal justice system and use this data to inform criminal justice policy. In addition, the Administrator would initiate a comprehensive, independent study of racial disparity in the Spokane criminal justice system.
6. The Administrator should be responsible for the production of Racial Impact Statements before adopting criminal justice policies, modeled after a recent bill passed by the Oregon Legislature (SB 463).
7. Ask the Washington State Minority and Justice Commission to include Spokane in their research on the problems experienced by racial and ethnic minorities in the Washington State Justice System.



## **Appendix A:**

1.22.13

# **SMART JUSTICE POLICY RECOMMENDATIONS**

The Spokane Smart Justice Campaign is a broad coalition of organizations and individuals committed to changing lives, lowering costs, and creating safer communities by relying on more efficient and effective responses to crime than incarceration alone. We know that incarceration and a lack of treatment programs make offenders worse. It does not have to be that way. The system needs to shift its focus from the "offense" to the "offender" so that the criminal justice interventions are the most likely to reduce crime, lower costs and create safer communities.

### **The Spokane Smart Justice Campaign Recommends that the County and City:**

#### **1. Adopt a Smart Justice Lens**

The Smart Justice Campaign coalition recognizes that Spokane County and the City are currently exploring cooperation and consolidation of criminal justice systems in an effort to reduce costs and increase efficiency. We recommend that these decisions, and all other decisions about how to improve our criminal justice system, be made through a Smart Justice lens. This means focusing on the person, not the crime, matching individuals with appropriate alternatives to incarceration that reduce recidivism and reduce costs, and monitoring such programs to ensure effectiveness. In addition, this lens includes paying particular attention to victims' needs as well as racial, economic, and other disparities within the criminal justice system. With regards to cooperation and consolidation, whatever structural system is in place, all the courts must have equal access to the tools and programs recommended below.

#### **2. Invite Community Participation in Policy Formation**

The Smart Justice Campaign requests a meaningful seat at the table and involvement in a transparent process for the creation of criminal justice policy in the City and County of Spokane. It is important that communities that are disproportionately impacted by the criminal justice system are represented in the process, as well as criminologists and other relevant experts.

#### **3. Expand Collection of Race and Ethnicity Data and Use this Data to Inform Criminal Justice Policy**

- Plan for and implement a comprehensive, independent study of racial bias and disparity in the Spokane County criminal justice system. This should include expanding law enforcement data collection and examining racial disparity in criminal justice employment
- Use existing reports and research, compiled by reputable sources such as criminologists, to inform recommendations for improved outcomes

#### **4. Implement Criminal Justice Process and Program Changes, Including Diversion and Individual Assessment**

- a. Divert non-violent, low-risk individuals from jail by providing:
  - Court hearing notification to reduce "failure to appear" warrants

- Problem-solving courts for the collection of legal financial obligations, instead of jail sanctions for failure to pay
  - Diversion for driving while license suspended 3<sup>rd</sup> degree charges with robust re-licensing programs
  - Pre-charge diversion to treatment for those with disabilities (cognitive, mental and/or physical) or drug/alcohol issues
- b. Assess each person arrested, as soon as possible, to ensure that release conditions, plea negotiations and sanctions are matched to the individual's risks and needs:
- Give high-risk individuals interventions with more accountability than interventions for low-risk individuals
  - Give high-need individuals more treatment of their criminogenic needs (traits of a person that are directly linked to criminal behavior) than low-need individuals
- c. Implement the Bennett Report recommendations to reduce case processing time:
- Reduce time to filing
  - Resolve holds and new charges at the same time
  - Reduce the number of continuances granted by the courts
  - Expand the early case resolution program
- d. Reallocate resources away from incarceration to fully fund a broad range of community-based alternatives to incarceration and support services:
- Alternatives to incarceration include Community Court, Therapeutic/Specialty Courts, expanded use of electronic home monitoring, community service, day reporting and active community supervision
  - Support Services include drug and alcohol treatment, mental health treatment, cognitive behavioral therapy, basic life skills classes, education and employment training, and job and housing placement
  - Coordinate re-entry services with a goal of stable housing and employment in living wage jobs
- e. Establish the following criteria for alternatives to incarceration and support services:
- Evidence-based or best practices, unless designed as a pilot program with an evaluation to determine efficacy
  - Culturally appropriate and respectful of each person
  - Free of institutional bias based on race and ethnicity, income level or disability (physical, cognitive or mental)
  - Designed to be most effective with particular disproportionately impacted groups, which includes people of color, people with disabilities and people with low incomes
  - Offered so that different risk categories and different genders are not mixed
  - Provided on a sliding fee scale, with an option to retire the debt through community service or completion of treatment goals
  - Staffed by high-quality program professionals who engage in on-going team training



- Regularly evaluated to assure that programs are reducing recidivism and racial, economic and other disparities, lowering costs, and improving the psycho-social functioning of the offender

#### **5. Evaluate and Recognize Successful Programs**

- Employ an executive level professional to guide the development of alternative programs, to coordinate the various courts and professionals' involvement in the programs, and to participate with the management information system person in the evaluation of the programs.
- Employ a designated professional to collect data, utilizing a management information system, and to issue regular reports to the courts, county commissioners and community on the success of all criminal justice programs in reducing recidivism, lowering costs, and improving the psycho-social functioning of the offender.
- Give formal recognition and awards for successful criminal justice programs and services.
- Replace or improve under-performing programs and support services.

#### **6. Postpone Expenditures for Increased Jail Capacity**

All decisions to approve expenditures for increased jail capacity, and actual expenditures, should be postponed until all Smart Justice policy recommendations have been fully implemented and evaluated.

---

**For more information on the Smart Justice Campaign go to [www.smartjusticespokane.org](http://www.smartjusticespokane.org)  
Greater Spokane Progress – Anne Martin, Director, (509) 624-5657, [anne@spokaneprogess.org](mailto:anne@spokaneprogess.org)  
Center for Justice – Julie Schaffer, Attorney, (509) 835-5211, [jschaffer@cforjustice.org](mailto:jschaffer@cforjustice.org)**

## APPENDIX B

### Administration of Spokane Regional Criminal Justice System

**Statement of the Problem.** Spokane County's current criminal justice system lacks communication and cooperation over the entire range of criminal justice issues at the executive/legislative level (Mayors, City Councils, and County Commissioners). No overall cooperative policy direction is provided, though conversations occur on some limited issues. Nor is there adequate communication and cooperation among the various department and agencies within each governmental entity and especially between the governmental entities where the day to day work of criminal justice occurs. To their credit people who work in the system have taken the initiative to establish some work groups to address specific problems. Still, there is no place where all departments and agencies come together regularly to discuss policy directions, to review data on the system, to focus on how to create an efficient and effective justice system, to discuss how to change to a focus on the risk and needs of the offender, how to eliminate the disparate impact on people of color and how to robustly implement alternatives to incarceration. There is no significant citizen representation in criminal justice policy making. There is no executive level administrator who is charged with facilitating communication and cooperation. Nor is there any centralized management information system to collect and analyze data and report on the success of all programs in reducing recidivism, lowering costs and improving the psycho-social functioning of the offender. The local Law and Justice Council, mandated by RCW 72.09.300, functioned in the past to provide some of communication and coordination, but ceased to meet in about 2000.

Insufficient communication and cooperation within the criminal justice system seems to be the norm. It was identified as a significant problem in both Yakima County and Phoenix, Arizona, when studies were completed in those communities.<sup>8</sup> The Phoenix study described the difficult task of coordinating different agencies saying:

[T]he adversary system and basic constitutional principles of due process drive these stakeholders apart toward separate, distinct roles that tend to detach them from each other and inhibit collective efficiencies. The result is the overall justice system is loosely coupled, predisposed to operate in silos, and uncoordinated in its approach to change.

Phoenix, p. 10-11.

The study continued:

A railroad system provides a good analogy. Each justice organization has built its own railroad, including all of the tracks, trains, and other equipment. Because decisions usually are made within separate companies, the gauge of tracks varies from organization to organization.

---

<sup>8</sup> Law & Justice, Panel Review Report [Yakima County], June 7, 2012; National Center for State Courts Innovations and Efficiency Study, City of Phoenix Justice System, February 23, 2012.

The size, speed, and capacity of the trains also vary. Whenever goods must move from one company to another, the train must stop at the transfer point. Cargo must be offloaded and physically carried to the train of the receiving organization. A train with sufficient capacity to haul the goods may or may not be waiting, so it is difficult to predict when delivery will occur.

Phoenix, p. 80.

**Comparative Regional Cooperation Models.** The City of Spokane and Spokane County have cooperated to address regional issues in several different ways. For example, in 1970, they merged the City and County Health Departments to form the Spokane Regional Health District, which is administered by the Board of Health (BOH) pursuant to state statute. The BOH selects the District Health Officer. Similarly, in 1988, the City and County entered into an interlocal agreement to create Spokane Regional Solid Waste. The system operates as a department of the City of Spokane's government. The concurrence of the County is required for certain major decisions. A Liaison Board and Advisory Committee exist to provide input on solid waste issues. In 2013 (effective January 1, 2014), the City and County again cooperated to form a regional Animal Control system, with the County taking responsibility of the program in exchange for payment of an annual fee from the City under a 20 year interlocal agreement. Both the solid waste and the animal control interlocals addressed financial and control issues.

A regional criminal justice system presents unique challenges because of the multiple criminal justice-related departments/agencies in both the City of Spokane and Spokane County, several of which include elected officials who have statutory responsibilities. Further, constitutional and ethical requirements control the action of many of the professionals working in the system. However, recognition that the system is fundamentally broken requires innovative solutions at this time. It is possible to construct a regional criminal justice system if there is the political will to do so.

**Legal Authority for Interlocal Agreements.** The Interlocal Cooperation Act, Chapter 39.34 RCW, allows government units to cooperate with each other and to jointly exercise their powers and authorities. RCW 39.34.010, .030. The statute sets forth specifics that must be included in interlocal agreements. RCW 39.34.030.

In the criminal justice area, the Interlocal Cooperation Act specifically provides that cities, counties or towns may enter interlocal agreements to provide for "the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions." RCW 39.34.180. Superior Courts have original jurisdiction "in all criminal cases amounting to felony, and in all cases of misdemeanor not otherwise provided for by law...." RCW 2.08.010. Municipal Court has exclusive original jurisdiction over traffic infractions arising under city ordinances and also over all city criminal ordinance violations.<sup>9</sup>

---

<sup>9</sup> The Municipal Court is proposing a statutory change to remove the "exclusive" jurisdiction so that municipalities can provide some services themselves and contract with hosting jurisdictions for some services.

Thus, the City of Spokane, other cities in Spokane County and Spokane County can enter interlocal agreements to jointly exercise their powers and authorities in the area of criminal justice. The agreement of course cannot impinge upon the statutory powers and authorities held by other governmental agencies, e.g. the County Sheriff's department, the elected judges, and the County Prosecutor. The constitution, ethical considerations, statutes and ordinances also delineate functions and responsibilities for particular entities, e.g. public defenders, Spokane City Police Department, and drug courts and DUI courts. These must be respected by any cooperation agreement.

## APPENDIX C

### Pretrial Services

The Pretrial Justice Institute (PJI), a national non-profit originally established by the Department of Justice in 1976, provides a wealth of research and resources on pretrial services, including the publication, “Pretrial Services Program Implementation: A Starter Kit,” found at [www.pretrial.org](http://www.pretrial.org) (Home Page, Featured Resources). The Kit explains the crucial importance of comprehensive pretrial services and provides steps for implementing a model program. It also provides sample interview forms, risk assessment tools, supervision forms and other materials used by jurisdictions with model programs, such as Allegheny County, PA, and Multnomah County, OR.

According to PJI, the six core functions of a pretrial services program, as derived from national standards are: 1) Impartial universal screening of all defendants, regardless of charge; 2) Verification of interview information and criminal history checks; 3) Assessment of risk of pretrial misconduct through objective means and presentation of recommendations to the court based upon the risk level; 4) Follow up reviews of defendants unable to meet the conditions of release; 5) Accountable and appropriate supervision of those released, to include proactive court date reminders; and 6) Reporting on process and outcome measures to stakeholders. The Smart Justice Coalition believes it is crucial that Spokane County implement a pretrial services department modeled off national standards and optimal programs. To function effectively, a “safe harbor” procedure must be in place for pretrial admissions by those charged with crimes.

## Appendix D

### Funding Sources

- 1) Federal & State Grant Funding
  - a. The White House – Office of National Drug Control Policy (ONDCP)
    - i. High Intensity Drug Trafficking Area (HIDTA)  
[http://www.whitehouse.gov/sites/default/files/docs/state\\_profile\\_-\\_washington\\_0.pdf](http://www.whitehouse.gov/sites/default/files/docs/state_profile_-_washington_0.pdf)
    - ii. Drug Free Communities (DFC) Grant
    - iii. <http://www.whitehouse.gov/ondcp/drug-free-communities-support-program>
  - b. DOJ – Office of Justice Programs Grants
  - c. <http://www.ojp.usdoj.gov/funding/solicitations.htm>
  - d. NCJRS – National Criminal Justice Reference Service
  - e. United States Attorney's Office
    - i. Office of Justice Programs (OJP)
      1. <http://www.ojp.usdoj.gov/>
    - ii. Office of violence against women
      1. <http://www.ovw.usdoj.gov/>
    - iii. Community Oriented Policing Services Office (COPS)
      1. <http://www.cops.usdoj.gov/>
    - iv. Operation Weed & Seed
      1. <http://www.justice.gov/usao/md/Community-Programs/Weed%20and%20Seed/>
    - v. Bureau of Justice Assistance (BJA)
      1. <https://www.bja.gov/>
    - vi. Office of Juvenile Justice and Delinquency Prevention OJJDP
      1. <http://www.ojjdp.gov/funding/funding.html>
  - f. Criminal Justice Treatment Account. See RCW 70.96A.350.
  - g. Housing & Urban Development (HUD)
    - i. Community Development Block Grants (CDBG) [Funded Re-entry program]  
[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/communitydevelopment/programs/stateadmin](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/communitydevelopment/programs/stateadmin)
    - ii. Homelessness Grant Assistance Program (HGAP) of Washington State. [Funded the SHARPP Program]  
[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/homeless/programs](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/homeless/programs)
  - h. Innovative funding sources - Social Impact Bonds  
In 2010, Social Impact Bonds were used to fund Moral Reconciliation Therapy, an evidence-based program proven to reduce recidivism, at New York City's Riker's Island Prison. A broker (Goldman Sachs) sold bonds to provide funding to non-profits that provide evidence-based programs (MRT) under contract with the government (New York City's Riker's Island prison). If the program achieves its social goals (reduces recidivism) then

the government will pay the investors back at 9% out of the savings it realized because the social goal (reduced recidivism) was achieved.

Below is just a short quote of the benefits from Judith Rodin, president of the Rockefeller Foundation:

So it's a triple win because the government gets a proven intervention, the organization giving the intervention gets to take it to scale, and the investor -- the buyer of the bonds, whether it's an individual investor or an endowment or some kind of private wealth fund -- gets a chance to have a double bottom line investment: something that can produce quite a significant financial return, but at the same time produce social returns as well. So there's a financial return on the social impact bond, but there's also a social return because they are supporting a proven intervention, they are helping the government to deliver more effective services at lower costs.

The following sites provide more information on the Riker's Island project.

- i. PBS News Hour Documentary Part 1 – Private Investors
  1. [http://www.pbs.org/newshour/bb/business/jan-june13/bonds\\_04-09.html](http://www.pbs.org/newshour/bb/business/jan-june13/bonds_04-09.html)
- ii. PBS News Hour Documentary Part 2 – MRT at Riker's Island
  1. [http://www.pbs.org/newshour/bb/business/jan-june13/prison\\_04-10.html](http://www.pbs.org/newshour/bb/business/jan-june13/prison_04-10.html)
- iii. Transcript of PBS interview on Social Impact Bonds
  1. <http://www.pbs.org/newshour/businessdesk/2013/03/how-modern-finance-promises-to.html>

## **Smart Justice Presenters**

Breean Beggs, Civil Rights Attorney

Rev. Dr. Todd Eklof, Unitarian Universalist Church of Spokane

Candy Jackson, NATIVE Project, JD, RD/CDE/Health Educator

Mary Lou Johnson, Volunteer Attorney, Center for Justice

Anne Martin, Executive Director, Greater Spokane Progress

Liz Moore, Director, Peace and Justice Action League

Julie Schaffer, Staff Attorney, Center for Justice

Rev. Percy "Happy" Watkins, New Hope Baptist Church