

# PIERCE COUNTY JUVENILE DETENTION REFORM INITIATIVE

## **DETENTION INTAKE ANALYSIS**

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The following analysis offers observations and recommendations based upon detention intake practices observed on September 12, 2003 and upon interviews conducted with PCJC Juvenile Court Administrator, Detention Intake Supervisor, Prosecuting Attorney, Defense representative, as well as informal conversations with a Superior Court Judge. The purpose of this memo is to summarize initial impressions of Pierce County's Detention Intake process and to suggest some next steps. This document contains observations and feedback and it emphasizes aspects of detention intake policy and of practice that we believe should be the focus of change. Therefore, this report mainly highlights shortcomings and inconsistencies in system perspectives and operations. Hopefully, this focus does not give readers the impression that Pierce County had no important assets within its system.

Indeed, Pierce County detention intake staff, judges and other system partners seem quite committed to the work and to continuous improvement. Pierce County staff were welcoming and I encountered little cynicism during my observations. Quality staff can provide the foundation for change. I was also impressed with the management information system, since the availability of timely, accurate data is the cornerstone of detention reform efforts.

The remainder of this memo will summarize my observations about key components of Pierce's Detention Intake and make suggestions about how policy or practice can be improved.

## **Observations and Suggestions**

### *Detention Intake Process*

The authority and responsibility for the Detention Intake process and personnel is defined by the Juvenile Justice Act of 1977, Revised Code of Washington, and by guidelines for detention established by the Superior Court of Pierce County. Detention Intake occurs 24 hours/day.

When a law enforcement officer brings a youth to Pierce County Detention Intake, the Intake staff member completes the following procedures:

1. Administers the Pre-Intake Screen which:
  - a. Determines if the youth is a juvenile.
  - b. Determines if juvenile jurisdiction exists.
  - c. Determines if the youth is medically eligible for detention.
  - d. Determines if probable cause exists from the Officer's Affidavit
  - e. Collects initial identifying information (name, address, etc.).
  - f. Determines or clarifies the "booking" charges.
2. Investigates prior record in JUVIS.
3. Creates a JUVIS number and enters initial information if no prior record exists.
4. Checks for warrants via JUVIS and PCJC warrant file.
5. Collects the youth's personal property of each individual and places it the property in a property envelope.
6. Completes the Risk Assessment Instrument.
7. Intake staff interviews the youth, which includes and collects information on school, parents, residence, property, suicide risk and medical conditions assessment.
8. During the short interview with youth, staff informs youth of his/her legal rights in written form and then asks youth to sign the written rights, indicating that they understand their rights.

9. Fingerprints and photographs all youth who are booked into PCJC for new crimes, with the exception of BECCA youth.
10. Contacts parents or legal guardians are contacted within 45 minutes of a youth's arrival at Detention Intake, and are provided with the following information:
  - a) Reason the youth was brought into Detention
  - b) Court process and procedures (both verbal and written)
  - c) Parents' right to act as legal counsel, to hire a private attorney and the availability of Public Defenders
  - d) Visiting information
  - e) Request that parents or parent designee pick youth up within 4 hours.

The entire intake process takes up to approximately 30 minutes, but the phone conversation between detention intake staff and the youth's parent took less than 3 minutes. It was almost entirely a one-way conversation with staff asking questions regarding youth's health and informing parents of both visitation hours and where and when to pick up the youth. It did not appear that intake staff are particularly expected or qualified to conduct family reunification between parents and youth if parents are unwilling to pick up youth. No particular training is provided to staff to effectively handle upset parents effectively or to maximize the family reunification process.

Two suggestions related to the process of intake and best practice standards are appropriate here. I suggest making the most of parent contact when intake staff have the parents on the phone. The court may receive a better response from parents, a higher show rate, an increased understanding of the process and a higher level of participation in the court process if intake staff could spend more time talking with parents in ways that would accomplish the outcomes listed. Staff may require additional training in this area.

Additionally, I would suggest considering gender-responsive program standards for girls in holding cells. As youth are being booked, they are held in holding cell for up to four hours while they wait for parents to pick-up them up or wait for admission secure detention. During this wait, there is no separation of gender, and, during busy times, staff may not see all the interactions between sexes. The alternative to this practice, which is used infrequently, is to place girls in an isolated, small cell that doubles as a holding cell for BECCA youth (runaway youth that will be transported to another facility.) The cell is tiny and isolated and could further damage an already fragile female, especially if suicide is a risk or there are signs of a mental health disorder. While neither option is great, holding a female with a group of boys, or holding in an isolated cell, professional standards for conditions of confinement for youth in custody draws special attention to girls and can provide some guidance to jurisdictions in developing gender-responsive regulations. I would recommend separation of gender, revisiting current practice, and developing clear policy on holding females based on professional standards.

### Law Enforcement Policy

There are two major points here to be made:

- a. Police are required to complete a probable cause statement at the doors of intake but are not required to finalize their police report at that time. The

prosecuting attorney states that frequently PCJC is experiencing long delays in obtaining completed police reports, which results in court hearings being delayed. Unless this practice is changed, it could cause long lengths of stays in detention alternatives, thereby decreasing their effectiveness and wasting program resources because caseloads can't be turned over quickly. As detention alternatives are implemented, eligible youth awaiting a court hearing should be treated as if they were in custody, meaning that Pierce should come to an agreement with law enforcement on expediting these reports to PCJC, so that lengths of stay are reasonable and equitable.

- b. Currently no “directives” or booking criteria are used to guide law enforcement decisions regarding appropriate referrals to detention intake, resulting in the police bringing virtually all arrested youth to the doors of detention. Establishing objective detention eligibility criteria (perhaps by PCJC order) should also be addressed with law enforcement. These criteria will become even more important once the new assessment center comes on line. Development of an agreement with law enforcement agencies regarding booking criteria could be easily incorporated into the work of the Legal Procedures Committee and as part of the development of assessment center policies and practices.

*Detention Criteria: Detention Risk Assessment Instrument(RAI)*

The detention risk assessment instrument is mandated by State Statute RCW 13.40.040 and has been localized by PCJC in its current form as a one-page document. Scoring is as follows: 10 and higher- detain; 7-9 PRR Release (PRR); 6 and under -release. The RAI and its objective criteria have been conceptually embraced by staff. However because there is no consistent use of mitigating and aggravating factors, subjectivity in scoring persists allowing staff to manipulate the instrument to achieve the desired score, typically for detention. As it stands now, the RAI mainly serves to identify low-risk youth determine eligibility for detention by identifying low-risk youth who will be sent home. Intake staff who apply the RAI are authorized to place moderate risk youth (those scoring 7-9) into detention (with supervisor approval of override) or to release with themon personal recognizance. The intake supervisor reported, however, that the factors used to make a decision on the youth who score 7-9 are inconsistently applied, and that the instrument is often overridden to hold based on unverified information about school and family. Although the intake supervisor reviews RAI scores daily for accuracy in scoring, there is no additional quality control, and no automated information regarding use of overrides. Furthermore, the RAI score is not revised based on revised charges or new information, so in other words, once the detention intake assigns a risk score, that score remains the same. The RAI is twelve years old and hasn't been revised or validated to predict actual risk of flight or re-arrest. Because the RAI is not automated there are no routine statistical analyses completed. This situation limits PCJC's capacity to adjust and improve the instrument based upon actual outcome scenarios.

In addition to their risk scores, there are a wide variety of circumstances that automatically result in secure detention. Mandatory holds include:

- Youth who score 10 and above.

- Youth on probation.
- Youth in possession of a firearm.
- Youth charged with intimidation with a weapon.
- Youth charged with domestic violence.
- Youth out of compliance with court-ordered programs (pre & post adjudication).
- Youth with a warrant.
- Interstate Compact Youth.
- JRA requests.
- By state Statute youth can only be released to a responsible adult or the department of social and health services. No releases to 'self' occur. In the case that no parent or designated responsible adult is available, Intake Supervisor will get verbal approval from a judge and a prosecuting attorney for a Protective Order to be completed; then youth is transported to DSHS custody. Youth is held until DSHS is available.

If there is not a parent who is willing or able to pick the youth up from PCJC, the youth is held until the next judicial day for a hearing. It appears that this practice occurs with some regularity, resulting in unnecessary detention. Perhaps the definition of “designated responsible adult” is either too vague or too restrictive, or staff need to be more skilled in family reunification. In the same vein, DSHS youth should not remain in detention unnecessarily. The practice of delayed release needs to be reexamined and addressed in both instances by first gathering data to understand the scope of this issue, followed by staff training in family reunification and the development of agreements with DSHS regarding time limits for those youth qualifying for DSHS service.

The use of the RAI and mandatory hold policies must also be carefully examined, redesigned and validated. Jurisdictions that have developed effective admissions practices typically apply these instruments in all cases and intake staff are authorized to send youth home, to detention alternatives or to secure custody in cases where the RAI supports such a decision. In Multnomah County, Oregon, policy administrators have revised the mandatory hold policies after analysis of special populations (warrants, probation violations, etc.), without a subsequent risk to public safety. It is my impression that significant numbers of current admissions to PCJC detention with short lengths of stay could be diverted from secure custody if the RAI is consistently applied and empirically validated, and if analyses could lead to collaborative agreements on releasing low-risk special populations at intake. PCJC needs to redesign and validate the RAI, as well as automate its use, to determine empirically if it is predicting what it was designed to predict. PCJC is in the beginning stages of implementing this recommendation and has scheduled David Steinhart to begin working on the process of redesign and validation. In addition, a paper test of special populations (warrants) is currently being undertaken which will provide an analysis to demonstrate to stakeholders the actual risk of youth who are brought in on warrants.

In addition, I urge PCJC to adopt agreements with treatment providers regarding the use of detention in order to ensure that detention is used appropriately and only when necessary to protect public safety.

## Detention Hearings

These hearings are mandated by State Statute to be held within 72 hours, Saturdays, Sundays, and holidays excluded. At this hearing a determination is made by the judge on probable cause, whether the case should be treated as a diversion case and whether continued detention is necessary under RCW 13.4.040. (Statute regarding Detention Hearing RCW 13.4.050). Magistrates, prosecutors and defenders are not provided copies of the RAI for consideration at arraignment. The instrument's utility viz. detention decisions, therefore is significantly limited. It does not determine which youth go into detention alternatives and it is not a factor in hearings designed to determine (among other things) whether continued detention is appropriate. Furthermore is not used by probation to formulate the Department's recommendation to the court for release or detention.

PCJC holds detention hearings on the following judicial day for youth held in custody, which is supported by the Prosecuting Attorney's Office policy to review in custody reports within 24 hours. Out of custody police reports for youth PRR'ed are reviewed by this office within 10-14 days and then a charge is issued. One representative from probation presents cases at the detention hearing in a 'barrel-style' model; however the background and case information is prepared by the assigned PO who collects background information on youth. This information is compiled into a "Pierce County Juvenile Court Pre-Trial Release Information" form which is used to make a recommendation at the time of the hearing. This information is not quantified and appears to be a subjective appraisal of the juvenile's background (home, school, runaway, criminal history, charge) based upon pre-hearing interviews with the juvenile and parents/care giver. The defense attorney covering the probable cause and arraignments may get the PO's recommendation prior to the hearing, but there is usually insufficient time to discuss the contents with the youth or his caretaker, thereby compromising the capacity for quality representation and potentially affecting the outcome.

Additionally, by Statute, youth can be released only if parent, guardian or responsible adult (designated by parent) is present at the hearing. If parent is not available for the hearing, youth is held until parent is present. What kind of effort is made by PCJC to assure that parents come to court? Defense believes the attention given by individual probation officers is not consistent across the board in the development of recommendations to the court, and appears to be dependent upon the PO's overall level of experience. Some PO's go out of their way to examine information, ensure parental involvement and present a clear and detailed picture of the juvenile at the probable cause or arraignment hearing. Other PO reports are very sketchy. Furthermore, on occasion, reported information to the court appears not to reflect an accurate picture. For example, the report to the court will reflect that parents don't want the youth home or that probation can't contact parents; then the parent show up, want the kid home and the court then has inadequate information to make an appropriate decision. Could PCJC produce a better rate of appearance by notifying parents in advance and assisting with transportation? Multnomah County's FTA rate decreased significantly when parental notification and transportation arrangements were made prior to first appearance.

Defense also indicated other areas that need attention: 1) DSHS/DCFS needs to be involved much sooner in the process for dependent juveniles or those who otherwise do not have a placement (or will need an alternative placement upon release); 2) Parents need to be educated in the process, what to expect, etc. 3) Additionally, youth would benefit greatly if a

social worker was available who could address many of the issues which arise in the preliminary hearings and could also act as a point of contact for resource referrals at all stages of the process.

Defense believes that the efforts by individual probation officers is inconsistent in the development of these recommendations to the court and appears to depend upon the PO's overall level of experience. Some PO's go out of their way to examine information, ensure parental involvement and present a clear and detailed picture of the juvenile at this first hearing. Other PO reports are very sketchy. Furthermore, on occasion, information reported to the court may be inaccurate. For example, the report will indicate that parents don't want the youth home, or that probation can't contact parents; then the parent show up, want the kid home and the court then has inadequate information to make an appropriate decision. As noted earlier, the efforts made by PCJC to maximize parental involvement deserve reconsideration. Defender offices in a number of JDAI sites have effectively used paralegals or case advocates to perform these functions. It is my impression that significant numbers of current admissions with short lengths of stay could be diverted from secure custody if the appropriate changes were made. The first step toward this end is gathering data on the number of detained cases released at first appearance, and then identifying the reasons why those youth were not released at intake.

### Detention Alternatives

There are currently no non-secure detention alternatives available. However, PDJC issued an RFP for a community detention monitoring program which is scheduled to be operational by January 1, 2004. In addition to community detention monitoring, the plan is to develop a Detention Alternatives Unit by March 1, 2004. A continuum of alternatives must be risk-based; otherwise there is no way to assure that this resource is being allocated commensurate with the youths' risk levels. Therefore, validation and revision of the RAI must be completed to ensure that youth are being appropriately placed into these alternatives based on their risk. Moreover, the detention intake staff should be ensured the proper authority to place youth into these non-secure alternatives at the time of intake. This will free up valuable detention bed spaces for only the highest risk youth.

### Summary Recommendations

Following is a summary of recommendations for PCJC to consider:

- Review, validate and revise RAI per analyses by D. Steinhart and discussions among stakeholders;
- Conduct an analysis of cases released at first appearance to clarify why these youth were held and what might be done to avoid admission to secure confinement;
- Undertake discussions and analyses relevant to some of the mandatory hold categories to determine if it is possible to avoid admission in some of these cases;
- Review current policies and practices regarding parental notification and family reunification to decrease the odds that youth are held mainly because of the apparent absence of adult involvement;

- Examine detention eligibility criteria used in other jurisdictions and initiate discussions with local police departments regarding use of such criteria;
- Develop policies and procedures to ensure that police reports are prepared in a more timely manner for those youth placed in forthcoming detention alternatives;
- Examine current practices that co-mingle girls and boys at intake and develop gender-responsive practices;
- Learn more about using paralegals or case advocates to assist defense in effectively representing its detained clientele.

### Next Steps

I continue to enjoy my interaction with staff and officials at PCJC. The kinds of detention intake system issues discussed here could be readily addressed by the kinds of technical assistance that is provided by the Annie E. Casey Foundation and stakeholder discussions. In fact, David Steinhart will begin working with you in November to validate the RAI, which will be the first step in identifying youth for your Detention Alternatives Unit. I would suggest that as a next step PCJC consider these recommendations through discussions with stakeholders, and identify priorities and timelines for implementation.