

Final Report

Jail Issues Planning Study
Pierce County, Washington

January 1999

Prepared for: The Pierce County Council

Prepared by: Robert L. Spangenberg
Michael R. Schneider
David J. Carroll
Marea L. Beeman
Evelyn S. Pan

Executive Summary

In November 1998, The Spangenberg Group (TSG) was hired by Pierce County to study criminal justice system policies and practices that impact the number of persons held in the Pierce County jail. The project was devised as a short-term planning study to identify issues that should be considered in a major evaluation planned for 1999.

In December, interviews were conducted with members of the various criminal justice agencies with the goal of reviewing policies as arrestees and defendants are processed through each stage of the criminal justice system in Pierce County. Chapter 2 (pages 3-6) details the problems TSG encountered in our research, and makes two preliminary conclusions:

- **The Pierce County Criminal Justice System is too fragmented or decentralized.**

Much of the information provided by the various criminal justice officials was anecdotal, and, in our opinion, highly subjective and often contradictory. It is our opinion that some of the inconsistencies stem from conflicting philosophical approaches to criminal justice, some out of a desire to influence our opinion on the new jail proposal, and others out of a misunderstanding of other agencies' roles and responsibilities. We believe that the criminal justice system in Pierce County is so decentralized that each agency is heavily engaged in protecting its own turf, and that such decentralization contributes directly to the conflicting information we heard.

- **There is a serious limitation of reliable quantitative data available throughout the Pierce County criminal justice system.**

Generally, each criminal justice agency has its own management information system that produces reports and statistics about its own workload that do not relate to or correspond with the data of other criminal justice agencies in the county. The results of such non-uniform reporting standards are far-reaching. County officials who are expected to make critical funding decisions are unable to rely on good data, but must instead depend at times on whoever is able to plead his or her case most forcefully.

In Chapter 3 (pages 7-14), TSG provides the county with a preliminary "process" study or sketch of the major policies and practices that affect incarceration levels, including:

- Arrests and Bookings;
- Administrative Bookings (SIPs);
- Release on Personal Recognizance;
- Prosecuting Attorney;
- Assigned Counsel;
- Courts;
- Alternatives to Incarceration; and,
- Compliance Release.

Based on limited data, we conclude that the county, despite having a fair amount of discretion, has tended to choose the conventional path of incarcerating people who might otherwise be handled in a different manner. There is a sharp upward trend in the number of Pierce County staff employed by the criminal justice system, and within the system the proportion of Corrections staff has grown significantly.

Our recommendations, presented in Chapter 5 (pages 20-23), are as follows:

1. Conduct an In-Depth Process Study of the Policies and Practices that Affect Jail Population Levels

The process study should describe all of the internal Pierce County policies and practices impacting jail populations, verify the effect the policies have on the jail population and assess whether or not they are sound policy decisions. The assessment of these practices should, to the extent it is possible, compare and contrast the practices with other comparable Washington counties.

2. Develop Useful Data on the Jail Population Broken Down by Specific Offense Categories and Other Relevant Information Needed for Decision-Making and for Analysis in the Process Study

Pierce County cannot progress beyond conflicting views on criminal justice until it is known for certain *who* is in jail and *why* they are in jail. Obtaining this data will require a comprehensive study supported by the Sheriff and other county officials.

3. Develop Useful Data on Booking Decisions and Arrest Warrants for Consideration in the Process Study

High ranking sources told us that Pierce County has an “open booking” policy. This means persons charged with any criminal offense may be booked into the jail, as opposed to being given a citation and released. Only violators of non-criminal traffic laws may be cited and released at the scene. We do not presume to conclude that the Sheriff’s policy is unsound, rather we emphasize that Pierce County very well may be different, that the majority of people entering the jail may be violent, and that concerns of public safety merit the continuation of the “open front door” policy. But we do not know -- and cannot tell -- without reliable information.

4. Conduct a Judge/Prosecutor/DAC Case-Weighting Study to Understand Workload of the Court Functions and Their Impact on Jail Populations

Weighted caseload studies provide policy makers with an objective, uniform and realistic methodology for determining staffing needs and resource allocation for judges, prosecutors and defense attorneys. Case-weighting studies have been used successfully by courts, prosecutors and public defenders in many areas of the country. Pierce County should give a high priority to developing such a system geared to its budget needs.

Table of Contents

Introduction	1
Pierce County Site Visit Observations	3
Preliminary Process Study	7
Preliminary Conclusions	15
Recommendations	20
Further Observations: Resource Issues.....	24

Chapter 1

Introduction

In November 1998, The Spangenberg Group was hired by Pierce County to study criminal justice system policies and practices that impact the number of persons held in the Pierce County jail.

The project was designed as a short-term planning study to identify issues that should be considered in a major evaluation to be conducted in 1999. Research for this current study, which was conducted in November and December 1998, included review of available data and policy materials collected during a brief site visit. The study objectives are as follows:

1. Review local and state policies and practices that influence the number of persons held in the Pierce County jail.
2. Review available data on the composition and characteristics of the jail population.
3. Identify issues in need of further analysis in a major evaluation to be conducted in 1999.

Ultimately, the interest is on identifying policies or practices that have contributed to the large growth in the Pierce County jail population and on suggesting measures that might be taken to limit the growth.

Pierce County is planning to build another jail to accommodate the large jail population, which is now capped under a federal court order. The present study was started in November 1998, a time of intense political debate over the need for a new jail. This study was not designed to address that issue directly. However, in our opinion, the recommendations in this planning study need to be addressed no matter what decisions are made about a new jail.

The Spangenberg Group is a nationally recognized criminal justice research and consulting firm specializing in indigent defense services. Created in 1985 and located in West Newton, Massachusetts, TSG has conducted research and provided technical assistance to justice organizations in every state in the nation, including two major projects for Washington State.¹

¹ During its 1988 session, the Washington State legislature enacted a bill that mandated a statewide study of Washington's system for providing representation for indigent defendants in criminal cases, a study that was undertaken by The Spangenberg Group in 1989. A second study in 1993, conducted on behalf of the State Justice Institute, addressed the specific question of indigent defense cost containment in the state of Washington and was overseen by an advisory task force chaired by then Lt. Governor Joel Pritchard.

Prior work by The Spangenberg Group in Pierce County is relevant to the current study on jail issues. In September 1998 we submitted our report, “An Assessment of the Pierce County, Washington Indigency Screening & Cost Recovery Program.” The report found that cost recovery for indigent defense was low in Pierce County compared with other large counties in Washington. Ten recommendations were made to improve screening and cost recovery. We recommended reducing the number of defendants found eligible for county-paid attorneys, increasing the number of defendants found able to pay a part of the cost of their defense, implementing an up-front administrative fee to help offset the cost of screening defendants and verifying their information, increasing the resources and responsibilities of the Pre-Trial Services unit, and moving Pre-Trial Services out of the Sheriff’s Department.

The September 1998 report also suggested that the county consider ways to increase efficiencies and contain costs throughout the criminal justice system, such as exploring alternatives to incarceration and creating a unified management information system. It was also our opinion in September that the county faces high costs for housing more inmates and more pre-trial detainees than may be necessary.

The county formally agreed with most of these September 1998 recommendations relating to the indigency screening and cost recovery study. As of December 1998, however, it is our understanding that few of the recommendations have been implemented.

In November 1998, as interest grew in the high costs of a new jail, The Spangenberg Group was hired to address policies and practices that affect the number of persons incarcerated in the present jail. We were charged with interviewing law enforcement officials, judges, prosecuting attorneys, defense attorneys, the sheriff, corrections chief, and other county officials to obtain their input into issue identification for a full-scale study. We were also charged with reviewing statistical data, population data, prior jail studies, and written policies of the criminal justice agencies that may affect the jail population.

It must be emphasized that this study is not an attempt to evaluate internal correctional facility practices and procedures such as staffing levels, inmate control, food and health services, or the quality of retributive versus rehabilitative jail programs. Nor is it part of our mandate to take a position on whether or not a new jail should be built.

Chapter 2

Pierce County Site Visit Observations

In an overall sense, jail populations are a function of admissions and length of stay. Admissions typically vary by such factors as increase or decrease in county population, crime rate, incidents of serious crime, state and local legal mandates, and the criminal justice policies and procedures of each of the five criminal justice agencies: law enforcement, prosecution, courts, assigned counsel, and corrections. The policies of these agencies frequently interact to influence admissions, classification and release. Our goal at the outset of this project was to review policies as arrestees and defendants are processed through each stage of the criminal justice system in Pierce County, to base our findings on sound data, and to make recommendations to county officials identifying areas of concern that necessitate a more intensive study. Unfortunately, we encountered far greater problems in our research than anticipated. In particular, two main problems affected our work plan:

1. Conflicting views on criminal justice among the various agencies; and,
2. Limited data.

Conflicting Views on Criminal Justice

During our brief site visit in December 1998, it became apparent that our mandate to investigate policies or practices that affect incarceration could not be insulated from the local controversy about whether or not to build a new jail. Since 1995, the Pierce County Jail has been operating under a federal court order capping the daily jail population as a result of a class action lawsuit brought by inmates due to overcrowding. Currently, any time the jail population exceeds 1,272 on weekdays or 1,308 on weekends, the Pierce County Sheriff's Department releases select sentenced inmates early, based upon criteria set up by the Sheriff and intended to minimize danger to the public.

We discovered that a primary impediment in assessing policies and practices that tend to increase the jail population stems from differences of opinions among county officials about the characteristics of the jail population. On the one hand, the news media and some leaders and staff of the criminal justice system tend to refer to the jail population generally as "hardened criminals" who pose a threat to the community when released early. Despite the fact that by all accounts the crime rate, and in particular the violent crime rate, is down across the country, these sources maintain

that “Pierce County is different.” During our site visit we heard several common themes to explain why national crime indicators were not relevant to Pierce County, including:

1. The male cohort demographic in Pierce County is said to differ from the national average, in part because of a steady influx of 18-24 year old males from two military bases;
2. Pierce County is said to be a hub for drug activity. Tacoma is a port city, and the amount of unincorporated areas in the county is said to lend itself to the creation of crystal methamphetamine factories; and,
3. There are so many repeat offenders and bad individuals in the region that, as one interviewee told us, “today’s Pierce County misdemeanor is yesterday’s felon.”

On the other hand, other county officials we interviewed either disagree about the facts or are not satisfied that the facts clearly lead to such conclusions. This group tends to believe that a large number of the jail population may not be “hardened criminals” but rather a combination of non-violent substance abusers, mental health patients, and people who fail to pay their court ordered costs and/or sanctions.

Indeed, much of the information provided by the various criminal justice officials was anecdotal, and, in our opinion, highly subjective and often contradictory. No doubt some of the inconsistencies stem from conflicting philosophical approaches to criminal justice, some out of a desire to influence our opinion on the new jail proposal, and others out of a misunderstanding of other agencies’ roles and responsibilities. It is also our belief that the criminal justice system in Pierce County is so decentralized that each agency is heavily engaged in protecting its own turf, and that such decentralization contributes directly to the conflicting information we heard.

It was amazing to us that neither group those who favor being “tough on crime” and those who believe other strategies are needed could point to reliable data to support their positions.

An example of the opposing philosophies surrounds the Sheriff’s “open front door” policy to jail admissions. Several times we were told that it is the philosophy of the Sheriff to have an “open front door” policy whereby everyone that can be brought into the jail to be booked is indeed booked.

In this way, the Sheriff believes that he can provide the maximum public safety by detaining all individuals until such time as criminal histories can be run to determine who is a good risk for release.

On the back-end, because of the federal court order, the Sheriff once again releases only those people deemed a good risk to release. Early release is questioned by many in the criminal justice system, especially some District Court judges. We sensed frustration on the part of some judges who contend

that they cannot prevent certain repeat offenders, who are in their opinion continuing to flout the law, from being released because of insufficient beds.

Limited Data

The second problem we encountered during our site visit was a very limited amount of relevant and verifiable data on criminal justice issues. Generally, each of the various criminal justice agencies has its own management information system that produces reports and statistics about its own workload that do not relate to or correspond with the data of other criminal justice agencies in the county. For instance, there is no uniform standard definition of a “case” throughout the Pierce County criminal justice system. Some agencies count cases by defendants, some by charges, some by referrals, and some by top charges. The results of such non-uniform reporting standards are far-reaching. County officials who are expected to make critical funding decisions are unable to rely on good data, but must instead depend at times on whoever is able to plead his or her case most forcefully.

For example, several officials in the criminal justice system mentioned to us that one factor affecting the jail population is that the courts, Prosecuting Attorney, and Department of Assigned Counsel (DAC) are, in varying degrees, all underfunded. A lack of personnel within any one of the three agencies might be cause for trial continuances. If the defendant is incarcerated, not only must the county absorb the cost of housing the defendant for those extra days, but the county must also absorb the cost of having Sheriff’s personnel transport the defendant to the court and the cost of having court personnel, Sheriff’s personnel, Prosecutor’s staff, and DAC staff waiting in court for everyone to arrive, only to ask for a continuance. It is important to emphasize that continuances can contribute directly to the number of defendants housed in the jail pre-trial and may occasionally push the daily jail population over the limit mandated by the federal court order. Nevertheless, no one in Pierce County could provide us with caseload information comparing the workload of judges, prosecutors, and public defenders in any meaningful way to measure the additional workload needs that might be required. Without such data, it is extremely difficult for the County Council to make funding decisions on the critical parts of the criminal justice system that directly impact jail populations.

The Spangenberg Group acknowledges that the short time frame of the project and our desire

to not overburden Pierce County staff with too many data requests, may have contributed, in part, to the serious lack of data. Still, it is clear that Pierce County has data issues that need to be resolved.

The limited nature of the data we received has left us unable to reach a well-reasoned opinion as to whether or not the majority of people in jail are in fact violent, hardened criminals, nor can we say to what extent the Sheriff's "open front door" policy adds to the jail-overcrowding problem. Instead, we have drawn the two following conclusions:

1. **The Pierce County Criminal Justice System is too fragmented or decentralized.** Some problems associated with this decentralization that may increase jail populations are as follows:
 - Lack of central administration for all the courts;
 - Lack of probation options in Superior Court;
 - Lack of traditional pre-trial services options, such as pre-trial alternatives to detention; and,
 - Existence of separate, and often incompatible, management information systems throughout the criminal justice system.

2. **There is a serious limitation of reliable quantitative data available throughout the Pierce County criminal justice system.** In particular, there is little useful information on the individuals who are housed in the county jail, how they got there, whether or not they should be there, and on the average length of stay for specific categories of detainees. The available data on both jail population as well as court, prosecutor, and public defender workload is confusing and contradictory. Decision makers seem to have very little hard data as a basis for reasoned policy decisions.

Chapter 3

Preliminary Process Study

Four of the five major criminal justice system components (law enforcement, prosecution, courts, and corrections) have substantial discretion, subject to state and local laws, to decide who is arrested, who is charged, who is convicted, who is sentenced, and who may be released. We heard from some officials that they exercise their discretion in many cases by moving the arrestee forward to the next step in the process, in part, because they did not want to be portrayed as being “soft on crime.” While these decisions were discussed frequently with us, the interviewees approached the issue less with criticism and more with a belief that they had no better options. It may be that the decentralized decision-making process and the lack of uniform data contribute directly to this attitude where no one wants to be portrayed as “soft on crime.”

Because of the limited available data, we took a different approach. The Spangenberg Group believes the county would benefit from a “process” study that details what policies and practices are followed by the various agencies within Pierce County’s criminal justice system that directly affect the jail population. An in-depth process study should identify and analyze the discretionary decision points in each criminal justice agency, provide reliable data on which policies impact jail populations most directly, and assess the appropriateness of continuing such practices and procedures.

In the short time frame of this project, it turned out to be impossible to conduct a process study in as much detail as needed. Still, we have developed a preliminary sketch outlining some of the major decisions that may affect jail population. We are aware that some of the information presented below is not complete and that some information may be disputable. This is inevitable in a decentralized system with limited available data. We therefore have opted not to assess the policies and programs until such time as the more reliable data can be obtained.

1. Arrests and Bookings

Three major police agencies use the booking facilities at the Pierce County jail: Pierce County Sheriffs Department, Tacoma Police Department, and Washington State Patrol. Pierce County has an “open booking” policy. This means persons charged with any criminal offense may be booked into the jail, as opposed to being given a citation and released. Only violators of non-criminal traffic laws may be cited and released at the scene.

At the scene of the incident, according to our information, the names of all violators are run to see if there are any outstanding warrants. When there is an outstanding warrant, police officers appear to have discretion as to whether to bring in the individual for booking on the warrant charge. In practice, we were told, officers generally arrest on all failure-to-appear warrants, while a decision to arrest or not arrest on failure-to-pay warrants depends on the individual officer and/or the amount of the default.

In November 1998, a total of 2,246 individuals were booked into Pierce County jail. Data from the Corrections Bureau indicates that 1,258 (56%) of these people were booked on warrants, as shown below in Table 1. This does not mean that these 1,258 individuals were booked solely on warrants. In fact, it is clear that many persons arrested on new charges are also charged under warrants as well.

This booking and warrant data must be viewed with caution because it covers only one month, because comparative data is not available at this time from other counties, and because of problems in the data itself. For instance, it is our understanding that it is not possible to obtain information on how many individuals were booked only on warrants and not on new charges. Further study is needed to clarify the data.

Table 1

**Pierce County Jail Bookings on Warrants
November 1998**

Total Bookings during the Month	2,246
Bookings on Warrants:	
Failure to Appear	761
Failure to Pay	138
Failure to Comply	209
Teletype Warrants	78
Bench Warrants	57
Search Warrants	15
Total Bookings on Warrants	1,258
Warrants as Percentage of Total Bookings	56%

Source: Corrections Bureau, 12.17.98

On our site visit we heard that a huge number of warrants are on file in Pierce County. Although opinions differ, it appears there could be as many as 50,000 open warrants on file in Pierce County. It is unclear to what extent the police, in the City of Tacoma and in Pierce County, are actively involved in serving warrants, as opposed to arresting people on warrants after they are stopped for non-criminal traffic violations.

Obtaining valid information on warrants is necessary to resolve an open debate in Pierce County. Some criminal justice officials believe that the county jail is being used, in part, as

a debtor's prison. Compared with other states, Washington State imposes an unusually high number of financial obligations against convicted defendants. This includes statutory fees, fines, forfeitures, costs, assessments, penalties, surcharges, wage assignments, and collection charges. If a convicted defendant fails to pay, he or she remains subject to possible court action. As shown in the table, most of the bookings on warrants were for failure to appear. However, key sources told us that a high proportion of failure-to-appear warrants involve default on money owed to the courts; when the person fails to appear at a hearing on a non-payment issue, a failure-to-appear warrant may be issued. In this viewpoint, according to some officials, many defendants are being recycled through the criminal justice system, partly because of new offenses but also partly because of failure to make good on the previous financial obligations.

2. Special Identification Process (SIPs)

When a suspect is brought to the Pierce County jail, the arresting officer has the option of putting the individual through the "special identification process" (SIP). Individuals who are SIP'd are fingerprinted and have their mug-shot taken, but are then released. These persons remain in the custody of the arresting agency until release, are not turned over to the custody of the jail, and thus do not become part of the county jail population.

In November 1998, according to Corrections data, SIPs made up 2.7 percent of all bookings, or about 61 of the 2,246 bookings during the month. About half of the SIPs were for driving with a suspended license, while the next largest category was for shoplifting.

According to our sources, Pierce County has no formal policies or procedures that indicate when the arresting officer should use the SIP booking process.

3. Release on Personal Recognizance

The release of arrestees on personal recognizance is the responsibility of both the courts and Pre-Trial Services (PTS), a unit of the Corrections Bureau with the Sheriff's Department. PTS staff do risk assessments of arrestees prior to arraignment.² On the other hand, the courts may opt to release pre-trial detainees on personal recognizance in lieu of bail after his or her initial appearance before the court. The courts do not have access to the PTS risk assessments and representatives from PTS do not appear in court to make additional recommendations to aid judges in their decisions.

² The PTS screener on this rotation starts each day by collecting all the booking numbers brought in during the prior 24 hours. The screener runs the charge number on the Jail Information Management System (JIMS) to determine which defendants may be eligible for personal recognizance. Criminal histories are run on the various information systems (CHRI, WASIS, NCIC III, DISCIS and SCOMIS) if they have not already been run for other purposes. PTS personnel conduct face-to-face interviews with the defendant and make assessments based on several factors, including: present offense, current Washington residence, living situation, age, employment, income, failure to appear history and prior criminal record. Each of these risk assessment factors is given a quantitative point value that is then totaled. Based on a matrix, defendants are classified on a 0-20+ scale. Those rating below 20 can be released on their own recognizance. Those scoring over 20 points are generally not eligible for release. PTS screeners are given the discretion to make decisions for release outside of this general matrix if the decision is justified by extenuating circumstances. Defendants are not given interviews if the screener feels he or she does not qualify at any point during the criminal history check

Because PTS does not have a court presence, a few judges told us that they are somewhat distrustful of the criminal history reports they receive from the various databases searched by PTS and thus use extreme caution when deciding whom to release. We want to emphasize that in other jurisdictions, judges are aided in their decision making process by a traditional pre-trial services division that is able to compile a complete criminal history of defendants for judges and assess the appropriateness of diverting the defendant into a social services treatment center instead of jail.

Between April and November 1998, judges released 1,204 defendants on personal recognizance. During the same time period, PTS screened 1,711 individuals, of which 562 were released on personal recognizance, or approximately 33% of those screened. This is an average of 70 defendants per month, as shown in Table 2.

Table 2

**Personal Recognizance Releases
April – November 1998**

	Administrative Releases (Pre-Trial Services)	Judicial Releases (Courts)	Total
April	62	168	230
May	86	183	269
June	71	87	158
July	58	195	253
August	76	159	235
September	68	137	205
October	53	140	193
November	88	135	223
Total	562	1,204	1,766
Avg./Month	70	151	221

Source: Corrections Bureau, 1.5.99

As shown above, the courts release more individuals on personal recognizance than do PTS. One reason is that the PTS administrative release program operates under several major restrictions. First and foremost, administrative releases by PTS are limited to misdemeanors and gross misdemeanors only,³ whereas the courts may use their discretion to release certain low-level felony defendants as well. Moreover, many misdemeanor defendants are prohibited from consideration for release on personal recognizance by PTS, including:

- Any individual with any combination of warrants from any single court more than \$3,000;

³ In Pierce County, gross misdemeanors are punishable by imprisonment in the county jail for a maximum term of not more than one year and/or by a fine not to exceed \$5,000. A misdemeanor holds a maximum term of not more than 90 days in the county jail and/or a fine not to exceed \$1,000.

- Any individual with a single warrant with a cash bail more than \$3,000 per court;
- Any individual with any warrant that is a domestic violence related charge;
- Any individual brought in on any charge or warrant that is not domestic violence related but is sexual in nature (e.g., indecent exposure);
- Any individual brought in on any warrant from another county; and,
- Any individual brought in on any warrant that states “no bail” or “none” on the charge summary bail column.

4. Prosecuting Attorney

Prosecutors have extensive discretion over who is formally charged with a criminal offense. As a result, the Pierce County Prosecuting Attorneys Office and the Tacoma Municipal Prosecuting Attorneys Office can have a large impact on the jail population. Prosecutors can increase or decrease charges, and charging practices may lead to a greater or lesser number of cases going to trial. Nationwide, there is some debate as to the extent to which prosecutors over-charge or under-charge as a matter of principle. On the one hand, some believe that over-charging gives more impetus to a defendant to work out a plea bargain because the threat of sanction is greater at the higher charge. Others believe that over-charging gives defendants less impetus to work out a plea bargain and more impetus to contest the charges. This other school of thought believes that undercharging leads to more pleas, and thus more certainty of conviction. Such charging practices can affect jail populations in many ways. For instance, if prosecutors overcharge, the charge level may make defendants ineligible for personal recognizance or lower bails. This can also lead to a lower plea rate and a lengthier court process.

While level of charges can obviously affect the ability to obtain pleas and result in certain levels of bail, we found no information available to discuss this matter as it pertains specifically to Pierce County.

The Pierce County prosecutors have one option, the El Cid program that can directly reduce the number of people in jail. El Cid offers certain nonviolent offenders (welfare fraud/embezzlement) the opportunity to pay back the money in question in exchange for not having the charges brought to court.

5. Assigned Counsel

The United States Constitution requires that legal representation be provided to indigent persons accused of crimes for which a jail or prison sentence may be imposed. Once indigency has been determined, the county is required to provide representation at public expense. Thus, the Department of Assigned Counsel (DAC), at least in the initial stages of a case, has little control over whether someone is housed in jail or not. Later, however, some tactics that public defenders use can affect the amount of time a defendant spends in jail. For example, we learned that some people believe that a few DAC attorneys ask for continuances, not for relief from burgeoning caseloads, but rather as a way to improve the plea offer immediately before trial. This situation might be investigated by obtaining competitive data on the number and basis for continuances in Pierce County and other jurisdictions.

6. Courts

For felony cases, the Washington Sentencing Reform Act sets a minimum and maximum range of incarceration based on the severity of the crime and the defendant's criminal history. Superior Court judges must follow these guidelines, but maintain some discretion as to whether to sentence defendants on the lower or higher end of the range. It is believed by some that we interviewed that determinant sentencing has increased jail populations because the Sentencing Reform Act requires mandatory jail time for many lower level felonies. In Washington, state law provides that anyone convicted of a felony and sentenced to up to a year must be housed in the local jail instead of in the state prison system.

Pierce County also has a drug court in which defendants that are arrested on low-level drug charges have their conviction and sentencing withheld in lieu of drug treatment. If the defendant successfully completes a drug treatment program, the criminal record of the charge is eliminated.

As mentioned earlier, both Superior Court judges and District Court judges have the discretion to release defendants on personal recognizance or on bail.

1. Alternatives to Incarceration

In District Court, the probation department has several alternatives to incarceration in place, including traditional probation supervision and work crews. A separate probation program is run by the Tacoma Municipal Court. Though work crews are employed, the Tacoma program largely consists of monthly clerical checks of paperwork to make sure that parolees are complying with their conditions of release. Lastly, there is no probation department in Superior Court that allows judges to sentence individuals to alternatives to incarceration.

Some officials and key staff believe that the District Court probation department should be expanded to include other alternatives to incarceration programs that have proven successful in other jurisdictions. Such programs include:

- Work release -- whereby individuals are allowed to go to work each day, but must report to a detention facility each night.

- Day Reporting -- whereby individuals are required to report to a probation kiosk on a daily basis.

It is the prevailing philosophy in the county that alternatives to incarceration only work if there is a true threat to the individual that he or she will be returned to jail if the person does not cooperate with all of the various requirements imposed. This was described to us as a “hammer” needed to be held over prospective candidates for alternatives to incarceration to work. According to key officials, some defendants in certain cases are not opting for alternatives that are available because, in comparison, a short stay in jail is the “easier” or a less restrictive option. For instance, we were told that the drug courts have been less successful than originally expected because some persons arrested for low-level drug crimes prefer to go to jail with the expectation of having their sentence dramatically reduced, rather than undergo drug treatment counseling for a year.

The Pierce County Sheriff’s Department oversees an Electronic Home Detention (EHD) program whereby certain defendants are allowed to serve their sentence at their residence rather than in jail. The program is run under contract by a private agency, BI Incorporated. Participants pay a daily fee to be on the program. Electronic monitoring is maintained through the use of telephone lines, but participants in the program are also required to physically check-in with EHD officials at least once every two weeks at the EHD offices in Tacoma. No one deemed a risk to public safety is allowed in the program.

Finally, a new alternative to incarceration program called “Breaking the Cycle” will be available in Pierce County starting in late 1999. “Breaking the Cycle” is a three-year federal grant program, under the auspices of the U.S. Department of Justice, National Institute of Justice, in which all drug-involved felony arrestees will be asked to take a urinalysis screening test for drugs when they are brought into the jail to be booked in an effort to ascertain whether or not the detainee has a drug-related problem. A judge may consider the screener’s recommendation and elect to have the defendant report to the “Breaking the Cycle” center as a condition of release to receive treatment under the guidance of counselors. It appears that the state Division of Alcohol and Substance Abuse (DASA) may contribute additional funding.

Many believe that the majority of Pierce County’s crime is drug-related. Some in Pierce County reason that if a large number of judges feel confident that the individuals before the court are going to receive treatment, they may be more likely to recommend this alternative to incarceration and thus substantially reduce the numbers held in jail. Yet, there is some concern in the county as to the program’s viability after federal and state funding ends. Some observers doubt whether Pierce County will be able to fund operational costs for both a new jail and an ongoing drug treatment program.

8. Compliance Release

As stated, the Pierce County Jail is operating under a federal court order that the jail population will not exceed 1,272 on weekdays or 1,308 on weekends. Once the maximum population is reached, Sheriff's Department staff begin to screen individuals for early release. The compliance release policy pertains only to sentenced prisoners, not to pre-trial detainees. Misdemeanor and gross misdemeanor detainees are screened first, and sentenced felons are then considered for release if necessary to reach the population cap. However, persons convicted of the following charges are excluded from the early release:

- Class A felonies;
- Sex crimes;
- Violent crimes;
- Drug court sentences;
- Probation/parole violation sentences;
- DUI sentences;
- Domestic violence charges;
- Prisoners with severe institutional behavior problems (those who have lost their "good time" credit);
- Prisoners in the Electronic Home Monitoring Program.

Classification officers begin with those prisoners who are closest to completing their sentences and work backwards, releasing first those convicted of the least serious case. These officers exercise some discretion based on special circumstances such as scheduled mental health needs, law enforcement requests, etc.

In 1998, 617 individuals were compliance released from the jail. The vast majority of these individuals were sentenced on misdemeanor charges (83%). On average, 53 sentenced detainees were released from jail each month during this time period.

Table 3

Compliance Releases, 1998

	Felons	Misdemeanants	Total
Total	107	532	639
Avg./Month	9	44	53

Source: Corrections Bureau, 1.5.99

Chapter 4

Preliminary Conclusions

The Spangenberg Group believes that no single criminal justice agency is solely responsible for the decisions creating the current jail situation in Pierce County. We conclude this preliminary process study with the observation that the county, despite having a fair amount of discretion, has tended to choose the conventional path of incarcerating people who might otherwise be handled in a different manner. This is leading Pierce County to becoming a jail-dominated county:

1. Over the last ten years, there is a sharp upward trend in the number of Pierce County staff employed by the justice system.⁴
2. Within the Pierce County justice system, the Corrections proportion of staff has grown significantly.⁵

Table 4

Pierce County Justice System Staff, 1988 & 1998 GENERAL FUND and LAW ENFORCEMENT FUND ONLY

Department	1988 FTE	1998 FTE	Change from 1988	
			Number	Percent
Assigned Counsel	41	89	48	117%
Clerk of Superior Court	34	51	17	50%
Corrections	130	342	212	163%
District Court (#1-4 combined)	51	79	28	55%
District Court Probation	9	29	20	222%
Juvenile Court	109	166	57	52%
Prosecuting Attorney	111	215	104	94%
Sheriff (General Fund + Law Enforcement Fund)	268	363	95	35%
Superior Court	59	83	24	41%
Total Justice System Staff	812	1,417	605	75%
Total County Staff (General Fund + Law Enforcement Fund)	1,163	1,891	728	63%
Justice System Percentage of County Staff	70%	75%	5%	7%
Corrections as Percentage of Justice System Staff	16%	24%	8%	50%
Sheriff as Percentage of Justice System Staff	33%	26%	-7%	-21%

Source: 1998 Pierce County Budget, pages 28-29

⁴ In 1988, 70% of all Pierce County employees paid out of the county's general revenue funds or law enforcement fund worked in one of the five components of the justice system. By 1998, over 75% worked in the justice system.

⁵ In 1998, corrections staff accounted for 24% of justice employees, an increase of 8%. During the ten year time period, corrections staff has increased approximately 163% (up from 130 employees to 342).

The portion of the total county general fund dedicated to criminal justice personnel has grown over the past ten years and each of the other components of the criminal justice have received staff increases during that time as well. Still, when any one component grows as rapidly as corrections has over the last ten years, some other agencies necessarily receive a smaller percentage of criminal justice staff. Interestingly enough, the Sheriff’s Department percentage of criminal justice employees decreased the most (down 7%). This implies that perhaps the concentration of public safety personnel has slowly shifted from the police force to the jails over the years. In 1988, there were approximately 130 corrections employees and 268 Sheriff’s personnel. In 1998, there are about 363 corrections employees and 291 Sheriff’s personnel.

In our proposal for the current study, we raised several questions we hoped would shed light on the policies and practices affecting jail populations. We have developed the following chart to assist Pierce County officials to understand what information we were able to gather and those areas that still remain unclear to us.

Table 5

Policies and Procedures Affecting Pierce County Jail Populations

Questions: November 1998 Proposal

Preliminary Answers: January 1999

<p>Arrest and Booking Policies</p> <p><i>To what extent do police have and exercise authority to arrest and book, cite and release or issue a station house citation?</i></p>	<p>Pierce County has an “open bookings” policy for criminal offenses. Only persons stopped for non-criminal traffic offenses may be cited and released at the scene. Warrant checks are made at the scene. Officers usually arrest on failure-to-appear warrants and may or may not arrest on failure-to-pay warrants. It is unclear to what extent officer practices are guided by written department policies.</p> <p>Further study is also needed to analyze the huge number of outstanding warrants in Pierce County. What little data we have suggests that a large percentage of arrestees are booked on warrants in addition to new charges (56% in November 1998). To evaluate this practice, comparative data is needed from other counties.</p> <p>A small percentage of arrestees are administratively booked (SIP) and released (2.7% in November 1998). Comparative data is needed from other counties.</p>
--	--

Questions: November 1998 Proposal

Preliminary Answers: January 1999

<p>Bail/Personal Recognizance Policies</p> <p><i>Do arrestees have access to bail officials prior to arraignment by a court?</i></p> <p><i>What are the policies and practices of local courts concerning release on bail and personal recognizance?</i></p> <p><i>What are the policies and practices of the prosecuting attorney's office on this issue?</i></p> <p><i>What is the role of PTS staff in conducting risk assessments and recommending release on recognizance?</i></p>	<p>Yes, bail is possible prior to arraignment.</p> <p>This topic was not explored in this project. Bail schedules need to be compared with other counties. Court practices on bail and personal recognizance need to be analyzed.</p> <p>This topic should be addressed in a future project.</p> <p>Pre-Trial Services (PTS) does risk assessments and releases a small number of persons (averaging 2.3 releases per day, or less than half as many as the courts release on personal recognizance). The personal recognizance criteria used by PTS may be too restrictive. Comparative data is needed from other counties. Placement of PTS in the Sheriff's Department may discourage coordination with the courts.</p>
--	--

<p>Trial Delay</p> <p><i>To what extent is the jail population impacted by delay in charging felony cases or in trial in all cases? If charging or trial delay is an issue, what are the sources of that delay?</i></p> <p><i>Are court dockets overly crowded?</i></p> <p><i>Does the prosecuting attorney have sufficient staff to bring cases to indictment and trial?</i></p> <p><i>What is the impact of continuances? Are continuances by defense or prosecution common? Is delay caused by overloaded defense counsel? How frequently is the right to speedy trial waived? What percentage of defendants who waive speedy trial is detained pre-trial?</i></p>	<p>We were told that no delays occur in filing charges, as the county arraigns defendants within 24 hours of arrest (or on Monday in the case of weekend arrests). Trial delays are another matter (see below).</p> <p>Unclear.</p> <p>Unclear.</p> <p>Continuances are said to be <i>very common</i>, but there are data problems that prohibit us from verifying this statement at this time. We were told that Pierce County continuances are reported to the Office of the Administrator for the Courts in Olympia Washington. The AOC data states that there were only three continuances in criminal cases in 1997. We suggest that there is a difference between the perception we heard and the data that merits further study.</p> <p>Frequency data should be gathered, and the reasons for delay should be studied. Work overload by DAC or the prosecutor may lead to continuances, although it appears that continuances may also be used as part of DAC and prosecutor bargaining strategy.</p> <p>As to the impact of continuances on jail population, this cannot be addressed quantitatively until the jail information system can produce discrete data on specific categories of prisoners.</p>
--	--

Questions: November 1998 Proposal

Preliminary Answers: January 1999

<p>Inter-Jurisdictional Issues</p> <p><i>Are inmates who have been brought to a local court on arraignment commonly being held on warrants out of other courts?</i></p> <p><i>Do local courts have authority to set bail on warrants out of other courts?</i></p> <p><i>To what extent do the practices of the Tacoma Municipal Court differ from those of the District Courts in terms of admission to the county jail?</i></p>	<p>Unclear. Warrants need further study, and better data needs to be obtained on the jail population.</p> <p>No, not normally.</p> <p>Unclear.</p>
---	--

<p>Probation/Parole Issues</p> <p><i>What are the policies and practices of the probation and parole authorities concerning issuance of summons versus issuance of warrants to violators?</i></p> <p><i>What are the policies and practices of the courts concerning release on bail or personal recognizance pending revocation hearing?</i></p> <p><i>Are there alternative options to incarceration? Are they available in the Superior Court, District Courts and Tacoma Municipal Court?</i></p>	<p>On felony cases, the state Department of Corrections staff, or the police, may and do arrest individuals who fail to comply with the terms of their release. This appears to have a significant impact on jail populations. For example, we were told that 3,149 probation violators were held in the county jail in 1998. Our understanding is that the 3,149 probation violators include those held on other charges as well. The probation violation tally does not reflect the average length of stay for these individuals, a significant factor when trying to weigh the impact on jail population. Topic needs further study.</p> <p>Release from jail prior to a revocation hearing is unusual. There are no set time limits on how soon a revocation hearing must be held after incarceration, and court practices probably vary considerably.</p> <p>Yes and no. Superior Court does not have alternative placements, although in some cases it can sentence offenders to time served and release them to community supervision by the Department of Corrections. District Court Probation runs alternative programs which could be greatly expanded, as could electronic home monitoring run by the Sheriff's Department (through a contractor). Tacoma Municipal Court has an alternatives program consisting of monthly clerical checks of paperwork to see if parolees are complying with conditions of release. A work release program used to exist for Pierce County prisoners, but there is none at present. It appears that there is considerable room for Pierce County to expand the use of alternatives.</p> <p>One obstacle (among many) is the lack of good data on jail inmates, such as how many could be better housed in a mental health program.</p>
--	--

Questions: November 1998 Proposal

Preliminary Answers: January 1999

<p>Fines and Other Non-Compliance Issues</p> <p><i>What is county policy on incarcerating or otherwise dealing with individuals in the categories of failure-to-pay, failure-to-appear, and failure to-comply, particularly in the issuance of warrants (including no bail warrants)?</i></p>	<p>No uniform county policy exists as to incarceration of individuals in these categories. Each case is decided individually by a judge, prosecutor, and a probation or community corrections officer.</p> <p>It is clear from booking figures that a large number of individuals in these categories are incarcerated (See Table I, Page 9). It is unclear, however, how much time they spend in jail and whether or not they were held on other charges as well. This is a promising area for further research and policy development.</p>
--	--

<p>Overall Sentencing Policy</p> <p><i>To what extent do local and/or statewide sentencing decisions affect the jail population?</i></p> <p><i>Does the prosecutor have plea policies that result in a disproportionate number of low-level, non-violent or first time offenders spending time in jail for offenses that could otherwise qualify for an alternative, non-jail sentence?</i></p> <p><i>On the other hand, to what extent are the county's criminal justice system players bound to adhere to mandatory state sentencing laws, thus are left with no options?</i></p> <p><i>For those offenders who qualify for alternative sentencing, are enough options available in the county (such as treatment, electronic monitoring and intensive probation) to divert them from jail?</i></p> <p><i>What impact do mandatory state sentencing policies, (e.g., regarding repeat drunk drivers, drivers without licenses, and domestic violence offenders) in the form of unfunded mandates have on the jail population?</i></p> <p><i>To what extent do sentencing practices of Pierce County judges differ from other Washington judges?</i></p>	<p>In felony cases, the state Sentencing Reform Act establishes a presumptive range for incarceration based on the severity of the crime and the offender's criminal history. Generally speaking, determinate sentencing has increased the number of persons who are incarcerated. State law requires incarceration in the local jail for persons sentenced to up to one year.</p> <p>Unclear. This topic can be addressed in a future project.</p> <p>The Sentencing Reform Act sets sentencing ranges, as explained above. Numerous other state statutes impose mandatory sentences that are served in local jails. Most common is driving with a suspended license.</p> <p>Compared with some other counties, Pierce County makes relatively low use of alternatives to incarceration. However, effective use of alternatives may require jail beds to be available as a threat to those who fail to complete the alternative program. This threat is absent in Pierce County.</p> <p>The unfunded state mandates appear to have a large impact. Further study is needed to develop quantitative data.</p> <p>This is a complex question. For Superior Court, county data is reported to the Sentencing Guidelines Commission in Olympia. The published report does not contain sufficient detail for an in-depth evaluation.</p>
--	--

Chapter 5

Recommendations

How should the county proceed from here? During our interviews there was one prevailing theme that was expressed by virtually everyone we interviewed: Pierce County's criminal justice system is flawed. Though this may be seen as a statement indicting past criminal justice policy decisions, The Spangenberg Group chooses to see it as a common ground out of which real changes can be made. The Spangenberg Group believes that the county must re-evaluate how it approaches criminal justice issues in the future. The criminal justice system now employs 75% of Pierce County personnel funded out of the general fund and law enforcement fund. Within the next several months, important decisions must be made on the future of the new jail project. We believe that sound criminal justice planning requires thoughtful decisions based upon well-supported information and consensus-building in Pierce County. Our recommendations are made with this aim in mind.

Before presenting our recommendations, we wish to note that it is our understanding that many of our recommendations from our report on indigent defense cost recovery have not been adopted. The feedback we heard was that too many of our recommendations required sweeping changes that people were not prepared to make. We must emphasize that those recommendations continue to be important to implement if Pierce County is ever to revitalize the criminal justice system.

1. Conduct an In-Depth Process Study of the Policies and Practices that Affect Jail Population Levels

In the time constraints of the present study, we have attempted to describe some of the policies and procedures that tend to increase the number of persons detained in the Pierce County jail. What we have not done is to describe all of the internal Pierce County policies and practices impacting jail populations, to verify the effect the policies have on the jail population, and to assess whether or not they are sound policy decisions. The assessment of these practices should, to the extent it is possible, compare and contrast the practices with other comparable Washington counties.

2. Develop Useful Data on the Jail Population Broken Down by Specific Offense Categories

and Other Relevant Information Needed for Decision-Making and for Analysis in the Process Study

The most recent “Profile of Jail Inmates 1996” published by the United States Department of Justice, Bureau of Justice Statistics resulted in a number of interesting findings. “Two thirds [of jail inmates] were convicted of their current offense and were serving a sentence, a third were not convicted, awaiting trial, on trial or not yet arraigned. About 26% were being held for a violent offense, 27% for a property offense, 22% for a drug offense and 24% for a public order offense.”

Unfortunately, the data available in Pierce County to compare to the national data tends to be unreliable or is not available. Generally, one day “snapshots” of jail populations are available. We found these snapshots raised more questions than they resolved. A daily time frame is an inadequate basis on which to form reasoned opinions about the policies impacting the jail population levels as a whole, unless these snapshots can be supplemented by extensive data over longer periods of time. Before Pierce County can make decisions on the jail and alternatives to incarceration, data needs to be obtained on: the average daily population with mental health issues; the average daily population that are in on non-violent drug-related charges; the average daily population in on failure-to-pay warrants or failure-to-appear that are related to inability or unwillingness to pay; and the number of inmates with violent criminal histories.

There is surely a much broader category of information that would be useful as well and it is our understanding that such data may not be easily available from the current jail information system. Our point is that Pierce County cannot progress beyond the statements that “Pierce County is different” until it is known for certain *who* is in jail and *why* they are in jail. We believe that the varied statements made about the inmate population today, whether right or wrong, are no substitute for comprehensive data on the population as a whole. Obtaining this data will require a comprehensive study supported by the Sheriff and other county officials. It may not be possible at this point to go back several years into the JIMS system for this information. Therefore, it may be advisable to construct a database and information-gathering procedures going forward for two or three months to get the profile necessary to evaluate the real population.

3. Develop Useful Data on Booking Decisions and Arrest Warrants for Consideration in the Process Study

The January 1996 report, “Pierce County Corrections: Managing Offender Populations,” by M. M. Bell, Inc., recommends that Pierce County “[c]onvert some emergency release mechanisms to booking constraints. Staff should work with law enforcement, prosecutors and judges to convert emergency release mechanisms to decisions not to book. Spokane County’s booking matrix offers an example of this strategy. If Pierce County criminal justice agencies divert short term inmates from jail before booking, as the Spokane County plan does, then the Pierce County Jail will see decreases in average daily populations and increases in average length of stay.” The Bell report states that Spokane County’s booking restriction plan is calibrated to specific population levels, i.e. when the jail reaches 104% capacity, no person with out-of-county misdemeanor warrants nor those with traffic charges (except DUI) are accepted at booking. Any time the jail population reaches more than 104% capacity, the jail further refuses to book anyone with local misdemeanor warrants and has bail cleared quickly for those accused of Class C felonies.

At this time, we do not have enough data to comment on such a plan for Pierce County. We highlight the section of the report only to emphasize that the “open front door” policy in place is not the only option available to law enforcement. We do not presume to conclude at this time that the Sheriff’s policy is unsound, rather we emphasize that Pierce County very well may be different, that the majority of people entering the jail may be violent, and that concerns of public safety merit the continuation of the “open front door” policy. But we do not know -- and cannot tell -- without reliable information.

Just as reliable data is needed on jail populations before decisions can be made, so too does the county need to track booking statistics, including: the number of people brought in by type of offense, number of people brought in by type of warrant, and, the number of bookings where the arrestee had a prior criminal history. Such data will help Pierce County determine conclusively the extent to which some individuals are continually caught up in the system because of their inability to pay for past court costs.

4. Conduct a Judge/Prosecutor/DAC Case-Weighting Study to Understand Workload of the Court Functions and Their Impact on Jail Populations

Weighted caseload studies provide policy makers with an objective, uniform and realistic methodology for determining staffing needs and resource allocation for judges, prosecutors and defense attorneys. Currently, the three components track their own cases, and there is no way to compare the workload of each and determine the number of hours that are spent doing in-court versus out-of-court activities. Simple numerical case counts are important to consider, but this manner of counting oversimplifies the actual work put into some types of cases and fails to accurately reflect the amount of time required to adequately process defendants in different types of cases. Such systems also fail to track the time attorneys and judges spend on activities that are essential to their specific roles, such as traveling, waiting in court, or participating in training. Without an accurate case counting system or method for measuring the time required to adequately handle the caseload, it is difficult to project staffing needs and justify budget requests. Case-weighting studies have been used successfully by courts, prosecutors and public defenders in many areas of the country. Pierce County should give a high priority to developing such a system geared to its budget needs.

Chapter 6

Further Observations: Resource Issues

In closing, we want to again emphasize that it is impossible to make changes in one component of the criminal justice system without it having some rippling affect on other aspects of the system. We also understand that decisions about the criminal justice system is best left to the county officials that are directly answerable to the citizenry of Pierce County. Still, The Spangenberg Group feels obligated to offer a few closing observations on aspects of the Pierce County criminal justice system that we find important, though it is not part of our present mandate.

1. Pierce County Should Pursue Federal Funding and Technical Assistance to Develop and Unify the Management Information Systems throughout the Criminal Justice System.

It is our understanding that the Jail Information Management System (JIMS) will fall victim to the Y2K (Year 2000) computer bug and that steps are already being taken to purchase a new system. Proposals for a new jail MIS system have already been submitted for review. It is the expectation of county officials that a new system will be fully operational by mid to late summer 1999, complete with interfaces to the county's and state's criminal history databases.

While Pierce County maintains several computer-based criminal justice information systems, one of our frustrations was that those who maintain data were not able to provide us with relevant and timely reports that we could use to analyze the data. While the new jail information management system is being put in place, we are hopeful that arrangements can be made to obtain useful data from the current system or other sources for utilization in a major evaluation. The Spangenberg Group applauds the initiative to improve the jail data reporting capabilities, but suggests that future MIS purchases should consider unifying all of the justice systems informational services.

United States Attorney General Janet Reno has recently begun to promote collaborative efforts among all the components of the criminal justice system that rely upon interagency planning and cooperation. More importantly, new federal programs have been started to help jurisdictions succeed in their attempts to make sound criminal justice policy decisions, and some of those federal

programs are geared specifically toward management information services.⁶ Pierce County officials need to look to the larger community of criminal justice agencies to cope with information problems before allocating money for any further computer services.

2. Pierce County Needs to Form a Coalition to Get More State Money for the Criminal Justice System

Just as Pierce County needs to build bridges to the national criminal justice community, the county also needs to begin to more actively pursue coalitions with other Washington counties to seek greater funding from the state for criminal justice. The state of Washington provides little funding for criminal justice initiatives in comparison to other states, and an undue burden is placed on counties to come up with the funding. As the recent debate on the new jail exemplified, there are few alternatives for counties to raise revenues. Though we heard a common theme that Olympia is unwilling to give money to counties for jails or housing felons, there may be some willingness to give money to other areas of the criminal justice system. Any portion of the criminal justice system that is financially supported by the state means more county funding available for the other components of the criminal justice system.

⁶ A program funded by the United States Department of Justice, Bureau of Justice Assistance (BJA) is already providing technical assistance in the specific area of court systems automation to criminal justice agencies under the Court Information Systems Technical Assistance Project (CISTAP). The goal of CISTAP is to provide State and local justice programs with assistance in “planning for, acquiring, developing, upgrading or integrating automated information systems” both within courts and between courts and other justice system organizations. The project is sponsored by a consortium of national justice organizations, including: BJA, National Center for State Courts, National Association for Court Management, and Conference of State Court Administrators. Technical assistance for the project is being provided by SEARCH, a non-profit organization dedicated to improving the criminal justice system through better information management, and is overseen by a national task force consisting of judges, court administrators, prosecutors, and public defenders.

A separate BJA-funded program administered by the Justice Programs Office at American University began providing technical assistance on January 1, 1999 to criminal justice agencies working to promote the coordinated and efficient administration of justice in their respective jurisdictions. The stated goal of the Criminal Court Technical Assistance Project (CCTAP) is to “facilitate the development and conduct of accessible, fair, prompt, modern, efficient, and accountable criminal adjudication system processes in the jurisdictions served.” CCTAP offers on-site consultations in relevant subjects by experts from national adjudication system organizations to judicial system agencies, and will offer multi-jurisdiction workshops for representatives of all system components on topics of common need and/or emerging national interest. The project is being sponsored by a national consortium of justice organizations, including the National Legal Aid & Defender Association, the Justice Management Institute, and the Pretrial Services Resource Center.

Responses by Pierce County Officials

to

Jail Issues Planning Study

by

The Spangenberg Group

January 1999

This file contains responses from the following officials:

1. John W. Ladenburg, Prosecuting Attorney
2. Mark French, Sheriff
3. Vicki L. Hogan, Presiding Judge, Superior Court
4. John H. Hill, Director of Assigned Counsel

Note: The responses were directed to the preliminary report (January 14, 1999), which was then revised and published as the final report (January 27, 1999). There is little substantive difference between the two reports.

Memo

January 20, 1999

To: Council Audit Committee

From: John W. Ladenburg, Prosecuting Attorney

Re: Spangenberg Jail Issues Planning Study (Preliminary Report)

I will not try to put into detail all the problems that myself and others saw in this report and spoke of at the meeting last week, however, I will list a number of those comments with brief explanation.

1) The report seems to be written from a “national criminal justice” perspective. By this I mean it ignores fundamental differences in the law and agencies here, while using phrases like “each agency is heavily engaged in protecting its own turf”, which are patently false here.

2) The report misses entirely key components of the criminal justice system in Pierce County while making recommendations that have already been implemented here. One example is that the report concludes that “each criminal justice agency has its own management information system”. While this, like turf wars, is a common problem nationally, the opposite is true here. The report never mentions LINX our information management system that has been recognized by the Smithsonian Institute as a leading example of technology for the 21st century. Of course, LINX is used by the Prosecutor, D.A.C., Superior Court, District Court, Juvenile Court and is being expanded.

3) Much of the report seems based upon either “myths” of national origin about criminal justice agencies or national statistics. Example is on page 3, end of page, where they cite national statistics about the crime rate rather than Washington State or Pierce County statistics which are available.

4) On page four, mid page, they complain that no one could provide them with caseload information about prosecutors, defenders and judges. I don't recall being asked, but the information is readily available. My comparative caseload stats have been a part of my budget presentation for many years, D.A.C. does the same. The Administrator for the Courts in Olympia keep comprehensive data on judges caseload, including a statewide weighed caseload study.

5) On page 6 they complain that the system is too fragmented, then list “central administration of the courts, lack of probation in Superior Court “ as problems. They fail to note this is a result of state law not local politics.

6) Also on page 6 they complain there is “little useful information on the individuals who are housed in the county jail, how they got there, whether or not they should be there, and on the average length of stay for specific categories of detainees.” My experience is just the opposite. I have seen and the Council has seen the exact data they claim does not exist.

7) On page 8 they note how many individuals were “booked” in one month. They note about half were booked on warrants. They then conclude this is booking of FTA warrants for failure to pay fines and that the jail is used as a “debtor’s prison”. This would be laughable if not so dangerous to the County. First, they fail to note how many of the half booked on warrants were actually brought in on other charges and also booked on the new charges. They fail to recognize that the County and City do not have any officers assigned to serving warrants, so that anyone brought in on a warrant obviously had to contact law enforcement some other way. They fail to note that the State of Washington and Pierce County Probation officers have been complaining for years that they cannot get anyone arrested who just has outstanding fines. This problem has grown so large that the Law and Justice Council recently discussed a plan to offer amnesty just to reduce the backlog of warrants. The fact is that anyone in Pierce County who has only a fine to pay can get away without paying because the jail is so full, just the opposite of their conclusion.

8) On page 11, they complain of a lack of data on continuances in the courts. In fact, the Superior Court tracks this data and has used it to help develop case management systems. They also say they cannot find data on prosecutor charging and trial practices. This data is available both from my annual reports to the Governor and from the Administrator for the Courts in Olympia. That data will show that of the state’s largest counties, Pierce County has the lowest percentage of criminal cases that go to trial by a huge amount. Since trial judges and courts are not available, plea agreements must be reached in a higher number of cases.

9) On page 13, they discuss what they call “Break the Cycle” program. The program is “Breaking the Cycle”, it is three years long not two, and it is in the planning stages now after grant approval last year. They pass it off as only a possibility without any look at the sister program that is so successful in Birmingham, Alabama. Further, they dismiss it as only applying to District Court, when in fact, the Prosecutor’s Office issued an opinion to the Sheriff and Courts opining that it can be used by both under the Federal Court Order on Jail Population. Additionally they are ignorant, apparently, of the year long effort that has resulted in House Bill 1006, a bi-partisan effort to change drug sentencing laws to fix the new program. This bill was favorably heard in the House this week and enjoys the support of both parties and the Governor, along with Prosecutors, Judges, Defender, DOC., and Treatment Providers. While they find that local agencies are waging “turf wars”, the United States Department of Justice gives us a federal grant for \$3 million, match free, partly because of the way local agencies work so well together compared to other locales. Additionally, they are ignorant of the “SAFE” grant process, currently in the Governor’s budget and in Legislative Process, where Pierce County is selected by the state for \$16 million in drug treatment funding over four years, again, partly because of the lack of “turf battles” seen elsewhere. I suppose the report writers could be right and both the experts from the Federal and State government wrong.

10) On page 10, after all their complaints about no data, they conclude that the county “despite having a fair amount of discretion, has tended to choose the conventional path of incarcerating people.” Finally, they make the startling preliminary conclusion that “This is leading Pierce County to becoming a jail-dominated county” This conclusion exists in a vacuum. No data is cited comparing the number of jail beds available per 100,000 county residents with other Washington State counties or anywhere else for that matter. Yet, we are “jail dominated.”

11) Also on page 10, they use a chart to show the supposed increase in criminal justice spending over the past decade. This chart is worthless. Not knowing anything about local agencies, they fail to note that

many contain non-criminal justice parts that they have failed to exclude from their comparisons. Let me list a quick few I could see:

- a) Assigned Counsel: did they back out Assigned Counsel increases due to contracts with Federal Way, the City of Tacoma or the State of Washington?
- b) Clerk of Superior Court: did they back out any increase due to the civil law work done by the clerk?
- c) Corrections: did they back out contract increases with the cities or federal governments?
- d) District Court: did they back out the civil side of District Court?
- e) Juvenile Court: did they back out the civil functions of the Juvenile Court (dependency)?
- f) Prosecuting Attorney: did they back out the Civil Division and the Family Support Divisions?
- g) Superior Court: did they back out the Civil functions of the court?

They have failed to recognize (as many have) that all of these agencies have extensive divisions in the civil arena in which growth can occur that has nothing to do with criminal justice.

Frankly, I'm tired of typing. There are more inaccurate and incomplete things in this report. Some I mentioned at the meeting. Others, anyone with a passing knowledge of Pierce County could spot. The treatment provider head of our Drug Court (an outside agency head) told me that she saw the report and thought it might have been done "by aliens" and was so full on bad information and conclusions as to be useless. All in all, this report is a waste of time and money.

I am not sure why this report is so bad. Maybe it was just the quick, slipshod way it was produced from a quick visit here. The writers obviously are heavily influenced by what they read are "national problems". Unfortunately, they impose them here without evidence. Maybe the best clue is on page one where they admit they are a "***criminal justice and consulting firm specializing in indigent defense services***" (emphasis mine). It could be surmised that they have come to this with a bias that is obvious and with a lack of experience. My best advice to the Council and the Audit Committee is the same as last week. Cancel the contract with this group now and take the money to hire a firm from Washington State that has both the experience and ability to do the job right. Anything less will result in a flawed final report that will not have any support with the criminal justice agencies in this County.

Pierce County Sheriff's Department

930 Tacoma Avenue South
Tacoma, Washington 98402

Phone (253) 798-7258
FAX (253) 798-6712

Mark P. French
Sheriff



MEMORANDUM

Date: January 21, 1999

To: Matt Temmel, Performance Audit Coordinator

From: Mark French

RE: Response to The Spangenberg Group (TSG) "Jail Issues Planning Study" Audit

Matt, below is my written response to the report. I'll try to avoid repeating that which John Ladenburg and I said at the meeting, since I believe you are going to or already have sent them a copy of the meeting tape recording. Also, attached please find Chief Wigen's comments.

1. Generally, the Corrections Bureau could use additional quantitative data. That we could use more is not surprising, in part due to the fact that the jail management system is over 14 years old and is a legacy system. The new system, slated to go on line later this year, will improve this.

Certainly, each agency needs it's own data to manage those aspects of it's operation that are unique to it. Any "conflicting views" notwithstanding, in those cases where the data of another agency would be useful, that agency will share it when asked to do so. LINX has increased the sharing of data which relates to that of other agencies. Perhaps additional data reports could be written in it's software that would improve this.

2. The County has instituted a number of programs designed to control the jail population. Perhaps more could be done if funding could be secured. Perhaps TSG could provide information on funding strategies implemented in other jurisdictions. However, it's clear, based on a number of studies, that the County also needs additional jail beds. Substantial population growth alone, coupled with the many other factors that drive jail and prison populations, coupled with strong public sentiment to incarcerate more criminals (not unique to Pierce County) are in large measure responsible for that.

There has been an increase in the number of criminal justice employees. That is not surprising given the priorities of this community, which in many ways are not unlike that of other communities. This community wants more public safety, in part evidenced by it's willingness to tax itself several times over the last ten years in order to pay for it. The growth in our criminal justice system should be compared to other comparable jurisdictions. I suspect one would find out growth rate is less than that of other jurisdictions.

Finally, the number of correction staff has grown. This is due to the increase in inmate population and a federal court order that improved conditions, which translates into increased costs. It's

Page Two
January 21, 1999
Matt Temmel

arguable that for several years prior to the improvements, the County deferred or saved costs by avoiding the improvements, thus the net cost of the improvements are less than they appear.

Recommendations response:

Number 1: The audit team may wish to have yet another study on this issue. Presumably the funds to pay for it would not come from Corrections. Many of the recommendations of prior studies have already been implemented. The Sheriff's Department will gladly implement the remaining recommendations if funding is allocated.

Number 2: Here too, several studies have already been done. Perhaps the TSG disagrees with the content or findings. They were done because County officials recognized the need for data.

Number 3: Perhaps I'm the high ranking source referred to in the report. I told TSG this and it's no secret. In fact, this policy was developed with input from the members of the Pierce County Law and Justice Commission. Most felt that it was preferable to do early release over restrictions admissions. Most Commission members felt, and TSG supports this in their report, that it's necessary to have jail available as a sanction in order for alternatives to work. TSG seems to want it both ways. That is, have alternatives but close the front door to low level offenders, some of which may well be those who fail to comply with conditions in alternative programs.

Report readers can easily get the impression that the jail is rife with low level offenders. I do not think this the case. Even if it is, the report, or another study, should examine how long they stay there or why they might *really* be there. For instance, it's not uncommon to serve an outstanding warrant of any kind as a solution to a field problem, such as a domestic violence call wherein a DV arrest cannot be made, yet an arrest is a desirable solution. Any population study should study this issue.

In addition, there is some crime prevention value (savings), albeit difficult to estimate, to serving minor warrants on subjects who have extensive records and high recidivism rates. While locked up, they cannot commit additional crimes. The County incurs a cost in this prevention effort but any cost estimating should consider the savings (costs to victims, insurance companies, even to the County itself) resulting from incarceration.

Clearly, no public safety officials in this County like early release. However, virtually all find it preferable to restrictions on admissions. All felt the former damaged system credibility less than the latter.

Please feel free to call me if you have any questions.

Corrections Response to the Spangenberg Preliminary Report on "Jail Issues Planning Study"

The Pierce County Justice System is to fragmented or decentralized

Spangenberg seems to have a misunderstanding of the working of the criminal justice system within Washington state and therefore within Pierce County. The justice system is meant to be decentralized. The components of the system represent different parts of government and several elected officials. However, the parts of the system work well together and share information within legal bounds. Examples of this sharing are the LINX system and the proposed JMS system.

LINX is a system started by the Prosecutors office that shares case and docket information between the Prosecutor Office, DAC, the Courts, Jail, and Sheriff's Department. The system funding is supported by all of the participants. The jail's new management system is another example of sharing. From the beginning information sharing was a vital component of the system design. A requirement of the design was not only to share information with other justice system but also that the jail system must use the same operating system as LINX and must be able to reside on the same server as LINX. We hope to share a person data base with LINX.

There is serious limitation of reliable quantitative data available throughout the Pierce County criminal justice system.

The justice community uses several different workload criteria because they have different functions. Departments do share when the information is useful across departmental lines. LINX and the new jail system are example of this sharing.

Custody information is available through the JIMS system. The JIMS system can be queried for data such as length of stay for the general population or for individual charge types. Being an older system these quires take specialized skills which are not always available in the Corrections Bureau but that are available in the community should the need arise. Cost for programing the JIMS system to supply information is approximately \$100 per hour.

The Omni-group compiled a comprehensive study of future jail needs in Pierce County. Their most conservative estimate indicated a need for an additional one thousand jail beds by the year 2007 based on projected population growth.

Table 1
Historical and Projected Adult Population
Pierce County, WA

Year	Adult Population
1975	311,412
1980	348,320
1985	377,929
1990	407,538
1995	458,079
1996	460,640
1997	466,665
2003	522,488
2007	564,171
2017	667,971

Historical and Projected Inmate Population

In May of this year, Pierce County's Planning and Land Services Department issued a Comprehensive Plan for the County, which included an assessment of adult detention and corrections facility capacity requirements. The Plan describes a "proposed level of service" for the Pierce County Detention/Corrections Center (PCDCC) of 1,463 inmate beds for 1996, and 1,572 inmate beds for the year 2002. The Comprehensive Plan estimate of future capacity needs was based on projected increase of 1.0 inmates per thousand total population over the actual experienced 1993 level of service, which was 1.2 inmate beds per thousand total population, increasing that level to 2.2 inmates per thousand total population. To assess the impact of dynamic historical trends on jail population levels, this current analysis of detention capacity requirements sought to develop twenty year projections of inmate capacity needs based on twenty years of historical data. However, the historical data available was more limited in range. Total average daily population of the Detention Center, going back to 1984, was available and provided by the County, but jail utilization by inmate category (i.e. male/female inmate distribution and pre-trial/sentenced inmate distribution) was not maintained prior to 1993. Booking levels, also, were not maintained before 1993. While this lack of historical data limited the statistical basis of the study, it does provide a context for analyzing historical average daily population trends.

NIC - 1997 stats 2.12 beds per 1000 population

**SUPERIOR COURT
OF THE
STATE OF WASHINGTON
FOR PIERCE COUNTY**

VICKI L. HOGAN, JUDGE
Pamela Mayhew, Judicial Assistant
Raelene Samago, Court Reporter
DEPARTMENT 5
(253)798-7566

534 COUNTY-CITY BUILDING
930 TACOMA AVENUE SOUTH
TACOMA, WA 98402-2108

January 21, 1999

Mr. Matt Temmel
955 Tacoma Avenue South, Room 302
Tacoma, WA 98402

RE: Jail Issues Planning Study, Preliminary Report dated January 1999

Dear Mr. Temmel:

The performance audit focus is primarily addressing the jail. To the limited extent Superior Court is involved, these brief comments are given.

Superior Court agrees with the oral comments made by John Ladenburg at the January 14 meeting. The preliminary conclusions are vague and appear to represent a criminal justice system other than Pierce County.

"Too fragmented or decentralized" is not accurate. Information exists to demonstrate to the contrary. Receipt of federal funds (\$3,000,000.00 for the next three years) and receipt of State funds (\$4,000,000 for the next four years) relating to the Breaking the Cycle grant is based upon extensive cooperation between the agencies within the criminal justice system in Pierce County .

Official court data is maintained by the Office of the Administrator for the Courts (OAC) as it relates to each county. That information allows for county comparisons statewide. The OAC gathers data each year and publishes this information. The Superior Court Clerk's Office enters data into the OAC database (SCOMIS). However, Superior Court uses both LINX (county database) and SCOMIS (OAC) databases to assess its workload.

In addition to the data gathered and maintained by the State, Pierce County Superior Court maintains extensive statistical data on the number of proceedings held, types of cases heard, cases not reached for trial, etc. most of which is maintained in LINX.

The Superior Court, Prosecutor and DAC initially developed a nationally recognized (by the Smithsonian) unified data management system, LINX, that employs extensive internal access of data and sharing of information among agencies but at the same time permits security safeguards based upon divergent interests and needs.

As to a recommendation that a weighted caseload study be conducted, OAC uses a weighted caseload to determine the number of judicial officers that Pierce County should have based upon cases filed. All this information is contained in the Caseloads of the Courts of Washington which, I mentioned, is published annually. Specific information on the methodology of the weighted caseload is available from OAC. Also published by OAC is the Washington Superior Court Stats Reporting Manual which includes definitions the court uses in entering data into the statewide system (SCOMIS). These are statewide definitions used by all superior courts. As you can see there is much information available upon request.

The Preliminary Report appears to overlook or significantly discount the constitutional requirements and statutory mandates for criminal defendants, both in the jail and within the Court. However, Pierce County Superior Court has employed significant alternatives to incarceration for non-violent and non-sexual felons, both pre-trial and probation violations:

1. Electronic home monitoring
2. Work Crew - not yet implemented, but anticipated in early 1999
3. Work Release
4. Probation requirements
5. Drug Court
6. In-patient treatment (day for day credit)
7. Administrative proceedings rather than in court hearings for probation violations.

The recommendations contained in the Preliminary Report for improving pre-trial screening and cost recovery methods were appropriate.

Superior Court judges have adopted a bond/bail schedule for the jail thereby reducing jail "discretion." It is totally inappropriate for the Spangenberg Group to discuss release issues or policies while the jail is operating under the Federal Court Order.

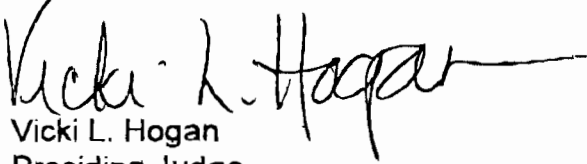
Pierce County Superior Court has statistical information to answer the questions posed by the Spangenberg Group. In particular, are the dockets crowded? Yes, the statistics show that the criminal dockets are extremely crowded. In addition, Pierce County

judges has one of the highest judge to case ratio in the state. We are doing a relatively poor job in getting our civil cases to trial. What are the effects of continuances? There are two immediate impacts. 1) A new trial date is set 2) The defendant may be released or taken into/remain in custody.

Finally, there is an annual report produced by OAC regarding the sentencing practices of Superior Court Judges in Washington State.

The Spangenberg Group made assumptions without asking the questions or determining whether there was data available. In fact, in most areas affecting Superior Court, there is data.

Yours very truly,



Vicki L. Hogan
Presiding Judge

cc: Judge Cohoe
Judge Felnagle
Andra Motyka

Spang.adm



949 Market Street, Suite 334
Tacoma, Washington 98402-3696
(253) 798-6062 • FAX (253) 798-6715

January 28, 1999

Mr. Matt Temmel
Performance Auditor
955 Tacoma Avenue South, Room 302
Tacoma, WA 98402

Re: Jail Issues Planning Study

Dear Mr. Temmel:

After finally having had a chance to review The Spangenberg Group's Jail Issues Planning Study, it is my opinion that Pierce County should take to heart the observations of this experienced, independent criminal justice system evaluator and give serious consideration to its conclusions, recommendations, and implications.

I recognize, as The Spangenberg Group also expressly recognized, that some of the information they obtained may be incomplete and could perhaps be explained away or otherwise defensively characterized negatively. I was initially defensive in reading the report on behalf of Pierce County's justice system, and wanted to defend our history of good faith efforts as well as the cooperation of Pierce County's major justice institutions. However, after having some time to digest the report, and thinking about recent experience of other outside agencies trying to get information regarding Pierce County's jail and criminal justice system operations (eg., information necessary to BTC's implementation) I believe the report should be accepted as an honest and objective appraisal of Pierce County's jail planning problems as well as reflective of other issues raised in the report. I at least is reflective of what the major criminal justice agencies related to a knowledgeable and experienced outside evaluator.

In saying this I do not necessarily support spending large amounts of taxpayer money for additional studies or believe that The Spangenberg Group should conduct further studies. I do believe that the report strongly indicates our need to step back and more objectively appraise how we are utilizing our various data reporting systems and how we can more objectively collect and report data regarding Pierce County's justice system institutions; and, the report also reflects the County's difficulty in determining how and why we are making policy and decisions affecting Pierce County's jail population and Pierce County's



resources. Why should we ignore an experienced evaluator's opinion that after talking to all the major players, we appear fragmented, without necessary data and self protecting. The report objectively points out what the evaluators were told by the people that they interviewed, and that based on what they were told they point out perceived flaws in Pierce County's current policies/practices. That they were not provided with full and accurate information may be true, but still reflects serious problems in how Pierce County's criminal justice agencies appear to operate. This alone would indicate that the system is in fact fragmented, self protective, and not as coordinated as we would like to believe. If nothing else, the report points out that an evaluator who has extensive experience in other jurisdictions, finds that comparatively Pierce County's system appears to have serious problems.

The report should be taken seriously if for no other reason than to more easily demonstrate that our system is coordinated, that we are receptive to improvement and considering other methods of demonstrated effectiveness (eg., weighted case load systems). If we do not find and implement better means of dealing with criminal justice we are doomed to the fate of other American cities that have developed into major metropolitan populations-- eg., Detroit ten years ago.

The Spangenberg Group has been consistently recognized and utilized by the American Bar Association, the Department of Justice, and jurisdictions throughout America for their experience, knowledge and insights. We should listen and give them serious consideration.

Sincerely,



John H. Hill
Director of Assigned Counsel

JHH:kc