

## CITY COUNCIL AGENDA ITEM

### CITY OF SHORELINE, WASHINGTON

|                      |                                           |
|----------------------|-------------------------------------------|
| <b>AGENDA TITLE:</b> | Jail Alternatives Discussion and Decision |
| <b>DEPARTMENT:</b>   | City Manager's Office                     |
| <b>PRESENTED BY:</b> | Eric C. Swansen, Sr. Management Analyst   |

**PROBLEM/ISSUE STATEMENT:** Jail service costs are consuming an unacceptably high portion of the City's resources. The City needs to develop practical alternatives to the current jail provider, the King County Department of Adult and Juvenile Detention.

Negotiations with King County on developing a new jail services agreement are showing little progress on the key objectives of the participating cities. The County insists on allocating costs to the cities that would result in a double billing of Shoreline residents and create an unacceptably high jail service rate. The County is also concerned about the availability of jail capacity beyond 2006, and has expressed two alternatives to the cities' negotiation team – either "pay up" or "get out".

**ALTERNATIVES ANALYZED:** Staff has analyzed the following alternatives for providing jail services.

- Status Quo. Continue negotiation, but accept the eventual obligation to pay rates substantially similar to those currently proposed by King County.
- Exit King County's jail services system. Work with other cities to transition services from King County to a less expensive provider and developing a strategy for providing this service long-term. This would require the City to develop contracts with other jail providers to provide immediate local booking for defendants, prisoner screening and classification, management of jail health costs, and jail facilities for extended stays. (Recommended)

**FINANCIAL IMPACT:** The City will spend an estimated \$980,000 in 2002 for jail services, based on the current jail rate of \$159 for each jail booking and \$78 for each day. If the County's proposed new jail services rates are followed the City's estimated 2002 jail service costs could increase to \$1,565,000, a 59.7% increase over current rates. Seeking an alternative provider could provide the service for \$599,400 a year creating savings of \$380,000 each year over current rates and \$965,000 a year over the proposed agreement rates. However, the City, in concert with other cities, would need to allocate additional capital and operating funds to cover videoconferencing and jail management.

### **RECOMMENDATION**

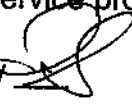
Staff is also seeking consensus support for developing an exit strategy with King County for jail services. Staff recommends that Council authorize the City Manager to enter into agreements as articulated in the "Summary" section of the following report to take advantage of jail service cost savings with alternate service providers.

Approved By:

City Manager



City Attorney



## **INTRODUCTION**

The City is mandated by state law to provide jail services for misdemeanor defendants awaiting trial who do not qualify for pretrial release or sentenced for misdemeanor offenses. The County is mandated by state law to provide detention for persons charged or convicted of a felony. Since incorporation, the City has contracted with King County Department of Adult and Juvenile Detention (DAJD) for jail services. In 2000, the City booked 1,123 prisoners into DAJD custody, for a total of 9,990 days of jail at a cost of nearly \$890,000. DAJD provides services at the King County Correctional Facility (KCCF) located downtown and the Regional Justice Center (RJC) in Kent. Shoreline Police are responsible for transporting prisoners to and from the jail upon arrest, for court appearances, and for final imposition of sentences.

## **BACKGROUND**

As part of the 1997 budget retreat, Council was briefed on jail use and provided consensus support to work with the court and DAJD to reduce jail costs. This effort resulted in the creation of the City's volunteer reminder project, which focused on reminding the accused to appear in court. This was responsible for reducing jail use, as offenders who fail to appear in court and for whom warrants are issued are more likely to serve jail time and serve longer sentences. This program has been successful at reducing the failure to appear rate and the use of jail services.

While the trend for the past few years has been an increasing number of jail days due to longer sentences, it appears that jail services use leveled off in 2001. Simultaneously, the rates for jail service have been rising faster than the growth of City revenues, resulting in seemingly endless annual increases in jail costs.

Staff has been reviewing a number of alternatives to jail use. In 1998, Council authorized the City Manager to contract with a firm to do electronic home monitoring of certain inmates as an alternative to jail. Shortly after Council authorization, two court decisions exposed the City to potentially higher level of liability for the actions of the monitored inmate increasing the risk of substantial judgements against the City. As a result, staff has purposely waited for either legislative relief or precedent that would reduce this risk before seeking to implement this service separate from the King County jail services contract. Staff also examined the potential of using other jail facilities, and was finding a practical and cost effective way to manage the risk of medical costs when King County notified the cities of its intent to terminate the current jail services contract.

In June 2001, the King County Executive notified the City that they intend to terminate the agreement for jail services effective December 31<sup>st</sup>, 2001. The County asked the cities it contracts with to develop a negotiations process in the hopes of having a new contract by January 1<sup>st</sup>, 2002. In September Council reviewed negotiation objectives developed in conjunction with other cities including:

- cost containment
- a service based rate structure, and
- operational issues, most notably the participation in performance measurement and process improvements to improve jail operations

Negotiating sessions between city representatives and King County staff have taken place every two weeks. The County has outlined its objectives including:

- "full cost recovery,"
- developing a capital fund to offset the cost of building new facilities,
- implementing penalties for cities who don't take certain steps to reduce jail use, and
- not sharing the performance measurement, process improvements and management oversight of the jail

The cities and County remain far apart and no proposed jail services contract was ready for Council consideration prior to January 1<sup>st</sup>, 2002. Despite the County's assertion that the current contract would be terminated as of January 1<sup>st</sup> after a six month notices, the consensus of opinion of numerous City Attorneys is that an 18 month notice is needed to terminate that contract making the actual termination date December 31, 2002. This is due to the fact that the City of Seattle has an 18 month termination notice requirement in its contract, and all cities have a clause that provide them with identical terms when King County extends more favorable terms to another city.

Throughout this negotiation process, the cities have been reviewing potential alternatives to King County for jail services. Without a practical alternative, the cities have no negotiating ability and are completely subject to the terms and conditions proposed by King County. The alternatives committee has been working on a promising alternative that will provide the same or better services at a considerable cost reduction from both the proposed and current jail arrangements.

## **ALTERNATIVES ANALYSIS**

### **King County's Proposal**

The County continues to focus on addressing its stated objectives, but they have also agreed in principle to developing a "fee for service" model as proposed by the cities, that is having rates reflect the actual cost of the various services (electronic monitoring, secure detention, alternative detention, work release). The County is reluctant, however, to have cities participate in the management and operation of the jail in an advisory or partnership role. A summary of the major issues is provided below:

#### **Full Cost Recovery vs. Incremental Cost Recovery**

The County proposes to allocate a significantly larger portion of the County's operating costs through increased indirect overhead charges. The current contract limits these costs to information services, facilities maintenance, vehicles, radios and a minor portion of legal and personnel costs based on actual work orders. The County would like to allocate the overhead of the entire County organization's internal service providers without regard for those services they are already required to fund by law (collecting both from incorporated and unincorporated areas). Cities would like to pursue an incremental approach, paying for those services directly attributed to the actual costs of operating the jail. The incremental approach prevents jail rates from subsidizing the general operations of the County. This is the same methodology used in our contract with the King County Sheriff's Office for

police services. The difference between the rates resulting from these different cost allocation methodologies is estimated to be \$2.50 per prisoner day, or an estimated \$650,000 additional cost a year collectively for all contracting cities under King County's proposed "full cost" allocation methodology.

*Capital Funding through rates vs. Capital Funding through voter approved bonds*

The County would like to impose a fee to capture funds through service rates for the capital costs of constructing new facilities or making substantial renovations. This is a major departure from historical facilities funding strategies, where ongoing maintenance is covered by rates but facility replacement is not.

An understanding to cover the capital costs of jail facilities was developed in the late 1980's when King County was planning the RJC. This funding for the RJC facility capital construction was based on a voter-approved general obligation County bonds. Repayment of those bonds was through County revenues collected countywide (both incorporated and unincorporated). Fees for jail operation would fund the operation of the jail by King County on behalf other agencies.

King County would like to start setting aside funds from a portion of the jail rate in a new rate structure to fund a new facility or make major renovations. This creates a subsidy to unincorporated King County, as the sole source of these funds is revenues from cities, but the facilities constructed with these funds will benefit the entire County. By adding a capital reserve component, the daily fee for jail use would increase \$3.21 per prisoner per day or \$842,358 per year for all cities. It is estimated that keeping this rate constant for twenty years and investing the reserve at 4.5% interest would create an \$11 million facility fund that could be used to meet Countywide needs, despite being collected from only incorporated areas.

*Penalties for cities that don't reduce jail use vs. Partnership to solve problems*

The County would like to impose a fee to create "incentives" for cities to reduce the number of long jail sentences, exclusively use DAJD facilities, and ensure a certain percent of each city's general fund is used for non-mandated human services funding. The cities recognize the issues, but would like to work on regional solutions instead of solutions that only apply to cities.

- The County proposes that cities pay a \$39.90 per prisoner day surcharge for sentences over 27 days and a \$76.90 surcharge for stays over 47 days, in an attempt to reduce the growth in the length of jail stays. Using preliminary numbers, this adds an estimated \$467,000 annually to Shoreline's jail costs for something the City has very little control over.
- Cities who fail to dedicate an undefined percent of their general fund for undefined human services needs would pay a \$5.00 per day surcharge on each inmate. Since general funds vary significantly by each City, this creates a disproportionate level of human service delivery throughout the County. It is unclear how funds from the surcharge would be used, or if it would be even used to fund human services. There is also the potential for these funds to be used for countywide services, despite being collected solely from cities, creating a subsidy from incorporated to unincorporated areas. This would add nearly \$50,000 a

year to Shoreline's jail costs if the City fails to spend what the County deems to be an appropriate amount on human services. Basically this is an attempt by the County to control local human service spending.

*Fee based on service and cost vs. One fee for all services averaged*

The County and City both agree that there should be a relationship between the cost for services and the service delivered. The current contract allows the County to charge cities a single rate for all services without regard for the actual cost. As a result, the County sometimes charges an inmate for their participation in the work release program while at the same time charging the City is if that inmate were in secure detention. The entire cost of the jail operation is currently averaged into a single rate. The more a City uses alternatives, the greater the subsidy of secure detention costs.

Unless the City has the ability to advise or partner with the County on the level and availability of the variety of alternative services, however, this issue could have very little effect. As your Council recalls, the King County Council recently voted to reduce the number of beds at the North Rehabilitation Facility (NRF) as a cost cutting move. This has reduced the number of alternatives available and increased the demand for secure detention resulting in higher costs to cities.

**Jail At Capacity in 2006 (or 2010)?**

The County has also examined the jail population and has concluded that they will reach capacity by 2006. At that time, they will need to either have a new facility ready or begin restricting use of jail facilities. Although there is some evidence that there is enough capacity to 2010, the County has expressed an interest to develop a plan to orderly transition City misdemeanants out of DAJD facilities to prevent the need to build a new facility. Removing city misdemeanants from the County jail to make way for more felons and county misdemeanants and delay the need for a new jail is of significant benefit to the County given the time (some estimate 7 years), expense, and political will required to build a new jail.

**Decision Point – “Pay up” or “get out”**

The city negotiating team participating in the jail negotiations would like Council's input on whether to continue pursuing a new contract with King County for jail services, or to change focus to the development of an exit strategy to coordinate the timely transition of jail services to another provider. King County has expressed an interest in having the cities seek another provider of jail service if the costs outlined in the negotiation process are too high. Staff is recommending the “get out” strategy, working with other providers to find a more cost effective jail service for misdemeanants. Staff recommends working with other suburban cities and Yakima County to provide jail services for a 7-10 year interim period, and considering long-term solutions based on the input from a number of cities in Western Washington on the alternatives to be considered.

**The Yakima Solution**

Yakima County has been providing jail services for a limited, but increasing number of King County cities since 1998. In fact, Yakima County views jail services to other cities and counties as a business enterprise. Economies of scale created by being a multi-regional jail provider reduces the operating costs for local jail services. It is possible

that Yakima County is also able to allocate overhead expenses for other limited Yakima County services to provide the resources (information services equipment, financial and legal staff and health services, for example) that otherwise might not be affordable. Unlike King County, Yakima County has experienced little or no economic growth over the past decade, and has a revenue base limited by federal lands (Forest Service, Bureau of Land Management, Department of the Army) and agricultural land.

The City of Federal Way has been working with Yakima County for nearly two years, with a seamless operation that has resulted in a savings ranging between \$400,000 and \$500,000 a year. The City of Renton has reported a high level of satisfaction with similar services from Yakima County. The jail alternatives committee, which has representation from nearly every city that contracts with King County for jail services, has focused its efforts on determining the suitability of Yakima County as a alternative to King County, for all misdemeanor jail services.

Yakima County's rate structure is dramatically different than both the current and proposed King County rates. Yakima does not charge a booking fee, using a flat fee of \$46.00-\$50.00 per day depending upon use (compared to \$77.91 with King County). Yakima County provides transportation to and from the Seattle area, basic medical attention, food, and liability coverage in the rate. Unlike King County, costs for medical prescriptions and urgent medical care are not included in the basic rate. Depending upon prisoner classification and behavior, the jail also provides work release, vocational education (which is not something currently provided by King County) and substance abuse counseling.

Considering that Shoreline has an estimated 2002 jail demand of 9,990 prisoner days, the City could see a reduction in jail costs from \$980,000 to \$459,540 a year. However, by doing so the City must assume additional responsibilities for managing jail services and logistics, assume the risk for certain medical costs, and commit to a specific number of beds with Yakima County for a 7-10 year period. There is also a potential, but limited risk, that legislative or judicial decisions could eliminate this option. While not all the details have been worked out, the processes are in place to resolve these issues in the coming months in cooperation with other cities, Yakima County, and the legislature.

Looking past our needs for the next seven years, a regional effort, led by cities, to address the needs for misdemeanor jail facilities must be undertaken.

#### Managing Jail Services and Logistics

The City currently has a very limited role in managing jail services. The police present a prisoner with charging papers at the KCCF and custody of the prisoner is transferred. The jail follows long-established guidelines for verifying identities, screening prisoners, evaluating prisoners using court-approved criteria for release on personal recognizance, and managing personal property. Neither City nor police staff is involved with the day-to-day decision making regarding a prisoner's needs. King County staff takes responsibility for this. The court provides requests for inmates to appear for hearings (either in the KCCF, RJC or at Shoreline District Court), and the police department's motor patrol provides transportation to and from the KCCF. Using Yakima County, the City may assume a greater role in developing

policies that affect the decisions regarding inmates. In some cases, where policies and procedures don't exist, the City must be prepared to either delegate some decisions or make decisions as needed. While this is not an issue for some cities that provide in-house jail or police services, Shoreline (along with Burien, Woodinville, SeaTac, Newcastle, and others) may need to work more closely with providers to develop policies and procedures to minimize the need for "in-house, at the moment" decision making.

Since Shoreline does not have any jail facilities or staffing suitable to hold a prisoner until Yakima County takes custody of the inmate, the City would need to rely on another local agency to hold prisoners awaiting transport, pass along inmate information to Yakima, and screen a prisoner for suitability. The City of Renton has agreed to provide this service at a cost of \$25 per day (or \$50 overnight) for other cities. As a result, the City (vis a vis the police) would initially need to transport prisoners to and from the Renton Jail, located near I-405 and SR 167. Staff could work with other north end cities to either duplicate the Renton service closer to Shoreline, or provide a cooperative effort to share transport needs to and from Renton in the future. Yakima County has committed to prisoner transports from Renton every evening. Prisoners arriving from Yakima for trial will initially arrive every afternoon in Renton for trial the next day.

To minimize transport costs, extensive use of video conferencing will be employed to facilitate hearings, attorney-client conferences, and visitation with family members. Unlike at King County, inmates at Yakima are able to accept phone calls from relatives and defense counsel at the jail.

#### *Risk for Medical Costs and Availability of Services for certain conditions*

One of the biggest risks for running a jail is providing urgent medical care. As a City, Shoreline is responsible for the costs of medical care of inmates committed to jail on City charges. In the majority of cases, inmates have no special medical needs and don't incur medical costs while in custody. However, there is a minority of inmates that will require prescriptions, have special medical needs that the Yakima Jail is unable to provide or assume the risk for, or require immediate medical attention for a life-threatening illness or injury. Managing this risk could be accomplished in a number of ways:

- Develop procedures with Yakima County to use discount or public health programs to reduce the cost of prescriptions. Some inmates may be eligible for special discounts or coverage through Veteran's Affairs, Medicaid, other state/federal programs or using private insurance. The Yakima County jail, as a large purchaser of prescriptions, has also negotiated discounts with drug companies much like the discount drug companies extend to health insurance providers. The City can manage this risk by applying applicable coverage and discounts to minimize the number of prescriptions the City must reimburse Yakima County for, and using a "pool" to build reserves to cover these costs. This is estimated to cost between \$3-7 a day per prisoner. The Washington Cities Insurance Authority has expressed interest in managing this pool for cities.

Yakima County has also expressed an interest in building this fee into the rate as another alternative.

- Develop policies and procedures to divert people with unacceptable medical conditions to alternatives or deferred sentences. These conditions include tuberculosis, AIDS, suicidal behavior, among other conditions. Initially, prisoners that are not accepted in Renton will be booked awaiting trial into the KCCF. Working with the police and/or the court to learn what medical conditions an inmate has before they arrive for detention will ensure that the services needed for the inmate can be matched with the appropriate provider. In the near-term, cities will work with the courts to develop more cost effective and sustainable alternatives to secure detention for people with unacceptable medical conditions. Prisoners sentenced, as the result of a trial, with unacceptable medical conditions could, for example, be sentenced within existing resources to detention using electronic home monitoring or other alternatives, upon verification of the condition.
- Create a strategy to manage our risk for urgent medical care. There are a number of ways this could be accomplished. The City could develop a cooperative "pool" based on a daily surcharge to fund a source of money to pay claims from. The City could work with Yakima for them to manage this risk for us at a greater cost. Either way, historical experiences from other cities providing jail services to misdemeanants suggests that this could be accomplish for \$2-3 per day. The Washington Cities Insurance Authority (WCIA) has expressed interest in working with cities to develop a "pool" that could be backed with adequate reserves to cover any claims.

#### ESTIMATED COST COMPARISON

|                                                    | King County 2002<br>Estimated | King County<br>Proposed                       | Yakima County        |
|----------------------------------------------------|-------------------------------|-----------------------------------------------|----------------------|
| Daily Rate                                         | \$77.71                       | \$83.42 (subject to<br>inflation after 2002)  | \$46.00-\$50.00      |
| Booking Fee                                        | \$159.39                      | \$159.39 (subject to<br>inflation after 2003) | \$0.00               |
| Jail Health (per day)                              | Included                      | Included                                      | \$5 -10              |
| Over 27 day<br>Surcharge (per day)                 | No provision                  | \$39.90                                       | \$0.00               |
| Over 47 day<br>Surcharge (per day)                 | No provision                  | \$76.90                                       | \$0.00               |
| Human Services<br>Incentive surcharge<br>(per day) | No provision                  | \$5.00                                        | \$0.00               |
| 2002 Budget Impact                                 | \$0.00                        | \$415,000 Additional                          | \$380,600 Savings    |
| Total 2002 Budget                                  | \$980,000                     | \$1,565,000                                   | \$599,400 (Top Est.) |

#### Commitment Risk

Yakima County would like Shoreline to commit to a certain number of beds each year for seven to ten years. Based upon this commitment, Yakima intends to finance new facilities to keep pace with the demand for misdemeanor jail services. Having a finite number of beds available could expose the City to a number of risks.

Demand for jail use could increase, resulting in no guarantee of jail space, as it exceeds our commitment. This could happen over the course of a year, or the course of a week, depending upon the circumstances. Demand for jail services could decrease, resulting in excess jail capacity that we are obligated to pay for. To manage these risks, a cooperative agreement with other cities will work to "share" capacity among cities to ensure there is adequate space. This is something that will be resolved in the weeks ahead, but the City could develop contract language with Yakima to accommodate this "sharing" in the future, but still be able to accommodate our immediate needs.

#### Legislative/Judicial Risk

There is a very remote risk that two conflicting sections of state law may result in the loss of ability to send prisoners outside of King county... A legislative strategy is being prepared to resolve this. King County has expressed no desire to challenge this effort, and in fact may endorse it along with cities and other counties. Obviously Yakima County, as a service provider, and others will support it.

#### Summary

While there are a number of issues that still need to be addressed to realize the greatest savings possible for jail services, these issues have been identified and a process has been established to resolve them. These include:

- Developing an interlocal agreement with Yakima County to provide jail services, accommodate transport to and from a booking site, ensure basic medical care, provide for timely billing and payment and rate setting, ensuring adequate indemnification of the jail operation, providing for in-custody hearings and protocols for prisoner care. This agreement has been drafted and is being reviewed by other cities at this time.
- Developing an interlocal agreement with Renton (and perhaps other cities) to book, classify and screen prisoners awaiting transport, providing for in-custody hearings, providing for timely billing, payment and rate setting and, if possible, providing alternatives to secure detention as approved by the courts. This agreement has been drafted and is being reviewed by other cities at this time.
- Developing a risk pool, either with the Washington Cities Insurance Authority, City of Renton or Yakima County, to manage the risk for routine medications and emergency medical care needs.
- Developing contracts or interlocal agreements to facilitate in-custody hearings and visitation using video and/or audio conferencing, and developing jail use tracking systems.
- Developing protocols to provide alternative detention for prisoners who are not accepted for secure detention, but require alternative arrangements (such as mental health evaluations, communicable disease control, terminal medical sentence deferral, etc.), within existing resources.
- Working with other cities to develop a long-range plan for regional misdemeanor jails to gain economies of scale, reduce exposure to risk, develop a method to control costs within the ability of agencies to pay for the services, and provide for the timely processing of prisoners to appear before the court.

Staff sees no reason that would prevent the City from beginning to send sentenced prisoners to Yakima County immediately after the medical coverage issue is resolved. Shortly after video conferencing is available in local courts and accessible to defense counsel and a few logistical issues are resolved, prisoners awaiting trial could also be sent to Yakima for detention. Developing a strategy for providing misdemeanor jail facilities beyond the immediate 7-10 years would follow.

Many cities are already using Yakima County or considering this option. Renton, Federal Way, and Des Moines are already sending prisoners to Yakima. Burien and Mercer Island decided in December to start using Yakima. Bellevue and Seattle are currently considering this option. No city has experienced any problems with using Yakima to date.

### **RECOMMENDATION**

Staff is also seeking consensus support for developing an exit strategy with King County for jail services. Staff recommends that Council authorize the City Manager to enter into agreements as articulated in the "Summary" section above to take advantage of jail service cost savings with alternate service providers.