



**OKANOGAN COUNTY
OFFICE OF PLANNING AND DEVELOPMENT**

123 - 5th Ave. N. Suite 130 - Okanogan, WA 98840
(509) 422-7160 • FAX: (509) 422-7349 • TTY/Voice Use 800-833-6388
email: planning@co.okanogan.wa.us

Memorandum

Date: October 26, 2015

To: Okanogan Board of County Commissioners

From: Perry D. Huston, Administrative Officer

Topic: Framework for fiscal analysis of operating an in-county juvenile detention facility versus leasing out-of-county detention space.

Background: The BOCC initiated a discussion regarding a cost-benefits analysis comparing the operation of an in-county detention (ICD) facility versus utilizing an out-of-county detention (OCD) facility from which necessary bed space would be leased. The author was directed to create a paper outlining key areas of analysis to guide the BOCC discussion. This memorandum provides information regarding the major areas which should be considered as the BOCC moves ahead in the task of framing the specific questions to be posed when the cost-benefits analysis is conducted.

Structure:

This memorandum discusses four separate areas that would comprise the cost – benefits analysis. The four areas are:

- 1) Authority
- 2) Capital facility cost Operations/Maintenance/Upgrades
- 3) Personnel Cost Separation of detention staff versus other programs
- 4) Collateral impacts Impact to other agencies/community

By framing questions in each of the four areas and then conducting the necessary analysis the Commissioner will best position themselves to make an informed decision.

Authority:

The Revised Code of Washington (RCW) Title 13 contains most of the regulation regarding juvenile courts, probation services, and detention facilities along with other programs mandated by the state for juvenile offenders.

Relevant to this discussion the following RCW assigns the responsibility of juvenile services to Superior Court. The statutes do allow for the responsibility of administering juvenile services to be assumed by the county legislative authority.

RCW 13.04.035**Administrator of juvenile court, probation counselor, and detention services — Appointment.**

Juvenile court shall be administered by the superior court, except that by local court rule and agreement with the legislative authority of the county this service may be administered by the legislative authority of the county. Juvenile probation counselor and detention services shall be administered by the superior court, except that (1) by local court rule and agreement with the county legislative authority, these services may be administered by the county legislative authority; (2) if a consortium of three or more counties, located east of the Cascade mountains and whose combined population exceeds five hundred thirty thousand, jointly operates a juvenile correctional facility, the county legislative authorities may prescribe for alternative administration of the juvenile correctional facility by ordinance; and (3) in any county with a population of one million or more, probation and detention services shall be administered in accordance with chapter [13.20](#) RCW. The administrative body shall appoint an administrator of juvenile court, probation counselor, and detention services who shall be responsible for day-to-day administration of such services, and who may also serve in the capacity of a probation counselor. One person may, pursuant to the agreement of more than one administrative body, serve as administrator of more than one juvenile court

In terms of the specific issue of juvenile detention the RCW mandates that the counties are responsible for providing juvenile detention facilities which must be separate from adult detention facilities.

RCW 13.16.030**Mandatory function of counties.**

The construction, acquisition and maintenance of juvenile detention facilities for dependent, wayward and delinquent children, separate and apart from the detention facilities for adults, is hereby declared to be a mandatory function of the several counties of the state

The RCW also directs that a variety of programs be provided to juveniles while in detention such as continued education and counseling.

The RCW assigns to the County Commissioners the responsibility and authority to appropriate funds to acquire appropriate facilities and staff to meet the demands of juvenile detention.

RCW 13.16.040

Counties authorized to acquire facilities and employ adequate staffs.

Boards of county commissioners in the various counties now suffering from a lack of adequate detention facilities for dependent, delinquent and wayward children shall, in the manner provided by law, declare an emergency and appropriate, in the manner provided by law, sufficient funds to meet all demands for adequate care of dependent, delinquent and wayward children. All appropriations made under the provisions of RCW 13.16.020 through 13.16.080 are to be used exclusively for the acquisition, purchase, construction or leasing of real and personal property and the employment and payment of salaries for an adequate staff of juvenile officers and necessary clerical staff and assistants and for furnishing suitable food, clothing and recreational facilities for dependent, delinquent and wayward children

The RCW provides authority to the County Commissioners to consider options such as leasing to acquire adequate facilities for juvenile detention as well as employing a house or room of detention.

RCW 13.04.135

Establishment of house or room of detention.

Counties containing more than fifty thousand inhabitants shall, and counties containing a lesser number of inhabitants may, provide and maintain at public expense, a detention room or house of detention, separated or removed from any jail, or police station, to be in charge of a matron, or other person of good character, wherein all children within the provisions of this chapter shall, when necessary, be sheltered.

The BOCC is charged with the sole authority for the adoption of the county budget.

RCW 36.40.080

Final budget to be fixed.

Upon the conclusion of the budget hearing the county legislative authority shall fix and determine each item of the budget separately and shall by resolution adopt the budget as so finally determined and enter the same in detail in the official minutes of the board, a copy of which budget shall be forwarded to the state auditor.

The issue has been litigated. Chief Civil Deputy Prosecutor Lin has provided the following citation.

City of East Wenatchee v. Douglas County, 156 Wn.App. 523 (2010). Here, the Court of Appeals, held that **county** provided designated **juvenile detention facility** for city detain **juveniles** and thus was not required to pay for costs of detaining them at neighboring **county facility**, even though designated **facility** was 158 miles from city.

*524 ¶ 1 Douglas County refused to pay for the city of East Wenatchee's juvenile detention costs at the nearby Chelan County facility. Douglas County required East Wenatchee to place juveniles at Douglas County's contracted facility, Martin Hall, in Medical Lake, Washington. East Wenatchee brought suit against Douglas County, seeking a declaratory judgment that Douglas County was financially responsible for temporary housing of juveniles arrested within East Wenatchee's city limits at the Chelan County facility, or that Douglas County was financially responsible for East Wenatchee's transportation costs to take juveniles to Martin Hall. Martin Hall is 158 miles from East Wenatchee. We conclude that the trial court properly granted summary judgment to Douglas County. Douglas County's contract with Martin Hall as a juvenile facility complies with RCW 13.16.030 requiring Douglas County to maintain a juvenile facility. Therefore, we affirm the summary judgment

Discussion:

The provision of juvenile services is the responsibility of the Superior Court and may be the responsibility of the County Legislative Authority (BOCC). The responsibility for acquiring detention facilities is the responsibility of the BOCC. The adoption of the county budget is the responsibility of the BOCC. The preceding statement provides a very general overview of the responsibilities and authorities relevant to this discussion and the subsequent analysis it guides. As discussed above in creating a template for a cost/benefits analysis the following areas should be considered.

Capital Facility

An ICD program is obviously reliant on an in-county facility. The current facility is owned and operated by Okanogan County. To allow an effective comparison of an in-county detention program versus an out-of-county detention program the operating and maintenance costs of the existing facility in addition to the age and condition of the facility must be considered. Operating/maintenance costs are annual budget items and available for analysis. Maintenance costs should include a projection of any major repair proposals that are believed necessary over the next five years. In addition the maintenance costs should include an estimate of the remaining operating life of the facility and an estimate of the renovation necessary to extend the operating life through a 20 year period.

While an OCD program would incur no direct capital facility expenses it is still an area to consider. Bed rates are based on the expenses of providing the service. It is unlikely the bed rate is subsidized by the owner/operator of the facility. Before choosing an OCD facility the condition of the facility and any projected renovation costs should be considered as this will likely impact future bed rates. The term of the lease agreement, any provisions for bed rate adjustment based on increased operating expense, and any responsibility for cost-sharing for major renovation must be considered in the cost-benefit analysis for an ICD versus OCD facility.

The condition of the OCD facility can impact the reliability and effectiveness of the programs they offer. Any history of equipment and facility breakdown should be considered. By way of example electronic visitation is a viable option but only if the equipment is feasible, reliable, and proper staffing levels routinely exist.

Personnel Cost

To properly compare the cost of ICD versus OCD juvenile detention facility you must isolate the personnel costs that are dedicated exclusively to the cost of incarceration. Juvenile detention/correction officers, food and hygiene, and facility administration are examples of these costs. Where these costs are shared by other agencies the actual cost to the county must be isolated.

Other programs are provided to juveniles while in detention. Programs which are mandated must be separated from those which are discretionary and then further separated in terms of those provided only to juveniles while in detention versus to all juvenile offenders in the community. The FTE's assigned to these programs must be isolated before true costs can be assessed.

When considering an OCD facility the cost of leasing bed space must take into account the daily rate of incarceration including any minimum lease payments and any additional charges for programs. If the daily rate is all-inclusive than an evaluation of the program support offered to the juvenile detainees must be considered and compared to ICD programs as described above.

Just as the condition and reliability of the structure must be considered the quality and reliability of the OCD programs must be considered such as the point regarding visitation mentioned above. A clear and accurate statement of program delivery in the ICD facility, including quality and reliability must be created as noted above. This can then be compared to a similar statement provided by an OCD facility.

Collateral Impacts

An ICD versus OCD facility can impact the activities of other law enforcement agencies in two key areas:

- 1) Non-county agencies that use the ICD facility.
- 2) County Sheriff's Office juvenile detainee processing.

In the event the Commissioners choose to use an OCD facility the other law enforcement agencies that use the ICD facility will be impacted. Their cost sharing, if any, of the ICD facility will need to be compared to the rate for an OCD facility assuming the rate for an OCD facility will be passed on directly. If the County lease for an OCD facility includes payment for a guaranteed minimum space than it will need to be determined if the other agencies will share proportionately in that expense. If interlocal agreements are in place they must be reviewed for term and the process for amendment or termination

The time period involved from the point an Okanogan Sheriff Deputy detains a juvenile until the juvenile is released to detention staff must be considered. When using an ICD facility the officer will detain and then process the juvenile (interviews, etc.) before releasing the juvenile to detention staff. When using an OCD facility

there will be, in addition to processing time, the time necessary for OCD staff to travel to the county to pick-up the juvenile or, if this isn't a service provided, the time for the local officer to transport the juvenile to the OCD, including return time. In the case of an OCD part of the processing time may be concurrent with travel time if the OCD provides transport service.

When using an OCD that offers transport service it may be possible to reduce the amount of time uniformed law enforcement personnel watch juvenile detainees before release to detention staff by using a temporary detention program. The cost of such a program must be included in the expenses associated with the use of an OCD. In assessing the cost of a temporary detention program it must be determined if new personnel would be required or if the program would be an additional duty of existing personnel. An appropriate level of training for temporary detention personnel must occur and an adequate detention area identified or created to comply with statute and mitigate potential liability to the county.

Juveniles in detention are transported for other reasons such as court appearances, medical appointments, etc. The cost of this activity must be included for both an ICD and OCD facility.

There are potential impacts to other than law enforcement agencies. In using an OCD local attorneys and public defenders that represent juveniles would be required to travel out-of-county or equip themselves to utilize some method of electronic conferencing. In the case of public defenders any additional cost that would impact the county's expense for providing indigent defense should be considered.

The families of juvenile detainees may be impacted by use of an OCD facility. Visitation other than electronic conferencing will require travel and delivery of any supplies, if allowed, would require traveling. To properly assess the level of impact in this area an accurate assessment of how much interaction between juvenile detainees in an ICD and family members takes place. Assuming interaction does take place and assuming the interaction is positive the added to expense to families with juveniles in an OCD and the potential loss of contact with the juvenile should be considered.

Summary:

To conduct an effective cost-benefits analysis it is recommended that the Commissioners identify items they believe are important considerations and frame relevant questions that are consistent with the structure contained in this memorandum. It is important that the same questions be answered in terms of an ICD versus OCD facility.

After review of this memorandum the Commissioners should engage with staff to identify issues and generate a list of questions regarding OCD versus ICD facilities. Once created the questions should be posed to staff responsible for the ICD facility and likewise posed to any OCD facilities to be considered.