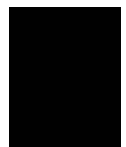


Community Facilities for Juvenile Offenders in Washington State

ADDENDUM

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***Washington State
Institute for
Public Policy***

**COMMUNITY FACILITIES FOR JUVENILE OFFENDERS
IN WASHINGTON STATE
ADDENDUM**

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EXECUTIVE SUMMARY

This addendum to the Institute's 1998 report, *Community Facilities for Juvenile Offenders in Washington State*, discusses barriers faced by court and agency personnel in assessing the risk of juvenile offenders prior to sentencing. Based on interviews, the document covers the procedural and financial obstacles to sharing information about juvenile offenders. The key findings are:

- Risk assessment for sentencing purposes is a decentralized process, conducted primarily by juvenile court employees.
- No jurisdiction appears to be using subpoenas for first-time offenders as required by recent amendments to 13.40 RCW.
- Great variability is reported in the level of cooperation and quality of information received from schools and law enforcement. The JRA must continue to work with the Superintendent of Public Instruction, local school districts, and sheriffs and police chiefs to devise ways to share information that minimize concerns about confidentiality and maximize the benefits of knowing a juvenile offender's full history.

I. INTRODUCTION

E2SSB 6445, Section 17(1) requires that “. . . a special study of the contracts, operations, and monitoring of community residential facilities that house juvenile offenders. . .” be conducted. Section 17 (3)(b) contains the following language:

- (b) *Offender intake and assessment procedures:*
- (i) *Identify procedural and financial barriers to sharing information about juvenile offenders in community residential facilities between the juvenile rehabilitation administration, schools, courts, law enforcement, other department of social and health services' programs including the division of children and family services and the division of alcohol and substance abuse, and the public.*
 - (ii) *What authority does the state have to remove the barriers?*
 - (iii) *Identify what entity is responsible for collecting risk assessment data. Describe the process and if it varies in different counties.*
 - (iv) *What types and sources of data are being collected inconsistently?*
 - (v) *What types and sources of data are being used inconsistently in performing risk assessments?*
 - (vi) *What safeguards exist to ensure that assessments are being made with complete information?*

The December 1998 report, *Community Facilities for Juvenile Offenders in Washington State*, discussed these matters relative to the Community Risk Assessment instrument used by the Juvenile Rehabilitation Administration (JRA) to assess the risk of juvenile offenders in community facilities (see Section V, “Offender Intake and Assessment”).

Before a juvenile is placed in a community facility, he or she is also assessed by another instrument, the Initial Security Classification Assessment (ISCA). This addendum discusses these matters relative to the ISCA.

II. THE INITIAL SECURITY CLASSIFICATION ASSESSMENT

The Initial Security Classification Assessment is conducted prior to the imposition of a juvenile offender's sentence. Before September 1, 1998, a juvenile offender could be placed directly in a community residential facility without first serving time in a JRA institution. Hence, in the past, the ISCA was sometimes the only risk assessment before placement of an offender in a community facility. By amendment to 72.05 RCW, these direct commitments can no longer occur. Now, an offender “must spend at least ten percent of his or her sentence, but in no event less than thirty days, in a secure institution” before being placed in a community facility.¹

As a result of this statutory change, the ISCA is no longer the only risk assessment of a juvenile offender prior to placement in a community facility. Now, an offender must have both an ISCA assessment and at least two Community Risk Assessments (CRAs) prior to community placement. Other language added to 72.05 RCW by the 1998 Legislature requires that certain documentation (notably school records) be received and reviewed prior to community placement. The bottom line of these changes is that there is now more time, more information, and more occasions when risk is assessed, in the risk assessment process. All these changes should increase public safety.

¹ E2SSB 6445, Section 10.

The Initial Security Classification Assessment instrument has two measures: risk level and offense seriousness level. Risk level is assessed against ten criteria:

ISCA Criteria for Risk Assessment

- Prior assaultive behavior
- Impulsive/hostile response to frustration
- Age at first adjudication
- Chemical/alcohol use
- Problem solving skills
- Peer relationships
- Prior adjudications
- Compliance with facility regulations
- History of escapes
- Prior commitments

Offense seriousness is measured by the length of the maximum sentence and the offense for which the person is being admitted. (A copy of the Initial Security Classification Assessment instrument is included as an appendix to this report. It includes the point scale used for each criterion.)

The ISCA has been the subject of study by the Washington State Institute for Public Policy. Their September 1998 report, *Juvenile Rehabilitation Administration Assessments: Validity Review and Recommendations*, concluded that "The ISCA is a valid predictor of 18-month felony recidivism that would be modestly improved by including gender, age at admission, and sex offense history in the classification scheme." The Institute further found that ". . .the predictive capability of the ISCA is typical of that found in the research literature."²

III. HOW ARE RISK ASSESSMENT DATA COLLECTED AND WHO DOES IT?

The collection of risk assessment data is decentralized. Currently, data are collected by either JRA staff or employees of the juvenile court in each county. It is expected that after March 1, 1999, all data collection and assessment will be done by employees of the juvenile court.

The ISCA process was reviewed in four counties for this report: two in Eastern Washington (Chelan and Benton/Franklin) and two in Western Washington (King and Pierce). The review was done by telephone.

In jurisdictions where the ISCA is prepared by county staff, completion of the ISCA is generally part of a larger diagnostic process conducted for the court. In these jurisdictions, while the ISCA may not be completed until after disposition, it is integrated with other diagnostics that occur prior to sentencing. In the one jurisdiction we reviewed where the ISCA is prepared by JRA staff (on contract to the county), the ISCA is started when the court packet is completed and sent to the person doing the review. This does not occur until after disposition.

In jurisdictions where the ISCA is part of a larger diagnostic process, staff found it difficult to estimate how much time is necessary for the assessment. In the one jurisdiction where the

² Barnoski, Robert, *Juvenile Rehabilitation Administration Assessments: Validity Review and Recommendations*, Olympia, WA: Washington State Institute for Public Policy, September 1998, page 4.

ISCA is done as a stand-alone activity, the person responsible for the assessment reports that it takes about a day to do a thorough review.

The sources of information used in the ISCA, and the means by which information is obtained, depend on the question. Some factors are objective and easily evaluated. Other factors are sometimes objective and easy to evaluate, and sometimes not. Assessing for drug or alcohol use involves application of commonly recognized screening instruments. Other factors require information from third parties or from other written records.

All of the assessors we interviewed clearly put a lot of effort into the evaluation of these offenders. Legal files are reviewed; interviews are conducted with the offender, parents, detention workers, and others; information and records from schools and law enforcement are requested and reviewed; special tests and screening instruments are administered. As noted above, a full review takes many hours—sometimes days.

Objective factors, easily evaluated: Those factors which are directly related to an offender's official legal history (age at first adjudication, prior adjudications, prior commitments, length of sentence, offense seriousness) are entirely objective. Reliable information about these matters is easily obtained from court records. There is no ambiguity or difficulty in scoring these factors.

Factors that are sometimes objective and easy to evaluate: Other factors can sometimes be scored based entirely on official legal records. For example, if a youth has been charged or convicted of assault or escape, the youth will receive maximum points for prior assaultive behavior or history of escapes. However, it was recognized by all of the assessors we interviewed that behavior that does not result in charges or conviction can also result in points being assigned in either of these categories. In other words, easily available legal records may be used to document the presence of unacceptable behavior, but the absence of such documentation is an insufficient basis upon which to conclude the opposite. When review of the legal records fails to produce evidence of assaultive behavior or escape, other sources of information are consulted. Those are discussed further below.

Assessing for drug or alcohol use: According to the written guidelines for the ISCA, evidence of chemical or alcohol use must come from an independent assessment or from use of a recognized substance abuse screening instrument (e.g. the Personal Experience Screening Questionnaire (PESQ)). All assessors reported that they use the PESQ or similar instrument if there has not been an independent assessment. Most assessors also reported that they will give an offender points based on reports by others (e.g. parents), even if the PESQ or other information does not indicate the youth has this problem.

Factors requiring information from third parties or other sources: Assessing for compliance with facility regulation, looking for assaultive behavior or escapes not documented in legal files, and assessing for impulsiveness/hostile response to frustration, problem solving skills, and peer relationships, all require information from third parties or other sources.

Compliance with facility regulations is interpreted to mean compliance with regulations while in juvenile detention. The assessors we talked with each stated that they discussed the behavior of the youth while in detention with detention officers and/or detention supervisors. None of the people we talked with thought there was any ambiguity or difficulty in scoring this factor.

Assaultive behavior that is not documented in legal records may occur anywhere. It was reported that school fighting or bullying, fighting or aggression in detention, or reports of assaultive behavior from parents or others may also result in points being assigned for prior assaultive behavior. All assessors reported that they have been using school and law enforcement contact verification forms since early 1998 to document that information from these sources has been requested. Sometimes information is not received from these sources until after a youth has been sentenced and transferred to JRA. It was reported that, under such circumstances, the ISCA is completed without this information and that late arriving materials are then forwarded to JRA. None of the jurisdictions appear to be using subpoenas to obtain school records.

Reports of absconding from any court-ordered placement, including non-secure confinement, may also result in points being assigned for history of escape. Knowledge that a placement was ordered by the court is, of course, contained in the court record. The assessor may determine this by reading the record, and/or by interviewing the youth, parents, and others. Information about escapes from court-ordered placements may also come from various sources. Escape history may be reported by the offender or others, or (for example) if a youth was ordered to live in a group home, the assessor might call the group home to determine if the youth ever left without authorization.

As one assessor put it, with regard to peer relationships, almost none of the offenders they review has “adequate support and influence” from peers. It is a rare offender who scores no points for this factor. This factor is scored based on interviews with the offender and others.

While the validation study of the ISCA by the Washington State Institute for Public Policy found these factors to have statistically significant correlation with recidivism, impulsive/hostile response to frustration and problem solving skills were reported by screeners to be the most difficult criteria to measure in the ISCA.³ Some jurisdictions have more elaborate diagnostic screenings than others. Those that conduct mental health and other screenings may use information from these other instruments to inform their scoring of these factors. All of the assessors we talked with also use interviews with the offender and others to help score these factors. Sometimes school or law enforcement reports may also provide relevant information.

Offense Seriousness: Offense seriousness is measured by the length of the offender’s sentence and the seriousness of the current offense. While both of these criteria are entirely objective and easily scored, recent changes in statute have invalidated this portion of the screening instrument. On July 1, 1998, the minimum sentence to JRA was increased to 36 weeks. On the ISCA form, any offender sentence to more than 28 weeks automatically receives the maximum score for offense seriousness based on sentence length. Consequently, it is now impossible for any offender to score less than moderate risk for offense seriousness.

Recent changes in statute have also eliminated the terminology that categorizes some offenses as “serious.” However, the ISCA instructions provide that an offender receive points for the seriousness of the current offense if the offense is classified as serious *or* if victim notification is required. Since all offenses formerly classified as serious require victim notification, the elimination of this terminology has no practical consequence for the ISCA. It does, however, make the language on the form inconsistent with current law.

³ Barnoski, p. 15.

IV. WHAT TYPES OF INFORMATION ARE BEING COLLECTED OR USED INCONSISTENTLY?

A common theme in discussions with staff who conduct these assessments is that “everyone does it a little bit different.” This appears to be true within larger counties where more than one person does the assessments. It is certainly true when one county is compared to another. While it is clear that various methods are used, it is not clear that different results are obtained. However, it is likely that obtaining different results occurs more often when factors are interpreted differently than when methods to obtain and review information differ.

Several areas of inconsistency were clearly apparent from the interviews we conducted. This was especially true for screening for use of drugs and alcohol and for definitions of what constitutes an escape.

The assessment of chemical or alcohol use is one area where there are different interpretations. There appear to be basically two camps relative to this factor: those who “do it by the book,” and those who choose to ignore what they think are flawed instructions. The written instructions for completing the ISCA require that a positive finding for drug or alcohol use be based solely on a third party assessment or the results of a recognized screening instrument. It appears that a diminishing minority of screeners “do it by the book.” Others believe that some offenders can pass the drug and alcohol screening and still have a problem. For example, if the youth has been intoxicated or high when brought into detention, or if the parents or others report abuse, they believe that a problem exists and that the youth should be scored accordingly—regardless of what the screening instrument says. Most screeners reportedly give points to the offender under these circumstances. One screener who used to “do it by the book” said that she attended a regional meeting where she was told that screeners should use other sources of information to assess this factor as well. She now is following what she considers to be amended instructions, but says that no written guidelines have been issued.

Another factor where there is disagreement or confusion is the definition of escape. It appears that some screeners give points for absconding from electronic monitoring and some do not. Some screeners will give points for violation of court-ordered curfew. Others will if the curfew violations have been egregious. Still others do not consider violation of curfew to be an “escape.”

The more subjective criteria in the ISCA, impulsive/hostile response to frustration and problem solving skills, probably have the most variation in interpretation—however, the extent of the variation is difficult to measure.

Availability and use of school and law enforcement information: Great variability was reported in the level of cooperation and quality of information received from schools and law enforcement. It is believed that all jurisdictions are using contact verification forms to document requests for and/or receipt of information from these sources. However, no jurisdiction appears to be using subpoenas for first time offenders as required by recent amendment to 13.40 RCW.

The level of cooperation by schools and law enforcement appears to be related to the ability of screeners to establish good working relationships with specific school and law enforcement personnel. It was commonly reported that, if the screener can call someone they know in a school or police department, information is generally supplied quickly. If the offender is from a

school or area under a law enforcement agency with which a consistent working relationship has not been established, getting information is very difficult. Getting timely information from non-regular sources is even more difficult. Some jurisdictions report better success in getting information from law enforcement and greater difficulty getting information from schools. Others report just the opposite.

The quality and content of information obtained from schools and law enforcement also varies. While the minimum content of school information is spelled out in amendment to 72.05 RCW, it was reported that schools are only gradually beginning to understand what is required of them. Some schools simply send grade reports and attendance records. Many law enforcement agencies only report official information that is already available to the screeners.

It is reported that many school officials and law enforcement personnel continue to have reservations about sharing information about juvenile offenders. Some of these concerns are practical—such as the effort required to produce the information, the quality of written records, or finding out who is knowledgeable about a particular youth in a large school district or law enforcement jurisdiction. Liability concerns are also common. For example, there are concerns about the release of information that may be protected by confidentiality restrictions. In addition, there are concerns about using “unofficial” information for decisions that may affect liberty interests.

One person we interviewed expressed the opinion that some schools—because of concerns about how information may be used—may actually be documenting fewer problem behaviors now than they were before the law was changed.

Inconsistency caused by use of temporary or untrained screeners: It is not uncommon in smaller jurisdictions to have one person do all of the diagnostics and screening of juvenile offenders. Even quite large jurisdictions may have only a few people who are experienced at this type of work. When qualified backup personnel are not available, if the screener is gone, either the work does not get done or someone else does the job. For example, one screener reported that when she is gone, ISCA's are completed by probation officers. She noted that, when probation officers fill in for her, they do not generally take as long to complete the assessment. She believes that there is a qualitative difference between the review she does and those done by others less committed to the process.

This problem is clearly exacerbated by the lack of training materials, clear definitions, and an up-to-date user manual.

V. WHAT SAFEGUARDS EXIST?

Important safeguards have been added by the legislature and implemented by JRA. First, by doing away with direct commitments to community facilities and requiring that all juveniles spend at least some time in a JRA institution prior to community placement, more time is available to collect information from other sources and to observe the behavior of the youth while in detention. Second, by requiring that information from school records be obtained and reviewed prior to community placement, more sources of information are reviewed. Concerns about school and law enforcement cooperation and timeliness notwithstanding, while many jurisdictions have been doing competent and professional reviews for many years, these new

requirements have raised the bar for minimum standards and help to improve the integrity and quality of the process.

As noted above, the assessment process is highly decentralized. There are advantages and disadvantages to this approach. For the most part, having the assessment take place in the county where the youth is being adjudicated places the assessor in close proximity to those who know the youth best. This is particularly effective in small and mid-sized counties where knowledge about youths in trouble is easily and widely shared. The advantages of decentralization may be less in our largest counties where numbers alone require a more bureaucratized approach. Potential disadvantages of decentralization include inconsistency and greater difficulty in ensuring quality control.

JRA is attempting to address the issues of inconsistency and quality control through at least two mechanisms. First, a training program is being planned in the use of the ISCA, and a new manual is reportedly being developed. Second, as responsibility for completion of the ISCA is fully turned over to the local jurisdictions, JRA plans to place a quality assurance person in each region to oversee the process.

It is also possible that the community placement oversight committees mandated by E2SSB 6445 could play a role in safeguarding the assessment process. Such a role would be a natural part of the oversight responsibilities under the Quality Assurance Model proposed in Section VII of *Community Facilities for Juvenile Offenders in Washington State* (see page 53).

VI. BARRIERS TO SHARING INFORMATION

Barriers to sharing information include legal issues (notably issues of confidentiality), liability concerns, practical matters relating to the timely availability of information, and concerns of the provider community. These issues are discussed in Section VII: Offender Placement: Community Notification and Participation of *Community Facilities for Juvenile Offenders in Washington State*.

VII. RECOMMENDATIONS

It appears that all of our recommendations for improving the Initial Security Classification Assessment process are currently being implemented by JRA. However, since none of these steps has been completed, the quality of the implementation cannot be assessed. Our recommendations are as follows:

1. **The ISCA form should be modified** to include the recommendations contained in the validation study conducted by the Washington State Institute for Public Policy. Changes should also be made to make the criteria in the offense seriousness section of the ISCA consistent with current state law.
2. **Training materials and courses should be developed.** Training should be conducted for existing and new screeners when responsibility for completing the ISCA is transferred to the counties. Periodic retraining, and training of new screeners, should take place at regularly scheduled intervals.

3. **A new user manual should be developed.** The manual should include a clear set of definitions and instructions. A mechanism should be established to review and update the user manual on a regular basis.
4. **Steps to improve interagency sharing of information should continue.** JRA should continue to work with the Superintendent of Public Instruction, local school districts, and with sheriffs and police chiefs to devise ways of sharing information that minimize concerns and maximize the benefits of shared information.

APPENDIX

THE INITIAL SECURITY CLASSIFICATION ASSESSMENT FORM