

King County Prosecuting Attorney

Family Intervention and Restorative Services Project Report

As Requested By:
Ordinance 18766, Section P2

Daniel T. Satterberg, King County Prosecuting Attorney

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Overview of the proviso requirements

The Prosecuting Attorney's Office (PAO) shall convene a workgroup that includes representatives from the Superior Court, Department of Judicial Administration (DJA), Department of Adult and Juvenile Detention (DAJD), Department of Public Defense (DPD), Office of Performance, Strategy, and Budget (PSB) to develop recommendations on what types of offenses could potentially be made eligible for diversion to the Family Intervention and Restorative Services (FIRS) model.

Below is a summary of the components for the FIRS report:

- Data review of historical and current patterns of juvenile arrests that result in detention by offense category. This review should include the resolution of arrests to identify whether there was ultimately an adjudication and whether the adjudication resulted in a state or local sanction.
- Data review of the youth who were not adjudicated or were adjudicated with local sanctions and determination if any could have benefitted from diversion to services using the FIRS model.
- Recommendations on what types of offenses could be eligible based on the data review. The recommendation(s) should include a determination if state statutes would allow for the diversion and the number of youth that might be diverted if resources were available to provide the services.

Family Intervention and Restorative Services (FIRS) model

The FIRS program was specifically created to address the unique challenges of adolescent family violence, provide an alternative to formal court involvement, and create an alternative to secure detention. The goals are to decrease violence in the home, prevent further police contact, and improve family relationships. Improved outcomes are achieved by avoiding contact with secure detention, eliminating any formal court record of the incident, and immediately providing access to interventions for the youthful offender and the victim family member. A driving motivation for developing a FIRS model was to create an alternative response to intra-family violence that actually met the needs of these specific victims. Prior to the creation of the FIRS program, families dealing with adolescent violence rarely assisted with the formal court process, because the price for help was too high: a criminal record for their child. Even in the instances where charges were filed into Juvenile Court, most resulted in dismissals or other diversions, and services were often not provided until long after the incident, or not provided at all. In 2013, only 18 of the over 500 juvenile domestic violence referrals resulted in families receiving an evidence-based intervention.

Phase I of FIRS launched in January 2016 and Phase 2 launched on July 1, 2016 when the respite center opened. The FIRS model has two key components:

- Pre-filing diversion with therapeutic interventions
- Alternative to secure detention

To date, FIRS has served over 800 youth and families. In 2017, 79% of youth arrested for a family violence incident avoided secure detention due to the FIRS respite center. Over 400 youth have been diverted

from secure detention since.¹ The FIRS respite center utilizes a decommissioned pod in the current juvenile detention facility with a seven bed capacity. The average daily population of the respite center is approximately 3.5 youth per day. There have been several instances when the facility has operated at full capacity and at least two instances where youth had to be booked into detention as a result. Due to permitting restrictions expansion of the seven bed facility is not currently feasible, absent considerable capital investment in a facility slated for replacement in 2019.

Key Findings of FIRS:

- FIRS maintains a remarkably equitable rate of engagement with youth and families across all reported races/ethnicities.
- In 2017, referrals for domestic violence cases jumped 25%, yet there was only a 2% increase in the number of charges filed into Juvenile Court.
- Of the youth referred to the FIRS program, those who entered into a FIRS agreement were 45% less likely to have a follow-up law enforcement referral (of any type) within 12 months.
- The average daily population of the FIRS respite center reaches a high of 5.5 youth in the late summer when school begins for most children.
- The average length of stay for youth who are placed in the FIRS respite center is approximately 4 days.

Workgroup

The PAO convened a workgroup consisting of representatives from Superior Court, DAJD, DPD, and PSB. The workgroup met on August 13, 2018 after receiving a copy of the specific language of the proviso and the preliminary data. The PAO followed up with workgroup members as needed in order to gather additional input.

Data Review

The following section provides information on juvenile arrest and booking data from 2016 and 2017.² This data was further analyzed to ascertain which bookings resulted in a subsequent adjudication and whether a state or local sanction was imposed. Based on this information, a review was conducted of those youth who were ultimately not adjudicated, or were adjudicated with local sanctions to determine if any of these youth could have benefited from diversion to services using a FIRS model.

In 2016, there were a total of 1,444 admissions to secure detention, and in 2017 there was a 5.3% reduction to 1,367.³ (See Appendix A). In 2016, there were a total of 615 bookings to juvenile detention where the youth were ultimately not adjudicated, or were adjudicated with local sanctions (See Appendix

¹ This represents unique individuals and does not include youth who come into the FIRS respite center more than once.

² All data in this section was pulled from the Juvenile Information Management System (JIMS).

³ [King County Juvenile Justice Statistics Comparison of 2016 to 2017](#) (2018), Elizabeth Haumann, Office of Performance Strategy and Budget.

B). In 2017, this number was 624. (See Appendix C). The data was further broken down by specific offense and outcomes.

Recommendations

Today, the FIRS respite center is operating at near capacity. Although the average daily population is lower than current capacity, there have already been instances where youth have had to be turned away and booked into secure detention because the center was full. Accordingly, it is not recommended that any expansion of this model be pursued until after transitioning into the new Children and Family Justice Center (CFJC). The current design of the CJFC contemplates two separate 16 bed transition units. It is recommended that the FIRS program continue to be implemented out of one of the two transition units.

RCW 13.40.070 governs diversion options in Juvenile Court. Currently, the only restrictions on the prosecutor's ability to divert a case from formal court processing is when a respondent is accused of a sex offense or violent offense as defined by RCW 9.94A.030, with the exception of Assault in the Second Degree and Robbery in the Second Degree, or an alleged offender has been referred by a diversion unit for prosecution or desires prosecution instead of diversion. When applying these parameters to the data compiled for this report, the vast majority of the cases where the youth were ultimately not adjudicated, or were adjudicated with local sanctions could be eligible for diversion based solely on the nature of the alleged offense.

Assuming an increase in capacity of a respite facility, the question of whether there are other types of offenses that could be eligible for diversion to the FIRS model is asked to be addressed. Although statutorily eligible for diversion, it is not recommended at this time that pre-filing diversion be implemented for this category of cases where the youth were ultimately not adjudicated, or were adjudicated with local sanctions. First, other offenses not involving intra-familial victims may not be appropriate for a FIRS model approach. The FIRS model of a pre-charging diversion coupled with an alternative to secure detention works in the unique circumstances of inter-familial violence because we already know in almost all cases what the victims of this category of offenses seek. We know they typically choose not to engage with the traditional court process, yet still want short term relief from the violence and assistance with services and intervention. The FIRS model was designed specifically to deal with this need. Unfortunately, we cannot reasonably draw this conclusion in matters where victims are not related to the youth who has caused harm in the community. Additionally, Washington State law requires that the juvenile justice system provide opportunities for victim participation, including court hearings, and that Article I, Section 35 of the Washington State Constitution (The Victim's Bill of Rights) is fully observed.⁴ As such, it is inadvisable to recommend a FIRS-like approach of a pre-filing diversion in non-intra-familial cases, even where a youth has been booked into detention and the matter results in an outcome not involving a state sanction.

⁴ RCW 13.40.010(2)(L).

Second, a review of crime types that are considered “victimless” offenses shows that many of these cases resulted in outcomes that did not even result in an adjudication. For example, in 2016, 16 youth were booked into secure detention on investigation of drug offenses. Of those cases, 12 either resulted in later dismissals or charges were never brought. At first glance, such offenses would seem appropriate to employ a FIRS model given that the cases resulted in little to no benefit as they progressed through the formal court process and that a significant percentage of these cases resulted in charges not being filed at all or a dismissal. A deeper dive into these specific crime-types, however, reveals that a FIRS model approach would not be a good use of resources as the vast majority of these situations involve respondents who were already on supervision through probation and already receiving interventions, or involve respondents who had pending charge(s) already in Juvenile Court. For example, a deeper dive into the 2016 data reveals that nearly every youth who was booked on a drug offense where the case was later dismissed had other pending matters and the dismissal was part of a plea agreement to globally resolve all of the youth’s court cases.

It should be noted that while a FIRS model pre-filing diversion is not recommended at this time, efforts are already under way to provide the type of early intervention sought to be explored by this proviso. On August 13, 2018, Juvenile Court launched a new initiative, the Community Empowered Disposition Alternative and Resolution (CEDAR). CEDAR is an “expedited” track for certain first-time juvenile felony offenders that would allow for early acceptance of responsibility and provide positive incentive to engage in community resources and support. CEDAR is a collaborative process that pulls together juvenile justice resources together to achieve improved outcomes, while lowering rates of racial disproportionality and reducing use of detention. The CEDAR track employs a staffing model soon after a youth is charged with an offense. The prosecutor, defense attorney, and probation counselor meet to discuss and collaborate on a community based intervention plan (within 1 month of charging). If a plan is established, then the PAO offers an accelerated plea to a reduction of the initial charge. At the same time, the youth is also provided an incentive to earn a further “case benefit”, post-adjudication, through engagement with the intervention plan. The sentencing hearing would be continued out by agreement of the parties in order to facilitate engagement (in most cases 4-6 months). As needed, the agreement could also include participation in evidence based interventions provided through Juvenile Court. During the community engagement phase, a youth will be supported through a partnership between juvenile probation and community. If a youth succeeds in following through with the set conditions, then the parties would return to court to process the case benefit. Possible case benefits may be a lower disposition recommendation, further reduction in charges, or in many cases a dismissal. CEDAR is designed to deliver the same goals as FIRS. Namely, how do we meet the needs of youth and families, hold offenders appropriately accountable, and provide services and interventions in a way that limits legal consequences.

Although a FIRS model approach, specifically the pre-charging diversion component, may not be prudent for other offenses given victim concerns and duplication of services, the data shows that youth can still find themselves incarcerated for non-violent offenses when they may not necessarily pose a risk of violence to others or themselves. There is an opportunity with the opening of the CFJC to significantly add capacity for a larger respite center that would meet a current need. Although King County has done a

remarkable job over the last several years to drastically reduce the use of secure detention, the data reveals that there remains a gap in options for judges when a youth presents with issues that may make it imprudent for him/her to be out in the community, yet they do not pose a risk of danger requiring secure confinement. Examples are youth held in detention while they await an inpatient treatment bed, or youth held in detention for probation warrants or as sanctions for a violating the conditions of supervision. While the vast majority of youth currently in detention are youth who pose a danger to themselves or the community, there appears based on the data to be some youth who spend time in secure detention when an expanded FIRS respite center could fill this gap by providing a safe, holistic, supported environment for youth that is non-secure while also providing necessary supervision and interventions as needed.

Accordingly, it is recommended that juvenile justice stakeholders and county leaders explore an expansion of the FIRS *respite center* after relocation to the CFJC to serve as an alternative to secure detention in the new facility. This has the potential of further reducing our already small juvenile detention population and getting us closer to our stated aspiration of zero youth detention.