Spring 2022

10-50: Addiction and Confinement in Whatcom County

Kaitlyn Davidson

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10-50: Addiction and Confinement in Whatcom County

Kaitlyn Davidson

June 2022 . Senior Capstone Project

Western Washington University Honors College
1.

For someone with a chemical dependency, navigating the Whatcom County legal system is a tiresome, complicated, and fragmented process.

Neither substantive change nor encouraging resolution should be expected.

Although I can attempt to provide insights into the functional elements of confinement and to highlight the structures and agents who shape the institutional experience, it would be a disservice to the Whatcom residents entangled in this system for me to claim authority over the experience or its stories, perils, mechanisms, and modes. So: this is not an essay. And I am not an authority.

Neither substantive change nor encouraging resolution should be expected. Prepare to be exhausted, confused, and frustrated. This is a mosaic of inexplicable experience.

It is a burden to understand and even more so to undergo.

2.

When calling 911 in an emergency¹:

- Give the complete address – where you need help.
- Explain the complete problem – why you need help.
- Try to remain calm and speak clearly.
- Let the CAD system or dispatcher guide the conversation.
- Do not hang up until the CAD system or dispatcher directs you to do so.

3.

Researching the failures and successes of the criminal justice system leads to numbers, not lives.

What drove me to this research was my internship with the Whatcom County Public Defender’s Office, where I interacted with detainees on a daily basis. The narrative power of their stories was enough to make me question the role that jails should play in our community’s response to substance abuse.

None of those stories have been included.

Six years ago, an op-ed in the *Bellingham Herald* reported that, of the people incarcerated in Whatcom County, 70-80% self-reported issues with substance abuse. As a result, the jail often served as the default medical triage option for detox.³

In 2020, 24% of jail admission involves non-felony charges and 59% of people in the jail are held pretrial⁴.

According to *The Arrestee Estimates of Substance Abuse Treatment Need (ARREST) Study* (1997), over 1995, “nearly 79% of the Whatcom County Jail arrestees interviewed were in need” of substance abuse treatment.

Only 40% received it.

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Nearly all reported that they would seek treatment, whether it was provided as an alternative to jail or as an in-jail service.⁵

This was the last publicly available ARREST Study, which not only underscores how long this problem has existed in Whatcom, but also speaks to the lack of funding and research surrounding treatment in the incarceration system. Other critical basic information collection like recidivism is outside the capacity of the county’s records management system. “We are working with very archaic systems,” Wendy Jones told Whatcom Watch, a local paper in 2021⁶. Instead the narrative is exclusively shaped by officials employed by the jail, like Wendy Jones’s 2016 Op-Ed.

⁷

Police codes:

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>10-50</td>
<td>Under influence of narcotics / Take a report.</td>
</tr>
<tr>
<td>10-51</td>
<td>Subject is drunk.</td>
</tr>
<tr>
<td>10-52</td>
<td>Resuscitator is needed.</td>
</tr>
<tr>
<td>10-53</td>
<td>Person down.</td>
</tr>
</tbody>
</table>

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⁵ Rosemary Ryan, Linda Rinaldi, Sylvie McGee, Joseph Kabel, and Christopher Williams, “The Arrestee Estimates of Substance Abuse Treatment Need (ARREST) Study: Results from a survey of substance use, abuse, and need for treatment among arrestees booked in the: King County Jail Whatcom County Jail Yakima County Jail King County Youth Detention Facility,” Washington State Courts, September 1997, https://www.dshs.wa.gov/sites/default/files/rda/reports/research-4-22.pdf


In Whatcom County, substance use among adult arrestees is significantly higher than adults in households. When it comes to illicit drug use, the percentage is 16 times greater.8

9.

Drug Deaths Involving Methamphetamine
2003-2004 and 2019-2020

Publicly-Funded Treatment Admission for which Methamphetamine was Reported as the Primary Drug, By County 2003-2004 and 2014-2015 (latest available).

8 Rosemary Ryan, Linda Rinaldi, Slyvie McGee, Joesph Kabel, and Christopher Williams, The Arrestee Estimates of Substance Abuse Treatment Need (ARREST) Study (Olympia, WA: Center for Substance Abuse Treatment Substance Abuse and Mental Health Administration U.S. Department of Health and Human Services, 1997).

Note: IF YOU NEED CARE, YOU ARE SEEN EVEN IF YOU ARE INDIGENT.

10.

It is easy to paint horrifying portraits of inmates rotting in prisons, brutalized by a system designed to torment them. But this is not reality.

It is comfortable to imagine drug users as agentless victims of disease, or as vulgar leeches on social services. But this is not reality.

“Inmate” is not a category. “Addict” is not a person.

No matter how frequently and in how many different ways we refer to them as a vast, law-breaking monolith, denying the complicated realities of incarcerated people prohibits meaningful engagement in this conversation.

11.¹⁰

Department of Justice Press Release
The United States Attorney’s Office - Western District of Washington.

Three allegedly responsible for distributing thousands of fentanyl pills in Whatcom County indicted for drug distribution

“This undercover investigation revealed these defendants were responsible for the distribution of thousands of pills tainted with potentially deadly fentanyl,” said U.S. Attorney Brian T. Moran.

12.

Selected highlights from the 2019 Whatcom Gang and Drug Task Force (WGDTF)¹¹:


• “A several-month-long joint investigation with the Drug Enforcement Administration (DEA), on the County’s first-ever large scale fentanyl case, in which bulk fentanyl from China was being shipped to several residents of Bellingham. The raw fentanyl was processed in Snohomish County, then distributed throughout the state of Washington. The case made national news: nine federal indictments; 49 guns seized; $2.2 million worth of cash and property seized; 16,000 fentanyl pills recovered; steroids, cocaine, and heroin, too.”

• “A joint case with the Organized Crime Drug Enforcement Task Forces and DEA on a female suspect living in unincorporated Whatcom County. This investigation led to nine federal indictments and seizures, including more than $130,000 worth of cash and property; 20 lbs. of methamphetamine; and over 11 lbs. of heroin.”

• “A joint investigation with the DEA and Federal Major Crimes detectives, of a female and male suspect from Skagit Valley who sold fentanyl pills to juveniles and adults in the Bellingham area. The sales led to the overdose death of a 17-year-old Squalicum High School student; the overdose death of an Anacortes man; and the overdose and near-death of another Bellingham resident. The investigation led to the seizure of over $12,000 cash; 1,000 tainted fentanyl pills; and 0.5 kg. of cocaine. It also resulted in two federal indictments.”

13. “Jails aren’t just punishment, they are the last social service agency for a community.”
   — Wendy Jones, Chief Corrections Deputy, Whatcom County Jail12 (August 2019)

14. From the Whatcom County Inmate Orientation Handbook13:

   **Medically Assisted Treatment (MAT) Program:**
   If currently enrolled in community MAT program for opiate use disorder, you will be considered for continuation of this program while incarcerated. Contact Jail Medical staff using a Health Request Form.

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In 2016, The American Civil Liberties Union (ACLU) filed a federal civil rights lawsuit against the Whatcom County Jail and the Whatcom County Sheriff’s Office. The charge was that corrections personnel had denied inmates with Opioid Use Disorder (OUD) access to medication-assisted treatment (MAT), an “evidence-based standard of care for treatment” meant to counteract the multi-faceted damages of addiction. The official policy at the jail was to provide MAT only to pregnant women. Other incarcerated people were forced to go through withdrawal.\(^\text{14}\)

The ACLU’s complaint characterized these practices as “both dangerous and discriminatory,” insisting that they single out “a particularly vulnerable group of disabled people, forc[ing] them to suffer unnecessarily from painful opioid withdrawal, and subject[ing] them to an increased risk of relapse and overdose death.”\(^\text{15}\)


\(^\text{15}\) Gabriel Kortlever, Sy Eubanks, and All Others Similarly Situated v. Whatcom County, Washington, Whatcom County Sheriff’s Office. American Civil Liberties Union of Washington Foundation, June 7, 2018.

\(^\text{16}\) Kaitlyn Davidson, Poster of Medical Incentives, Photograph, Bellingham, May 15, 2022.
17.

“The word is getting out that people — the judges, the police, the prosecutors, all the players in the criminal justice system who have prevented people from accessing these life-saving medications — aren't going to be able to get away with that anymore.”

— Jessica Wolfe, ACLU Attorney (In reaction to ACLU Case 2018)\(^\text{17}\)

2-50.

\textbf{Note:} IF YOU NEED CARE, YOU ARE SEEN EVEN IF YOU ARE INDIGENT.

18.

“There is no empirical or public safety rationale for the existing barbaric standard of care.”

— Leo Beletsky, Professor of Law and Health Sciences, Northeastern University\(^\text{18}\)

19.

Due to the relentless diligence of organizations like the ACLU and the President's Commission on Combating Drug Addiction and the Opioid Crisis (PCCDAOC), intensive addiction treatment programs in the criminal justice system have become a national issue.\(^\text{19}\)

The increased visibility due to this case coupled with national calls for restorative reform of the Justice System has required many of the practices of local law enforcement in Whatcom to be reexamined by taxpayers, officials and organizations. The public is not as willing to fund punitive programs without clear paths to treatment and not as willing to vote for politicians that endorse and maintain the structures that perpetuate the cycle of addiction and recidivism in the jail.


\(^{18}\) Ibid.

“Mental illness, substance abuse plague Whatcom County jail inmates”
Wendy R. Jones, Chief of Corrections of Whatcom County
Courtesy to The Bellingham Herald

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21.

Ground-level Response and Coordinated Engagement (GRACE).

Over a one-year period of serving 179 people, the GRACE program saw a 95% success rate in reducing encounters with the criminal justice system. Intensive case managers were assigned

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to people in frequent contact with emergency systems in order to help them navigate resources and build a more stable, independent life.

Of those in the program, 70% had mental health issues and 52% had substance abuse issues.

GRACE works to reduce unnecessary and costly contact with law enforcement, EMS, the hospital emergency department and the jail.\textsuperscript{22}

\textsuperscript{22} Nine community-based substance abuse treatment programs exist in Whatcom County.\textsuperscript{24}

Assuming the requisite referrals, payment options for these programs include federal funds, private health insurance, cash, or tribal funds.

If treatment is desired, a lack of funds, knowledge, or access to reliable transportation should be avoided.

24. 25

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<th>Reported Incidents</th>
<th>Jan</th>
<th>Feb</th>
<th>Mar</th>
<th>Apr</th>
<th>May</th>
<th>Jun</th>
<th>Jul</th>
<th>Aug</th>
<th>Sep</th>
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</tbody>
</table>

Note:  IF YOU NEED CARE, YOU ARE SEEN EVEN IF YOU ARE INDIGENT.

“Our clients don’t feel like they’re part of the larger community in the same way that I might,” Christensen says.

“I had a client I was trying to convince to go to the Elizabeth Park concert series. I said, ‘It’s free, you can ride your bike there, and can bring a blanket and just listen.’ And he said, ‘Things like that just aren’t for people like me — they’re for people like you.’”

— Malora Christensen to *Whatcom Talk*, a local newspaper.

**LAW ENFORCEMENT AND JAIL INITIATIVES**

**Goal:** Goals in this area are threefold:

- Ensure that the best services are provided to vulnerable populations in contact with law enforcement by adopting a liaison and problem-solving approach that connects people with appropriate social service agencies to reduce future calls for service and incarceration;
- Provide better access to jail alternative programs to reduce incarceration and the need for warrants;
- Provide better access to needed services within the jail, and at re-entry.

Due to the frequency with which calls involve substance abuse, community response networks rely on 911. This reliance, however, leads to repeated and avoidable calls, repeated and

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avoidable dispatch of first responders, and increased risk of escalation in police response.\textsuperscript{28} Worst of all, the disproportionate role of 911 results in a lack of access to the professionals most equipped to provide meaningful intervention. Which is why programs like Ground-level Response and Coordinated Engagement (GRACE) and Law Enforcement Assisted Diversion (LEAD) were created.

By sending additional social service workers and officers with behavioral health training, the hope was to provide a more informed reaction that involved triaging and redirecting to treatment options. Through liaising between the Sheriff’s Office and organizations available for the provision of behavioral health treatment and other social services, the goal was for law enforcement to become more proactive and restorative. To become less reactive and punitive.

Implementation of these programs, despite being successful, have fundamentally altered nothing. As is often the case, a lack of resources has limited their operational scope and, at the same time, empowered traditional policing.

\textsuperscript{27,29}

\begin{center}
\includegraphics[width=0.5\textwidth]{miranda-warning.png}
\end{center}


28.

The average recidivism rate in Whatcom has remained at 75% over the past 10 years, despite additional supplemental programs being implemented.  

Note: IF YOU NEED CARE, YOU ARE SEEN EVEN IF YOU ARE INDIGENT.

29.

Law Enforcement Assisted Diversion (LEAD).

LEAD offers support for people who have committed low-level law violations in order to reroute them away from the justice system and into intensive case management.

The program helps with immediate needs such as food, clothing, or short-term housing, as well as longer-term concerns like stable housing, medication management, and family reconciliation. LEAD helps an average of 308 people per year.

30.

Two officers from the Whatcom Sheriff's Office are involved in the Mental Health Deputy Program. The other 117 officers, who respond to similar calls, are not.

31.

In February 2021, the Washington Supreme Court struck down the state’s strict liability drug possession statute (RCW 69.50.4013).

Sheriff Bill Elfo vehemently opposed the rulings:

30 Swavola, Riley, Anthony-North, and Roberts. Jail Reduction Strategies for Whatcom County.
While many argue that narcotics possession might be better treated as a public health rather than a criminal justice issue, drug offenses at all levels often lead to crime of violence, property crime and public/neighborhood disorder. [...] This decision will eliminate incentives for the addicted to cooperate, seek treatment and stop the work of getting people who will not accept voluntary placement in a stabilization center, into a safe environment where they can receive detox and life-saving medical treatment. [...] Deputies can still charge people with delivery of drugs but with today’s decision, investigative strategies, the ability to implement street diversion and get people into treatment have been severely limited.33

Justice Gordon McCloud, on the other hand, writing the opinion for the five-member majority, saw it as an unconstitutional measure:

Attaching the harsh penalties of felony conviction, lengthy imprisonment, stigma, and the many collateral consequences that accompany every felony drug conviction to entirely innocent and passive conduct exceeds the legislature’s powers [...]34

32.35

Fundamentally, providing care and representation are still constitutional obligations.

The Northwest Regional Council (NWRC) provides “health services in the Whatcom County Jail following the requirements set out by the National Commission on Correctional Health Care Standards.”

Recent jail health accomplishments include:

- 2018 - Implemented a Medication for Opioid Use Disorder (MOUD) program with three options: withdrawal, treatment, and induction.
- 2021 - Becoming a vaccine provider, expanding the availability of immunizations/vaccines.
- 2021 - Implemented an Electronic Medical Records system.
- 2021 - Renewed the National Commission on Correctional Health Care accreditation.\(^\text{36}\)


\(^{37}\) Jail & Sheriff Headquarters Proposal, “Jail Financing.”
36.

Laurel Walden, an inmate at the Whatcom County Jail, hadn’t been outside for four months. Walden is from Skagit County, and worked as a massage therapist before coming to the jail.

“Even just picking up garbage would be great,” Walden said.38

37.

The Restorative Community, an anti-incarceration organization, critiques the extensive and prolonged effects of detainment and seeks to expose the trauma, shaming, and shunning that detainees experience from, among many others, current or potential employers.

Many lose their jobs due to missed work. Many struggle obtaining or retaining gainful employment after detention. In fact, the national unemployment rate for formerly-incarcerated people is 27%.39

The loss of earning power, compounded by the costs of court appearances, penalties, fees, and incarceration itself — on average $10,000 in fines regardless of proven guilt — results in a debt cycle that often leads to recidivism.

It is what is referred to as the “penalties-to-punishment-to-poverty-recycling-system.” in a presentation given in 2017 opposing the creation of the new jail40

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Note: IF YOU NEED CARE, YOU ARE SEEN EVEN IF YOU ARE INDIGENT.

38.

“Our jails should not be our number one health facility, behavioral health facility. We need to deal with that differently than using the jail. We need to invest in those treatment facilities.”

— US Congressman Rick Larson (D), fundraising event\(^4^1\).

39.

According to Wendy R. Jones, Chief of Corrections Deputy for Whatcom County, “a huge social experiment” began in the 1950s:

The plan was to place residents back into communities, provide them with medication and intensive outpatient support from professionals. It was theorized that these supports would allow the residents to remain stable in their new environment. This change, labeled “deinstitutionalization,” was hailed as a huge step forward in the treatment of seriously mentally ill and addicted individuals. It would end the abuses of this vulnerable group, respect their civil rights and save money that was being spent on hospitalization.

As a result of this movement, almost a million individuals who had been receiving care were discharged to the community. Another result has been that since 1955, the number of psychiatric beds available in the United States has dropped 95 percent, and continues to drop to this day.

Interestingly, during the same time period, the number of jail and prison offenders identified as having a behavioral health issue started to rise.\(^4^2\)

In 2016, Jones reported that 44% of Whatcom County jail inmates could be diagnosed with a combination of mental illnesses and substance abuse disorders.

\(^4^1\) Rick Larsen, “Whatcom Campaign Kick-Off,” May 3 2022, Bellingham, Boundary Bay.
\(^4^2\) Jones, “Mental Illness, Substance Abuse Plague Whatcom County Jail Inmates.”
In 2018, Wendy R. Jones received a salary “83.5 percent higher than the average pay for county employees and 82.4 percent higher than the national average for government employees.”43

In cases where offenders are deemed mentally insane, the Western State Hospital serves as an intensive facility.

40.

“They wouldn’t bathe her,” Bowser said. “She would tell me that another patient hit her. They would put her in a jumpsuit so she couldn’t go to the bathroom, and the staff made fun of her for wetting herself. She was treated like an animal.”44

7-50.

Note: IF YOU NEED CARE, YOU ARE SEEN EVEN IF YOU ARE INDIGENT.

41.45
Federal and state regulators have, for years, found health and safety violations at the 800-bed Western State Hospital. Infractions range from assaults on staff to escapes of dangerous patients. One such escapee was accused of torturing a woman to death.\(^{46}\)

Rather than leaving people and their communities damaged by incarceration, the restorative justice approach emphasizes mediation and conflict resolution to restore harmony. This focus on rehabilitation seeks to right the wrongs committed by the offender and work with the community to build social networks to address the root causes of crime.

Those who have been harmed report being more satisfied with restorative justice than with traditional court proceedings.\(^{47}\)

\(^{46}\) Ibid.
\(^{47}\) “What Is Restorative Justice in the Juvenile Justice System?” The Annie E. Casey Foundation, May 24 2022, https://www.aecf.org/blog/what-is-restorative-justice-for-young-people?gclid=CjwKCAjwyryUBeSEiwAGN5OCGjuWm8WpdeVhspd1oNkjiFT1LiQsaQKCVYhuWD8fAM1IT0xg3AS4zhOCpKEQAvD_BwE.
Note: IF YOU NEED CARE, YOU ARE SEEN EVEN IF YOU ARE INDIGENT.

45.49

January 28, 2022, 4:30 pm: Until further notice, visitation at the downtown jail is canceled due to facility maintenance.

We will resume visitation as soon as possible.50

Note: IF YOU NEED CARE, YOU ARE SEEN EVEN IF YOU ARE INDIGENT.

47.

Diversion programs in a primarily punitive system will never provide nuanced treatment.

48.

Bureaucracy is a violence.

49.\textsuperscript{51}

Former basketball hoop, Whatcom County Jail.

\textsuperscript{51} Guntli, “A Tour of Whatcom County Jail.”
rehabilitation, *n.*

3. Improvement of the character, skills, and behavior of an offender through training, counseling, education, etc., in order to aid reintegration into society.

b. Restoration of a person to health or normal activity after injury, illness, disablement, or addiction by means of medical or surgical treatment, physical and occupational therapy, psychological counseling, etc.\(^{52}\)

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**Note:** IF YOU NEED CARE, YOU ARE SEEN EVEN IF YOU ARE INDIGENT.