

Alternatives to Incarceration

Attorneys' perspectives on alternatives across Washington State

Survey Highlights

**Board for Judicial Administration
Alternatives to Incarceration Task Force
Assessment and Information Work Group**

August 2023



Jeanne Englert, MSW, MPA
Manager, Board for Judicial Administration
Washington State Administrative Office of the Courts

Survey Overview

In the fall of 2022, the Board for Judicial Administration launched the Alternatives to Incarceration Task Force (Task Force). The goal of the Task Force is for pretrial and post-conviction incarceration alternatives to be uniformly available to courts throughout the state regardless of the person's ability to pay or the jurisdiction's resources.

In order to collect information on what alternatives are provided across the state, the Task Force's Assessment and Information Work Group implemented several surveys. One survey was sent to court administrators and one was sent to attorneys.

The survey highlights focus on the attorney survey which was implemented to:

- 1) Gather information from attorneys on their experiences with pretrial and post-conviction adult alternatives to incarceration at the different court levels.
- 2) Gain insight into what is working and what is needed.

Surveys were sent May–June 2023 to prosecuting and defense attorney associations in Washington State for distribution to their membership.

For the purposes of the Task Force and this survey, pretrial and post-conviction alternatives were defined as the services provided to or conditions imposed on criminal defendants prior to trial or after conviction as an alternative to being incarcerated. For example, alternatives may be a specific pretrial services program, drug and alcohol treatment or monitoring, a service through a third-party vendor, or work release instead of jail. For the purposes of this survey, the Task Force assumed that electronic home monitoring qualifies as an alternative.

Survey Highlights

There were 51 responses from attorneys representing every court level; 33 attorneys practiced in Superior Courts, 18 practiced in District Courts, 7 practiced in Municipal Courts, and 3 identified as other. Additionally, 39 attorneys identified as defense attorneys and 8 identified as prosecutors; the remaining identified as other. Because the response rates were low, the findings are shared as highlights and antidotal information and are not representative of overall attorney views on alternatives across the State.

Alternatives use:

Attorneys shared that the following alternatives were more likely to be used sometimes or often:

- Electronic/GPS monitoring.
- Drug and alcohol testing and monitoring.
- Classes such as anger management and domestic violence education.
- Mental health treatment/evaluations.
- Drug and alcohol treatment/evaluations.

Other alternatives that were almost equally used and not used:

- Reminder for courts.
- Community service.

Attorneys shared that the following alternatives were rarely used or never used:

- Work crew or work release (these stopped during the pandemic and in some cases were not restarted).

- Scheduled or day reporting.
- Case management services.
- Home visits.
- Community programs.

Attorneys shared perspectives of why an alternative was rarely or never used:

- Attorneys were unsure why alternatives were not ordered/used.
- Less restrictive alternatives not ordered for the level of crimes clients were charged with.
- Lack of staffing and funding to implement alternatives or they were not offered in the community (especially community service, work crew release, home visits).
- Some alternatives were only offered in therapeutic or community courts.
- Lack of individual's or court's ability to pay for certain alternatives (GPS monitoring, treatment, and evaluations).

What is working well with alternatives offered in their jurisdictions:

- Most welcomed alternatives when they were cost and barrier free.
- Therapeutic and community courts when available.
- Evaluations were given weight and followed.
- Electronic home monitoring.
- Pretrial services and court reminders.
- Drug and alcohol and mental health treatment alternatives seemed to work when used.
- Community service and work release when offered.

What could be improved on the alternatives offered in their jurisdictions:

- The enforcement and rules for electronic home monitoring.
- More availability and access to therapeutic and community courts.
- More options, less restrictions.
- Ordering alternatives when a person did not want them.
- Need work release programs and for longer periods of time.
- Cost free and barrier free alternatives, especially when an individual was determined indigent.
- More engagement /supervision when alternatives were implemented.
- More treatment providers.

Other Comments shared:

- Unsure why court used an electronic home device as an additional condition to bail when maintaining bail.
- Need to look at inequities in the bail system and access to alternatives if one cannot pay.
- Not everyone will need or benefit from treatment or alternatives.
- Since the pandemic, there are less options for alternatives and more plea agreements while defendants sit in jail longer.
- Probation officer-style personal supervision is helpful for work release and proper electronic monitoring.

The survey information from attorneys can be helpful when combined with other information. Given the low number of responses, the Work Group should evaluate whether to solicit additional attorney feedback or other system perspectives.