



**Report to the Legislature**

**Status Report on the Development of  
Secure Community Transition Facilities**

RCW 71.09.250(6)(c)

December 1, 2002

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## Status Report on the Development of Secure Community Transition Facilities

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### EXECUTIVE SUMMARY

This report is submitted in fulfillment of RCW 71.09.250(6)(c), which requires the Department of Social and Health Services (DSHS) to report on the development of secure community transition facilities (SCTF) under the incentive program established in RCW 71.09.255. The report is to be issued to the Office of Financial Management and the appropriate legislative committees.

#### Background

Legislation enacted in 2001 authorized DSHS to establish and operate an SCTF on McNeil Island. In response to the federal district court injunction, *Turay v. Seling*, this legislation also directed all counties and cities to amend their comprehensive plans and development regulations as necessary to enable the department to site SCTFs in other Washington State locations. Following the February 2002 injunction progress hearing, the federal district court made clear in its *Findings of Fact and Conclusions of Law* that the state must establish less restrictive alternative (LRA) facilities (called SCTFs in our statute) in mainland locations as well as on McNeil Island.

In December 2001, the new McNeil Island SCTF, authorized under RCW 71.09.250(1)(a), began operating temporarily in a remodeled building located approximately two miles from the McNeil Island Corrections Center (MICC). Construction of the permanent SCTF is scheduled for completion in early 2003. That SCTF, located near the temporary facility, will have a bed capacity for twenty-four individuals. Currently, there are two persons residing in the McNeil Island SCTF.

During the 2002 session, the legislature amended requirements for planning for and siting SCTFs. Under the amended law, counties that have civilly committed five or more residents at the Special Commitment Center (SCC) as of April 1, 2001, and the cities within those counties, that fail to complete the required planning under RCW 36.70A.200 by September 1, 2002, are "preempted." In the event that a local jurisdiction is preempted, the authority for the siting of an SCTF in that jurisdiction rests with the state agency. The six counties subject to preemption are Clark, King, Kitsap, Snohomish, Spokane, or Thurston. Although Pierce County had civilly committed more than five persons, the county and its cities are exempt because of the establishment of the McNeil Island SCTF.

To enable DSHS to site needed facilities, RCW 71.09.342 states:

After October 1, 2002, notwithstanding RCW 36.70A.103 or any other law, this section preempts and supersedes local plans, development regulations, permitting requirements, inspection requirements, and all other laws as necessary to enable the department to site, construct, renovate, occupy, and operate secure community transition facilities within the borders of...[the counties, excluding Pierce County, that have civilly committed five or more persons to the Special Commitment Center as of April 1, 2001, and the cities within those counties]...

### **DSHS and Local Government Planning Efforts**

In early 2002, DSHS staff began meeting with planning staff and committees, administrators, and elected officials in the local jurisdictions in the six counties. DSHS offered them technical assistance, consultation, written and oral testimony and other community education information on the statutory planning and siting requirements and DSHS program expectations for SCTFs. Of the ninety-six local jurisdictions in these six counties, forty-three adopted changes to their zoning ordinances prior to the September 1, 2002 deadline, forty-five chose not to amend their comprehensive plans or ordinances, and seven either adopted changes or were still considering changes after the statutory deadline. (Spokane Valley has been excluded because it is not yet incorporated).

RCW 71.09.255(3) gave any county or city in the state the right to apply for a planning grant to initiate the local planning process to site one or more SCTFs. SCC and the Office of Community Development (OCD) in the Department of Community, Trade and Economic Development (CTED), worked together to establish a planning grant program for this purpose. Grants were awarded to the local jurisdictions that applied. One grant was awarded to a single city government and the other to a consortium of twelve jurisdictions in one county.

The projections for the number of SCC residents who will need LRA placements are lower than was predicted a year ago. These projections are inherently uncertain since there are many variables that DSHS cannot control. The projections greatly depend upon the active participation of SCC residents in the treatment program and decisions by the courts of commitment as to when SCC residents are ready for conditional release to the community. Over time, the continued successful participation by an increasingly large number of SCC residents will no doubt lead to a greater number of participants receiving court-ordered conditional releases to SCTFs and other LRA settings.

# **Status Report on the Development of Secure Community Transition Facilities**

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## **BACKGROUND**

### **Program History**

The Special Commitment Center (SCC) was created in response to the Community Protection Act of 1990. Pursuant to Chapter 71.09 RCW, the program provides care, control, and treatment to sexually violent predators who have been civilly committed and to persons being evaluated to determine if they are sexually violent predators. A specialized mental health treatment program, the SCC is operated by the Department of Social and Health Services (DSHS). The SCC total confinement facility is located within the secure perimeter provided by the Department of Corrections (DOC) at the McNeil Island Corrections Center (MICC).

Initially, the SCC was established in 1990 at the Sex Offender Unit within the Monroe Reformatory. In April 1998, the SCC program with its 62 male residents was transferred to MICC. As of November 1, 2002, there are 162 adult males at the McNeil Island total confinement facility, one adult male in a Department of Corrections long-term care facility in Yakima, and one juvenile at Green Hill Training School in Chehalis. There is also one female who is housed in a special unit located at the Washington Corrections Center for Women at Purdy (WCCW). In addition, nine persons have received court-ordered conditional releases to less restrictive alternative (LRA) settings: two persons reside at the secure community transition facility (SCTF) on McNeil Island; two live in contracted residential settings with twenty-four hour staffing; and three live in private homes. The remaining two individuals have been recently returned to the McNeil Island total confinement facility pending reviews of their conditions of release by their courts of commitment.

### **Federal Court Injunction**

In June 1994, the Federal Court, Western District of Washington, placed an injunction on DSHS for its failure to provide constitutionally adequate treatment to residents of the program. The court appointed a special master to oversee the program and to make recommendations for program changes that would bring the program into compliance with the injunction. In recent years, visits by the special master and court hearings have taken place twice a year. In October 1999, the federal court found the state in contempt for its failure to make sufficient progress towards meeting injunction requirements. Economic sanctions were ordered but were deferred. At subsequent hearings, the court has deferred sanctions

because of program progress. As of December 2002, sanctions of over \$6 million have accrued.

The federal court requires that there be no backsliding in areas in which compliance or substantial compliance has already been achieved. The court has also directed that LRA placement options must be an essential requirement for the program to meet the conditions for constitutional adequacy.

In his findings of fact in May 2000, Judge Dwyer stated, "... arrangements must be made for the community transition of qualified residents, under supervision, when they are ready for a less restrictive alternative." After the July 2001 hearing, the court order directed the state to commit firmly to the setting up of the permanent SCTF on McNeil Island, to establish one or more facilities in addition to the SCTF on McNeil Island, and to assure that there be sufficient facility space for prompt placement if an individual is found to qualify for community living. In Judge Rothstein's April 17, 2002 order, these requirements remained in force.

### **Legislative Authorization**

In 2001, the legislature amended Chapter 71.09 RCW authorizing the siting, construction, occupancy and operation of SCTFs in Washington, including the McNeil Island SCTF. The law directed DSHS to project the number of additional SCTF beds needed by May 2007 and to inform the counties. County and municipal governments were required to plan for siting SCTFs by amending their comprehensive plans and modifying their development regulations. The legislature also authorized planning and incentive grants to local jurisdictions and required DSHS to submit a status report to the appropriate legislative committees by December 1, 2002.

During the 2002 session, the legislature clarified several of the provisions enacted in 2001. The amended statute requires all cities and counties to complete planning for SCTFs by September 1, 2002, but makes clear that a jurisdiction's failure to plan does not risk any fiscal penalties, growth management board appeal, or civil causes of actions. In order to enable the department to site needed facilities, however, the law "preempts" certain jurisdictions that fail to meet the September 1, 2002 deadline. The jurisdictions subject to preemption are the counties with five or more residents at the SCC on April 1, 2001, and the cities within those counties. These counties are Clark, King, Kitsap, Snohomish, Spokane, and Thurston. Pierce County jurisdictions are exempt because of the McNeil Island SCTF. RCW 71.09.342 states:

After October 1, 2002, notwithstanding RCW 36.70A.103 or any other law, this section preempts and supersedes local plans, development regulations, permitting requirements, inspection requirements, and all other laws as necessary to enable the department to site, construct, renovate, occupy, and operate secure community transition facilities within the borders of...[the counties, excluding Pierce County, that have civilly committed five or more persons to the Special Commitment Center as of April 1, 2001, and the cities within those counties]...

## **PLANNING PROCESS**

### **DSHS Duties for the SCTF Siting Process**

The law requires DSHS to assist local governments to plan for the siting of SCTFs in their jurisdictions. In the event that DSHS should site a facility in a jurisdiction that has been preempted by RCW 71.09.342, the law also encourages DSHS to consult with the local government throughout the siting process. As described below, part of the assistance DSHS has provided is in the form of local planning grants. To assist local governments in their planning, DSHS built a geographic information system (GIS) that has been shared with the jurisdictions in the six counties. The GIS is also critical to DSHS' success in searching for properties that meet siting requirements and are suitable for SCTF sites.

### **DSHS Assistance to Local Jurisdictions**

DSHS acknowledges the importance of working with and assisting the counties and cities to plan for these facilities. During the past year, DSHS staff met with county and city planners, planning commission members, elected officials, and others to answer questions and provide further information regarding SCTFs. DSHS offered assistance to cities and counties while the jurisdictions were in the early stages of drafting revisions to their comprehensive plans and development regulations -- before the jurisdictions sent the required 60-day notice to state agencies. In most instances, DSHS received advance notice and copies of drafts under review by the planning commissions or elected officials, as well as notice of hearings and other meetings in which counties and cities planned to discuss the requirements for SCTFs or review draft documents. DSHS staff provided written comments to local jurisdictions and attended and testified at local public hearings or meetings whenever possible.

## Planning Grants

The 2002 Legislature provided an appropriation to DSHS for grants to local governments to assist in the planning process. The purpose of the grant is to support the timely siting of SCTFs that are needed to house sex offenders receiving court-ordered conditional releases from the state's Special Commitment Center. Current law states:

Any city or county that makes a commitment by [July 19, 2002] to initiate the process to site one or more secure community transition facilities shall receive a planning grant as proposed and approved by the department of community, trade, and economic development.

Although the funds were appropriated to DSHS, the department worked closely with the Office of Community Development (OCD) of the Department of Community, Trade, and Economic Development (DCTED) on planning grant awards. The planning grants provided financial assistance to support the staff analysis and public process required to site the SCTFs. The amount of individual grant awards depended upon the number of jurisdictions that expressed interest in applying. Local jurisdictions were encouraged to submit joint applications. DSHS and OCD provided a bonus for cooperative efforts between counties and/or counties and their cities.

All cities and counties in the state were eligible to apply for planning grants whether or not they were fully planning under the Growth Management Act. Any jurisdiction that applied for and received a planning grant was required to make the commitment to complete all required planning by September 1, 2002. "A commitment to initiate the process to site" meant that any jurisdiction receiving a grant was expected to do the required planning consistent with state law. At a minimum, that planning was to result in the identification or designation of specific zoning districts or geographic areas that met statutory requirements and were suitable for siting a facility. This meant:

- 1) The local jurisdiction's processes and regulations must not preclude the siting of a facility.
- 2) The local jurisdiction's siting and permitting processes that would be required when DSHS actually sites a facility must be designed so that the processes could be completed in a reasonable time.
- 3) The jurisdiction must have considered the effect of "equitable distribution factors," as addressed in RCW 71.09.250(8), on the siting of a facility.
- 4) There must be a reasonable assurance that the designated areas actually would yield potential SCTF site(s).

OCD and DSHS received only two planning grant applications. One was an inter-jurisdictional effort from Spokane County and twelve cities within the county. The other grant request was from the City of Marysville. The Spokane consortium was awarded \$140,000 including a \$5,000 bonus for a combined application. The City of Marysville received \$10,000.

## **Geographic Information System**

DSHS developed Geographic Information System (GIS) digital data for the six counties (Clark, King, Kitsap, Snohomish, Spokane and Thurston). The data included locations of the statutorily defined “risk potential” sites, such as schools, daycare centers, parks, school bus stops, etc., and identified them by county parcel number or geographic coordinates. Geographic coordinates for the locations of DOC residential facilities and DSHS state mental hospitals were provided. The data also included the count of all registered sex offenders in each respective jurisdiction.

DSHS mailed this GIS data on a compact disk to each of the ninety-six jurisdictions in the six counties. Many of the cities and counties used this data in their planning processes. By identifying and mapping parcels with suitable attributes and zoning that fell outside of buffers<sup>1</sup> established around risk potential sites, the local jurisdictions were able to identify the most appropriate zoning districts or areas for siting a SCTF.

## **DSHS Website and Other Guidance**

During the past year DSHS has assisted local governments with the planning and siting process for SCTFs. SCC staff has provided technical assistance and community education about the SCC program and the residents that SCC serves. To augment this assistance, DSHS created a website with information on the SCC program and SCTF siting and planning requirements ([www.wa.gov/dshs/geninfo/scoverview.html](http://www.wa.gov/dshs/geninfo/scoverview.html)).

In planning for the siting of SCTFs, many city and county staff requested guidance from DSHS on several issues including:

- Preemption provisions of RCW 71.09.342 (see Attachment A); and
- Local emergency services response time and its relative importance to the evaluation of appropriate zones or areas for SCTF sites (see Attachment B).

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<sup>1</sup> RCW 71.09.285 requires that SCTFs must not be located adjacent to, across the street or parking lot from, or “within line of sight” of a risk potential activity or location. “Line of sight” is further defined as “the ability to reasonably distinguish or recognize individuals.” DSHS has determined through field tests using a measuring wheel that for practical sighting purposes, “line of sight” is approximately 600 feet if there is no visual obstruction such as a large building between the two points of measurement.

Throughout 2002, DSHS has provided presentations, testimony and written comments to local government planning commissions and legislative bodies at their request. Table 1 provides an indication of those interactions. In addition to formal communications, DSHS staff has had numerous informal telephone and e-mail contacts with many of the jurisdictions in the six counties.

**Table 1**

**HEARINGS AND MEETINGS with LOCAL GOVERNMENTS  
Processes and Regulations for Siting SCTFs**

**January 2002 – November 2002**

<b>COUNTY</b>	<b>EDUCATION &amp; TECHNICAL ASSISTANCE</b>	<b>PRESENTATION AND/OR TESTIMONY</b>	<b>WRITTEN COMMENTS</b>
Clark	3	-	-
King	25	27	34
Kitsap	2	1	1
Snohomish	2	11	9
Spokane	2	4	23
Thurston	8	14	10
<b>TOTAL</b>	<b>42</b>	<b>57</b>	<b>77</b>

As a result of the planning, public hearings and actions taken by the local jurisdictions in the six affected counties, approximately half of the jurisdictions modified their comprehensive plans and zoning ordinances in response to the law. The other local governments either chose not to plan or are still reviewing their plans and ordinances. The status of the local planning actions in the six counties is presented in Table 2. It should be noted that this table is intended to suggest the number of jurisdictions that took action. Ordinances adopted by local jurisdictions may or may not be consistent with state law requirements for siting SCTFs.

**Table 2**  
**LOCAL GOVERNMENT PLANNING STATUS**  
**Summary**

**November 1, 2002**

LOCAL GOVERNMENTS		ACTIONS		
COUNTY	CITIES and TOWNS Including County	ADOPTED Ordinances	ADOPTED after 10/1/02 or Still in Process	OTHER
Clark	9	-	-	9
King	40	21	1 <sup>1</sup>	18
Kitsap	5	-	1	4
Snohomish	20	4	2	14
Spokane	14 <sup>2</sup>	10	3	-
Thurston	8	8	-	-
<b>TOTAL</b>	<b>96</b>	<b>43</b>	<b>7</b>	<b>45</b>

**FACTORS for CONSIDERATION**

**Bed Projections**

DSHS' projections for the number of SCC residents that will require LRA community placements are lower than projections made in August 2001. Forecasts of this nature are inherently uncertain for several reasons. Since only a small number of other states have similar civil commitment programs, there is very little comparable activity in other states that can be used as a guide or suggest a trend. Most importantly, the accuracy of projections greatly depends upon the active and successful participation of SCC residents in the treatment program and the decisions by courts of commitment to order conditional releases. It can be assumed that continued successful participation by an increasingly large number of SCC residents would lead to a greater number of participants in the LRAs.

The reliability of the projections beyond two years greatly diminishes because of uncertainties related to resident participation in treatment,

<sup>1</sup> King County adopted an ordinance after 10/1/02, but the ordinance precluded siting of SCTFs.

<sup>2</sup> Spokane Valley is a new city since SCTF planning began and will not be incorporated until 2003. It is not included in the action columns.

individual resident progress in treatment, resident behavior, and court decisions. Table 3 presents the population forecast by SCC program areas for the next twenty months.

**Table 3**

**SCC Population Forecast  
Revised November 2002**

	<b>November 2002</b>	<b>January 2003</b>	<b>June 2003</b>	<b>January 2004</b>	<b>June 2004</b>
Main SCC	165	169	175	188	201
McNeil Island SCTF	2	6	7	10	14
Other LRA Placements	5	7	7	8	9
<b>TOTAL</b>	<b>172</b>	<b>182</b>	<b>189</b>	<b>206</b>	<b>224</b>

**Local Government Impacts**

All jurisdictions in the six counties were required to complete the planning and zoning ordinance amendments or face the potential of preemption. At local public hearings and meetings, many citizens and elected officials expressed their frustrations and concerns about public safety if an SCTF were established in their residential neighborhoods. Therefore, most local ordinances adopted require that SCTFs be located in light industrial zones, commercial zones or a specified area in the jurisdiction removed from residential zones.

**CONCLUSION**

With the enactment of legislation in 2001 and 2002, the legislature has provided sufficient guidance to the department and to local governments to enable the department to plan for, site, construct and operate a sufficient number of SCTFs in Washington communities.

- Many of the local jurisdictions in the six affected counties actively reviewed the requirements imposed in Chapter 71.09 RCW, conducted siting analyses using the GIS digital data furnished by DSHS, and amended their comprehensive plans and zoning ordinances.

- Most of the cities and counties that engaged in the planning process requested and received technical assistance and consultation from DSHS.
- The local governments frequently expressed that they had found the GIS data and other information to be helpful to them in making their decisions.

### **Current DSHS Siting Efforts and Next Steps**

The law (RCW 71.09.315) requires the site selection process to include “early and continuous public participation.” In this effort, DSHS must identify at least three potential sites, provide broad public notice of the site locations, and hold a series of local hearings before a final selection is made.

- To identify and select the three potential sites for a SCTF, DSHS is now using the Geographic Information System to screen properties available for sale against the statutory siting criteria and zoning information provided by local jurisdictions. In turn, the available properties that meet these requirements are being visited by DSHS staff to confirm their suitability. The site selection process gives careful consideration to factors such as the proximity of risk potential locations, average emergency law enforcement response time, access to community services, etc.
- Since King County has sent by far the largest number of the sex offenders to the SCC, DSHS is reviewing King County area properties for the next SCTF. Out of the 172 people currently in SCC programs, 58 are from King County. The King County SCTF will be designed for a total capacity of 12 beds. The facility will have a capacity of twelve beds, but will be designed as two six-bed facilities constructed in two phases.
- DSHS must secure real estate options on the three potential properties before public hearings can be held. When the options have been secured (estimated to occur in early December 2002), the secretary of DSHS will announce the locations of the three potential sites.
- Assuming that the announcement occurs in December, DSHS will hold two public hearings for each site in the affected communities during January and February 2003. Information on the sites and the selection process will also be posted on the internet. The purpose of the hearings is to provide the public with information, answer questions, and receive public comments. An email comment box will also be

available on the internet for the convenience of the public who wish to provide written comments.

- DSHS will use the information from community leaders and the public meetings to identify key issues and other considerations.

It is anticipated that the DSHS Secretary will make his determination of the SCTF location in April or May 2003. Following that announcement, DSHS will hold one additional hearing in the affected community.

In identifying and selecting potential SCTF sites, the department will carefully review the status of the respective jurisdictions' local development regulations and other relevant siting requirements before making a final decision on the need to exercise the preemptive authority of RCW 71.09.342. Regardless of preemption, it is the department's intent to work closely and cooperatively with the affected local governments and the public throughout the siting process.

# **Appendix A**

**Letter to Elected Officials Regarding Preemption**



STATE OF WASHINGTON  
DEPARTMENT OF SOCIAL AND HEALTH SERVICES

June 20, 2002

Dear Elected Officials:

Many of you and your staff have asked the Department of Social and Health Services (DSHS) for guidance regarding the "preemption" provisions of ESSB 6594 (Chapter 68, Laws of 2002). In particular, you have asked how and when DSHS will determine whether any of the six counties (Clark, King, Kitsap, Snohomish, Spokane, and Thurston) or any of the cities in those counties are preempted for failure to meet the statutory planning requirements to provide for the siting of secure community transition facilities (SCTF).

After October 1, 2002, ESSB 6594 Section 9(1) preempts and supersedes local plans, development regulations, permitting and inspection requirements and all other laws as necessary to enable the department to site, construct, renovate, occupy, and operate secure community transition facilities within the borders of any of the six counties listed above or any of the cities in those counties that have failed to comply with legislatively mandated planning. A copy of Section 9 and other relevant sections of ESSB 6594 are enclosed.

To avoid preemption, your jurisdiction must fulfill the planning requirements in RCW 36.70A.200 and chapter 71.09 RCW. At a minimum this means:

- 1. Do not preclude.** Your jurisdiction's process and regulations must not preclude the siting of a SCTF. "Preclude" is defined as "render impossible or impracticable." Impracticable means "not practicable, i.e., incapable of being performed or accomplished by the means employed or at command."<sup>1</sup> For example, the Central Puget Sound Growth Management Hearings Board determined that a City of Tacoma ordinance that limited the location of new work release facilities to the City's Heavy Industrial District (M-3) where the availability of non-developed, non-contaminated sites is problematic,

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<sup>1</sup> *Port of Seattle v. City of Des Moines*, CPSGHMB Case No. 97-3-0014, Final Decision and Order (August 13, 1997), at 8.

## Appendix A

effectively precluded the siting of new work release facilities in the City.<sup>2</sup>

- 2. Adopt regulations consistent with state law.** Your jurisdiction's land use regulations must be consistent with, and no more restrictive than, the requirements for siting and operating a SCTF set forth in chapter 71.09 RCW.
- 3. Establish an equitable distribution policy.** Your jurisdiction must have considered the "equitable distribution" requirements of RCW 71.09.250(8). A written policy or statement that describes how your jurisdiction weighs this requirement against other public safety siting requirements of chapter 71.09 RCW is evidence of your consideration.
- 4. Identify appropriate zones or areas.** Your jurisdiction must have identified zones or areas that are appropriate for siting SCTFs and that include potential site(s) that meet and are consistent with state law requirements. The jurisdiction has the option of identifying specific sites or parcels that meet the criteria in state law. A specific or potential site means either buildable land or a suitable existing facility that is available for lease or purchase at a reasonable or fair market rate.

The jurisdiction must have completed sufficient review to determine whether or not areas or zones designated as appropriate for siting a SCTF will actually yield potential sites that meet the criteria in chapter 71.09 RCW. At a minimum, this means analyzing risk potential locations and equitable distribution factors. To assist you in this analysis, DSHS has developed a Geographic Information System (GIS) that maps the locations of risk potential facilities and activities and provides information on equitable distribution factors. DSHS has provided this GIS data to your planning staff and will provide updated data as it becomes available.

- 5. Establish a process for timely siting.** Your local jurisdiction must have designed siting and permitting processes that will result in a permitted SCTF site in a timely manner. This means that the siting process will enable the department to complete construction or renovation of a facility so that it is available for occupancy when needed. A reasonable amount of time to complete the local land use permitting process, including any pre-application requirements, is 180 days from the inception of any local requirements. It is the department's expectation that a jurisdiction's other permitting

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<sup>2</sup> *Department of Corrections v. City of Tacoma*, CPSGMHB Case No. 00-3-0007, Final Decision and Order (November 20, 2000), at 7.

## Appendix A

processes and regulations (e.g., building permits) for SCTFs will be no more stringent than the requirements for group care facilities.

### **Determination of Preemption**

A county or city that has not complied with the requirements of RCW 36.70A.200 by September 1, 2002, is considered to be preempted, effective October 1, 2002. Not complying means either 1) the city or county has not adopted a process in its comprehensive plan and development regulations to provide for siting SCTF; or 2) the city or county has adopted a plan or development regulations that are in clear conflict with the requirements of RCW 36.70A.200, or RCW 71.09.285 through 71.09.340.

The department expects to follow the local jurisdiction's adopted process and regulations for siting SCTFs unless the process and regulations do not comply with the law. Given the complexity and unique qualities of local processes and regulations, however, it may not be possible to determine at the outset of the department's siting process if the designated zones or areas will yield appropriate potential sites that meet statutory criteria or if the local process and regulations will result in timely siting. When siting a facility in a jurisdiction that has adopted a process and regulations, the department will endeavor to follow local requirements. If the department encounters siting barriers during the process, the department will consult with the local jurisdiction, evaluate whether preemption is necessary, identify alternative options, and notify the local jurisdiction of its decision.

It is our intent to work closely with and consult with counties and cities throughout the siting of secure community transition facilities regardless of preemption. If a facility is sited in a preempted jurisdiction, we will continue to consult with the local government.

When you send your proposed plans and regulations to the Department of Community, Trade, and Economic Development (CTED), as specified in RCW 36.70A.106, please send us a copy. We are coordinating with CTED to act as the lead agency in reviewing proposals relating to SCTFs. We would appreciate receiving your proposals as early as possible in your planning process – that will give us an opportunity to assist your staff and to review and comment on your proposals. We would also appreciate receiving your adopted plans and regulations and any supporting documents as soon as possible upon their completion.

Please send copies of your documents to Elizabeth McNagny, Housing Policy/Land Use Administrator, DSHS Lands and Buildings Division, P.O. Box 45848, Olympia, Washington, 98504-5848. Elizabeth's email address is [MCNAGEC@dshs.wa.gov](mailto:MCNAGEC@dshs.wa.gov).

## Appendix A

If you or your staff have questions about the Special Commitment Center program or secure community transition facilities, please call Beverly Wilson, SCC Associate Superintendent for Community Programs, at (360) 902-8257. Your planning staff may also call Elaine Taylor, SCTF Land Use Administrator, at (360) 902-8184 for consultation and assistance in planning.

Sincerely,

*(Signed)*

DENNIS BRADDOCK  
Secretary

## Enclosures

c:     Planning Directors                             Tim Brown  
       Mark Seling                                     John Reynolds  
       Beverly Wilson                                 Elaine Taylor  
       Elizabeth McNagny                             Scott Lockwood  
       Dick Van Wagenen                             Leonard Bauer  
       Association for Washington Cities  
       Washington State Association of Counties

## **Appendix B**

**Letter to Elected Officials Regarding Response Time**



STATE OF WASHINGTON  
DEPARTMENT OF SOCIAL AND HEALTH SERVICES

July 19, 2002

Dear Elected Officials:

In planning for the siting of secure community transition facilities (SCTF), many city and county staff have asked for guidance on the issue of local emergency services response time and its relative importance in evaluating appropriate zones or areas for SCTF sites.

As you may know, ESSB 6594 (Chapter 68, Laws of 2002) amended the response time requirements. There is no longer a requirement for SCTFs to be sited in areas that can "endeavor to achieve an average five-minute law enforcement emergency response time." Instead, the law now requires the siting to balance the local response time against the proximity of the proposed SCTF site to risk potential activities or locations in existence at the time the site is listed for consideration. In considering the amended requirement, the Department of Social and Health Services (DSHS) has consulted with local planning staff, law enforcement representatives, and state executive and legislative staff.

It is the department's position that the operative word in this consideration is "balance." DSHS does not assume that all rural areas are inappropriate for siting SCTFs. In fact, the law directs that the department's guidelines "...shall require great weight be given to sites that are the farthest removed from any risk potential activities." However, if this directive were to be considered alone, it could result in SCTFs being sited only in very isolated, remote areas that may not be suitable for a variety of reasons, one of which would be the issue of emergency services response time. In balancing these requirements, consideration also must be given to the ability of the local area to respond to fire and medical emergencies as well as law enforcement emergencies.

In determining this balance and in searching for potential SCTF sites, DSHS will consider its responsibility for public safety and its obligations to the SCTF residents and staff and will review several factors. DSHS will use these factors, as described below, to develop an emergency response plan with the local jurisdiction where an SCTF is sited and with neighboring jurisdictions.

## Appendix B

In your jurisdiction's planning and designation of areas or zones that are appropriate for siting secure community transition facilities, we encourage you to consider these factors as well. If your jurisdiction is considering designating areas or zones that are in rural locations – especially areas in remote rural locations -- we strongly encourage your jurisdiction to do an analysis of the area being considered and to use these factors as an outline to prepare a draft emergency response plan. The purpose of the plan is to help both the local jurisdiction and DSHS determine if the proposed area or zone comports with state law requirements for public safety and would be a fiscally prudent and feasible SCTF location. As a general rule, DSHS will consider sites in remote locations with very long average emergency response times as not appropriate for SCTFs unless a fiscally prudent and feasible emergency response plan can be implemented. Here are the factors to be considered:

### **Law Enforcement Emergency**

- The average emergency response time(s) of public safety personnel in the general area where a potential SCTF site may be located. The general area reviewed may include the district or sub-area within the jurisdiction where the potential site is located. It may also include an area that encompasses more than one local jurisdiction.
- The distance between the SCTF site being considered and risk potential locations and the density of risk potential locations.
- The types of nearby risk potential locations and the frequency or level of use of the risk potential locations.
- The proximity and availability of public safety personnel in other nearby locations to act as a secondary response to assist with potential emergencies.

### **Fire Emergency**

- The average response time of the local fire department and the location of and access to local fire department stations, including volunteer stations.
- The proximity of fire department personnel from other jurisdictions to the potential site and their availability to respond in an emergency.

### Medical Emergency

- The average response time of local emergency medical personnel and the location of and access to local emergency medical services.
- The availability of trained volunteer emergency medical personnel in the area, including SCTF staff certified in emergency medical procedures.

Thank you for the work you and your staff are doing to provide for the siting of secure community transitions facilities. If you or your staff have any questions about the requirements for siting secure community transition facilities, please call Beverly Wilson, Associate Superintendent for Community Programs, Special Commitment Center, at (360) 902-8257.

Sincerely,

*(Signed)*

DENNIS BRADDOCK  
Secretary

c: Planning Directors  
Assistant Secretary Timothy R. Brown, Ph. D.  
Superintendent Mark Seling, Ph. D.  
Dick Van Wagenen, Governor's Policy Advisor  
John Reynolds, Director, Lands and Buildings  
Beverly Wilson