

## **MINUTES**

### **Task Force Concerning the Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems**

Thursday, April 21, 2016

10:00 a.m. to 12:30 pm

Legislative Hearing Room B

#### **II. Introductions and Welcome**

#### **III. Approval of Minutes**

February and March minutes were not available for review. Camille Harding stated that they were in progress.

#### **IV. Discussion with Dr. Patrick Fox, Medical Director, Colorado Department of Human Services**

Dr. Fox is working with Disability Law Colorado to work out the final contours of the settlement agreement. Back in April 2012 the Department and Disability Law Colorado entered into a settlement agreement to address wait lists for individuals for whom a court has ordered an inpatient or outpatient competency evaluation or restoration services. The Department has 28 days to get someone who has a competency evaluation ordered into the hospital, 30 days to complete an outpatient evaluation, and 28 days to get someone in if the competency evaluation found the person unfit to stand trial and in need of restoration services. The Department has been in compliance with these requirements but there has been a persistent increase in referrals over the last decade. The number of state hospital beds has shrunk while more patients are needing services.

In September the Department went before the Joint Budget Committee to request \$2.4 million for 2015/16 and \$4.1 million annualized in order to expand the Jail Based Competency Restoration Program from 22 beds to 52 beds. The Joint Budget Committee approved and on February 2<sup>nd</sup> the first phase of this expansion began. Today there are 38 jail based beds by July 21<sup>st</sup> there will be 52 beds. Additionally, some of the money went to hiring four forensic evaluators to provide evaluations for the expanding population. There is a bill awaiting the Governor's signature that all evaluations will be done on outpatient basis unless one of the criteria is met: the person meets civil commitment criteria, an initial attempt at an outpatient evaluation has failed (as determined by the evaluator), or at a hearing the court can't make up their mind and order the person in, or with the express written approval of the Executive Director of Human Services (i.e. with high profile cases).

Dr. Fox discussed psychiatric accelerated rehabilitation in which a mental health professional conducts a face to face evaluation with a patient. If deemed appropriate, the patient would be required to comply with outpatient treatment for a period of 60-90 days (depending on charges) and sign a release so they would report back. If they comply with the stipulations of psychiatric accelerated rehabilitation, the charges would be dismissed. The Department of Human Services partnered with the Equitas Foundation, SAMHSA, and policy research associates last fall. They are currently mapping the state to see what jail diversion efforts exist within Colorado. Mapping is expected to be completed by August or September of this year at which point, data will reveal where to effectively deploy resources to fill existing gaps within state structure.

It was discussed how critical the role of permanent stable housing is for actively engaging individuals with psychiatric disabilities. Jail diversion and engagement are predicated on individuals having a stable housing situation as it is difficult to engage moving targets. Dr. Fox discussed how the Meriden Department of Mental Health and Addiction Services uses forensic group homes as stepdown units from mental health hospitals. These group homes are transitional units for individuals with high historical risk factors but who are currently clinically stable. If an individual does well in the forensic group home for six months, then other group homes have evidence that the individual's clinical stability outweighs historical risk factors.

Dr. Fox and Sheriff Chris Johnson advocated for jail diversion and emphasized the need for law enforcement to go through a profound transition in deciding who gets arrested and who doesn't. Sheriff Johnson referred to Mesa County's scoring system program in which, depending on a person's score, they may or may not be eligible to be arrested and brought to the county jail. Sheriff Johnson advocated for moving all law enforcement toward a scoring system that keeps individuals with minor offenses that are not a danger to themselves or the public from entering the criminal justice system in the first place. A key concern addressed by the committee was the high bar of civil commitment in Colorado. Many people who are a danger to themselves or others aren't actually found to be dangerous and end up back in jail. This raises the question, what can the task force do about our civil commitment standard? One possibility is psychiatric AR which may provide a coercive outpatient treatment model that may provide enough engagement to be effective. It was discussed that mental health courts currently provide a coercive element for treatment however, they do not use preemptive efforts in order to divert individuals early on.

Harriet introduced Jefferson County's new co-ride along program to the committee. Jefferson County's new project funds two CIT case managers that are co-located in the Sheriff substation to ride along with police officers, do curbside consultations, and work with the Sheriff's Department. This program is being so well received that Arvada and Lakewood Police Departments are about to implement it as well. These projects have been funded through City Council and a combination of small grants.

Dr. Fox agreed that this program shows promise and could save costs in different arenas. If the task force is in agreement, money sent to the Department of Human Services Office of Behavioral Health could provide supplemental funding to make this a viable option. If the task force is able to show that for every dollar spent on this project we save three or four dollars in law enforcement, jail, and judicial involved costs then the project would prove cost effective and sustainable.

Commander Thomas DeLuca informed the taskforce that about 90% of mental health patients are signing up for Medicaid in El Paso County. When they are released from jail they are being signed up with a medical provider so they have a place to go. Commander DeLuca added that if El Paso could get funding, they could start the assessment process upon admittance of an individual rather than upon release. In this model the mental health interview would be conducted on the scaling system instead of upon release. Dr. Fox agreed and suggested that once an individual goes into booking they should go through classification, clearance, and then have an assessment before arraignment. This gives the jail the opportunity to ensure that someone is not making the decision to divert an

individual into community mental health treatment that has an outstanding warrant in another jurisdiction.

Connecticut's statute threshold for dangerousness is "substantial risk and in need of immediate care and treatment". The imminence and urgency is regarded as the immediate need for evaluation, not the risk of an outcome. Secondly, diversion isn't always to the community health center for community based treatment, if an individual needs hospitalization they would get that first and then be transitioned back into the community. A considerable problem with Colorado's competency statute regarding imminency is whether an evaluator determining the imminency for risk to self or others believes the individual to be incarcerated versus on the street. Frequently, when a person is believed to be going to jail, the evaluator won't find the individual at risk.

While complying with the settlement agreement has limited availability of beds, there was a reduction in inpatient evaluations by 67 compared to last year. Dr. Fox recommended an increase of 166 beds by 2021/2022 due to Colorado's backed up system although, he is hopeful that a piece of legislation limiting the amount of inpatient competency evaluations to only people who truly need it will provide relief.

## **V. Housing Group Update**

The Housing Group is working on finding a legislative bill that can be put forward to provide collaboration. Kathleen informed the taskforce that they are currently collecting three to seven proposals from members of the taskforce and plan on doing intersect mapping to determine where they are needed.

The taskforce discussed the serious need to address zoning and find a piece of legislation that doesn't have many intersections with zoning issues. They are hiring two interns from DU law school to do legislative history work. They will look at the proposals and investigate each one.

The City and County of Denver has entered into a social impact bond on housing. The Housing Group is thinking of creating a toolkit to spread to other communities around the state about how to implement a social impact bond project.

Gina and Kathleen are developing a map of Denver, the metro area, and rural communities to see the different organizations, zoning boards, and partners in each subset to talk to about legislation.

Jack Zelkin will try to get a meeting with the president of the Home Builder Association of Colorado to discuss finding contacts and builders who would be willing to collaborate in the Housing Group's efforts.

## **VI. Competency/Restoration Group**

The taskforce discussed establishing an outpatient restoration program for adults and juveniles. It was determined that funding and creating an outpatient restoration program for juveniles would be less difficult to implement. Additionally, the taskforce discussed the need for a robust management plan for juveniles that intervenes before kids are found incompetent or un-restorable. The taskforce decided it could work in tandem with the Department on this project. Dr. Fox and Nancy VanDeMark will discuss the project and the internal process within the executive branch to create a decision item to be budgeted. This project will also be an opportunity for the Office of Behavioral Health and the Office of Children, Youth, and Families to collaborate.

Sheri informed the taskforce a small group will get together and create a survey to find out what the cost would be to provide restoration services to juveniles. Currently, data isn't capturing the associated costs of providing restoration to juveniles. The task force also touched on creating an action plan to move forward and collaborate in discussing what entity will be appropriate to house these juvenile restoration efforts.

It was advised that the Restoration Group create a one page form and advocate at the Judicial Conference in Vail on September 12<sup>th</sup> and 13<sup>th</sup>. Judges in the juvenile arena will be participating in their own seminar during that time. The taskforce will be able to start tracking competency issues if judges begin to fill out a form every time restoration services are ordered. Including three to four questions with the form may provide additional information and insight into which jurisdictions are more responsive to the idea of outpatient restoration for juveniles.

### **VII. Data and Information Sharing Subcommittee Update**

The Data and Information Sharing Subcommittee had their first meeting with the Steering Committee. If they are going to apply for an implementation grant, a plan needs to be developed by the end of May.

The Subcommittee met with the Behavioral Health subgroup to discuss what content would be good for a jail health provider to get from a community health provider and vice versa for continuity of care. There is a survey that was distributed to Behavioral Health Committee. They asked to distribute the survey to other mental health providers. Let Peggy know if you or someone you know is involved in continuity of care so they can take the survey.

The day after this meeting, the Data and Information Sharing group is meeting with the Behavioral Health group to look at consent procedures. They will also be meeting for the first time with the Criminal Justice workgroup to look at gaps in information that probation, parole, jails, and prisons would need to effectively manage someone with a mental illness. On May 18<sup>th</sup> these groups will meet again with Integrated Justice Information Systems contractors to talk to major agencies around IT infrastructure before the end of May.

After meeting with the criminal justice supervising agencies there will likely be another survey on what kind of content is most important for them to have when trying to supervise or manage someone with a serious mental illness. By the end of May they'll be able to report back to this committee and the Steering Committee to see if they think it is an acceptable plan. Then we can make a decision if we want to apply for implementation funds or not.

### **IX. Membership Updates and Vacancies Discussion**

The Behavioral Health Transformation Group had their first meeting to explore a pilot on 340B pricing. They met with Sheriffs, CMHCs, and FQHCs to determine if they should create an integrated care model that would result in the lowest psychotropic medication cost as part of exploring options with medication consistency and coming up with a common state formula. People were interested in this concept and will continue exploring the idea.

### **X. Legislative Update**

Introduced 194 Senate Bills and 449 House Bills totaling 643 bills.

There have been a few concepts that have appeared in several bills like immunity for overdose reporting, mandatory minimums, and generally allowing for more judicial

discretion in terms of consecutive and concurrent sentencing. Juvenile offender bills 180 and 181 ultimately passed. There have been some domestic violence and sexual assault bills and several related to DUIs.

We've just gotten through the budget in the past couple of weeks. Were still expecting some more JBC bills related to substance abuse funding and another related to marijuana dollars and tax settlement.

One of the biggest things that came out of the budget has to do with the Kit Carson Correctional Center. The Governor sent a last minute request to send 3 million dollars to fund them because they were in danger of closing when their contract was abruptly terminated with Idaho. Rather than letting the facility shut down, there is fear that they're going to need the capacity for beds in the following years because there is a forecast of an increased inmate population. This was approved rather than letting the budget shut down. This is a private prison, a lot of legislators were concerned.

Bills already signed/in the process: victim impact panel appearance for DUIs (people must appear in person and it repeals the 25\$ appearance fee); House Bill 1063 mental health professionalism around school safety (exception to prohibition of disclosure when threat against school or occupants); Department of Corrections medication distribution House Bill 1152; purposes of parole Bill 1215 (redefines purposes of parole, moves away from punitive characterization to a rehabilitation/reintegration characterization). It removes a requirement that people committing two violent crimes arising from the same incident must serve consecutive sentences. Senate Bill 99: correctional education program sales of goods and services. Aligns their program in DOC with those of the community college system.

Dead bills: homeless bill of rights, policies on juvenile shackling (requiring removal of shackles unless necessary), mental health and collaborative management teams died. Immunity of persons involved in overdose events but there is a new version of this bill. No detention for juveniles that are truant. Another judicial discretion died.

**IMPORTANT** bills in play:

Senate Bill 169: acknowledges there is a gap in ability to provide emergency crisis services to people in mental health crisis as they often end up in jails on 72 hour hold. The bill allows people who need 72 hour hold to be taken to hospitals that are non-designated facilities.

Mental condition evaluations videotaping Bill: the Senate Committee on Judiciary referred it amended to appropriations in February. (Want to limit to felony 1 and 2 and sex offender cases)

Private company accurate criminal history data bill: makes it a deceptive trade practice under the Colorado Consumer Protection Act for a private custodian of criminal justice records to fail to remove sealed criminal justice records from their data bases.

A juvenile delinquency record expungement bill is working through the house.

Workers compensation for PTSD: made it out of house committee and just got assigned to Senate State Affairs.

Competency evaluation location: passed third reading in the Senate with no amendment. Will go to Governor's desk.

Treatment program for sex offenders is making its way through.

Residential drug treatment for probationers: allows judges to order residential drug treatment even if it isn't a drug offense.

DOC medication distribution bill: passed, House Bill 1152.

## **XI. Other Updates**

### **GENERAL UPDATES**

Next month and going forward this group will meet in room 0112 across the hall.

Legislative Oversight Committees next meeting for Thursday June 23rd at 1:30pm.

Agenda to come.

Mental Health Colorado is hosting a series of community conversations. The next one is in Greeley. Like a town hall they talk to citizens about what are some of the biggest gaps in their community in regard to mental health, what some of the barriers are, and what things are working that may be able to be expanded or replicated.

Park County has a mental health alliance that maybe good to access mountain and rural people.

The last day to have committees request inter-committee draft bills is September 1<sup>st</sup>.