

**MINUTES**  
**Task Force for the Continuing Study of the**  
**Treatment of Persons with Mental Illness**  
**Who are Involved in the Criminal Justice System**  
**May 21, 2009**  
**10:00 a.m. – 12:30 p.m.**  
**Legislative Services Building, Hearing Room B**

**Call to Order – 10:00 a.m.**

The Task Force for the Continuing Examination for the Treatment of Persons with Mental Illness who are Involved in the Criminal Justice System meeting was called to order at 10:00 a.m. by Harriet Hall, Chair.

**Introductions and Welcome**

Introductions were made around the room. Task Force members and guests introduced themselves.

**Specialty Courts**

Shane Bahr, Court Program Specialist with the Planning and Analysis Division of the Office of the State Court Administrator presented to the Task Force regarding Specialty Courts. Shane noted that historically problem solving courts in Colorado have started at the grassroots level with no funding and existing resources. Over the last year there have been efforts in developing consistency across the various courts as well as determining the various courts throughout the state.

The National Institute of Corrections defines Problem Solving Courts as a “focus on closer collaboration with the service communities in their jurisdictions” and stress a collaborative multidisciplinary, problem-solving approach to address the underlying issues of individuals appearing in court. It was stressed that the courts are working with the underlying issues.

Problem Solving Courts include:

- Adult Drug Court
- Mental Health Court
- Juvenile Drug Court
- DUI Courts
- Re-Entry Courts
- Tribal Wellness Courts
- Family/Dependency & Neglect Court

- Truancy Courts
- Domestic Violence
- Commercial/Business
- Child Support Court
- Gambling Court
- Veteran Court

Shane noted that the first adult drug court established in Dade County Florida just celebrated its 20<sup>th</sup> anniversary. The first adult drug court in Colorado began in 1994. On the 2009 drug court national commencement day 15,000 participate around the country graduated.

The Veteran Court is one of the newer specialty courts which targets the veteran population returning from war and deals with many issues including PTSD, mental health and traumatic brain injury. There is an influx of veterans entering the court system. A Veteran Court will be starting in Colorado Springs in the near future. The first established Veteran Court which is located in New York is reporting positive results.

Currently in Colorado there are 58 specialty courts. The breakdown includes:

- 19 Adult Drug courts with Jefferson County schedule to start the 20<sup>th</sup> court in approximately two weeks.
- 1 Adult Mental Health docket which is a subset of the Denver District Drug Court. Shane noted that the majority of individuals (60 to 65%) seen in Adult Drug Court have a co-occurring disorder.
- 10 operational Juvenile Drug Courts
- 1 Juvenile Mental Health Court located in Jefferson County
- 12 Family Dependency and Neglect Courts
- 5 DUI Courts with another four or five jurisdictions working on expanding and/or implementing DUI courts
- 4 Truancy Courts
- 5 other courts not fitting into a specific category and include prostitution court and fast track courts which implement some of the problem-solving components.

When Adult Drug Courts were initially developed and participation criteria was determined, the majority of courts did not allow anyone with a mental illness to participate in the court; however, the numbers of individuals with co-occurring disorders became apparent and the courts are now allowing those individuals with a dual diagnosis and the philosophy is to treat the “whole” individual.

The Denver Adult Drug Court currently has 800 to 900 participants 100 of which are on the mental health docket. While there may be additional individuals with a mental health diagnosis this 100 are the severe and persistently mentally ill and need additional services, attention and structure than what is provide through the drug court. These individuals are seen more often and can remain in the system for a longer period of time.

The Boulder Drug Court currently has 100 individuals with 45 to 50% of those individuals having a mental health diagnosis. The Boulder Drug Court does not have a separate docket but has identified additional services for these individuals. Arapahoe County is in the planning stages for a mental health court using a diversion model. The different models for mental health courts include a separate docket of an existing court, individuals integrated into another court (i.e. drug court) or a separate mental health court.

There was discussion regarding the point at which the specialty courts become involved. Initially many of the drug courts started as a diversion program and pre-plea and pre-sentencing offenders were provided the opportunity to complete the program and all charges would be removed. Many courts then moved to a post-sentence or post-conviction model where an offender enters the program, if they so choose, at the time of sentencing. The majority of courts in Colorado are currently working on a revocation model meaning that if an individual is not successful on probation and is facing a Department of Corrections or Community Corrections sentence the court provides them a last opportunity to remain in the community. This revocation model is where the higher risk and higher need population is best served. Harriet Hall noted that she believes the diversion model might better serve the mentally ill population. Shane noted that a jurisdiction must determine what they want to accomplish with a specialty court and then determine which model will best fit the population and community.

The juvenile drug courts are based on the adult model and there has been some debate on its effectiveness and there has been some work on identifying what components of the adult model are needed and effective for juvenile court. Juvenile courts deal not only with the individual but also the school and family and are very labor intensive. Adult courts center on the client.

Shane reported that approximately one year ago Chief Justice Mary Malarkey established the Colorado Problem Solving Court Advisory Committee. The Committee consists of 19 judicial staff from across the state with Roxanne Bailin serving as the Chair. The Advisory Committee charge is to:

- Address the concern that not all drug courts conform to the key components
- Develop a Staffing Model
- Develop a Strategic Plan leading to sustainability
- Develop a Funding Model
- Assist with development and design of a statewide automated MIS consisting of core data elements
- Assist with development of benefit/cost evaluation
- Provide guidance through identification of best practice, training, and form a problem solving court professional organization.

Other individuals and agencies will be involved with the Advisory Committee once things are in order within judicial.

Common elements of problem solving courts include:

- Focus on outcomes
- System change
- Judicial involvement
- Collaboration
- Non-traditional roles
- Screening and assessment
- Early identification of potential candidates

Mental Health Court key elements include:

- Planning and administration (collaboration)
- Target population
- Timely participant identification and linkage to services
- Terms of participation
- Informed choice
- Treatment supports and services
- Confidentiality
- Court teams
- Monitored adherence to court requirements
- Sustainability

Confidentiality is a major issue for mental health court, the storage of records and where they would be stored and access to them should the individual fail in the court.

Why Mental Health Court?

- Increase public safety (legal recidivism)
- Facilitate participation in effective treatment (a catalyst)
- Improve quality of life for people with mental illness charges with crime (clinical recidivism)
- Make more effective use of limited resources

Specialty courts work with three components; criminal behavior, substance abuse and mental health. Additionally other issues including relationships, housing, abuse, transportation, employment, physical health and education are other components. A team then works with the individuals and provides stability. With the specialty court model all of the components are treated together rather than being dispersed. The focus will vary between the different specialty courts; a mental health court will have a larger mental health component and a drug court will have a larger substance abuse component. It is important to assess the risk to the community as individuals are brought into a program.

Shane presented Mental Health Court potential outcomes.

- Data within Colorado is limited because programs are very new.  
There has not been a dedicated mental health court in Colorado and

there is currently no avenue for bring the data together and analyzing it.

- Cook County, Illinois outcomes data:
  - ✓ 45% of all Felony offenders are rearrested during probation period versus 20% rearrested on Mental Health Court supervision. The number is cut in half based on the structure provided.
  - ✓ Mental Health Court participants averaged 12 days incarceration per year compared to 112 days the year before their arrest.
- Bonneville County, Idaho outcomes data:
  - ✓ Rural communities utilizing Assertive Community Treatment (ACT)
  - ✓ 95% reduction in hospitalizations for mental illness
  - ✓ 84% reduction in incarceration
  - ✓ Mental Health Court was adopted statewide in Idaho in 2005.

Shane provided information on a Mental Health Court/Co-Occurring Disorders Forum on Sunday, June 14, 2009 in Anaheim, California.

With the growth in Problem Solving Courts, there was discussion regarding whether there has been resistance from the judicial community regarding the need for specialization by judges which may limit their ability to take on additional cases. Initially there were some push backs; however, that has decreased in recent years. It was noted that some of the judges have been performing the work in specialty courts without pay due to their dedication to this work; however, while this is tremendous, this is not what the system wants to see. Shane reported that Harvard Law is now requiring a course in Problem Solving Courts and DU is considering this requirement as well. Shane reported that there are specialty courts in approximately half of the Colorado jurisdictions.

There was question and discussion regarding the need for specialized training and how the community can support training efforts. Shane reported that there is a huge training need and many of the current specialty courts received no official training while some of the drug courts have attended a drug court training initiative through the National Drug Court Institute. Colorado held its first state drug court training in April. The Colorado Problem Solving Court Advisory Committee is considering development of a training team from judicial which would require partnerships between behavioral health, probation and judicial.

With the available information regarding the significant Department of Corrections population which are impacted by co-occurring disorders there was inquiry regarding the chances of developing a new model in which individuals are sent to a facility to receive medical assistance rather than sending them to prisons. Shane noted that there has been no funding available to start making some sort of a shift; however, during this year's legislative session an amended bill was approved for adult drug court.

The funding provided 35% of the initial request. The JBC has requested that a report and five year plan be submitted from judicial for this and ongoing drug court funding.

Shane reported that judicial has submitted one report to the JBC outlining where the state currently is in regards to Problem Solving Court, where it would like to be and the challenges it faces. A treatment modalities report may be produced in the future.

Harriet Hall questioned why there are so few Mental Health Courts in Colorado. Shane noted that nationwide, approximately 80% of the specialty courts are adult drug courts. Nationwide there are 150-200 Mental Health Courts; therefore, Colorado is comparable with other states in its number of Mental Health Courts. Shane noted that the momentum for Mental Health Courts is building and anticipates an increase in the prevalence of these courts. Harriet questioned whether there was any assistance with regards to legislation that the Task Force could assist with. Shane reported that while a lot of states have established legislation around specialty drug courts, Colorado has no legislation and has chosen not to pursue it.

Shane will forward his PowerPoint presentation and an article entitled *“Improving Responses to People with Mental Illnesses – The Essential Elements of a Mental Health Court”* for distribution to the Task Force.

### **Subcommittee for Medication, Health Care and Public Benefits Update**

Charlie Smith provided a Subcommittee for Medication, Health Care and Public Benefits update to the Task Force.

The Subcommittee discussed the implementation plans and challenges regarding Senate Bill 09-006 (Concerning Creation of an Identification Processing Unit for Detention Facilities). The legislation was amended to fund the project through gifts, grants and donations. Charlie reported that there is a lot of support from the Metro Area County Commissioners regarding funding for and establishment of the Mobile Identification Unit. The legislation focuses on the metro area.

The Subcommittee discussed its agenda and direction. A Behavioral Health Care Task Force was established under the Criminal and Juvenile Justice Commission. There have been a number of discussions regarding the direction the Commission will proceed in regards to behavioral health issues. Recommendations include treatment availability, training, screening and assessment and public benefits.

Subcommittee discussions also focused on presumptive eligibility. Charlie Smith reported that a meeting was recently convened by the Governor concerning psychiatric bed shortage issues. The goals from the meeting discussion focused on presumptive eligibility as a significant goal and could address a number of issues from the health care psychiatric bed shortage as well as address a lot of the transitional needs and barriers faced with regards to the criminal justice and juvenile justice systems as offenders transition from one setting to another.

The Subcommittee also discussed the challenges for high needs offenders coming out of the Department of Corrections and transitioning into the community. These individuals may be on involuntary medications, present as a potential threat to the community, or be a danger to themselves or others or gravely disabled. It may be beneficial to look at and determine if improvements might be valuable to the current process that exists with regard to the linkages between the Department of Corrections and the community either through the community mental health center or through the State Hospital at Pueblo while also taking into account the current statutes with regards to 27-10.

### **Juvenile Justice Subcommittee Update**

Michael Ramirez provided a Juvenile Justice Subcommittee update to the Task Force.

Michael distributed a handout summarizing Subcommittee discussions over the last few months. The Subcommittee has reviewed the information to determine how it should move forward and what recommendations should be made to the Task Force. The Subcommittee has highlighted items that it believes can be addressed through other mechanisms (Task Forces, committees, etc.). The Subcommittee is still focused on a single service plan; however, does not feel it can move in that direction in light of all the other issues highlighted.

Three areas prioritized for follow-up to determine if legislation could impact them:

1. Develop a system to prevent gaps from occurring at transition points by requiring systems to continue to provide support and services to a youth until another system takes over.
2. Suspend a youth's social service case instead of vacating it when a youth is committed to the Division of Youth Corrections.
3. Legislation to permit the braiding of funding streams at the local level that would improve services to youth in the juvenile justice system with mental health needs.

The Subcommittee would like feedback, input and direction from the Task Force regarding which of the item(s) should be moved forward.

Jeanne Smith questioned whether the Subcommittee focused on the impact each of these problems is having. The Subcommittee did not do that level of study but could get additional information if necessary.

Jeanne Rohner suggested looking at numbers as well as the cost and cost savings. Jeanne supported the third recommendation.

Kathy McGuire would like time to review the summaries and understand the issues prior to making a recommendation.

There was consensus that this discussion will be put on the agenda for the June meeting. Michael will also invite Subcommittee members to attend the June meeting for this discussion.

The next meeting of the Juvenile Justice Subcommittee is scheduled for Friday, June 12<sup>th</sup> from 9:00 to 11:00 a.m. at the Division of Criminal Justice.

Jeanne Smith noted that it is important to look at the barriers for these specific areas and determine whether they could be solved through policy and not require legislation. It would be beneficial to present why legislation is required to solve the issue.

Michael would like to have further discussion regarding the overall direction of the Task Force and areas for study by the Subcommittee for next year.

## **2010 Potential Legislation**

Harriet reported that two pieces of Task Force legislation which were passed this year were passed by taking out funding. Gifts, grants and donations will be required to move forward with the legislation.

The Task Force may want to consider legislation that wouldn't cost significant amounts of money but could make important changes in the system. It would be ideal if legislation could be identified that would pay for itself by saving the system money and make a big difference.

Diane Pasini-Hill provided information regarding the Criminal and Juvenile Justice Commissions Behavioral Health/Criminal Justice working group and information it has gathered and reviewed. Last year the Commission focus was on re-entry while legislation outlines sentencing as the next focus for the group and work on behavioral health continues. Diane noted that it would be difficult to staff a juvenile piece while sentencing and behavioral health is being done. Juvenile will follow as a next priority. There may be some opportunity to dovetail efforts.

## **Legislation Update**

Harriet Hall reported that SB09-016 (*Concerning the Establishment of a Pilot Program to Fund Grants to Local Governments to Facilitate Changes in Land Development Regulations to Accommodate the Housing Needs of Persons with Mental Illness who are Involved in the Criminal Justice System*) was the one piece of legislation

which did not pass; however, it was seen by the bill sponsor and review committee as a major issue and it was asked that the Task Force continue work on the issue.

### **Criminal and Juvenile Justice Commission Behavioral Health Group**

Diane Pasini-Hill and Kevin Ford provided information and an overview on the Criminal and Juvenile Justice Commission Behavioral Health Group. Two reference documents were distributed for discussion.

In March 2009 a panel of 24 individuals from criminal justice and mental health arenas were convened to come together and identify top priorities. As a follow-up, a group was brought together to review the areas of consensus developed from the March presentation which included: treatment availability, public benefits, co-occurring disorders, training and screening and assessment. The group was divided into sub-groups tasked with identifying particular things that could be moved forward, identify pressing issues and propose an action plan to present to the Commission in its May meeting where they were to develop recommendations to move forward to the Governor. The Oversight Committee met in May prior to the Commission and recommended slowing the process down rather than pushing through to meet the Commissions May deadline. Therefore, things have been pulled back and two documents have been developed. The first document lists and ranks the recommendations. The information was then developed into a working document that can guide the process. The working document was presented to the Commission.

The three areas highlighted in the working document included Treatment Availability; Training and Screening and Assessment; and Public Benefits. The recommendations regarding co-occurring recommendations are broad and over-reaching and were incorporated into all of these areas. The Commission condoned behavioral health as being a next focus for them. The Commission asked the group to continue meeting and further flesh out these high priority items and develop an action plan which will include recommendations as to where these items will be passed on to for the actual work and fruition of the recommendations. Each of the goals includes broad goals and short term action items. This group is meant to be time limited and meet, break things down, set up action plans and move them out for work by other existing groups. Juvenile issues will potentially follow.

Kevin Ford noted that Andy Keller with TriWest has been working on the Transformation Transfer Initiative and coming out of that process it is anticipated that there will be three working groups one of which will be Criminal Justice and Behavioral Health and recommends that this work feeds into the Transformation process and could potentially be the same group.

Caren Leaf questioned why there is a feeling that juvenile behavioral health issues are different from adult behavioral health issues and it seems that the overarching issues would crossover to both populations and they could be addressed simultaneously. It

seems that the same issues rise to the top for juveniles; therefore, the same solutions could impact juveniles along with adults. Behavioral health issues are not about specific age groups and juveniles have the same needs in the same systems as do adults. Scheduling juvenile issues to be addressed later is a missed opportunity to solve problems simultaneously. TriWest is also providing support to the Division of Youth Corrections in evaluating continuity of care; therefore, the information being gathered by the researcher for both adults and juveniles should be looked at collectively. Janet noted that the Transformation Transfer Initiative is not making a distinction between adults and juveniles. It was noted that the Behavioral Health Group of the Criminal and Juvenile Justice Commission has not excluded looking at juveniles; however, the behavioral health issue arose from the re-entry study focused on the adult system and; therefore, represents unfinished work from subcommittees all of whom identified behavioral health which started from an adult focus. Due to the time constraints and staffing issues put on this behavioral health study links have been made with existing groups rather than creating a new machine that would link with groups that include a juvenile focus. It is appropriate and allowed for the Behavioral Health Group to make recommendations and reach conclusions which involve juvenile issues in addition to adult issues.

There was discussion regarding the use of a formulary for mental health medications. Elizabeth Hogan noted that mental health medications are not interchangeable and if a medication is working for an individual they should not be taken off the medication. Michelle Manchester noted that the reason many individuals come back into the system is due to changes in medication. Elizabeth noted that an algorithm could be developed that would allow a physician to go through a decision making process that could look at less expensive medications first; however, in using a formulary sometimes individuals do not receive the medications they need. Elizabeth noted that the algorithm would provide good patient care while decreasing overall costs.

Jeanne Rohner noted that this is an important discussion in light of what is happening with the Medicaid preferred drug list. It would be ideal; however, may not be realistic to have open access entirely for mental health medications. Jeanne noted that legislation to this affect has been discussed in the past. The Federal Government suggests that when instituting a preferred drug list within a state consideration be given to excluding mental illness, HIV and Cancer. Within Colorado HIV and cancer drugs are exempted; however, only certain types of mental health drugs are exempted. Jeanne noted that by a person receiving the psychiatric medications they need it saves their cognition and ability to be a productive member of society. Jeanne would like to see a committee like this take on this issue. Jeanne also noted that the costs of medication should not be the only cost considered and it is important to look at where the cost is shifted to within the system for a person not receiving proper medications. Research supports the importance of having the right medications.

Harriet Hall noted that it would be wonderful if it were the mental health/criminal justice side of system that ended up leading the state in supporting the need for a policy regarding psychotropic medications.

Harriet noted that the input regarding medications will be taken to the Criminal and Juvenile Justice Commission Behavioral Health Group.

Diane noted that there is potential that several issues identified by the Behavioral Health Group could be directed back to the Task Force, should they want to take on the mission. It is clear that the Task Force would be the group to take on many of these issues.

### **2010 Potential Legislation (continued)**

Kathy McGuire noted that one of the biggest issues she sees affecting individuals with mental illness involved in the criminal justice system is the lack of understanding and training on the part of individuals having power within the criminal justice system including district attorneys and judges. It would be beneficial to have some type of training that would include basic mental health issues, information on community treatment options and data on recidivism rates. Kathy recognized and understands that there are safety concerns that individuals within the criminal justice system are responsible for. Training is seen as a real fundamental problem and it may be something that could be addressed through legislation. The Criminal and Juvenile Justice Commission identified clinical training needs; however, there is also a more system level of training that needs to occur. This input regarding training will be taken to Criminal and Juvenile Justice Commission Behavioral Health Group.

Charlie Smith echoed the concern for training and noted that the State Court Administrators have highlighted the need for training to all judges and throughout all judicial districts; however, training requires funding and needs to be systematically built in. As Shane Bahr noted in his presentation requirements are being built in or are being consider for law school. It was also noted that many JAG (Justice Assistance Grant) applications have been submitted for this training endeavor.

### **Federal Stimulus Dollars**

Harriet Hall questioned whether Task Force members were aware of any federal stimulus dollars that should be pursued to meet the need for gifts, grants and donations for recently passed legislation.

Charlie Smith noted that stimulus dollars have come to the state and are targeted for Justice Assistance Grants. Approximately 200 applications were received totaling nearly \$16M. The applications are excellent and cross over many needs and ages. The task of awarding these grants will be very difficult.

Jeanne Smith noted that the Second Chance Recovery Act received additional funding and the Mobile ID Unit might fit under this funding.

## **Other Updates**

There were no Task Force updates.

## **Whats Happening at Your Agency**

Jeanne Smith reported that the Division of Criminal Justice is in midst of reviewing and distributing Justice Assistance Grant dollars in the amount of \$16M. Applications for this funding totaled \$89M. In addition recovery dollars were also received for the Violence Against Women Act and the Victims of Crime Act.

Julie Krow reported that she has been working on a capital campaign that is at 60.8% of its goal for an infant mental health center, early childhood education and a community center. Julie also reported the loss of a significant revenue stream of \$500K from the Office of Economic Development which funded beds for women with children. To date no alternative funding has been secured.

Caren Leaf reported that the Division of Youth Corrections hosted its sixth annual Provider Council Conference with over 550 individuals participating. The conference is geared towards providers giving direct assistance to youth in residential environments. The Division of Youth Corrections is looking at the impact of state budget cuts and realigning services.

Michelle Manchester reported that ribbon cutting for the maximum security unit occurred. Governor Ritter and other dignitaries attended the event. Intensive training is now underway at the facility with 160 patients scheduled to be moved by mid-June.

Janet Wood reported that the Division of Behavioral Health continues work on the Transformation initiative and is working very closely with the Criminal and Juvenile Justice Commission.

Harriet Hall announced the opening of Independence Corner, the criminal justice/mental health office for Jefferson Center for Mental Health. Two probation officers are now located at the facility in addition to the Center's Criminal Justice/Mental Health staff.

## **Minutes Approval**

The following corrections were proposed to the minutes:

- On the March 19, 2009 minutes the spelling of Susan Brown should be corrected to Susan Drown.
- On the January 15, 2009 minutes the spelling of Dave Stevens should be corrected to Dave Stephens.

- On the January 15, 2009 minutes and the March 19, 2009 minutes the spelling of Dierdre should be corrected to Deirdre Parker.

**A motion was made to approve the minutes of the Task Force for the Continuing Study of the Treatment of Persons with Mental Illness who are Involved in the Criminal Justice System meetings for January 15, 2009, February 19, 2009 and March 19, 2009 with the proposed changes. Motion seconded. Motion passed.**

**12:30 p.m. – Adjourn**

The Task Force for the continuing Study of the Treatment of Persons with Mental Illness who are Involved in the Criminal Justice System was adjourned at 12:30 p.m.