

MINUTES
Task Force for the Continuing Study of the
Treatment of Persons with Mental Illness
Who are Involved in the Criminal Justice System
February 17, 2011
10:00 a.m. – 12:30 p.m.
Legislative Services Building

Call to Order – 10:05 a.m.

The Task Force for the Continuing Study of the Treatment of Persons with Mental Illness who are Involved in the Criminal Justice System meeting was called to order at 10:05 a.m. by Harriet Hall, Chair.

Introductions and Welcome

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

2011 Legislation Discussion

Harriet Hall noted that this agenda item provided an opportunity for Task Force members to share and discussion legislation they are aware of that may in some way impact the work of the Task Force.

Harriet reported that there is an Administrative Segregation bill that is being developed; however, it has not yet been introduced.

Senate Bill 11-096 titled *Concerning Excluding a Class 6 Felony Drug Possession Conviction as a Qualifying Offense for the Habitual Criminal Statute* is sponsored Senator Steadman and Representative McCann. The bill states that a person convicted of a class 6 felony drug possession charge will not be sentenced under the habitual offender status. This bill may have some benefit to mentally ill offenders. Jeanne Smith noted that the bill is straight forward and talks about using F6 drug offenses as predicate crimes for habitual criminal. The bill should save dollars in the future.

House Bill 11-1138 *Concerning the Sex Offender Management Board* is sponsored by Representative Gardner and Senator Morse. This bill will extend the Sex Offender Management Board in addition to making several changes. Jeanne Smith noted one issue within the bill that the Task Force may want to follow: The Sex Offender Management Board had been ask to set forth some best practices in dealing with individuals with developmental disabilities because the standards for the treatment providers did not lend themselves to the same system and testing for the individuals with developmental disabilities. The Attorney General ruled that the Board did not have specific

authority to determine best practices, and legislation would be necessary. There is a split among two advocacy groups with one supporting the legislation and the other not supporting the bill.

House Bill 11-1032 *Concerning Restorative Justice* is sponsored by Representative Lee with no current Senate sponsorship. This bill adds restorative justice to options a court has when imposing alternative sentencing.

Senate Bill 11-004 *Concerning Crimes Against Homeless Persons* is sponsored by Senator Guzman and Representative Pabon. This legislation adds crimes against homeless adults and juveniles to the at-risk crime provisions. The bill is advancing and is scheduled for hearing in the Senate Finance Committee on Friday, February 18th.

House Bill 11-1180 *Concerning Using Individualized Assessments to Aid Judges in Imposing Criminal Sentences that Reduce the Likelihood of Criminal Offenders Committing Additional Criminal Acts* is sponsored by Representative Levy and Senator Guzman. Adds a fifth purpose to the criminal code helping the courts select alternative sentencing, sentence length and level of supervision to address individual needs and reduce recidivism and criminal conduct after completing sentencing. It is scheduled to be heard the week of February 21st in the House Judiciary Committee.

Senate Bill 11-044 *Concerning the Collateral Consequences of a Conviction* is sponsored by Senator Steadman. The bill creates a process for persons to seek relief from the collateral consequences of a criminal conviction. This bill could impact persons with a severe mental illness.

Senate Bill 11-085 *Concerning a Diversion Program for Persons who Commit Prostitution-Related Offenses* is sponsored by Senator Shaffer and Representative McCann. The bill authorizes one or more municipal courts to create and administer a pilot program for persons who are charged with prostitution-related offenses.

House Bill 11-1064 *Concerning a Parole Presumption Pilot Program for Certain Drug Offenders* is sponsored by Senator Steadman. The bill creates a pilot program establishing a presumption in favor of granting parole for an inmate who is parole-eligible and serving a sentence for a drug use or drug possession crime that was committed prior to August 11, 2011.

House Bill 11-1189 *Concerning Bail Bond Conditions for Those Arrested Subsequent Substance Abuse Driving Offenses* is sponsored by Representative Fields and Senator King. This bill requires substance abuse treatment for an individual who has had three DUIs.

House Bill 11-1193 *Concerning Integrated System-of-Care Family Advocacy Programs for Mental Health Juvenile Justice Populations* is sponsored by Representative Labuda and Senator Boyd. This bill amends the article creating the integrated system-of-care family advocacy demonstration programs for mental health juvenile justice populations (programs) to acknowledge that the programs are no longer demonstration programs and have been fully implemented. The repeal date is extended from July 1, 2011 to July 1, 2021.

House Bill 11-1200 *Concerning Conducting a Substance Abuse Assessment at Probation Intake when the Presentence Report is Waived* is sponsored by Representative Barker. The bill permits the probation department to perform a substance abuse assessment at intake if the presentence report was waived.

House Bill 11-1043 *Concerning Medical Marijuana* is sponsored by Representative Massey and Senator Steadman. The bill has a component within that increases the funding for persons at-risk for criminal justice involvement. A previous bill allocated \$1M to the Division of Behavioral Health to contract out treatment services for at-risk person and is now being amended to increase funding to \$2M.

Senate Bill 11-049 *Concerning the Use of Prone Restraints on Persons* is sponsored by Senator Williams and Representative Ryden. Caren Leaf reported that previous statute had provision that an initial interaction with an adult that could result in needing to have a face down position for securing was not considered restraint if it was within an initial period. This legislation takes that period out and poses an issue as to what process will be used for an initial intervention with an adult or juvenile who is demonstrating out of control behaviors. Currently this is a big issue as protocols that don't use face down as securing position have not been identified. A lot of discussion is currently underway regarding initial restraint. Several agencies are involved and closely following this bill. The departments are in no way against the bill and use of long term restraints but feel it is important to carve-out what is a safety and security process for emergent responses.

House Bill 11-1105 *Concerning Assaults Against Medical Care Providers* is sponsored by Representative Acree and Senator White. Greg Kellermeyer noted that this bill would add assault on a hospital worker would be added as an additional mitigating fact in a crime and feels this could impact individuals with mental illness by adding additional charges and a longer sentence. This bill has come up in the past. This bill has passed the House third reading. The Task Force would like to be kept updated on this bill.

Criminal and Juvenile Justice Commission Behavioral Health Group

Diane Pasini Hill provided an update on the Criminal and Juvenile Justice Commission Behavioral Health Group to the Task Force.

This group was formed to look at behavioral health issues and work on prioritized items from the Transformation Council, the Criminal and Juvenile Justice Commission, and the Task Force. The group was formed approximately nine months ago and identified subgroups to work on identified priorities including: training, medication consistency and high needs group. Recently Jeanne Smith, Reggie Heurter, Joscelyn Gay and Diane reconvened to determine what movements are needed by the subgroups. With the resignation of Doyle Forrestal from CBHC, the Medication Consistency group has stalled and a path to move forward needs to be identified for this priority. There was also a Treatment Funding workgroup identified through the CCJJ to look at treatment funding for both individuals with mental illness as well as substance abuse which identified some high priorities, needs and recommendations which were approved by the CCJJ. As a result an updated list of priorities was developed.

Priorities include:

- Funding Mechanisms
- Increasing Access for Community Corrections Clients to Medicaid Funding
- Medication Consistency
- Training Efforts

The Funding Mechanisms priority will look at funding streams provided through the general fund that are streamlined down to work with offenders who have substance abuse issues. Different Boards have been developed to oversee the various “pots” of funds; therefore, the idea is to pull the different Boards together and streamline the funding mechanisms and to then use standardized data collection protocols.

Jeanne Smith explained that there are three bodies that were legislative created and include the IAC (Interagency Committee on Adult and Juvenile Correctional Treatment), the Senate Bill 318 Committee and the House Bill 1352 Committee.

The IAC was developed to develop uniform screening and assessment systems. The IAC was not developed as a funnel for funding. The agencies involved included in the IAC are the Department of Corrections, Division of Criminal Justice, Division of Behavioral Health and State Judicial. There has been discussion regarding data collection; however, the IAC does not have any funding or authority to require data collection as their statutory requirement was to do uniform assessments.

The Senate Bill 318 Committee was set up to be a funding mechanism for savings coming from a reduction in penalties on class 4 felony possession of schedule 2 controlled substances. The savings was to go into local boards comprised of the Chief Judge or designee, Public Defender and District Attorney. A funding formula was developed for distribution of dollars to State Judicial first and then to local boards with the preference to use the dollars for drug courts or other drug offender programs. The Senate Bill 318 boards official name is the Interagency Task Force on Treatment; however, they also go by Treatment Board, Local Task Force and ITFT .

In 2010 House Bill 1352 made additional changes to the sentencing structure for drug offenses. Savings were calculated and transferred mostly from DOC into drug treatment. The 1352 Committee includes members of the Senate Bill 318 Committee plus a County Commissioner and Sheriff representative. Dollars from House Bill 1352 is to be used for substance abuse treatment across five areas; diversion, jails, probation, community corrections and parole. The mechanism for distribution of the dollars was left open. As a result, the first year of funding estimated at \$1.4M has not yet been distributed. During budget balancing \$1M of the first year funding was pulled back. The \$400,000 remaining has been combined with \$600,000 in savings from House Bill 1360 which will most likely be distributed through the Senate Bill 318 Committee. Second year savings are estimated at \$6M. Ideas of spending and distribution of these dollars across the purpose areas are welcome.

The decision group is attempting to blend; however, the funding cannot be blended together as the various different pots of money must be tracked separately and their purposes are slightly different as well as their allowable expenditures. It was noted that the Department of Corrections is not represented in any of the three groups.

The second priority is increasing access for community corrections clients to Medicaid funding. Jeanne Smith and Reggie Heurter are co-leads on this priority. Jeanne reported that a group of Task Force members that had met with HCPF to discuss the interpretation of the federal rules prohibiting inmates from being eligible for Medicaid and how individuals in community corrections that are in diversion are not necessarily inmates. Reggie and Jeanne will schedule a meeting with HCPF to re-visit this issue. Federal health care reform may have an impact in regards to this issue; however, the current issue appears to be how the federal definition is currently interpreted in Colorado. Harriet noted the Task Force supports this and the issue is consistent with work that has been done through the Medication, Health Care and Public Benefits Subcommittee. It was noted that there are many changes that need to be made to the CBMS system; however, changes to smaller populations such as this are not able to rise to a priority level for update of the CBMS system. Chris Habgood reported that with funding from the Money Follows the Person Grant the state may look at revamping the entire CBMS system. It is anticipated that the grant will be awarded in April or May.

The third priority is Medication Consistency. The Task Force had formed a Medication Consistency workgroup and as a result of Doyle Forrestal's departure from CBHC the efforts surrounding this issue have been tabled. Diane reported that a meeting was held with CBHC and they will not continue to spearhead efforts around this issue; therefore, the Task Force should have discussion regarding whether this issue is still a priority and, if so, how to move the effort forward. The Task Force agreed that this issue is a priority. DOC is interested in actively participating in this effort. Elizabeth Hogan was an active participant with the group and in working with Doyle. Diane will follow-up with Doyle to get more information about the individuals identified to participate in this group. A meeting will be planned with Greg Kellermeyer (chair), Chris Habgood (co-chair), Diane Pasini-Hill and Elizabeth Hogan and a recommendation on how to proceed will be brought back to the Task Force.

Diane provided an update on efforts that have been occurring around the Training Grant. The project has moved from designated demonstration sites which were El Paso County, Larimer County, Adams County, La Vista and Buena Vista and as of January has expanded statewide. Classes are being held and change agents are being developed which are agents highly trained in motivational interviewing. The training started with approximately 80 individuals and has now expanded to include an additional 175 individuals. More change agents will be added during the second half of the year. To date approximately 427 duplicated individuals are going through the process.

Mental Health First Aid training has included 777 individuals to date. Requests for training continue and more trainers will get involved to meet the training demand.

Presentation and Study Items for Task Force

A list of possible presentation topics for upcoming Task Force meeting was distributed for review and discussion.

The competency evaluation topic presentation would include an overview of competency and the points through the system when mental health issues arise. Greg Kellermeyer also thought it would be important to include restoration. Kathleen McGuire, Bruce Langer, Greg Kellermeyer and Michele Manchester can assist with information. Joe Dvoskin might also be a resource for this topic.

Elias Diggins with the Denver Sheriff's Department has resigned from the Task Force and for now the topic of Denver County Sheriff's programs will be taken off the agenda.

A presentation on the Arapahoe/Douglas Mental Health Court and other specialty courts is a topic the Task Force would like to move forward with.

Jeanne Smith noted that it might be beneficial for the Task Force to hear from a community mental health provider working with consumers and the various systems. Harriet reported that CBHC has a Criminal Justice workgroup which includes managers of the criminal justice programs within the Centers throughout the state and she will ask if a panel of three or four representatives from the workgroup would present to the Task Force. Task Force members ask that the panel include both rural and metro area representatives.

Task Force presentations and study items will be put on future agendas for further discussion.

Subcommittee Status/Updates

Juvenile Justice Subcommittee

Michael Ramirez reported that the Juvenile Justice Subcommittee has not met since the last Task Force meeting, but have a meeting scheduled for Friday, February 18th. Michael would like to present to the Task Force on the Toolkit in spring or early summer.

Medication, Health Care, and Public Benefits

Harriet reported that the Medication, Health Care and Public Benefits Subcommittee had significant accomplishments and membership when they were actively meeting. Harriet asked for interest from Task Force members in chairing the Subcommittee. Chris Habgood and Susie Walton both volunteered to assist with the Committee. Harriet and Jeanne will work on identifying a chair for the subcommittee.

Housing Subcommittee

The Housing Subcommittee was formed out of work from the Medication, Health Care and Public Benefits Subcommittee that was previously co-chaired by Gina Shimeall and Michelle Lapidow. At this time, Gina is not able to continue as co-chair of the Subcommittee. Michelle Lapidow is willing to continue co-chairing the subcommittee. Harriet asked that members of the Task Force give thought to who should make up the membership of this subcommittee and bring back ideas for further discussion at the next meeting.

Task Force Membership

Harriet reported that she has contacted members of the Task Force to determine their interest and ability to continue serving. A list of Task Force vacancies was distributed.

Shane Bahr was suggested as a potential member of the Task Force to fill one of the State Judicial vacancies. Michelle Lapidow will contact him regarding his interest in serving as a member of the Task Force.

Harriet will contact George Delgrosso with CBHC to see if he has interest and availability to participate in the Task Force.

Dick Swanson or Mark Olson with Aurora Mental Health were suggested as possible candidates to fill the practicing mental health professional vacancy.

Barbara Stephenson was suggested as a possible candidate to fill the vacancy of a member of the public. Joanie Shoemaker will forward Barbara's contact information to Harriet.

Magistrate KJ Moore was suggested as a candidate for one of the Judicial Department vacancies.

Chris Habgood will contact Sheriff Minor from Summit County and Gary Darling with the Larimer County Sheriff's office about interest in Task Force membership.

Bruce Langer will contact the Probation Officer from the Boulder County PACE program to determine his interest in participating on the Task Force.

Administrative Segregation Updates

Harriet reported that legislation is being developed but has not yet been introduced around Administrative Segregation. Further information about the bill, if introduced, will be shared with the Task Force at the next meeting.

Other Updates

There were no other updates.

What's Happening at Your Agency?

Marceil Case reported that no feedback has been received from CMS in regards to implementation of the suspension bill.

Caren Leaf reported that she served as a member of a panel discussion following viewing of "Me Facing Life - Cyntoia's Story" which is a documentary of a young woman, who committed murder, was tried as an adult and has been sentenced to life. Caren encouraged others to view the documentary.

Jeaneene Miller and Joanie Shoemaker reported that due to budget cuts the Department of Corrections will begin decommissioning the Fort Lyons facility which is a 500 bed medium custody facility that houses medically compromised and disabled offenders. A plan is being developed for placement of these offenders in other DOC facilities. Staff currently assigned to Fort Lyons will be given another assignment within DOC. Community meetings are being held.

Joanie reported that 38.4 positions have been cut from the DOC vocational, education and academic programs. A cut for next fiscal year will include 23 positions in three therapeutic communities that are not yet up and running. This is a one year cut.

Harriet Hall reported that a grant has been awarded from the Bureau of Justice which is a diversion program for mentally ill offenders and will be called the DOOR Project. The grant was awarded to the Division of Criminal Justice. Intervention Community Corrections Services and Jefferson Center for Mental Health will be contractors for the project. The DOOR project opens soon and is intended to be a pilot program for the state.

Minutes Approval

Jeaneene Miller moved to approve the January 20, 2011 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. Bruce Langer seconded. Motion approved.

11:45 – 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 11:45 a.m.