

## MINUTES

### Task Force for the continuing Study of the Treatment of Persons with Mental Illness

#### Who are Involved in the Criminal Justice System

January 19, 2012

10:00 a.m. – 12:30 p.m.

Legislative Services Building

#### Call to Order – 10:09 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 10:09 a.m. by Michele Manchester, Vice Chair of the Task Force.

#### Introductions and Welcomes

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

#### Minutes Approval

Harriet Hall moved that the December 15, 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 be approved as provided. Tim Hand seconded. Motion passed.

#### Not Guilty by Reason of Insanity (NGRI) Education Curriculum and Workgroup Update

Michele Manchester provided an update on the NGRI Educational Outline.

February – *Legal and Constitutional Implications of NGRI in Colorado* (Coordinators Kathy McGuire and Gina Shimeall).

1. Rights of a criminal defendant in a NON NGRI case.
2. What happens once a plea of NGRI is entered including court ordered evaluation, waiver of MH privilege, mandatory discovery to prosecution of defense psychological experts, possibility of lifetime hospitalization in state hospital, consequences of “non-cooperative”, truth serum, etc?
3. Legal issues involved in NGRI cases?
4. How did this evolve historically?

March- What happens when a plea of “Not Guilty by reason of Insanity” is entered? (Coordinator Dr. Richard Martinez).

1. What is involved in a forensic psychiatric sanity evaluation?
2. Standards and quality of evaluations

### 3. Forensic training

### 4. Data

April – *Legal and Procedural Issues When State Hospital Finds a Person NGRI* (Coordinators- Bruce Langer and Jeanne Smith). Prosecutors will be invited to review the following questions:

1. How the prosecution anticipated and monitors the plea and evaluation process?
2. Gathering information in light of a defendant's waiver of physician –patient privilege for purposes of mental health issues.
3. Analysis and decision making regarding whether to request a prosecution evaluation.
4. How the prosecution decides whether to contest the issue if the state hospital opines that the defendant was insane.
5. How the case is handled in court when the issue is contested and when it is not.

May-Treatment of the NGRI at Colorado Mental Health Institute – Pueblo (Coordinator Michele Manchester). Presenters will talk about what goes on beginning to end. Would like to bring an expert on risk assessment. Would like to have Dr. Dovordo attend and present.

1. Clinical team
2. Programs for the NGRI based on diagnosis and assessments
3. Risk assessment and treatment planning
4. Levels of security and privilege levels for progression
5. Court involvement as patients progress
6. Placement into the community – what's entailed

If there are any questions or feedback regarding the treatment aspect, please let Michele Manchester know or give her a call.

June – patients will make presentation giving their perspective (Coordinators – Dr. Richard Martinez and Michele Manchester).

July- Conditional Release and Oversight by the Mental Health Centers (Coordinator - Fernando Martinez).

1. Overview of what happens in treatment
2. Challenges of working with NGRIs in the community
3. Ongoing relationships with Colorado Mental Health Institute of Pueblo (CMHIP) and the Courts.

August – presentation around treatment issues related to persons with mental illness who are incarcerated in DOC. Kathy McGuire is coordinating with DOC, coordinators to be determined.

September – Issues related to insanity in Juvenile cases (coordinators to be determined).

Michele Manchester added that the notebooks for all Task Force members with all the training PowerPoints and information will be prepared.

Harriet Hall proposed to include the Division of Behavioral Health in the presentations. Marc Condojani will reach out to his organization. Susan Drown was suggested to be included in the presentations as she is very involved in the aftercare program and mental health centers work.

### **Medicare Suspension Bill**

Harriet Hall gave a status update of the Medicare Suspension bill. The bill was the major highlight of the task force work. It took about three years to do all work that culminated in the passage of the Suspension Bill. There is a concern on behalf of some legislative oversight committee members that the Bill will not be implemented due to cost of IT infrastructure, changes globally, and issues with the feds. The decision that needs to be made is whether the Task Force would like to bring the issue back and work with legislators that have concerns about it or whether there are changes with the health reform that will ensure all these people are covered?

Susie Walton added that the morning meeting's consensus was that the oversight committee should be briefed on the issue. Another discussion at the morning meeting was about the local workaround developed in Jefferson County by technicians working with Medicaid.

Michele Manchester asked the Task Force members whether the issue should be brought back to the table. Harriet Hall replied she brought the need to have a discussion with the oversight committee up at the morning meeting. The oversight committee should be able to guide the subcommittee on the pieces they are more invested in or ask the subcommittee to wait until the health care reform resolves the issue.

Marceil Case added that there are federal mandates requiring addressing system changes. We are going through massive system changes including asking for budgetary funding for the Colorado Benefit Management System (CBMS) overhaul in the next 18-24 months.

Harriet Hall added that if the adult care reform moves forward it might solve part of the problem. She also added that if there is legislation and funding for CBMS overhaul that the oversight committee and the previous sponsors of the Suspension Bill could guide the legislation guiding the overhaul to address and comply with the Suspension Bill ensuring the resources are there to look at what needs to happen.

### **Task Force Vacancies**

Michele Manchester reported that there are currently five vacancies on the Task Force:

- There is one vacancy from the Judicial Department (1)
- Department of Labor (1) - this position remains vacant.

- Local Law Enforcement (1) – contact has been made with Phil Deeds with the Denver Sheriff’s Department as a possible candidate to fill this vacancy.
- There is one vacancy for a person with knowledge of public benefits and housing.

Susie Walton recommended someone with social security knowledge to fill the position of the person with knowledge of public benefits and housing. Michele Manchester will talk to Mike Lewis who might be a good candidate or who might recommend a candidate.

Jeanne Smith recommended writing a letter to the head of the Department of Labor asking to appoint a representative. Michele Manchester and Kathy McGuire will write a letter.

## **Subcommittee Updates**

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

Susie Walton provided an update on the Medication, Health Care and Public Benefits Subcommittee work. The Subcommittee continues to explore the issue of involuntary medication in Denver County Jail. Chief Deeds indicated in the past that they are pursuing a rule change. Dr. Kellermeyer would be meeting with Denver County to ensure that the change models the process the Department of Corrections has in the jail system as far as membership. Some more information will be available at the next meeting.

Todd Helvig briefed the meeting on the DOC process that involves the independent panel of the psychiatrist and two mental health professionals. The panel hears the situation from the treating physician and from the patient’s perspective and makes a determination. It is not easy to get someone on the involuntary medication. Administering it to the patients who are gravely disabled and are a danger to self and others is a standard.

Susie Walton also provided an update on the free ID issue. She admitted additional information is needed about that as it depends in the location, relationship in some jurisdiction between DMV and the jails, how well the process is used and known about, etc. Vicky Rogers pulled together materials and the workgroup can craft a white paper to send from the Task Force to locals ensuring more people know about the process and use it.

NGRI issue regarding individuals with SSI and the disincentive to look for employment as their income is going toward their housing was also discussed at the Medication, Health Care and Public Benefits Subcommittee meeting. Susie Walton clarified as per Louise Boris’ request that there is an alternative interpretation of the SSI rule that takes the money away except personal allowance which is a disincentive to remain independent. There is a committee that is coming together online to review the issue.

Committee is formulating additional ideas to review. The idea of social security expert came up as the committee was talking about SSI individuals who after being in jail for over a year have to reapply for benefits; it is a Medicare Suspension problem. The process exists for SSDI individuals, it suspends the benefits and then starts then right up, but the same process doesn’t

exist for SSI individuals. The solution to this big problem is not yet found, an individual with social security knowledge participating in the work group would be helpful.

Another issue the subcommittee is working on is that the sex offenders who are leaving the state hospital with NGRI status, primary barrier from going back to their families, communities is the question of what their treatment will be, the cost of sex offender treatment, etc.

Michele Manchester agreed that the issue of discharging patients who have sex offence is a huge one. Susie Walton added that the issue exists in Division of Youth Corrections as well, youth becomes non compliant with their parole conditions as they can't get the treatment as Medicaid doesn't pay for it, there is no other payer source.

Susie Walton asked for any feedback for the subgroup to concentrate on. Michele Manchester commended the subcommittee for the job well done.

### ***Medication Consistency Subcommittee***

Dr. Elizabeth Hogen advised that the Medication Consistency Workgroup met, however there no updates at this time.

### ***Housing Subcommittee***

The workgroup has no Chair at the moment. Harriet Hall admitted that the housing subcommittee's work needs to be revitalized, however it hasn't happened yet. Michele Lacobow had scheduled subcommittee's meeting in the past, however she had to step down from the Task Force.

Jeanne Smith suggested skipping the subcommittee's work at this time as there has been some struggle for some subcommittee members to stay engaged in work due to lack of time or level of interest. Housing is a worthy topic but there might be no leadership due to the lack of time. Harriet Hall added that it is not so much the lack of interest in the topic, but the issue of time for some members to lead the group. She added that Gina Shimeall was leading the housing subcommittee in the past; however there is no leadership at the moment. Ms. Hall volunteered to be a part of the group, but not to lead it. She added that the issue is important, and a person to lead the subcommittee is needed.

Michele Manchester summarized the discussion stating that the housing subcommittee work will be to put on the back burner for right now.

Michael Ramirez, shared he finds that one doesn't need to be an expert to convene an effort.

Susie Walton proposed the topic of Employment to be added to the topic list of the Housing subcommittee when its work is revitalized.

Michele Manchester proposed to have additional discussion of Housing subcommittee work in the next Task Force meeting.

## ***Juvenile Justice Subcommittee***

Michael Ramirez provided the meeting with the Juvenile Justice Subcommittee update. The subcommittee identified specific the need to explore NGRI defense issues for juveniles in Colorado. Another discussion that takes place is a competency to proceed. This Task Force was critical in moving forward some legislation regarding competency to proceed in 2003-2004.

- The subcommittee is looking at affect of this legislation on youth. Is it a process in which juveniles are getting services or there any changes that need to be recommended?
- Process of restoring competency issues need to study this more.

The subcommittee solicited some experts from JJDP council that can support us in this work. It is a good time to look at the current positive things that were done in the past. Next month Ana Lopez will bring an update of the subcommittee work on these issues.

## **Behavioral Health Transformation Council**

Jeanne Smith provided an update on the Behavioral Health Transformation Council. Criminal Justice Subcommittee is undertaking a major study of how short term and long term certifications are working relating to criminal justice persons. On January 25, 2012 there will be a daylong seminar, the group with variety of experiences and levels of expertise will meet to do the gaps analysis to see if there are potential areas for policy changes or legislative suggestions. Regi Huerter is a co-chair of that subcommittee, Diane Pasini-Hill contributed to its work. Jeanne Smith will have more information in February. Michele Manchester asked if any spots become available for the seminar to please let everyone know.

## **What's Happening in Your Agency?**

Michele Manchester mentioned the state hospital has the names of superintendent candidates. It continues to work through clinical redesign and program development.

Tim Hand shared that he is excited about the new vision the Department of Corrections has under Mr. Clements direction, its focus on the evidence-based practices, reviewing the gaps, looking for ways to do a better job. There are some exciting challenges ahead of us.

Melinda Cox, Division of Child Welfare mentioned this legislative session is very busy for the Division with more than 150 pieces of legislation that are not on the bill paper yet circulating.

Michael Ramirez, CDE, had no updates.

Marc Condojani, Division of Behavioral Health, reported on the January 2012 activities of the Division.

- DBH received grant funding through Substance Abuse and Mental Health Services Administration (SAMHSA) for the Screening, Brief Intervention, and Referral for Treatment

(SBIRT) Colorado. SBIRT has been identified as one of the most viable and cost effective methods improving health and reducing costs. Healthcare providers are recognizing the benefits of early identification, intervention and/or referral for appropriate care for risky substance abuse. Additional information about SBIRT Colorado can be obtained at [www.improvinghealthcolorado.org](http://www.improvinghealthcolorado.org)

- DBH is in the period of transition after Charlie Smith accepted a position at SAMSA. His position was posted and was closed last week. In the meantime a number of management vacancies for the Division were filled.

Libby Stoddard, Colorado Federation for Families, had no updates

Harriet Hall reminded the Task Force that the Jefferson County was awarded a Mental Health Criminal Justice Collaboration grant from the Bureau of Justice Assistance. Lucie Scolion was hired as the coordinator for this grant. Ms. Scolion brings lots of skills and expertise as she ran a similar program in AZ. There is also a community advisory group that was appointed and will have its first meeting this month. The community based program in Jefferson County is taking off and is expanding.

Marceil Case, Department of Health Care Policy and Financing, updated the Task Force that the Adults without Dependent Children (AwDC) extension program is getting delayed. It is expected to be implemented by the end of this fiscal year. The determination on eligibility start date is not yet made; an estimated 10,000 people are involved. Original process of determining eligibility on a first come first serve basis is revised as the provider agencies are unable to determine how they will be affected. The new process will involve using regional estimates when allocating number of slots. Those who are on the wait list will be selected by statewide lottery process.

Deirdre Parker, family member, asked if some curriculum CIT notebooks can be made available. Jeanne Smith will bring some books next time.

Janet Drake, Attorney General's Office, had no updates. Ms. Drake apologized for not being able to attend the next few meetings as she has scheduling conflicts.

Jeanne Smith updated the Task Force about the upcoming treatment funding consolidation bill carried by Senator Steadman. She reminded the group that there are currently three substance abuse treatment funds: one through the Interagency Council on Adult and Juvenile Correctional Treatment (drug offender surcharge), the second came through Senate Bill 02-318 from the reduction in penalties in felony class levels for possession of certain narcotics, the third through House Bill 10-1352 from changes in penalty classifications. All these funding streams have committees overseeing them, similar permissive uses. The proposal to have them consolidated was endorsed by the Colorado Commission on Criminal and Juvenile Justice (CCJJ) as well as Behavioral Health Transformation Council. This consolidation is expected to streamline lots of work.

Ms. Smith reported on the issue of walk always in community corrections that indirectly affects mental health persons in criminal justice system. A large number of offenders in the community correction system especially those with mental illness get into a vicious cycle of not following the rules, not reporting back when supposed to get charged with escape. They are charged as habitual criminal after committing a certain number of felonies in a certain amount of time. CCJJ has recently passed a recommendation for legislature not to use those types of escapes to support a habitual criminal filing.

Michele Manchester inquired about the issues that come up with the individuals with mental health issues that are charged with escape. Jeanne Smith responded that the recommendation didn't focus on the persons with mental illness, however some of the escapes involved persons with mental illness.

Deirdre Parker commented that this issue is very big and she is glad it is being looked at.

Tim Hand commented there was a change made at the last legislative session regarding escapes and consequent sentencing. Jeanne Smith clarified that in the past in the case of escape including walk aways the new sentence was added on top of the sentence they were serving, however the change meant the judge could still do it however it wasn't required for walk aways type of escapes.

Harriett Hall informed the Task Force there are two Mental Health Caucuses happening this year. The first will take place on January 25<sup>th</sup>. Colorado Behavioral Health Council and Mental Health America are the organizers and this year's legislation sponsors are Jeanne Nicholson (Senate sponsor) and Ken Summers (House sponsor). Harriet Hall will send some additional information to Hillary Smith.

#### **11:18 a.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 11:18 a.m.