

Final
STAFF SUMMARY OF MEETING

TREATMENT OF PERSONS WITH MENTAL ILLNESS IN THE CRIMINAL JUSTICE
SYSTEM

Date: 10/03/2013

ATTENDANCE

Time: **09:06 AM to 12:29 PM**

King	*
Rosenthal	X
Tochtrop	X
Wright	X
Labuda	A
Newell	X

Place: SCR 356

This Meeting was called to order by
Senator Newell

This Report was prepared by
Amanda King

X = Present, E = Excused, A = Absent, * = Present after roll call

Bills Addressed:	Action Taken:
Introductions & Welcomes	Witness Testimony and/or Committee Discussion Only
Discussion of the Advisory Task Force Activities	Witness Testimony and/or Committee Discussion Only
Discussion of Proposed Legislation - Bill 1	Recommendation(s) Approved
Discussion of Proposed Legislation - Bill 2	Recommendation(s) Approved

09:07 AM -- Introductions & Welcomes

Senator Newell made opening remarks concerning the agenda (Attachment A) for the meeting.

09:08 AM -- Discussion of the Advisory Task Force Activities

Susan Walton, Chair of the Continuing Examination of Persons with Mental Illness Who Are Involved in the Criminal and Juvenile Justice Systems (MICJS) Task Force, introduced herself to the committee, and discussed her background in the human services field. Senator Tochtrop commented on Ms. Walton's professional background.

09:11 AM

Ms. Walton gave an update on the MICJS Task Force activities. She discussed the task force's efforts to examine the defense plea of not guilty by reason of insanity and the task force's strategic planning session that was conducted in November 2012. She discussed a survey that was conducted of the task force members that resulted in identifying the following study areas for the task force: medication, including formularies, medication interruptions due to disruptions in Medicaid access, and lack of Medicaid services upon release; staff safety, including opportunities for training and education; and housing, especially affordable housing, the stability and proper supports that housing offers, and the need for funding for housing, as well as wrap-around and case-management service options. Ms. Walton stated that Department of Corrections (DOC) personnel will be making a presentation on staff safety to the task force at its October meeting. Ms. Walton said that the task force's efforts to address issues concerning medication had stalled when Dr. Gregory Kellermeyer left the task force, but she is hopeful that once the position of a practicing forensic professional is filled on the task force, those efforts will continue.

09:19 AM

Senator Tochtrop asked whether the task force is looking at the issue of persons who are mentally ill who are in the criminal justice system and are kept in solitary confinement. Ms. Walton discussed the task force's efforts on the issue of administrative segregation, as well as the fact that the positions on the task force that are designated for the DOC are currently vacant.

09:22 AM

Dr. Harriet Hall, MICJS Task Force member, discussed the task force's activities concerning administrative segregation, which included touring correctional facilities, and the fact that the DOC made several changes at one point to address issues concerning administrative segregation. Dr. Hall stated that the task force has not studied the issue recently, but it is an issue the task force could continue to study.

09:25 AM

Senator Tochtrop discussed issues related to the safety of health care workers, emergency room workers, and first responders. Representative Wright discussed the need to fill the DOC vacancies on the task force. He asked whether legislation will be brought forth on medication issues, to which Ms. Walton responded that the task force was not recommending legislation on that issue at this time. Senator Newell discussed the interim committee bill deadlines, as well as other options for introducing legislation on issues the task force is studying. Representative Rosenthal dialogued with Ms. Walton about the task force's bill recommendation process. Senator Tochtrop discussed the implementation of legislation concerning Medicaid for persons released from the criminal justice system. Ms. Walton stated her understanding is that at this time that legislation has not been implemented. Senator Newell stated that the committee would follow-up with the Department of Health Care Policy and Financing on the issue. Representative Wright discussed the continuation and transfer of medication while persons are within the criminal justice system.

09:36 AM

Ms. Walton discussed the need for coordination of care after release from the criminal justice system. She responded to questions about the task force's efforts on the issue of staff safety, especially for smaller, rural counties and less experienced staff, especially in the county departments of human services. Senator Newell asked that Ms. Walton report back about how the legislative oversight committee can assist in efforts to address staff safety issues. Ms. Walton stated that many of the issues can be addressed through regulatory changes. Senator Newell asked Ms. Walton to provide in the its next report information on the issues the task force addressed without the need for legislation. Ms. Walton responded to questions about future efforts of the task force to address housing issues and asked that the committee provide some guidance to the task force on the specific housing issues they would like the task force to focus on.

09:45 AM

Senator Newell discussed the need for more data, including data on suicide rates in the criminal justice system and upon release. Ms. Walton and Dr. Hall responded to questions about whether substance abuse and behavioral health should be included in the task force's name. Dr. Hall discussed the legal complexities that could arise from including substance abuse in the task force's specific charge and aspects of the Diagnostic and Statistical Manual of Mental Disorders. Discussion continued about how the task force has addressed co-occurring disorders, and whether the task force should address stand-alone substance abuse issues. Copies of Article 1.9 of Title 18, C.R.S., were distributed to the committee (Attachment B). Senator Newell discussed the need for housing for persons with traumatic brain injuries.

10:06 AM

The committee dialogued with Ms. Walton about the need to fill vacancies on the task force, and the possibility of allowing and funding travel reimbursement and per diem for the task force. Ms. Walton discussed the need to address diversity in the task force membership. Members of the committee expressed their support for permitting reimbursements to task force members. Ms. Walton discussed the need for funding for site visits and training activities for the task force members. Representative Wright and Ms. Walton discussed whether crisis intervention training should be mandatory for criminal justice system employees and first responders. Representative Wright requested that Ms. Walton ask the task force members whether there would be support for mandatory crisis intervention training.

10:22 AM

Ms. Walton discussed the reasons why the task force is suggesting expanding the task force membership to include a member representing the Office of the Child's Representative and a member representing the Office of the Alternative Defense Counsel.

10:26 AM

The committee was provided a list of task force members (Attachment C) and a copy of Dr. Richard Martinez's curriculum vitae (Attachment D). Dr. Richard Martinez was appointed by Senator Newell to the task force to fill the vacancy of a practicing forensic professional. Senator Newell asked the committee to inform her if they had suggestions to fill the other vacancies on the task force. Senator Tochtrop suggested Dave Young from the 17th Judicial District for consideration for the district attorney position.

10:31 AM -- Discussion of Proposed Legislation - Bill 1

Ms. Walton presented proposed Bill 1 concerning continuing examination of the treatment of persons with mental illness who are involved in the justice systems (Attachment E). She discussed changing the name of the committee to shorten the name, but to still include the phrase "persons with." Dr. Hall discussed continuing the task force and legislative oversight committee. Dr. Hall responded to a question about whether a future repeal date is needed in the bill. Senator Newell said that amendments could be offered conceptually.

10:36 AM

Jane Ritter, Office of Legislative Legal Services, discussed the ability of the committee to make amendments to the proposed bill. The committee discussed including a travel reimbursement and per diem for task force members and the legislative oversight committee members. The committee discussed whether the appropriation clause should be included in the bill draft at this point.

10:47 AM

The committee discussed the possibility of changing the name of the committee, name of the task force, and bill title. Ms. Ritter asked about changing the name of the cash fund and the issues to be studied by the task force. The committee said that the issues to study should include housing, medication, staff safety and training, data collection, and administrative segregation. Senator Newell discussed the inclusion of suicide prevention and the treatment of co-occurring disorders. Senator Newell authorized Ms. Ritter to work with Ms. Walton and Dr. Hall on specific language to address the recommended changes to the bill. Ms. Walton responded to questions about whether expanding the task force membership may have negative impacts on the task force's functionality. The committee discussed changing the language on page 3, line 6, to remove "any" and add after "proposals" the phrase "if any."

BILL:	Discussion of Proposed Legislation - Bill 1	
TIME:	11:01:57 AM	
MOVED:	Tochtrop	
MOTION:	Referred Bill 1 (Attachment E) to the Legislative Council with the following changes: match the name of the task force and oversight committee to be "task force on persons with mental illness in the criminal and juvenile justice systems" and "legislative oversight committee on persons with mental illness in the criminal and juvenile justice systems"; add standard travel reimbursement language for both task force and legislative oversight committee members; remove the appropriations clause; change name of the cash fund to match the name of the task force and legislative oversight committee; expand the date of study to the repeal date of the task force; add issues for the task force to study to include housing, medication, staff safety and training, best practices of suicide prevention, data collection, administrative segregation, and treatment of co-occurring disorders; and on page 3, line 6, remove "any" and after "proposals" add "if any." The motion passed on a vote of 5-0, with one member absent.	
SECONDED:		
		VOTE
	King	Yes
	Rosenthal	Yes
	Tochtrop	Yes
	Wright	Yes
	Labuda	Absent
	Newell	Yes
Final YES: 5 NO: 0 EXC: 0 ABS: 1 FINAL ACTION: PASS		

11:05 AM

The committee discussed the sponsorship of the bill. It was determined that the bill would be introduced in the Senate with Senators Tochtrop and King as co-prime sponsors. Representative Wright will be the prime sponsor in the House. Senator Newell and Representative Rosenthal will co-sponsor the bill.

11:10 AM -- Discussion of Proposed Legislation - Bill 2

Michael Ramirez, MICJS Task Force member, discussed his professional background and involvement with the task force. Copies of proposed Bill 2, concerning the determination of competency to proceed for individuals in the juvenile justice system, (Attachment F) were provided to the committee. He discussed the issues the MICJS Task Force has studied related to juvenile justice, specifically related to not guilty by reason of insanity defenses, the history of competency legislation and whether research in the area of brain development would necessitate those statutes being updated, the need for services for youth that age out of juvenile jurisdiction without ever being restored to competency, and whether there was a need to amend statutes to address existing gaps. He stated that there were gaps in statute, and that is why the task force was recommending Bill 2. Mr. Ramirez provided a list of the juvenile justice subcommittee members (Attachment G). He discussed the stakeholder process of the juvenile justice subcommittee. Mr. Ramirez discussed the need to clarify and clean-up the language defining competency through the statute. He discussed the need to have the juvenile competency statute be unique to juveniles, and the fact that the current statutes reference competency as it relates to adults. Mr. Ramirez discussed other recommendations that were discussed by the juvenile justice subcommittee, but were not being brought forth by the task force at this time, which concern competency evaluation deadlines and restoration structure. He discussed the challenges of collecting data about competency evaluations and the utilization of private contractors for competency evaluations. He discussed the need for a centralized and consistent system for all competency evaluations. He discussed the reasons why the recommendations concerning evaluation deadlines and restoration structure were not being brought forth in legislation from the task force at this time.

11:25 AM

Representative Rosenthal asked whether the bill will impact direct-files and the types of crimes that the juveniles allegedly committed resulting in a competency evaluation being needed. In response to a question, Mr. Ramirez stated that not all juveniles are referred to the Colorado Mental Health Institute at Pueblo, but that it depends on the jurisdiction. Ms. Walton discussed competency evaluations for juveniles who are removed from their homes and placed in out-of-home placements. Mr. Ramirez shared a case study of a youth being held in Gilliam Youth Services Center for 191 days before a competency evaluation was provided. Representative Rosenthal discussed the services the juvenile may have received at Gilliam Youth Services Center. The committee dialogued with Mr. Ramirez and Ms. Walton about why data on juvenile competency evaluations is not available.

11:41 AM

Representative Wright asked how Bill 2 would help address issues related to juvenile competency. Mr. Ramirez stated that the bill focuses the competency language on juveniles and removes language concerning adult competency. Representative Rosenthal discussed amending the statutes to allow a dismissal of charges after 60 days, if an evaluation is not completed. Senator Tochtrop discussed the lack of data availability in general. Mr. Ramirez responded to questions about whether adult competency evaluations are centralized and why evaluation timelines are not being met. Mr. Ramirez stated that there is not a standardized approach in the competency evaluations for juveniles. Senator Newell discussed the efforts of the Juvenile Justice Task Force under the Colorado Commission on Criminal and Juvenile Justice to look at a variety of evaluations. Representative Rosenthal asked whether a juvenile would be able to manipulate an evaluation. Ms. Walton discussed aspects of forensic psychology. Mr. Ramirez responded to questions about the involvement of district attorneys and representatives of the judicial districts in the juvenile justice subcommittee and whether they supported the proposed legislation.

11:58 AM

Senator Newell discussed whether the committee could address the juvenile justice subcommittee's recommendations that are not being brought forth in Bill 2 at this time. Senator King expressed concerns about directing the judicial branch on their operations and procedures. He suggested the possibility of talking with the Supreme Court administrator or drafting a letter to the Chief Justice concerning the evaluation deadlines. Representative Wright discussed the need for a standard for evaluations. Senator King discussed the need for flexibility in the judicial system to address juvenile cases. Ms. Walton and Mr. Ramirez discussed reaching out to task force members and others on expanding the bill's scope. Senator Newell discussed the options available to the committee concerning the bill. The committee discussed whether to move the bill forward as drafted and whether the bill adheres to federal law. Ms. Ritter responded to questions about language in the bill concerning the federal definition of developmental disability.

12:14 PM

Mr. Ramirez and Ms. Walton discussed changing language on page 2, line 6, to be up to the 21st birthday rather than the 22nd. Mr. Ramirez discussed changing language on page 3, line 21, changing court-appointed special assistant to court-appointed special advocate. The committee discussed the possibility of another meeting to address outstanding issues related to juvenile competency. The committee determined that they would meet in November or December, if necessary, after the task force further discusses the outstanding issues related to juvenile competency.

BILL:	Discussion of Proposed Legislation - Bill 2	
TIME:	12:24:36 PM	
MOVED:	Rosenthal	
MOTION:	Refer Bill 2 (Attachment F) to the Legislative Council with amendments to page 2, line 6, changing the language to be up to the 21st birthday, and on page 3, line 21, changing court-appointed special assistant to court-appointed special advocate. The motion passed on a vote of 5-0, with one member absent.	
SECONDED:		
		VOTE
	King	Yes
	Rosenthal	Yes
	Tochtrop	Yes
	Wright	Yes
	Labuda	Absent
	Newell	Yes
Final YES: 5 NO: 0 EXC: 0 ABS: 1 FINAL ACTION: PASS		

12:25 PM

The committee discussed the sponsorship of the bill. It was determined that the bill would be introduced in the House with Representative Rosenthal and Senator Newell as the prime sponsors. Representative Wright and Senator Tochtrop will be co-sponsors on the bill.

12:29 PM

Senator Newell expressed her appreciation to the task force and adjourned the committee.