

Mental Health/Jails Task Force
Colorado Commission on Criminal and Juvenile Justice
Minutes

February 8, 2018 1:30PM-4:00PM
710 Kipling, 3rd Floor Conference room

ATTENDEES:

TASK FORCE MEMBERS

Norm Mueller, Defense Bar
Patrick Costigan, 17th JD District Attorney's Office (on the phone)
Joe Morales, Adult Parole Board
Benjamin Harris, Department of Healthcare Policy and Financing
Doug Wilson, Office of the Public Defender
Frank Cornelia, Colorado Behavioral Healthcare Council
Abigail Tucker, Community Reach Centers
Tina Gonzales, Colorado Health Partnerships
Matthew Meyer, Mental Health Partners (on the phone)

ABSENT

Joe Pelle, Boulder County Sheriff, chair
John Cooke, State Senator, District 13
Evelyn Leslie, Private Mental Health Treatment Provider
Charles Smith, Substance Abuse and Mental Health Services Administration
Michael Vallejos, district court judge, 2nd Judicial District
Dave Weaver, County Commissioner
Jamison Brown, Colorado Jail Association
Patrick Fox, Office of Behavioral Health
Charles Garcia, CCJJ Member At-Large

STAFF

Richard Stroker, CCJJ consultant
Kim English, Division of Criminal Justice
Laurence Lucero, Division of Criminal Justice

GUESTS

Vincent Atchity, Equitas Foundation

<p>Issue/Topic: Welcome and Introductions</p>	<p>Discussion: Commission consultant Richard Stroker led the meeting in place of Task Force Chair Sheriff Pelle who was not able to attend. Richard Stroker welcomed the group and asked Task Force members and attendees to introduce themselves.</p>
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<p>Issue/Topic: Update on the outcome of FY18-MH #1 recommendation and next steps</p> <p>Action: Identify interested counties to participate to pilot</p>	<p>Discussion: Richard Stroker informed the group that the Pre-Filing Mental Health Diversion Program recommendation was voted on and approved with one amendment at the CCJJ meeting on January 12, 2018. The amendment consisted of the removal of the language (page 5, paragraph 5c) stating that disagreements to divert will be resolved by a judicial officer.</p> <p>Next step is to identify potential sites for pre-filing diversion programs. It was reminded that Jamison Brown attended the Colorado Jails Association and the County Sheriff’s Association of Colorado conferences in January during which he discussed this model with the different agencies across the state and provided criteria for pilot sites selection.</p> <p>Next, Kim English and staff will interact with the interested counties, will gather information about the assessment process and review the selection criteria with callers.</p> <p>Kim will then report to this group to decide which counties (preferably, one large and one rural jurisdiction) would be appropriate to participate in this pilot project.</p> <p>Patrick Costigan suggested reaching out to new Colorado District Attorney’s Council (CDAC) President, Mr. Jeff Chostner.</p>
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<p>Issue/Topic: Recap of January meeting</p> <p>Action: Review data question Review standards from behavioral health care from NCCHC Review the TAC report</p>	<p>Discussion: Richard Stroker provided a recap of the January meeting. The group is now tackling issue #3: “The provision of mental health services in jails” and has identified 3 areas of focus:</p> <ol style="list-style-type: none"> 1. Individuals eligible for post filing/pre-adjudicating diversion programs. 2. Individuals not eligible for pretrial diversion program and staying in jails. What is our capacity (resource availability) to appropriately manage cases in the jails. 3. Options/alternative placements for individuals with acute conditions who present management issues in the jails. <p>A print out of the California Department of State Hospitals websites was</p>
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included in the meeting materials. This model has been mentioned at previous meetings as California has decentralized its hospital system throughout the state to facilitate access to care.

3. Options/alternative placements for individuals that cannot reasonably be managed/treated in the jail.

It was reiterated that an offender in the jail can be taken to a hospital when severely sick but when an offender has an acute mental health condition, dangerous to others or self and, beyond the management of the jail, there is no place to go except the State Hospital in Pueblo that has a several weeks waiting list. The California regional system has been mentioned as a model to consider.

C.R.S. Title 27, Article 65, contains a number of laws related to behavioral health situations and should be used as criteria to define the population by clinical acuity.

It was commented that a person *“difficult to manage”* is different from *“a person who appears to be an imminent danger to self or others or appears to be gravely disabled”*.

It is necessary to know the number of individuals with acute mental health conditions who are currently in the jails and break down the data by those sentenced versus on pre-trial. A person sentenced in a county jail has been likely sentenced for a low level offense (misdemeanor or petty) or for a probation revocation.

Doug Wilson recalled that, under Title 27, when someone is in jail on pretrial, there must be either a dismissal of the criminal case or a permissible order on the criminal side to go forward with a civil commitment proceeding. There are people who are permanently incompetent who do not meet the Title 27 commitment definition, and prosecutors and judges are reluctant to dismiss charges as there won't likely be a civil commitment proceeding. Doug suggested that individuals who are on pretrial where competency issues have been raised should be removed from the target population.

One of the issues is that the jails are not designated facilities under Title 27 and clinicians in the jails cannot involuntarily commit or treat someone. Abigail Tucker suggested that jails should be added as designated facilities under C.R.S. 27-65.

The group agreed that the following information should be asked of the Colorado Jails Association (CJA) during one of their monthly meetings since that would be a good venue to reach out to different jurisdictions across the state:

- Estimate per year (and up to 3 years if possible) the number of individuals in the jails with mental health disorders who meet the criteria as defined in C.R.S. 27-65,
- If possible, break down data by pre-trial versus sentenced,
- The length of stay in jails awaiting to be admitted in the State Hospital (if information available).

The following information should be asked to the Colorado State Hospital:

- How many forensic beds per year (and back to 5 years if possible) are used at the request of county jails for non-competency and non-NGRI (not guilty by reason of insanity) clients,
- Length of stay,
- Break down by demographics,
- Number of those individuals who returned to jail with short or long term certification.

2. Individuals not eligible for pretrial diversion program and staying in jails.

What are the services that should be minimally available in the jails (training, assessment, professional staff, etc.)?

Frank Cornelia informed the group that the Colorado Department of Human Services has engaged in a legislative process to expand the scope of the Jail Based Behavioral Health Services (JBBHS) to mental health services in addition to substance use.

The National Institute of Corrections (NIC), the American Jails Association and particularly the National Commission on Correctional Health Care (NCCHC) were mentioned as good resources for best practices on behavior health services in the jails.

The accreditation of a facility is costly and requires significant effort which explains why most of the jails in Colorado do not seek accreditation. Other states have legislated how jails should care for inmates but it was noted that such an effort would be challenging and costly in this state because Colorado is decentralized.

Abigail Tucker suggested to first develop statewide standards and offered to send the standards from the NCCHC for review by this group.

It was commented that statewide standards should be adapted by whether a facility is in a rural/frontier/urban jurisdiction as a facility located in a rural county cannot be held to the same expectations than a facility in the metro area.

The group agreed that the following information was needed to better understand what is currently being done in the jails with regards to mental health services:

- What is your budgeted Infrastructure/work force for managing your MH population.
- Are you accredited by ACA and NCCHC, (or received tech assistance from NIC)?
- What is your Average Daily Population and what is percentage of the population with BH disorders?
- What is your approach to BH management (services, contracts, methods)?
- What other resources dedicated to this population (partnership)?

	<p>- How many time do they divert a person being detained to another jail to receive MH services?</p> <p>Abigail Tucker and Joe Morales volunteered to go to one of the Colorado Jails Association meetings to gather information in person.</p> <p>1. Individuals eligible for post filing/pre-adjudicating diversion programs.</p> <p>It was suggested to review the report on post-adjudication from the Treatment Advocacy Center (TAC). The TAC is a national nonprofit policy organization dedicated to eliminating barriers to the treatment of mental illness. The organization promotes Assisted Outpatient Treatment (AOT), works on improving civil commitment laws and standards, and mental health policies and practices. Frank Cornelia will forward the TAC report and also suggested to invite Frankie Berger, Director of Advocacy to attend one of the Task Force meetings.</p> <p>Doug Wilson suggested building on the “Pre-Filing Mental Health Diversion Program” recommendation that was approved by CCJJ and adding “post-filing/pre-adjudication” with judicial authority to divert when there is disagreement between parties.</p> <p>Most states have a judiciary imposed diversion program where the court makes the decision whether to divert to mental health or pursue with the criminal case.</p> <p>The group discussed that the following information should be gathered:</p> <ul style="list-style-type: none"> - Number of people diverted to Mental Health courts in Colorado, - Number of people referred - Success rate, - How many states have judicial authority to divert. <p>Kim English will research information on Mental Health Courts and will reach out to Frankie Berger from TAC to ask if there is information on the number of states that have judicial authority.</p> <p>Patrick Costigan will brief the group on the diversion program in the 17th Judicial District at next meeting in March.</p>
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Issue/Topic:	Discussion:
<p>Next steps and Adjourn</p>	<p>Richard Stroker summarized the next steps:</p> <ol style="list-style-type: none"> 1. Group to review the NCCHC standards and discuss at next meeting 2. Staff to prepare questions to both Jail Association and State Mental Health and forward to the group for feedback. 3. Discuss questions at next meeting in March. 4. Staff will research information on Mental Health Courts and on the number of states that have judicial authority.

	<p>Patrick Costigan will brief the group on the Diversion program in the 17th Judicial District at the next meeting.</p> <p>Meeting adjourned at 3:31 pm</p>
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Next Meeting

March 8, 2018

1:30pm – 4:00pm

710 Kipling, 3rd Floor Conference room