

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

May 10, 2018 1:30PM-4:00PM  
710 Kipling, 3<sup>rd</sup> Floor Conference room

**ATTENDEES:**

**TASK FORCE MEMBERS**

Joe Pelle, Boulder County Sheriff, chair  
Patrick Costigan, 17<sup>th</sup> JD District Attorney's Office (on the phone)  
Benjamin Harris, Department of Healthcare Policy and Financing (on the phone)  
Doug Wilson, Office of the Public Defender  
Frank Cornelia, Colorado Behavioral Healthcare Council  
Abigail Tucker, Community Reach Centers (on the phone)  
Tina Gonzales, Colorado Health Partnerships (on the phone)  
Jamison Brown, Colorado Jail Association  
Norm Mueller, Defense Bar  
Jagruti Shah, Office of Behavioral Health  
Evelyn Leslie, Private Mental Health Treatment Provider

**ABSENT**

John Cooke, State Senator, District 13  
Charles Smith, Substance Abuse and Mental Health Services Administration  
Dave Weaver, County Commissioner  
Charles Garcia, CCJJ Member At-Large  
Matthew Meyer, Mental Health Partners  
Joe Morales, Adult Parole Board

**STAFF**

Richard Stroker, CCJJ consultant  
Laurence Lucero, Division of Criminal Justice  
Peggy Heil, Division of Criminal Justice

**GUESTS**

Vincent Atchity, Equitas Foundation  
Peggy Heil, Division of Criminal Justice  
Moses Gur, Colorado Behavioral Healthcare Council  
Reo Leslie, Co. School for Family Therapy  
Gina Shimeall, Defense Attorney  
Patrick Fox, Anthem Blue Cross Blue Shield

<p><b>Issue/Topic:</b> Welcome</p>	<p><b>Discussion:</b></p> <p>Mental Health/Jails Task Force Chair Joe Pelle welcomed the group and asked Task Force members and attendees to introduce themselves. He welcomed Ms. Jagruti Shah from the Office of Behavioral Health as a new member of the Task Force and replacing Dr. Fox.</p>
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<p><b>Issue/Topic:</b> Legislative Updates Pre-Filing Diversion Program &amp; SB18-249 Pilot Programs</p> <p><b>Action:</b></p>	<p><b>Discussion:</b></p> <p>Doug Wilson and Moses Gur provided information on the legislative outcome of the bills related to the work of this task force.</p> <p><b>S.B. 18-249 - Establishing alternative programs in the criminal justice system to divert individuals with a mental health condition to community treatment, and, in connection therewith, making an appropriation. <i>Bill passed</i></b> This bill creates up to four pilot programs in judicial districts in the state that divert individuals with low-level criminal behavior and a mental health condition to community resources and treatment rather than continued criminal justice involvement. The summary and the full text of the bill can be found <a href="#">here</a>.</p> <p><b>S.B. 18-250 – Concerning the provision of jail-based behavioral health services. <i>Bill passed</i></b> This bill continues to allow the correctional treatment cash fund to be used to provide treatment for persons with mental and behavioral health disorders who are being served through the jail-based behavioral health program. The program is housed in the office of behavioral health. The summary and the full text of the bill can be found <a href="#">here</a>.</p> <p><b>S.B. 18-251 - Establishing Statewide Behavioral Health Court Liaison Program. <i>Bill passed</i></b> The bill establishes in the office of the state court administrator a statewide behavioral health court liaison program. The implementation date is expected in October 2018 and will create 28 court liaison positions, a statewide coordinate position. The summary and the full text of the bill can be found <a href="#">here</a>.</p> <p><b>S.B. 18-252 – Concerning actions related to determinations of competency to proceed. <i>Bill died</i></b></p>
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	<p><b>DISCUSSION:</b></p> <p>Frank Cornelia shared that he recently discussed Senate Bill 18-252 with Jonathan Singer who expressed that this issue will be brought and discussed at the <i>Treatment of Persons with Mental Illness in the Criminal and Juvenile Justice Systems Task Force</i>.</p> <p><i>How does S.B.18-249 relate to pre-filing diversion program recommendation from this Task Force and what are the next steps?</i></p> <p>S.B.18-249 references the pre-filing diversion model described in the CCJJ recommendation. The reporting requirements are different from the existing adult diversion programs administered by the district attorneys' offices. The implementation and outcome measurement will be determined by the jurisdictions. It was believed that the jurisdictions that volunteer to pilot the project will have the discretion to participate to the data collection and outcome measures described in the CCJJ recommendation. The group agreed to reach out to those jurisdictions once they are identified and discuss data collection and analysis of the pilot program.</p> <p>Jagruti Shah indicated that she recently discussed the bill with two judges who expressed some confusion about the specificity of the program. It was agreed that this issue will be revisited once the sites have been identified and maybe conduct some educational meetings regarding the model.</p> <p>Sheriff Pelle mentioned that <i>H.B.18-1436 Concerning creation of an extreme risk protection order</i> did not pass the legislature.</p>
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<p><b>Issue/Topic:</b>                  Recap March meeting                  Review of existing models and possible options</p>	<p><b>Discussion:</b></p> <p>Richard Stroker provided a recap of the April meeting.</p> <p>The group has now engaged the topic of the hospitalization in secure facilities of individuals who have acute and severe behavioral health problems and are in the jails. Those individuals are not eligible for diversion and are likely on pretrial.</p> <p>Currently the only option in Colorado is the State Hospital but there is an extensive waiting list and the hospital is remotely located. It is difficult to place individuals in a timely fashion and local private hospitals often refuse to admit jails detainees with acute mental health conditions.</p> <p>The regional models from other states are state-run hospitals. The Colorado Revised Statutes 27-65 give designated facilities the ability to involuntarily medicate. State jails are not considered designated facilities due to licensure requirements.</p>
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There is a secure section located inside the Denver Health Medical Center called the Correctional Care Medical Facility (CCMF) which provides services for medical emergencies.

It is a 24-bed facility administered by the Denver jail. Jails detainees are transferred at the CCMF and assessed by clinicians to determine whether IMeds are necessary. If so, the clinician files a petition the probate court to involuntary administer treatment. A court hearing is held within 10 days. During this period, the inmate is not receiving psychiatric treatment. Once the order is granted, the inmate is transferred back to the jail and clinicians in the jails have the ability to administer IMeds. The court order is valid for 90 days. CCMF is privately owned and currently only accepts detainees from the Denver jail and CDOC.

Gina Shimeall discussed *S.B.18-263 Pilot Program Court Approval Treatment Medications in Jails. Concerning the creation of a pilot program to allow for court approval of treatment medications in jails.* This bill did not pass the legislature. The bill was to create a pilot program in the Department of Human Services that would allow a licensed psychiatrist to petition the court for authority to administer medications in a jail over the objection of a respondent.

It was suggested to invite administrators from the Denver Health hospital and the Denver Springs Hospital to discuss this issue with the group. Denver Springs is a new private 27-65 facility with about 90 beds.

The group agreed that hospitals would be the best option as emergency placement for individuals in jails with acute behavioral health condition.

The group discussed the HARPER process which is the ability to administer medication in the jails under the jails administrative functions. Currently the HARPER process is used for convicted inmates in the Department of Corrections and there are growing discussions across the nation to use this process for pre-convictions.

*What is the status of an inmate when transferred to a hospital?*

They are under inmate status unless there is a medical emergency. If there is a transfer to a hospital and the hospital provides the security, the individual is eligible for Medicaid after 24 hours. Technically, a transfer from custody is done under a court order.

It was agreed to explore further the issue of jail detainees' status when transferred to medical facilities for emergency services. Dr. Fox believed that the insurance eligibility is more complex with behavior health emergencies due to the HCPF capitated system. Ben Harris who was not present during this part of the meeting will be asked about this process.

Richard Stroker summarized the elements of the model:

Criteria:

Not diverted

Significant MH needs

	<p>Require services and management Beyond jail ability &amp; capacity to provide</p> <p><u>Hospital:</u> Has the ability to provide all necessary services Is accessible to jail on short term Provides therapeutic environment Appropriately secure facility. Meet screening criteria by MH professional (avoidance to unload people to these hospitals) Pay criteria</p> <p>The group discussed the issue of determining the number of needed secure beds in a regional hospital and per diem payment. Dr. Fox explained that any hospital willing to build a secure wing would likely request a higher per diem than the Medicaid rate as well as a minimum average daily census to ensure full operation.</p> <p>Medicaid sets the daily rate for hospitals and which varies by the size of the hospital and prior expenditures. Generally, the per diem rate pays for the occupied bed and the insular services. Besides the provider fees that could be added to the per diem rate, not many other services are permissible by Medicaid.</p> <p>Dr. Fox will forward the number of involuntary meds petitions filed by the Denver Jail through CCMF over two years. He recalled the number to be approximately 35 which doesn't include competency restoration. The information was provided by Dr. Sasha Rai at the Denver Health Medical Center.</p> <p>It was suggested to also include to this number of people who are acutely suicidal.</p> <p>Medicaid caps the hospital stay at 15 days. After this time, other insurance(s) would be used to pay for hospitalization.</p> <p>At the next meeting, the group will discuss further the following issues:</p> <ul style="list-style-type: none"> <li>A. Number of individuals/bed space needed</li> <li>B. Potential location(s)</li> <li>C. Clarify status of individual (under jail authority?) - Process – Type of Case.</li> <li>D. Clarify/Determine Payment (Medicaid eligible etc.) – Per Diem</li> <li>E. Duration (Medicaid cap up to 15 days of who is going to pay)</li> </ul> <p>Staff of the task force will research the statutes that relate to such process and provide copies at the next task force meeting in June.</p> <p>Will reach out to Ben Harris to discuss the financing part.</p>
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<b>Issue/Topic:</b>	<b>Discussion:</b>
<p>Next steps and Adjourn</p>	<p>Sheriff Pelle announced that Mr. Wilson will be retiring effective August 1, 2018 and thank him publicly for all the work, time and contribution he dedicated in these efforts.</p> <p>Norm Mueller and Evelyn Leslie’s terms to serve on CCJJ will expire June 2018.</p> <p>Dr. Fox announced that he recently joined Anthem but intends to continue participating to the discussions of this task force as member of the public. Ms. Shah is now sitting as a representative of the CDHS/Office of Behavioral Health.</p> <p>Sheriff Pelle thanked Mr. Wilson, Mr. Mueller, Ms. Leslie and Dr. Fox for their valuable contribution and welcomed each to continue participating in these efforts.</p> <p>Meeting adjourned at 3:30 pm</p>

**Next Meeting**

June 7, 2018

1:30pm – 4:00pm

710 Kipling, 3rd Floor Conference room