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

October 11, 2018 1:00PM-4:00PM
710 Kipling, 3rd Floor Conference room

ATTENDEES:

TASK FORCE MEMBERS

Joe Pelle, Boulder County Sheriff, chair
Abigail Tucker, Community Reach Centers
Jamison Brown, Colorado Jail Association (on the phone)
Jagruti Shah, Office of Behavioral Health
Megan Ring, Public Defender's Office
Cynthia Grant, AllHealth Network
Norm Mueller, Defense Bar
Nancy Jackson, Arapahoe County Commissioner
Patrick Costigan, 17th JD District Attorney's Office
Benjamin Harris, Department of Healthcare Policy and Financing (on the phone)

ABSENT

Charles Smith, Substance Abuse and Mental Health Services Administration
John Cooke, State Senator, District 13
Frank Cornelia, Colorado Behavioral Healthcare Council
Chris Bachmeyer, District Judge, 1st Judicial District
Tina Gonzales, Beacon Health Options

STAFF

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

GUESTS

Gina Shimeall, Defense Attorney
Robert Werthwein, CDHS (on the phone)

Issue/Topic: Welcome	**Discussion:** Mental Health/Jails Task Force Chair Joe Pelle welcomed the group and asked Task Force members and attendees to introduce themselves. Joe welcomed Commissioner Jackson from Arapahoe County who is also a new CCJJ member.

Issue/Topic: Recap of September meeting **Action:**	**Discussion:** Richard Stroker provided a recap of last month's meeting. The Task Force is now focused on the possibility of moving individuals from jails to other behavior health care facilities to receive necessary mental health services while maintaining their inmate status. These individuals have significant behavioral health needs that are beyond the jails capacity to provide.

Issue/Topic: Finalizing recommendation	The draft of a recommendation was included in the meeting materials for the Task Force to review. The document is titled "**Develop a method that allows for stabilization of jail detainees who demonstrate acute behavior health needs that are beyond the ability of the jail to address.**" The document that was developed by the working group and outlines the components of a process regarding how this population could be managed in other facilities (see minutes on September 9, 2018) was incorporated in the recommendation. DISCUSSION It should be noted that one of the primary issues prompting this recommendation is that there is no parity between the medical and behavior health systems. The necessary services exist when there is a medical emergency but not when there is psychiatric emergency. Additionally, the recommendation should explain that counties are responsible for the cost of transportation and services on the medical side for the first 24 hours of hospitalization. After 24 hours of hospitalization, services can be reimbursed by Medicaid. CCJJ Taskforce history and agreements should also be added. Richard Stroker engaged the group in discussing the remaining questions: - How to implement such model and what are the issues? - What are the types of facilities and where are they located (accessibility to jails)? - Local initiative (i.e. agreement between jails and care facilities) and/or state initiative/oversight?

- Funding issues: where does the funding come from and what would be the incentives to accommodate this population?
- What are the concerns of those who operate behavior health facilities?
- What are the concerns of jail officials with regards to security, oversight management?

Sheriff Pelle informed the group that Dr. Werthwein, the Director of the CDHS/Office of Behavioral Health (OBH), was on the phone to provide some information about the cost of state forensic beds and updates on OBH initiatives relevant to the work of this Task Force.

Dr. Werthwein explained that the OBH is looking for additional bed capacity for competency evaluations and restorations. There are currently 133 individuals in Colorado who have been waiting for more than 28 days for competency restoration. OBH is negotiating with Denver Health about contracting some beds to address this backlog. One of the concerns expressed by care providers is how to mitigate and address the safety piece associated with serving this population. There must be incentives for private providers to take on additional risks and costs associated with forensic beds. The forensic rate for the state hospital $717 per day.

It was estimated that a forensic psychiatric bed in private facilities is about the double of the state hospital rate.

Individuals have to meet the clinical criteria to transfer to a 27-65 designated locked facility. This will be clarified in the recommendation under "Intended Population."

The ability to handle acute behavioral health conditions varies significantly in every county. It should be recognized that most of the 27-65 designated facilities are located in the Colorado front range and that there are very limited resources and capacity in the rest of the state. There represents a tremendous gap between the metro area and out of metro areas.

It was believed smaller counties may be better inclined to support such model due in part to their limited access to resources. This model would broaden access to care facilities and develop partnerships.

The group agreed to research information on in-patient psychiatric bed rate and Dr. Tucker offered to reach out to the Colorado Hospital Association.

The group discussed the need to reach out to private facilities and discuss the issues and concerns they may have with serving this population.

Hospitals have expressed concerns about the cost, safety and image perception associated with serving jail detainees and the group agreed that funding is a necessary element of this recommendation.

One of the challenges is that all facilities should be 27-65 designated to be able to administer involuntary medication.

Dr. Werthwein shared that because there is enough business on the civil side, hospitals are hesitant to serve correctional population and the incentives should be greater than the cost of civil beds. He agreed with the Task Force efforts and believed that there may be good success in rural/local communities that have potentially established good relationship with their local hospitals.

Sheriff Pelle reiterated the idea of developing a Request for Service (RFS) process which would allow interested facilities to respond with a proposal that includes all the required subsidies they need to provide this service. The role of the state could be to post a RFS to help the counties identify potential entities interested to partner and contracts may be established at the local level.

The group discussed at length the types of facilities and Medicaid reimbursement, and proposed to also include psychiatric hospitals that are 27-65 designated but may not be eligible for Medicaid reimbursement. These hospitals operate as acute care and secure treatment facilities.

Nancy Jackson offered to share the concept with other County Commissioners to get some feedback and measure interest in participating.

Ben Harris from the Department of Healthcare Policy and Financing (HCPF) joined the meeting via phone and was asked the following questions:

How to ensure the same parity with Medicaid reimbursement between sending an inmate for a medical emergency versus for a mental health crisis?
Ben Harris responded that there is a capitated fee for behavioral health services. In order to be eligible for Medicaid reimbursement, the provider type must be an acute care hospital and a hospitalization stay more than 24 hours.
Any services that are precipitated by a behavioral health diagnosis (mental health, substance use, etc.) get paid at the capitated rate.

The capitated fee cannot be used for incarcerated individuals but can be used for acute care hospital visit. Ben will do some more research on whether the behavioral health diagnosis has any impact on the capitated fee payment and will provide some updates at the next meeting.

What is the average Medicaid reimbursement daily rate for 27-65 designated, type 1 facilities?
Ben Harris believed that as long as the inpatient stay criteria are met, they would qualify for a fee for service regardless of the amount. Ben will clarify questions about the HCPF rate schedule at the next Task Force meeting.

There are different negotiated rates based on geography and type of facility.

Gina Shimeall shared that there are multiple instances of individuals who are placed on M1 hold because of their psychotic state and commit offenses (for example, assault on staff) while in the hospital. The hospital files charges and sends the individual back to jail even as they are still in the same psychotic state. Gina suggested to consider these instances in this model since the jails won't be

	able to send the individuals back to the hospital for stabilization. It was suggested inviting members of the Colorado Hospital Association to discuss with such model with the group and identify possible barriers of implementation. This would also be an opportunity to explain the impact at the local level and address some of the challenges of this project. As Medicaid is linked with many with federal requirements, it is important to seek collaboration with other funding sources. A potential concern was expressed that, given the security and safety protocols that need to be in place as well as impact on cost, very few private facilities may be interested in serving this population. Nancy Jackson shared that she recently heard a presentation on Denver Social Impact Bond (see more information here). The initiative offers permanent housing for the chronically homeless and individuals who struggle from mental health and substance abuse. As a result, these individuals frequently interact with police, jail, detox and emergency care systems. These interactions are extremely costly and ineffective. Since the project was implemented, the city of Denver has seen substantial reduction of jail beds which has allowed Denver to paid off the initial investment. Nancy suggested inviting representatives from the Denver Social Bond at a future Task Force meeting. Nancy expressed that, similar to the Social Bond Impact initiative, the model discussed by this Task Force may require initial investment for counties and hospitals but the cost avoidance would probably pay back this initial investment. She also believed that funders would be interested in this innovative project because providing adequate services for this population would save money for counties. Jamie Brown followed up on the idea of a Request for Service and the concern of not getting buy-in from private providers. The Colorado Jail Association contracts with a number of medical providers and Jamie believed that they would be interested in participating in this model. The group agreed that the recommendation would contain the following options: 1) Fund beds partly with Medicaid reimbursement – The facilities are 27-65 designated and Type 1 provider. Most are located in the front range. A Request for Service would be placed to identify interested partners. The group should discuss at future meetings whether there should be a state oversight entity and identify this entity. 2) Fund beds without Medicaid reimbursement – The facilities are free standing acute care facilities. Located across the state and accessible in the four quadrants. Many facilities may not have psychiatric resources and cannot administer involuntarily medication but funding could be used to make the acute care hospitals 27-65 designated. A Request for Service would be placed to identify interested partners.

	3) Reinstate the beds that were closed at the Mental Health Institute at Fort Logan.

Issue/Topic: Next steps and Adjourn	**Discussion:** At next meeting in November: - Update from HCPF (Ben Harris) - Update from OBH (Dr. Werthwein) - Staff will reach out and invite Dr. Muir from the Colorado Hospital Association (CHA), Dr. Snyder from Denver Springs and a representative from Highlands Behavior Health. - Update from the working group: Review of recommendation & information about additional state resources. Meeting was adjourned at 3:30 pm

Next Meeting

November 8, 2018 1:30pm – 4:00pm 710 Kipling, 3rd Floor Conference room