Drug Policy Task Force

Date: December 8, 2010 Time: 1:00 – 5:00

Members present:

Grayson Robinson/Arapahoe County Sheriff, CCJJ Member / Chair
Bill Kilpatrick/ Golden Police Chief / CCJJ Member
Regina Huerter/Denver Crime Prevention and Control Commission/ CCJJ Member
Maureen Cain/Colorado Criminal Defense Bar
Carmelita Muniz/Colorado Association of Alcohol and Drug Service Providers
Brian Connors/ State Public Defender's Office
Kathleen McGuire/ Douglas County Office of the Public Defender
Nancy Feldman/ Office for Victims Programs, Division of Criminal Justice (by phone)
George DelGrosso/ Colorado Behavioral Healthcare Council
Christie Donner/ Colorado Criminal Justice Reform Coalition
Dan Rubinstein/ District Attorney's Office, 21st Judicial District
Tim Hand/ Department of Corrections
Sean McAllister/Private Defense Attorney
Shane Bahr/ Problem Solving Courts, Judicial Department
Rod Walker / Colorado Springs Police Department
Christine Flavia / Division of Behavioral Health
John O'Dell / Parole Board

Guest Speakers:
Abe Hutt/ Private Defense Attorney
Glenn Davis/Colorado Department of Transportation
Kathryn Wells/University of Colorado School of Medicine, Denver County Family Crisis Center
Kay Teel/University of Colorado Denver, Department of Psychiatry

Absent:
Don Quick/District Attorney, 17th Judicial District / CCJJ Member
Reo Leslie/ Colorado School for Family Therapy / CCJJ Member
Greg Long/District Attorney's Office, 2nd Judicial District
Evie Hudak/Colorado State Senator, Senate District 19
Pat Steadman/Colorado State Senator, Senate District 31
Mark Hurlbert/District Attorney, 5th Judicial District
Mark Waller/State Representative, House District 15
Dolores Poeppel / Victims Assistance Unit, Colorado State Patrol

Issue/Topic:	Discussion:
Welcome	Grayson Robinson called the meeting to order at 1:15 and reviewed the day's agenda.

Issue/Topic:	Discussion:
Feedback from ITF-DD on DUID Recommendations **Action**	Abe Hutt spoke as a representative of the Interagency Task Force on Drunk Driving (ITFDD). The ITFDD supports the principals brought forth in the Marijuana Per Se recommendation of the Commission. However, they were concerned that some issues could result in unintended consequences. If the legislation is drafted properly, some of these consequences can be avoided. Some of the issues the ITFDD subcommittee identified include: 1. The Department of Revenue (DOR) has specific coding for specific charges. How would DOR code an individual who has been convicted of DUI and DUID? There are ramifications to developing new codes. DOR does not have any mechanism in place for the monitoring of offenders. 2. When an offender is convicted of alcohol Per Se, the interlock device is a key component in sentencing. There is no similar device for THC violations. This will cause inconsistency in the treatment of offenders. 3. There are inferences surrounding alcohol per se levels and jury instructions have been created with this in mind. Jury instructions need to be created regarding the inference levels of THC. 4. Currently a driver suspected of driving while impaired has the right to choose between a blood and breath test. If an officer suspects use of drugs, the officer can require a blood test. That is not an area that is well qualified in the law. 5. Will the treatment regimen for alcohol be sufficient for drugs? 6. There is a proficiency test that is required for any laboratory that is testing for blood alcohol. Are we going to request a proficiency test for labs testing for THC? 7. There is a distinction between a whole blood draw and a serum draw. This is not coded anywhere in statute or in Dept. of Public Health documents. 8. Are you going to require monitored abstinence of marijuana as part of the revocation process, just like there is a requirement to monitor abstinence of alcohol as part of their conviction.? If so, how will this requirement impact an individual who has a medical marijuana license?

Issue/Topic:	Discussion:
Addressing the Needs of Substance Exposed Newborns and Their Families **Action** Dr. Wells' slides will be available	Dr. Kathryn Wells spoke about the issues facing infants exposed to controlled substances. 1. The Colorado State Meth Task Force (SMTF) formed a subcommittee to examine the issue of Substance Exposed Newborns (SEN). 2. The Child Abuse Prevention and Treatment Act (CAPTA) states that: "Policies and procedures (including appropriate referrals to child

online.	protection service systems and other appropriate services) to address the needs of infants born and identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure." Child Welfare is called once the infant is born, but can do nothing during prenatal care. 3. There is no language in the criminal code about an infant being born and identified as being affected by illegal substance. This language is only found in Colorado's civil law. 4. Once Child Welfare is called, they cannot release the information to anyone. A system needs to be developed so that when someone is concerned about an unborn child, someone can be called in. 5. Defining the problem: a. There is little data on the problem. Women who use drugs do not often seek medical care or they provide inaccurate or incomplete histories. b. There is a need for early identification to reduce risks to the infant and enhance success. c. Women are afraid to seek prenatal medical care if there is the potential for criminal prosecution. d. The medical field is reluctant to report a patient for fear the patient will stop coming in for treatment. e. What about mandatory reporting? What is the role of the criminal justice system on this issue? 1. For women already involved in the criminal justice system, all individuals are screened for substance abuse. If the individual is currently using controlled substances and there are children in the home, there should be a report to Child Welfare. 2. For women not involved in the criminal justice system, how do you eliminate the potential for prosecution? 3. If, through medical screening or testing, a mother is found to be using controlled substances, should the information be transmitted to law enforcement? Are there circumstances where a mother's use should be reported to law enforcement? Would such reporting revolve around the type of drugs?

Issue/Topic:	**Discussion:**
Reconsidering Pregnant Women Using Drugs: Alternative Approaches for Healthy Outcomes **Action** Dr. Teel's slides will be available online.	Dr. Kay Teel spoke about the needs of pregnant women who are addicted to controlled substances. Most women reduce their use of alcohol and drugs once their pregnancy is confirmed. Current trends show an increase in alcohol and drug use during the three months after birth. Why do they reduce the use of drugs and alcohol? Becoming a mother was their motivation for change. When asked what would be helpful to them, a survey found the mothers needed help with housing, education and employment. Treatment was not identified as

	a need. Stress during pregnancy is known to cause many health problems and can be detrimental to not only the mother but also the fetus. Stressors are: The partner does not want the pregnancy; arguments or physical fighting with the partner; moving or homelessness; job loss; unpaid bills, death of a family member; alcohol or other drug abuse; and jail. Special Connections: The first thing a mother asks when going into Special Connections is, "Are you going to report me and are you going to take my baby away?" Treatment provided through Medicaid will last until the baby's first birthday. Medicaid covers both residential and outpatient treatment. 30% are referred from probation or parole. 50% are active child welfare cases. Funding also comes through IDEA and the Division of Developmental Disabilities. Strong Start Study: 1. Nurse Family Partnership screens out individuals who have disabled children or who have drug/alcohol problems. 2. What interventions work to prevent child maltreatment? Prenatal care through 12 months. Wraparound services that include prenatal care through 12 months and the mother's physical and mental health. A new workgroup called 2nd Point Workgroup has been created. Looking for funding to pilot a public welfare approach. Treatment facilities have staff on call but want a 24/7 response when a woman has been identified.

Issue/Topic:	**Discussion:**
Treatment Funding Recommendations **Action** Final vote were taken by the Task Force. All approved items will be presented to the Commission on Friday, December 10th. The original #6 will be discussed further in January.	Bill Kilpatrick and Brian Connors left today's meeting prior to this discussion; however, their votes have been documented. Nancy Feldman will vote via email. Maureen Cain left today's meeting with the impression that there may or may not be voting. Staff will reach out to Maureen to obtain her vote on the following issues. An (A) vote means "I support it," a (B) vote means "I can live with it," and a (C) vote means "I do not support it." 75% of the combined total for A and B are needed to move the recommendation on to the Commission. Kim English distributed the White Paper from the Treatment Funding Group. The recommendations to be voted upon are not in the White Paper. One charge to the Treatment Funding Group was to identify treatment funding gaps and bumps in the road. Recommendations were presented by Kim English and Regi Huerter. **Recommendations:**

1. **Respectfully request that the Criminal Justice Committee of the Behavioral Health Transformation Council meet with the appropriate stakeholders to develop a plan to (a) streamline and coordinate existing funding mechanisms related to offender treatment and (b) expand data collection and reporting.**
   a. There are three groups trying to identify and simplify the funding streams. This recommendation is to respect the work of these committees.
   b. Throughout the recommendation, the term "behavioral health" is used. The term behavioral health needs to be clarified.
   c. Does this recommendation address the problems outlined during the last meeting? Yes.

Vote: passed

2. **Implement a standardized mental illness screening instrument as part of the presentence investigation and post-sentence intake.**
   a. This item puts into practice the mental health screening tool that has already been created. DOC and Community Corrections already use it.
   b. Statute says that the instrument "may" be used. This directs Probation to use the instrument as part of their intake process.
   c. If Probation does an LSI at intake, do we need to include this tool also? Or can we qualify that you use this tool unless another tool is used? The LSI does not include this information.
   d. What happens to the mental health evaluation as part of the plea agreement if the Court rejects the plea agreement?
   e. Does this instrument need to be part of the post-sentence intake (PSI?) This screening is meant to help the Probation officer know and understand the client.
   f. Are these issues static? Or would the answers change over time? Some things can change over time.
   g. The Parole Board refers to the screening tools that have already been done. What is the role of the Parole Board since they don't screen inmates?
   h. This has the greatest impact of people in jail or DOC. This is an opportunity to have an early look at offenders when it is more beneficial and cheaper to provide care.
   i. Having this done before the sentencing phase of a trial can have an impact on a judge's sentencing decision.
   j. Dan Rubenstein would like to change "and" to "or if none was completed" so the recommendation reads, "**Implement a standardized mental illness screening instrument as a required part of the presentence investigation, or if none was completed, done at post-sentence intake for all offenders sentenced to community corrections and probation."**
   k. Dan Rubenstein moved to change the language to reflect the above change. Carmelita Muniz seconded the motion.

Vote on the motion: Passed.

Vote on Amended Recommendation #2:

Implement a standardized mental illness screening instrument as a required part of the presentence investigation, or if none was completed, done at post-sentence intake for all offenders sentenced to community corrections and probation.

Vote on Amended Recommendation: Passed

3. **The Commission supports the efforts of the Department of Health Care Policy and Financing (HCPF) to prioritize early health care interventions and the alignment of resources to increase efficiency and patient access to services.**
   a. The commentary section states that individuals who are eligible for Medicaid and are serving sentences in the community but who are on "inmate status" are prohibited from receiving (HCPF) benefits. To reduce recidivism, Department of Corrections shall provide a mechanism to facilitate a change in status for those eligible individuals who could otherwise access behavioral health services.
   b. Can we include mental health Medicaid benefits? Yes.
   c. This implies that DOC changes its classification because it conflicts with federal law. DOC believes this is something that can be done.
   d. Ms. Huerter moved that the following language be a separate recommendation. Mr. Rubenstein seconded the motion.

      "We respectfully request that the Criminal Justice Committee of the HealthCare Transformation Council discuss and identify potential strategies to expand access to Medicaid for community correction clients.

Vote on the motion: Passed

   e. Ms. Huerter moved to remove paragraphs one (1) and three (3) of the commentary section and make these paragraphs a separate recommendation. The motion was seconded by Dan Rubenstein.

Vote on the motion: Passed

Vote on new recommendation: Passed

4. **Consolidate and streamline funding for the Division of Behavioral Health.**
   a. This allows the Division of Behavioral Health to collapse and streamline its funding streams.
   b. Before Janet Wood retired from the Division of Behavioral Health, she prepared the language for this recommendation. Behavioral Health is on board with this recommendation.

c. Is there a statutory requirement or a need for JBC approval? JBC has approved this.

Vote: Passed.

5. **Use the Commission's evidence-based practices training initiative (EPIC) as a vehicle to educate criminal justice professionals in effective behavioral health treatment.**
   a. Trying to make sure the Commission uses the EPIC grant to train members of the criminal justice system.
   b. If this is already being done, why are we voting on it? The work of the EPIC program is seen as separate from the Commission.

Vote: Passed

6. **Mandate that justice agencies refer offenders <u>only</u> to treatment programs that are licensed by the Department of Human Services to provide treatment for the population the program serves.**
   a. Probation Services and Parole are required to use designated providers. This takes it one step further, to say that if there is a provider in your area that has specific training which matches an offender's needs, that provider is the one used.
   b. In the area of mental health, they are working on certification of mental health providers. The system for mental health treatment lags behind alcohol and drug treatment.
   c. Should this read that the treatment shouldn't be for the "population the program serves" but should be for the "offender in the population the program serves?"
   d. The discussion section should be the actual recommendation.
   e. Are we limiting our recommendation to "evidence-based programs" and excluding promising programs? Part of the licensing rules require the provider use an evidence-based or research-based approach. The flexibility is already there.
   f. Ms. Huerter moved the recommendation to read: Juvenile and criminal justice agencies that refer offenders with substance use disorders to treatment programs should be statutorily mandated to refer only to programs that are specifically licensed by the Colorado Department of Human Services to work with the offender population. A state criminal justice agency may make an exception to this requirement only when this requirement means that no treatment would otherwise be available to the offender.
   g. This recommendation has been tabled for further discussion in January.

NEW #6:

Respectfully request that the criminal justice committee of the behavioral health transformation council discuss and identify potential strategies to expand access to Medicaid for community corrections clients.

	Vote: Passed

Meeting adjourned at 4:56 p.m.