

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

June 8, 2017 1:30PM-4:30PM
710 Kipling, 3rd Floor Conference room

ATTENDEES:

TASK FORCE MEMBERS

Joe Pelle, Boulder County Sheriff, chair
Jamison Brown, Colorado Jail Association
Frank Cornelia, Colorado Behavioral Healthcare Council
Patrick Fox, Officer of Behavioral Health
Norm Mueller, Defense Bar
Abigail Tucker, Community Reach Centers
Joe Morales, Parole Board
Tina Gonzales, Colorado Health Partnerships
Evelyn Leslie, Private Mental Health Providers
Patrick Costigan, 17th JD District Attorney's Office*
Maureen Cain, Criminal Defense for Doug Wilson (on the phone)

ABSENT

Dave Weaver, County Commissioner
Charles Smith, Substance Abuse and Mental Health Services Administration
Matthew Meyer, Mental Health Partners
Doug Wilson, State Public Defender
Lenya Robinson, Healthcare Policy and Financing
John Cooke, State Senator, District 13
Charles Garcia, CCJJ Member At-Large
Michael Vallejos, district court judge, 2nd Judicial District

STAFF

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

GUESTS

Kally Enright, Arapahoe County Criminal Justice Planning	Sonia Reardon, CMHIP
Todd Spanier, Arapahoe County Criminal Justice Planning	Moses Gur, CBHC
Kate Horn-Murphy , Division of Criminal Justice	Gina Shimeall, Defense Attorney
Peggy Heil, Division of Criminal Justice	
Dr. Reo Leslie, Co. School for Family Therapy	
Ali Moaddeli, Arapahoe Pretrial Services	

Issue/Topic:	Discussion:
Welcome and Introductions	<p>Mental Health/Jails Task Force Chair Joe Pelle welcomed the group and greeted Mr. Patrick Costigan, a prosecutor from Adams / Broomfield counties.* He then asked Task Force members and attendees to introduce themselves and reviewed the agenda.</p> <p>*Mr. Costigan was officially appointed to the Task Force on June 27, 2017.</p>

Issue/Topic:	Discussion:
<p>Review of May meeting outcomes</p> <p>Action:</p>	<p>Richard Stroker provided a brief recap of the group discussions as follows:</p> <p><u>Areas of agreement</u></p> <ol style="list-style-type: none"> 1. Seek pilot/model diversion program 2. That “diverts” individuals from the jail to appropriate M.H. treatment/services 3. As soon as possible after detention (arrest) and before adjudication 4. This will require: <ul style="list-style-type: none"> - The ability to identify eligible individuals (target population) - Collaboration with key partners - The creation of a system/approach - The availability of necessary services <p><u>Areas to discuss</u></p> <ol style="list-style-type: none"> 1. Who is eligible for this “diversion” (<i>today’s discussions</i>) <ol style="list-style-type: none"> a. From MH perspective b. Does the target population include individuals with substance abuse problems? c. Are we focused on frequent jail utilizers? d. Does the nature of the criminal charge matter? 2. The process of this model/pilot (<i>focus of July’s meeting</i>) <ol style="list-style-type: none"> a. Timing of diversion – when it could occur? b. Assessment and development of plan - by whom – How? c. Involvement of critical partners d. Decisions/placements/implications for criminal charges/conditions 3. Post release treatment and supervision <ol style="list-style-type: none"> a. How services accessed? When? How to coordinate? b. Is there supervision? c. Systems’ responses to favorable/unfavorable behavioral compliance <p>DISCUSSION:</p> <p>Maureen Cain mentioned that the Colorado legislature just approved funding for pilot sites to implement the LEAD (Law Enforcement Assisted Diversion) model in Colorado and suggested that such model be discussed as an option for pre-filing diversion.</p>

	<p>Sheriff Pelle agreed that the LEAD model is an effective model and embraced by many law enforcement agencies in Colorado. Sheriff Pelle reminded the group that the Task Force is past the point of discussions about pre-arrest diversion and now is focusing on the next phase, post-arrest/pre-filing diversion. Sheriff Pelle would like to include in the target population those individuals who are in and out of jails, on a frequent basis, for minor crimes and diagnosed with behavioral health conditions.</p>
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Issue/Topic:	Discussion:
<p>Behavioral Health Diversion Proposal</p> <p>Action:</p>	<p>Todd Spanier and Kally Enright, Arapahoe County Criminal Justice Planners, presented a concept for a statewide behavioral health diversion program. Todd and Kally also provided the group with information from a study they have conducted about those who are “high utilizers” of both health care in the community and jail services. These handouts were distributed:</p> <ol style="list-style-type: none"> 1. Behavioral Health Diversion – Arapahoe County (flow chart) 2. Behavioral Health Diversion Proposal 3. "High Utilizers" Collaborative Study - Summary Data 4. "High Utilizers" Collaborative Study - Healthcare Usage Report <p>(The handouts are available at colorado.gov/ccjj/ under - Mental Health/Jails Task Force, "Materials").</p> <p>Todd thanked the group for the opportunity to present the concept of a statewide diversion program. Todd emphasized that the intent of the presentation is to propose a concept drafted in writing which should serve merely as starting point for discussions.</p> <p>The focus of such model is on individuals who are “frequent flyers” in the jails, who have been seen at least once by the medical staff at the jail, identified as having some behavioral health disorders (which include mental health and substance abuse) and booked in jail with low level offenses. The highlights of such model are:</p> <ul style="list-style-type: none"> • Post-filing diversion • Pretrial navigator argues to the court that participants to the program are let out of jail on bond supervision. • Pretrial navigator makes sure that the person is compliant with all the conditions of bond and secures treatment with treatment providers. • Continuum of services and coordination (medical, navigation through systems, etc.). • If the person successfully completes the program, court and stakeholders agree to do a diversion hearing and agree on sentencing. • “Non-custodian” sentencing with probation, community corrections, problem solving courts so individuals are not going back to jail. • All charges eligible except crimes against persons, felonies 1 through 3 and drug felonies 1 through 2. • Creation/development of a statewide database of behavioral health information under the Department of Human Services. The database would be accessible by staff working within the program and liaison

	<p>between behavioral agencies and courts.</p> <ul style="list-style-type: none"> • Recommendation for eligibility of the program may also be made by the arresting officer, corrections officers at booking, legal counsel and staff at the jails. • The DHS would ensure that the individual is treated on a timely basis (length of program – 1 year). • When compliant with treatment and after a year, the defense counsel makes a motion to dismiss the case. <p>DISCUSSION</p> <p><i>Does the database described in the proposal currently exist?</i> Todd responded that the database doesn't currently exist and was envisioned in the proposal of a statewide pre-filing diversion.</p> <p><i>When would the consent of individual take place in this process?</i> Not implicitly drafted in the proposal, the consent would take place with the first clinician and at first identification.</p> <p>It was explained that, currently, the only way to access such records without consent is when there is an emergency situation. If such database is developed, it would be important to ensure that the participants in the program are giving consent for the clinician to access their records particularly if they have not self-identified at booking or in jails as having mental health conditions.</p>
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Issue/Topic:	Discussion:
<p>WHO – Identification of eligible participants</p> <p>Action:</p>	<p>Maureen Cain presented on the Victim Rights Amendment crimes (VRA) and referred to these handouts provided in the meeting materials:</p> <ol style="list-style-type: none"> 1. Colorado Crime Victim Rights 2. C.R.S. 24-4.1-302. Definitions 3. C.R.S. 24-4.1-302.5. Rights Afforded to Victims <p>(The handouts are available at colorado.gov/ccjj/ under - Mental Health/Jails Task Force, "Materials").</p> <p>VRA crimes may be felony or misdemeanor offenses and are crimes against persons.</p> <p>Kate-Horn-Murphy suggested that if the group consider including VRA crimes in a pre-filing diversion program, it should be ensure that the notification of victims be ensured especially in these circumstances: (1) if the decision is not to file the case, and (2) if the offender is not successful in the program. Currently, the VRA statutes do not address notification of the victims at the pre-filing stage because it was not envisioned that such model would include VRA crimes.</p> <p>In a post filing program, the responsibility for notification of the victim is with the District Attorney.</p> <p>All victims of VRA crimes would want to be notified, informed and heard.</p>

	<p>Kate mentioned a memorandum of understand that was established in Denver regarding the consultation with crime victims in the pre-arraignment phase.</p> <p>Sheriff Pelle reminded the task force that it had received multiple presentations and was provided data suggesting that appropriate target populations for this pre-filing diversion program are those incarcerated in the jails with low level offenses, frequently cycling through the jail, and who have been assessed by mental health personnel in the jails.</p> <p>The group agreed that VRA offenders should not be eligible for pre-filing diversion.</p> <p>Sheriff Joe Pelle asked Norm Mueller and Patrick Costigan to help understand the timeline of the criminal justice process from the point of arrest so the group can be clear about when/how the intervention would occur.</p> <p>1. Arrest</p> <p>2. Booking</p> <p>3. Interviews In some jurisdictions, defendants are interviewed by pre-trial services staff. Pre-trial services staff run an arrest record through NCIC/CCIC and conduct interviews using a pretrial assessment tool (such as the Colorado Pretrial Assessment Tool, CPAT). The higher the score on the assessment, the less likely the defendant will be released on personal recognizance (PR) bond. Not all jurisdictions have pre-trial services.</p> <p>4. Advisement/First appearance/Bond arraignment (only for Misd.) Advise of charges/Set bail/Counsel appointed. Often happens the next business day.</p> <p>5a. Felony Filing/Formal Filing If this is felony case, the District Attorney has 72 hours to file a case (in some circumstances – up to 2 weeks).</p> <p>OR</p> <p>5b. Misdemeanor Arraignment Misdemeanor cases are set 2 to 3 weeks after Advisement into a county court division (no filing process at this point), following the arrest warrant or the summons handed out by the law enforcement officer.</p> <p>6. Preliminary hearing/Disposition hearing Felony cases within 35 day of formal filing. A Preliminary hearing is for the court to determine if probable cause exists for the court to file the charge before arraignment.</p> <p>7. Arraignment Enter a guilty plea or not guilty plea.</p>
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8. Pre-trial hearings

Motion dates are set.

9. Trial**DISCUSSION****Does the nature of the criminal charge matter?**

One of the issues mentioned was that misdemeanor and petty offenses are often heard in municipal courts and it is challenging to identify a person that is summoned to municipal unless there is failure to appear. Additionally, arguments to include low level felonies into this program are that, often time when a person gets arrested on low level offense, a low bond is set and consequently the person gets out of jail very quickly. There would be very little opportunities to be served in a pre-diversion program.

The group discussed and agreed that the type of charges that would be eligible in a pre-file diversion model would be: Non-VRA crimes, petty offenses, misdemeanor offenses, low grade drug felonies, and low grade felonies (Felonies 6, 5 and 4).

Is there a second group to target in the Post filing – Arraignment phase?

The group agreed to not consider this population to be eligible in the pre-filing diversion considering that those individuals who are in this phase of the criminal justice process have likely committed more serious offenses.

Is the focus on frequent jail utilizers?

Most people coming in and out of jails are already known to the jail staff. They have been assessed and there is a medical/mental health record in the jail's database. According to data, individuals with mental health diagnosis are more likely to spend 3 to 4 times longer in jail than those without a mental health diagnosis.

The group agreed that the focus would be on frequent jail utilizers.

Does it include Behavioral Health (substance abuse)?

About 85% of the mental health cases have co-occurring disorder and are often self-medicated so it important to include substance abuse. Additionally, individuals are most likely to present themselves with an addiction problem than with a mental health issues because of the stigma associated with mental health conditions.

The group agreed to include Behavioral Health.

What are the definitions to use with regards to mental health/behavioral health assessments?

All definitions are already defined in statutes (Title 27) and have been revised in this legislative session (*S.B. 17-242 Modernize Behavioral Health Terminology in Colorado Revised Statutes*).

Issue/Topic:	Discussion:
<p>NEXT STEPS AND ADJOURN</p> <p>Action:</p>	<p>Richard summarized that the next steps will be to examine:</p> <ul style="list-style-type: none">- <i>WHO</i> is doing this assessment,- <i>HOW</i> the information is gathered so someone is identified as having a behavioral health disorder.- DEFINITION of the Behavioral Health Disorder- WHERE the data will be stored. <p>Meeting adjourned at 3:45pm</p>

Next Meeting

July 13, 2017

1:30pm – 4:30pm

700 Kipling, 4th floor Training room