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

September 13, 2018 1:30PM-4:00PM
710 Kipling, 3rd Floor Conference room

ATTENDEES:

TASK FORCE MEMBERS

Joe Pelle, Boulder County Sheriff, chair
Abigail Tucker, Community Reach Centers
Tina Gonzales, Beacon Health Options
Jamison Brown, Colorado Jail Association
Jagruti Shah, Office of Behavioral Health
Megan Ring, Public Defender's Office
Frank Cornelia, Colorado Behavioral Healthcare Council
Cynthia Grant, AllHealth Network
Norm Mueller, Defense Bar
Chris Bachmeyer, District Judge, 1st Judicial District

ABSENT

Patrick Costigan, 17th JD District Attorney's Office
Benjamin Harris, Department of Healthcare Policy and Financing
Charles Smith, Substance Abuse and Mental Health Services Administration
John Cooke, State Senator, District 13

STAFF

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

GUESTS

Moses Gur (on the phone)

Issue/Topic:	Discussion:
Welcome	Mental Health/Jails Task Force Chair Joe Pelle welcomed the group and asked Task Force members and attendees to introduce themselves.

Issue/Topic:	Discussion:
Recap of August meeting **Action:**	Richard Stroker provided a recap of last month's meeting. The Task Force is now focused on the third area of work which is providing mental health services for individuals who are struggling with significant behavior health needs that require services that are beyond the jails' ability to provide. These individuals are not eligible for diversion or release due to the seriousness of the charge(s). The group is working on the possibility of moving individuals from jails to other facilities to receive necessary mental health services while maintaining their inmate status. A working group, including Abigail Tucker, Jagruti Shah, Jamison Brown, Frank Cornelia and Moses Gur, has developed the outline of a recommendation regarding how this population could be managed in other facilities with services.

Issue/Topic:	Discussion:
Implementation/designation of regional, secure mental health facilities ➢ Presentation and review of a written model ➢ Role of State vs. counties ➢ Incentives for facilities ➢ Request for Service	Dr. Tucker explained that this is the 3rd draft of the model and includes the group's discussions from the August meeting. The model (in blue below) was included in the meeting materials: Colorado State Forensic Jail Stabilization Unit CCJJ Taskforce History & Agreements: (notes from last Taskforce meeting will be included) Goal: To reduce jail length of stay for individuals struggling with significant behavioral health issues that exceed jail resources to safely manage; these issues adversely impact an individual's ability to rapidly access services and process through the justice system. Intended Population: Individuals booked into Colorado jails on misdemeanor or felony charges who are ineligible for redirection programs and whose behavioral health needs exceed jail resources and, as such, require an appropriate setting for stabilization and treatment; often such a facility would need to be 27-65

designated. Taskforce estimates intended population would be between 100-120 individuals per year.

Facility: Private hospital or private acute care facility that is 27-65 Designated and credentialed with all RAEs for HCPF (Medicaid) reimbursement. Ideally at least four facilities distributed throughout the State to ensure regional access with locations based on a balance of geography and volume.

Services: Services are two-fold and can be iterative depending on individual case

- Behavioral health stabilization for acute needs
- Competency Evaluation & Restoration
- Services that prepare the individual for return to the jail setting

Chain of Custody & Security: To address Sheriff Department's needs for chain of custody, facilities will work with Sheriff office in the design and implementation to ensure access controls meet the demands of detention for individuals in custody. May require drafting a contract to document chain of custody from Detention Facility to private facility. This does not impede a facility from hiring its own security staff.

Process:

- Determine Eligibility
- Custody Transfer
- Treatment (may be stabilization, restoration, or both)
- Transition back to Jail & Court System (ensuring rapid process to mitigate decompensation risks upon return to jail)
- Re-entry post court hearings

Remaining Questions:

1. Population estimate calculations to be confirmed
    - Recommend pull data from CMIHP on referrals/bed usage for Jail Acuity & Competency cases combined from last fiscal year
    - Recommend Jail data pull for the same
2. Payment for facilities both for treatment and other costs
    - The transferring jail will be responsible for paying for the costs of services provided by the receiving facility during the first 24 hours after the transferred detainee is placed at the receiving

facility consistent with the terms of any agreements developed between the transferring jail and receiving facility concerning costs and expenses for the care of transferred detainees.

- It is expected that the receiving facility will seek reimbursement from Medicaid and other appropriate sources to address costs and expenses associated with the provision of care and services to transferred detainees beyond the first 24 hours of care after placement of the transferred detainee at the receiving facility.

3. Chain of custody agreement
    - The transferring jail will be responsible for transporting the detainee to the receiving facility.
    - The transferring jail will be responsible for providing or arranging for necessary and appropriate security for the transferred detainee while the transferred detainee is at the receiving facility.
    - The transferring jail may utilize its own staff to provide necessary and appropriate security for the transferred detainee, or may develop agreements with other counties, law enforcement agencies or other entities to provide necessary and appropriate security at the receiving facility.
4. Who needs to be included to determine eligibility (i.e. Judge, Facility, Sheriff Office, PD?)
    - Determined by Jail based on agreement with their local Forensic Jail Stabilization Units

DISCUSSION:

What is "Re-entry post court hearing"?
It is related to proceedings after court hearing and allowing the ability to re-admit an inmate for stabilization if these services are needed.

Do we want to better describe what needs exceed the jails' ability?
The challenge on defining "needs that are beyond jails ability" is the substantial disparity of resources among regions. Because some jails have limited resources and do not have the same ability to handle acute care than in larger jails, it was suggested to leave some flexibility to jails to define what are those needs that exceed the jail's capacity.

The group discussed the idea of competency evaluations being conducted while the individuals are in facilities for stabilization as a way to address the existing

backlog of competency evaluations and restorations and prevent the back and forth from hospitals to courts. With this concept, these services would be available for the inmates who are already in hospitals and whose behavioral health condition is not stabilizing and instead keeps on deteriorating. A court order for competency can still be obtained and conducted while the individual is in the hospital.

Richard Stroker directed the group to a document developed by Peggy Heil from the Division of Criminal Justice and included in the material packet called "Options for creating Regional Forensic Facilities for Jail Detainees with Serious Mental Illness" (in blue here-in after):

All options assume the jail/county is ultimately responsible for any costs to provide acute psychiatric care to jail detainees. Jails can reallocate the jail housing costs to pay for placement in an acute care setting. Secure residential psychiatric treatment, however, generally costs more than jail incarceration. Therefore, additional funding, in addition to typical jail costs, will be required.

Options for developing regional acute care placements for jail detainees with mental health disorders that cannot be managed in jail:

1) Work with HCPF to identify a list of Provider Type 1 facilities (general acute care hospitals) that qualify for supplemental Medicaid reimbursement after the detainee's first 24 hours of care.
    a. Cross check the list to determine if any of the facilities are also 27-65 designated facilities or have dedicated psychiatric staff.
    b. Map the facilities to determine the most strategic locations for statewide coverage.
    c. Work with the Hospital Association, County Sheriffs of Colorado, Colorado Jail Association and Colorado Counties Inc. to develop MOUs between jails and specific acute care hospitals.

2) Send out a request for proposals to all 27-65 designated facilities. Develop a committee with County Sheriffs of Colorado, Colorado Jail Association, Colorado Counties Inc., and Office of Behavioral Health representation to review the proposals. If these facilities do not qualify for Medicaid reimbursement, explore other options to pay for the higher cost of care. These could include options such as jails/counties absorbing the extra cost or legislation to create a supplement reimbursement fund.

3) Restore the 150 Colorado mental health institute beds that were decommissioned. Repurpose the beds for jail detainee acute psychiatric care. The cost of care could be partially funded by the state and partially funded by jails/counties.

DISCUSSION:

Under this model, every county will have to negotiate the terms of their

agreement and it is anticipated that subsidies will be expected to complement with the Medicaid reimbursement. Who will be the state oversight entity responsible to negotiate and help getting resources?

It was recommended that an advisory board with the expertise and the stakeholder input should be created and included in the task force recommendation.

Dr. Tucker mentioned that the working group suggests that the recommendation should be shared with other entities that would be involved in this process (i.e. CDHS, DHS, CCI, CJA etc.) for input/feedback on whether this concept would be supported by their respective organizations and what other elements should be addressed to implement this concept.

Richard Stroker asked the group about item 3) "Restore the 150 Colorado mental health institute beds that were decommissioned". *Is the group interested to request that these beds be reopen in addition to the regional concept?*

Several years ago, the Fort Logan facilities closed about 150 beds due to budget cuts. According to Dr. Fox, a former member of this Task Force, the Fort Logan buildings are not readily available and would have to be remodeled.

Dr. Grant believed that there should be parity between medical emergency and behavior health emergency. The same process should be engaged regardless of the type of emergency (medical or behavioral health) with regards to when and how it is determined that an inmate is transferred for a facility for stabilization as well as when it is safe to discharge someone back to jail.

It is also important to clearly identify which facilities are eligible for Medicaid reimbursement as well as potential additional funding available to make this concept attractive and provide incentives for this partnership between hospitals and counties.

For the next meeting:
- Staff will reach out to Ben Harris to establish the list of Type 1 facilities eligible for Medicaid reimbursement.
- Sheriff Pelle/Staff will reach out to Dr. Werthwein and ask about the cost of Forensic Beds.
- Invite Danielle Weittenberg to provide an update on the allocation of the forensics beds funded by OBH.
- Jamie Brown will discuss this concept with the Jail Association.

Once the information above is gathered, the concept will be presented to county commissioners and other stakeholders for input.

It was suggested that the recommendation should include a problem statement, cost impact and potential funding and, outcomes that would result from this partnership (job creation, closer relationship with counties etc.).

Richard Stroker proposed the following timeframe and wrap up the work of this

	Task Force: - October: Data gathering (cost of forensic bed and Type 1 facilities) and preliminary discussions with some county commissioners and Sheriffs about the concept. - November: More in-depth information to provide to county commissioners and sheriff offices. Finalize the recommendation and vote by Task Force. - December: First presentation to CCJJ. - January: Vote by CCJJ

Issue/Topic:	**Discussion:**
Next steps and Adjourn	The working group will incorporate all comments and discussions into the document. At the next meeting, the group will bring back the information discussed, provide updates from outreach efforts, and finalize the recommendation. Next month meeting will start at 1pm. Sheriff Pelle and Richard Stroker thanked the group for the continued participation and efforts. Meeting was adjourned at 3:10 pm

Next Meeting

October 11, 2018 1:00pm – 4:00pm 710 Kipling, 3rd Floor Conference room