VIII. REPORT OF THE JUDICIAL WORKGROUP (DHS)

The Judicial-DHS workgroup consisted of 24 members representing Judges, District Court Administration, Clerks of Court, Private Agencies, the Ombudsman's office, Department of Human Services' Mental Health Institutions, Department of Corrections, Iowa Hospital Association, Community Mental Health Centers, County Central Point of Coordination Coordinators, Chief Jailer, Attorney General's office, Olmstead Consumer Task Force, and Mental Health Advocates. David Boyd, State Court Administrator for the Judicial Branch and Karalyn Kuhns, former Interim Administrator for the Division of Mental Health and Disability Services with the Department of Human Services, were the co-chairs of the workgroup and Donna Richard-Langer facilitated the workgroup.

Senate File 525 charged the judicial branch and department of human services to continue the workgroup implemented pursuant to 2010 Iowa Acts, chapter 1192, section 24, subsection 2, to improve the processes for involuntary commitment for chronic substance abuse under chapter 125 and for serious mental illness under chapter 229. Nine separate tasks were identified for the workgroup to address.

The workgroup members read best-practice materials and case studies and heard subject matter experts that fostered interactive dialogue among the workgroup members and public resulting in solid recommendations to address the issues.

Workgroup Tasks, Summaries and Recommendations

I. The current provision of transportation by the county sheriff

Discussion points

- There is a serious issue with the amount of time and manpower it takes to transport a respondent in the commitment process.
- Transportation is the biggest issue for many counties in the committal process.
- County data indicates that $697,520 was spent by Sheriffs for transportation for 6,950 people to be transported (12/1/10 data provided by DHS). Story County spends $60,000 on transportation each year.
- Transportation issues need to be addressed while focusing on safety, efficiency and the needs of the consumer.
- The Southeast Iowa Crime Commission has a program that does transportation for several counties and this has worked well for many years.

Workgroup Recommendations:

A. Transportation for Court Committal process should be a core service. This includes transportation to a Community Mental Health Center (CMHC) or other designated facility for a mental health evaluation, to a hospital for admission and to a court hearing if the patient is attending.

B. Regions designate a transportation coordinator. The transportation coordinator where the patient is located/presented is to assign a sheriff or other appropriate transportation based on safety and the patient's best interest.

C. Consideration should be given for actual costs to be paid, as the current system does not reimburse at full cost.

2. Civil Commitment Prescreens

Discussion Points

- Larry Hejtmanek from Eyerly Ball Community Mental Health Center presented on the Court prescreen service in Warren County in 2007-2011.
- Pre-commitment screenings grew out of a frustration to find a hospital bed for commitments.
- When someone comes into the clerk's office to file commitment papers, they need to be offered an opportunity to speak to a mental health professional.
- Data presented from Warren County indicates that with pre-commitment screenings, 60% were identified as not appropriate for involuntary commitment. The respondent was more appropriately referred to their primary care physician, substance abuse treatment, outpatient treatment and other services in the community.
- Warren County pre-committal screenings were discontinued following a complaint to the court, noting there is no provision in Chapter 229 that allows for a pre-commitment screening when someone is referred for involuntary commitment.
- The screenings need to occur in a timely manner and currently some Community Mental Health Centers cannot serve someone for 4-6 weeks.
- Data submitted by Dan Royer, Iowa Hospital Association: From 2nd Quarter 2010 - average length of stay for an inpatient behavioral health patient was nearly 6 days and cost nearly $9,000.

  Transfers: 2010 (full year) - approx. 2,600 patients were discharged to or transferred to an inpatient psych unit from an Emergency Room (ER) - at an average cost of $1,700 for the transfer. That's nearly $5 million for ER transfers alone. This does not include the cost of care received in the ER if needed. Also does not include patients transferred from acute inpatient to inpatient psych (at another hospital). It's from the ER only, but again, illustrates a point that the ER is not an appropriate access point to the behavioral health (BH) system.

  The key point from a diversion perspective is to try and keep people out of the ER and to provide an alternative, more appropriate "entry point" into the BH system. This will save money and get people the right level of care at the right time.

Workgroup Recommendations:

A. Provide a provision in Chapter 229 that allows for a pre-commitment screening process prior to the initial filing.
B. Pre-commitment screening service for involuntary commitments needs to be a core service.
C. The pre-commitment screening services would be the role of the CMHC or a designated facility contracted by the region.

3. **Court authorization to order an involuntary hold of a patient under Chapter 229.10 for not more than 23 hours who was not initially taken into custody, but declined to be examined pursuant to a previous order**.

Discussion Points

- Clarification of prescreen/assessment/observations. Pre-commitment screening for appropriate services is what is needed.
- Maybe a 23-hour hold for a screening could take place in a hospital emergency room. Maybe at a hospital without a psychiatric bed.
- A pre-commitment screening is for a person who does not need to be in immediate custody.
- Story County has Crisis Beds available in a location separate from the hospital staffed 24 hours with access to psychiatric staff. It is less expensive than a hospital bed. It is funded by Magellan and the county.
- The Acute Care Task Force recommended in 2009 that crisis stabilization services be available 24 hours.
- Currently an emergency commitment cannot be ordered between 8:00am and 4:30pm. It needs to be available anytime.

Workgroup Recommendation:

A. Make a change in Chapter 229.22 to allow for the 48-hour hold to be available 24 hours a day. This would necessitate a change in section 602.6405, subsection 1, concerning limitations on non-lawyer magistrates.

4. **Revising requirements for Mental Health Professionals involved in the court committal process.**

Discussion Points

- There are two definitions of mental health professionals in Iowa Code, chapter 228.1 (Mental Health Professional) and Chapter 229.1 (Qualified Mental Health Professional).
- A two-tiered system makes sense but this occurs in 228, not 229.

- Inclusion of Physician Assistants makes sense, not just Advanced Registered Nurse Practitioners (ARNP). However, Physician Assistants must work under the supervision of a physician and an ARNP does not.
- Regarding the issue of who makes the report to the court, the physician must evaluate the patient and he/she generally testifies by telephone. The physician incorporates the observations of those working with the patient, which may include professionals other than those designated in 229.1. Therefore, there is no need to include a definition of a qualified mental health professional in chapter 229. The physician will utilize the information from those working most closely with the patient, and those that have observed the patient. Therefore a qualified mental health professional does not need to be defined.

Workgroup Recommendations:

A. Remove from Chapter 229 the title and definition of Qualified Mental Health Professional and any reference to it.
B. Support the provisions in Chapter 229 that only a physician is to examine the patient and provide a report to the court during the committal process.
C. Support the provisions in Chapter 229 that a Psychiatric Advanced Registered Nurse Practitioner may provide the annual report to the court for an outpatient committal.

5. The role, supervision and funding of mental health and substance-related disorder advocates.

Discussion Points

- Mental Health Advocates are appointed by the Chief Judge and paid for by the county.
- There is no consistency in the compensation and benefits of mental health advocates, nor what is funded.
- Presentation by Rose McVay, Mental Health Advocate for 7th Judicial District. Additional information provided by Beth Baldwin, Court Administrator and Kelly Yeggy, Mental Health Advocate.
- A mental health advocate job description has been developed and approved by the Judicial Council, but it has not been consistently utilized.
- Section 229.19 of the Code implies that the state supervises the mental health advocate position; however, there is not a state entity designated for this responsibility and the position is handled differently depending on the county. The position needs consistent training, policy, procedure, audits, and oversight across the state.
- What about mental health advocates for children, those with substance abuse and those committed with other disabilities? Currently most advocates are assigned to adults with mental health issues.
- Children that are committed have either their parents, and if they are not available, then DHS is generally involved. In substance abuse commitments, they are short term, and after detox they are generally better able to advocate for themselves. For those with co-occurring substance abuse and mental health, a mental health advocate would be beneficial.

Workgroup Recommendations:

A. Amend section 229.19 to change legal settlement to residency.
B. Statewide implementation of the mental health advocates job description adopted by the Judicial Council.
C. The mental health advocates need a single point of accountability that is independent and autonomous.
D. This one entity needs to oversee policy, training, supervision, and audits of the advocate. The majority of the workgroup recommends that this not be the judicial system, but rather an administratively attached specialize unit such as the Child Advocacy Board, the public defenders office or the Court Appointed Special Advocate Structure.
E. Advocates should be appointed to individual cases based on where the individual resides or at the discretion of the state authority overseeing mental health advocates.
F. The funding should be moved from the county to the state. Consistent reimbursement standards need to be developed.
G. An advocate may be assigned in cases of dual commitment (chapter 125 and 229).

6. Implementation of jail diversion programs

Discussion Points

- Karen Herkelman presented on the Black Hawk County program that offers assessment and treatment services for mentally ill offenders.
- In Black Hawk County the CPC funded a full time Community Treatment Coordinator with the Department of Corrections in Waterloo. This position identified mentally ill offenders in the Black Hawk County Jail and completed an assessment to identify offenders who may be appropriate for services in the community.
- The treatment coordinator initiated contact with various agencies to determine resource options available for the offender and presented this to the court, attorneys and probation/parole officers regarding possible alternatives to jail and prison.
- Community collaboration is the key for this position to be successful.
- In SFY 11, Black Hawk County screened 174 inmates in jail and 88% were released. Dubuque County screened 43 inmates in jail and 93% were released.
- Three years into the program 74% of those served have integrated successfully back into their community. Twenty-six percent had a re-arrest.
- Mentally ill offenders are housed longer and they have burned many bridges, especially with family.
- If the mentally ill offender can manage his/her mental health issues he/she can be released and do well.
- We need community education for law enforcement, corrections staff, county attorneys, and defense attorneys.
- David Higden presented on the Polk County jail diversion program. The mobile crisis team helps approximately 2,000 individuals a year and only 3% of the 2,000 actually ends up in jail. Of those not going to jail, 65% of the people present mental health or substance abuse problems and were resolved by the team in the field. This reduces the hours that police spend during a crisis.

- David Higden also reviewed the Bexar County, Texas program. The center works with homeless issues, substance abuse and mental health, conducts medical triage assessments and mental health evaluations, medical screening, lab and radiology, jail and detention medical consultation and clearance, operates a sobering and detoxification unit, and a drug court is on site.
- The center provides comprehensive services for most in need, provides increased availability of comprehensive substance abuse services, reduces barriers to service access and increases motivation with treatment compliance, employs evidence based practices known to be effective, and utilizes system tracking and outcome based effective treatment.
- During the first year of operation in Bexar County, 1,720 people were diverted from jail; the booking costs were $2,295 for a total savings of $3,947,400.
- The Sequential Intercept model was presented.

Workgroup Recommendations:

Justice related/involved services needs to be a core service. This includes:

A. Specialty training for Law Enforcement and Department of Corrections personnel similar to that provided in Crisis Intervention Training (CIT) or Mental Health First Aid.
B. Mental Health Court including both Diversion and Condition of Sentencing models.
C. Jail Diversion program

Suggested elements of jail diversion would be:

- ❖ Intensive Case Management.
- ❖ Screening and Assessment.
- ❖ Pre-Arrest: The goal prior to arrest is to keep the individual out of the system.
- ❖ Single point of contact for pre-arrest, post-arrest and pre-release.
- ❖ Assess level of assault utilizing mental health criteria for alternate placement.
- ❖ Discharge Planning: Assistance with housing, medicine and employment.
- ❖ Sub-Acute level of care: 23 hour type of model that directs people to the right level of care.
- ❖ Cost Avoidance: Must assist the population on the front end.

7. Comprehensive training of law enforcement in dealing with persons in crisis

Discussion Points

- Presentation by Cyndee Davis and Kim Wadding, Iowa Law Enforcement Academy.
- The academy has incorporated training on special needs, stress management and mental health education.
- Four hours of mental health is offered during field training. Mental health training is offered post academy as an in-service training option, but it is not mandatory. Twelve hours of Mental Health First Aid is offered once a cadet becomes an officer; however, it is not mandated.

- There are programs other than those offered by the Iowa Law Enforcement Academy through which law enforcement may receive training, so there is not a core mental health curriculum requirement across the state.
- The Law Enforcement Academy would like to have more instructors trained as trainers for Mental Health First Aid.

Workgroup Recommendations:

A. Strongly recommend that officers receive additional training in mental health each three year period similar to that provided in CIT and Mental Health First Aid.
B. Strongly recommend that consumers are part of officer training.

8. Residential care facilities: educating judicial magistrates and advocates on ways to enhance the consistency of services for individuals who are court ordered to a residential care facility and address issues involved with identifying facilities with the capacity to provide an appropriate placement for an individual who has been arrested, charged or convicted of assault, a forcible felony, arson or an offense that requires registration as a sex offender under Chapter 692A.

Discussion Points

- The traditional populations served in Residential Care Facilities (RCF's) are individuals with chronic and persistent mental illness. The current populations served are with higher and more acute needs than when the RCF rules were first written.
- RCF's are treatment oriented, including stabilizing individuals, teaching living skills and developing support for when they live independently.
- There is no consistency to how RCF's are funded. There are non-profits, for profits and one in Story County that is county funded.
- A RCF's determines its own admission criteria and protocols. An application includes a physical repot, TB status, funding information, and a social history.
- The 12/15/10 Governor's Developmental Disabilities Council Report to the Governor was reviewed.

Workgroup Recommendation:

A. Placement to a residential care facility should occur only after notification and acceptance by the facility.

9. Mental Health Courts and Identification of promising reforms related to mental health and the criminal justice system.

Discussion Points

- Chief Judge Bower presented the Equinox Program in Blackhawk County, which is a jail diversion program completing its second year.
- Mental Health courts have diverted people from jail, prison and inpatient hospitalization (data to be sent by Judge Bower).
- There must be a team approach with the judge, attorneys, mental health providers, probation/parole staff, consumers, and family. Staff needs to be consistent, and attend mental health court meetings regularly.
- Trust and respect is essential, as well as training for professionals involved. Defuse and De-escalate are two important skills.
- Judge Rickers also added information from Idaho and Seattle regarding mental health courts that have been successful.
- There are two known mental health courts in Iowa - Woodbury County and Blackhawk County – and both started with grant funding.

Workgroup Recommendations

(Recommendation is included with the recommendation under (F) Jail Diversion.)