

# Committee on Mental Health and the Justice System | Minutes

**Monday, October 28, 2019**

10:00 a.m. – 3:00 p.m.

State Courts Building • 1501 W. Washington St. • Phoenix, Arizona • Conference Room 119 A/B

**Present:** Kent Batty (Chair), Mary Lou Brncik, Brad Carlyon, Shelley Curran, Jim Dunn, Hon. Elizabeth Finn, Hon. Michael Hintze, Josephine Jones, Dianna Kalandros, James McDougall, Dr. Carol Olson, Hon. Barbara Spencer, Hon. Christopher Staring, Hon. Fanny Steinlage, Beya Thayer (Proxy for David Rhodes), Paul Thomas, Megan Woods and Susan Podshadley (Proxy for Michal Rudnick)

**Telephonic:** Amelia Cramer, Natalie Jones, Hon. Cynthia Kuhn

**Absent/Excused:** Chief Chris Magnus, Kristin McManus, J.J. Rico, Dr. Michael Shafer

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**Guests/Presenters:** Dr. Nicole Taylor and Karen Hellman, Arizona Department of Corrections; Juan Delgado, Glendale Municipal Court; Cathleen Cole, Arizona Foundation for Legal Services

**Administrative Office of the Courts (AOC) Staff:** Theresa Barrett, Mike Baumstark, Liana Garcia, Don Jacobson, Jerry Landau, Amy Love, Stacy Reinstein

## **Regular Business**

### **Welcome and Opening Remarks**

Mr. Kent Batty (Chair) asked Committee members and guests to briefly introduce themselves.

### **Approval of Minutes**

Members were asked to approve minutes from August 26, 2019, noting they were in the meeting packet and provided electronically in advance of the meeting. A motion to approve the minutes was made by Paul Thomas and seconded by Ron Overholt. Motion was approved unanimously.

### **Presentation & Discussion: Arizona Department of Corrections (ADC)**

Dr. Nicole Taylor, ADC Mental Health Director, and Karen Hellman, ADC Division Director-Inmate Programs and Reentry presented to the Committee.

Dr. Taylor and Ms. Hellman provided current statistical information on the number of inmates and facilities, demographics and population growth. The primary discussion with Committee members was focused on an overview of the mental health system within ADC, and how inmates who are designated with a mental health classification move through the Corrections system.

The Committee identified some potential process improvements to explore with ADC, including what information ADC receives regarding an inmate and his/her mental health history from the Court and other entities. Several Committee members noted that they would like to engage with ADC in determining what records the defense community can send (and where to send them to) in order to improve the quality of care for the individual defendants. Dr. Taylor noted that it would

be helpful to have anything that points to acute behavioral health and medical needs, such as the most recent inpatient/hospitalization records, data on patterns of self-harm, and any issues that occurred in the county jail just prior to detaining at ADC.

### **News & Updates**

Mr. Batty let the Committee know that fellow Committee member Michal Rudnick has left her position at AHCCCS. Mr. Batty expressed gratitude for the partnership with AHCCCS and while the AHCCCS Director's office is still in the hiring process to fill a position that will coordinate with the justice system, there is an indication that a new Chief Clinical Officer will be hired and will serve in the liaison role with us and other justice-related initiatives.

Mr. Batty shared some highlights from the Court Leadership Conference that took place recently in Flagstaff. Ms. Rudnick and Chief Deputy David Rhodes participated in the plenary session focused on the SIM and mental health protocols, which was very well received. In addition, Mesa Community Court received the 2019 Strategic Agenda Award in the Limited Jurisdiction Court category for *Promoting Access to Justice* at the Conference.

In other Committee member news, Judge Hintze was invited to a round table on competency practices with other Judges in Denver recently. The Round table was sponsored by the National Center for State Courts, and our participation demonstrated Arizona's continued leadership in this area.

Mr. Batty requested that Committee members inform staff when the Committee's report/recommendations are shared, and any feedback members are hearing, as staff are collecting this information, particularly as the work moves forward into year two.

### **Mental Health Protocols Update** (*taken out of order*)

Don Jacobson, AOC staff, provided an update on the statewide implementation of the mental health protocols, as well as some of the national impact, including the adaptation of Arizona's guidelines for judges in other states and jurisdictions. Mr. Jacobson noted that the 2020 Summit is in the process of being planned for March 2020 and will be an opportunity for jurisdictions to come back together for a shared learning experience. Mr. Jacobson also noted other work being done locally and at the AOC, including development of mental health training for judicial officers and court staff, as well as IT systems development, modeled after Yavapai County's Reach Out Program.

Mr. Batty noted that Lee Ann Bohn from Maricopa County has been invited to share Maricopa County's current work in implementing the mental health protocols, and the Committee will plan to hear from other jurisdictions in the coming months, to include opportunity for the local teams to provide feedback to the Committee on its recommendations and offer suggestions for other process/statute/rule opportunities for improvement.

### **Civil Commitment Website**

Mr. Batty introduced Cathleen Cole from the Arizona Bar Foundation who has been working with staff, Committee members and various external stakeholders to develop a site to explain the civil commitment process in Arizona. The goal of the site is to convey basic information – as simply as

possible – on the involuntary treatment process in Arizona. The website has evolved throughout its development, based on feedback received, and currently includes basic information on:

- What to do in a crisis situation
- Relevant forms provided by AHCCCS
- The process in general that can apply to any county
- A glossary and collection of acronyms

Cathleen Cole presented the website and asked for specific feedback from the Committee. Staff were asked to recirculate the “test” site to Committee members to solicit feedback with a deadline of mid-November. Staff noted that another component of the Committee’s charge in this area is to develop a paper brochure, which will be drafted for Committee review following completion of the site.

### **Legislation Update**

Mr. Batty updated the Committee on the presentations to the Presiding Judges and Arizona Judicial Council on the Interim Report and Recommendations, noting that the Committee’s report was approved, but the legislative proposals require additional information to be collected prior to either group giving final approval to the proposed statutory changes.

Mike Baumstark, AOC Deputy Director and Jerry Landau, AOC Government Affairs, introduced themselves to the Committee. Mr. Baumstark noted that more background and education on the proposals will be helpful, including information on why certain language was chosen, real life examples of how the legislation would impact individuals, providers, the court, and county and state systems, how money flows within each system today, and why it is important to put this legislation forward.

Committee member Jim McDougall noted that a great deal of the background information is provided in the appendix sections of the Committee’s report, and that the specific definition changes to “mental disorder” were filtered to the Committee from the Fair Justice Task Force which felt that the current definition is not adequate to meet the need in the community, and there is no single state agency that has defined how to interpret the law, or how to resolve discrepancies in its implementation. Therefore, the Committee’s proposal seeks to clarify what an evaluator can screen for when they receive a petition for court ordered evaluation.

Committee members shared other justifications for the proposals, including:

- Maricopa County currently averages about 2,400 individuals with SMI under Court Ordered Treatment (TXIX and Non-TXIX); Statewide number is approximately 3,100.
- Services for the SMI-only (Non-TXIX) population does not include inpatient services, but this could be ordered when consistent with a provider that is willing to pay.
- People who are persistently acutely disabled (PAD) are being left in the community during the time period where they are awaiting evaluation, as they are waiting 1-2 weeks. The Committee’s proposal moves PAD to an emergent standard to get them into evaluation sooner.

- Some smaller counties are spending over \$1million on restoration to competency for individuals with clear mental health needs. These people are waiting in jail for the restoration process to be completed and are not receiving adequate mental health treatment. Many times, after the restoration process is complete, and if they are found not restorable, they are released back into the community.
- The proposal does not force someone into treatment unless they are also evaluated as having a mental disorder. Thus, the changes directly address the frustration of families and providers who continue to encounter people with mental illness and substance use disorders who are not being evaluated or placed into treatment (because of their substance use disorder).

### **Order of Transfer Protocol**

Following the August Committee meeting, the Committee requested the workgroup consider any difference that may arise for jurisdictions outside of Maricopa. The workgroup has attempted to address that by incorporating language in the document provided to the Committee that reads: *When a Superior Court adopts this transfer protocol, they must adapt the protocol to incorporate the common terminology used in their jurisdiction(s) for prosecutor and defense counsel, as well as any other terms that are unique to their jurisdiction(s).*

Today, the workgroup seeks final approval from the Committee. If the Committee approves the protocol, staff will follow up with Maricopa County Superior Court and request for Maricopa-specific implementation information. In addition, the protocol can be presented to Presiding Judges statewide and LJC + Court Administrators. Barring any further changes from that process, the protocol can be memorialized through the official AJC and AOC Executive Office process.

Mr. McDougall asked for a motion to approve the protocol. The motion carried.

### **Workgroup Report: Competency Practice**

Dianna Kalandros asked for a motion to approve the workgroup's proposal to change the requirement for two experts in A.R.S. 13-4505 to "one or more" experts if the most severe charge is a misdemeanor. The motion was seconded by Paul Thomas. The motion carried.

Ms. Kalandros updated the Committee on the workgroup's continuing work on developing best practices for RTC and shared that the workgroup has been vetting its proposal with several individuals and groups within the forensic Psychiatric/Psychology community.

### **Next Steps: 2020**

The Committee addressed an outstanding question in the Enhanced Services Order proposal regarding changing "shall" to "may." Committee members noted that if the high bar is set, the Court should be ordering these services as part of a person's treatment plan. In order for it that to be successful, the AHCCCS-health plan contracts would need to include these specific mandates in order for the providers to provide the service. However, Committee members agreed that making the change to "may" could help achieve more consensus around the proposal than "shall," and there was no opposition to that potential change.

Mr. Batty noted that the proposed 2020 meeting dates were sent to Committee members, and

Committee members were asked to follow-up with staff if there are any major conflicts. Mr. Batty noted that the Committee will organize its year two meeting plan around its charges in the Administrative Order and recommendations from interim report.

Mr. Batty also noted other topics that have been raised for discussion and/or presentation include:

- Arizona Peer and Family Coalition; other peer support/navigator partners such as Family Involvement Center and Community Bridges.
- Partnerships with first responders;
- Court/pre-trial diversion impact;
- AHCCCS and AZ Health Plan Association update on contract changes, COE/COT and the Justice Liaison role.
- University/Court partnership with ASU (competency workgroup)
- Local Protocol team updates.

#### **Good of the Order / Call to the Public**

One member of the public asked to address the Committee and noted that she hopes to continue to listen in and be of service.

#### **Adjournment**

The meeting was adjourned at 2:55 p.m. by order of the Chair.