

Committee on Mental Health and the Justice System | Minutes

Monday, January 27, 2020

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. Michael Hintze, Josephine Jones, Natalie Jones, Dianna Kalandros, Chief Chris Magnus, James McDougall, Dr. Carol Olson, Ronald Overholt, Chief Deputy David Rhodes, Hon. Barbara Spencer, Hon. Christopher Staring, Paul Thomas

Telephonic: Amelia Cramer, Hon. Elizabeth Finn, Hon. Cynthia Kuhn, J.J. Rico, Dr. Michael Shafer

Absent/Excused: Kristin McManus, Hon. Fanny Steinlage

Guests/Presenters: Anthony Coulson, ACJC; Tamaria Gammage, NAMI AZ; Colin King, Tucson Police Department, Hon. Mike McVey (ret.), MCAO; Beya Thayer, Yavapai County Sherriff's Office; Jason Winsky, Tucson Police Department.

Administrative Office of the Courts (AOC) Staff: Theresa Barrett, Liana Garcia, Donald Jacobson, Stacy Reinstein, Diana Tovar

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 November 18, 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 Jim Dunn and seconded by Paul Thomas. Motion was approved unanimously.

December AOC Stakeholder Meeting

Mr. Batty shared highlights of the December 16, 2019 meeting held at the AOC with stakeholders representing various sectors of the community, including law enforcement, family and peers of persons with mental health conditions (and other advocates), health care, behavioral health care and crisis response.

The goal of the session was to educate and build consensus. Participants were given an overview of the current justice system mental health initiatives by a panel that included several committee members. Following which, the Committee's legislative proposals were discussed in focus group breakouts and the session was well received by the stakeholders. where stakeholders shared their perspectives and provided input.

Mr. Batty reminded that the Committee's proposals had been vetted to the presiding judges and Arizona Judicial Council at December meetings where concerns and questions were repeated regarding the breadth of the mental disorder definition, impact data for all three proposals, costs, and how those costs will be funded.

The Committee discussed the need to continue collaborating with stakeholders on revisions to the proposed language and asking the Key Issues Workgroup to revisit each proposal to discuss and determine the following:

1. What changes need to be made to the proposal (if any)?
2. What data would best serve our purposes of getting these changes made?
3. What are the potential sources of data?

Mr. Batty also noted the Committee and workgroup may want to reconsider revisiting the Assisted Outpatient Treatment statute, as an alternative to the "enhanced services order" proposal, as part of its decision-making process.

Mr. Batty encouraged the committee members who participated in the stakeholder meeting to share general comments. Members J.J. Rico and Mike Shafer will be added to the Key Issues Workgroup.

AOC Legislative Update

Liana Garcia, AOC Legislative Liaison, provided an overview of current bills of interest currently at the legislature including AOC bills.

Ms. Garcia spoke briefly on the following bills:

- HB 2070 Prearrest Diversion program
- HB 2146 Pretrial intervention; monies authorized uses
- HB 2154 Recidivism Reduction; evidence-based policies; reports
- HB 2232 Competency examinations; records; appointments
- HB 2250 Grants; behavioral health treatment services
- HB 2320 Psychiatric security review board; hearings
- HB 2649 Prisoners; mental health transition program

Staff will circulate new proposed language for House Bill 2320 that reverts the oversight currently assigned to the PSRB to Superior Court, and requests members follow up with Ms. Garcia on any specific comments.

David Rhodes briefly informed the Committee on the following bills that arose out of the Yavapai Justice and Mental Health Coalition's collaborative work:

- HB 2422 Coordinated re-entry planning services program
- HB 2414 Appropriations; alternative prosecution; diversion programs

In addition, Amelia Cramer briefly informed the committee on the following bill that resulted from the Pima County Attorney's Office work, and had been reviewed and discussed by the Committee in 2019:

- HB 2581 Dangerous; incompetent person; evaluation; commitment

Amelia Cramer answered questions regarding the bill.

National Center for State Courts: National Initiative Update and Discussion

Mr. Batty introduced Patti Tobias and Richard Schwermer from the National Center for State Courts (NCSC).

Ms. Tobias highlighted the NCSC's current priorities on improving the justice system's response to mental illness, including a focus group on competency, which includes Hon. Mike Hintze and other trial judges from across the country.,

Information from the NCSC on its current initiatives is included in the Committee packet. Highlights include:

- Review civil commitment laws and outpatient commitment laws to draft model language for mental health intervention.
- Provide education and training to judges and court professionals.
- Strengthen children and families through access and treatment, including a focus on reunification with children and their families when separation is the result of the lack of mental health/substance abuse treatment services.
- Educate court leadership on how to utilize Medicaid for diversion and deflection opportunities.

Ms. Tobias applauded Arizona's work to improve the justice system for people with mental illness, noting that the national protocols are modeled after Arizona's work, including the Leading Change Guide, which was developed for presiding judges, and improving data and information sharing. Ms. Tobias highlighted the importance for national level sharing of resources and publications between states, such as links to websites, task forces, and best practices, and encouraged Committee members to sign up for the monthly newsletter which Staff have shared.

Richard Schwermer, former state court administrator in Utah, addressed the Committee and thanked them for their efforts.

Mr. Schwermer shared additional information on the NCSC's work on the competency area. He stated that a recent analysis on the jail population in Los Angeles found that many people are incarcerated and get "stuck" in the system when they should not be there. Mr. Schwermer highlighted three areas to be addressed nationwide:.

1. Timing: same day competency screenings; timely assessment of competency; and, follow-up through court review and further assessment.
2. Treatment: lack of continuity of effective treatment; opportunity for restoration services as a treatment component vs. solely legal education.

3. Housing: becomes a road-block to effectiveness (after restoration).

Competency Workgroup: Best Practices in Restoration to Competency

Dianna Kalandros updated the Committee on the status of the workgroup's Best Practices Guide for Restoration to Competency (RTC) programs. She stated that the workgroup found that there are no known existing models within the United States regarding best practices in RTC. All counties in Arizona implement RTC differently and there are no common guidelines or consistency.

The workgroup considered reports, feedback, and suggestions from stakeholders when drafting the best practices guide and Dianna thanked all who contributed. The proposed best practices were provided to the Committee in its meeting packet.

Ms. Kalandros shared a flowchart on the restoration process and discussed timelines and deadlines of progress reports to court, attorneys, and clinical liaisons.

Ms. Kalandros highlighted the role of the clinical liaison in the best practices guide, noting that the position is currently underutilized and that there are only three counties that the workgroup is aware of which appoint clinical liaisons. In all three counties, the process is handled differently and the roles of the liaisons differ as well.

General discussion took place regarding the efforts of the workgroup.

Motion: To approve the Best Practices Guidelines. The motion was seconded and passed.

The Committee further noted agreement with the workgroup's exploration of use of telemedicine/telehealth in competency proceedings.

News & Updates

Mr. Batty shared that a meeting was held with the AOC Executive Office to review the Committee's scope of priorities for the coming year. Questions were raised regarding the existing Mental Health Court standards and the Committee's recommendation for a "tiered" approach, including:

1. What is the problem we are trying to correct?
2. If there is a tiered approach/standard, what will be the outcome?
3. Are there examples from other jurisdictions?

General discussion took place regarding re-examining the Mental Health Court standards, and a team will likely be formed to review this recommendation and to propose next steps.

Committee staff will follow-up with IT on the Data Repository next steps. Staff/Chair will follow-up with Mary Lou Brncik regarding the workgroup's possibly crafting a proposal for presentation to Committee around criminal mental health defense and the *mens rea* discussion.

Mr. Batty informed the Committee that its next meeting will be February 24, 2020, and that there will not be a June meeting.

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 2:23 p.m. by order of the Chair.