

# Committee on Mental Health and the Justice System Minutes

Wednesday, September 26, 2018

10:00 a.m. – 3:00 p.m.

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

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**Present:** Kent Batty (Chair), Mary Lou Brncik, Brad Carlyon, Amelia Cramer, Shelley Curran, Jim Dunn, Chief Kathleen Elliott, Judge Michael Hintze, Josephine Jones, Dianna Kalandros, James McDougall, Dr. Carol Olson, Ronald Overholt, Captain David Rhodes, Michal Rudnick, Dr. Michael S. Shafer, Commissioner Barbara Spencer, Judge Christopher Staring, Fanny Steinlage, Paul Thomas

**Telephonic:** Chief Chris Magnus

**Absent/Excused:** Judge Elizabeth Finn, Judge Cynthia Kuhn

**Guests/Presenters:** Robin Hillyard, Arizona County Supervisors Association; Josh Sprunger, Magellan Health; Patti Tobias Principle Management Consultant, National Center for State Courts

**Administrative Office of the Courts (AOC) Staff:** Jennifer Albright, Theresa Barrett, Don Jacobsen, Jodi Jerich, Angela Pennington, Marcus Reinkensmeyer.

## **Welcome and Opening Remarks**

The Chair, Kent Batty, called the September 26, 2018 meeting of the Committee on Mental Health and the Justice System to order at 10:00 a.m.

The Chair introduced himself and welcomed the members to the Committee. He then reviewed the Business Rules of the Committee.

Members checked their calendars and indicated their availability to attend future Committee meetings. The Chair then selected dates for monthly meetings through January 2019.

Dave Byers, Administrative Director of the Administrative Office of the Courts (AOC) addressed the Committee and welcomed the members.

## **Introduction of Committee Members**

Committee members introduced themselves. The members shared their professional backgrounds and indicated whether they had previously served on the Fair Justice Task Force's Subcommittee on Mental Health and the Criminal Justice System (Subcommittee). Many members recounted personal stories about their friends or family members who have suffered from mental illness.

The Chair asked guests, members of the public, and staff from the Administrative Office of the Courts (AOC) to introduce themselves as well.

## **Overview of the Fair Justice Task Force and its Subcommittee on Mental Health and the Criminal Justice System**

The Chair provided a history of the work done by former committees that has led to the creation of this Committee. He gave an overview of the Fair Justice for All Task Force (Task Force). The Chair focused on the Task Force's four recommendations that recognize the need for the courts to improve the delivery of justice to those who have mental and behavioral health needs.

The Chair then discussed the work done by the Task Force's Subcommittee. He reviewed the recommendations listed in its Final Report. The Chair noted that a key recommendation of the Subcommittee was for the Supreme Court to create a new committee that would continue the work begun by the Subcommittee.

The Chairman introduced Don Jacobson, AOC Special Consultant, and Patti Tobias, Principle Management Consultant with the National Center for State Courts (NCSC). He explained that the AOC and NCSC were working together to develop a model guide for presiding judges. Judges will be able to use this guide to assist them to organize meetings with local stakeholders. Through these meetings, the courts will collaborate with other justice and healthcare entities and be able to identify best practices and local resources to help those with mental and behavioral health care needs. Mr. Jacobson indicated that he will provide a more detailed review of this guide at a future Committee meeting.

Discussion ensued. Members expressed support for the model guide. A public advocate member stated he wanted to see all three branches of state government involved in the work of the Committee. Other members discussed the Subcommittee's work to draft changes to the definition of "mental disorder" in the court-ordered mental health treatment statutes.

## **Review of "*Decriminalizing Mental Illness: Fixing a Broken System*"**

The Chairman provided an overview of a 2016-2017 policy paper published by the Conference of State Court Administrators (COSCA) entitled, "*Decriminalizing Mental Illness: Fixing a Broken System*". The COSCA paper opined that the courts can improve how they handle cases involving mentally ill persons. The policy paper further outlined the five intercept points of the Sequential Intercept Model (SIM). It also discussed the need for more assisted outpatient treatment" (AOT) options for persons who have been ordered by the court to undergo mental health treatment.

Discussion ensued. One law enforcement member expressed support for mental health first aid training for all law enforcement officers and for crisis intervention training (CIT) for more seasoned officers. Another law enforcement member pointed out that CIT training needs to be region specific so that officers are aware of the mental health resources available in their community. Members acknowledged that law enforcement agencies in Arizona's rural areas lack access to the training opportunities that are available in the metropolitan areas of the state. A behavioral health specialist member acknowledged that a comprehensive and easily accessible

mental health care system is fundamental for police to be able to divert mentally ill persons away from jails and into treatment. An attorney member expressed concern with the overly complex procedures currently in place for families to seek court-ordered treatment for their relatives. He noted that their frustrations are compounded by a lack of community resources able to help those with mental and behavioral healthcare needs. A state agency member highlighted the State's efforts to establish integrated health clinics throughout the state. She said that by partnering probation officers and healthcare personnel in the same building, probationers with physical and mental health care needs can be more readily assisted.

The Chair provided an overview of the concept of "Intercept Zero". Intercept Zero emphasizes preventative mental healthcare treatment to prevent mentally ill persons from even encountering law enforcement at Intercept One. The Intercept Zero concept proposes that there be more mental health resources and that those resources be readily accessible in the community.

Members discussed the need for a continuum of care when people exit jails or prison and re-enter the community. A law enforcement member discussed efforts made by jails to coordinate services for inmates upon release from custody. A public defender member stated that juveniles who are in detention facilities and who "age out" of the system need similar services.

### **Review the Charge of the Committee**

The Chair reviewed the charge of the Committee as established in Administrative Order 2018-71. He asked the members for their input on how the Committee can best achieve its mission.

A mental health advocate expressed a desire for the Committee to examine changes to statute to allow evidence of a mental disorder to be used for the purpose of raising reasonable doubt as to mens rea in all criminal case types, not just when insanity is the defense. Other members discussed the need to reexamine the statutory definition of "mental disorder," as requested by the Fair Justice Task Force. Others indicated a desire to reexamine the standards for Arizona's mental health courts while others cautioned that too restrictive standards and requirements may preclude rural communities from establishing mental health courts. Finally, members expressed a desire to collect data to measure the effectiveness of Arizona's problem-solving courts.

### **Preparation for the Next Meeting, Next Steps of the Committee**

A law enforcement officer proposed that the Committee begin its work by using the SIM as a framework for discussing and identifying recommendations at each intercept point. Members generally concurred with that proposal.

The Chair announced that Don Jacobson, AOC Special Consultant, would provide more detail on the AOC's work with NCSC on the creation of a "model protocol guide" at the next meeting.

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

The Chair made a call to the public. There were no members of the public who wished to speak.

## **Adjournment**

Upon motion and a second, the Chair adjourned the meeting at 2:57 p.m.

**Next Meeting:**   **October 30, 2018**  
10:00 a.m. – 3:00 p.m.  
Arizona State Courts Building  
Conference Room 230