



Community Competency Restoration Task Force

February 21, 2020

10:00 am – 1:00 pm

Department of Corrections (DOC), 1450 Energy Park Drive, West Entrance, Afton Room, 1st Floor, St. Paul, MN 55108

Web ex login:

Event link: [Community Competency Restoration Task Force Meeting](#)

United States Toll +1-415-655-0003

Event number (access code): 961 017 640

Event password: 2019

AGENDA:

- I. Welcome and Introductions, Sue Abderholden and Bill Ward, Community Competency Restoration Task Force Co-Chairs, 10:00 – 10:15

MEMBER ATTENDEES: Dr. Harlan Gilbertson, Dr. Kathryn Cranbrook, Tami Lueck, Becky Graves, Leah Kaiser, Tarryl Clark, Tim Carey, Sue Abderholden, Bill Ward, Catherine Middlebrook, Molly Kicken, Dr. Ian Heath, Dr. KyleeAnn Stevens, Monette Berkevich, Jeff Lamberson, Eren Sutherland

OTHERS: Lea Bittner-Eddy, Toni Malanaphy-Sorg, Laura Lane, Lydia Ly, Sharon Mahowald-Horner, Jacob Owens (Tech Support), Mikki Maruska, Kristynna Majerus and others

PHONE

- Angie Hirsh
- Kelly Ihrke
- Katherine Rogers
- Marilyn Etzbach

- II. Gap case issues, County Attorneys, Tim Carey, 10:15 – 11:00

- Review rule 20
- Best case scenario where we obtain an order, then have gap 2, noting statutorily for commissioner to provide restoration services
 - Started 10 years ago with people stuck in the hospital
 - Practice changed due to a bulletin in 2018
 - Hospital level of care is not defined and is dependent upon an internal comparison of this person to others, cost shifts to county from \$400/day to \$1300/day for average of 142 days
 - Competency Restoration is an adjunct service by DHS
- Combine gap 1 and gap 2, 100 cases in Ramsey, result in adjudication and incompetence, half are lost to gap 1 and 25% are under suspension under gap 2

- So, 25% of people adjudicated incompetent are restored at the time they are returned to jail or released to the community
 - Impact – delays to justice for victims and communities
 - In criminal cases, long timing not helpful
 - How to expedite prevention?
 - Jails develop 1- page sheet so rule 20 examiners can get this information and prepare a “Progress Note” which can be added to the assessment
 - Pre-petition screening time can be ready to act
 - lawyers should be providing that information to examiners prior to the examination
 - Review of County attorney bill HF 24.09 - in response to first set of gap cases
 - prevailing opinion is that a statutory fix would be required to disband the rule
 - Look at issues in other states - our model is similar to federal model
 - Our proposal is that criminal court makes a determination, receives the report opining that person is not competent, suspends proceedings as incompetent, directs defendant to treatment
 - General outline of current proposed plan
 - Onus would be two tracks – inpatient track = responsibility of the state; outpatient track = county responsibility
 - 16-bed stand-alone hospital is not a safe environment for people who are especially aggressive
 - There may be a private industry interest in opening such a facility
 - 3600 requests, number is climbing and this will affect the appellate office
 - Will cost agencies millions of dollars – preparing a fiscal note on this
 - Would have to hire experts and district court hearings
 - Conflation around legal proceedings and resolution of trial and getting people treatment for mental illness
 - This bill does away with 2001 and 2002 and we don’t need to do that
 - Give Tim Carey feedback ASAP – what works and suggestions for changes to bill
 - (Dr. Stevens) need to address real issues
 - Often people are homeless, don’t have insurance, have people who do parole violations and go back into jail, putting people back in criminal justice system
 - Need to get people into treatment earlier
 - Commitment statute remains an option – this is to capture cases in the gap scenarios
- III. Taskforce interim report recommendations – What would community competency look like? (who? How funded?, etc.), Sue Abderholden, Taskforce Chair, CCRT, 11:00 – 11:30
- Examples in community, what else would you like to see?
 - How to speed up process to get person into restoration?
 - Pilot projects attempted
 - Attorney switches
 - Need more resources
 - Court scheduling is another barrier
 - Timeline in Minneapolis is 4 weeks, most places around the state is a full 60-days
 - In major jails they are getting treatment in jail

- Issue of trying to engage people into treatment; wish we could mandate it in the commitment bill – better spend of money
 - Another thing being used now is guardianship which is challenging for someone with mental illness
 - Members please consider
 - Org chart of ideal process
 - What can we do?
 - What is the vision for success?
 - Triage these individuals – mental illness and cognitive impairment overlay one another
 - Screening and triage is a great idea
 - Same-day screening, 3-page report that describes the acute issues
 - 90% of those could be accomplished as a screening
 - Others would happen at the jail within 30 days
 - Effective screening? What is minimum level of expertise and could it be done remotely?
 - Yes
 - IQ
 - Can LPCCs do testing? No, needs to be psychologists
 - Video conferencing remains an opportunity and a challenge
 - Hennepin county does screenings
 - What if psychologists are not available in area? This is likely outstate
 - Hub idea
 - The Hub idea can be a solution
 - Going to where the issues are
 - Not ready for tele-health yet; examiners can have geographic regions of the state for a period of time
 - Medicaid is suspended – they are still in custody and part of criminal justice system, not healthcare
 - Need larger IRTS facility makes more sense because of more qualified staff
 - Some courts like it and some do not and do not have the technology
 - Quality of reports, examiners and access is an issue
 - Recruitment to outstate areas is an issue as is travel time, but group sharing may be appealing
 - Where would the hubs need to be?
 - How do we ensure people in the right geographic areas?
 - Stay overnight in hotel
 - Be creative
 - Full time floating evaluators
 - Pilot in Bemidji – Court is looking at those models, comparing contractors versus staff
- IV. Education issues to consider for recommendation, Bill Ward, Taskforce Chair, CCRT, 11:30 – 12:00
- Can provide psych education materials for jail social workers
 - McArthur Competency assessment tool
 - Timing an issue
 - Person-centered

- We provide the flash cards they will go through
- Technology based materials?
- Olmsted had some success for people who are in custody
- Use like a treatment court model - one stop shop for meds monitoring and CR services
 - Needs to have teeth or no one will come and it will not make any difference
 - Some counties don't have the resources
 - We could borrow from mental health court
 - Other states have requirements that combine
- (Dr. Gilbertson) 2001 and 2002 should not be combined
 - Courts are ordering a 2002 at the same time under the guise of saving money
 - Part of education is reminding staff that these should be separated
 - Mental health issues are different than competency – requires more training to distinguish
- What can we do better?
 - Prior examinations are known earlier to the examiners
 - Client sign waivers to get those document
 - Referrals not helpful if public defenders don't send reasons that they didn't meet their client or they won't tell us the specific of their concerns because of privilege
 - Helpful to get the info from what happened that prompted the referral
 - Bench training, why to separate 01 from 02, new judge training, make it an e-training
- Dakota County judges asking to show which parts of 2002 are satisfied before ordering it
 - 2004s won't add time
 - Don't do 2004 unless we opine that the person is incompetent
- How can prosecutors improve handling these particular cases?
 - Need to screen these cases without having charges
 - Include in non-Metro areas education
- (Dr. Gilbertson) Pick out the most salient crime they are being charged with
 - We are better at understanding alcohol abuse and drug-related issues but are not there yet with mental illness
 - Prosecutors challenge the incompetency because they don't like the result and they never met the person and don't know their circumstances
- (Dr. Stevens) Add education for county under Intercept 2, that's where yellow line project is
- (Mark Blevins) hope none of these cases land in prison; diversion is most important – we need to be heavy on early process and use the crisis teams
- Need to address education of new, inexperienced attorneys
- County resources an issue
 - How can we help educate the evaluators? For next meeting think about that
 - How the system actually works
 - How the process works for us and steps before making the ask
 - How we work on developing a trusting relationship with our client
 - New judges, mentored by old judges in same county, not learning new tricks

Tabled for future meeting discussion:

V. Measurement Recommendations

VI. Review Taskforce Contributions to *Community Competency Restoration: Questions to Consider* Document

VII. Next taskforce meeting and work to be completed. Adjourn, 1:00.

The Next Community Competency Task Force Meeting will be March 27, 2019, 10:00 to 1:00 at DOC.

Subsequent meetings: May 1 and then June 12th. Venue to be determined based on technology performance and availability.

February Action Items and person responsible

Submit feedback on proposed legislation (HF 29.04) to Tim Carey including what you would like to see changed and what parts of the proposal work – members ASAP

Draft action language to include in stage 2 of the Sequential Intercept Model – training for courts – Dr. KyleeAnn Stevens – March 20th

Forward to members most common eligibility criteria for participating in outpatient community competency restoration programs – Sharon Marhowald-Horner - done

Member, Come to March meeting prepared to participate in an in-depth discussion on:

- What exactly would community competency look like?
- Education issues to recommend
- Measurement and data recommendations
- Questions to consider document

Check on availability of DOC for future meeting venue and secure technology support for meetings – Mark Blivens

Thank You!