

# **Advisory Task Force Recommendations to the Interim Committee on Treatment of Persons with Mental Illness in the Criminal Justice System**

## ***PART ONE:* THE TASK FORCE RECOMMENDS THAT THE LEGISLATURE CONSIDER THE FOLLOWING LEGISLATION IN THE FY99-00 SESSION.**

### **1. Introduce legislation to continue the Advisory Task Force for three additional years, with annual reports to the legislature.**

The Advisory Task Force needs to continue its work with statutory authority. Although members of the task force have presented substantial information on the current status of persons with mental illness in the criminal justice system, additional information needs to be gathered on a number of issues. These issues include examination of the interaction between mental health centers and corrections systems, the kinds of treatment provided for persons with mental illness, including medication monitoring, as well as a number of other topics cited in the bullets below.

In addition, the Task Force needs representation from additional agencies and disciplines. These include forensic professionals, community mental health centers, education, housing, child welfare, the Alcohol and Drug Abuse Division (ADAD), and additional consumer representation. Subcommittees should be formed for the study of legal issues and for the study of special populations such as offenders with co-occurring disorders, juveniles, minorities, and women.

Some minimal resources would be needed to assist the Task Forces in studying the following areas:

- **Increase inter-agency coordination.**

Multi-agency coordination is critical to ensure continuity of care for offenders with mental illness. In some instances, it is difficult to access clinical information from other systems. Coordination efforts should include reaching a consensus on defined goals, delineating responsibilities, and initiating continuous program review. Mental health services that are provided through different agencies should be coordinated, and clinical information should follow the client. An integrated service model makes it possible to plan and manage mental health services for offenders in a manner that maximizes their benefit.

- **Improve transition services.**

The transition from an inpatient or correctional residential facility to the community can be very traumatic for people with serious mental illness. The

steps to independent living are critical for the transition of offenders with serious mental illness. There are few facilities and services in the state for those coming out of prisons, jails, and inpatient facilities. In addition, better discharge planning is needed for both adult and juvenile offenders with mental illness. Increased cooperation between state Mental Health Services, some Community Mental Health Centers and Department of Corrections mental health staff has resulted in some progress in facilitating continuity of care for offenders with serious mental illnesses who are transitioning back to the community, but more needs to be done.

- **Improve the availability of housing and placements.**

The availability of housing is a significant factor in both short- and long-range success of mentally ill offenders in the community. However, there is currently little housing available for either adults or juveniles with mental illness. One problem is public sentiment against such facilities. Offenders with co-occurring disorders are especially difficult to place; no one with an arrest record is eligible for HUD housing. Collaborative efforts between agencies are encouraged, but additional resources are desperately needed.

- **Examine the issue of insurance parity.**

Private insurance companies are required to provide mental health services for people with certain mental illness diagnoses, but at present, only six diagnoses related to mental illness are covered. The Task Force encourages the expansion of covered diagnoses to other legitimate mental illness diagnosis.

- **Expand funding for family and home-based services.**

Family and community-based services have been shown to be very effective in ensuring that clients continue receiving necessary services. Family and community-based services should be the standard of care for mentally ill offenders rather than the traditional individual and group models of care because this population is typically difficult to maintain and engage in traditional treatment approaches. Although these community-based approaches may be more expensive on the front end, they are more effective in reducing the need for more intensive and costly services later on.

- **Improve the acquisition of benefits for offenders with serious mental illness.**

Offenders with mental illness often experience difficulties and delays in receiving public benefits to which they are entitled. Both in jails and juvenile detention centers, a case management approach would make resources available more quickly to offenders with mental illness. This and other possible solutions to this issue must be examined.

- **Improve medication provision and supervision.**

A large number of individuals with mental illness in the criminal justice system are on psychotropic medication. Providing medications and supervising mentally ill offenders to ensure that they take prescribed medications on a regular basis is an apparent problem throughout the criminal justice system, especially at transition points. Although representatives of all groups on the Task Force recognize the problem, there is little data to document the extent to which it occurs. More information needs to be gathered regarding where system improvements are needed in the continuity of medication provision and supervision and who should pay for this basic service.

- **Resolve the conflict between improving confidentiality and making offenders' medical and clinical information more accessible.**

Confidentiality restrictions need to be uniformly interpreted and applied so that information about criminal and mental health history can be shared more easily among law enforcement, courts, jails and mental health professionals. Courts now have inconsistent information with respect to offenders' mental health backgrounds and their true needs before a sentencing decision must be made. This is a problem throughout the system, as agencies are often reluctant to transfer confidential records and information, despite the importance of sharing such information with other agencies. Increased agreement and coordination are badly needed in this area. All improvements must be made with an eye toward the welfare of the client and to encourage continuity of services, and at the same time, the protection of the clients' privacy.

- **Expand research on special populations of offenders with serious mental illness—females, ethnic populations, and those with co-occurring disorders.**

Additional information must be gathered on the growing number of offenders who have co-occurring mental health and substance use disorders. In addition, information is currently inadequate on other special populations, especially females and minorities, with mental illness who are involved in the criminal justice system. As noted above, the need to gather such additional information is one reason for continuation of the Task Force.

- **Perform a comprehensive review of the criminal insanity laws and definitions, including Guilty But Mentally Ill (GBMI) and Not Guilty By Reason of Insanity, civil commitment, and juvenile commitment.**

The state has considered for some time allowing a Guilty But Mentally Ill verdict in criminal cases. If a defendant is found GBMI, that person is ordered to serve a sentence of the same duration as could otherwise have been imposed, with mental health treatment. However, there has been no comprehensive examination of the GBMI verdict within the context of either criminal insanity law as a whole or of

its potential advantages, financial implications, or commitments. A change of this magnitude should not be made precipitously, but only after thorough study of the issue. The Children's Code must also be included in this comprehensive review, as different statutes apply to youth.

- **Examine the feasibility of establishing a pilot Mental Health Court.**

The Task Force recommends the further study of Mental Health Courts (MHCs), which are a promising approach to diverting misdemeanants into the mental health system. At present, there are at least three Mental Health Courts across the country. MHCs typically provide misdemeanants with mental illness a single point of contact with the court system. Defendants may be referred to the Mental Health Court by jail psychiatric staff, law enforcement, attorneys, family members, probation officers, or another court. Participation is voluntary, as defendants must waive their rights to a trial on the merits of the case. Defendants receive court-ordered treatment in place of standard sentencing.

Mental Health Courts provide a liaison position to monitor compliance, individualized treatment plans, and case managers to strengthen the defendant's support system. To be successful, programs must be linked with aftercare, and release planning must occur well before release. It is important to put systems in place to ensure that relevant information follows the individual rather than being located in separate agency records. The Colorado Judicial Department has expressed an interest in being involved in discussions surrounding the issue of Mental Health Courts.

- **Expand juvenile transition services.**

The Division of Youth Corrections has great difficulty in transitioning youth with severe mental health needs into safe and effective community-based placements. Resources need to be provided to develop additional alternatives. Juvenile transition services and continuity of care should also be enhanced through increased integration, cross training, and multi-agency coordination.

- **Expand successful early intervention programs.**

Programs designed to intervene early in the lives of at-risk children are successful in preventing a life cycle of violence and criminal justice involvement. Examples of early intervention programs are those that provide home visits and supported child care, partial-day treatment programs for preschool children with emotional disturbances, the Child Development Program in Boulder, and the Denver Project Parent Empowerment Alternatives with Resources and Learning (PEARL). The

Task Force encourages adoption of such programs and others described in the section entitled "What Works?" in this report. The Task Force recommends that

additional resources be provided to expand the use of such programs statewide.

- **Address the issue of community corrections' liability.**

Those who supervise offenders in the community are concerned about their potential liability resulting from offenders with mental illness who commit additional crimes. The Task Force recommends that the legislature address this issue with an eye toward releasing community corrections from liability for those with mental illness.

- **Consider the implementation of a differential daily rate of compensation for community corrections' agencies that will accept offenders with serious mental illness.**

The differential daily rate is needed to cover the daily program cost not recoverable from an offender who is unable to work due to a serious mental illness. This may have the effect of increasing the number of seriously mentally ill offenders who are accepted for transitional placement, which may help reduce the length-of-stay at the Department of Corrections (DOC) and delay future needs for special placement beds.

- **Develop a comprehensive community mental health/criminal justice proposal.**

The Task Force recommends examining the feasibility of a pilot program that would ideally encompass all promising approaches addressing the needs of the mentally ill offender. Such a program would cut across usual agency lines and would incorporate many of the concepts described above. Crucial to such a comprehensive community mental health/criminal justice project would be collecting baseline data and evaluating the success of all elements of the pilot. A comprehensive project is a priority for the Task Force for next year.

## **2. Introduce legislation initiating inter-agency protocols to develop a standardized screening process.**

Existing procedures and diagnostic tools are inadequate for identifying the level of impairment of mentally ill offenders. There is no standardized way to collect and share clinical information across the mental health and corrections systems. A standardized screening process to more accurately assess an offender's level of impairment is badly needed.

The Task Force encourages inter-agency development of a screening process designed to identify current mental health disorders. Research shows that interventions have a greater likelihood of success when the assessment and intervention are provided early. Therefore, screening should be done at the earliest possible point and should follow an individual in his/her movement through the

criminal justice system. Screening should also occur at multiple points in the criminal justice process, and suicide screening must occur at every transition point. Issues of confidentiality must also be addressed as part of the effort to develop a standardized screening process.

**3. Introduce legislation to expand intensive community management approaches (including ACT—Assertive Community Treatment) and Multi-Systemic Therapy Programs.**

Intensive community management programs are community-based programs for offenders with mental illness. A well-known model, called Assertive Community Treatment (ACT), has been demonstrated to be effective in the treatment and oversight of individuals with serious and persistent mental illness. The program targets difficult to engage clients, those at high risk for psychiatric deterioration, and those with co-occurring substance abuse and criminal behavior. The Mental Health Corporation of Denver (MHCD) undertook a study to examine and document changes in offenders' involvement in the criminal justice system before and after the ACT (called High Intensity Treatment Teams in Denver) program intervention. The study examined the records of clients three years prior to involvement with the High Intensity Treatment Teams and three years after. After removing four outliers representing numerous prostitution arrests, there was a 30% decrease in total arrests, and a 44% decrease in fresh arrests (that is, removing those arrests that were from earlier unresolved contacts with the legal system, many of which were found when a client attempted to secure housing). Drug and alcohol offenses decreased by 20% and fresh violent offenses decreased by 49%. The Task Force recommends that intensive community management approaches be expanded in additional sites in the state.

Multi-Systemic Therapy (MST) is an intensive, comprehensive family and community-based treatment approach that addresses the multiple determinants of serious anti-social behavior. It has been demonstrated to be extremely effective with juvenile populations, including those who have mental health problems. The goal of the MST approach is to provide an integrative, cost-effective, family-based treatment that results in positive outcomes for adolescents who demonstrate serious anti-social behavior. MST interventions focus efforts on individuals and their families, peers, school and vocational performance, and neighborhood and community support systems. MST therapists carry small caseloads of 4-6 families and offer primarily home and family-based services. Therapists focus on skill building, strength-based and resource development strategies. MST programs require intensive training, strict quality assurance, and continued accountability, and evaluation. MST programs remove cross-systems barriers. Evaluations of MST programs have demonstrated the following outcomes for serious juvenile offenders: reduced long-term rates of arrest by 25%-70% compared to control groups; reduced days in out-of-home placements by 47%-64%; extensive improvements in family functioning; and decreased mental health problems. The Task Force recommends expansion of MST programs for at-risk juveniles with serious mental illness.

**4. Revise the Aid to the Needy Disabled statute to expedite access to public benefits.**

Modifications to current statutes are needed to enable those who are institutionalized to expedite access to public benefits. To ease the transition from incarceration to community release, prohibitions should be lifted against offenders with mental illness applying for Aid to the Needy Disabled several months prior to release. Offenders with mental illness need access to funds immediate upon release from an institution. Additionally, under current law, offenders with mental illness must currently overcome significant obstacles to access Supplemental Security Income benefits. These barriers interfere with the ability of many offenders with mental illness to obtain the basic public assistance necessary to successfully transition from an institutional setting to community supervision.

***PART TWO:* THE TASK FORCE SUPPORTS THE  
FOLLOWING ACTIONS BY THE LEGISLATURE  
IN FY99-00**

**1. Support expanded specialized placements and forensics.**

- The Task Force supports the Colorado DOC's request for an expansion of beds at the San Carlos Correctional Facility and other protected environments for mentally ill offenders. The San Carlos Correction Facility is a 250-bed facility that serves inmates with mental illness or developmental disabilities. Inmates served by the program are those with the highest needs as determined by diagnosis, symptom severity, and disruptive behavior.
- Through a partnership between Youth Corrections and the Colorado Mental Health Institutes, the Division of Youth Corrections (DYC) proposes to construct a 20-bed (expandable to 40 beds) intensive, security, highly specialized, and self-contained residential commitment facility for juveniles ages 16-20. The facility is needed to serve juveniles with severe mental health needs and felony offense histories who cannot safely function in either Youth Corrections or less restrictive mental health facilities. The Task Force supports the DYC proposal.
- The Colorado Department of Human Services request for replacement and expansion of the Institute for Forensic Psychiatry's maximum and medium security units. The Institute for Forensic Psychiatry is charged with housing and treating persons with mental illness who have been found not guilty by reason of insanity, incompetent to proceed with their trial, or who require psychiatric competency or sanity evaluations. The maximum and medium security units serve those offenders who with serious mental illness who are the most dangerous, i.e., those who present numerous safety and security issues. Additionally, the units have chronically operated over capacity.

***PART THREE:* THE FOLLOWING ITEMS CAN BE ACTED UPON IMMEDIATELY BY THE LEGISLATURE OR REFERRED TO THE TASK FORCE FOR FUTURE STUDY.**

**1. Encourage the development of crisis intervention programs.**

The Task Force recommends implementation of programs such as the Memphis Police Crisis Intervention Team (CIT) throughout the state. Programs like CIT could be modified to meet the needs of Colorado local communities. CIT is a partnership between the Memphis Police, the Memphis Chapter of the Alliance for the Mentally Ill, mental health providers, and two local universities. These groups have worked together to organize, train for, and implement a specialized unit to respond to crisis events involving the mentally ill. Results have included a significant decrease in officer injury rates and increased access to mental health care by people with mental illness. The program keeps people with mental illness out of jail, minimizes law enforcement time spent on calls, and maintains community safety.

**2. Increase cross-training for all those who deal with the mentally ill in the criminal justice system.**

Cross-training is essential to ensure that mental health professionals understand the criminal justice system and that judges, district attorneys, defense lawyers and probation officers understand the mental health system. It is also essential to train law enforcement officers, as they are often the “gatekeeper” of those with mental illness entering the criminal justice system. However, most officers lack the training to identify, manage, and refer mentally ill persons appropriately.

**3. Expand the use of specialized caseloads.**

Specialized probation staff handling limited caseloads have had the highest level of success with mentally ill offenders. Revocations and re-sentences to Colorado DOC have decreased when offenders are part of such limited, specialized caseloads. Structured team approaches between Mental Health and Probation, which involve interagency system training and coordination, facilitate success. Any expansion of specialized caseloads of offenders with serious mental illness would necessitate concomitant increases in mental health resources dedicated to addressing the needs of these offenders.

**4. Provide support to evaluate the results of all proposed activities.**

The Task Force recommends that adequate resources be provided to evaluate the success of ongoing and new projects designed to improve the treatment of persons with mental illness in the criminal justice system. Baseline data should be gathered,

and research should be carried out to ensure that programs are both efficient and effective.

**5. Review jail diversion programs.**

County jails hold a large number of mentally ill persons. Estimates of the size of mentally ill jail populations vary, but a recent review by Boulder County Jails' medical staff determined that approximately 38% of those in custody suffered some form of mental illness.

Several larger counties have programs in place to divert the mentally ill from jail. In these systems, the jail medical staff identifies inmates with serious mental illness and contacts mental health workers to conduct an assessment of the individual. If the assessment indicates that the individual needs hospitalization, the criminal charges are put on hold and the person is transferred to a Colorado State Mental Health Institute. The limitation is that existing programs are only able to remove a very small number of the most seriously mentally ill who have committed minor offenses. To continue and expand such diversion programs, additional resources are needed to provide treatment in the community.

In addition, probation officers and mental health caseworkers working out of the same office facilitate case management. This arrangement should be considered for pilot implementation. Day centers specifically programmed for defendants with serious mental illness could provide the structure needed to comply with conditions of supervision and medication schedules, and overall improvement in the coordination of case management. Such a program could serve at the local level as a diversion from criminal charges, as a condition of pretrial release, or as a sentencing condition.

**6. Improve jail assessment, treatment, and transition services.**

Although early intervention and diversion efforts are encouraged, there is nevertheless a strong need for the availability of services for those in jail. Research indicates that the mentally ill spend more time in jail than a person without mental illness arrested for the same offense. However, very few resources are available in jails for proper screening and treatment. Only larger county jails have any staff available or trained to provide assessments, and the availability of treatment is limited.

Resources should be provided to develop additional specialized services for the mentally ill who are in jail. Trained staff should provide assessments, treatment, and transition services.

**7. Expand detention-based pilot projects.**

The pilot project is a partnership between Youth Corrections and Community Mental Health Services. The program offers detention-based screening, assessment, case

management, crisis intervention, and community-based referral. Local mental health services then provide comprehensive, community-based post-detention mental health services. The goal of the project is to decrease the mental health needs the juvenile detention population and lower the number of readmissions. The Task Force recommends a review of the outcomes associated with this project, and, if effective, an expansion of such services to all NYC detentions sites.