

**MINUTES OF THE
TASK FORCE ON INVOLUNTARY COMMITMENT OF THE MENTALLY ILL**

Wednesday, May 15, 2002 – 2:00 p.m. – Room 405 State Capitol

Members Present:

Sen. Leonard M. Blackham, Senate Chair
Rep. Katherine M. Bryson, House Chair
Sen. D. Edgar Allen
Sen. David L. Gladwell
Sen. Karen Hale
Rep. Douglas C. Aagard
Rep. Chad E. Bennion
Rep. Judy Ann Buffmire
Rep. Neil A. Hansen
Rep. Carol Spackman Moss
Rep. Mike Thompson

Members Excused:

Sen. Lyle W. Hillyard

Staff Present:

Mr. Arthur L. Hunsaker, Research Analyst
Ms. Esther D. Chelsea-McCarty, Associate General Counsel
Ms. Glenda S. Whitney, Legislative Secretary

Note: A list of others present and a copy of materials can be found at <http://www.image.le.state.ut.us.imaging/history.asp> or by contacting the Office of Legislative Research and General Counsel.

1. Call to Order

Chair Blackham called the meeting to order at 2:09 p.m. He noted that S.B. 77 formed the Task Force on Involuntary Commitment of the Mentally Ill and reviewed from the legislation the duties it is charged to study.

2. Staff Report

Mr. Arthur L. Hunsaker, Research Analyst, distributed a handout "Involuntary Commitment History/Experience of States with Mandated Task Force Areas of Study." After presenting an overview on the history of mental illness and involuntary commitment, he reviewed experiences of the states on:

- a) Admissibility of evidence at hearing of historical information concerning patterns of treatment, compliance, and decompensation
- b) Criteria for determining the need for involuntary commitment
- c) Inclusion of involuntary medication decisions in conjunction with involuntary commitment processes
- d) The need for community based mental health services

Ms. Esther D. Chelsea-McCarty, Associate General Counsel, distributed a handout "Involuntary Commitment Statutes in Utah." She briefed the task force on Utah law governing involuntary commitment. Ms. McCarty explained the procedures and requirements on involuntary commitment and temporary commitment. She defined involuntary commitment under court order and the findings that are required to commit a person. After her presentation she addressed questions of the task force.

Sen. Gladwell questioned the word "immediate" as the standard for determining the level of danger required to involuntarily commit a person and asked if it is a statutory standard due to a policy decision or a court decision. He asked if it would be unconstitutional to strike the word "immediate" from the statute.

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Ms. McCarty acknowledged that research indicated that it is a policy decision and noted that Utah is not the only state that requires specific language of "immediate danger."

Mr. Hunsaker also noted that in recent years, several states had dropped the high statutory standard of "immediate" when referring to danger.

Rep. Bennion asked what is being substituted by other states in place of "immediate."

Mr. Hunsaker said he would research what other states are using in place of "immediate" danger.

Chair Blackham also suggested looking to the court and the constitutional issue on the civil rights of people, what is valid, and what are the parameters.

Rep. Buffmire did not believe this was a constitutional issue. She said the task force is not trying to take away the human rights and dignity of the mentally ill, but to be sure that they and others are protected when they are struggling with the disability.

Rep. Bryson referred to Section 62A-12-234 where it states that the mental health authority determines that conditions no longer exist, and that the mental health authority has the right to discharge the person and merely notify the court. She asked if that is common in other states and questioned how it works.

Chair Blackham asked staff to research Rep. Bryson's question and report back to the task force.

Rep. Thompson also asked staff to look at the recourse of governmental immunity for wrongful commitment and what laws are in place.

3. Involuntary Commitment of the Mentally Ill: Challenges for Utah

Dr. Jed L. Ericksen, Associate Director of Adult Services, Valley Mental Health, said his knowledge of this subject is based on thirty years of experience in a hospital emergency department, in an inpatient service, and in the courtroom dealing with civil commitment. He said the philosophy and the mission of the public mental health system in Utah is oriented to matters regarding recovery, treatment in the least restrictive environment, treatment in the local community, emphasis on normalcy of life, and integration into the mainstream of living in the community.

Dr. Erickson said that the treatments and interventions are the best they have been in history but still have a long way to go. He explained that the procedures to implement the legislation are very complex. There are at least 25 different forms that are used in the process of involuntary commitment. He said there are lots of safeguards, checks and balances that insure that the best interests of the public and patient are considered.

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Dr. Erickson expressed concerns that there are not enough resources to provide for services and not enough beds for the mentally ill. He indicated that over the last decade there has been a 22 percent increase in the population along the Wasatch Front and in that same period a 28 percent decrease in available inpatient psychiatric beds. He said this has resulted in the closure of many facilities and has driven people out of the business, making it difficult to achieve the objectives of the current statute. He said that the mental health center, in an effort to accommodate, has provided three forms of service that makes them vulnerable to abuse. They are the Utah statutory scheme, 24-hour emergency services, and inpatient facilities with lock up to provide safety.

Ms. Vicki Cottrell, Executive Director, Alliance for the Mentally Ill in Utah (NAMI), said NAMI is an organization made up of families who have a loved one with mental illness. Their mission is to ensure dignity and to improve the quality of life for all those whose lives are affected in some way by mental illness through education, support, and advocacy.

Ms. Cottrell presented a demonstration with headphone and cassette tape for task force members to listen to what a person with schizophrenia hears. She explained that they will hear a series of voices and asked that they read an article and try to remember what they read as they listen to the tape. After five minutes, Ms. Cottrell said they could take off the headphones and stop the sounds and voices. She noted that the voices are what schizophrenics constantly hear and that the voices cannot be turned off. She explained that this illness is treatable and that her daughter has suffered from this illness. She said because her daughter did not meet the immediate danger standard she could not get immediate treatment. She expressed concern with the commitment standard and system capacity and said when talking about civil liberties it is the illness that has taken the civil liberties, not the law.

Mr. Randall Bachman, Director, Department of Human Services, distributed a folder with information for the task force to review. He referred to the handout "Analysis/Recommendations Regarding Weapons and Persons with Mental Illness" that he reviewed. He said the Board of Mental Health provides some cautions that civil rights of the large majority of persons with mental illnesses who are not dangerous must be protected, and while the report includes some promising approaches to the reduction of violent crimes committed by persons with mental illness, the public must understand that even if all of the recommendations are implemented, there will still be no guarantee against rare acts of random violence by persons with or without mental illness.

Mr. Bachman reviewed from the handout recommended changes to civil commitment laws and access to guns. He said the staff at the mental health center are ready to answer questions the task force may have during this process. Mr. Bachman introduced Ms. Martha Anderson, Consumer Affairs Specialist, Division of Mental Health.

Ms. Anderson shared her personal experience in dealing with paranoid psychosis. She explained the activities of her life 15 years ago and the process she went through before being admitted by her family into a mental health facility. She said the treatment received in the facility was positive and helped in making the transition back into society possible.

Sen. Allen expressed concern with what the current law restricts and questioned the recommended change from the mental health board to consider past history as a factor in the initial commitment.

Ms. Cottrell explained the difficulty in meeting the criteria to admit a person the first time for treatment. She said they would not consider past history or testimony of what the family member was doing, their actions, their behaviors, or their threats in determining whether to commit a person to the mental health facility for treatment.

Dr. Erickson said in order to help the person they have to find that the person meets that narrow definition that is given in the commitment criteria. He said it is a judgement call and they are concerned with an individual's civil liberty, the welfare of the person, family, and society and struggle with making that decision to commit because of the narrowness of the statute.

Ms. Janetha Hancock, Legal Counsel for the Department of Human Services, noted that as a former counsel for the legislature she had researched the mental health commitment issue. She provided the committee with some history and background and commented that most of the lower federal courts and state supreme courts have said that they are no longer committing to people to facilities. They are committing them basically to the community. She said there are a lot of medication alternatives and there are protections against involuntary or forced medication. Most of the states look at substantial cause and recent history to determine whether a person poses an immediate threat.

Rep. Thompson suggested looking at language that would be more appropriate other than "immediate."

4. Task Force Discussion

Chair Blackham led a discussion of how the task force could utilize its monthly meetings to fulfill its statutory directive.

Other suggestions by task force members for study included: Patterns of treatment, types of treatment therapy, funding and how it flows from different organizations, to hear from Corrections on the impact of mental illness, involuntary commitment, and recidivism figures.

5. Task Force Business

The next scheduled meetings of the Task Force on Involuntary Commitment of the Mentally Ill will be June 12, 2002, and July 10, 2002, at 2:00 p.m.

6. Adjournment

MOTION: Rep. Bennion moved to adjourn the meeting. The motion passed unanimously. Chair Blackham adjourned the meeting at 4:23 p.m.