

**MINUTES OF THE
TASK FORCE ON INVOLUNTARY COMMITMENT OF THE MENTALLY ILL**
Wednesday, August 14, 2002 – 2:00 p.m. – Room 414-416 State Capitol

Members Present:

Sen. Leonard M. Blackham, Senate Chair
Rep. Katherine M. Bryson, House Chair
Sen. D. Edgar Allen
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 Absent:

Sen. David L. Gladwell
Sen. Lyle W. Hillyard

Staff Present:

Arthur L. Hunsaker, Research Analyst
Esther D. Chelsea-McCarty, Associate General Counsel
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 committee secretary, Glenda Whitney, at 538-1032.

1. Task Force Business

Chair Bryson called the meeting to order at 2:16 p.m. Sen. Gladwell and Sen. Hillyard were excused from the meeting.

Rep. Aagard suggested amending Sen. Gladwell's comment in the July 10, 2002 minutes by inserting the word "previous" to read, "was excused from the previous meeting."

MOTION: Sen. Hale moved to amend and approve the minutes of the July 10, 2002 meeting. The motion passed unanimously.

2. Teleconference: Wisconsin Involuntary Commitment Law

Ms. Karen Stephenson, Program Manager, Emergency Services Unit, Mental Health Center, Dane County, Wisconsin, briefed the task force by a teleconference call on the Wisconsin Involuntary Commitment Laws, how the laws are implemented in Dane County, and the role of mental health centers in the commitment process.

Ms. Stephenson pointed out that throughout Wisconsin's mental health law, there is a clear emphasis on providing a range of services so that treatment can take place in the least restrictive setting and a strong focus on protecting patient rights and on voluntary treatment whenever possible.

Ms. Stephenson indicated that commitment laws have two purposes: 1) to protect the person and society, and 2) to improve the person's condition. She explained the standards for commitment:

1. A substantial probability of physical harm to himself by evidence of recent threats or attempts at suicide or serious bodily harm.
2. A substantial probability of physical harm to other persons as manifested by evidence of recent homicidal or other violent behavior.

3. A substantial probability of physical impairment or injury to himself due to impaired judgement, as manifested by evidence of a recent act or omission.
4. Behavior manifested by a recent act or omission that, due to mental illness or drug dependency, he is unable to satisfy basic needs for nourishment, medical care, shelter or safety without prompt and adequate treatment.

Ms. Stephenson said that in the case of a potential emergency detention, mental health centers face these questions: is there anything other than an emergency detention that would be sufficient? Are there other solutions to this crisis? An assessment of the person is conducted and their name is checked in a database to detect any previous treatment history. She said they work as fast as they can but are determined not to rush a commitment recommendation.

Ms. Stephenson said last year, of all the requests for involuntary hospitalizations received, 54 percent were addressed without involuntary commitment and 46 percent fell under emergency detention. She indicated that law enforcement has the last word regarding an individual's detention.

Ms. Stephenson said that within 72 working hours a probable cause hearing is conducted. The county is represented by the corporation counsel which is an attorney assigned by the county. If the receiving facility does not think that grounds for commitment exist, the case can be dismissed before the probable cause hearing occurs. These hearings are often continued to give patient and counsel more time.

In cases where probable cause is established, the person will be kept in the hospital for a commitment trial and the trial has to take place within 14 days of the initial detention. During that time there are two court-ordered independent evaluations, one by a psychiatrist and one by a psychologist.

Sen. Hale asked about the additional fifth standard for commitment that Ms. Stephenson referred to in her presentation. Ms. Stephenson explained that a psychiatrist must state that the person is legally incompetent to make a decision about psychiatric medications. The risk of deterioration and the potential to inflict mental, physical, or emotional harm must also be present along with a documented history showing that the person has previously been a positive responder to treatment.

3. Staff Presentation: Research Related to the Statutory Charge of the Task Force

Mr. Hunsaker distributed a handout "Selected Statutes and Rules Related to Community Based Mental Health Programs." He briefed the task force on the statute and administrative rules that effect community based programs and reviewed the community based duties of the Division of Substance Abuse and Mental Health, local mental health authorities, and the community mental health centers.

4. Mental Health Assertive Outreach

Mr. Jim Whear, Chief Operating Officer, Valley Mental Health, distributed a handout that outlined his comments and recommendations. He said the resources in the community mental health centers are in a critical condition. He noted that Valley Mental Health alone has consolidated four outpatient clinics into three and in March will consolidate into two clinics. He explained that over the last several years they

have had to take other steps because of the lack of public funding to support services for mentally ill. Growth, population, and inflation have eaten up occasional increases in funding. They are excited about the mental health assertive outreach program and said their experiences over the last two years have been positive, but more funding is greatly needed.

Mr. Doug Thomas, Program Coordinator, North Valley Assertive Outreach Team, presented an overview on the process of the assertive outreach team and explained its concept. He said they have served 26 clients. The criteria for admission to the team was that the client had to have three or more hospitalizations or 30 plus days of hospitalization in the last year prior to being picked up by their team. He said their team seeks to provide hospital services without the seclusion and restraint of a hospital.

Mr. Doug Mottonen, Adult Associate Director, Valley Mental Health, said the clients become part of the team and the team follows the client on a 24-hour basis. He said it is a different approach but it is working and the team is committed to helping the client be whatever they can be.

Mr. Michael Evans, Mental Health Commissioner, commented on the length of time a patient must wait for a commitment hearing. He said the Utah statute provides for a hearing within 10 court days. He said the absolute longest period of time for a commitment hearing would be 14 days and that is only if an application was filed late on the afternoon of a Friday.

Chair Bryson asked if statistics are available comparing when a patient was admitted to the hospital and when a hearing took place.

Mr. Randy Bachman, Director, Division of Substance Abuse and Mental Health, said they have a template that identifies the patient, the admission information, and tracks the time frame between the filing and the actual hearing. But those are only for the people in the state hospital. He said they might be able to use the same scheme and determine if tracking could be done on a statewide basis.

Chair Bryson asked if state has a psychiatrist and a psychologist conduct an examination of the patient as is done in Wisconsin.

Dr. Nancy Cohn, Forensic Psychologist, responded that there are two examiners. One is always a psychiatrist and the other may be a psychologist or a social worker. She said in a hospital based setting, people are admitted to the hospital unless they refuse to consent to an examination.

Mr. Bachman pointed out that Wisconsin has a corporation attorney who represents the county. In Utah County an attorney to represent the state's interest is provided but in Salt Lake County an attorney is not provided, and formal requests for an attorney have been refused because of fiscal concerns.

Mr. Evans said changes in the statute will not solve the problems they have encountered in the system. Ensuring compliance with treatment on a long term basis is necessary and is a resource-driven issue.

Dr. Cohn said there are aspects of Utah's hearing process that differ from Wisconsin and should be reviewed. In her experience, initial commitments do not get continued, they get heard. Rehearings can be

continued twice, which puts off the hearing for four weeks. The easiest way for a mentally ill and dangerous person to get off commitment is to simply not come to those two rehearings. Under current policy the commitment is then dismissed.

Mr. Bachman distributed a handout "Utah Department of Human Services Division of Mental Health Commitment Status for Assertive Community Outreach Programs," for the task force to review.

5. Task Force Business / Next Meeting

The task force made recommendations for discussion at future meetings.

Chair Bryson indicated that the next meeting of the task force is scheduled for Thursday, September 12, 2002 at 2:00 p.m.

6. Adjourn

MOTION: Sen. Allen moved to adjourn the meeting. The motion passed unanimously with Sen. Hale absent for the vote. Chair Bryson adjourned the meeting at 4:30 p.m. C:\Interim\html\20020814.TSKICM.MN.01.htm