

**MINUTES of the
Maricopa County
Commission of Justice System Intervention for the Seriously Mentally III**

**Thursday, March 24, 2005
County Administration Building – 301 W. Jefferson 10th Floor**

Commission Members in Attendance: Supervisor Don Stapley, Chair; Supervisor Andy Kunasek, Vice Chair; Secretary of State Jan Brewer; Bill Amato; Judge Louraine Arkfeld; Chris Bradley; Shelly Curran; Dr. Michael Franczak; Lindy Funkhouser; Chief Deputy David Hendershott; Steve Lessard; Judge Barbara Mundell; Mary Robson; Luis Valdez

Other Persons in Attendance: Howard Salmon – Maricopa County Correctional Health Services; Lisa Johnson – Maricopa County Office of Mgt and Budget; Loretta Barkell – Maricopa County Sheriff's Office; Kathy Palmer – Mental Health Advocates Coalition AZ; Wayne Triplett – Advocates for the Disabled; David Gallagher – Arizona Addiction Treatment Programs; Judge Michael Jones, Judge Karen O'Connor – Maricopa County Superior Court; Kathy Belinn – Mental Health Association of Arizona; Josephine Jones, C. Daniel Carrion – Maricopa County Public Defender's Office; Rob Jones – Maricopa County Public Health Department; Fredda Bisman – Maricopa County; Eric Latto – Board of Supervisors District 1; Joe Prawdzik – Value Options; Terri Leija – Board of Supervisors District 5; Sherri Walton, Bernardo M. Garcia – Mental Health Association; Athia Hardt, Marcelo Kort – Eli Lilly; Cheryl Koch-Martinez – Arizona Center for Disability Law; Diane Sikosis – Maricopa County Government Relations; Rory Hays, Rip Wilson – Maricopa County Lobbyist; Ted Williams; Kelly Barr – Citizens Jail Oversight Committee; Amy Rex - County Manager's Office/Staff to Commission

1. **Call to Order:** Supervisor Don Stapley called the meeting to order at 10:05 a.m.
2. **Introductions:** Supervisor Stapley asked Commission members to introduce themselves and the agencies they represent. The Chair introduced Amy Rex as staff to the Commission.
3. **Overview of Commission's Purpose:** Supervisor Stapley reviewed the Commission's tasks, emphasizing that this group is not coming together to point fingers or dwell on past failings. Instead, the group is gathering as an official group with state, local, private, and judicial representatives to work toward solutions and improvements.
4. **Review of Commission's By-Laws:** Supervisor Stapley noted appointments for this Commission are one year but stressed that members should expect to serve multiple terms. There were no comments by Commission members. A motion was moved by Secretary Jan Brewer, seconded by Lindy Funkhouser, and unanimously passed by the Commission to accept the By-Laws.
5. **Discussion of trip to Los Angeles to review SMART Program:** Supervisor Stapley asked Chief Deputy David Hendershott and Bill Amato to talk about their visit to Los Angeles. Chief Deputy Hendershott indicated that many Maricopa County representatives participated in the trip to learn about SMART (Systemwide Mental Assessment Response Team). The program, the result of a consent decree, pairs police officers with clinicians (social worker, psychiatric nurse, or psychologist). The teams deal more effectively with SMI individuals due to the clinician's training and ability to check medical history. Unless the situation is an emergency, medical information is not shared with the police officers. In case of an emergency, such as a SWAT call-out, the clinician can offer full disclosure of necessary medical history to the officers.

SMART training, aside from that received in the academy, is four to eight hours. Chief Deputy Hendershott emphasized the police officer is there as a liaison and for security; the clinician is the one calling the shots on a SMART unit. Mary Robson asked if there was a secure, locked treatment facility for diverted SMI individuals.

Chief Deputy Hendershott answered that the facility choice depends on the level of violence and the clinician's determination of the individual's insurance.

A discussion of the hours of operation revealed that SMART operates five teams between the hours of 6 a.m. and 2 a.m. After an analysis of Maricopa County data, the Sheriff's Office determined they would need three units operating in two 10-hour shifts.

Shelley Curran inquired if SMART could order a person to a facility if no violence was involved. Chief Deputy Hendershott said that if the police determined a person posed a danger, regardless of no violent act, they would take that individual in for evaluation.

Chief Deputy Hendershott clarified that the Los Angeles District Attorney has established certain crimes for which prosecution of an SMI individual will not occur. If the individual is arrested, the clinician's report accompanies the arrest record to help the District Attorney decide whether to move forward. Bill Amato indicated the Los Angeles D.A. usually drops a case if the offense is a misdemeanor although victims' rights and the level of violence involved are taken into account.

Steve Lessard mentioned that the chances for therapeutic treatment may be jeopardized if an individual's condition is determined to be the result of substance abuse instead of SMI. Chief Deputy Hendershott mentioned that Los Angeles' 36-hour screening process provides an opportunity to triage an individual and find if substance abuse may be masking SMI issues.

6. **Discussion concerning Title XIX eligibility for the incarcerated:** Supervisor Stapley introduced Rory Hays, a contract lobbyist for Maricopa County. Ms. Hays explained that Title XIX programs provide reimbursements based on certain requirements. Acute care money goes to Arizona Health Care Cost Containment System (AHCCCS) while behavioral health money goes to Department of Health Services (DHS). The issue is whether an appropriate process exists to re-enroll incarcerated individuals back into the system after release. It is easier to do this with DHS because there is no termination of benefits. The problem is with acute care cases because benefits are terminated upon incarceration. However, there is a provision for suspension. Ms. Hays suggested that the Commission do some research and then initiate talks with AHCCCS regarding the suspension of benefits.

Discussion ensued about when individuals could be enrolled in Title XIX programs and if it is possible for benefits to continue during incarceration. Dr. Jones, a member of the public, indicated that an inmate must have an address outside of a correctional institute for at least 24 hours before benefits will be provided. He also noted that unless a lawsuit is filed on behalf of the inmates, federal rules will not change.

Supervisor Stapley asked Secretary Brewer to chair a subcommittee examining the federal rules and restrictions on providing mental health services to those in jail. The subcommittee is to initiate discussions with AHCCCS, particularly regarding waivers. Finally, per Dr. Michael Franczak, the subcommittee should look at what is currently happening with Title XIX provisions in the juvenile justice arena. The subcommittee is made up of Lindy Funkhouser, David Hendershott, Rory Hays, Dr. Franczak, and a representative from the County Attorney's Office (Mr. Amato is to supply a name). This group will report to the full SMI Commission at the next meeting.

Supervisor Stapley asked Lindy Funkhouser to give the Commission baseline data regarding the SMI population in the jails. Mr. Funkhouser reviewed a handout and noted that the numbers identified as SMI while in jail are much higher than the numbers identified before incarceration. Mr. Funkhouser noted that the County has 266 in-patient psychiatric beds. In further discussion, Dr. Franczak indicated the average daily stay for Value Options SMI clients is about the same as the average daily stay for the regular population.

Discussion continued regarding inmates who are not identified as Value Options clients at time of booking. Dr. Franczak explained there is a diversion team that visits the jail to identify those who are SMI. Dan Carrion, from the Public Defender's Office, spoke from the audience. He stated the cities do a good job of diverting because they are dealing primarily with misdemeanors. The County, when dealing with felonies, is not as successful in diversion. Supervisor Stapley asked Mr. Funkhouser to forward information to Ms. Rex regarding how many individuals identified as SMI by Correctional Health Services are receiving court-ordered treatment at the time of identification. Dr. Franczak clarified there are many people in jail with mental illness but they may not be SMI.

Discussion ensued regarding sharing medical information under the Health Insurance Portability and Accountability Act (HIPAA). Chief Deputy Hendershott explained that the Los Angeles SMART Program hinges on medical information being shared with the clinicians and that the information is only provided to the police officer in an emergency. Dr. Franczak stated that sharing information between two medical professionals on a case-by-case basis is acceptable, so long as blanket orders to share medical information are avoided. Mr. Funkhouser urged the Commission to realize that sharing medical information can alleviate public harm.

Mr. Funkhouser then stated that SMI individuals are tracked after leaving jail. Non-SMI are not tracked unless there is court-ordered treatment. Ms. Robson explained that Value Options case-managed clients are easy to follow through Adult Probation; the problem area is pre-adjudication.

Mr. Funkhouser explained that the County has established its own in-house restoration of competency, instead of sending individuals to Arizona State Hospital. If the medical opinion is that an inmate cannot be restored, the inmate is sent to Desert Vista for evaluation and placement. Judge Mundell said that if an inmate at Desert Vista is judged non-restorable, charges are dismissed. Mr. Lessard agreed, saying that people can be released to the community and if a new crime occurs, they are not held accountable. Judge Jones, from the audience, explained that this is not a new issue. The numbers of those judged incompetent and not restorable are small, but these people are living in our communities.

7. **Importance of including substance abuse issues in discussions:** Supervisor Stapley explained that it is critical to look at substance abuse issues when addressing mental illness issues. Dr. Franczak agreed, stating providers are moving to integrative treatment for co-occurring disorders. Ms. Robson said that co-occurring disorders are hard to assess and treat. The evaluation process is difficult because it takes a period of non-use of substances before SMI can be identified. However, an addict cannot stay clean for 30, 60, or 90 days without being offered treatment for the substance abuse. Many are released because the problem is judged to be substance abuse and the SMI issue is ignored. Mr. Lessard noted that the Alpha substance abuse program will not accept SMI individuals. Supervisor Stapley established a committee composed of Chief Deputy Hendershott, Mr. Lessard, and Dr. Franczak to look into this issue. Chris Bradley indicated that the Sheriff's Office has submitted a budget request for Alpha funding.
8. **Future Meeting Schedule and Suggestions for Future Discussion:** Supervisor Stapley indicated that he is planning a trip to Orange County to learn about their SMI Program. Any Commission members interested in attending should contact Ms. Rex for details. Supervisor Stapley requested that the next meeting be held in approximately one month. In the meantime, he asked that if people have suggestions for future topics of discussion, they contact him or Ms. Rex.
9. **Call to Public:** David Gallagher, Arizona Addiction Treatment Programs, spoke about a major crisis in the juvenile court system due to a lack of money. Kathy Palmer, Mental Health Advocates Coalition Arizona, mentioned that cities currently involved in Crisis Intervention Training Programs will meet May 11 in Ohio to discuss their programs.
10. **Adjourn** The meeting was adjourned at 11:50 a.m.

Presented to the Commission by Staff:

Amy A. Rex, Justice System Coordinator

Approved by the Commission:

Supervisor Don Stapley, Commission Chair