

Incarceration Prevention and Reduction Task Force: Joint Behavioral Health Committee and Legal and Justice Systems Committee

Meeting Summary for March 15, 2022

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1. Call to Order

Behavioral Health Committee Chair Dan Hammill called the meeting to order at 11:31 a.m. The meeting was held via remote-only Zoom Webinar.

Members Present: Doug Chadwick, Chris Cochran, Bill Elfo, Arlene Feld, Heather Flaherty, David Freeman, Dan Hammill, Deborah Hawley, Mike Hilley, Stephen Gockley, Raylene King, Rhyan Lopez, Jackie Mitchell, Perry Mowery, Mike Parker, Darlene Peterson, Eric Richey, Donnell Tanksley, Brien Thane, Bruce Van Glubt, Maia Vanyo,

Members Absent: Nathan Bajema, Brian Estes, Seth Fleetwood, Flo Simon, Michael G. Smith, Courtney Taylor

2. [Competency and Restoration \(Continued from December joint meeting\) \(00:01:10\)](#)

Susan Copeland, Darla Dawson, Erik Nygård, and Thomas Kinlen, all of DSHS, were present at the meeting to give a presentation and discuss this agenda item.

Kinlen explained the Sell vs. United States case. Main points included:

- When an individual is in restoration, medication is almost always attempted. If the person does not agree to medication voluntarily the Sell case allows practitioners to force medication for the purpose of competency restoration after following a legal process.
- The facility would request a Sell hearing. If the prosecutor agrees, a hearing would be held in which the state would need to demonstrate a compelling state interest in forced medication.
- If the judge orders forced medication, facility staff will work with the patient to explain the process and administer the medication, which might involve a manual hold of the individual.
- This process can take anywhere from two to six weeks and often involves the individual being transported back to jail for the hearing.
- Copeland added that Residential Treatment Facilities (RTFs) cannot progress with treatment while waiting for a Sell order and explained what happens after the order comes through.

Parker asked if a Sell hearing can be held virtually to speed up the process. Copeland said that each RTF is set up to do that and it was determined that Whatcom County does remote Sell hearings as well.

Hammill asked if race and ethnicity are tracked at the RTFs and if treatment was provided for substance use disorder (SUD) at RTFs. Copeland responded that their RTFs are not licensed to do SUD treatment and that the Research and Data Analytic Team collects that data.

Gockley asked what the problems were with Whatcom and what improvements have been made. Copeland explained that there were time delays due to slow communication and setting the hearing dates. She added that things are improving. DSHS staff and committee members continued to discuss the delays and communication issues.

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Richey said that the first factor in a Sell hearing is determining that there is an important governmental interest in compelling medication, and that generally this would only be the case for felonies.

Committee members and the DSHS staff members continued to discuss competency restoration and processes within RTFs. Topics of discussion included:

- The prevalence of substance use disorder co-occurring with mental health issues and the ability of RTFs to administer medication for substance use disorder
- What happens to individuals after they are released from an RTF and how to provide a useful discharge summary to jails in order to facilitate a warm hand-off and prevent a return to the RTF
- Supports available in Whatcom County post-release, the gaps that still exist, and opportunities for added supports in the future

King brought up concerns about Senate Bill 5664, which will authorize officers to detain a mentally ill individual if they are not complying with medication requirements. She said that the last thing we want is to be detaining more mentally ill individuals.

Whatcom County Jail Chief Wendy Jones presented to the committee on the competency determination process. She shared a flow chart and went into detail about each step described on the chart. She pointed out steps in which longer delays may occur.

Committee members asked questions of Chief Jones regarding her presentation and other subjects related to the jail. Discussion ensued around topics including:

- The jail's ability to administer medication and the fact that they do not have people on staff who can provide psychological services and other resources needed to administer medication involuntarily.
- Remote competency evaluations, which are currently being done in Whatcom County, but can still be delayed since a judge has to make a legal declaration regarding competency after the medical determination has been made.
- Statistics regarding the number of inmates currently in the competency determination process. Chief Jones estimated that between 50 and 75 people go through the process each year.

Feld asked what needs to change and Jones replied that they need a way to move folks through the steps more quickly. She said the longer it takes to get someone through the system, the higher the chance that they will decompensate while in the jail. Vanyo explained the roadblocks to speeding up the process from the defense perspective.

Dawson said that if someone is waiting in jail for competency restoration and seems to be improving during that time, there is a process to request a re-evaluation, which could result in the individual being moved through the system more quickly. Vanyo commented that it is very rare for one of her clients to self-restore.

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Mitchell asked about Senate Bill 5664 and if it would help. Jones said that the biggest problem with the legislation is that there is nowhere to put folks who are detained for failing to follow instructions for community restoration.

3. Current Use Data on the Crisis Stabilization Center

This item was not discussed.

4. Reentry Services

This item was not discussed.

5. Update on the Sequential Intercept

This item was not discussed.

6. [Other Business \(1:25:53\)](#)

Hammill asked if it was possible for there to be an additional joint meeting in April. It was decided that they would hold a joint meeting during the next scheduled Behavioral Health Committee on April 19.

7. [Public Comment \(01:31:12\)](#)

Atul Deshmane thanked the committee members for the meeting and asked for the document from Chief Jones to be shared.

Brel Froebe asked if after an individual has gone through competency restoration, if they go back to trial and whether treatment would be sufficient rather than further prosecution if the root cause of the crime was mental illness. Richey replied that this issue is more complex than mental illness being the cause and treatment being the answer. King brought up the difference between competency and insanity.

8. Adjourn

The meeting adjourned at 1:05 P.M.