

2021 Special Committee on Kansas Mental Health Modernization and Reform

System Capacity and Transformation Working Group Meeting Special Focus: Legal System and Law Enforcement

November 1, 2021

12-1pm

Meeting Notes

Meeting Materials: <https://www.khi.org/pages/2021-MHMR>

Agenda:

- 12:00pm – Working Group Member Introductions and Meeting Commitments
- 12:10pm – Review 2020 Legal System and Law Enforcement Recommendations
- 12:25pm – New/Expanded Topics
- 12:55pm – Administrative Matters
- 1:00pm – Adjourn

Meeting Commitments:

- Come ready to discuss and compromise
- Keep remarks succinct and on topic
- Don't hesitate to ask clarifying questions
- Start and end on time

Attendees

Working group members: Rep Brenda Landwehr; Andy Brown, KDADS; Judge Bruce Gatterman; Sec. Don Jordan; Don Scheibler, City of Hays PD; Jane Adams, Keys for Networking Inc; Jean Clifford, KSBOE; Kyle Kessler, ACMHCK; Laura Brake, KDADS; Rep. Cindy Neighbor; Judge Sally Pokorny; Sandra Dixon, DCCCA; Scott Brunner, KDADS; Sherri Schuck, Pottawatomie County Attorney Office; Spence Koehn, OJA; Rep. Will Carpenter; Sarah Fertig, Medicaid Director; Brenda Soto, DCF; Judge Robert Wonnell

Staff: Kari Bruffett, KHI; Samiyah Para-Cremer, KHI; Jenna Moyer, Revisors Office

Review of 2020 Legal System and Law Enforcement Recommendations

The working group discussed enables, barriers and any proposed revisions to the 2020 recommendations below.

8.1 Correctional Employees - *Expand training provided in correctional facilities to allow employees to better recognize those with substance use disorders, use a trauma-informed approach to identify other mental health needs, and connect those with needs to available services.*

Enablers:

- **Stepping Up Initiative:** Working group members highlighted the Stepping Up Initiative as an enabler for this recommendation, referencing its work with local jails and courts

Barriers:

- **Cost:** The working group raised that cost was a barrier, particularly for county jails and in rural areas where there is a high workforce shortage and limited resources

Proposed Revisions:

- **Revised Divisions of Funding:** One proposal by some in the working group to address cost barriers is to modify the funding structure to better facilitate local implementation of funds. The working group proposed separating local and regional/state funding and distinguishing between the roles these funding sources are meant to have.
- **Proposed Language Revision:** For this proposal, the working group proposed the new language of:
 - *Expand training provided in **state** correctional facilities, **local jails and detention centers** to allow employees to better recognize those with substance use disorders, use a trauma-informed approach to identify other mental health needs, and connect those with needs to available services.*

8.3 Law Enforcement Referrals - Increase utilization and development of evidence-based SUD referral as well as treatment and recovery services among persons with law enforcement contact, which could include securing funding to increase access to services for this population.

Enablers:

- None were discussed

Barriers:

- None were discussed

Proposed Revisions:

- **Clarified language:** The working group proposed the following modification to clarify the recommendation and ensure language matches the agency interpretation:
 - *Increase utilization and development of evidence-based SUD referral as well as treatment and recovery services among persons with law enforcement contact, which could include securing funding to increase access to **inpatient and outpatient** services for this population.*

8.4 Defining Crossover Youth Population - Future efforts should include behavioral health within an operationalized definition for youth with offender behaviors at risk of entering foster care, as well as including diverted youth in the definition of the broader juvenile offender population.

Enablers:

- **Statewide Policy Team:** KDOC completed this report establishing statewide recommendations

Barriers:

- **Communication:** Working group members advised that crossover youth report a need for improved communication across all state agencies
- **Implementation:** Working group members said that implementation lags. While the recommendation was completed through the development of statewide policy recommendations, local agencies have not uniformly adopted these recommendations

Proposed Revisions:

- **Clarified Language:** Working group members proposed re-opening this recommendation and adding the following language to clarify expectation that local agency responses align with statewide policy team expectations:

- *Future efforts should include behavioral health within an operationalized definition for youth with offender behaviors at risk of entering foster care, as well as including diverted youth in the definition of the broader juvenile offender population. **Coordinate with juvenile corrections advisory boards to ensure local implementation aligns with statewide policy team recommendations.***

Additional Key Discussion:

- **Lead Implementation Agency:** The working group discussed but did not arrive at consensus for which agency should lead the implementation of these recommendations at a local level. Some working group members proposed implementation should occur through Juvenile Correction Boards. Other working group members suggested that KDOC may already be moving towards implementation of these recommendations and should therefore be the lead agency. Further discussion was held for a later meeting date.

The working group agreed to hold discussion on **Recommendation 8.2 Criminal Justice Reform Commission Recommendations** for the discussion about specialty courts. Recommendation 8.2 states “*Implement recommendations developed by the CJRC related to specialty courts (e.g., drug courts) and develop a process for regular reporting on implementation status and outcomes*”

New/Expanded Topics

In addition to reviewing the recommendations from 2020, the 2021 Special Committee for Mental Health Modernization and Reform requested the working group propose new recommendations around:

- **Specialty Courts** - The Special Committee raised the issue of access to behavioral health specialty courts, including for population groups such as veterans. A related recommendation, 8.2 Criminal Justice Reform Commission Recommendations (see above), was part of the 2020 report.
- **Competency Evaluations** - The Special Committee referenced the effect of behavioral health system capacity needs on law enforcement and heard about the use of mobile competency evaluations.

Specialty Courts.

The 2020 recommendation related to specialty courts was **Recommendation 8.2** - “*Implement recommendations developed by the CJRC related to specialty courts (e.g., drug courts) and develop a process for regular reporting on implementation status and outcomes*” The working group did not propose any modifications to this existing recommendation.

Key Discussion:

- **Necessity of Funding for Wrap-Around Services:** Working group members said specialty courts must be properly funded to provide full access to wrap-around services. Working group members said without funding, there is little point in having a specialty court because these courts will not have success unless they accompany provision of services
- **Possibility of Shared Resources:** Working group members noted that the resource demand for a specialty court is not possible in the state’s more rural and resource limited counties. They proposed instead that the state fund regional specialty courts and allow for venue transfer in order to allow a greater number of Kansans to access these resources in rural and frontier Kansas

- **Venue Transfer:** The revisors office reminded the working groups that allowing specialty courts to pursue venue transfer will require substantial legislative action and should be pursued promptly if legislators wish to pursue this action
- **Coordinator Workload:** Working group members said there is a substantial amount of work required to hold a specialty court and that any specialty court recommendations will necessitate the funding of a coordinator position in order to facilitate the workload.
- **Funding Source:** Working group members discussed the challenges of limited funding for specialty courts and how state level funding may not necessarily be the best solution. Working group members called for specialty courts seeking funding from multiple different funding streams.

Proposed Recommendations:

The working group proposed three potential recommendations related to specialty courts

- **Venue Transfer:** *Allow venue transfer to facilitate specialty court access.*
- **Regional Specialty Courts:** *Establish authority to enable creation of regional specialty courts across Kansas.*
- **Specialty Court Coordinators:** *Provide funding for districts that meet qualifying criteria to hire specialty court coordinators.*

Competency Evaluations.

Key Discussion:

- **KDADS Presentation:** Prior to the discussion of new recommendations related to competency evaluations, the working group received a presentation about competency evaluations from KDADS. This presentation is available at the link provided above. The presentation highlighted:
 - **Limited Beds and Long Wait Periods:** KDADS explained that limited capacity is a major barrier and that the average wait time for a competency evaluation is 170 days but can take as long as 360 to complete.
 - **Mobile Competency Evaluation Potential:** KDADS said that mobile competency evaluations could help address some of the long-waiting period problem but said that it will not serve everyone
 - **Other Barriers:** KDADS provided a list of barriers that currently exist to delivering competency evaluations (See slides).
- **Unjust Waiting Periods:** Working group members said that the long waiting periods for competency evaluations must be remedied.
- **Potential of Telehealth:** Working group members requested that further investigation be conducted as to if and how telehealth could help expedite competency evaluations
- **Alternative Assistance:** The working group asked whether OSH could assist with competency evaluations if not restricted by law. KDADS clarified that this is a potential solution. KDADS explained the agency has also considered using their own staff offsite to assist with competency evaluations but needs to continue discussions. In some cases, CMHCs can assist with the completion of competency evaluations but this is not done everywhere in the state.

Follow up items

Working group members were asked to complete a worksheet by 11/3 to draft language around new recommendation topics assigned by the special committee to allow for discussion around the issues during the upcoming meeting (Wednesday, 11/10 at 1pm).