



Commission on Mental Health and Substance Abuse Criminal Justice Subcommittee

Commission on Mental Health and Substance Abuse Members

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May 18, 2022
2:00 p.m. to 3:00 p.m.

Call to Order and Welcome

Commissioner Mark Mahon called the Criminal Justice Subcommittee to order at 2:00 p.m.

Roll Call

The roll was called by Jeff Cece, quorum not established initially. Quorum reached as additional members later joined the call.

Attendance Summary

Members in Attendance

Commissioner and Chairman, Chief Judge Mark Mahon
Commissioner, Chief Judge Ronald Ficarrotta
Chief Judge Steve Leifman
Commissioner Johnson
Maria Bledsoe
Shawn Salamida

Approval of Minutes

The minutes from March 16, 2022, were approved by Ron Ficarrotta and seconded by Mark Mahon.

Commissioner Mahon - No votes without quorum but will use time as best we could. Acknowledgement of Mr. Peter Kennedy. Discussion surrounding the issue of restoration and competency, especially with regards to criminal patients. Frustration from felony judges with regards to the mentally ill who are crowding the jails, need some way to improve that. Growing acknowledgment that competency may not be the goal that we are looking for, maybe we need to try and get more mental health treatment. First, we need to get a base understanding of the nature of the problem, what is incompetency and what is the goal the justice system is trying to achieve.

Competency Restoration – Peter Kennedy

Peter Kennedy - Introduction of John Polisknowski (Florida State Hospital, Interim Hospital Administrator), Dr. Jennifer Slusarz (Director of Psychological Services at Florida State Hospital), Linda Williams (Southeast Florida State Hospital, Hospital Administrator)



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6 hospitals, 2,754 inpatient beds (forensic and civil) 1,634 total forensic admissions across network. Goal is to ensure the care provided will give patients the skills to function within our society and communities.

- Definition of competency: Definition defined by federal government (Dusky v. United States) two prongs having to do with the capacity of the person being evaluated.
 - Can they consult with attorney, and can they understand the proceeding?
 - Florida's interpretation of Dusky standards based upon 6 factors. The individual's ability to appreciate charges or allegations, appreciate possible penalties, understand the adversary nature of the legal process, disclose to attorney facts pertinent to proceeding, manifest appropriate courtroom behavior and, testify relevantly.
- Assessment is made to determine if Patient falls into these areas.
- Entrance into facilities, F.S. 916, forensic commitment as incompetent to proceed. If person is determined incompetent to proceed, they are sent to a state hospital for competency restoration services.
- Average 90-95 days for State to move a patient to restore competency.
- Treatment foundations to restore competency: Recovery focused, and trauma informed

Commissioner Johnson - In rural areas, how would contact work for communities that do not have access to hospitals?

Peter Kennedy - Everything goes through that areas circuit court. The circuit court submits forensic packets to DCF (forensics) that review packets. If they fit criteria, they are added to the waitlist for one of the State Facilities.

Commissioner Johnson - Concerned about Wakulla, Franklin, Gadsden County jails that have people waiting.

Peter Kennedy – Decreased forensic waitlist decreased by 149 from 639, have decreased forensic waitlist by 23% over the past 12 weeks, down to about 490.

Commissioner Leifman - Florida law requires that once an individual is adjudicated incompetent on the felony, the state has 15 days to move them. Out of the 490 left, how many are over the 15-day requirement?

Peter Kennedy - About 370. Several factors affect ability to provide services.

Commissioner Leifman: We need to explore ways to keep people from ever going into the forensic hospital system and divert them to alternative services.



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Peter Kennedy - A lot depends on the acuity level of the patient. Hospitals provide a service that is not readily available in the communities. Hospitals provide daily routine, provides environment that gives patients skills, multi-disciplinary approach, individualized plans of care that will allow patient to not recidivate or readmit to hospitals.

Commissioner Johnson - See where Outpatient plays a big part and has a secondary role of keeping people in the community. How can small agencies get tied into this?

Peter Kennedy - Best way would probably be to work with me directly. We partner with outpatient partners to build outpatient services through ME's or Hospitals. Want to be connected so we can create continuity of care.

Commissioner Leifman - The problem is, to receive the services you are talking about, a person must get arrested. Better model is to keep them from ever getting to you.

Peter Kennedy - That is not necessarily true. That's only for our forensic patients, this presentation is just for forensics and does not include our Baker Act patients. We provide a lot of services from a Baker Act perspective, these are people who may not have committed a felony, but people who fit the criteria and move into that system to receive the multi-disciplinary approach.

Commissioner Leifman - We are talking about competency restoration, to get that you must be arrested and its expensive and you have a backlog of 370 people that the Department is technically in violation of the law. Would be better to figure ways to keep them out of your system by expanding alternative means like the forensic alternative center in Miami.

Peter Kennedy - Assistant Secretary Floyd-Thomas has focused on working with the MEs to expand diversion efforts to provide services for people before they break the law. This presentation is not focused on that but, if you want to explore that, there is a lot of conversations and efforts surrounding diversion.

Commissioner Johnson - We need to address that.

Peter Kennedy - Agrees

Chair Prummell - This past legislative session, the Legislature passed a law where the competency treatment can begin while an individual is still in the jail facility, how will that work and where is the funding coming from. Believe they passed the law to help with the backlog.

Peter Kennedy - It redefined what a treatment facility was, it allows a municipality to partner with DCF as well as a third-party provider to contract to provide those services directly in the



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jail. Still discussion surrounding that. Municipalities have reached out to be a part of developing the model. Individualized treatment plans: Each patient has a plan based on their assessment and the assessment of the multi-disciplinary team. Review of several case studies that ended in successful discharges

Discussion/questions for Peter Kennedy

Maria Bledsoe - MEs are working with the Department to increase forensic services. A lot of nuisances with statewide implementation.

Commissioner Johnson - Very encouraged. Small independent providers have an important role, and this is a great beginning.

Commissioner Ficarrota - Think we are making great progress. Need to look at the juvenile system as well.

Commissioner Leifman - What percentage of people go back after restoration, decompensating data?

Peter Kennedy - About a quarter or less but looking for more data.

Commissioner Leifman - In the past, we saw that drug formularies at the local jails were often different than those at the facilities. Facilities do a good job, the jails don't. Do you have a breakdown on what percentage are 1st, 2nd, 3rd degree felonies and are you able to determine what happens after they return? Competency restoration should be limited to people who need to go to prison, and we should use diversion for everybody else. Would be helpful to know what degree of charges these people are facing. Aren't every one of these cases going back to jail before they are released to the community?

Dr. Jennifer Slusarz - These residents do go back to jail if found competent. Send comprehensive discharge packet to jail to help inmate stay safe. A lot of patients come-in very psychologically unstable, charges run the gamut, some come with very serious charges. Recidivism back to hospital... is frustrating for all involved. A lot of times when patients go back to the jails, they stop taking their medications, we are trying to work with the jails to avoid that.

Commissioner Leifman - A previous analysis of evaluations showed 60% of competency evaluations did not meet statutory requirements. Have you looked at that to see if there might be room for improvement?

Dr Jennifer Slusarz - Approximately 33% percent of packets do not meet statutory requirements.



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Commissioner Leifman - Is there a way to let us know what packets do not meet statutory requirements because we must pay them? If packet does not meet requirements, we do not have to pay the provider. Packets will improve if they are not getting paid.

Commissioner Johnson - We are not addressing the misdemeanors.

Peter Kennedy – Several takeaways including: Assessment of what degree of felonies, looking at recidivism rate, review of formularies to ensure continuity of care, assessments and improving education and accountability and discharge planning.

Commissioner Leifman - Not just discharge planning but what is happening to the charges after they come back. Are they getting the charges dropped, did they get credit for time served or probation?

Peter Kennedy - If there are services that are just as effective but lower cost that allow us to intervene before the acuity level gets higher, we need to beef that up. Assistant Secretary Floyd-Thomas is in support of that.

Commissioner Mahon - Who pays for it (new legislation)?

Peter Kennedy - HB 1249, effective July 1, 2022.

Commissioner Leifman - ABA is not excited about restoring people in jail. Supports alternative commitment programs to keep people from ever going into jail. Evidence on restoration in jail is not good.

Commissioner Mahon - Wants to do what Miami does. How do we get more regional restoration sites up and going? How do we keep people out at the front-end? When we get people back to jail, what do we do with them?

Peter Kennedy - DCF Leadership is open to developing programs that are data driven.

Commissioner Johnson - Would like to send data regarding outpatient services received through aftercare.

Review of Commission Timeline

Commissioner Mahon - Interim report due January 1, draft by November 1.
Are there other areas that we need to dig deeper into

Next Steps

Maria Bledsoe: Recommendation for presentation on forensic community programs.



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Public Comment

No public comments

Next Meetings

Full Commission – June 15, 2022

Criminal Justice Subcommittee – July 20, 2022

Closing Remarks

Commissioner Mark Mahon, Chair

Meeting was adjourned at 3:03 p.m.