

CHILDREN'S BAKER ACT TASK FORCE

MINUTES for FIRST MEETING 7.20.17

Secretary's Conference Room, Florida Department of Children and Families

The chairman, DCF Assistant Secretary for Substance Abuse and Mental Health John N. Bryant, called the meeting to order shortly after 10:00 a.m.

Members attending in person:

Tim Niermann, deputy secretary of the Florida Department of Juvenile Justice
David Wheeler, state consultant in school psychology, representing the Florida Department of Education
John Couch, representing the Office of the State Courts Administrator (for task force member Sandy Neidert)
Mariam Rahmani, representing the Florida Psychiatric Society
Patty Babcock, representing the Florida State University College of Medicine
April Lott, representing the Florida Council for Community Mental Health
Nancy Daniels, representing family members of minors who have been involuntarily examined
Tabitha Krol, representing the Florida Sheriffs Association
Nickie Zenn, representing SEDNET

Members participating by phone:

Major Denise Demps, representing Orange County Sheriff Jerry Demings
Mike Watkins, representing the Florida Association of Managing Entities
Tammy Tucker, representing the Behavioral Health Care Council of the Florida Hospital Association
Rajiv Tandon, representing NAMI Florida
Bob Dillinger, representing the Florida Public Defenders Association
Kathy Smith, representing the Florida Supreme Court Task Force on Substance Abuse and Mental Health Issues in the Courts
Melissa Larkin-Skinner, representing the Florida Alcohol and Drug Abuse Association

Attending as a presenter:

Annette Christy of the Florida Mental Health Institute at the University of South Florida

Guests attending in person:

Jane Johnson, Florida Council for Community Mental Health
Margo Adams, Florida Psychiatric Society
R. Joseph Mella, Child Guidance Center
Derrick Stephens, Phoenix Healthcare Consultants
Mark Fontaine, Florida Alcohol and Drug Abuse Association
Tony DePalma and Dana Farmer, Disability Rights Florida
Amy Liem, Florida Legal Services

Guests participating by phone:

Diane DeMark, Community Based Care Integrated Health
Christy Curtis, Community Based Care Integrated Health
Martha Lenderman, consultant
Chris Korn, Office of the State Courts Administrator
Chris Dyer, Heartland for Children
Carmen Cantero, Citrus Health Network

Jessica Senett and Orlando Castro, Larkin Community Hospital
Maggie Labarta, Meridian Behavioral Healthcare

DCF staff attending in person:

Laurie Blades
Gloria Henderson
Jeffrey Richardson
John Jackson
Senyoni Musingo
Emily Pritchard
Mary Schrenker
Margie Menzel

DCF staff attending by phone:

Kelly Manning, representing Herb Helsel of the Northeast Region

LEGISLATIVE MANDATE

John and Laurie Blades explained the panel's legislative mandate. In approving CS/CS/HB 1121, Governor Rick Scott and the 2017 Legislature directed the Department of Children and Families to establish a task force to address the issue of involuntary Baker Act examinations of children aged 17 and younger, which have increased significantly in recent years. The task force is required to:

- Analyze data on the initiation of involuntary examinations of children;
- Research the root causes of any trends in these involuntary examinations;
- Identify and evaluate options for expediting examinations for children; and
- Identify recommendations for encouraging alternatives to and eliminating inappropriate initiations of these examinations.

The meetings will focus on executing these directives. The task force report is due to Governor Scott and the Legislature no later than November 15, 2015. (Please see attached document HB 1121.)

SUNSHINE LAW

DCF Assistant General Counsel Jeffrey Richardson explained that Florida's Open Meetings Law, also known as the Sunshine Law, requires that the task force meetings must be open to the public. There will be time for public comment at each of the meetings, and written comments will be accepted as well. Reasonable notice of the meetings must be included in the Florida Administrative Register and posted on the DCF website. Additionally, the meetings will be accessible by conference call. After each meeting, relevant documents – including minutes – will be posted on the website. (Please see attached document Open Government Primer.)

BAKER ACT BASICS

Presented by Chair Bryant and Gloria Henderson, DCF's Statewide Coordinator for the Baker Act, Marchman Act and Acute Care Services.

The Department of Children and Families is responsible for the oversight of Florida Statutes 394, which addresses mental health, 916, which addresses forensic services, and 397, which addresses substance abuse.

F.S. 394.451, known as “The Florida Mental Health Act” or “The Baker Act,” was enacted in 1971 to provide the least restrictive form of intervention for people who have mental illnesses. It is generally intended to protect both public safety and the civil rights of individuals, while providing appropriate treatment for them.

Individuals in acute mental or behavioral health crisis may require emergency treatment to stabilize their conditions. The Act provides for both voluntary and involuntary examination, admission and treatment, specifically excluding substance abuse impairment and intoxication from the definition of mental illness.

A voluntary admission occurs when a person seeks treatment services of his or her own accord. Minors must have a hearing to verify that their consent is voluntary. An involuntary admission occurs when a person has a mental illness and has refused voluntary examination, or is unable to determine that an examination is necessary and is likely to suffer from neglect or self-harm, or is likely to cause serious bodily harm to self or others in the near future.

Baker Act involuntary treatment options include:

- Involuntary examination, in which instance the person must be released after 72 hours unless the criteria for involuntary inpatient placement are met or the person elects to go to voluntary status.
- Involuntary inpatient placement, in which instance a court may initially order treatment for up to 6 months and which may occur in receiving or treatment facilities.
- Involuntary outpatient placement, in which instance a court may initially order treatment for up to 6 months and for which a provider must be identified and a treatment plan included, with certification that services are available.

Senate Bill 12 requires all counties to have a transportation plan for Baker and Marchman Acts. Receiving facilities must be designated by the state.

GENERAL DISCUSSION ON CURRENT SITUATION

Question on number of beds for children – DCF will provide data.

Question on telemedicine – what if there is no child psychiatrist available for the assessment within 72 hours?

Question – does the assessment within 12 hours have to be by a psychiatrist or can it be performed by other staff? Gloria said assessment must begin but can do so with the other treating professionals. Miriam Rahmani of the Florida Psychiatry Society asked if this means a psychiatrist has to come in for overnight admissions. Gloria said the business processes of the facility aren't part of the law.

Been looking at data for crisis stabilization units (CSUs) and Marchman facilities. Readmission rate in CSUs is 15 percent. Question – what percent are actually admitted? USF doesn't get that data but would like to.

Forms are submitted to the Baker Act Database, required to be mailed within one day. Have two alternate methods, secure file transfer and portal entry. They get 900 forms per day but don't look at them every day. The one-day requirement is in statute. If it were longer, say 5 working days, professionals could get info on whether they were admitted, etc. The forms aren't completed, the DOB is missing on about 25 percent of the forms, so repeaters are probably undercounted.

April May is the DCF regional managing director for substance abuse and mental health services in the Suncoast Region. Suncoast has some of the highest rates of increase in children's Baker Acts statewide and has developed sub-groups to analyze the trends:

Hillsborough convened a workgroup that is still getting data on why the increase and what can be done to divert young people or provide appropriate services to prevent their reaching a crisis. In Hillsborough, they had been working to reduce arrests from group homes, and then Baker Acts spiked. They have a mobile crisis team, but not enough capacity to serve all schools. Still trying to gather the whole picture.

Pinellas created a sub-group to explore whether minors were being admitted under the Baker Act who didn't meet the criteria. Question: Were they trying to get to a less restrictive facility? The sub-group found they were coming from law enforcement, Department of Juvenile Justice facilities and schools. They weren't coming from School Resource Officers, but from schools that called law enforcement instead of their SRO.

They were providing a lot of Crisis Intervention Training (CIT), and there seemed to be a correlation between increased training and increased BAs. Also, they conducted a lot of Mental Health First Aid training, which could have led to the increase. No data on whether arrests have gone down. Seems to be a matter of risk aversion – if a child says “the magic words” (about harming him- or herself) while being arrested, law enforcement takes them to a receiving facility. The receiving facilities also are risk-averse, so although minors might not fully meet the criteria, they're admitted under Baker Act. Thirty percent of BAs resulted in no admission.

Pinellas had a mobile crisis team that was disbanded roughly seven years ago due to lack of funding. Pinellas thought there would be more BAs during school hours but there wasn't a significant difference. Looked at data from the CSUs; 30 percent were admitted without really meeting the criteria. Evidence-Based Programs (EBPs) aren't cheap, nor does one size fit all. Most Pinellas providers are using research-supported treatment, which identified the training of group-home providers as a need. They have a mental-health unit to follow up after Baker Act and admission.

Manatee has a mobile crisis team, so when the school has a child with issues, they call the crisis team to evaluate and determine if they meet BA criteria. Often see foster children coming from the foster-care system, not necessarily the school.

Further discussion:

Child Guidance Center, Jacksonville, also has a mobile crisis center. Have MOUs and protocol is for LE to contact them first. They are now covering 24 hours. Similar system in St. Johns. Everyone is licensed so they don't fall into the “magic word” trap. Have been able to divert many who were only saying the magic words.

Former foster youth Derrick Stephens: it may help to have youth voices. Youth get tired of sharing their story with so many people so they stop talking. Caregivers aren't up on what mental illness looks like, so they call the police instead of using trauma-informed practices.

Maggie L said her CSU serves 12 counties with varied levels of sophistication in understanding mental health. Mobile crisis hard to implement in rural areas. World is different in the rural counties.

Tammy T said Broward has a Baker Act task force and has been working on improving services for children. Have some who are BA'd and then admitted because there are no services available, especially psychiatry. Forty percent of psychiatric services are cash-only and won't accept Medicaid. Need to ensure psychiatric follow-up, since a lot of recidivism seems to be due to no follow-up. Many psychiatrists don't want to work with children and their families.

Alabama has the same problem and is launching a pediatric psychiatric children's center for phone triage that any adult can call. They will recommend services and then follow up to make sure recommendation was followed.

DJJ is trying to keep the youth in a home situation because that is where there is the most success.

Question on whether there is a correlation with the opioid crisis. John said there are higher rates of calls to the Abuse Hotline and hospital admissions, foster care and out-of-home placements for children. Involuntary outpatient services are not being used extensively statewide for funding reasons.

Transportation exception plans – a plan for when the county doesn't want LE to transport. With the law change, we're trying to put these together with the Central Receiving System Plan. SAMH approves the Central Receiving System Plan but not the transportation exception plan. However, we want to see it to make sure it works with the Central Receiving System Plan. Some counties have funding for the Central Receiving System, which took a 40-percent cut this last session. Trying to get this model across the state but \$\$ is an issue. Orange and Hillsborough counties have Central Receiving System facilities.

Exploration on telehealth. Maybe we can build some capacity in the school system for consultation with a mental health professional.

PRESENTATION ON FISCAL YEAR 2015-2016 DATA

Presented by Dr. Annette Christy of the Baker Act Reporting Center at the University of South Florida.

Dr. Christy's data was, in part, based on the 2016 Baker Act Annual Report, which she also prepared, and which included these findings:

- Statewide involuntary examinations for children increased 49.3 percent from FY10/11 to 15/16, compared to a 5.53 percent statewide population increase from 2010 to 2015.
- Analyses of data for the 30 counties with at least 250 involuntary examinations for children in FY15/16 show that involuntary examinations for children more than doubled from FY10/11 to 15/16 for six of these counties – Hillsborough, Collier, Polk, Lee, Leon, and Bay – even when population increases were accounted for. Involuntary examinations for children increased from FY10/11 to 15/16, more than the population increase during a comparable period of time for 29 of these 30 counties.

- Almost one-quarter (22.03 percent) of involuntary examinations were for children who were at school at the time the examination was initiated, with 4.07 percent in DCF custody at the time of the initiation, and 1.52 percent in the custody of the Florida Department of Juvenile Justice. DCF custody refers to children placed in out-of-home care, such as a foster home or group home. These totals reflect a lack of adequate data to assess trends.
- Periodicity and seasonality are seen in the data. Involuntary examinations for children were fewer during the months when school was not in session (June, July and December). Additionally, involuntary examinations were less likely to be initiated on Saturdays and Sundays, especially for children.

(Please see attached document Christy_USF_BA_DCFTaskForce_July 2017.)

PRESENTATION ON SEDNET (STUDENTS WITH EMOTIONAL/BEHAVIORAL DISABILITIES NETWORK) ADMINISTRATION PROJECT DATA Presented by Nickie Zenn, Statewide Director of the SEDNET Administrative Project. (Please see attached document 7.20.17 SEDNET Task Force Presentation.)

SEDNET has been training all school personnel in Mental Health First Aid, and they were concerned that it was contributing to the increase in Baker Acts due to greater recognition of mental illness.

Secret sauce may be implementing training on Mental Health First Aid and other awareness training at same time as prevention and follow-up and wrapping services around the child/youth.

The Department of Education has list of eight approved trainings – legislative mandate to have a list. Schools are implementing. Most of what they do is prevention.

Use of handcuffs during transport: Some law enforcement officers seem to have discretion about whether to handcuff minors they're transporting. Others say if I'm putting them in the back of my car, I'm cuffing. Adds to stigma, makes it punitive. Why not use emergency medical services instead?

WRAP UP/DEBRIEF

1. What do we know / what do the data tell us? What is the big picture?
2. Any additional questions or information needed to analyze involuntary exams?
3. Any root causes for involuntary exams or general trends presented?
4. What do we need to know to develop a report, including recommendations, for Governor Scott and the Legislature?

SUMMARY OF POINTS & CONSENSUS

- **There was general agreement that we need much more data from many different sources. We need to know more about which children are being Baker Acted, and why, and the disposition of their cases.**
- We also need to know where they're coming from – out-of-home care via DCF? Residential commitment facilities under the Department of Juvenile Justice? Schools overseen by the Department of Education and the district school superintendents?
- Looking at the data, it would be helpful to know the circumstances under which Baker Act exams on minors are initiated. Why is a Baker Act exam chosen, as opposed to alternatives? What are the

alternatives? If there are alternatives that are not being used, why not? Do they not know what exists? Do the criteria not allow them to consider alternatives?

• **We need DOE protocols for dealing with the Baker Act in public schools and protocols for the school resource officers who execute these procedures. Who makes the decision to proceed?**

• John said the task force needs to pursue two tracks: First, to understand the admissions processes via the courts. (How many children are taken to a receiving facility, admitted and then go before a judge? How many not?) Second, to obtain data on where Baker Act referrals are coming from and what issues are involved in those cases.

• We also need data on the bed capacity at crisis stabilization units. A reduced number of children's beds doesn't mean a reduced need. It means children end up in an adult ward. Senyoni Musingo of the DCF Substance Abuse and Mental Health office will provide their data for the Aug. 18 meeting.

Diane DeMark from Sunshine Specialty Plan will pull data.

The University of Florida has a psychiatric consultation hotline, funded by the DCF Office of Child Welfare, which may have some data. They are evaluating whether there is an interaction with the combo of medications, they can't say whether that/those meds are appropriate. Laurie can get data and do a presentation.

We agreed to generate a stakeholder survey and to gather more utilization data from a wide range of sources.

Are certain community characteristics related to the use of BA exams for children?

- *Presence/distance of a receiving facility*
- *Health indicators*
- *Poverty*
- *Availability of certain services such as:*
 - Diversions (may lead to increased use of Baker Act exams)
 - Mobile Crisis
 - Services at discharge
- Are agency/school policies related to if and how Baker Act examinations are initiated?
 - *Law enforcement agencies*
 - *Schools*
 - State level (DOE)
 - School Districts (county level)
 - Schools (school level)
 - *Transportation*
 - How are children transported?
 - What are the options? Policies?

The availability of psychiatrists is a key data point. The lack of psychiatrists to treat children is leading to situations such as that in Circuit 2, where all the kids see the same psychiatrist.

The parent/caregiver may report behaviors that are developmentally appropriate for a child who has endured trauma. A relatively small segment of this population ends up in a CSU.

Maggie L: minors generally either stay overnight or for the 72 hours. The line between conduct disorder and mental illness is murky with children. They aren't saying they are depressed; they're acting out. Professionals don't want to make the wrong judgement call by saying it's a conduct issue – and then something happens because the child was depressed. Very few go to a hearing. A significant number come in on Medicaid but then may be denied, so not all the days are going to show up on an invoice to the Managing Entity or to Medicaid.

NEXT STEPS:

New members

- Gayla Sumner

Director of Mental Health and Substance Abuse Services

Department of Juvenile Justice

gayla.sumner@djj.state.fl.us

(850) 717-2413

- Derek McCarron

Director of Children's Inpatient Services at the Gracepoint facility in Tampa

dmccarron@gracepointwellness.org

(813) 239-8114

Dates for future meetings:

August 18, 10 am to 2 pm.

Location: The Citrus, Collier & Columbia meeting rooms at the Hilton Orlando Bonnet Creek, 14100

Bonnet Creek Resort Lane, Orlando 32821.

Complete data analysis – summarize trends and root causes. Ask DCF, DJJ and DOE to present on where their Baker-Acted kids are coming from.

Gayla Sumner from DJJ will present. It is hoped that AHCA will present, too.

September 15, 9 am to noon, Tallahassee.

Identify & evaluate options for expediting involuntary examinations.

September 28, 1 to 4 pm, in Tallahassee.

Develop recommendations for encouraging alternatives to inappropriate examinations.

October 11, 9 am to 4 pm, in Orlando.

Review draft report.

ALL MEETINGS WILL BE NOTICED BY AUGUST 10TH