

NORTH DAKOTA LEGISLATIVE COUNCIL

Minutes of the

COMMISSION ON ALTERNATIVES TO INCARCERATION

Tuesday, June 20, 2006
Harvest Room, State Capitol
Bismarck, North Dakota

Representative Joe Kroeber, Chairman, called the meeting to order at 9:00 a.m.

Members present: Representatives Joe Kroeber, Ron Carlisle, Lawrence R. Klemin; Senators Dick Dever, Larry J. Robinson; Citizen Members Leann K. Bertsch, Edward Brownshield, Paul Hendrickson, Duane Johnston, John Mahoney, Deborah Ness, Carol K. Olson, Dr. Gary Rabe, Sandi Tabor

Members absent: Senator Thomas L. Trenbeath; Citizen Members Judge Gail Hagerty, Justice Mary Muehlen Maring

Others present: JoAnne Hoesel, Heather Steffi; Department of Human Services, Bismarck

Rodney Hair, Minot State University, Minot

Warren Emmer, Department of Corrections and Rehabilitation, Bismarck

Barb Breiland, Department of Corrections and Rehabilitation, Fargo

Terry Grumbo, Department of Corrections and Rehabilitation, Washburn

Tom Tupa, National Association of Social Workers-North Dakota, Bismarck

Ray Holmberg, State Senator, Grand Forks

It was moved by Senator Robinson, seconded by Representative Carlisle, and carried on a voice vote that the minutes of the March 21-22, 2006, meeting be approved as distributed.

Chairman Kroeber said he intends to call at least one more meeting of the commission before the end of the interim. In addition to the authority to recommend legislation to the Legislative Council, he said, the commission may submit recommendations regarding the Governor's budget proposals or express support for actions taken by other agencies.

Representative Carlisle said he would like to receive more information from the Department of Corrections and Rehabilitation and the Department of Human Services regarding the fiscal impact of proposals that will be included within the budgets of those agencies for the next biennium.

In response to a question from Senator Robinson, Ms. Carol K. Olson, Executive Director, Department of Human Services, said the internal budget meetings of the Department of Human Services have been delayed because budget targets from the Office of Management and Budget were delivered later than expected. She said the department's budget proposal is not firm until the Governor delivers his budget address. She said department officials will be meeting with representatives of the Office of

Management and Budget in August and September to develop the department's budget proposal.

MATRIX TREATMENT MODEL

Chairman Kroeber called on Ms. JoAnne Hoesel, Department of Human Services, for a presentation regarding methamphetamine treatment. Ms. Hoesel presented PowerPoint slides regarding the [MATRIX treatment model](#), copies of which are on file in the Legislative Council office. Ms. Hoesel also submitted [substance abuse treatment admission data](#) for the Department of Human Services for the calendar year 2005, a copy of which is on file in the Legislative Council office.

In response to a question from Representative Kroeber, Ms. Hoesel said the number of females being admitted for treatment is increasing.

In response to a question from Senator Dever, Ms. Hoesel said the human service centers charge clients on a sliding fee schedule based upon income. In addition, she said, insurance and Medicaid payments are also made for substance abuse treatment clients. She said a troubling trend is the increasing number of children aged 12 to 17 who are being admitted for treatment. She said the percentage of admissions in this state for that age group exceeds the national rate.

In response to a question from Representative Kroeber, Ms. Hoesel said the withdrawal period for methamphetamine is 2 to 10 days, which is a shorter period than what was commonly believed. She said the middle phase of recovery, which is 6 to 20 weeks, is the most difficult period.

In response to a question from Mr. Hendrickson, Ms. Hoesel said the MATRIX model recognizes that it is necessary to address the brain damage done by methamphetamine use. She said the model also recognizes that it is necessary to individualize treatment. She said the perception that methamphetamine addiction is nearly impossible to treat is not correct.

In response to a question from Representative Klemin, Ms. Hoesel said although discussion during the last legislative session often focused on the belief that methamphetamine treatment was extremely difficult, the real issue is the lack of capacity for residential care. She said methamphetamine treatment poses specific challenges but may be comparable to treatment for addictions to other drugs.

She said the Robinson Recovery Center has 20 beds and has had 73 referrals since opening. She said the human service centers are used for the screening process and most of the referrals have come from Fargo, Grand Forks, and Dickinson.

In response to a question from Ms. Tabor, Ms. Hoesel said it is necessary to move beyond the 28-day treatment model for all addictions, including alcohol. She said treatment programs must be individualized and must address the specific addictions.

In response to a question from Ms. Ness, Ms. Hoesel said treatment capacity issues are more pronounced in certain areas of the state and it has been necessary to prioritize admissions due to waiting lists.

Ms. Olson said capacity issues have been a challenge for the department at the human service centers and the State Hospital. She said the department will attempt to address that in its next biennial budget.

Mr. Brownshield said it is important to provide educational programs to help keep individuals out of prison. He said individuals often complete addiction treatment but run into problems after leaving a treatment center.

In response to a question from Dr. Rabe, Ms. Hoesel said the department is developing data linking treatment data with Medicaid data to see if there are less hospital costs after treatment. She said this could be used as a tool to evaluate the effectiveness of a treatment program. She said she would attempt to find information regarding the success rate with respect to the MATRIX treatment model.

Senator Robinson said it is important to acknowledge that treatment is not generally successful without aftercare. Because the individuals are starting a new lifestyle, he said, they need support, understanding, and structure that can be provided through an aftercare program. Although aftercare is expensive, he said, it is less expensive than not providing it.

In response to a question from Representative Carlisle, Ms. Hoesel said representatives of the department will provide statistics to the 2007 Legislative Assembly regarding the effectiveness of the treatment provided at ShareHouse. She said the contract with ShareHouse requires monthly, semiannual, and annual reports.

Senator Robinson said it is important to look at the aftercare caseloads and evaluate the type of environment to which individuals in treatment will be returning. He said treatment is more successful if there is support from family members.

Ms. Tabor said it is necessary to fund support groups and support systems in the community. She said it may be necessary to provide grants to provide the necessary structure in rural areas. Because short-term relapse statistics may not be reliable, she said, it may be necessary to generate more long-term

results to educate legislators regarding how much aftercare treatment time is needed.

In response to a question from Senator Dever, Ms. Hoesel said addiction counselors have been difficult to hire in many parts of the state. Because of stringent licensing reciprocity requirements, she said, it is often difficult to license out-of-state counselors in this state. She said other professionals are being trained to provide the care provided by licensed addiction counselors. She said addiction is a chronic relapsing disease that may require an individual to go through multiple treatment processes. She said treatment of addictions is as successful as treatment for other chronic relapsing diseases, such as heart disease, if there is ongoing support.

Ms. Olson said funding for preventative treatment, such as aftercare, has always been difficult to secure. She said heart disease can be much more costly to treat than addictions.

In response to a question from Ms. Ness, Ms. Hoesel said a needs assessment with respect to continuum of care programs has not been done due to a lack of funding.

In response to a question from Senator Dever, Ms. Hoesel said the MATRIX model can match treatment methods with the appropriate care needed for each individual. She said the model does not treat more people at a lower cost.

GLOBAL POSITIONING SYSTEM MONITORING

Chairman Kroeber called on Mr. Warren Emmer, Department of Corrections and Rehabilitation, for a presentation regarding global positioning system (GPS) monitoring of offenders. Mr. Emmer said proper support for GPS monitoring is critical. He said GPS monitoring systems have failed miserably in some states where the programs have not been implemented properly. He said proper staffing to manage the program is necessary and appropriate policies, procedures, and training must be in place before implementing a program. Another important component in implementing the GPS monitoring, he said, is collaboration with other stakeholders, such as the Department of Human Services, sex offender containment task forces, and local law enforcement agencies.

Ms. Barb Breiland, Department of Corrections and Rehabilitation, said the department currently has seven sex offender specialists located in Grand Forks, Bismarck and Mandan, Fargo, Jamestown, and Minot. She said the next sex offender specialist will be added in Dickinson. She said the sex offender specialists have a significant workload performing a large number of presentence investigations. Although GPS monitoring is very labor-intensive, she said, the sex offender specialists are becoming more comfortable using the GPS tool. She said the sex offender containment task forces review high and moderate risk offenders to see if the offenders should be placed

on a GPS unit and for how long each offender should be monitored by a GPS unit.

In response to a question from Senator Robinson, Mr. Emmer said the GPS monitoring technology is in the infancy phase and more sophisticated units will provide additional tools in the future. He said the department expects to have 40 to 50 offenders on GPS monitoring within a year.

Mr. Terry Grumbo, Department of Corrections and Rehabilitation, submitted [written information](#), a copy of which is on file in the Legislative Council office. Mr. Grumbo said the Department of Corrections and Rehabilitation was determined to slowly implement GPS monitoring so that the implementation would be done properly. He said the program was first implemented in Bismarck because the Bismarck area had the necessary cellular telephone coverage and because of the large number of sex offenders on probation in the Bismarck area. He said adequate cellular coverage remains a problem in some areas of the state. He said the second phase of the implementation of the program is to increase the number of offenders monitored.

Mr. Grumbo said the department is currently monitoring nine offenders by GPS. He said five of the offenders are in the Bismarck area, two are in Jamestown, one is in Fargo, and one is in Grand Forks. He said the department is looking to see how GPS monitoring can be applied in rural areas of the state.

In response to a question from Senator Robinson, Mr. Emmer said there are approximately 700 registered sex offenders in the state, about 250 of whom are on parole or probation.

Mr. Grumbo said a short-term goal is to have 25 to 35 offenders monitored by GPS by the end of this year. He said the department is now managing the GPS unit inventory so that a larger number of units are on hand and can be used and repaired more quickly. He said the GPS unit service provider will be training a large number of the Field Services Division staff to speed up the process of placing a GPS device on an offender. In addition, he said, the Parole Board is looking to begin using GPS monitoring. He said special alcohol monitoring technology will be tested as a pilot project. He said the alcohol monitoring equipment provides a very accurate test and is more reliable than the currently used technology.

Mr. Grumbo said the growth of the GPS monitoring program will depend upon the ability to provide adequate staff to administer the program. He said a pilot project will be conducted in Grand Forks through which the local dispatch center will be used as a call center through which all alerts or calls from the GPS monitoring devices will go. He said local law enforcement officers or a parole officer will then be dispatched to respond to an alert. In addition, he said, the department is partnering with the State Hospital to determine whether the State Hospital can serve as a call center that can dispatch law enforcement officers to respond to alerts.

In response to a question from Representative Kroeber, Mr. Grumbo said the daily cost of using the enhanced passive GPS unit is \$4.75 per day per offender and the daily costs for the full active GPS unit is \$9.75 per day per offender. He said each offender reimburses the department \$5 per day for the use of the enhanced passive system.

Mr. Emmer said the department is unable to recover all of the costs involved in monitoring offenders. However, he said, the department charges up to a maximum of \$350 per month for sex offender treatment.

In response to a question from Representative Kroeber, Mr. Emmer said because the department's budget is a program-based budget, there is some ability to move funds throughout the budget. Although the fees collected go into the general budget of the department, he said, the GPS monitoring program may be a self-sufficient program. He said the current contract with the GPS unit vendor lasts until August 2007.

In response to a question from Senator Robinson, Mr. Emmer said the number of individuals on parole has tripled over the last three years and the revocation rate has remained under 20 percent. Because of a shift in philosophy toward treatment options, he said, at some point the prison population should plateau.

In response to a question from Mr. Mahoney, Mr. Grumbo said as the technology involving GPS monitoring improves, the department should be able to use GPS monitoring in rural areas.

Mr. Hendrickson said he has seen substantial savings in his county as a result of the use of electronic monitoring rather than incarcerating certain individuals.

In response to a question from Ms. Ness, Mr. Emmer said the State Hospital could serve as a central monitoring point for 40 to 50 offenders. However, he said, consideration must be given to the impact on local law enforcement and the availability of first responders.

In response to a question from Senator Dever, Mr. Emmer said it is important to not require mandatory GPS monitoring and allow some discretion in the use of available resources. He said the sex offender containment task forces are best able to determine the appropriate use of resources. He said many sex offenders who are required to register are not under correctional supervision and GPS monitoring will not protect society from those individuals. In addition, he said, GPS monitoring will not deter someone who is determined to commit a crime.

Chairman Kroeber requested Ms. Bertsch to review information relating to alternatives to incarceration programs implemented by the department during this biennium. Ms. Bertsch distributed a written [summary](#), a copy of which is on file in the Legislative Council office. She said critical programming within the institutions help increase the

ability of offenders to succeed in programs administered by the Field Services Division.

Representative Kroeber said there are a number of programs in operation which have a good track record. However, he said, it is difficult to move funds into the successful programs when a department is not funded adequately and will likely require a deficiency appropriation.

At the request of Chairman Kroeber, Representative Klemin reviewed a bill draft [70127.0100] relating to electronic home detention and GPS monitoring of offenders. Representative Klemin submitted written [testimony](#), a copy of which is on file in the Legislative Council office.

In response to a question from Representative Carlisle, Ms. Bertsch said the bill draft would provide a statutory framework through which the state and counties could implement electronic monitoring.

It was moved by Senator Robinson, seconded by Ms. Bertsch, and carried on a roll call vote that the bill draft relating to electronic home detention and GPS monitoring be approved and recommended to the Legislative Council. Representatives Kroeber, Carlisle, and Klemin; Senators Dever and Robinson; and Citizen Members Bertsch, Brownshield, Hendrickson, Johnston, Mahoney, Ness, Olson, Rabe, and Tabor voted "aye." No negative votes were cast.

CASS COUNTY JAIL DIVERSION PROJECT

Chairman Kroeber called on Ms. Sheree Spear, Cass County Jail Intervention Coordinating Committee, for comments regarding the Cass County Jail Intervention Coordinating Committee jail-based diversion project. Ms. Spear submitted written [testimony](#), a copy of which is on file in the Legislative Council office.

In response to a question from Representative Kroeber, Ms. Spear said the awarding of the federal grant is expected to be announced in September or October. She said the majority of the cost for the jail diversion project will be for the hiring of a clinical mental health coordinator.

POTENTIAL ALTERNATIVE PROGRAMS

Chairman Kroeber requested Ms. Tabor to provide information regarding alternatives to incarceration programs that may merit future consideration. Ms. Tabor submitted written [information](#), a copy of which is on file in the Legislative Council office. Because some of the programs have been implemented in other states, she said, additional guidance could be provided by officials from those states that have had experience with those programs.

In response to a question from Representative Carlisle, Ms. Tabor said she is not sure which agency should include money in its budget for drug courts. She said that issue could be discussed with

representatives of the Department of Corrections and Rehabilitation and the Supreme Court.

In response to a question from Representative Kroeber, Ms. Tabor said consideration should be given to developing a specialized women's diversion program similar to the Sister's Path program in Fargo which admits women with children.

In response to a question from Senator Dever, Ms. Tabor said some of the proposed programs would require legislative action while some could be implemented without legislation.

In response to a question from Representative Carlisle, Ms. Olson said the Department of Human Services will likely have some funding in its base budget for drug courts because the Governor is supportive of drug courts. However, she said, a recommendation from this commission to provide funding for drug courts may be helpful.

In response to a question from Mr. Mahoney, Chairman Kroeber said more detailed information from the Department of Corrections and Rehabilitation and the Department of Human Services would assist the commission in making funding recommendations with respect to particular programs. Chairman Kroeber requested the Legislative Council staff to invite the chief fiscal officers of the Department of Human Services and the Department of Corrections and Rehabilitation to be present at the next meeting of the commission.

Chairman Kroeber requested each member of the commission to make suggestions regarding possible recommendations by this commission.

Representative Klemin said the program sponsored by the Central North Dakota RSVP which provides mentoring of children of incarcerated parents is something worthy of support. He said he commends the program and will encourage continuation of the mentorship of children of incarcerated parents. **It was moved by Representative Klemin that the Legislative Council staff be requested to prepare a resolution of support for the mentoring of children of incarcerated parents program.**

In response to a question from Representative Kroeber, commission counsel said the commission is authorized to make recommendations to the Governor regarding the Governor's budget and make recommendations to the Legislative Council. He said all policy positions must be approved by the chairman of the Legislative Council and the general rules that apply to the Legislative Assembly with respect to commendatory resolutions would likely apply to the commission.

Mr. Mahoney said he would like to see more information regarding the program with respect to mentoring of children of incarcerated parents before expressing support for the program.

After this discussion, Representative Klemin **withdrew his motion.**

Dr. Rabe said it is necessary to support and build a strong aftercare program and increase treatment

capacity. In addition, he said, the Superintendent of Public Instruction and the State Board of Higher Education should be involved in preventative programs. He said another area of importance is juvenile corrections and the loss of federal funding for some alternative programs for juveniles. He said it is also important to build capacity for licensed addiction counselors.

Mr. Brownshield said more preventative programs are needed. He said there must be a focus on determining why certain problems exist and a focus on education to solve illiteracy problems which frequently lead to substance abuse.

Mr. Johnston said he is concerned with the community service programs that are beneficial to communities and the participants. He said it is especially important to look at funding those programs in smaller communities.

Representative Carlisle said funding of drug courts is necessary. In addition, he said, he would like to see expansion of the Robinson Recovery Center model and other longer-term treatment options such as the MATRIX model.

Ms. Ness said it is vital to address juvenile issues to divert the juveniles from the criminal justice system before the juveniles become adults with significant problems. She said reentry programs similar to the Bismarck Transition Center should be available across the state. Another issue that should be addressed, she said, is the establishment of misdemeanor probation programs through which detrimental behavior can be addressed early rather than waiting until a problem must be taken seriously after multiple offenses. She said it is important to examine issues relating to the incarceration of mentally ill individuals.

Senator Dever said further consideration is needed of the programs suggested by Ms. Tabor to determine which programs would need legislative action and for a determination of whether the costs would be beneficial to the commission.

Mr. Hendrickson said it is important to have consistency and early intervention in the criminal justice system. He said an evaluation of the effectiveness of the courts may assist in this. Other issues worthy of consideration, he said, include the implementation of technology, such as GPS monitoring; information sharing among law enforcement, prosecutors, and judges; and education

programs. He said he is concerned that there is a lack of coordination and too much competition for grant funds that often results in redundancy in programs.

Mr. Mahoney said judges need flexibility and additional tools in dealing with offenders. Because most individuals in the criminal justice system have addictions or mental health issues, he said, prevention programs and treatment, including aftercare, are important. He said it is especially important to address juvenile issues to keep the juveniles from becoming adult offenders.

Senator Robinson said a multifaceted approach is necessary. He said early intervention programs before incarceration are needed as well as treatment with aftercare. He said it is important to avoid overloading caseworkers. Although he is encouraged by the cooperation among the Department of Human Services, the Department of Corrections and Rehabilitation, and the Attorney General, he said, it is important to include the Superintendent of Public Instruction and representatives of the North Dakota University System in discussions regarding prevention and alternatives to incarceration. He said the growth in the corrections budget affects other agencies and many alternative programs will save money in the long term. He said drug courts need to be funded adequately and expanded and mental health programs need financial assistance.

Ms. Tabor said the Department of Human Services and the State Department of Health recently received a grant to coordinate planning and the commission may be interested in getting an update from Ms. Hoesel regarding the planning process. She said she is concerned with the commission members simply looking at broad ideas rather than looking closely at proposed programs to develop a plan to put before the Legislative Assembly which has sufficient information regarding costs and benefits.

Chairman Kroeber said he is tentatively scheduling the next meeting of the commission for September 6, 2006. There being no further business, the chairman adjourned the meeting at 2:30 p.m.

John Bjornson
Commission Counsel