



Legislative Background Brief

for the
Law and Justice Interim Committee

August 2011

Jail Suicide Prevention: Review of Previous Committee Work

Prepared by Sheri Scurr, Staff Research Analyst

Initial Study: 2007-2008 Interim

The 2007 Legislature passed four interim study resolutions that encompassed, to varying degrees, mental health treatment for justice-involved adults and juveniles. All four of these studies were assigned to the Law and Justice Interim Committee (LJIC). HJR 26 specifically requested an examination of mental health treatment and diversion alternatives for incarcerated adults.

Scope of the Problem

While undertaking these assigned studies, the LJIC learned of a series of tragic jail suicides. In 2005 (prior to the 2007 session), Ravalli County was reeling from three jail suicides in two months. Family members, who said the sheriff had been alerted to the suicidal tendencies of their loved ones, were outraged and demanded answers. In 2007, a young mother, Tia Henriksen, hung herself at the Cascade County Detention Center in the same manner as a previous inmate who also committed suicide. The county was sued for negligence. Also in 2007, in the Custer County Detention Center, Linda Wilson, a mother and wife, who had been vocal about her intention to kill herself, was left unobserved in an unlocked cell and hung herself with a telephone cord. Her family filed a civil lawsuit for wrongful death.

Eighth Amendment Rights

The 2007-2008 LJIC began its examination by reviewing the constitutional rights of detained and incarcerated persons under the Eighth Amendment of the U.S. Constitution. The Eighth Amendment reads: "*Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.*"

The LJIC learned that courts have identified six constitutionally required components of mental health care for incarcerated persons. Failure to meet these

minimum standards constitutes evidence of "*deliberate indifference to serious medical needs*". One of these minimum requirements is a "*basic program of identification, treatment, and supervision of prisoners with suicidal tendencies*." (See Attachment A for a legal memorandum on the Eighth Amendment.)

Examination of Other States - The Kentucky Model

Part of the 2007-2008 legislative study involved examining what other states have done to reduce jail suicide rates. Kentucky's response was found to be nationally recognized as most effective.

In 2004, responding to a series of highly publicized jail suicides, the Kentucky Legislature enacted and funded a jail suicide screening and prevention program that reduced Kentucky's jail suicide rate by 80%. Kentucky's program requires:

- standardized screening instruments at intake;
- 24/7 telephonic triage system providing direct telephone access to mental health professionals who perform interviews and provide evaluations;
- standardized suicide risk management protocols; and
- follow-up measures for those identified as being at high risk of suicide.

(See Attachment B for more information on Kentucky's program.)

Subcommittee on Jail Standards and Suicide Prevention

To drill down on the issue and develop specific recommendations for Montana, the LJIC established a subcommittee on jail standards and suicide prevention. This subcommittee considered various options and heard from various stakeholders, including:

- Capt. Dennis McCave, Yellowstone County Detention Center and Montana Sheriffs and Peace Officers Association (MSPOA);
- Jim Smith, MSPOA;
- Sheriff Cashell, Gallatin County;
- Deb Mattuecci, Department of Public Health and Human Services (DPHHS)/Department of Corrections;

- Roland Mena, Montana Board of Crime Control;
- Jan Dwyer, American Civil Liberties Union;
- Matt Kuntz, National Alliance for the Mentally Ill - Montana; and
- Charley McCarthy, Disability Rights Montana.

The subcommittee recommended a bill draft to enact a pilot program in Montana that would involve:

- standardized screening at intake;
- interviews by mental health professionals using remote electronic access if necessary (i.e., video conferencing or telephonic communications);
- determination of suicide risk by a mental health professional;
- management protocols based on the inmates suicide risk; and
- appropriate followup counseling or treatment.

Committee Recommendation - HB 60 Pilot Project

The LJIC's bill recommendation to the 2009 Legislature was HB 60, which created a two-year pilot program to establish a mental health triage system for a sample of small, medium, and large population counties.

Rep. Ebinger carried the bill and added a grant program to assist detention centers with costs of participation in the pilot project. HB 60 was approved by House Judiciary 14 to 4. The full House passed the bill on second reading 55 to 45. The bill was then referred to House Appropriations, where it was tabled. *(See Attachment C for a copy of the bill and the fiscal note.)*

Follow-up During the 2009-2010 Interim

The high rate of suicide in Montana jails continued. In 2009, four more jail suicides made headlines. The 2009-2010 LJIC requested that legal staff examine the MSPOA's progress in addressing jail suicides. Responding to this request, David Niss conducted an extensive review of MSPOA's voluntary standards and peer review efforts. A memorandum dated June 18, 2010, presented the findings, noting several concerns. *(See Attachment D.)*

After considering the staff findings and listening to the MSPOA response as well as comments from other stakeholders, the LJIC requested that staff draft a committee study resolution to continue the LJIC's work to address Montana's high jail suicide rate. However, the study resolution was withdrawn in favor of a notation in the committee' final report recommending that the 2011-2012 LJIC continue to examine jail suicide in the context of its on-going oversight responsibilities.

CI0429 1243shmb.