

## **Olmstead Subcabinet Meeting Minutes**

Monday, September 24, 2018 • 3:00 p.m. to 4:30 p.m.

Minnesota Housing – Lake Superior Conference Room, 400 Wabasha Street North, Suite 400, St Paul

### **1) Call to Order**

**Action: N/A**

Commissioner Tingerthal welcomed everyone and provide meeting logistics.

### **2) Roll Call**

**Action: N/A**

**Subcabinet members present:** Mary Tingerthal, Minnesota Housing; Emily Piper, Department of Human Services (DHS); Colleen Wieck, Governor's Council on Developmental Disabilities (GCDD); Roberta Opheim, Office of Ombudsman for Mental Health and Developmental Disabilities (OMHDD)

**Subcabinet members on the phone:** Shawntera Hardy, Department of Employment and Economic Development (DEED)

**Designees present:** Gil Acevedo, Minnesota Department of Health (MDH); Deb Kerschner, Department of Corrections (DOC); Tim Henkel, Department of Transportation (DOT); and Daron Korte, Minnesota Department of Education (MDE)

**Guests present:** Mike Tessneer, Rosalie Vollmar, Darlene Zangara, Diane Doolittle, and Sue Hite-Kirk, Olmstead Implementation Office (OIO); Ryan Baumtrog, Dan Kitzberger and Anne Smetak (Minnesota Housing); Erin Sullivan Sutton, Alex Bartolic, Sarah Knoph, Adrienne Hannert, Carol LaBine, Crystal Fairchild and Samantha Holte (DHS); Emily Jahr, Tom Delaney and Holly Anderson (MDE); Maura McNellis-Kubat (OMHDD); Darielle Dannen (DEED); Mark Kinde (MDH); Kristie Billiar (DOT); Christina Schaffer (MDHR); Gerri Sutton (Met Council); Mary Kay Kennedy (Advocating Change Together); Susan O' Nell (Institute on Community Integration - University of Minnesota); Beth Fondell, University of Minnesota, Institute on Community Integration; Bradford Teslow, Noah McCourt and Michelle Gross (members of the public)

**Sign Language and CART providers:** Mary Catherine (Minnesota Housing); ASL Interpreting Services, Inc.; Paradigm Captioning and Reporting Services, Inc.

### **3) Agenda Review**

Commissioner Tingerthal asked if there were any changes needed to the agenda. She reminded any attendees interested in providing public comment to sign up in the back of the room.

#### **4) Approval of Minutes**

##### **a) Subcabinet meeting on August 27, 2018**

Commissioner Tingerthal asked if there were any changes needed to the minutes for the August Subcabinet meeting. No edits were requested.

**Motion: Approve August 27th Subcabinet meeting minutes**

**Action: Motion – Henkel                      Second – Wieck                      In Favor - All**

#### **5) Reports**

There were no reports from the Chair, Executive Director, Legal Office or Compliance Office.

#### **6) Action Items**

##### **a) Workplan Compliance Report for September**

Mike Tessneer reported that 9 workplan activities were reviewed. There were no exceptions to report. The list of activities reviewed are attached to the Workplan Compliance report.

##### **Questions/Comments**

Colleen Wieck (GCDD) asked about availability of full reports on item CR 2F listed on the Workplan Reporting for September. Commissioner Tingerthal stated the report is included in the packet and staff are here to report on the item.

**Motion: Approve September Compliance Report**

**Action: Motion – Piper                      Second – Kerschner                      In Favor - All**

#### **7) Informational Items and Reports**

##### **a) 2018 Strategic Review of Olmstead Plan Implementation**

Commissioner Tingerthal introduced the 2018 Strategic Review.

- Minnesota's Olmstead Plan was first adopted in 2015. At that time the expectation was that the Plan would be continually updated and extended. Previously, this year, we agreed to a process to review the plan. Now, with three years' worth of data, we are looking at not just whether the individual goals have reached the measuring point, but we need to look at the entire plan, look at all the data, and take an assessment of how are we doing overall with all of the goals?
- Over the last several months, our compliance staff has been meeting with staff from each of your agencies, to look at those three-year accomplishments. The discussion included whether it seems like we're on track with each of the individual goals. And if we're not going to accomplish a goal that's stated in the plan, whether there are things that need to be done differently.
- Lessons learned from this review should be considered during the Workplan review and refresh in October and the Olmstead Plan amendment process occurring from December

2018 through March 2019. This will provide opportunity to build on successes or make course corrections to improve Plan performance.

Mike Tessneer (OIO Compliance) walked through the highlights of the review as compiled in the report and identified specific areas where we will be expecting proposed changes to the Plan or workplans. A supplemental handout was distributed to help in the review of Section II of the report. (page 26 of 96)

Mr. Tessneer explained how to read the supplemental handout that shows the progress of each goal as it relates to the overall goal. It includes the baseline and the overall goal as well as where we are at right now with the data that we have. The goals were given a status depending on how they were progressing.

- Eighteen goals are making progress toward achieving the overall goal on schedule. Nine have already achieved their overall goals.
- Nine goals are progressing at some level but need improvement.
- Twenty goals are in process. In process means that there is either no verifiable data reported thus far or there is insufficient data to determine whether progress has been made. Twelve of these goals appear to be moving in the right direction, two need improvement, and six have not been reported yet.

Mr. Tessneer then walked through the report by topic area. The status of the goal was reviewed and the major accomplishment of workplan activities were summarized. Questions and comments for each topic area are noted below.

#### **Person Centered Planning Goal One (pg. 26)**

Roberta Opheim (OMHDD) asked if all of the counties have had audits completed for the person-centered planning Goal One. Alex Bartolic (DHS) responded that there are seven counties remaining before all the counties have been audited.

Deb Kerschner (DOC) pointed out that the goal doesn't include a target number and asked if the assumed goal is 100%. Commissioner Tingerthal affirmed the goal to be 100%.

#### **Transition Services Goal Two (pg. 32)**

Commissioner Piper (DHS) asked if there was a way to capture the fact that more people are moving in and out. Changes in the 48-hour Rule have resulted in success of many more people being at Anoka Metro Regional Treatment Center (AMRTC) for significantly less time for treatment than in the past. She wants to be clear about what the measurement means and does not mean.

Mike Tessneer stated that part of the suggestions at the end of the report include modifying workplans to more carefully examine the data that is available. That may end up leading to changing the measurable goal.

Commissioner Tingerthal stated that this goal may need a two-part measure. In this case, the current measurement plus a measure that shows the turnaround time and more accurately reflects that AMRTC is serving more people. Roberta Opheim (OMHDD) suggested more details with the data in this area. Commissioner Tingerthal reminded the Subcabinet that more detailed reporting is found in the quarterly reports.

**Housing and Services Goal One (pg. 36)**

Commissioner Tingerthal (Minnesota Housing) stated the Section 811 program and housing infrastructure bonds have allowed us to build more permanent supportive housing and have been instrumental in progressing on this goal. This should be included in the report.

**Employment Goal Two (pg. 39)**

Deb Kerschner (DOC) asked for clarification on why the status of this goal was in process due to insufficient data when there are two years of data. Mike Tessneer agreed that because there are two data points, a chart can be added and a determination of making progress can be made. That edit will be made to the document.

**Employment Goal Three (pg. 39)**

Roberta Opheim (OMHDD) asked for clarification of baseline number of students with developmental cognitive disabilities, or the universe of students, so that a better determination of progress with this goal can be made. Tom Delaney (MDE) stated that setting a future goal number is challenging, because there is no way to know the number of students with disabilities that will be in the education system in future years. Therefore, in reporting to the Subcabinet, both numbers and percentages are used.

Colleen Wieck (GCDD) addressed Commissioner Hardy (DEED) asking her to review the major accomplishments section to capture state match for federal grants and other DEED grants. Commissioner Hardy confirmed federal grants for Category One, as well as competitive grants focused on getting individuals into the workforce and connected to a career pathway. Commissioner Tingerthal stated that OIO will work with DEED to identify some specific accomplishments in the Employment area.

Commissioner Hardy (DEED) also noted that unless additional funding is received, next year DEED may be faced with a Category One wait list again. Categories Two, Three and Four are currently closed.

**Education Goal Three (pg. 42)**

Deb Kerschner (DOC) asked for a metric result rather than active consideration. Tom Delaney (MDE) explained they use the Student, Environments, Tasks and Tools (SETT) framework to survey Individualized Education Program (IEP) teams on a number of elements. It does have a quantitative layer that is MDE's best way of operationalizing the concept of active consideration. Ms. Kerschner stated she would like to keep challenging the boundaries, knowing the universe of children who could benefit could possibly be a lot larger. Mr. Delaney stated that while they maintain 96%, the number of school districts and students with disabilities will increase. Commissioner Tingerthal emphasized the importance of increased numbers for next year's goals.

Roberta Opheim (OMHDD) asked if assistive technology equipment discussed at IEPs is actually provided and whether it is beneficial to students. She suggested embedding a measure of this into the goal. Mr. Delaney stated that MDE recognizes this as another continuous improvement metric that could be another measure of this activity. Colleen Wieck (GCDD) asked if active consideration is a federal requirement. Mr. Delaney explained that all students should be receiving active consideration of assistive technology. MDE's challenge is operationalizing the federal definition.

**Timeliness of Waiver Funding Goal One (pg. 44)**

Deb Kerschner (DOC) questioned why the term "reasonable pace" was used in the goal, instead of funding approved within 45 days, as included in the graph. Commissioner Tingerthal explained that it was determined to use this phrase because the number of days used to determine reasonable pace may change over time.

Robert Opheim (OMHDD) expressed concern that she has been hearing from people that counties are discouraging applicants by not providing assessments and placing applicants on their own waiting list. Alex Bartolic (DHS) encouraged reporting of specific situations to DHS so that technical assistance can be provided. DHS does over 140,000 assessments in a year. Instructions to the counties are clear that if someone is interested in services, whether on medical assistance or not, they should have access to an assessment.

**Transportation (pg. 46)**

Colleen Wieck (GCDD) asked if progress for the curb cuts was mostly due to legislative appropriations. Kristie Billiar (DOT) stated that anytime there is a roadway project that meets the definition of alterations as defined by the Department of Justice and Federal Highway Administration, curb cuts are included as part of the project.

**Health Care and Healthy Living Goal Two (pg. 52)**

Colleen Wieck (GCDD) stated that she has reviewed the Oral Health Care Plan and cannot find mention of disabilities. She would like to see that included in future revisions of the Oral Health Care Plan.

Commissioner Piper (DHS) stated that when looking at the oral health goal, Minnesota has one of the lowest access rates for kids. While she appreciates seeing progress, this remains a challenging area. Commissioner Tingerthal emphasized this is an example where recalibration of annual goals is needed.

**Positive Supports Goal Three (pg. 58)**

Roberta Opheim (OMHDD) asked for clarification of where the number 13 [on summary chart] came from. Commissioner Tingerthal explained that more detailed data for this goal is provided in the quarterly reports.

**Positive Supports Goal Four (pg. 58)**

Commissioner Tingerthal pointed out the summary chart indicates “being in process” and the summary sheet indicates “needs improvement”. The incorrect reference should be corrected.

**Crisis Services (pg. 61)**

Roberta Opheim (OMHDD) asked if a survey had been done to determine the number of crisis beds that are needed. Alex Bartolic (DHS) stated the need for beds is a reflection of how robust the community provider system is. There are plenty of beds if people are only using them for 90 days, but they are not. Their findings are that the workforce shortage is adding more pressure. DHS is seeing admission notices every day simply because providers cannot hire staff. This is part of a bigger question, and DHS is trying to determine how to stabilize services in the meantime.

Ms. Opheim further asked about current funding and process to build brick and mortar crisis service facilities for those who are unable to draw Medicare, Medicaid or other funds. Commissioner Piper explained that a Request for Proposals is out right now for crisis facility grants. These need to demonstrate a sustainable financial model specific to the crisis service model. It is not the intention of the state to subsidize ongoing local communities’ bonding projects for the crisis services. Commissioner Tingerthal stated this is somewhat similar to Minnesota Housing’s dilemma with permanent supportive housing. There is no one source providing ongoing funding, or guarantees of operational funding. Ms. Opheim emphasized that funding needs to be sustained as the problem related to crisis beds is that no one want to pay for them. The purpose of a crisis bed is to have an empty bed when the crisis comes. Ms. Bartolic explained there are different funding sources for different types of services. At this

time, crisis funding is negotiated for community-based services. This can include a very high absence of utilization factor to account for the fact that it's not 100% coverage.

Commissioner Piper (DHS) suggested that the major accomplishment area should be reworded to use person-centered and person-forward language.

### **General discussion about the Strategic Review document included:**

#### **Internal and external versions**

- Deb Kerschner (DOC) expressed her excitement in memorializing the work of the agencies with three years' worth of data and seeing how far they have come. She asked if the Subcabinet will see the final version of this document after revisions have been made. She offered to provide some thoughts on format to make the final document more polished.
- Colleen Wieck (GCDD) asked for the document to remain in draft form at this time to capture all revisions including reasons why goals were achieved or not.
- Commissioner Piper (DHS) stated this document provides an opportunity for agencies to tell their stories. With the transition of Governors, this is a perfect way to highlight and inform a new leadership team of the work that's been accomplished and to advocate the continuity moving forward.
- Commissioner Tingerthal indicated that the report is intended to be a working document for the agencies. If it is the desire of the Subcabinet to work towards a final version(s) for external purposes, comments heard at this meeting will be noted and reviewed. We can also add additional accomplishments if the agencies want to submit those.
- Commissioner Tingerthal pointed out that the Strategic Review could be used as a transition document calling out vulnerabilities such as lack of funding. Commissioner Piper (DHS) stated the need to define what is meant by a vulnerability. If lack of funding is considered a vulnerability, DHS's operating budget is not funded beyond the biennium.
- She suggested a more appropriate timeline for a finalized version might be after workplan revisions in October. More consideration is needed on how this Strategic Review can be sheared with the public as part of the 2019 Plan revision process.

#### **Readability**

- Roberta Opheim (OMHDD) expressed concern that the current version posted on the website does not meet the state's readability factor. Commissioner Tingerthal stated that leading up to the Plan amendment process, information in this report can be reframed in a more "plain language" version. Darlene Zangara (OIO) stated that part of the Communication Plan is to have versions of all documents and reports formatted and designed for readability by the general public.

### **Insufficient data**

- Ms. Kerschner (DOC) pointed out that throughout the report there is confusion of what is meant by insufficient data.

### **Standardized format of goals**

- Ms. Wieck recommended a simple, standardized format for the goals. Some goals use numbers, some use percentages and some use both. Ms. Opheim and Ms. Kerschner suggested more use of visuals for readability purposes.

### **Universe numbers**

- Ms. Opheim and Ms. Kerschner suggested that universe numbers be included where applicable for better clarification of progress measurements. Commissioner Tingerthal stated that universe numbers have been used in quarterly reports when they are legitimate, verifiable numbers. Universe numbers, however, are not always available. Insertion of more universe numbers will be considered more in revising this report.

### **Recalibration or elimination of goals already achieved**

- Deb Kerschner (DOC) commented that to categorize a goal that has already reached the overall goal as making progress is confusing. She suggested adding a new category to those goals that have already been achieved. Those goals should be revisited and recalibrated. Commissioner Tingerthal agreed that a new category would be appropriate. She encouraged the Subcabinet to further discuss for goals that have been reached, whether they should be recalibrated or eliminated.

Roberta Opheim (OMHDD) stated that in the beginning, it wasn't clear how progress on the goals would go. Now that there is several years of data, it is her hope that these goals would be recalibrated.

Commissioner Tingerthal suggested that in the interest of time, the reporting on the 2018 Strategic Review of Olmstead Plan Implementation should conclude. The remainder of goals are in process or in need of establishing new goals.

Commissioner Tingerthal stated that one workplan activity report will be presented followed by members of the public who want to provide comment.

### **b) Workplan activity reports to be presented to Subcabinet**

#### **1) Transition Services 3D.1a – Status of cross-division/administration workgroup;**

Claire Wilson, Wade Brost and Carol Olson (DHS) provided a brief update on this activity.



### **Questions/Comments**

Roberta Opheim (OMHDD) asked if any work has been done with the counties to prevent the number of civil commitments, or if this might be a strategy to adjust going forward. Claire Wilson (DHS) stated there is continuous improvement work, one thing is to look at areas such as failing to identify how people could be appropriately served, as well as enhancing access. Commissioner Piper (DHS) added that it depends on each county. Larger counties tend to be more sophisticated in strategies to improve community services and avoid unnecessary admissions. Anoka, for example, takes a more sophisticated approach, however they are seeing over 40% increases from last year because of the number of people that are accessing AMRTC from jail. Additionally, under the best circumstances, people trying to get provisional discharge out of Anoka or MSH have very complex service and support needs that must be addressed to find community placement.

### **8) Public Comments**

Commissioner Tingerthal asked those who signed up for public comment to address the Subcabinet.

**Brad Teslow** (member of the public)

A Public Comment Form was provided and will be filed appropriately with the official meeting records. Copies were not provided to Subcabinet members. Highlights included thanking the following:

- Subcabinet for helping people with disabilities;
- Department of Human Rights, the facilitator, and the Improve Group;
- DOC for information forthcoming on the offender work program;
- DHS and MDH for work on compliance for providers;
- His peers for getting involved; and
- St. Paul Police Department for establishment and improvement of their mental health unit and planned training on trauma informed care.

**Noah McCourt** (member of the public)

A Public Comment Form was provided and will be filed appropriately with the official meeting records. Copies were not provided to Subcabinet members. Highlights included:

- One issue that arose during his first city council campaign - was he too disabled to hold public office?
- Another issue he experienced involved a police altercation – was I not disabled enough?
- He is interested in seeing data and protocols for individuals with intellectual and cognitive disabilities; and
- The Olmstead Plan lacks of focus on law enforcement and public safety such as EMT's, firefighters, etc. He is requesting consideration during the upcoming annual amendment process to consider including Department of Public Safety.

**Michelle Gross** (member of the public)

A Public Comment Form was provided and will be filed appropriately with the official meeting records. Copies were not provided to Subcabinet members. Highlights included:

- Concern about the issue of intersection between people with disabilities and law enforcement;
- People with disabilities are 2.5 times more likely to be victims of a violent crime, and more than 3 times more likely to be the victims of a serious crime;
- Of the people killed by law enforcement, 50% are experiencing a mental health crisis; people with disabilities are 16 times more likely to be killed or injured in an encounter with law enforcement;
- She is requesting consideration during the upcoming annual amendment process to include law enforcement and public safety issues; and
- Two areas of statewide bodies that could assist are the Public Safety Commission and the Minnesota POST Board.

Commissioner Tingerthal suggested that these comments be taken back to the state agencies and come back with a recommendation of where it fits in the Olmstead Plan. Law Enforcement is a local, rather than a state function; any influence might be limited. An approach might be to include these issues within the Preventing Abuse and Neglect goal.

**9) Adjournment**

Commissioner Tingerthal asked if there was any other business to come before the Subcabinet. There was none. She adjourned the meeting at 4:43 p.m.

**Next Subcabinet Meeting:** October 29, 2018 – 3:00 p.m. – 4:30 p.m.

Minnesota Housing – Lake Superior Conference Room, 400 Wabasha Street North, Suite 400, St Paul