Testimony of Dr. Kevin Kallas and Dr. Michael Hagan
Department of Corrections
Legislative Council Special Committee on Review of Emergency Detention and Admission of Minors Under Chapter 51
August 31, 2010

Good morning Chairperson Pasch and members of the Special Committee. Thank you for the opportunity to attend this meeting and speak on behalf of the Department of Corrections. I am Dr. Kevin Kallas, the Department's Mental Health Director. I am joined by Dr. Michael Hagan, the Psychologist Supervisor at Ethan Allen School for Boys. Dr. Hagan represents the juvenile system within our Department. We were asked to give an overview of mental health treatment within the Department of Corrections with some consideration to how that treatment interfaces with Chapter 51 statutes.

The Department of Corrections currently has over 7000 inmates who are on the mental health caseload and they represent about 30% of our incarcerated population. Of these inmates, over 2000, or about 10%, are classified as seriously mentally ill. The corresponding percentages are even higher for female inmates. The Department employs psychiatrists and psychology staff who offer targeted treatment for inmates who are experiencing significant emotional distress or symptoms of mental illness. The Department also utilizes 344 beds at the Wisconsin Resource Center, operated by the Department of Health Services, for inmates with more intensive treatment needs.

It is becoming well-recognized across the country that individuals with mental illness are finding their way into the criminal justice system in increasing numbers, and the Wisconsin prison system is no exception. For example, the March 2009 Legislative Audit Bureau Report on Inmate Mental Health Care (LAB Report) found that in just a two year period between 2006 and 2008, the number of inmates on our mental health caseload increased by 14%. We've had further increases in our mentally ill population in the two years since 2008. There is general agreement that reductions in community treatment resources, including dramatic reductions in both public and private psychiatric inpatient beds, have contributed to this influx of mentally ill into our prisons. Whether it was intended or not, the nature of institutionalization for mentally ill persons has shifted over several decades from inpatient mental health beds to incarceration. Jails and prisons were not designed or staffed to provide mental health treatment to large numbers of individuals and providing adequate treatment and programming in such settings remains an ongoing challenge.

The Department's expenditures related to treatment of mental illness are outlined in detail in Appendix 1 of the March 2009 LAB Report. To summarize, in fiscal year 2008 the Department of Corrections spent approximately 27 million dollars for treatment within prisons and the Department of Health Services approximately 33 million dollars for treatment at the Wisconsin Resource Center. These amounts are increasing by virtue of a federal settlement agreement that mandates staffing increases and physical plant improvements for female inmates at Taycheedah Correctional Institution and the construction of a female unit at the Wisconsin Resource Center. For example, in fiscal year 2011, the Department of Corrections will spend an additional $ 3.4 million dollars related to these improvements. The state has also dedicated $7.5 million in capital dollars for facility improvements at Taycheedah to facilitate mental health programming there.

Our treatment of male inmates is coming under similar scrutiny, especially our ability to provide sufficient programming and treatment to those inmates with serious mental illness or to those with any mental health problem who are in maximum security settings or segregated housing. Other challenges include reduction of inmate suicide and assaults, enhancement of

officer training, provision of meaningful release planning, adoption of evidence-based practices and provision of mental health input to the inmate disciplinary process.

In regards to the utilization of Chapter 51, the Department currently has eighty-four (84) adult inmates who are on Chapter 51 commitments. Seventy-seven (77) of these are males and seven (7) are females. The vast majority (67) of the male inmates who are under commitments reside at the Wisconsin Resource Center. All of the females under commitment (7) are at Taycheedah Correctional Institution.

Within corrections, we rarely use the Emergency Detention route in order to effect a commitment. Instead, we work with the Corporation Counsel in the county where a prison is located to petition a court under Chapter 51.20 of the statutes. This process usually takes several weeks and the primary clinical purpose is to secure an involuntary psychotropic medication order for inmates who are in need of one. In addition, prisons or the Wisconsin Resource Center may petition a court for commitments under Chapter 51.20(1)(ar), which does not require an overt showing of dangerousness for inmates. However, we apply this standard to a minority of inmates. Currently eight (8) of the eighty-four (84) inmates are committed under the (ar) standard.

> We run into difficulty in one particular area. "Statute 51.20(13)(g)2m states the following:
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> "In addition to the provisions under subds. 1. and 2., no commitment ordered under par. (a) 4. or 4m. may continue beyond the inmate's date of release on parole or extended supervision, as determined under s. 302.11 or 302.113, whichever is applicable".

In effect, this passage means that any commitment ordered on a prison or jail inmate automatically expires on the inmate's release date from the correctional facility. Time and time again, this statute limits us when trying to provide appropriate mental health follow-up and release planning for inmates. If a court has determined that an inmate with serious mental illness meets the threshold for involuntary commitment within the confines of a jail or prison, it will nearly always be the case that the individual, the community and public safety are best served by continuation of that commitment after release.

Thank you for the opportunity to speak at this special committee hearing. I turn this over to Dr. Hagan who will make some brief statements regarding juvenile mental health treatment in the department.
Afterwards we'd be happy to answer any questions.

Mike's portion:

The process for an Emergency Detention in juvenile corrections is described in 51.35(3)(e). Through this process, a psychologist or psychiatrist who believes a youth meets the criteria for an involuntary commitment can recommend to the Superintendent that the youth be transferred to a mental health institute under an emergency detention. The Superintendent can then order an emergency detention. From a practical standpoint, at the boys' facilities, Ethan Allen School and Lincoln Hills School, there have been no emergency detentions under Chapter 51 in many years. This is because instead of transferring a youth who is having a severe mental health crisis to a psychiatric hospital, he is administratively transferred to the Mendota Juvenile Treatment Center (MJTC). MJTC is a 29 bed facility that operates in a manner similar to the Wisconsin Resource Center. They follow the administrative rules of the Division of Juvenile Corrections and have a more extensive staffing pattern of psychiatric, psychological and other mental health professionals compared to DOC facilities. This program was developed to provide services for youth with very

significant mental health problems who historically would not be found to meet the criteria for commitment under Chapter 51. It also resolved an ongoing problem for behaviorally problematic youth with severe psychological problems in the same way the Wisconsin Resource Center helped with this issue for adult men.

In order to provide intensive mental health programming for girls at Southern Oaks Girls School who could not be committed under Chapter 51, a separate twelve bed mental health unit was established in 2000 that parallels the services of Mendota Juvenile Treatment Center. Because the program is located at Southern Oaks, the youth is simply transferred to the unit. Prior to this, there were many emergency detentions under Chapter 51 that were initiated in the hope of having girls subsequently committed to a state mental health facility. This has decreased significantly since that time and because of establishment of this program.

While there still are emergency detentions begun at Southern Oaks, there have been only 14 girls who have been transferred to Winnebago Mental Health Institute under Chapter 51, which is slightly more than one a year. Within Southern Oaks, the process of initiating an emergency detention goes fairly smoothly.

We both would be happy to answer any questions at this time.