Civil Commitment Practices in Virginia

Perceptions, Attitudes, and Recommendations

A Report for the
Commission on Mental Health Law Reform
Commonwealth of Virginia

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Study and Report

by

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Executive Summary

The Commission on Mental Health Law Reform was established by the Supreme Court of Virginia to examine the Commonwealth's existing mental health statutes and to make recommendations for any changes required to establish an accessible service delivery system and a fair and effective process of civil commitment when needed by people experiencing mental health crises. As part of the Commission's work, an evaluation team of faculty and staff at the University of Virginia completed a large scale qualitative study to inform the need and direction of reform. Information about the current system of civil commitment was obtained from all representative stakeholder groups. Two hundred and ten (210) individuals participated in the study.

Overall, there was a consensus that the system of civil commitment in Virginia has many serious flaws, although participants in some regions expressed less frustration and fewer problems than others.

PROFESSIONAL PARTICIPANTS and FAMILY MEMBERS

Stakeholders were asked first whether they had favorable comments about civil commitment in Virginia. Typically they said no, but a few positive observations emerged with probing:

- It is better than no system.
- The commitment process helps some individuals with serious mental illness who are in crisis to get help and may prevent harm to the patient or others.
- Mobile crisis units, if they exist, can provide rapid response in a crisis.
- The system is basically fair once a person is evaluated, but getting to this point may be a challenge.

Most Serious Problems

Following the solicitation of perceptions of what was positive about the system, stakeholders were asked the following question: "*What do you think are the most serious problems with the civil commitment process?*" The most serious problems with Virginia's civil commitment system identified by stakeholders in this study are:

- Lack of available beds.
- Need more time on ECOs (Emergency Custody Order) and TDOs (Temporary Detention Order).
- When a consumer is released after an ECO because of not meeting the criteria for "dangerousness," there are not enough services in place to help this person.
- Requirements for a medical prescreening/clearance cause delays and logistical problems.
- The current 72-hour TDO is used for acute care hospital services.

- Medical insurance plans typically do not provide sufficient reimbursements to cover inpatient treatment costs, nor do they cover sufficient lengths of stay to ensure that patients are stabilized on their medications.
- Some hospitals have unofficial "do not admit" lists preventing consumers from obtaining treatment due to concerns about safety of other patients and/or lack of insurance coverage.
- Too many consumers are in jails, instead of hospitals, as a result of their behavior while mentally ill.
- Current law enforcement transportation practices are stigmatizing, unduly costly, and inefficient.
- The commitment statutes are interpreted and applied inconsistently across the state.
- The civil commitment process is confusing to many stakeholders.
- All stakeholder groups are frustrated by the "revolving door" system of consumers in and out, in and out, in and out of the hospital.
- Not everyone can "recover," some people need financial support, long-term care, and housing.
- Mandated outpatient treatment could be a good option to prevent deterioration in consumer's mental health and prevent involuntary commitment if it could be enforced, and patient rights protected.
- Protection of patient privacy needs to balanced with the needs of family caregivers to maintain contact with their loved ones following a mental health crisis.
- Reimbursement for law enforcement, community services boards (CSBs), hospitals, psychiatrists, other mental health care providers, attorneys, special justices, judges, independent evaluators, and other professionals is much too low for all the work that is required.
- Many stakeholders could identify many problems, but were not clear about who was "running the system."

Summary

- Stakeholders who participated in this study are very frustrated about the civil commitment process in Virginia.
- Stakeholders believe that the civil commitment system is in crisis.
- Stakeholders believe that current civil commitment practices throughout the Commonwealth are *not* well integrated into a high functioning mental health delivery system that ensures access to care for severely mentally ill people.
- Although some regions appear to have developed some functional "subsystems," serious problems related to civil commitment were identified even in these areas.

CONSUMERS

Although many consumers did not have detailed recollections about their involuntary commitment and hearing due to the acute nature of their illness, they were able to report

their feelings about how they were treated. ***Most consumers who interacted with the civil commitment system reported negative experiences.***

- Consumers report that having a serious mental illness stigmatized them, resulting in ongoing reduced quality of life.
- Individuals who have mental illness are no more alike than individuals who have cancer, but all typically face discrimination and negative reactions of others.
- Many individuals who have mental illnesses are functional but may need help to maintain medical stability so they can keep jobs and avoid hospitalization.
- Individuals experiencing an acute episode of mental illness (e.g., psychotic episode) are too frequently treated like criminals, and feel humiliated and degraded when they are taken to jail instead of the hospital prior to being evaluated and treated.
- Consumers have mixed reports about the effectiveness of the current mental health system in the Commonwealth, citing lack of community resources and long wait times to receive services as only two of many problems.
- Consumers do not want to travel hours to other localities to get treatment, but prefer to get treatment close to their homes.
- Consumers want competent mental health treatment, and to be treated like people with other medical conditions.
- Consumers have varied understanding of Virginia's mental health laws, including the commitment criteria and civil rights issues.
- Many consumers were unaware of advance medical directives related to mental illness.
- Consumer opinions were divided about the "right" amount of coercion to ensure that consumers get the treatment they need. Some supported monitored, mandated outpatient treatment and others strongly opposed it.
- Some consumers suggested that good, ongoing outpatient treatment would prevent the need for many involuntary commitments.
- Consumers want an active role in their treatment and decision-making about what happens to them at all points in the civil commitment process and afterwards.
- Consumers had varying views about the involvement of their family members in their care. However, most consumers agreed that having a peer advocate would be helpful.
- Consumers want more education about mental illness for themselves, their families, and all professional stakeholders.
- Consumers reported poor experiences directly related to the commitment hearing.
    - Legal representation is typically reported to be inadequate.
    - Hearings may be frightening experiences for consumers who are confused (and often psychotic) during the process.
    - Consumers want hearings to be close to their homes.
- In additional to appropriate, ongoing mental health care to prevent relapse, some consumers wanted help with housing and finding ways "to make a living."
- Some consumers said that they could not afford to pay for housing and food, much less medication.