Mental Health & Criminal Justice:
The Challenge to Provide For Incarcerated Virginians with Behavioral Health Issues

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The GAINS Center estimates approximately 1.1 million persons with serious mental illness are admitted annually to U.S. jails. Among these admissions, 72% also meet criteria for co-occurring substance use disorder.

14.5% of male and 31.0% of female inmates recently admitted to jail have a serious mental illness.
Nature of the Challenge – Virginia Perspective

- Per the 2015 *Mental Illness in Jails Report* by the Compensation Board – In July 2014 there were 6,787 individuals identified as having mental illness in the jails
- 16.81% of total jail population was reported as suffering from some form of mental illness
- 7.87% reported as suffering from “serious mental illness”
- Female inmates were disproportionately more likely to be identified as mentally ill compared to male inmates
- Per NIMH – 12 Month Prevalence of SMI in general population = 4.2%
The Mental Illness in Jails Report

- Point in Time Survey
- Response rate has improved over the years but still isn’t 100%
- Relies on report from jails & most often self-report from individuals
- No standardized screening process across jails
- No standardized assessment process across jails
- At times responses do not match up with known data
• Definition of Mental Illness = conditions that disrupt a person's thinking, perceptions, feeling, mood, ability to relate to others and/or daily functioning.
• Definition of Serious Mental Illness = Includes diagnoses of schizophrenia/delusional, bi-polar/major depressive or post traumatic stress disorder.
• At times mental illness seems to be defined by criminal behavior – “He had to be mentally ill to have ....”
• At times mental illness seems to be defined by inmate being prescribed psychotropic medications – “He must be mentally ill because he is prescribed x”
Mentally Ill in Jails

• Not a homogeneous group
  – Some have histories of MI but currently asymptomatic
  – Some have symptoms but are manageable on “outpatient” basis
  – Some have symptoms and require inpatient level of care
  – Some are asymptomatic on admission but may become symptomatic while incarcerated
Jail Based Behavioral Health Services

- Supreme Court has established that jails have a constitutional obligation to provide medical care to include psychiatric care
- Each jail decides how it will meet this standard
  - Some contract with private agency
  - Some hire own BH staff
  - Some contract with CSB to provide services
  - There is no consistent formulary across jails/agencies/systems
Code Mandated Services CSBs Must Provide in Jails

- Per §19.2-169.6 – CSB must conduct pre-screening
- Per §19.2-169.2 – CSB provides “outpatient” competency restoration services
General Fund – Funded Services CSBs Must Provide

- Pre-Admission Screening for TDOs
- Discharge Planning For Individuals Admitted to State Hospitals
- Case Management – as funds are available
- Note: There is no funding or mandate for CSBs to provide jail based BH services other than pre-screening. Some localities provide funding for jail based services and/or the jail may contract with the CSB but otherwise there is no funding/requirement.
- Virginia has funded 12 jail diversion programs which do provide some services to a subset of the population
DBHDS Responsibility for Behavioral Healthcare for Incarcerated Individuals

- Competency to Stand Trial Evaluations (§19.2-169.1)
- Sanity at the Time of the Offense Evaluations (§19.2-169.5 or §19.2-168.1)
- Inpatient Treatment to Restore Competency to Stand Trial (§19.2-169.2)
- Emergency Treatment Orders (§19.2-169.6)
- Post NGRI Adjudication (§19.2-182.2)
Trend in State Hospital Forensic Admissions

Forensic Admissions to State Hospitals by Fiscal Year

- FY '03
- FY '04
- FY '05
- FY '06
- FY '07
- FY '08
- FY '09
- FY '10
- FY '11
- FY '12
- FY '13
- FY '14
- FY '15

Blue line represents Forensic Admissions to State Hospitals.
State Hospital Forensic Admissions
By Type

FY '05 FY '06 FY '07 FY '08 FY '09 FY '10 FY '11 FY '12 FY '13 FY '14 FY '15

DOC URIST E. TX IST Eval NGRI

Virginia Department of Behavioral Health & Developmental Services
DBHDS Waitlists

- Comprised mainly of individuals who have been ordered for inpatient competency restoration treatment
- Primarily have existed at Eastern State Hospital and Central State Hospital
- Delays in receiving orders/collateral affects waitlists
- Tend to grow when “civil” bed demand grows
- Have implemented numerous strategies which have had some impact on waitlists
- Strategies focus both on “front door” and “back door” solutions.
History of DBHDS Waitlists

- CSH
- ESH
Criminal Justice “Diversion”

• Designed to divert individuals in need of behavioral healthcare, who are low risk of re-offending, out of the criminal justice system and/or

• Provide enhanced behavioral healthcare services to individuals in jails to decrease likelihood they will re-offend once released and/or

• Provide post-release referral/linkage to behavioral healthcare to decrease risk of re-offense
Sequential Intercept Model
Patty Griffin, PhD & Mark Munetz, MD

People move through criminal justice system in predictable ways.

Illustrates key points to “intercept” individuals to ensure:

✓ Prompt access to treatment.
✓ Opportunities for diversion.
✓ Timely movement through criminal justice system.
✓ Linkage to community resources.
Five Key Points of Interception

1. Law enforcement / Emergency services.
2. Booking / Initial court hearings.
4. Re-entry from jails/prisons.
5. Community corrections / Community support.
Virginia’s Diversion Programs

• Intercept 1: 37 CIT Programs & 32 CIT Assessment Sites
• Intercept 2: Four GF funded magistrate level booking programs
• Intercept 3: Five GF funded jail diversion programs including one funded MH Docket (10 Dockets total), Drug Courts (37), Regional Jail Team (re-investment funds)
• Intercept 4: Two GF funded jail diversion programs, seven forensic discharge planners
• Intercept 5: One GF funded specialized probation program
Virginia’s Diversion Programs

- Hampton-Newport News
- Middle Peninsula-Northern Neck
- New River Valley
- Portsmouth
- Rappahannock Area
- Virginia Beach

**Intercept 1: Law Enforcement & Emergency Services**

- Arlington
- Chesterfield
- Henrico
- New River Valley

- Alexandria
- Arlington
- Fairfax-Falls Church
- Hampton-Newport News
- Henrico
- Middle Peninsula-Northern Neck
- New River Valley
- Portsmouth
- Prince William
- Rappahannock Area
- Virginia Beach

**Intercept 2: Booking & Initial Court Hearings**

- Alexandria
- Arlington
- Fairfax-Falls Church
- Hampton-Newport News
- Henrico
- Middle Peninsula-Northern Neck
- New River Valley
- Portsmouth
- Prince William
- Rappahannock Area
- Virginia Beach

**Intercept 3: Jail & Court**

- Alexandria
- Arlington
- Fairfax-Falls Church
- Hampton-Newport News
- Henrico
- Horizon
- Middle Peninsula-Northern Neck
- New River Valley
- Norfolk
- Portsmouth
- Rappahannock Area
- Richmond
- Virginia Beach

**Intercept 4: Re-Entry**

- Alexandria
- Arlington
- Fairfax-Falls Church
- Hampton-Newport News
- Henrico
- Hampton-Newport News
- Henrico
- Horizon
- Middle Peninsula-Northern Neck
- New River Valley
- Norfolk
- Portsmouth
- Rappahannock Area
- Virginia Beach

**Intercept 5: Community Corrections & Community Support**
State Funds Specifically Allocated for Jail Diversion

- $10.5 million for CIT Assessment Sites (GF)
- $2,127,050 for Jail Diversion Programs (GF) – FY ’09
- $476,250 for Forensic Discharge Planners (GF) – FY ’07
- $800,000 CIT Train the Trainer (Asset Forfeiture)
A Map to Move Forward

- Support funding for criminal justice diversion programs such as Magistrate Diversion, Mental Health Dockets, Re-entry planning, and specialized case loads for probation officers (to minimize unnecessary technical violations)
- Support funding for expansion of Discharge Assistance Planning (DAP) funds, and permanent supportive housing to help discharge currently hard to place individuals.
- Support funding for expansion of housing alternatives for individuals with behavioral health issues
- Support funding for expansion of availability of outpatient competency restoration services
- Fund forensic discharge planners to ensure individuals are linked to services post release
A Map Forward (cont.)

• Introduce or support legislation to create an oversight system for pre-trial evaluations to ensure that forensic standards of practice are being met and that only those individuals truly in need of hospitalization are so referred

• Support or introduce enabling legislation for Mental Health Courts

• Introduce or support legislation to expand the number/types of misdemeanor crimes which qualify for the 45 day rule for competency restoration (see §19.2-169.3 c)

• Support or introduce legislation requiring minimum standards for healthcare (to include behavioral healthcare) in local/regional jails and provide sufficient funding for this mandate

• Support or introduce legislation to change Virginia’s practice of terminating (rather than suspending) benefits upon incarceration and allow those in jail to re-apply for resumption of benefits prior to release
A Map Forward (cont.)

• Mandate a standardized screening and assessment process in all jails
• Support the establishment of standardized formularies via statewide purchasing
• Support Mental Health First Aid or CIT training for jail personnel
• Expand forensic peer support
• Address the issue of the uninsured as persons with mental illness are disproportionately uninsured, unemployed, yet suffer from multiple health issues.