Quality of Health Care Services in Virginia Jails and Prisons, and Impact of Requiring Community Services Boards to Provide Mental Health Services in Jails – Final Report of 2-year Study

September 18, 2018 Meeting

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Study Background

- This is the final report of a two year study concerning health care services provided in jails and prisons based on resolutions that did not pass out of House Rules committee but were approved by the JCHC members at the May 23, 2017 Work Plan Meeting

1. HJR 616 by Delegate O'Bannon: A study of the quality of health care services in jails and prisons including:

   A review of:

   - Quality and oversight of the delivery of health care services
   - The process for the development and implementation of performance measures
   - Enforcement of contracts

   Development of recommendations for improving the quality of health care services

2. HJR 779 by Delegate Holcomb: A study of jails to determine:

   - Whether to require Community Services Boards to provide mental health services in jails
   - The impact of requiring Community Services Boards to provide mental health services in jails, including the costs and benefits

Legal Obligation to Provide Health Care to the Incarcerated

By law VADOC and the local and regional jails are required to provide adequate health care to incarcerated offenders (U.S. Const. Amend. VIII; §53.1-32, and § 53.1-126 Code of Virginia).

Virginia Code concerning the purchase of medicine by jails and regional jails (§ 53.1-126) states: "The sheriff or jail superintendent shall purchase at prices as low as reasonably possible all foodstuffs and other provisions used in the feeding of jail prisoners and such clothing and medicine as may be necessary."

Access to adequate health care, not quality health care, was defined by the United States Supreme Court beginning in 1976 (*Estelle v. Gamble,* 429 U.S. 97, 97 S.Ct. 285). The definition encompasses the idea of providing incarcerated offenders with a "community standard" of care that includes a full range of services. The courts identified three rights to health care for incarcerated offenders:

- The right to have access to care
- The right to have care that is ordered by a health care professional
- The right to professional medical judgment*

The duty prison and jail officials have is to NOT be deliberately indifferent to an offender's serious medical needs which the court deems cruel and unusual punishment, a violation of the 8th Amendment.

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* *Conway,J.D. LLM; Craig A. A Right of Access to Medical and Mental Health Care for the Incarcerated. 2009. Health Law Perspectives (June)*

Putting Health Care in Jails and Prisons into Perspective - Staffing

- Health care in jails and prisons does not operate in a vacuum. It is subject to the same financial and quality of care pressures as the private sector health care system.
- Rising demand for health care services due to an aging population translates into a rising demand for healthcare workers. There is a growing national gap between health care related job openings and new hires in all fields. This gap reflects both industry shortages and growing pressures to increase wages. *
- The 1st item of the 22 listed requirements in the Fluvanna Correctional Center for Women Class Action lawsuit settlement is for the state to address medical professional "staff levels". **
- 4 of the top 5 sought after health care positions - primary care and internal medicine physicians, psychiatrists and nurse practitioners - are among the most requested by recruiters in the correctional industry. ***
- Armor Correctional Health Services provides health care to 10 prisons across the Commonwealth and has been using temporary nursing services throughout its operations in order to meet the staffing levels required in its contracts. VADOC recently offered a $325,000 compensation package to a physician in order to hire a medical director at Fluvanna.

Sources: * Future for Healthcare Jobs: Seven Charts Show Intensifying Demand for Services and Workforce. AMN Health Care News. September 6, 2018. (https://www.amnhealthcare.com/latest-healthcare-news/future-for-healthcare-jobs/#jobs)
** Fluvanna Settlement Agreement. Case 3:12-cv-00036-NKM Document 221-1 Filed 09/15/15 Page 2 of 57 Pageid#: 4086
*** 2017 Review of Physician and Advanced Practitioner Recruiting Incentives. Merrit Hawkins. (https://www.merritthawkins.com/uploadedFiles/MerrittHawkins/Pdf/2017_Physician_Incentive_Review_Merritt_Hawkins.pdf)

Putting Health Care in Jails and Prisons into Perspective - Measuring Quality

- Establishing valid metrics to measure the quality of care in the health care system is a challenge. Recent studies of physician and hospital quality measures raise concerns about their usefulness and effectiveness *
- The National Commission on Correctional Health Care (NCCHC) establishes national health care standards and performance measures for correctional systems. The organization reports that there are limited health care data available to assess the quality of health care in the corrections setting. **
- Articles on correctional health care offer little guidance on how to choose quality performance measures in the correctional setting. Most systems follow the guidelines established by the NCCHC.
- A 2011 study published by RAND Corporation found that Texas and Missouri had the most robust dashboards of quality measures. The measures work because of the "sophisticated data systems" in which the two states invested. ***

* Public Reporting Measures Fail to Describe the True Safety of Hospitals; Study finds only one measure out of 21 to be valid. John Hopkins Medicine. May 10, 2016 (https://www.hopkinsmedicine.org/news/media/releases/public_reporting_measures_fail_to_describe_the_true_safety_of_hospitals). MacLean, Catherine H. M.D., Ph.D., et. al. Time Out — Charting a Path for Improving Performance Measurement. The New England Journal of Medicine. May 10, 2018. (https://www.nejm.org/doi/full/10.1056/NEJMp1802595)

** Telephone Conversation with Brent Gibson. NCCHC. March 1, 2018.

*** Damberg, Cheryl L. A Review of Quality Measures Used by State and Federal Prisons. Journal of Correctional Health Care. 17(2) 122-137.

How We Currently Judge the Jail and Prison Health Care Systems

- Deaths
- Complaints and Lawsuits

Virginia Prison and Jail Population

- There were over 314,000 jail confinements during 2017 involving 170,303 individuals.*
  - The number of individuals confined in jail represents 2.0% of the state's population
- The following table displays the Average Daily Population (ADP) for jails and prisons along with the average length of stay for those confined.

ADP in Jails, Regional Jails and Prisons		
Setting Type	ADP	Average Length of Stay
Jails and Regional Jails **	27,477	17 days
Prisons (based on releases in 2018) ***	28,887	6 years
Total ADP	56,364	

* Compensation Board, report for JCHC. August 1, 2018.

** Mental Illness in Jails Report. Compensation Board, 2017. Jackson, Kari. Re: 2016 Mental Health Report. Email to Stephen Weiss, August 29, 2018. Note that the majority of people sent to jail are released quickly. Those that remain can be in jail for many weeks to several months or years depending on their sentence and custody level.

*** ADP - Management Information Summary Annual Report For the Fiscal Year Ending June 30, 2017. Virginia Department of Corrections. McGehee, Warren. Re: Average Length of time in prison before release. Calculated based on those released. Email to Stephen Weiss. August 13, 2018.

Deaths

Virginia Adult (19+) Suicide and Death Rates: (2014 – 2016)

Suicide Rate

State – 1.67 per 10,000

Jail – 4.54 per 10,000 ADP

Prison – 1.03 per 10,000 ADP

Death Rate

State – 10.02 per 1,000

Jail – 1.98 per 1,000 ADP

Prison – 3.07 per 1,000 ADP

Sources

Suicide Data for Virginia, Virginia Department of Health, Data and Statistics, (http://www.vdh.virginia.gov/HealthStats/stats.htm)

Population Data for Virginia, Weldon Cooper Center for Public Service, UVA. (https://demographics.coopercenter.org/virginia-population-estimates)

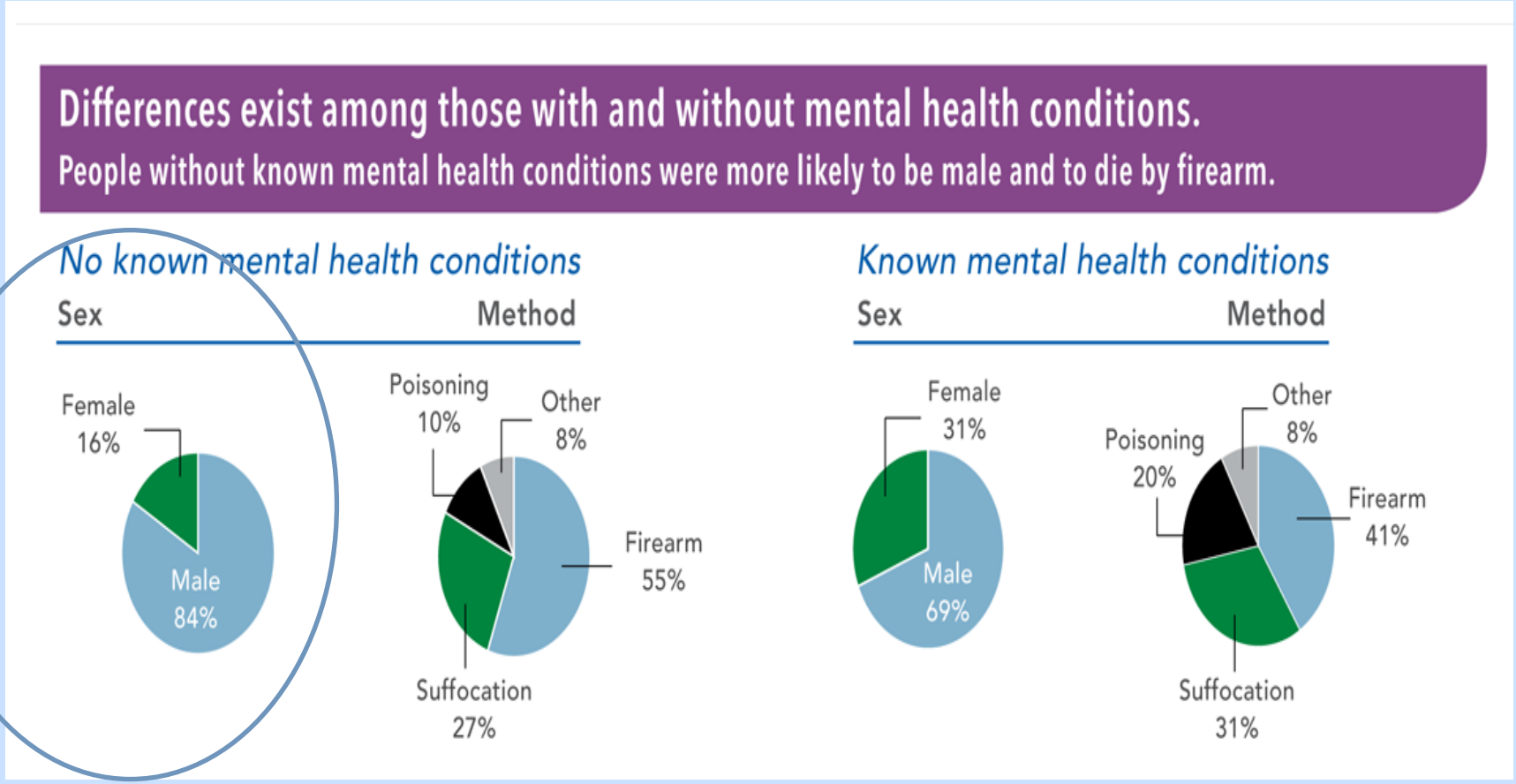
Suicide Data for Jails, Custody Level City-County, Office of Chief Medical Examiner.

Population Data for Jails, Locally Responsible offenders, Mental Health Reports; Compensation Board, Commonwealth of Virginia. (http://www.scb.virginia.gov/reports.cfm)

Population Data for Prisons, VADOC MMIS Annual Reports. (https://vadoc.virginia.gov/about/facts/default.shtm)

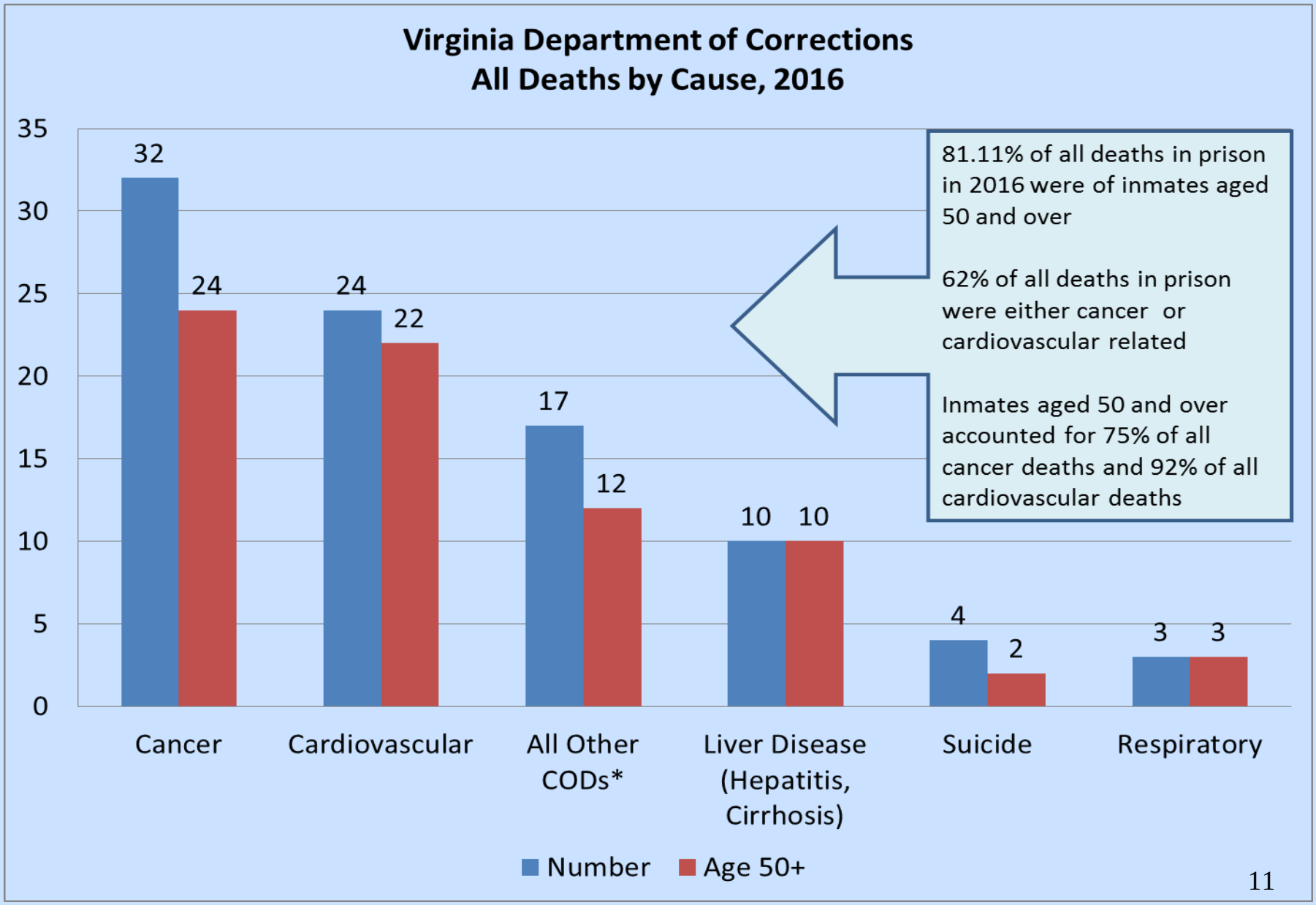
CDC 2018 Report on Suicide

More than half of people who died by suicide, 54%, did not have a known mental health condition.

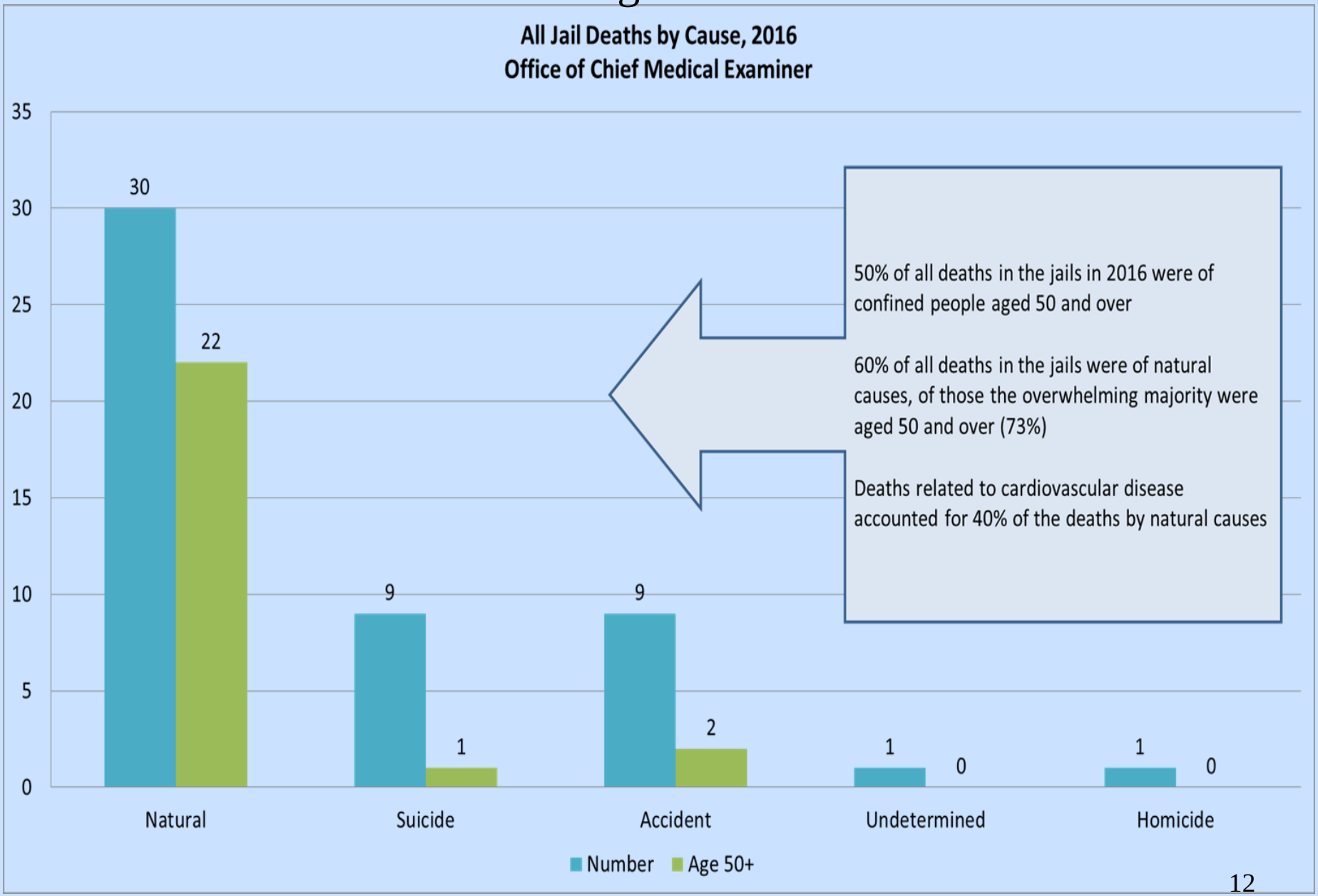


Source: CDC's National Vital Statistics System

Prison Deaths



Local and Regional Jail Deaths

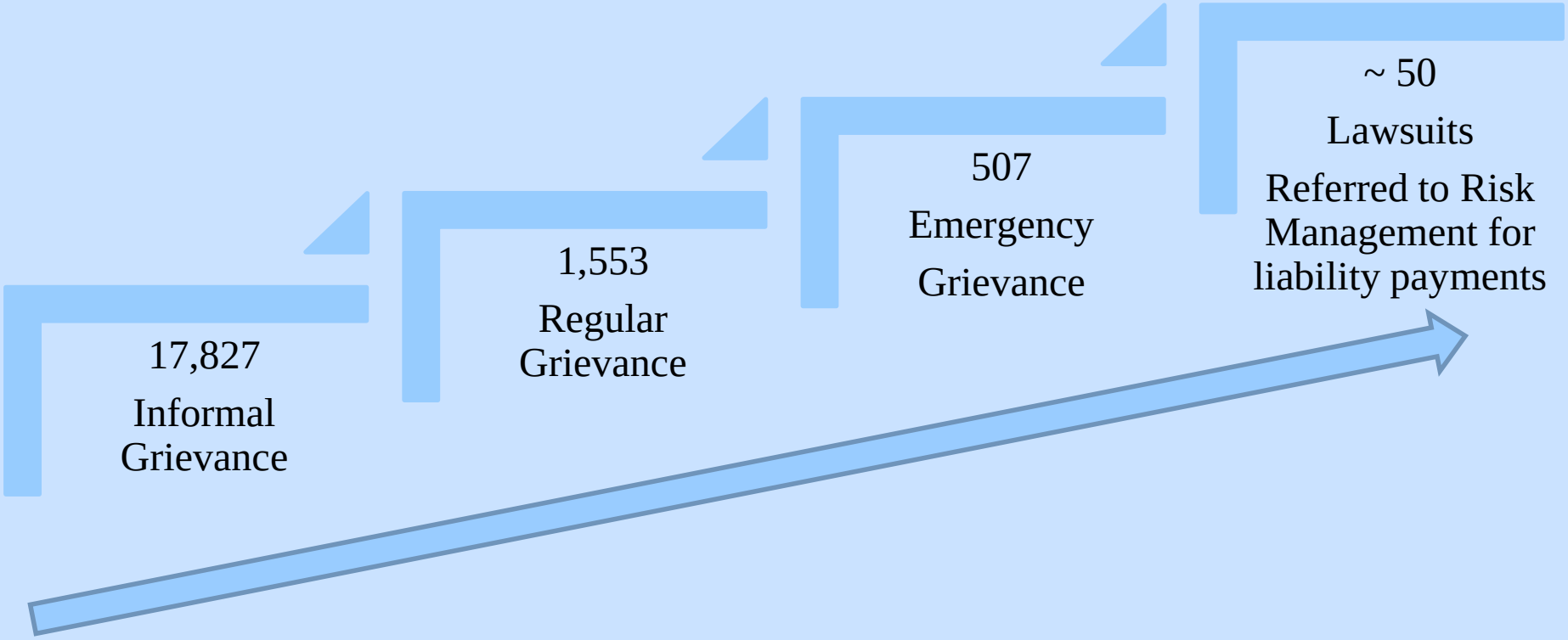


Complaints and Lawsuits

Offender Medical Grievances (Complaints)

- Local and regional jails maintains their own medical grievance records. The number of medical related grievances filed against jails and regional jails are not reported to the state.
- VADOC medical grievances within the state prison system are entered into the Correction Information System (CORIS).
    - Medical grievances can start as a verbal report to a VADOC officer, or
    - through the VADOC grievance process (Code of Virginia §8.01-243.2, §53.1-10 and operating procedure 866.1 – see Appendix).
- VADOC received almost 20,000 medical grievances from just under 7,200 offenders in 2017. One offender filed 59 grievances during the year.
- The overwhelming majority of health care related grievances are managed by the facility. Facility staff determine which grievances are serious and need attention and which ones are filed by offenders for other, more nefarious, reasons. Regardless, all grievances are reviewed.
- Facilities that do not have an infirmary go through the same health care and medical triage process as those with infirmaries. Emergencies may be taken to an offsite emergency room or the person may be transferred to a facility with an infirmary.
- Offenders also have the right to sue over their health care. The Attorney General is currently working on 35 cases filed in 2018. Some may be dismissed while others may be referred to Risk Management.

Number of VADOC Medical Grievances (2017)



The VADOC grievance process is a "step" process. Over 90% are resolved at the facility. Offenders can appeal and turn the grievance into a level 2 "regular" grievance which elevates it for more detailed review. Regular grievances can be appealed and become "emergency" grievances which are elevated to the VADOC central office Medical Director / Medical Unit. Emergency grievances are also used when an offender believes they are in a medical emergency situation and need attention immediately.

Comments from JCHC Tours of Jails and Prisons

- In a meeting at a jail in northern Virginia the medical staff told of an offender that needed prescription shoes. When the offender returned to his cell wearing the shoes almost every offender in his area asked for special shoes, including Nike Air Jordan's.
- At another jail an offender feigned heart problems. After several unsuccessful attempts to assess the problem at the jail two deputies transported the offender to a local hospital. Further testing at the hospital found nothing. When the offender returned to his cell he told his cellmate he was faking. The local jail had to pay the hospital for the testing. In addition, the sheriff noted that when an offender is being transported to a hospital they are considered, first and foremost, a flight risk. "Public safety and security always takes precedent during a transport."
- Many sheriffs indicated that 20 years ago a person went to jail and their families did not call or seem to care. Now parents call all of the time and sometimes the offender they are complaining about is 50+ years old.
- In several meetings with physicians they stated that working with offenders in jail and prison is a challenge but rewarding. Offenders often come into the jail system very sick. The jail *"is like an emergency room and also one of the first lines of the public health system."*
    - It is not unusual for offenders to deny being on drugs or alcohol at the time of booking. Some begin to detox on their first night in jail. Diabetics often enter the jail with blood-sugar counts of 500 mg/dL. Physicians that work in jails consider this "normal." Getting the blood sugar down 100 to 140, which is medically normal, is an accomplishment.
    - Once an offender starts receiving medical tests they ask for more. The most common offender complaint is that they are not getting tests they think they should get or were told they needed by any one of a variety of people.

Special Populations - Geriatrics

- From FY 2010 to FY2016, Virginia's State Responsible (SR) Confined population age 50 and older increased by 37.3%, from 5,697 to 7,821, accounting for 21.2% of the SR Confined population. New Court Commitments for people over age 50 are driving the increase in the aging population.
- A claims report by Anthem BC/BS of prison offenders receiving hospital services offsite at VCU-HS or other private providers indicated that:
  - 32% were age 55 and over
  - Accounted for 45% of the $45 million spent on offsite hospital services
- The offsite medical needs of offenders impact facility security staff.
  - Each transportation run requires 1 to 2 certified corrections officers depending on security levels
  - Medical transports for offenders 50 and older can last 8.5 hours or more due to the complex nature of their illnesses *
- The aging prison population and all of the health care complexities that accompany it may require the General Assembly to review changes for the conditional release of geriatric prisoners (Code of Virginia § 53.1-40.01). According to the Virginia Parole Board, the number of offenders eligible for geriatric release increased by 156% (454 to 1,160) between 2006 and 2016.
- There are only 2 categories of offenders eligible for geriatric release:
  - 60 to 65 with at least 10 years of the sentence served, and
  - 65 and older with at least 5 years of the sentence served
- Releasing geriatric offenders over the age of 60 creates special reentry challenges. Discharge planning requires offenders to have a place to live once discharged. Many of the offenders over 60 have no living relatives or their relatives moved away and can't be located.

Special Populations - Dementia

- Several Sheriffs and Regional Jail Superintendents described events surrounding the confinement of people with dementia.
  - One story involved a 68 year old woman with dementia. Her husband called the police because she was violent and attacked him. When the police officer arrived he tried to talk to the woman, she spit on him and he arrested her for felony assault of a police officer.

    The Community Services Board (CSB) was called into the jail immediately to assist, screen and evaluate. The woman did not meet the criteria for state hospital admission.

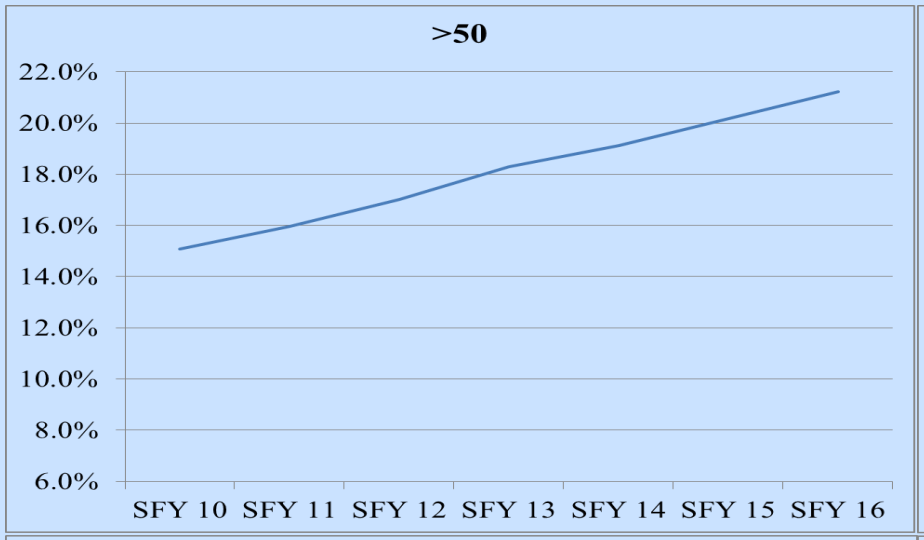
    A collaborative decision was reached with the jail, CSB, Magistrate, judge and attorney assigned to the case. The woman was charged with a felony and held in the jail without bail. The judge would not release her because she had dementia and no place to go. Her family, including her husband and a daughter living in another state, did not want custody of her because she was physically abusive.

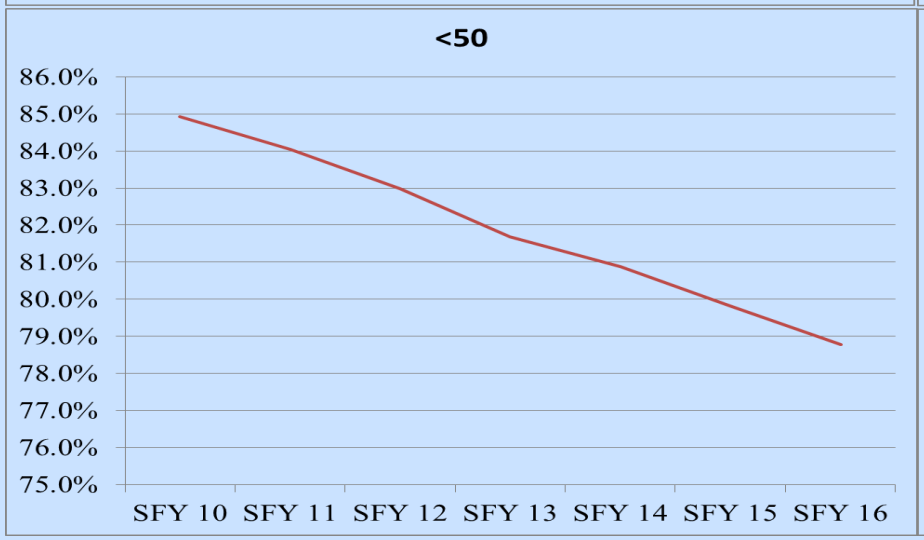
    No nursing home or other community living facility would take her because she had felony charges pending and she was violent. Social services from the community were severed because she was in jail.

    The only place where the woman was able to receive care was in the jail. She stayed for 2 months through court delays before the judge finally said he could not let her stay any longer and dropped the charges. An ambulance was called to the jail and the woman was released to the local hospital. No one at the jail knew what happened to her from there.
  - A sheriff in a small town told of a call he received to assist one of his officers. When he arrived at the address, a man was disoriented, violent and yelling at his wife who was locked in her car. He had taken a swing at the officer on the scene. The sheriff knew the man, they once worked together. Had he not shown up the man would have been arrested and taken to jail for a felony.

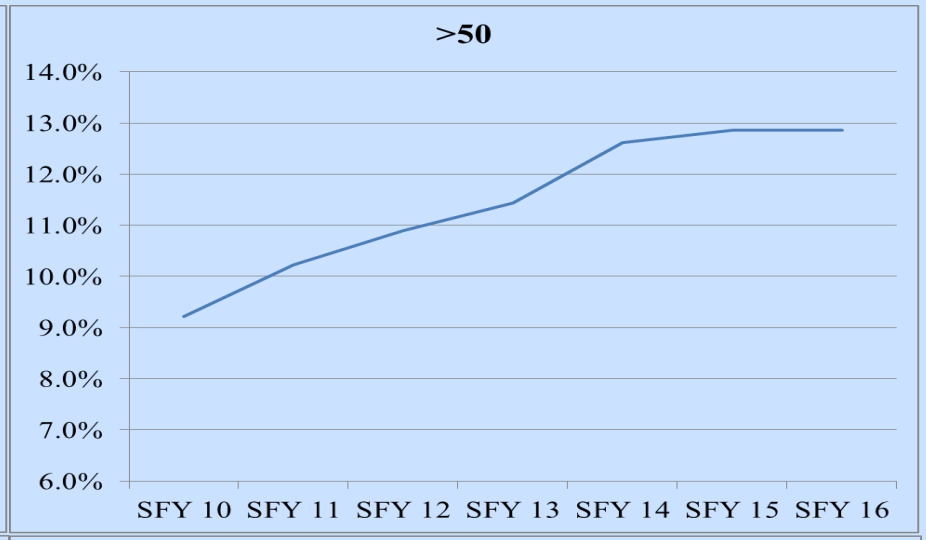
The Aging Prison Population in Virginia

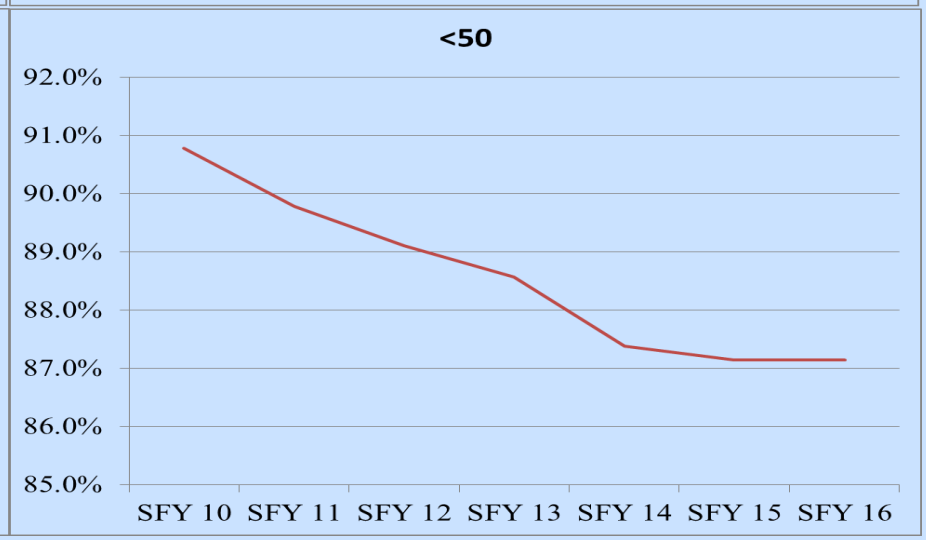
State Responsible Confined Population by Age Group





New Court Commitments to Prison by Age Group





Source: Mcgehee, Warren, Data extracted by VADOC Statistical Analysis & Forecast Unit. June 30, 2016. VirginiaCORIS. Email to Stephen Weiss. August 30, 2018; and the Virginia Department of Corrections. FY2016 Geriatric Offenders within the SR Population. Statistical Analysis and Forecast Unit. January 2018.

Prepared by Stephen Weiss, Senior Health Policy Analyst. Joint Commission on Health Care.

Special Populations – Opioid Addicted Pregnant Women

- VADOC data indicate that:
  - The number of women confined in state prison increased by almost 13% between FY 2010 and FY 2016
  - The number of men confined decreased by 3.55%
  - 35.3% of new prison sentences for women between 2012 and 2016 were for parole violations
  - Larceny and fraud made up 46% of the new sentences
  - drug sales and possession made up 27%
  - More women in community corrections programs test positive for opioids (36%) than for marijuana (26%) or cocaine (18%).

VADOC – Prison Population by Gender (2010 to 2016)					
Fiscal Year	**Women**	**Men**	**Total**	**% of Total Women**	**% of Total Men**
FY 2010	2,643	35,131	37,774	7.0%	93.0%
FY 2011	2,650	34,717	37,367	7.1%	92.9%
FY 2012	2,624	34,296	36,920	7.1%	92.9%
FY 2013	2,702	33,945	36,647	7.4%	92.6%
FY 2014	2,997	34,662	37,659	8.0%	92.0%
FY 2015	3,123	34,615	37,738	8.3%	91.7%
FY 2016	2,979	33,884	36,863	8.1%	91.9%
Change	**336**	**(1,247)**	**(911)**		
Percent Change	**12.71%**	**-3.55%**	**-2.41%**		

Source: Virginia Department of Corrections. (https://vadoc.virginia.gov/about/facts/default.shtm)
Celi, Tama. Female State Responsible, New Court Commitments (SR NCC) Follow-Up Report. Virginia Department of Corrects Research, Policy and Planning. May 2018. Prepared by Stephen Weiss, Sr. Health Policy Analyst, Joint Commission on Health Care

- Several physicians working for different jails reported an increase in the number of judges sentencing opioid addicted pregnant women to jail for their, and their babies, safety. This pattern is posing new and challenging health care problems for the physicians.

Justice Involved and the Mentally Ill

- Most mentally ill and substance use disorder arrests may be due to inappropriate illegal behavior linked to their mental health and substance use disorder condition. Often law enforcement is called to address a disturbance, i.e. loitering, petty larceny, etc. An argument, a punch or any display of resistance by the person can result in an arrest and felony rather than minor misdemeanor charges.

- In Virginia, 76.93% of the 7,201 offenders in jail with mental illness were charged with a felony in 2017. Felony charges are more serious than misdemeanors and include longer sentences. The ability to divert a person charged with a felony into a more appropriate community treatment setting is difficult. Most community housing programs, group homes and nursing homes won't accept a person charged with a felony. *

- A person taken into custody by law enforcement has to be brought "forthwith before a magistrate" to be charged with a crime. In some locations that could mean less than a few hours. **

- Every jail and regional jail in Virginia either has a magistrate on duty 24/7, or has access to a magistrate 24/7 through a tele-network established by the courts. Immediate access to the magistrates after an arrest provides little time to assess whether a person arrested should be charged with a crime or diverted for mental health treatment and services.

Sources:
* Virginia Compensation Board Mental Health in the Jails Report, 2017. Data reported for the month of June 2017.
** Code of Virginia § 19.2-82

Prevalence Rate Estimates of the Mentally Ill

The number of inmates held in local jails with mental health disorders has grown 53% since 2008, from 4,879 in 2008 to 7,451 in 2017. The number of inmates in DOC facilities with mental health disorders has grown 29% since 2009, from 6,499 in 2009 to 8,398 in 2017.[1]

	United States 2016 (2)	Virginia 2016 (3)	Virginia Jails June 2017 (4)	Virginia Prisons June 2017 (5)
Percent Any Mental Illness	18.3%	19.9%	17.63%	27.4%
Percent Serious Mental Illness	4.2%	4.6%	9.55%	2.71%

1. Wingrove, Lester. Re: Mental Health Codes. Email from Tama Celi to Stephen Weiss. August 29, 2018.
2. National Institute of Mental Health (NIMH). Mental Illness - (adults aged 18 and older). (https://www.nimh.nih.gov/health/statistics/mental-illness.shtml#part_154785)
3. Substance Abuse and Mental Health Services Administration (SAMHSA). 2015-2016 NSDUH State-Specific Tables. Table 103, Virginia. (https://www.samhsa.gov/data/report/2015-2016-nsduh-state-specific-tables)
4. Virginia Compensation Board Mental Health in the Jails Report, 2017. Data reported for the month of June 2017.
   The data collected from the jails by the Compensation Board is for one month. The actual total number of unique individuals with mental illness that pass through the jails in a year is significantly higher than what the percentage for the month of June 2017 may reflect.
5. Mcgehee, Warren. Re: Mental Health Codes. Email to Stephen Weiss. August 29, 2018. Serious mental illness include data from the VADOC mental health codes for substantial, severe and moderate impairments. The data reported by VADOC is for the same month and year as the Compensation Board data. The actual total number of unique individuals with mental illness in the prisons may not be that different from one month to the next or over the course of a year because the prison offender population is less volatile than the jail population.

Prepared by Stephen Weiss, Senior Health Policy Analyst, Joint Commission on Health Care

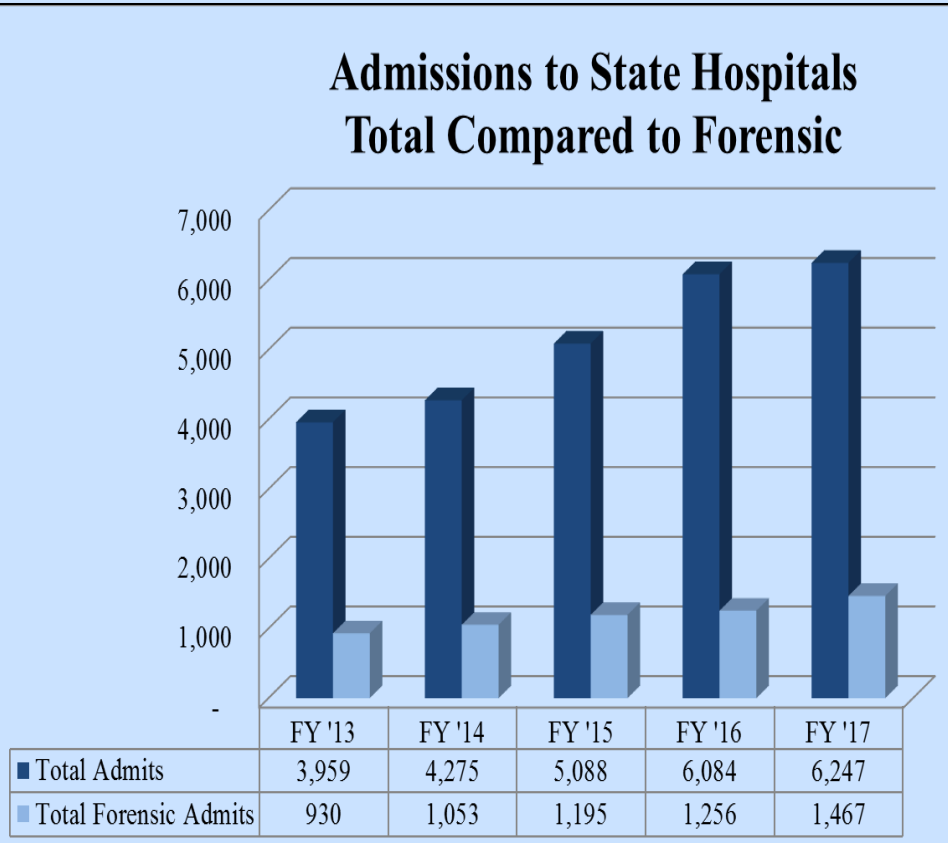
Number of Offenders in Jail
Suspected to be Mentally Ill - Seriously Mentally Ill

Year	# of Individuals suspected of having <u>any</u> mental illness	% of total jail population suspected of having any mental illness	# of Individuals suspected of having a <u>serious mental illness</u>	% of total jail population suspected of having a serious mental illness
2012	6,322	11.07%	3,043	5.33%
2013	6,346	13.45%	3,553	7.53%
2014	6,787	13.95%	3,649	7.50%
2015	7,054	16.81%	3,302	7.87%
2016	6,554	16.43%	3,355	8.41%
2017	7,451	17.63%	4,036	9.55%
Change: 2012-2017	**1,129**		**993**	
% Change	**17.86%**		**32.63%**	
Source: Mental Health Standards for Virginia's Local and Regional Jails. Department of Behavioral Health & Developmental Services. August 31, 2018.				

- People in the jails may be "situationally mentally ill," have a history of mentally illness, or be seriously mentally ill.
- According to jail officials, a significant number of offenders in jail become depressed and anxious while confined. Any number of events post-booking can alter a person's behavior and state of mind. An difficult hearing, for example, can create serious and sometimes suicidal behavior in even the most apparently stable of offenders. These offenders did not have any issues prior to confinement and may not have any issues once released. These offenders are considered "situationally mentally ill". They pose unique and sometimes unpredictable problems for jail officials.

Temporary Detention Orders for Hospitalization			
	TDO from Jails	**Total TDO**	**Percent from Jails**
FY 2012	234	20,059	1.20%
FY 2013	251	19,971	1.30%
FY 2014	329	21,055	1.60%
FY 2015	423	22,804	1.90%
FY 2016	391	23,745	1.60%
FY 2017	563	23,906	2.40%
Change	**329**	**3,847**	
% Change	**140.60%**	**19.18%**	

KM Faris, AA Allen, and TM Ko. Annual Statistical Report. Adult Civil Commitment Proceedings in Virginia. FY 2017. Page 10. January, 2018; and "Schaefer, Michael. "Re: TDO and ECO Data." Email to Stephen Weiss. July 13, 2018.



Source: Virginia Department of Behavioral Health and Developmental Services.

- 140,011 Virginians received mental health or substance use disorder services in 2018. Of that amount, 27,696, 19.8%, were served for the first time by CSBs.
- Temporary Detention Orders (TDOs) from the jails to a psychiatric hospital increased by 140.6% between 2012 and 2017.
- Total admissions and forensic admissions increased by 58% between 2013 and 2017. Forensic admissions averaged 23% per year of total admissions.

Source: Virginia Department of Behavioral Health and Developmental Services

Jail Mental Health Pilot Projects: Jails and CSBs

- The Department of Criminal Justice Services (DCJS) collaborated with the Department of Behavioral Health and Developmental Services (DBHDS) and the Compensation Board to provide funding for mental health pilot projects that will establish evidence-based behavioral health services in six local and regional jails.
- The October 2017 pilot project report noted that implementation of mental health programs in a jail setting is complex and required pilot sites to enhance coordination and communication with internal and external stakeholders. In addition, the projects are staff intensive and *the temporary nature of the funding has made it difficult to hire and retain staff and maintain continuity in implementation*.
- The pilot programs offer insight into some of the barriers that jails and CSBs are addressing, such as:
  - 4 of the 6 pilot projects listed the lack of affordable housing as the single biggest barrier to helping mentally ill offenders with re-entry
  - Lack of data collection and a database

Jail Mental Health Pilot Project Grant Awards for FY17 and FY18	
Chesterfield County	$416,281
Hampton Roads Regional Jail	$939,435
Middle River Regional Jail	$536,384
Prince William-Manassas Jail	$410,898
Richmond City Jail	$670,813
Western Virginia Regional Jail	$526,185

Jails with Mental Health Units
And CSB Offices in the Jails

- The next 2 slides indicate which local and regional jails reserved space within their facility for a mental health unit and which local and regional jails provide office space with a computer to CSB staff.

- Providing office space to CSB staff with computer access improves communications between the CSB and the jail regarding which offenders may have received mental health and/or substance use disorder services from the CSB prior to incarceration.

- The improved communication provides the jail and the judicial system with options for offenders who have a history of mental health problems. Options include:

    - Medication information
    - Treatment planning inclusion in a release program
    - Discharge planning for re-entry into the community
    - Collaboration and consultation with other health care providers in the jail for improved treatment of offenders while incarcerated

Jails and Regional Jails with Mental Health Units, DCJS Pilot Project for Mental Health Services, and Office Space for Community Service Boards

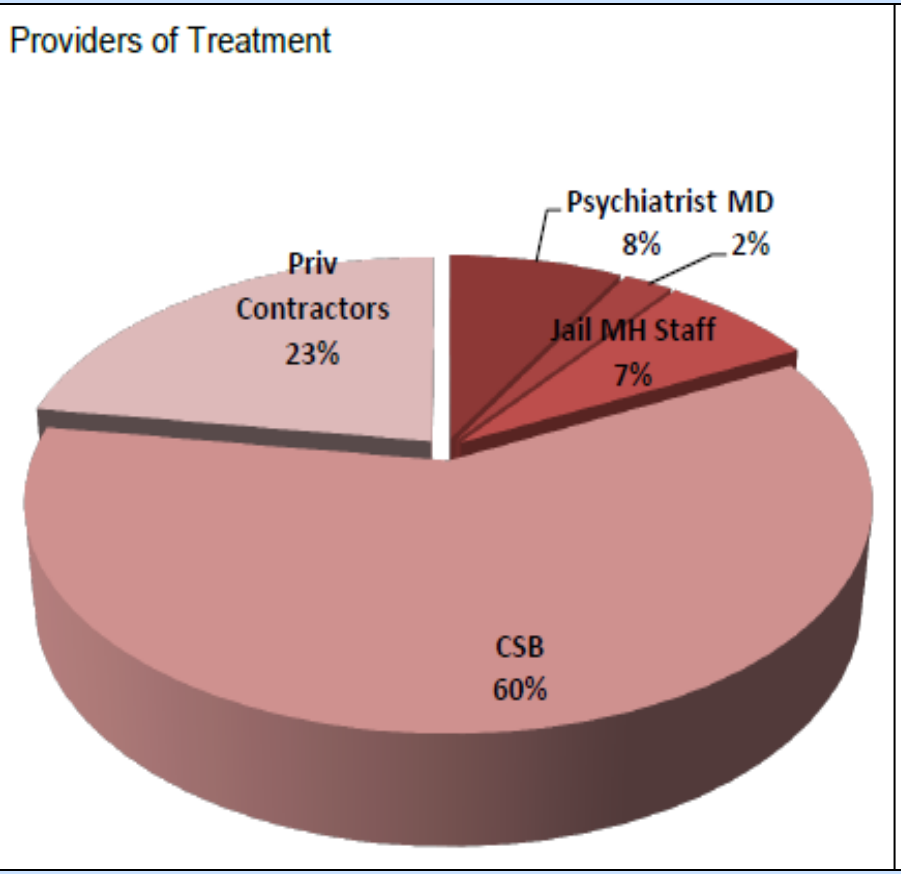
Jail Name	2017 ADP	Total Beds	DCJS Pilot Project CSB Office in Jail	CSB Jail Office
Fairfax Adult Detention Center	1,053	96		Y
Virginia Beach Correction Center	1,358	88		
Hampton Roads Regional Jail	1,111	69	Y	
Norfolk City Jail	1,146	54	Y	
Henrico County Jail	1,393	48		Y
Richmond City Jail	1,013	48	Y	
New River Regional Jail	914	33		
Arlington County Detention Facility	503	29		Y
Northwestern Regional Jail	654	28		
Chesapeake City Jail	995	27		
Western Virginia Regional Jail	856	24	Y	
Alexandria Detention Center	380	24		
Newport News City Jail	475	14		
Rockingham-Harrisonburg Regional Jail	323	10		
Pittsylvania County Jail	109	5		
Culpeper County	80	5		
Bristol City Jail	145	4		
Middle Peninsula Regional	173	3		Y
Gloucester County Jail	41	3		Y
Blue Ridge Regional Jail (all locations)	1,074	0		
Western Tidewater Regional	672	0		
Totals	**14,468**	**612**	**4**	**5**

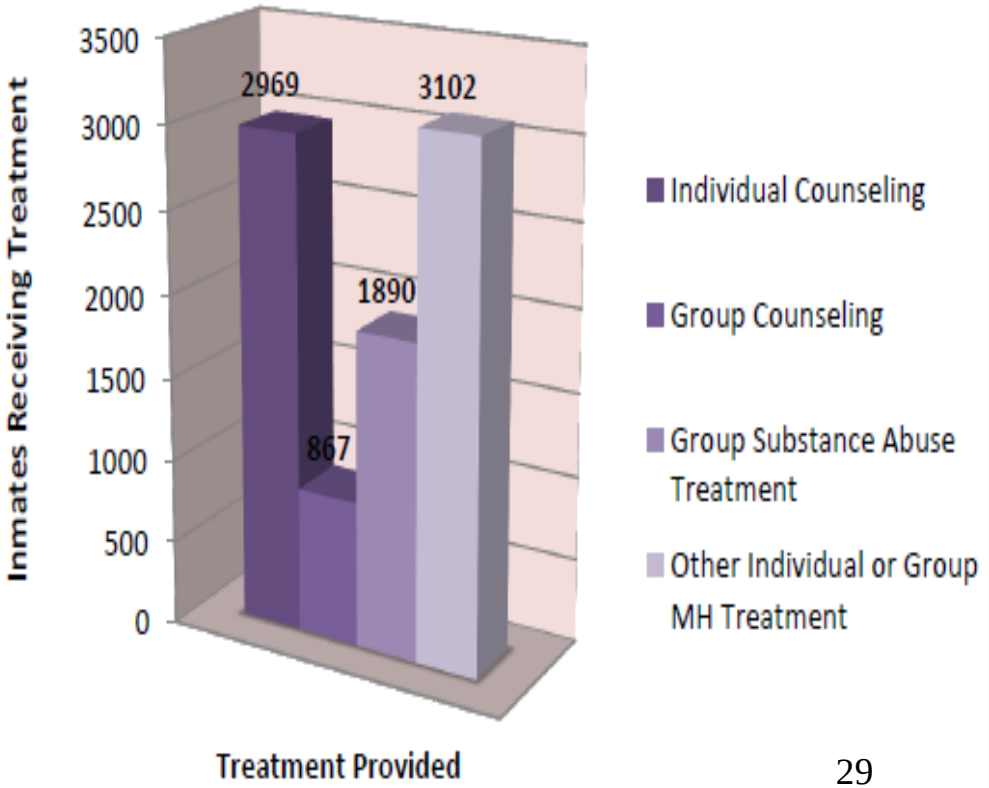
Source: Compensation Board 2017 Mental Illness in Jails. November 1, 2017. Pages 60-61. Joint Commission on Health Care. Email Survey Responses to Stephen Weiss. August 10, 2018. Report on the Virginia Department of Criminal Services Jail Mental Health Pilot Programs. Virginia Department of Criminal Justice Services. October 2017. Blue Ridge Regional Jail (Amherst / Bedford / Campbell / Halifax / Lynchburg)

Community Services Boards with Offices in Jails without a Mental Health Unit			
Jail Name	**CSB Office in Jail**	**CSB Computer in Jail**	**Hours**
Henry County	Yes	Yes	Thursday: 4 hours
Middle River Regional Jail		Yes	M-F: 40 hours
Rappahanock Regional Jail	Yes	Yes	M-F 40 hours
Albemarle Charlottesville Regional Jail	Yes	Yes	F: 5 hours
Chesterfield	Yes	Yes	M-F: 80 hours
RSW Regional Jail	Yes	Yes	M-F: 40 hours
Prince Williams Manassas	Yes	Yes	DCJS Pilot
Total	**6**	**7**	
Source: Joint Commission on Health Care. Email Survey Responses to Stephen Weiss. August 10, 2018. (31 jails responded to the survey)			

Treatment Services in Local and Regional Jails

- In 2017, local and regional jails reported that CSBs provided the majority (60%) of mental health treatment services in their facilities. While CSBs have a statutory requirement to evaluate inmates for TDOs (§37.2-809) they are not required to provide treatment services in the jails.
- Mental health and substance use disorder services provided in the jails and regional jails are tailored to the needs of each jail and their offenders. Offenders are not required to attend therapy or group therapy services.





* Source: Compensation Board 2017 Mental Illness in Jails. November 1, 2017.

Henrico County: Elements of a Model Program

- Leadership: Henrico County officials expect agencies to partner wherever possible.
- Partnerships: Sheriff and CSB staff meet regularly with judges, magistrates, all levels of law enforcement to discuss offenders and best practices for treatment and diversion.
- Education and training: Law enforcement are CIT trained. Judges and magistrates are brought into meetings to learn about opportunities for jail diversion, court ordered releases and community sentences that include treatment plans for offenders. Court ordered treatment plans require offenders to maintain HIPPA agreements or the plan is revoked and the offender returns to jail.
- Data Sharing: The Sheriff mandates that all health care service providers, including the CSB, use the same electronic health record system for offenders.
- CSB activity in the jail includes providing therapeutic treatment services to offenders (group therapy and counseling services).

Henrico County Budget for CSB Services	
Inmate screening, referral, appraisal evaluation, consultation, mental health and substance use disorder treatment	$596,238
Jail diversion	247,675
Emergency Services after hours	8,232
Total	$852,145
Offenders Served	2,441
Cost Per Offender	$349

Mental Health Standards for Virginia's Local and Regional Jails
Department of Behavioral Health & Developmental Services (DBHDS); August 31, 2018

- During the Spring/Summer of 2018 DBHDS formed a workgroup that reviewed VA-Board of Corrections (BOC), NCCHC standards and a variety of best practices related to the provision of mental health services in local and regional jails. The workgroup integrated the material into a list of 14 minimum behavioral healthcare standards specifically written for Virginia's local and regional jails (see appendix for list of attendees).

- The workgroup recommended that compliance monitoring and enforcement of the standards be placed within the current local and regional jail compliance monitoring program under the BOC.

- Finally, the workgroup concluded that the state not adopt a "one-size-fits-all program" for the provision of mental health services in local and regional jails.

- The 14 minimum standards addressed the following issues:

Access to Care	Mental Health Assessment
Policies & Procedures	Emergency Services
Communication of Patient Needs	Restrictive Housing
Mental Health Training for Correctional Officers	Continuity & Coordination: Health Care During Incarceration
Mental Health Care Liaison	Discharge Planning
Medication Services	Basic Mental Health Services
Mental Health Screening	Suicide Prevention Program

HIPPA Compliant Release of Information Form

- Interpretation of privacy laws vary among providers and localities and are impediments to immediate, effective and efficient service delivery.

- A single statewide HIPPA compliant release form, developed by DBHDS and the Compensation Board, that can be used by all of the jails and CSBs and made part of a condition to receive state funds can address data sharing issues.

- In addition, the Compensation Board recently began sending data to DBHDS in order to match jail offenders to CSB clients. However, the data are not current or being shared in real time˚ which is necessary so that booking proceedings and magistrate/judicial orders can include a review of a person's mental health and substance use disorder history as part of the process.

- Example: *

    - The Illinois Jail Data Link allows any Illinois county jail to have access to an interactive internet database
    - Data is available on detainees with a documented mental illness and treatment with the Illinois Division of Mental Health
    - Illinois counties and their partner mental health agencies have a written agreement with the state and obtain security clearance for access to the data

˚ There is a one month time-lag

*Source: The Council on Governments Information Sharing in Criminal Justice – Mental Health Collaborations: Working with HIPPA and other Privacy Laws. Justice Center, The Council of State Governments.

Leadership, Training and Partnerships

- An interagency, intergovernmental "Best Practices Committee" formed by the Secretary of Health and Human Resources, Secretary of Administration and the Secretary of Public Safety And Homeland Security may be beneficial to all entities involved in mental health and public safety.

- The purpose of the Committee is to identify and share experiences and processes used at all levels of government to overcome barriers and improve the delivery of services between the local and regional jails and CSBs.

- The Committee can disseminate information and conduct an annual forum for state and local government agencies and providers on specific issues that may be barriers in one area of the state but may have been resolved in another area.

Should CSBs be *Required* to Provide Mental Health and Substance Use Disorder Services in Jails?

- CSBs are currently providing services in jails based on local needs, availability of staff and funds. Where the CSBs are not providing services outside of those required by code the jails are using a variety of local vendors or comprehensive health and mental health services contracts to accommodate the needs of their offender population.

- In order to expand the role of CSBs in the jails, local collaboration and agreement between the CSBs, jail officials and their vendors, law enforcement, magistrates and judges is needed.

- There are specific benefits to having CSBs provide certain selected services in the jails. CSB staff can:

    - Provide valuable information and assistance to law enforcement officials, magistrates and jail staff prior to or during the booking process about the history of the offender, including any previous contact with the CSB and medication history
    - Assist local vendors with discharge and treatment plans as mentally ill offenders are released into the community
    - Work with magistrates and judges as they determine charges, need for emergency custody orders and release plans for those offenders that are charged but can be released under court orders

- However, requiring via code that CSBs provide mental health and substance use disorder services in all jails may be a problem for CSBs that are not near the jails, and may be disruptive to existing local relationships between community providers and the jails.

Policy Options By Letter from the JCHC Chair	
1	Introduce a budget amendment to fully fund an electronic health record (EHR) system for all prisons. Include requirements that the EHR be accessible to local and regional jails, DBHDS and other health care providers involved with the care and treatment of offenders. The VADOC estimate for an fully functioning, system wide, EHR is $35 million.
2	Introduce legislation to amend the Code of Virginia by adding in Chapter 53.1-5 to require the BOC to adopt minimum health care standards for local and regional jails that are not accredited by the American Correctional Association or National Commission on Correctional Health Care. Such standards should require that standardized quarterly CQI reports be submitted to BOC from all local and regional jails and that the report be made available to the public on the BOC websites.
3	By letter from the JCHC Chair, request that the Director of Corrections and the Chairman of the Parole Board jointly review conditional release policies to determine what changes may be made to improve the conditional release process of offenders over age 55 *who have complex medical problems.* A joint written report is to be submitted to the JCHC by October 1, 2019.
4	By letter from the JCHC Chair, request that the Compensation Board, Department of Behavioral Health and Developmental Disabilities, and Director of Health Services for the Virginia Department of Corrections create a single statewide HIPPA compliant release form that can be used by all offenders and persons being served through the community services board and state psychiatric system that will allow for easier sharing of data and medical information among the different organizations that receive state funds. A joint written report with the approved form is to be submitted to the JCHC by October 1, 2019.

Policy Options By Letter from the JCHC Chair	
5	By letter from the JCHC Chair, request that the Secretary of Health and Human Resources, Secretary of Administration and the Secretary of Public Safety And Homeland Security establish a "Local and Regional Jail and Mental Health and Substance Use Disorder Best Practice Committee" and designate the appropriate state agency members to serve on the committee. The committee should conduct an annual forum for state and local officials to identify and share experiences and processes used at all levels of government to overcome barriers and improve the delivery of services between local and regional jails and the state psychiatric system and community services boards. *

* During a workgroup meeting organized by DBHDS to adopt mental health standards for local and regional jails there were discussions about local barriers that some localities addressed and overcame that other localities were struggling with, i.e. data sharing between government entities. A "best practices" committee and forum will allow localities to share information that can help other localities overcome barriers and improve the delivery of services.

Public Comment

Written public comments on the proposed options may be submitted to JCHC by close of business on October 15, 2018.

Comments may be submitted via:

- E-mail: jchcpubliccomments@jchc.virginia.gov
- Fax: 804-786-5538
- Mail: Joint Commission on Health Care
  P.O. Box 1322
  Richmond, Virginia 23218

Comments will be provided to Commission members and summarized during the JCHC's November 21st decision matrix meeting.

(All public comments are subject to FOIA release of records)

Appendix

Appendix I
Crisis Intervention and Jail Diversion

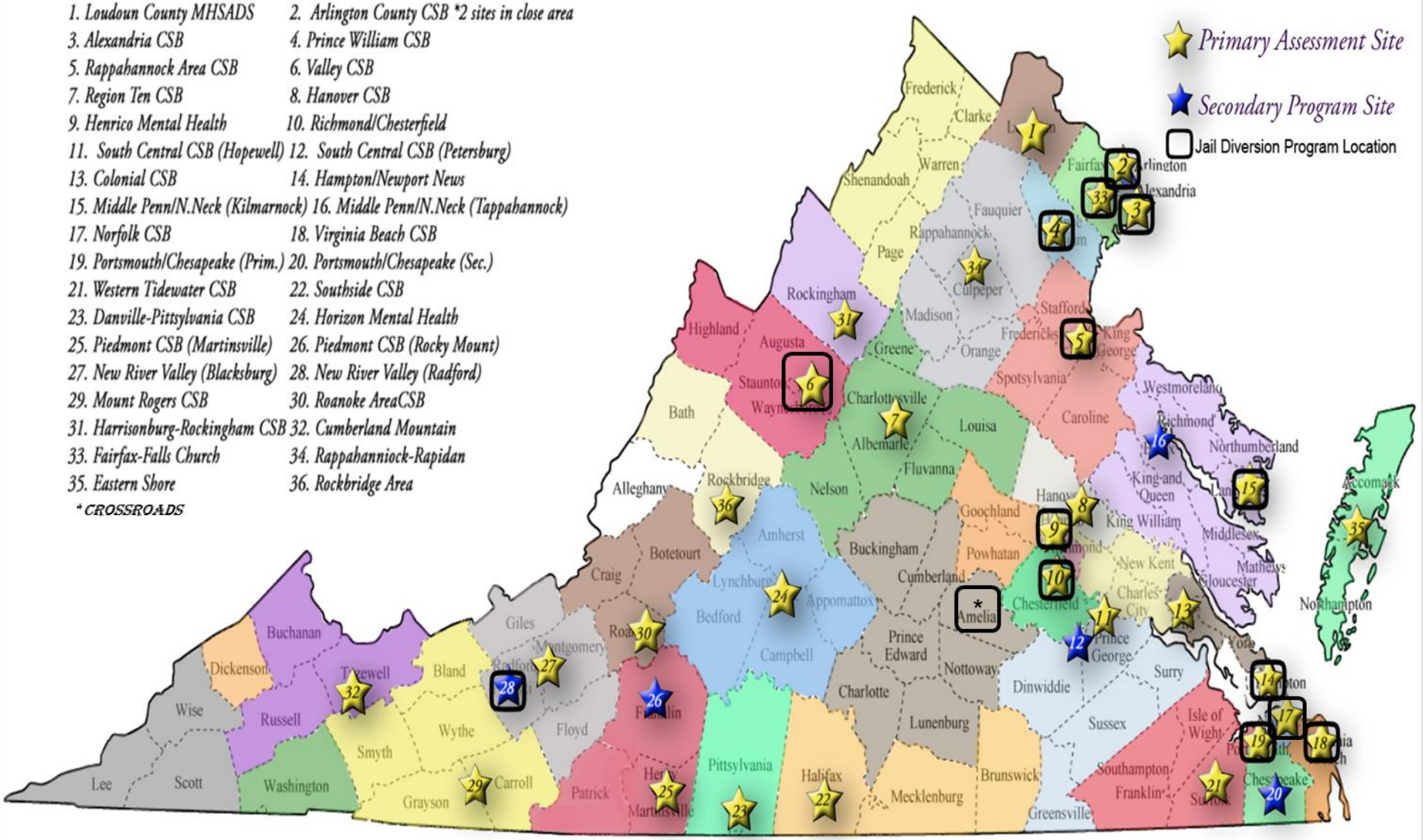
- DBHDS funds 17 jail diversion programs and 37 crisis intervention assessment sites statewide.
  - The jail diversion programs are a cooperative effort between local law enforcement officials and CSBs to insure that people with behavioral health issues are diverted to the most appropriate setting for treatment and services. Each program is locally designed.

  - The assessment sites provide local law enforcement officials with an option to transport people in crisis to an evaluation and treatment setting so that the official can return to regular law enforcement duties. The sites serve as therapeutic, non-criminal justice-affiliated alternatives to incarceration.

Virginia's Crisis Intervention and Jail Diversion Sites

1. Loudoun County MHSADS
2. Arlington County CSB *2 sites in close area
3. Alexandria CSB
4. Prince William CSB
5. Rappahannock Area CSB
6. Valley CSB
7. Region Ten CSB
8. Hanover CSB
9. Henrico Mental Health
10. Richmond/Chesterfield
11. South Central CSB (Hopewell)
12. South Central CSB (Petersburg)
13. Colonial CSB
14. Hampton/Newport News
15. Middle Penn/N.Neck (Kilmarnock)
16. Middle Penn/N.Neck (Tappahannock)
17. Norfolk CSB
18. Virginia Beach CSB
19. Portsmouth/Chesapeake (Prim.)
20. Portsmouth/Chesapeake (Sec.)
21. Western Tidewater CSB
22. Southside CSB
23. Danville-Pittsylvania CSB
24. Horizon Mental Health
25. Piedmont CSB (Martinsville)
26. Piedmont CSB (Rocky Mount)
27. New River Valley (Blacksburg)
28. New River Valley (Radford)
29. Mount Rogers CSB
30. Roanoke AreaCSB
31. Harrisonburg-Rockingham CSB
32. Cumberland Mountain
33. Fairfax-Falls Church
34. Rappahanniock-Rapidan
35. Eastern Shore
36. Rockbridge Area

* CROSSROADS



Appendix II
Items Funded in the 2018-2020 Biennium Budget
Improving Community Mental Health and Addressing CSB and Jail Collaboration

- Directs Department of Medical Assistance Services and DBHDS to examine options for increasing the participation of community hospitals in the provision of services for individuals subject to TDOs.

- $1.6 million GF for discharge planning at jails for individuals with serious mental illness; staff positions at Community Services Boards; implement at two jails with a high percentage of inmates with serious mental illness.

- $708,663 GF per year for diversion programs in up to three rural communities.

- $657,648 GF each year to establish Crisis Intervention Team training programs in six rural communities.

- STEP-VA Plan – Improving and Expanding Community Mental Health Programs
  - $5.9 million GF per year to complete the phase-in of same-day access to assessment at CSBs
  - $3.2 million GF over the biennium for the state's share of same day access services covered by Medicaid
  - $3.7 million GF in FY 2019 and $7.4 million GF in FY 2020 for primary care outpatient screening at CSBs
  - $15 million GF in FY 2020 to begin phasing in outpatient mental health and substance use disorder treatment at CSBs.
  - $2 million GF in FY 2020 to begin phasing in statewide expansion of detoxification services at CSBs

- $900,000 GF in FY 2019 and $1.8 million GF in FY 2020 for grants to establish crisis intervention assessment centers in six unserved rural communities.

- $7 million GF over the biennium for permanent supportive housing for individuals with serious mental illness and pregnant or parenting women with substance use disorders.

Source: 2018 Legislative Summary. Virginia Association of Counties. Pages 7 and 8. (http://www.vaco.org/wp-content/uploads/2018/04/LegSummary18.pdf)

Appendix III
Mental Health and Substance Use Disorder Services in Local and Regional Jails

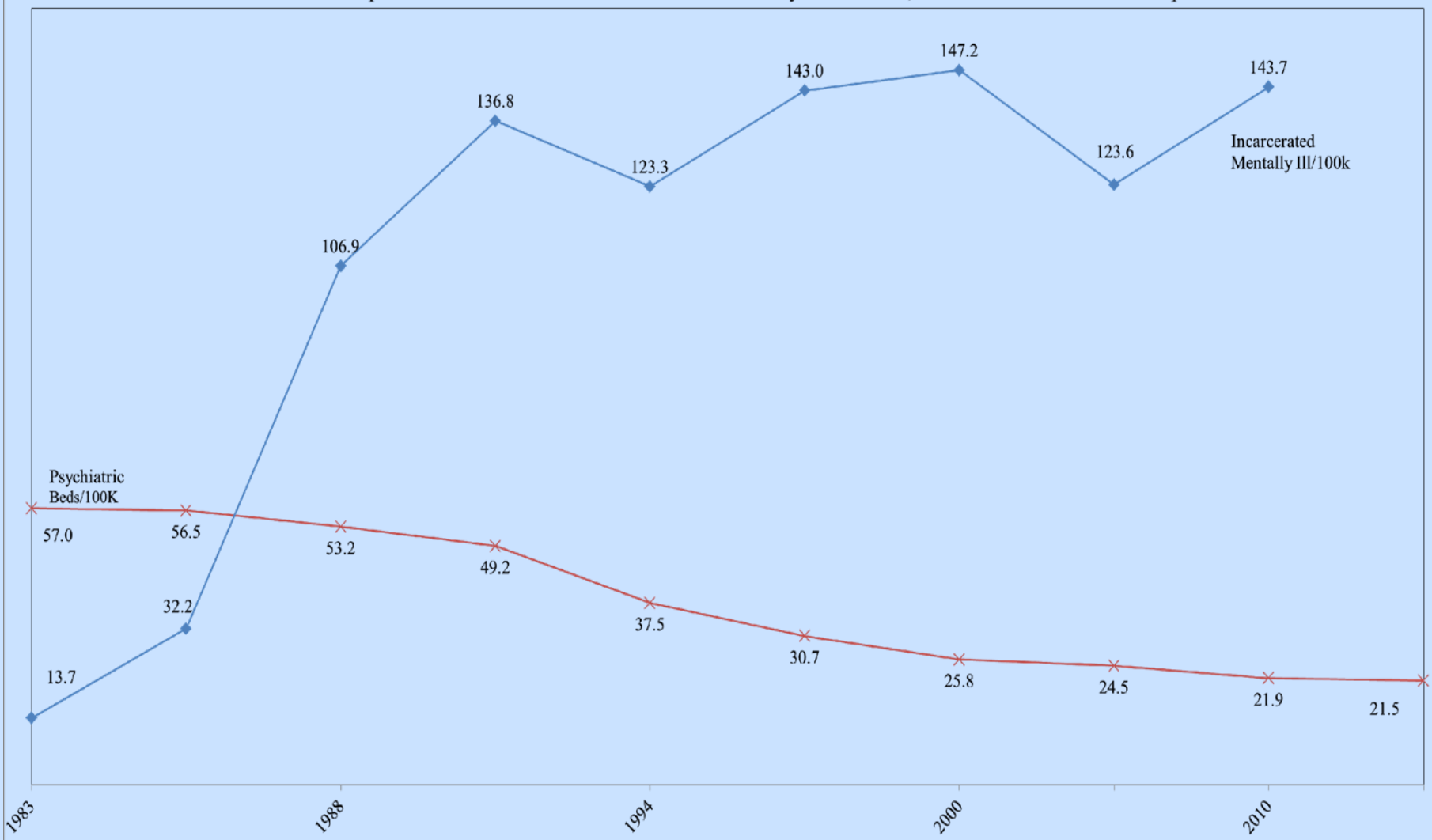
- The jails and regional jails have become de facto community mental health and substance use disorder services crisis intervention and treatment centers for the mentally ill. Law enforcement and the courts are an integral part of the process as the number of available crisis and inpatient psychiatric beds continues to decrease.

- The decrease in available psychiatric beds is well document and attributed in part to deinstitutionalization that began in the 1960s and 1970s:

  - ✓ development of psychotropic medications
  - ✓ law suits involving right to treatment in the least restrictive environment
  - ✓ promotion of community mental health as a better, less expensive alternative, to hospitalization

Appendix IV

The Total Number of Psychiatric Beds Per 100,000 of the United States Population
Compared to the Number of Incarcerated Mentally Ill Per 100,000 of the United States Population



Source: Lutterman, Ted, et. al. Trend in Psychiatric Inpatient Capacity, United States and Each State, 1970 to 2014. National Association of State Mental Health Program Directors. Tables 9 and 13. August 2017.
Torrey, E. Fuller, M.D.and Kennard, Aaron D. M.P.A. (Sheriff, retired). More Mentally Ill Persons Are in Jails and Prisons Than Hospitals: A Survey of the States. Treatment Advocacy Center and the National Sheriffs' Association. May 2010. Statistical Abstract of the United States: 2012 August 2011 Report Number Statistical Abstract of the United States: 2012 (131st Edition). Section 5. Law Enforcement, Courts, and Prisons. Table 348.
US Population: http://www.multpl.com/united-states-population/table.

Prepared by Stephen Weiss, Senior Health Policy Analyst. Virginia General Assembly Joint Commission on Health Care.

Appendix V
Mental Health Standards Workgroup Roster

First Name	Last Name	Organization
Ms. Stephanie	Arnold	Department of Criminal Justice Services
Ms. Jana	Braswell	DBHDS – Office of Forensic Services (OFS)
Mr. Bruce	Cruser	Mental Health America of VA
Ms. Robyn	DeSocio	State Compensation Board
Ms. Beth	Dugan	Prince William CSB
LTC Steve	Eanes	Henry County Sheriff
Mr. Emmanuel	Fontenot	Board of Corrections Liaison, Department of Corrections
Mr. Tom	Fitzpatrick	Department of Criminal Justice Services
Ms. Melissa	Gibson	DisAbility Law Center
Capt. Eric	Hairston	Henry County Sheriff
Ms. Angie	Hicks	VA Beach CSB
Ms. Kari	Jackson	State Compensation Board
Sup. Martin	Kumer	Albemarle-Charlottesville Regional Jail
Maj. Mandy	Lambert	Prince William County Jail
Dr. Denise	Malone	Department of Corrections
Sheriff Gabe	Morgan	Newport News Sheriff's Office
Sheriff Lane	Perry	Henry County Sheriff
Ms. Renee	Robinson	DBHDS - OFS
Sup. Bobby	Russell	Virginia Association of Regional Jails
Dr. Mike	Schaefer	DBHDS- OFS
Ms. Christine	Schein	DBHDS - OFS
Ms. Aileen	Smith	VA Beach CSB
Ms. Tamara	Starnes	Blue Ridge CSB
Sheriff Kenneth	Stolle	Virginia Beach Sheriff's Office
Ms. Leslie	Weisman	Arlington CSB
Mr. Stephen	Weiss	JCHC

Appendix VI

JCHC Meetings and Visits	
Armor Correctional Health, CEO	Albemarle / Charlottesville Regional
Attorney General - Attorneys	Arlington Community Services Board (CSB) Crisis Intervention Center
Compensation Board	Arlington County Jail
Department of Behavioral Health & Developmental Services	Deep Meadow Correctional Center
Department of Corrections	Deerfield Correctional Center
Department of Criminal Justice	Essex Lock Up
Magistrate Advisor, Supreme Court of Virginia	Fluvanna
Office of Chief Medical Examiner	Gloucester County
Pardon and Parole Board	Greensville Correctional Center
Physician Group	Hampton Roads Regional Jail
Virginia Public Defenders	Henrico County
Virginia Division of Risk Management	Martinsville City
Virginia Regional Association of Jails	New River Valley Regional Jail
Virginia Sheriffs' Association	Powhatan Reception & Classification Center
	Rappahannock Regional County
	Virginia Beach Community Services Board
	Virginia Beach Jail