

Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century

Work Group 2: Criminal Diversion

Meeting Summary

September 5, 2018, Pocahontas Building, Richmond

Work Group 2 (Criminal Diversion) (the Work Group) of the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century (the Joint Subcommittee) held its second meeting of the 2018 interim on Wednesday, September 5, 2018, at the Pocahontas Building in Richmond. Following opening remarks and an overview of the agenda, the Work Group received several presentations.

Presentation: Mental Health Dockets; The Honorable Robert H. Downer, Jr., 16th Judicial District of Virginia

Judge Downer provided information on the therapeutic docket, commonly referred to as a mental health docket, in Charlottesville and Albemarle General District Courts. In 2015, a group of law-enforcement officers, prosecutors, mental health practitioners, probation and parole officers, and members of the judiciary gathered to form an evidence-based decision-making organization that would explore the feasibility of creating a therapeutic docket in Charlottesville and Albemarle General District Courts. In 2017, an application for a therapeutic docket was submitted and approved by the Supreme Court of Virginia. In February 2018, the Charlottesville and Albemarle General District Courts held their first therapeutic dockets.

Judge Downer informed the Work Group that the therapeutic docket is a post-plea docket, meaning that the defendant has agreed to plead guilty to an offense but the disposition of the case will be deferred while the defendant is completing the therapeutic docket program. Only defendants with misdemeanor plea agreements are eligible to participate in the program, but a defendant who has been charged with a felony initially that is later reduced to a misdemeanor at the time of the plea is eligible. Additionally, a person must be diagnosed with a severe mental illness and be assessed at a medium to high risk of recidivism, and there must be a connection between the defendant's mental illness and the criminal behavior for the defendant to be eligible for the program.

Judge Downer further informed the Work Group that data is being collected to see if the program is effective but that, given the relatively recent start of the program, there is no sufficient data at this time to make any conclusions. Judge Downer did say, however, that progress is being made. He also suggested that legislation authorizing data sharing with local community corrections programs would help strengthen the program.

A copy of the materials from the presentation can be found on the Joint Subcommittee's website at the following links:

<http://dls.virginia.gov/groups/mhs/TherapeuticApplication.pdf>

<http://dls.virginia.gov/groups/mhs/manual.pdf>

<http://dls.virginia.gov/groups/mhs/ParticipantHandbook.pdf>

<http://dls.virginia.gov/groups/mhs/Participationrestitution.pdf>

<http://dls.virginia.gov/groups/mhs/ParticipationAgreement.pdf>

<http://dls.virginia.gov/groups/mhs/Therapeutic1.pdf>

<http://dls.virginia.gov/groups/mhs/TherapeuticReferral.pdf>

Presentation: DOC Secure Diversionary Treatment Program; Tori Raiford, Chief of Restrictive Housing and Serious Mental Illness, Virginia Department of Corrections

Ms. Raiford provided information about the Department of Corrections (DOC) Secure Diversionary Treatment Program (SDTP). Ms. Raiford highlighted the improvements DOC has made since 2011 in reducing the number of inmates who are placed into maximum security, administrative segregation. In 2011 there were approximately 520 inmates who were classified into maximum security, administrative segregation, but as of August 2018, only 73 inmates were classified into such status. Ms. Raiford also noted that, during that time period, informal complaints filed by DOC inmates declined by 70%, the number of formal grievances declined by 76%, and the number of incident reports declined by 70%.

Ms. Raiford informed the Work Group that DOC will not place an inmate with a serious mental illness in extended restrictive housing unless a multidisciplinary service team determines that he presents an immediate and present danger to others in the prison. Mr. Raiford also informed the Work Group that each inmate in the program has an active individualized treatment plan that includes 10 hours of structured therapy and 10 hours of non-structured therapy, with the goal of transitioning the offender back to the general population.

Ms. Raiford explained that the SDTP has different security levels and explained the offender criteria that is used to classify offenders in the program. Ms. Raiford also shared the types of therapeutic programming that occurs at each security level. Ms. Raiford noted that the SDTP has demonstrated progress, with fewer offenders spending time in restrictive housing and with offenders that are placed into restrictive housing spending shorter amounts of time in restrictive housing.

A copy of the presentation can be found on the Joint Subcommittee's website at

<http://dls.virginia.gov/groups/mhs/diversionary.pdf>

Public Comment

Rhonda Thissen, Executive Director of NAMI Virginia, spoke about the damaging practice of and concerns about the use of restrictive housing and questioned DOC's claimed rate of 3% of inmates within DOC custody having a mental illness. Ms. Thissen also read a comment on behalf of Interfaith Action for Human Rights, which also expressed concern about the relationship between mental health and prolonged solitary confinement, which DOC calls "restrictive housing."

Bill Farrar, Director of Strategic Communications of ACLU Virginia, spoke about the practice of restrictive housing as being underreported and stated that he has no confidence in the numbers the DOC has published.

Next Meeting

The next meeting of the SJ47 Work Group 2 - Criminal Diversion will be held on October 1, 2018, in Fairfax, Virginia.