

DBHDS Presentation to Special Populations Work Group

Joint Subcommittee to Study Mental Health in the 21st Century

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Agenda



- I. Update on Jail Diversion Initiatives
- II. Overview of Mental Health Dockets in Virginia
- III. Key Considerations for DBHDS Forensics Patients

Jail Diversion Initiatives



Jail Diversion Initiatives strive to:

- Identify individuals diagnosed with serious mental illnesses (SMI) and co-occurring disorders
- Divert individuals away from the criminal justice system
- Connect individuals to meaningful services and treatment



Jail diversion services happen across the Sequential Intercept Model, along each point in an individual's involvement with the criminal justice system.

Jail Diversion Initiatives



- In FY20, 3,484 individuals were screened and 1,636 individuals were enrolled in jail diversion and forensic discharge planning services at approximately \$2,753 average cost per individual.
- This funding paid for mental health treatment, medication, medical services, benefits acquisition, employment and education, temporary and permanent housing, and other basic necessities.

Jail Diversion Yields Positive Outcomes

- There is roughly a 32% decrease in utilization of emergency/crisis services and a 100% decrease in acute psychiatric hospitalization 180 days post-discharge
- There is roughly a 231% *increase* in utilization of outpatient services; 79% *increase* in case management services; 124% *increase* in Intensive Community Treatment
- 39% maintained linkage or became linked to outpatient mental health services by the time of their discharge from jail diversion programs

Mental Health Dockets



- Behavioral/Mental Health dockets were developed in response to the overrepresentation of individuals with behavioral health disorders in the criminal justice system.
- They aim to divert eligible defendants with diagnosed mental health disorders into judicially supervised, community-based treatment, designed and implemented by a team of court staff and mental health professionals.
- As of FY21, **DBHDS funds 4 behavioral health dockets** out of the 14 total dockets approved by the Supreme Court to operate in Virginia.
- The 4 programs funded by DBHDS have enrolled 338 participants since FY15, of those **52% successfully completed the docket requirements.**

Outcomes of MH Docket Service Referrals FY14-FY20



Mental Health Dockets



Dockets currently approved by the Supreme Court to operate in Virginia:

1. Arlington General District Court*
2. Augusta/Staunton General District Court*
3. Charlottesville/Albemarle General District Court
4. Chesapeake General District Court
5. Fairfax General District Court
6. Hampton General District Court
7. Loudoun General District Court
8. Montgomery County General District Court
9. Newport News General District Court
10. Richmond City General District Court*
11. Roanoke/Salem General District Court*
12. Norfolk Circuit Court
13. Richmond City Circuit Court
14. Richmond City Juvenile & Domestic Relations District Court

| * Dockets Funded by DBHDS (Fiscal Year Awarded Funds) | FY22 DBHDS Grant Funding Amount |
|--|------------------------------------|
| Arlington GDC (FY21) | \$73,000.00 |
| Roanoke/Salem GDC (FY15) | \$38,776.00 |
| Richmond GDC (FY21) | \$112,000.00 |
| Staunton/Augusta GDC (FY15) | \$38,776.00 |
| Total | \$262,552.00 |

Key Considerations for Forensics Patients



Forensics patients represent approximately 40 percent of state mental health hospital census. They present unique challenges to the system due to their involvement in the criminal justice system.

Court-ordered evaluations

- Ensuring the availability of high-quality evaluators as well as requiring second opinion evaluations for insanity evaluations would help to more accurately place individuals and provide appropriate services.

Streamlining hearings

- Expediting competency to stand trial hearings and allowing for remote testimony for NGRI cases would streamline these processes.

Court-Ordered Mental Health Evaluations



- Some Courts have difficulty locating experts who are willing to conduct mental health evaluations ordered by the Court, this is usually in rural areas.
- When a Court is unable to identify an evaluator, the result may be that the defendant is ordered to an inpatient evaluation in one of our state mental health hospitals or there are delays in the process. Any additional admissions puts a significant strain on our state hospitals, which are struggling for bed space and the staff to meet the needs of high-census units.
- Currently, §19.2-175 governs the compensation of experts who conduct mental health evaluations for the Court. The fee cannot exceed \$750. The last time this rate increased was in 2007, and currently Virginia's rates are below the national average.

Insanity Evaluations



- Insanity evaluations are ordered when the defense counsel is going to explore the possibility of an insanity defense. The evaluation determines whether the defendant may be found not guilty by reason of insanity (NGRI).
- About 65% of the NGRI acquittees are committed to DBHDS state hospitals after the temporary custody evaluation process. Once admitted, they stay an average of 1,981 days, or nearly five and a half years.
- Currently, second opinion evaluations can occur at the discretion of the Commonwealth, but this happens in a small set of cases.
- In 2017, DBHDS and ILPPP conducted a study of 188 evaluations requested by defense that led to an opinion of insanity. A second opinion was requested in only 16 percent of those cases.
- When there was a second opinion, 47% resulted in an opinion of insanity and therefore agreement between the two evaluators. For the other half, there was disagreement.
- Requiring a second opinion insanity evaluation when the defense proceeds with an insanity defense may result in a reduction in insanity acquittals which could impact state hospital census issues. While we support the insanity defense, we believe improving the process will ensure our limited resources are being used for the appropriate population.

Competency to Stand Trial Hearings



- Competency to stand trial (CST) evaluations attempt to assess a defendant's current mental status and how it impacts his/her understanding of the legal proceedings and capacity to assist counsel.
- Often there's lengthy delay between when an evaluation for CST is completed and when the matter is decided in the court.
- Delayed hearings can result in "stale" opinions, or the defendant's mental status can change dramatically over the course of weeks which could lead to an additional evaluation at state's expense, further delay in the court case, and even (re)admission to a DBHDS facility.
- Unfortunately, it is not uncommon for defendants to enter a "revolving door" between the jail and a DBHDS facility due to a mental status decline after waiting in jail for the next hearing.
- This revolving door cycle greatly disrupts the individual's continuity of care, is resource intensive, and can cause needless re-admissions impacting the state hospital census.

NGRI Hearings – Remote Testimony



- During the 2020 General Assembly session, DBHDS worked with Delegate Hurst on HB 639 to allow for remote attendance and testimony for NGRI annual review hearings. In-person attendance is still required for initial commitment hearings and other hearings.
 - The Court retains discretion to grant the request for remote testimony or to require in person attendance of the acquittee and/or experts.
- Remote testimony helps alleviate the burden on law enforcement, who are required to transport acquittees to hearings often hours away.
- In addition, when remote testimony is not permitted, state hospital staff are often subpoenaed to testify and may be required to stay overnight due to the distance of the court. This has a huge impact on state hospital staffing, which is already suffering from incredibly high vacancies.
- Finally, and most importantly, remote testimony eliminates the stress of travel and possible time in jail awaiting court for psychiatrically fragile defendants.
- During the COVID-19 pandemic, remote testimony was utilized for most court hearings and found to be a viable option.

Questions?