Broken Promises –
The Failure of Mental Health Services in Virginia
December, 2013

The disAbility Law Center of Virginia

Despite the promises of reform to the mental health services system in the last decade, Virginia's mental health services system fails to serve many of those in need of its services.

The Commonwealth should resist the urge to increase the number of hospital beds but instead invest in community resources for treatment of mental health needs. By addressing the deficit in the community, hundreds of additional mental health beds can be made available. This is because each year, Virginia hospitalizes hundreds of individuals who are no longer in need of institutional level services and denies community based services to hundreds more who need them. By providing services in the community for those who no longer need hospitalization, Virginia could save millions of dollars and invest in the services that will better meet the needs of the Commonwealth.

The disAbility Law Center of Virginia is the Commonwealth's designated federal protection and advocacy system. The disAbility Law Center of Virginia advocates for all people with disabilities to be free from abuse, neglect and discrimination.

Unlawful and Costly Institutionalization

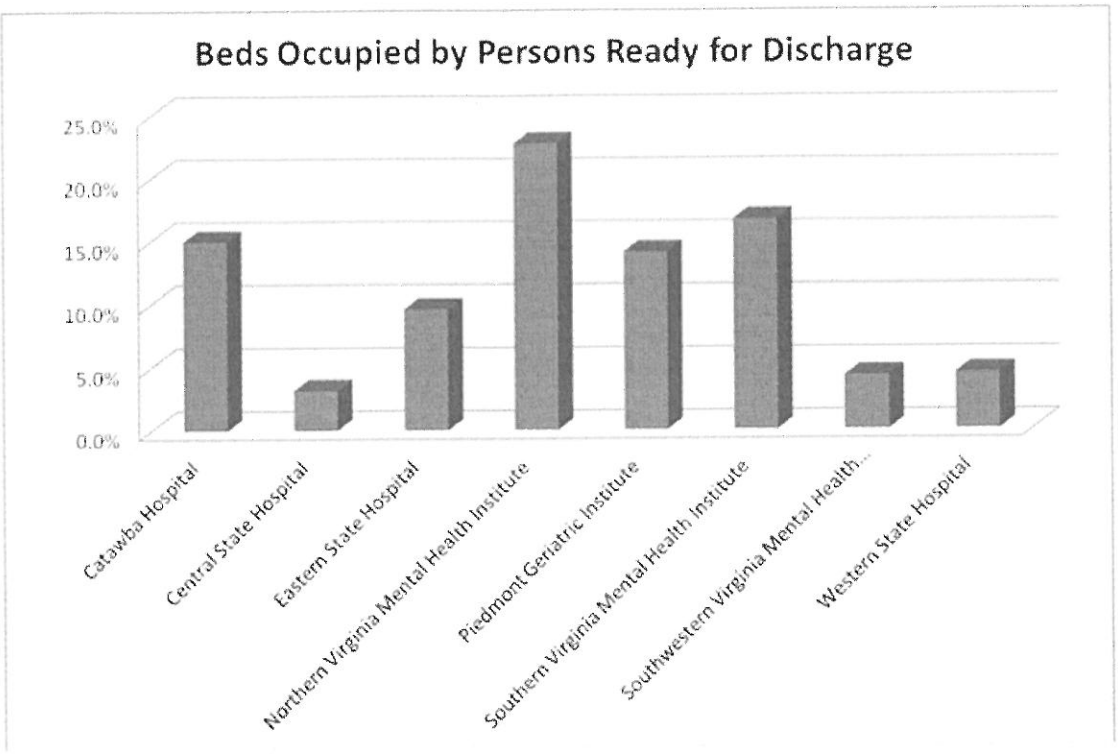
On any given month, the Commonwealth fails to meets its constitutional and legal duties to nearly 10% of residents of state hospitals. Although state and federal law allows Virginia to hospitalize involuntarily those who are dangerous[1], the Commonwealth continues to hold those individuals long past the need for highly restricted environments. In November, 2013 alone, the Department of Behavioral Health and Developmental Services (DBHDS) reported that 133 individuals were ready for discharge from state facilities, and had been ready for many weeks. These individuals are still hospitalized, despite being ready to live in the community, due to what the Commonwealth calls "extraordinary barriers." Thirty-one of those individuals have waited for discharge for more than a year.

Eastern State Hospital, in Williamsburg, and Northern Virginia Mental Health Institute, in Falls Church, claim the highest numbers of individuals who are hospitalized even though their treating professionals have determined that hospitalization is no longer necessary. At Northern Virginia Mental Health, the total number ready for discharge is nearly one-quarter of its entire population.

Facility	Number Ready for Discharge	Operating Capacity	Percentage Ready for Discharge
Catawba Hospital	18	120	15.0
Central State Hospital	9	279	3.2
Eastern State Hospital	29	302	9.6
Northern Virginia Mental Health Institute	28	123	22.8
Piedmont Geriatric Institute	19	135	14.1
Southern Virginia Mental Health Institute	12	72	16.7
Southwestern Virginia Mental Health Institute	7	162	4.3
Western State Hospital	11	246	4.5
TOTAL	**133**	**1439**	**9.2%**

These numbers represent hundreds of violations of constitutional rights to be free from unnecessary deprivation of liberty. But equally important, the numbers represent an unjustifiable and needless drain on already inadequate mental health resources.

[1]See e.g. Code of Virginia 37.2-815



The cost of treating someone in a state operated hospital is five times that of serving the same person in the community. The Commonwealth could realize a savings of more than $26 million dollars a year, just by providing community services to those individuals who are ready to be discharged. [2]

Confinement in Jails

At the same time the DBHDS reported that they had 133 people unnecessarily hospitalized, there were 34 individuals waiting in local or regional jails for court ordered services in state mental health facilities, most for restoration of competence to stand trial. Moreover, of the 26,990 inmates confined in local and regional jails in July 2013, nearly 25% are known or suspected to be mentally ill. More than 3,500 are diagnosed with a serious mental illness. (Some of these individuals are receiving mental health services in jail, but most are not. The availability and quality of mental health services, including medication, in correctional settings varies widely throughout the state.)

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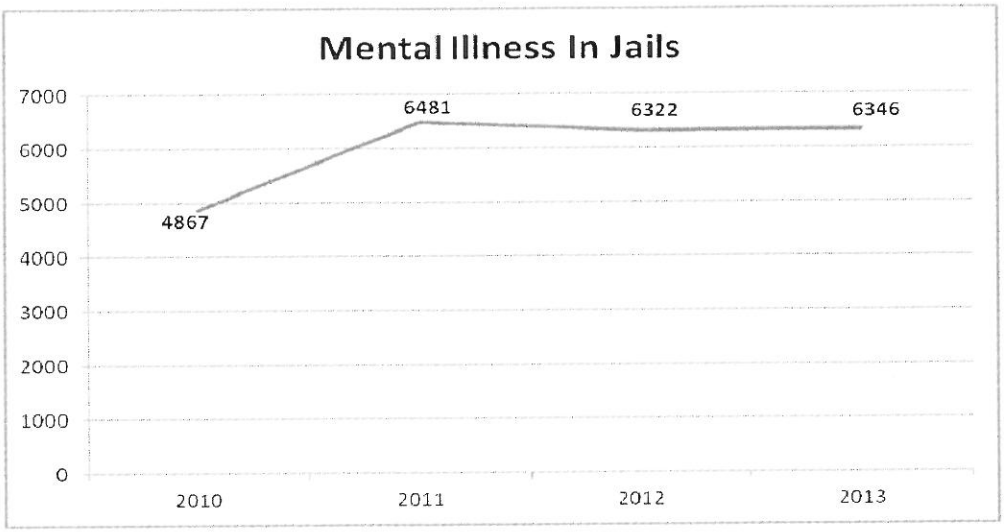
[2] We estimate the savings to be approximately $26,430,000 a year, if the 133 individuals who are ready for discharge were instead being served in the community. According to the Department of Behavioral Health and Developmental Services, in 2011, the average annual cost for a year's inpatient care in the state hospital was $214,000. Currently, the daily cost of care in a state hospital is $665, with an annual cost $242,725. The Inspector General, in his 2012 discharge study (*Review of the Barriers to Discharge in the State-Operated Adult Behavioral Health Facilities)*, estimated the cost of serving the same individual in the community to be $44,000. The cost of serving 133 people in a hospital for a year is $32,282,425 while the costs of serving the same 133 in the community is $5,852,00.

The number of people in jail who have mental illness has grown far faster than the numbers of those treated in the community mental health systems. In 2010, there were 4867 people with mental illness in jail over the course of a year; in 2011, the number climbed to 6481; in 2012, there were 6322. This year the total is 6346. This is an increase of more than 30% in less than 4 years.



One of the most significant barriers to treatment for those individuals in jails is absence of secure hospital beds. The lack of secure beds is directly related to the high number of "forensic" patients who no longer require hospitalization, yet are still in state hospitals. (Forensic patients include both those admitted for evaluation or restoration and those found not guilty by reason of insanity (NGRI)). Forensic patients in state hospitals average a length of stay three times as long as the length of stay for civil patients with comparable diagnoses. In the last year, forensic patients consumed 33% of state hospital bed days. Those found NGRI have a much longer average length of stay than forensic patients generally.

Resource needs in the community

Funding that is misdirected towards unnecessary hospitalization is desperately needed in underfunded areas of the Commonwealth's mental health services system. Resources should be directed towards unmet needs in the community. Most critically, the community services system lacks adequate crisis response services and lacks adequate housing options for people with mental health needs.

As recently as 2012[3], the Inspector General (OIG) advised the Commonwealth that there are "scores" of people who are "discharge ready" but who nonetheless remain in state-operated facilities. The Inspector General concluded that there is "an indispensible component missing from the Commonwealth's services for its citizens with mental illness: permanent community-based supported housing."

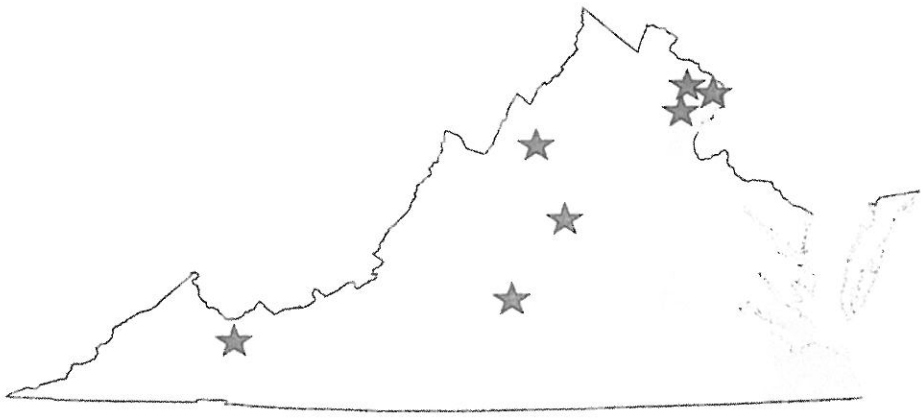
That missing component is due in large part to Virginia's operation of the auxiliary grant program, which is intended to provide financial assistance for supported housing. Virginia's insistence on

[3] Office of the Inspector General, *Review of the Barriers to Discharge in the State-Operated Adult Behavioral Health Facilities*, 2012.

funding permanent housing primarily through a single system of large congregate settings such as assisted living facilities (ALFs) makes it difficult to serve people with differing mental health needs. Additionally, as numerous entities have contended, reliance on large congregate settings by permitting auxiliary grant funds to be used only in ALFs violates the rights of people with mental illness to receive services in the most integrated setting.

Availability of community mental health services is equally variable from area to area in the Commonwealth and equally inadequate. DBHDS reports that 4486 individuals were waiting for Community Services Board (CSB) services mental health services in the first quarter of 2013 and even that number is recognized as an underestimate. [4] The Department further reports that 513 adults and 64 children and adolescents had waited more than 12 months for services the CSB agreed were needed. There were, no doubt, numerous others who, upon hearing of the long wait for services, never completed intake for services that were not readily available.

Another significant obstacle is the lack of crisis response services throughout the state. Last year, the OIG reported that there were 16 Crisis Stabilization Units operating statewide. Of these, only seven accept individuals on temporary detention orders (TDOs). Even in these limited locations, their facility-specific admissions criteria may screen out those most in need of help. As seen below, there are large geographic areas that lack close proximity to any crisis stabilization unit that could assist someone in need of intensive supports.



Crisis Stabilization Units (CSUs)
Taking TDOs (2012)

Fairfax, Arlington, Prince William, Harrisonburg, Charlottesville, Lynchburg, Cedar Bluff
3 additional CSB programs anticipated that they would begin accepting TDOs by 2013

Mental health services are fragmented and inconsistent across the state. The only services mandated by state statute are emergency services and case management services[5], and case management is to be

[4] The DBHDS notes that "To be included on the waiting list for CSB services, an individual had to have sought the service and been assessed by the CSB as needing that service. … This point-in-time methodology for documenting unmet service demand is conservative because it does not identify the number of persons who needed services over the course of a year."
[5] Code of Virginia §37.2-500

provided only to the extent that funding is available. There is huge variability in available services from locality to locality. Some CSBs provide a wide range of services; some provide few.

Virginia's fragmented and underfunded mental health services system costs the Commonwealth in numerous other ways, including

- Criminalization of behavioral health where people are diverted to the criminal justice system when community resources are not available.
- People with mental health needs who are living in the community who are at risk of institutional care due to a lack of behavioral and crisis supports
- Individuals who are dually diagnosed experience additional difficulties in accessing services. An individual in crisis may seek emergency services only to be told that it is "a behavioral issue" that is not mental illness, and therefore denied services

More than ten years ago, President Bush's New Freedom Commission on Mental Health found that the "shortage of affordable housing and accompanying support services causes people with serious mental illnesses to cycle among jails, institutions, shelters, and the streets; to remain unnecessarily in institutions; or to live in seriously substandard housing."[6] Despite this clear delineation of the issue, ten years later, the problems persist.

Recommendations for Real Reform:

The Commonwealth of Virginia can no longer ignore the need for meaningful reform of the mental health services system. At a minimum, Virginia must

- Increase community living options by expanding the auxiliary grant program to allow funds to be used to support integrated community placements, not just assisted living facilities and adult foster care.
- Increase the availability of Discharge Assistance Program (DAP) funds for those with truly extraordinary barriers to discharge.
- Expand the availability of crisis stabilization and crisis intervention services for both children and adults, regardless of diagnosis.
- Develop a system of no-refusal "drop-off" centers for persons, not only those with mental illness, but also for those experiencing other behavioral crises – the real "Memphis model" of Crisis Intervention Training (CIT) with continued focus on training and supporting CIT in communities throughout the Commonwealth.
- Greatly expand the use of peer support and peer counselors in drop-off centers, in crisis stabilization, and throughout the entire system

[6] *Achieving the Promise: Transforming Mental Health Care in America, July 2003*

- Provide adequate funding for community mental health services so that there are no longer 4500 individuals on CSB wait lists for service at any point in time.
- Expand Medicaid coverage to 138% of the federal poverty level to ensure access to needed services
- Expand intensive community based supports, including PACT (program of assertive community treatment) teams.

Conclusion

There are more than 40,000 Virginians living with serious mental illness, and thousands more with less serious disorders that require treatment. An estimated 130,658 children ages nine to eighteen have a serious emotional disturbance which significantly impairs their level of functioning.

Virginia's mental health system fails those most in need of mental health services and as a consequence fails to serve the entire Commonwealth. Serious reform of Virginia's mental health services system requires careful scrutiny of current resources and lack of resources. Any discussion regarding the availability of inpatient beds should first address needed discharges and the community housing and supports needed to make those discharges work. If the Commonwealth enables those who are ready to leave the hospital to move to the community, more than a hundred bed spaces will be created.

In 2012, the Office of the Inspector General concluded "[t]he bottom line is that, despite the express commitment and aspirational alignment by the DBHDS, … the Commonwealth has yet to create sufficient community-based treatment…to realize the worthy goals" of this state. The time is now to live up to those promises.