Improving Access to Care for Justice-Involved Persons with Behavioral Health Needs

Provided by the Correctional Behavioral Health Workgroup chartered by the North Dakota Department of Corrections and Rehabilitation

July 2016

CHARTER

TEAM
Correctional Behavioral Health Workgroup

MISSION
The mission of the Correctional Behavioral Health Workgroup is to serve as a unified voice for correctional agencies in North Dakota in order to make recommendations to the 65th Legislative Assembly regarding the improvement of access to behavioral healthcare for individuals involved with the criminal justice system.

SPONSOR
North Dakota Department of Corrections and Rehabilitation

CURRENT SITUATION
Correctional agencies across the state recognize that there may be gaps in behavioral health services for individuals in contact with the criminal justice system. There are instances in which offenders are incarcerated because of these gaps and a use of community-based resources may be more cost-effective and produce more long-term positive effects. If gaps in behavioral health services can be addressed earlier in the process, with appropriate services and service coordination, it will provide the courts with additional sentencing options as well as reduce the "revolving door" of incarceration for offenders with behavioral health issues, thus improving outcomes and increasing public safety. It is the desire of the Correctional Behavioral Health Workgroup to develop a committee to provide a comprehensive report to the 65th Legislative Assembly (2017-2018) in order to identify these gaps and provide recommended solutions.

BOUNDARIES
1. The committee shall be comprised of representatives who volunteer their time.
2. Committee members are only accountable to their respective agencies and the committee has no authority to mandate governing boards to any action.
3. The committee shall meet bi-monthly until completion.
4. Interactive television is authorized to assist members in participating in meetings.

SCOPE
1. The scope includes adult offenders who are under correctional supervision in North Dakota who are in need of behavioral health services.

DESIRED OUTCOME
A successful effort <u>would</u> result in:
1. The committee will provide a written report describing up to 10 key service delivery gaps throughout the state for individuals in contact with the criminal justice system who are in need of behavioral health services.
2. The committee will provide a written report with 1-3 recommended solutions to each identified service delivery gap.
3. The committee will develop a method of sharing its findings with the key stakeholders and policy makers it identifies.
4. The committee will include any documented support from state and local leaders in the report.

5. The committee will define key terms in the report.
6. The committee will identify key policy makers and garner support from them for this effort.

UNDESIRED OUTCOME

A successful effort <u>would not</u> result in:

1. *An inability to clearly define the problems or agree on proposed solutions.*
2. *Alienating key stakeholders or failing to effectively communicate our recommendations.*
3. *Underestimating the magnitude of the problem.*
4. *Failing to create solutions that are sustainable.*
5. *Further promotion of correctional systems as behavioral health providers.*
6. *Failure to consider the costs to the community beyond the financial implications.*

ESTIMATED DATE FOR COMPLETION

Report completed by August 2016
Communication with stakeholders/policy makers completed by December 2016

MEETING FREQUENCY & DURATION

Bi-monthly, four hours or as determined by the agenda.

MEMBERS

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FACILITATOR

Tom Erhardt

INTRODUCTION

It is widely accepted that people with mental illness and substance use problems are overrepresented in jails and prisons as compared to prevalence rates in the general population. Across the United States, deinstitutionalization, along with a failure to develop easily accessible and effective outpatient alternatives for treatment, has led to correctional facilities housing the highest concentrations of people with mental health and substance abuse concerns in the country (Stephy, 2007). National data has shown that nearly 70% of adults entering jails and more than 50% in state prisons have a substance use disorder (Osher, et al., 2012). Additionally, the number of mentally ill inmates in America's jails and prisons is reported to have quadrupled between 2000 and 2006 (Human Rights Watch, 2006). Research suggests that up to 50% of jail and prison inmates may present with a mental health concern in addition to substance use disorders (James & Glaze, 2006). Prevalence estimates of severe and persistent mental illnesses among incarcerated adults range from 15 to 25 percent, as compared to five to eight percent in the general population (Various citations in Fontanarosa, Uhl, Oyesanmi, & Schoelles, 2013).

Data for North Dakota prison facilities in 2015 shows that over 70% of individuals entering prison have an active substance use disorder diagnosis. Beyond that, 41% of male inmates have a mental health diagnosis in addition to substance use disorders and around 6% meet criteria for a severe and persistent mental illness. About 50% of female inmates have a mental health diagnosis in addition to substance use disorders, with 14% diagnosed with a severe and persistent mental illness.

As the population of incarcerated individuals in North Dakota increases, so will the number of offenders with significant mental health needs who will require the services described above. As citizens of North Dakota, we must consider whether incarceration, a costly and often ineffective response, is the best approach. In fact, our communities may be better served through alternatives to incarceration for nonviolent offenders with mental illness. This workgroup was created by a group of criminal justice professionals concerned about how behavioral health services access issues and gaps influence the people we incarcerate and the work we do. The recommendations provided in this report are the result of discussions based on available data and our combined experience working to carry out our missions of ensuring public safety and providing opportunities for people involved with the criminal justice system to change. They are based on two key points:

1.) In order for criminal justice diversion or re-entry strategies to be effective, they must be supported by a full continuum of accessible behavioral healthcare.

2.) We must improve the capacity to effectively treat those who do have to go to jail or prison in order to reduce recidivism and contain the cost of the corrections system.

RECOMMENDATIONS

DIVERSION

Criminal laws can be seen as an attempt to prevent crime if the philosophy is that applying a consequence will deter people from engaging in a particular behavior. Recent trends in incarceration show that the threat of punishment is not necessarily an effective deterrent, particularly for individuals with significant behavioral health needs. North Dakota has seen approximately a 38 percent increase (212 new felonies) in felonies in statute since 1997, which results in more people being eligible for incarceration in prison as a consequence to their behavior. Some specific felony level offenses may result in the ineffective, costly, long-term incarceration of higher numbers of people with behavioral health concerns.

One specific example of this phenomenon is applying a felony level offense to the simple assault of medical personnel. Often times, it is individuals who are under the influence of substances or in the throes of a psychotic or manic episode who perpetrate such assaults. As a result, this law has the potential to drive people with significant behavioral health concerns into the criminal justice system. Because an individual in an acute behavioral health crisis is unlikely to be deterred by the threat of a felony, this is an ineffective attempt at preventing assaults on medical personnel. If the goal is to reduce violence against medical personnel, alternative strategies must be considered.

Proposed Solutions:
1. Support training for emergency care workers in responding to individuals in behavioral health crisis and those who are under the influence of substances, as well as the safe and ethical use of restraints.
2. Examine the criminal code to determine other felony level infractions that lead to criminal justice involvement for people with behavioral health needs to determine which could be reduced without significant impact on public safety.

Improving access to behavioral health resources could result in the point of arrest becoming a point at which individuals can access necessary services, rather than the point at which they are placed in the criminal justice system. Currently, law enforcement personnel in many areas of North Dakota do not have training in the identification of individuals in behavioral health crisis. Additionally, hospital capacity issues result in deferring arrested individuals with serious acute behavioral health needs to the custody of jails in the triage process when evaluating for admission and continued stay. When mental health commitment assessments are needed, transporting people to the North Dakota State Hospital can be costly and time consuming.

At times, crisis mental health beds that might be available are filled by individuals who are not in crisis, but are participating in substance abuse treatment and live a distance away from the treatment site. These procedures, as well as a lack of access to detoxification and intoxication management facilities, leads to jails being de facto behavioral health treatment facilities. This is problematic because jails are not licensed for detoxification and intoxication management by the Department of Human Services Behavioral Health Division and most do not have adequate on-site behavioral health or medical staff to effectively assess and treat these concerns.

Proposed Solutions:
1. Support training for law enforcement in recognizing individuals in behavioral health crisis.
2. Expand capacity for local professionals to assist in the provision of mental health commitment evaluations.
3. Increase capacity for detoxification and intoxication management services.
4. Provide supportive housing for individuals participating in substance abuse treatment in order to increase access to crisis mental health beds that already exist (example, sober living environments).

Many groups and agencies have identified local access to effective substance abuse treatment services as a key behavioral health gap in North Dakota. It is important that a variety of levels of treatment be available and that providers utilize treatment models that are supported by research showing their effectiveness with the target population. Medication-assisted treatment is a best practice for individuals with opioid use disorders and scarcely available in our state. If people with substance use or other behavioral health needs had access to local treatment options as alternatives to incarceration, as well as someone to help them determine what services they need prior to trial, many may be successfully diverted from prison. To that end, this workgroup supports the development of pretrial services. It is important to note, though, that pre-trial services and other assessment and diversion strategies are unlikely to be effective in the absence of a fully developed behavioral health system of care.

Proposed Solutions:
1. Invest in local, community-based effective substance abuse treatment services including medication-assisted treatment options.
2.. Support the development of a pretrial services division to offer assessment, referral for appropriate interventions based on criminogenic and other needs, and supervision to assist people in getting the treatment they need prior to adjudication.
3. It is important to note that simply creating pretrial services will not necessarily lead to positive outcomes if pretrial services officers are unable to actually link their clients with appropriate services due to access or capacity issues. To that end, this workgroup supports funding the recommendations that result from the needs assessment being conducted by the Department of Human Services.

INCARCERATION

The time people spend in jail, whether serving pre-trial detention or jail sentences, is vital in terms of providing referrals for services and access to intervention to assist them in desisting from crime. Most jails are presently ill-equipped to effectively link their residents to appropriate behavioral health resources. First, there are no consistent behavioral health screening processes in place. Next, incarcerated persons lose access to any health insurance benefits they may have had. Few county jails employ behavioral health specialist staff members.

Proposed Solutions:
1. Support behavioral health needs assessment in jails.

POST-SENTENCE AND RE-ENTRY

Sentencing is viewed as the criminal justice system's attempt to facilitate intervention and treatment in order to reduce the likelihood that the person will reoffend criminally and ultimately improve their quality of life. The criminal justice system, and in many ways our behavioral health services system, is structured to respond to chronic conditions such as substance abuse and serious mental illness with an acute care model. The person is referred for a "treatment episode" or a period of incarceration and little attention is paid to helping them maintain the gains they may have made in their initial treatment episode or while in prison over time. Additionally, 70% of North Dakota district judges who responded to a Council of State Governments survey stated that they have sentenced someone they did not believe posed a high risk to the community to prison in order to access treatment they could not access in another setting. This is an unfortunate misuse of a high level, costly resource that can actually have a negative effect on the behavioral health functioning of persons who are incarcerated and public safety.

Proposed Solutions:
1. Invest in more cost-effective, community-based resources from a chronic care model such as sober living environments, supported employment, peer support and a full continuum of behavioral health services as alternatives to incarceration and reintegration strategies.
2. Invest in community-based residential substance abuse treatment services due to specific gaps in this area that are often presently filled by prison-based treatment.
3. Improve access to effective, long-term aftercare programs that advance learning and application and adhere to a philosophy that supports recovery.

PROMISING DIRECTIONS

There are several projects currently underway that are consistent with the recommendations outlined above. For example, there is an effort in Grand Forks to move to a "housing first" model with the belief that once people have access to safe, sustainable housing, they are better equipped to manage some of their other challenges. There is also a new intoxication/detoxification center opening in Grand Forks during summer 2016. Numerous agencies have come together to support these initiatives.

The Burleigh County Jail and The Heartview Foundation have begun the Justice and Mental Health Collaboration. One of the key goals of the project is to bring comprehensive behavioral health assessment to county jail inmates. The combined Burleigh-Morton County Jail will employ a behavioral health staff member to further these aims.

The Correctional Behavioral Health Workgroup would like to thank those viewing this report for your interest and consideration of the recommendations described above. It is our hope that investing in these strategies will curb corrections spending and provide for safer communities, whose citizens enjoy a higher quality of life. We look forward to helping further the goals of developing a more accessible and comprehensive behavioral health system of care for all North Dakotans.