

Report Identifying and Addressing Common Barriers to
Completing Behavioral Health Assessments within 72
Hours of the Initial Behavioral Health Screening
(HB1874)

October 1, 2021

Prepared by the
Board Support Unit of the
Board of Local and Regional Jails

Board of Local and Regional Jails

Report to the General Assembly

[HB1874]

Approved March 18, 2021

CHAPTER 179

An Act to direct the Board of Local and Regional Jails to (1) review the behavioral health screening and assessment process for individuals committed to local correctional facilities, (2) identify barriers to ensuring that all behavioral health assessments are completed within 72 hours of the behavioral health screening, (3) develop recommendations for addressing such barriers, and (4) report its findings and recommendations to the Secretary of Public Safety and Homeland Security and the Chairmen of the House Committees on Health, Welfare and Institutions and Public Safety and the Senate Committee on Rehabilitation and Social Services by October 1, 2021

Introduction

Among other things, House Bill 1874 (Special Session I, 2021) directed the Board of Local and Regional Jails (the Board) to (1) review the behavioral health screening and assessment process for individuals committed to local correctional facilities, (2) identify barriers to ensuring that all behavioral health assessments are completed within 72 hours of the behavioral health screening, (3) develop recommendations for addressing such barriers, and (4) report its findings and recommendations to the Secretary of Public Safety and Homeland Security and the Chairmen of the House Committees on Health, Welfare and Institutions and Public Safety and the Senate Committee on Rehabilitation and Social Services by October 1, 2021. This report fulfills the requirements set forth in HB1874 and, in so doing, provides a general framework for consideration of the issue moving forward.

Background

Virginia state policymakers amended Section 53.1-68 of the Code of Virginia during the 2019 session of the General Assembly to require the Board, in consultation with the Department of Behavioral Health and Developmental Services, to establish minimum standards for behavioral health care in local and regional jails. Members of the work group were also called upon to estimate the costs of implementing the standards once adopted. The work group submitted a report, including recommended minimum standards and costs of implementation, to the Governor and the General Assembly in November 2019. Estimates of the cost to implement the proposed standards were informed by self-assessments completed by jails with 52 percent responding.

Pertinent to the purpose of this report, a significant topic of discussion amongst participants in the stakeholder workgroup was how promptly a mental health assessment should be required for individuals who appear to have a mental illness based on their initial screening at intake. The group understood the need to balance the needs of inmates at immediate risk of further deterioration with the limited resources of many jails both economically and pertaining to available staffing/providers or behavioral healthcare. Ultimately the stakeholder group settled on a requirement that individuals whose initial screening indicated the possible presence of a mental illness receive a preliminary assessment by a nurse or qualified mental health professional within 14 days, with more rapid intervention required for individuals who are in acute distress or at risk for suicide.

A preliminary estimate of compliance costs done by the Department of Behavioral Health and Developmental Services in the context of the 2019 workgroup indicated that jails would need approximately \$42.6 million to meet the new standards (with the 14-day assessment requirement).

During the 2019 legislative session, policymakers included language in the Appropriation Act (Item 395 J.4) directing the Virginia Department of Criminal Justice Services (DCJS) to work with the State Compensation Board (SCB) and the Board of Local and Regional Jails to estimate costs in a second report. That report (including its recommendations for implementation) is attached (Attachment I).

Identification of barriers to completing assessments within 72 hours of screening

Resource availability is the key issue across the state. Almost all of the facilities that responded state an inadequate number of available mental health providers to conduct assessments. Additionally, almost all responding facilities suggested that even if the staffing pool was sufficient, funding to compensate that pool would still not be. Crisis workers, counselors, qualified mental healthcare providers, psychologists, etc. are all needed to assure that care is available. Facilities also mentioned a lack of sufficient space to perform the assessments and the need for more deputies to bring the inmates to and from assessments and to remain on standby while the assessment is ongoing.

Recommendations for addressing barriers

While the problem is easy to identify, the solution is difficult to understand and requires significant effort to study a number of complex requirements, relationships, and other attributes. The provision of behavioral health services depends largely on the size and location of the jail. Rural jails cannot conduct assessments within 72 hours of screening without first having a sufficient number of licensed providers in their areas willing and able to do so. A more robust funding stream cannot create doctors where they do not exist.

Community Service Boards are available to some but certainly not all. Some facilities have been able to procure the services of a third-party contractor while others utilize forensic state hospitals to administer behavioral health services. Regardless of how services are provided and who provides them, limited resources will remain an issue for most jails unless and until a systems level view of the problem is undertaken. Accordingly, providers of behavioral healthcare must be procured or utilized outside the traditional framework. Over the past three or four years, this legislature has called upon several interested agencies/parties to consider the question of how best to improve behavioral health services in the Commonwealth both through the development of minimum standards and the costs associated with compliance. The Board's recommendation for addressing the "resource barrier" is to go back to the well; those who have been utilized previously to define our behavioral health standards should similarly be tasked with developing a plan for their implementation.

There are far too many agencies, localities, and contractors involved in the planning and provision of behavioral health services in the Commonwealth for the Board to provide a singular, uniform recommendation, independent of their involvement. Additionally, the Board is far too limited in its own capacity to accomplish such an undertaking. While the subject of this report, the question of *how this minimum standard can or should be implemented* is not limited to assessments. It would be prudent to consider the question for all standards developed in the 2019 DBHDS report. Accordingly, the Board recommends establishing a policy group to consider how best to implement the minimum behavioral health standards presuming some allocation of funding. In the alternative, this legislature could procure a consulting firm to do the same.

Questions and Summary of Answers

In response to the legislative mandate set forth in HB1874, the Board devised a questionnaire which it directed to local and regional jails in the summer of 2021 – 26 responded. Below is a recitation of the questions asked and a summary of the responses provided.

1. Please describe your inmate behavioral health initial screening and follow-up assessment procedures as they would normally be completed. Please identify the assessment instrument used and the position responsible for performing the screenings. Please also provide any relevant language from your procedure that governs your screening/assessment process.

Each facility that responded gave a brief but detailed description of their screening process. Some facilities utilize onsite nurses that were trained by mental health professionals to perform the screening while other facilities reported that deputies assigned to the booking desk utilized the mental health screening form also known as the Brief Jail Mental Health Screen to screen the inmate during the booking process. All responding facilities screen for medical/mental health needs at the time of intake. The position responsible for conducting that screening varied. In every instance though, inmates who are observed or score at or above the threshold are directed for more thorough assessment. What that means depends often on the size and the location of the facility. Some, albeit only a few, have productive relationships with their local Community Services Boards such that they are able to rely on them for necessary mental health services.

Several facilities utilize an automated Jail Management System (JMS). When an arrestee is going through the intake process, the intake deputy asks them a series of screening questions located in their JMS system. The screens are then automatically printed in the medical unit. The Nurse on duty reviews (triages) the forms to classify those individuals as in need of emergent, urgent, or routine care and schedules them accordingly. Following classification, the nurse refers the inmate to a mental health clinician to follow up on the screening. The MH Clinician would assess the inmate and formulate a plan.

2. If a behavioral health assessment is recommended, on average, how long does it take from the time an inmate is referred to the time they are assessed for behavioral health?

The responses from the facilities were dependent upon the severity of needs and the number amount of inmates already awaiting an assessment. The wait ranged from one day to two weeks to longer for some. For many, urgent referrals from intake screenings initiated an assessment from a mental health professional within 24 hours of screening or, for weekends and holidays, the next business day. Most of the responding facilities stated that it takes approximately 7-10 days for a behavioral assessment to occur for non-acute inmates and approximately 24 hours for urgent/ acutely ill inmates.

3. Presuming there are discrepancies among assessment times, what common factors cause some inmates to be assessed sooner or later than others?

The most common response from approximately half of the responding facilities stated that inmates in crisis, who are currently taking prescribed medication for mental health problems, who have previously been hospitalized for mental health problems, who are in mental distress,

who are experiencing suicidal ideations, or who are actively attempting self-harm are prioritized for assessment. As previously stated, overall assessment times generally vary from one to 14 days depending upon the severity of needs and the number of inmates already awaiting behavioral health assessments. Facilities list an insufficient number of qualified staff as a significant contributing factor that continues to delay what would otherwise be a timely assessment.

4. If jails were required to complete behavioral health assessments within 72 hours of an inmate's intake screening, what barriers would prevent your facility from being able to do so?

Almost all of the 26 facilities that responded stated that the lack of sufficiently qualified staff, the lack of funding to pay qualified staff, the lack of available space to perform the assessments, and the lack of deputies available to escort inmates to and from (and to standby during) assessments were significant barriers that would prevent facilities from being able to complete assessments within 72 hours of an intake screening.

5. If jails were required to complete behavioral health assessments within 72 hours of an inmate's intake screening, what resources would you require to make this possible?

Almost all of the responses stated a need for additional funding and access to mental health professionals or staff. Three facilities stated that they were fortunate to have Community Service Board Counselors that work every day with their inmates and, accordingly, would be able to meet the requirement.