

## Behavioral Health Docket Notes – July 17, 2019

Anita Friedman, DHS Director facilitated the meeting. She welcomed the attendees of the meeting and referred them to the available handouts. Ms. Friedman acknowledged the attendance of Sheriff Arthur, Judge O'Brien, Judge Rucker, Judge Lopez, County Board Members Matt de Ferranti and Katie Cristol, County Board Chair Christian Dorsey, County Manager Mark Schwartz, Commonwealth Attorney Theo Stamos, Chief Public Defender Brad Haywood, School Board Chairman Nancy Van Dorn, and Clerk of the Court Paul Ferguson.

Ms. Friedman provided a review of the meeting participation guidelines and agenda.

Leslie Weisman, Client Services Entry Bureau Chief, Behavioral Healthcare Division provided an overview of the Mental Health Criminal Justice Review Committee's (MHCJRC) 16-year history to include the steps toward development of a Mental Health Docket and the Sequential Intercept Model for the Criminal Justice-Behavioral Healthcare Partnerships.

MHCJRC History Ms. Weisman stated that the committee began meeting in May 2003 with the following goals:

- To review the current mental health and County jail system/processes
- To make recommendations for system improvements to more effectively divert, treat and monitor persons with mental illness who become involved in the justice system
- To create effective linkages for mentally ill individuals as they leave the jail
- To implement recommendations

Ms. Weisman listed the names of the agencies and County departments who are members of the committee. They are as follows:

- Arlington CSB staff
- National Alliance on Mental Illness (NAMI)
- Mental Health Consumer
- Housing Department
- Sheriff's Department
- Chief Magistrate
- Public Defender's Office
- Commonwealth Attorney's Office
- Arlington County Police Department
- Metropolitan Washington Airport Authority
- Community Corrections and State Probation
- General District Court Judge
- Department of Corrections (DO)C Re-Entry Specialists

Ms. Weisman highlighted a few milestones over the 16 years of the committee's work.

- July 2006 – Received a grant for \$75,000 through the General Assembly for jail diversion and a grant for \$70,000 through the Health Planning Region II Western State Hospital Transformation Project to hire a forensic discharge planner.

- July 2007 – Developed a proposal for a Crisis Intervention Center (CIC) to include 24/7/365 Emergency Services, a police drop off center with CIT trained officers and a 23 hour office-based crisis stabilization program.
- January 2008 – The first CIT training was provided to officers (recruits only).
- December 2008 – submitted grant application to the Department of Behavioral Health and Developmental Services (DBHDS) for a Mental Health Post-Booking Magistrate Project to start in FY2010. The grant was approved for funding.
- September 2010 – Department of Criminal Justice Services (DCJS) grant was funded for a CIT Coordinator position on the Forensic/Jail Diversion Team. Permanent County funding was approved at a later date for the position.
- Spring 2011 – A new committee was formed to develop a pilot project/partnership between mental health and probation (State, J&DR, Community Corrections) to focus on Seriously Mental Ill (SMI) individuals arrested for Probation Violations – Project Exodus.
- September 2011 – Forensic staff received training in Competency Training in order to provide this service in the jail and thereby expand restoration opportunities in the community.
- 2013 – A grant was awarded from DBHDS to fund security at the CIC and the Virginia Hospital Center (VHC) Emergency Department to allow for Transfer of Custody at both locations.
- February 2014 – Began the process of exploring a Mental Health Court Initiative with a subcommittee. The committee visited MH Courts in the City of Richmond, Baltimore City, the DC Superior Court as well as other jurisdictions.
- September 2015 – A Bond Hearing project was initiated as a point of jail diversion.
- April 2017 – A grant was awarded from DBHDS to purchase a Risks-Needs-Responsivity (RNR) Simulator tool and funding for a Recreation Specialist to begin “pro-social activities” for justice involved clients.
- May 2017 – expanded programming at the Residential Program Center (RPC) to include a specialized Re-Entry Unit Program.
- July 2018 – Received \$200,000 in one-time funding from DBHDS to serve substance use and justice involved clients in the CIC.
- April 2019 – Homeless outreach worker began ride-alongs with the police as part of the Trespass Alternative Program.

#### Sequential Intercept Model (SIM) for the Criminal Justice-Behavioral Healthcare Partnerships

Ms. Weisman stated that the SIM was developed in 2006 by Dr. Patty Griffin, from Philadelphia and Dr. Mark Munetz from Ohio, who are affiliated with Policy Research Associates in New York. She added that Arlington pre-emptively developed their own map in 2003 and facilitated cross system mapping in Arlington with the SIM template. Ms. Weisman stated that the map is a way to create a framework to conceptualize the flow of mentally ill individuals through the criminal justice system. There are 5 intercepts.

Ms. Weisman provided an overview of the 5 intercepts:

Intercept 1 - Law Enforcement/Emergency Services

- The CIC was developed for Intercept 1
- Officers are encouraged to bring individuals to the CIC in lieu of being arrested
- Over the past 3 years - a range of 113 - 123 individuals per year were brought to the CIC for a mental health assessment in lieu of arrest
- 637 individuals have been trained in CIT; 240 officers in Arlington, 15 members of the Fire Department, 186 individuals in the Sheriff's Office, 41 individuals from the Pentagon Force Protection Agency, 27 individuals from Metropolitan Washington Airport Authority, and 68 others from law enforcement agencies across the region

Intercept 2 and 2.5 - Initial Detention/Initial Court Hearings

- Pre-plea programming takes place
- Post Booking Project was developed for Intercept 2
- Over the past 3 years, 57 individuals were diverted through the Post Booking Project
- Bond Diversion Program was also developed for Intercept 2
- Over the past 3 years, 53 individuals were diverted through the Bond Diversion Program
- Includes Court based services; Bond Diversion Program and Sheriff's Pre-Release Program

Intercept 3 - Jails/Courts

- For mentally ill individuals involved in the court system

Intercept 4 - Re-Entry

- Includes Project Exodus; a partnership between Probation and the Forensic Team

Intercept 5 - Community Corrections/Community Support

- Re-Entry program is included in Intercept 5

Judge O'Brien presented about the proposed Arlington County Behavioral Health Docket. Judge O'Brien stated that she attended many of the MHCJRC meetings where updates were provided monthly by members of the Behavioral Health Docket Committee.

Judge O'Brien re-stated that the Bond Diversion Program is a point of diversion for mentally ill individuals from the jail. She added that a separate committee meets monthly to discuss these individuals. Judge O'Brien stated that it is important to understand that the Bond Diversion Program and the Magistrate Post Booking Project rely heavily on the Sheriff's Pre-Release Program. She added that the Pre-Release Program enables the courts to place individuals on pre-trial supervision under the auspices of the Arlington County Sheriff's Office. She noted that the Supervised Release Program has four pre-trial officers who are currently supervising 239 individuals.

Judge O'Brien provided a brief overview of the Supreme Court of Virginia's Rule 1:25, Specialty Dockets, established in 2017. "Specialty Dockets" refers to specialized court dockets within the existing structure of Virginia's circuit and district court system offering judicial monitoring of intensive treatment, supervision and remediation integral to case disposition.

Judge O'Brien stated that the mental health docket is a post-plea/pre-conviction therapeutic docket that serves misdemeanor (or felony reduced to a misdemeanor) defendants suffering from serious mental illness or dual diagnosis. She added that the docket requires voluntary participation in Court-supervised treatment and community support in lieu of jail. She noted that there are incentives and sanctions in the treatment program.

Judge O'Brien provided an overview of the eligibility criteria:

- The individual must be 18 years of age or older
- The individual must have a serious mental illness or be dually diagnosed
- The individual must have misdemeanor charges or felonies reduced to misdemeanor by the Commonwealth
- The individual must be of medium to high risk of recidivism
- The individual must be an Arlington resident or Arlington homeless on the path to becoming an Arlington resident

Judge O'Brien provided an overview of disqualifications for the docket:

- The individual has a sole diagnosis of substance use
- The individual has an established residence other than Arlington
- The individual is enrolled in the Arlington Circuit Court Drug Court Program or any other Court's therapeutic dockets
- The individual has an active capias and/or warrant from another jurisdiction
- The individual has a prior history of violent felony crimes

Judge O'Brien stated the members of the Behavioral Health Docket Team are the following:

- General District Court Judge
- Behavioral Health Docket Coordinator
- Behavioral Health Clinician
- Behavioral Health Case Manager
- Community Corrections Unit (probation)
- Commonwealth's Attorney (or designee)
- Mitigation Specialist Office of the Public Defender
- Defense Attorney
- Economic Independence Division designee
- Certified Peer Recovery Specialist

Judge O'Brien stated that the reason the Behavioral Health Docket is being initiated now is that, since 2003, the MHCJRC has been overseeing improvements in mental health and jail processes to more effectively divert, treat and monitor mentally ill and justice-involved individuals. She added that another reason is that the Behavioral Health Docket is the next step in the progression toward fully achieving those goals. Judge O'Brien stated that, this is also being

brought forward now, in order to have the application submitted and approved by the statewide BHD Advisory Committee so we can begin to operate before the end of the year.

### Questions and Comments

Naomi Verdugo, Arlington Mental Health and Disability Alliance - main request is to have more time to be able to make/suggest changes, have the changes to the document reviewed, and then revised. Rule 1.25 states that the application must have sufficient local support to be approved. Appreciative that the docket is being developed but would like another option for individuals who do not want to make a plea.

Daniel Weir, Resident and Member of Arlington County Planning Commission - expressed a concern about unintentional collateral consequences for immigrants seeking residency status.

James Abrenio, Private Attorney in Northern Virginia - asked if there has been any consideration or discussion about a pre-plea docket. Judge O'Brien responded that there have been many discussions over the past few years about a pre-plea and cited the pros and cons of a pre-plea versus a post-plea.

Judge O'Brien stated that the docket is self-funded through existing resources. She noted that the docket is a starting point.

Elizabeth Tuney, Private Attorney - expressed a concern about limited options of a post-plea docket versus a pre-plea docket, noting that it takes time to advise a client on how to plead. She suggested combining all the post charge programs into one program under a pre-plea docket. Judge O'Brien responded that individuals who are involved in the docket, pre-adjudication, are under the Sheriff's supervised release program. She noted that in other courts, the CSB is providing supervision. She added that 30% of the docket's mental health cases are under the local probation department.

Suzanne Stephens, Resident - asked about next steps and expressed a concern about limited funding and resources.

Julius Spain, President Arlington Branch of NAACP - commented that not enough notice was given for the meeting and concern that the meeting was being held in the day when individuals are at work. The community needs more time to learn the process. Ms. Friedman responded that notice of the meeting was posted two weeks ago.

Sam Howlett, Resident - More emphasis should be placed on the clients.

Heather Keppler, Resident - Asked for more time until after the November election so all parties can provide input.

Frank Webb, Resident and Attorney - asked about the requirement that the individual must be a resident of Arlington. Ms. Friedman responded that each jurisdiction has its own court and CSB system that are funded with local tax dollars. She noted that Arlington conducts frequent cross jurisdictional sharing of information.

Cindy Cunningham, Resident – Given the change of the Commonwealth Attorney, how hard will it be to make changes to the docket once it is implemented. Judge O’Brien responded that once the new administration is in place, the Behavioral Health Docket will need to be addressed.

Matt de Ferranti, County Board Member – asked for an outline of a misdemeanor as opposed to a felony reduced to a misdemeanor in the State of Virginia, and if violent versus non-violent misdemeanors were considered under a pre-plea. Judge O’Brien responded that Arlington Courts only have jurisdiction over misdemeanors which are cases which carry a maximum sentence of up to 12 months in jail. She added that felonies are the jurisdiction of the Circuit Court. She noted that there are different levels of misdemeanors and that not all misdemeanors will be appropriate for post-plea.

Molly Newton, Private Attorney – Asked if the City of Alexandria’s docket was visited? Judge O’Brien responded that courts were visited that have Supreme Court approved dockets. She noted that Alexandria does not have a Supreme Court approved docket.

Cragg Hines, Resident – commented that there should be a full review of the docket after the appointment of the incoming Commonwealth Attorney.

Brad Haywood, Chief Public Defender in Arlington – it is possible to have a Behavioral Health Docket without filing a formal application and has any thought been given for an informal process? Expressed a concern about a delay for individuals to be able to enter the program.

Marjorie Green, Resident – expressed a concern about the meeting being held in the middle of a work day and asked if additional comments will be accepted from the public and will there be a deadline for comments.

Judge Rucker encouraged people to read the application and not base their concerns on hearsay. He noted that Arlington has a Bond Diversion and Magistrate Pre-trial program. He stated that the Fairfax application states that a client has to waive their rights before the pretrial and then must return to court where the acquittal takes place.

Senator Favola - will there be an option to choose between pleas. Expressed a concern about a uniform approach. She asked that there be more flexibility and time for review of the docket and to hold an evening meeting.

Jackie Wilson, Resident – asked if there is any data available that can be shared to better understand the outcomes of a pre-plea as opposed to a post-plea.

Judge O’Brien – The Fairfax and Newport News dockets were reviewed and Newport News is the only General District Court pre-plea docket and Fairfax is a hybrid of pre-plea and post-plea.

Dave FitzGerald, Resident and Member of the Community Services Board – how much time does the community have to comment? Ms. Friedman responded that the timeline is the end of summer. Comments can be sent to Kelly Mauller at [kmauller@arlingtonva.us](mailto:kmauller@arlingtonva.us).

Chris DeRosa, Resident, Spread the Vote Arlington-Falls Church - Disagrees that hearing was widely publicized and could not find it on the website. Asked to postpone further action and provide more information to the community (transparency). Diversion for mentally ill individuals is a valuable goal. Post-plea efforts, however, can be detrimental. A guilty plea will affect employment and housing.

Lynne Kozma, Resident, Member CSB and Developmental Disability Committee - The DD designation includes both dual diagnosis and developmental disability diagnosis. This is confusing and should be separated since they are completely different. Please change the confusing element.

Bob Carolla, Resident, Member CSB and MHCJRC - Recommended that submission of the application be delayed for a period of time, subject to further refinement and/or an accompanying DHS statement of intent, process and timetable for study of defined issues.