Mental Health Services in Texas: Reforming a Crisis-driven System

Presented at One Voice Legislative Forum

By

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Underfunding Community Mental Health Services Drives Up Costs

• Over the last biennia, Texas cut funding for adult & children community mental health services.
• Without services, persons with severe mental illness destabilize & use more expensive institutional services.
• Institutional services include emergency psychiatric services, inpatient psychiatric services, & jails.
• The Harris County Jail has become the largest “state mental hospital” in Texas.
The High Cost of a Crisis-driven System

• With limited $$, mental health authorities serve only the “Big 3” diagnoses (Schizophrenia, Bi-Polar Disorder, & Major Depression);
• All others can only access services when they are in crisis.

Community Mental Services = $361/month

Average cost of inpatient crisis services = $2,500/episode

Average cost at state hospital = $466/day

Average cost at community hospital = $483/day.
Texas Spending on Mental Health: Institutional vs. Community

Historical Spending on Community & Institutional Mental Health Services in Texas

Sources: General Appropriations Acts, FYs 2008-2013, HB 1 (83rd Regular Session.)
Note: Institutional costs include state hospitals, community hospitals, and crisis services.
With the influx of persons with mental illness into the jails, an increasing number of defendants with severe mental illness need court-ordered services at the state mental hospitals.

A commitment to a state hospital by a criminal court is a “forensic commitment.”

The number of forensic commitments exceeded the number of forensic beds, and defendants were forced to wait months in the county jails.
Types of Forensic Commitments

• Criminal Defendant who is found **Incompetent to Stand Trial** for a criminal offense.
  – When competency is restored, defendant stands trial.

• Individuals who have been found **Not Guilty by Reason of Insanity (NGRI)** of a serious criminal offense, like *murder*.
  – Criminal court commits “acquitted person” to a state hospital for a period of time not to exceed maximum sentence of offense under 46C, CCP.
HB 2725 by Hartnett/Williams

- HB 2725 (82nd RS) made changes to 46B competency restoration procedures.
- Outcome: DSHS reported a 15 percent reduction in the length of forensic commitments for non-violent offenders.

Note: Data does not include Vernon State Hospital discharges. Sources: FY’s 2008-2013 DSHS, State Hospital Quarterly Performance Reports.
So… Now What?

• Who is taking up all of state hospital beds that cost $466/day?

• Shouldn’t we provide adequate levels of care to persons with serious & persistent mental illness leaving institutions so they won’t recidivate?

• Why should a person have to completely destabilize before he or she can get mental health services?
**Olmstead Integration Mandate**

- The U.S. Supreme Court in *Olmstead v LC* held:
  - Unjustified institutionalization of persons w/ mental disabilities is discrimination based upon disability & violates the Americans with Disabilities Act & the Rehabilitation Act; &
  - States are required to provide services to persons w/ mental disabilities in the most integrated setting appropriate to their needs.
Olmstead Enforcement

• The U.S. Department of Justice (DOJ) has ramped up Olmstead enforcement.
• The DOJ has sued or settled with Georgia, North Carolina, New Hampshire, Delaware, New York, Mississippi, California, Virginia, Arkansas, & Texas.
• *Steward v. Perry* (TX) involves persons with Developmental Disabilities.
• Settlements may require a state to redesign its mental health system by creating an array of community-based services.
Who’s Taking Up the $460/day State Hospital Beds?

Is Community-based placement appropriate for some?
<table>
<thead>
<tr>
<th>State Hospital</th>
<th># of Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Austin State Hospital</td>
<td>40</td>
</tr>
<tr>
<td>Big Spring State Hospital</td>
<td>100</td>
</tr>
<tr>
<td>El Paso Psychiatric Center</td>
<td>7</td>
</tr>
<tr>
<td>Kerrville State Hospital</td>
<td>153</td>
</tr>
<tr>
<td>North Texas State Hospital (Vernon)*</td>
<td>94</td>
</tr>
<tr>
<td>Rio Grande State Center</td>
<td>2</td>
</tr>
<tr>
<td>Rusk State Hospital</td>
<td>153</td>
</tr>
<tr>
<td>San Antonio State Hospital</td>
<td>71</td>
</tr>
<tr>
<td>Terrell State Hospital</td>
<td>28</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>648</strong></td>
</tr>
</tbody>
</table>

*Vernon State Hospital is a maximum security facility.

Source: State Hospital Quarterly Performance Report, 2013.
Recidivism

### Number of 46B Competency Restoration Commitments Per Person (2003-2011)

<table>
<thead>
<tr>
<th># of Commitments Per Person</th>
<th># of Persons</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>5416</td>
</tr>
<tr>
<td>2</td>
<td>1110</td>
</tr>
<tr>
<td>3</td>
<td>416</td>
</tr>
<tr>
<td>4</td>
<td>132</td>
</tr>
<tr>
<td>5</td>
<td>37</td>
</tr>
<tr>
<td>6</td>
<td>24</td>
</tr>
<tr>
<td>7</td>
<td>11</td>
</tr>
<tr>
<td>8</td>
<td>4</td>
</tr>
</tbody>
</table>

Source: Department of State Health Services, HB 2725 Feasibility Study, October 2012
Harris County had 186 persons committed to minimum security facilities & 57 maximum security commitments as of November 2012.

### Harris County State Hospital Census (11/2013)

<table>
<thead>
<tr>
<th>Type of Commitment</th>
<th>Minimum Security</th>
<th>Maximum Security</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td># of Persons</td>
<td>Avg Length of Stay</td>
</tr>
<tr>
<td>46B (Initial)</td>
<td>31</td>
<td>80</td>
</tr>
<tr>
<td>46B (Long Term)</td>
<td>51</td>
<td>505</td>
</tr>
<tr>
<td>NGRI</td>
<td>58</td>
<td>454</td>
</tr>
<tr>
<td>Civil (Short-term)</td>
<td>14</td>
<td>42</td>
</tr>
<tr>
<td>Civil (Long-term)</td>
<td>32</td>
<td>729</td>
</tr>
</tbody>
</table>
HB 2725 Feasibility Study: Home & Community-based Services

• HB 2725 required the Department of State Health Services & the Health & Human Services Commission to study the feasibility of providing a new level of care, Home & Community-based Services (HCBS), for persons with severe mental illness who have had significant criminal justice involvement.
• The feasibility study was favorable.
• DSHS requested $26 million to add a new Medicaid HCBS benefit.
Medicaid Home & Community-based Services (HCBS)

• The federal Deficit Reduction Act gave states the option of adding HCBS as Medicaid benefit (1915(i)) for 1 or more target populations, such as persons with severe mental illness.

• Under Medicaid, federal government pays about 60 percent; state pays 40 percent.

• Members of target population must meet a functional needs test, which is defined by the state to be eligible for HCBS.

• Medicaid HCBS is a bundle of services, which are tailored to meet individual need.
Proposed Target HCBS Population

- Individuals found Not Guilty by Reason of Insanity (NGRI) who have or will transition from a state hospital to the community;
- Individuals found Incompetent to Stand Trial for a criminal offense who have or will transition from an institution to the community; and
- Individuals with serious and persistent mental illness who are currently on probation for a felony (mental health court docket) & have had at least one additional felony conviction within the last 5 years.
Example of HCBS Functional Needs Test

Target Population must meet at least 2 criteria on a continuing or intermittent basis for a total period of at least 2 years:

- History of unstable employment;
- 2 or more episodes of homelessness for a period of at least 3 months;
- Severe inability to maintain a personal social support system;
- Limited basic living skills (self-care, money management, housekeeping, cooking, or medication compliance); or
- Exhibits inappropriate social behavior that results in demand for intervention.
Example of HCBS Bundle

- Transition services;
- Clinic services;
- Psychotropic medication;
- Psychosocial rehabilitation services;
- Substance abuse treatment;
- Peer to peer counseling;
- Habilitation;
- Supportive housing;
- Case management (includes monitoring & reporting to the court);
- Job training;
- Supportive employment; &
- Transportation.
Fiscally Sound Recommendations That Move Toward *Olmstead* Mandate

- Increase funding for Adult Community Mental Health Services to Fiscal Years (FY) 2008-2009 levels.
- Increase funding for Children’s Community Mental Health Services to FY 2012-2013 levels.
- Implement & Fund Medicaid HCBS for persons with severe mental illness.
- Target HCBS to persons who are highest risk of institutionalization or re-institutionalization & who need HCBS to live safely in the community.