



# The Florida Senate

*Interim Project Report 2007-102*

*November 2006*

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Committee on Children, Families, and Elder Affairs

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## **EFFECTIVENESS OF COMMUNITY-BASED TREATMENT IN REDUCING ADMISSIONS TO FORENSIC PROGRAMS AT STATE FACILITIES**

### **SUMMARY**

Persons who are charged with a felony and determined by the court to be incompetent to proceed due to a mental illness (ITP) or persons who are found not guilty by reason of insanity (NGI) may be committed to the custody of the Department of Children and Family Services (DCF, or department) for treatment in a state forensic facility. Forensic commitments to DCF have steadily increased each year since 1999 in spite of a concerted effort by DCF, the courts, law enforcement, and advocates to develop alternatives and manage the use of institutional beds.

Research and policy studies by national experts and the

population of Florida

in jail for up to 15 days from the date the department receives a completed copy of the commitment order containing the documentation required by FRCP 3.212 and 3.217, and until transportation to a treatment facility is arranged by the committing county.<sup>13</sup>

## **METHODOLOGY**

Academic and public policy research and relevant studies in the areas of mental health, criminal justice, and forensic mental health were reviewed. Data on population trends, mental illness prevalence, commitments to corrections facilities, and patterns of commitments to state mental health treatment facility forensic programs were analyzed across counties. Key informants from district and headquarters DCF offices, the courts, law enforcement, and mental health providers were also interviewed to address critical issues in the implementation of statutory and legal requirements relating to the forensic mental health system.

## **FINDINGS**

Every state is confronting the challenge of rising numbers of persons with mental illness in the criminal justice system. Nationally, there are several organizations devoted entirely to public policy research to understand and develop strategies that can help state and local governments improve the response of the mental health and criminal justice systems to people with mental illness.<sup>16</sup> The most frequently cited reasons for increased numbers of persons with mental illnesses in the criminal justice system include:

- Higher incarceration rates;
- A decline in the number of inpatient mental health treatment beds;
- The failure of community-based programs to keep pace with population growth.

In Florida, the number of persons with mental illness coming into the criminal justice system and the demand for beds has continued to grow despite efforts of DCF, local governments, the courts, law enforcement, and advocates

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### **Community Forensic Programs**

Research has demonstrated that treatment for mental illnesses is effective, but experts point out that because there is a “science to service gap,” these programs are not widely available.<sup>24</sup> Controlling the increasing number of admissions to state forensic facilities will require coordinated efforts among key stakeholders in communities around the critical elements of a community-based forensic system: diversion and community treatment, access to treatment in jail, valid and reliable evaluation, and effective system coordination.

- **Diversion and Community Treatment**

Jail diversion is important because effective jail diversion keeps persons whose primary problem is a mental illness out of the criminal justice system entirely and directs them to services in a more appropriate and

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Region increased commitments at a rate (eight percent) that was half that of the statewide average in FY 05/06.

- **Mental Health Services in Jails**

Forensic consultants have pointed out that “(t)here has been much difficulty in Florida and elsewhere in sorting out legal and financial responsibilities for mental health services in county jails. This problem remains unresolved.”<sup>29</sup> In addition, privatization of some jails and their internal mental health services has changed the relationship between jails and the local community mental health system.

Key informants supported the findings of previous studies relating to the need for adequate mental health treatment in jails, especially competency restoration programs and continuity of care for defendants who are already clients of the local mental health system or are returning from state forensic facilities. A lack of continuity of medication practice is frequently mentioned as the reason defendants decompensate when they are transferred back to jail from state facilities. There are several reasons this occurs. State forensic facilities and community agencies use newer medications that are often not in jail formularies; jail physician practice patterns vary; or the jail may not have a budget for newer medications. Although DCF does send medication with defendants returning to jail, they send the minimum requested by the jail. The department currently has no data on the number of recommitments that result from changes in medication so it is not possible to determine the extent to which this practice has had a negative effect on the waiting list and utilization of forensic beds.

- **Forensic Evaluations**

The timeliness and quality of forensic evaluations are critical to the efficiency of the commitment process because they are used by the court to determine if a defendant will be determined ITP. Section 916.111(1), F.S., requires that DCF develop standardized criteria and procedures to be used in forensic evaluations to ensure uniform application of the criteria enumerated in the rules. The department maintains a list of available mental health experts who have completed training, and DCF must provide a list of these experts to the court annually. Since 1986, the Florida Mental Health Institute at the University of South Florida has conducted forensic evaluator training twice a year supported through fees charged to

participants. Currently, 1,358 individuals who have taken the forensic evaluator training have indicated that they are available to serve as court-appointed evaluators. Because there is no central data on how many of the professionals who have taken the training are actually doing evaluations, it is difficult to determine if availability is a problem. Currently, 1,358 individuals who have taken the forensic evaluator training have indicated that they are available to serve as court-appointed evaluators. Because there is no central data on how many of the professionals who have taken the training are actually doing evaluations, it is difficult to determine if availability is a problem.

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<sup>29</sup> Heilbrun, K., Griffin, P., Florida Forensic Consultation Report, Florida Department of Children and Family Services, August 2002.

coordination and leadership functions that are critical to system coordination may have more effect coming from the court.

National experts also cite the importance of having some coordinating group or council “(l)eadership and oversight by a broadly representative, culturally diverse task force whose members include representatives of law enforcement, the courts, consumer and family organizations, and mental health and substance abuse agencies. It helps if task force members are sufficiently high in their organizations' hierarchies to institute needed changes.”<sup>31</sup> Some communities use the existing public safety coordinating councils created in s. 951.26, F.S., and others have created forensic work groups or task forces. These groups have been the impetus for change and have supported innovative