



IMPROVING  
Criminal  
JUSTICE

RESPONSES

*for Persons with  
Mental Illness*

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2020 ANNUAL REPORT

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OVERSIGHT COUNCIL FOR



IMPROVING  
Criminal  
JUSTICE  
RESPONSES

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# In accordance with §23A-50-14(20), the third annual report of the Oversight Council for Improving Criminal Justice Responses for Persons with Mental Illness is hereby presented to the leaders and citizens of the state of South Dakota.

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In 2017, the state legislature passed a bill to improve the criminal justice response towards individuals with mental illnesses. As we enter the third year of the reforms, we continue to see positive progress towards our Council's goals.

Those goals include:

- Preventing jail admissions of people in crisis when appropriate;
- Building mechanisms to appropriately divert individuals from the justice system to mental health treatment;
- Reducing wait times for competency evaluations; and
- Ensuring that criminal justice stakeholders recognize the signs and symptoms of mental illnesses.

In FY 2020, we continue to see advancements in each of these four goals. To highlight just a few:

- The Crisis Care Center in Pennington County and Minnehaha County Community Triage Center serve, and will serve, individuals experiencing a mental health crisis who may have otherwise been placed in the criminal justice system.

- A new Mental Health Court is now operational and serving the needs of individuals in Minnehaha County. A successful completion in the program helps the individual avoid prison time.
- The average time for an individual to be evaluated for competency continues to be reduced.
- More law enforcement officers and stakeholders are being trained in manners related to mental health in the criminal justice system.

I extend my deepest thanks to the members of the Oversight Council, as well as the stakeholders involved in this process for their tireless work to improve the criminal justice system in South Dakota.

Respectfully Submitted,



Greg Sattizahn  
*Chairman, Oversight Council for Improving Criminal Justice Responses to Individuals with Mental Illness*  
State Court Administrator, Unified Judicial System

# Address Mental Health Crises to prevent early entry into the criminal justice system

**Goal:** Prevent jail admissions of people in crisis when appropriate.

## CONTINUED TRAINING FOR NEW LAW ENFORCEMENT OFFICERS.

In FY2018, Law Enforcement Training increased the number of hours of crisis response training provided in its Basic Certification Course. Since that time, 155 law enforcement officers have completed 16 hours of crisis response training in:

- ✓ Mental Health 101
- ✓ Crisis Threat Assessment
- ✓ Crisis Intervention Team Training
- ✓ Scenario Based Training



### Advanced Crisis Intervention Team Trainings Provided through the Statewide CIT Coordinator:

**102**  
LAW ENFORCEMENT  
OFFICERS

**4**  
DISPATCHERS

**ADVANCED CIT TRAINING.** In FY 2020, Advanced CIT trainings were facilitated by the Statewide Crisis Intervention Team Coordinator in Gettysburg, Rapid City, Brookings, Spearfish, Yankton, and Sioux Falls. The coordinator position was created to help bring CIT training to the officers closer to their work locations. Providing training outside of Pierre allows more officers to participate without leaving their community.

**In 2020, the legislature approved permanent funding for the coordinator position.**

## CRISIS RESPONSE SERVICES

**Investment in Pennington County Crisis Care Center.** In FY 2018, the Department of Social Services provided a one-time grant to assist Behavior Management Systems to move the County's Crisis Care Center into the newly developed Care Campus facility. During FY 2020, the Crisis Care Center **served 1,181 individuals in crisis**, with an **average stay of 9.45 hours**. The majority of referrals for crisis care were self-referrals, while law enforcement accounted for 20 percent of referrals.

### **Planning Grant for the Minnehaha County Community Triage Center.**

The Sioux Empire Triage Center is a private non-profit entity formed through a partnership between Avera Health, the City of Sioux Falls, Minnehaha County and Sanford Health. The triage center, known as The Link, will consist of the Detoxification Program and Sobering Center, as well as the new Behavioral Health Triage program. The goal is to reduce unnecessary hospital emergency room visits, reduce use of jail for certain individuals, and link the person to behavioral health and other community resources for ongoing assistance. It is expected to open in early 2021.



### **Expansion of approved competency restoration facilities.**

In 2020, the legislature passed SB 46, which revises provisions related to the restoration to competency of criminal defendants. Previously, an individual could only be restored to competency in the custody of an approved facility that had residential capabilities. SB 46 expands the types of locations where an individual can be restored in an inpatient, outpatient, or jail-based setting when under the direction of an approved facility. Expanding the number of places an individual can be restored will allow an individual to be restored in their community, rather than at the Human Services Agency in Yankton. Lessening the number of competency restoration cases that take place at HSC will allow the facility to devote greater time and resources to other types of services. This legislative change was supported by the Oversight Council.



# Strengthen opportunities to divert people from the criminal justice system

**Goal:** Establish mechanisms to appropriately divert people from the criminal justice system to mental health treatment.

## MENTAL HEALTH COURTS

Mental Health Courts are an intense and specialized docket for individuals with severe mental illnesses. The goal is to divert qualifying individuals with severe and persistent mental illness from prison to a judicially supervised community-based program. Much like drug courts, participants are held accountable with frequent appearances before the judge. An interdisciplinary team headed by the judge and consisting of a prosecutor, defense attorney, case manager, and clinician follow the individual's progress and provide recommendations to the judge.

**Pennington County:** The Pennington County Mental Health Court has been operational since January 2019. At capacity, the court can provide supervision for up to 20 clients. In FY 2020, there were 19 individuals accepted into the multi-year program.



**Minnehaha County:** The Minnehaha County Mental Health Court became operational in FY 2020. 8 individuals were accepted into the program over the course of the year.

# Ensure speedier court processing and shorten jail stays

**Goal:** Reduce wait times for competency to stand trial evaluations to decrease jail stays for people with mental illness.

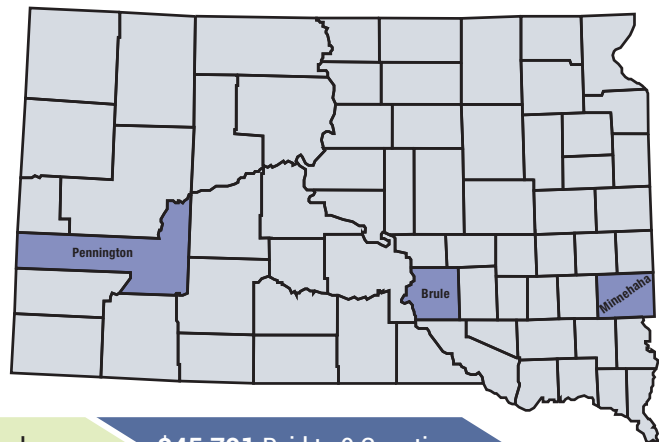
In 2017, South Dakota adopted a 3-pronged approach to expediting the completion of competency to stand trial evaluations.

1. Established a fund to reimburse counties for competency evaluations conducted locally;
2. Authorized additional professionals to conduct evaluations; and
3. Set a 21-day timeframe for completion of competency evaluations.

## COMPETENCY EVALUATION FUND

In FY2018, a fund was established through the transfer of competency evaluation funds from the Human Services Center to the Association of County Commissioners. The fund is intended to assist counties with the cost of competency evaluations conducted locally and reduce the length of jail stays while awaiting completion of these evaluations. Counties may request reimbursement from the Competency Evaluation Fund twice per year. **To date, \$91,436 has been paid to counties.**

**Pennington, Brule, and Minnehaha Counties sought reimbursement in FY 20.**



### Reimbursements to South Dakota Counties

**YEAR 1 | 61 Claims Submitted**

**52 Claims Verified**

**\$45,701 Paid to 9 Counties**

**YEAR 2 | 38 Claims Submitted**

**28 Claims Verified**

**\$27,528 Paid to 6 Counties**

**YEAR 3 | 13 Claims Submitted**

**15 Claims Verified**

**\$18,207 Paid to 3 Counties**

## EVALUATORS

In FY 2018, South Dakota increased the number of evaluators approved to conduct competency evaluations to provide statewide coverage. That coverage was maintained through FY 2020.

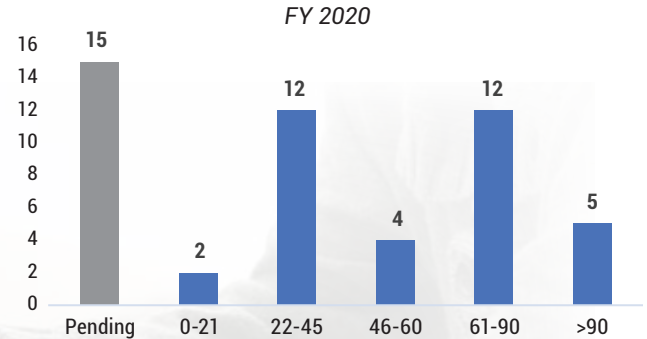


## TIMELINES

In FY 2019, the wait times for completion of competency evaluations to stand trial dropped from an estimated four to six months to an average of 67 days.



## Average Number of Days to Complete Competency Evaluations



For FY 20, the **average wait time is down 39 percent over the prior year.**

50 individuals had competency exams ordered in FY 20, with all but two cases having a continuance granted by a judge that would allow the evaluation to exceed the statutory goal of 21 days.

\*The average number of days to completion calculations include individuals who absconded after the competency evaluation was ordered. The delays caused by absconders contributes to the increased average number of days to complete the evaluation.



## STATEWIDE MENTAL HEALTH TRAINING

**Training efforts continue for all stakeholders.** South Dakota continues to prioritize mental health training for all criminal justice stakeholders.

| CRIMINAL JUSTICE STAKEHOLDER       | TRAINING COURSE  | CUMULATIVE # OF TRAINING PARTICIPANTS | FREQUENCY OF TRAINING                                  |
|------------------------------------|--|---------------------------------------|--|
| Law Enforcement                    | Basic Certification Course:<br>Response to Persons in Crisis                                       | 332                                   | 16 hours required for all new law enforcement officers |
| Jail Corrections Officers          | SAMHSA Online Course: Creating Safe Scenes   | 860                                   | Mental illness training required every 4 years         |
| State Prison Correctional Officers | Mental Health First Aid<br>Dialectical Behavior Therapy (DBT)<br>Crisit Intervention Team Training | 2170<br>929<br>4                      | Mental illness training required every 4 years         |

In addition to training officers in Mental Health First Aid and Dialectical Behavior Therapy (DBT), the Department of Social Services provides:



- ▶ **Bi-weekly DBT skills training** and **DBT coaching** to officers who work in mental health housing units
- ▶ **Mindfulness training** for Officers in Charge

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|--------------------------------|---|---------------------------------------|--|
| <b>Public Defenders</b>        | Representing Clients in Criminal Proceedings with a Mental Illness                          | 165                                   | Required for all court-appointed attorneys     |
|                                | UJS Video Training Series: Attorneys Representing a Client with a Mental Illness            | 321                                   |  |
| <b>State's Attorneys</b>       | Building the Next Generation of Prosecutor-Led Diversion Programs                           | 104*                                  | Mental illness training required every 4 years |
| <b>Judges</b>                  | Judicial Work at the Interface of Mental Health & Criminal Justice                          | 45                                    | Determined by Chief Justice                    |
|                                | Mental Health Panel Training  | 53                                    |  |
|                                | Mental Health Court Implementation  | 3                                     |  |
|                                | Improving the Court and Community Response to those with Mental Illness                     | 4                                     |  |
|                                | 2019 Summit on Improving Criminal Justice Response to Those With Mental Illness             | 7                                     |  |
| <b>Court Services Officers</b> | Trauma Responsive Court   | 132                                   | Determined by State Court Administrator        |
|                                | Trauma Informed Court   | 125                                   |  |
|                                | The Role of Telehealth Based Services: Improving Accessibility for Justice Involved Clients | 129                                   |  |
|                                | Mental Health Court Implementation  | 3                                     |  |
|                                | 2019 Summit on Improving Criminal Justice Response to Those With Mental Illness             | 11                                    |  |

\* No FY 2020 data provided.

## 2019 SUMMIT ON IMPROVING CRIMINAL JUSTICE RESPONSE TO THOSE WITH MENTAL ILLNESS

In August 2019 the Unified Judicial System, in collaboration with nine other partners, hosted a summit about improving criminal justice responses to those with mental illness.

Stakeholders from 25 counties attended the conference, including judges, court service officer, parole officer, sheriffs, police officers, mental health providers, and prosecutors.

The main purpose of the conference was to increase collaboration between the local stakeholders that come into contact with an individual who has a mental illness. This was done by having each community identify their key decision points in the justice system, starting with the first interaction with law enforcement and concluding with reentry back into the community from jail. By identifying local challenges, existing local resources, and priorities, each community was able to identify their strengths and needs, as well as create an action plan tailored for their community.

Due to the success of the event, additional mental health summits are planned for the future and will be funded through a gracious grant from the Leona M. and Harry B. Helmsley Charitable Trust.



## VIRTUAL CRISIS CARE

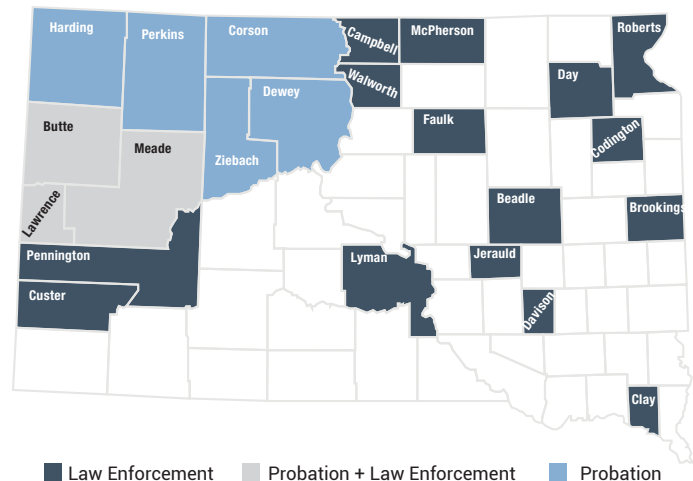
One of the goals of Chief Justice David Gilbertson's 2017 workgroup that produced HB 1183 was to increase access to mental health services. This past year, the Unified Judicial System and Avera Health were given a grant by the Leona M. and Harry B. Helmsley Charitable Trust to develop and implement the Virtual Crisis Care pilot program to help provide services to people who live in less populated areas.

The Virtual Crisis Care program allows law enforcement officers to have 24/7 access via iPad to a mental health professional that can help with deescalation, crisis stabilization, and safety assessments when an individual is experiencing a mental health crisis. The goal is to reduce the instances where a law enforcement officer must put an individual on a mental health hold. Additionally, the program will help link the individual in crisis to their Community Mental Health Center.

By the beginning of FY 2021, all 18 sheriff's offices in the pilot and the Fourth Judicial Circuit will be operational with the technology.



A Pennington County sheriff's deputy familiarizes herself with the Virtual Crisis Care program on an iPad.



## OVERSIGHT COUNCIL MEMBERS

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**Senator Arthur Rusch**  
*State Senate*

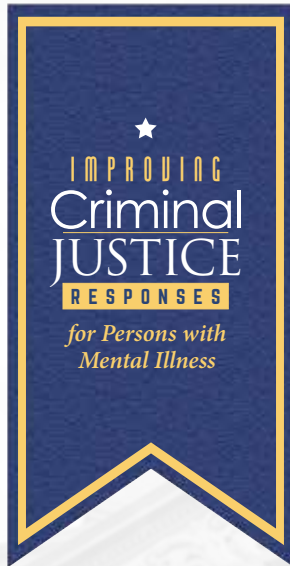
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*Governor's General Counsel*

**Dr. Thomas Stanage**  
*Lewis and Clark Behavioral Health*

**Tiffany Wolfgang**  
*Department of Social Services*

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**Sadie Stevens, Oversight Council Staff**



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Responses for Persons with Mental Illness

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