

# Improving Criminal Justice Responses to Mental Illness in South Dakota

**DRAFT**

FY 2018 Annual Report

Pursuant to the 2017 House Bill 1183, the first annual report is submitted to the people and leaders of South Dakota. Since passage of HB 1183, the Oversight Council for Improving Criminal Justice Responses for Persons with Mental Illness has had the privilege of collaborating with local and state leaders as we work towards improving efficiency and effectiveness in how the criminal justice system responds to individuals with mental illness.

The annual report is a compilation of the progress made on key policies in HB 1183. The initiative seeks to: improve public safety and the treatment of people with mental illness who come into contact with the criminal justice system; more effectively identify mental illness through training, screening, and expanded response and diversion options; and better allocate resources to improve early intervention services.

Successful implementation of the policies, most of which became effective in July 2017, requires the complex convergence of state and county governments, as well as the cooperation and support of the behavioral health and criminal justice systems. Even with these challenges, we have already seen:

- Mental health training rolled out to many criminal justice stakeholders across the state for the first time;

- Funding previously used by the state to conduct court ordered competency evaluations shifted to the counties, contributing to significant decreases in wait times for competency evaluations; and,
- Completion of a data collection pilot program in 7 jails to lay the groundwork for early identification and to ascertain the prevalence of possible serious mental illness in the state's jail population.

This would not have been possible without the generosity of the Helmsley Charitable Trust's support, the technical assistance of the Crime and Justice Institute and the dedication of local and state leaders across the state.

South Dakota has a long history of not shying away from complicated issues. While much work remains, the Oversight Council and local and state leaders will continue to improve how the criminal justice system responds to people with mental illness.

Respectfully submitted,

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

# Address mental health crises early and prevent jail admissions

**Challenge:** Options to divert people with mental illness from the criminal justice system are statutorily authorized, but not available in all areas of the state

**New Approach:** Ensure crisis intervention training is available to all parts of the state and enhance crisis response services

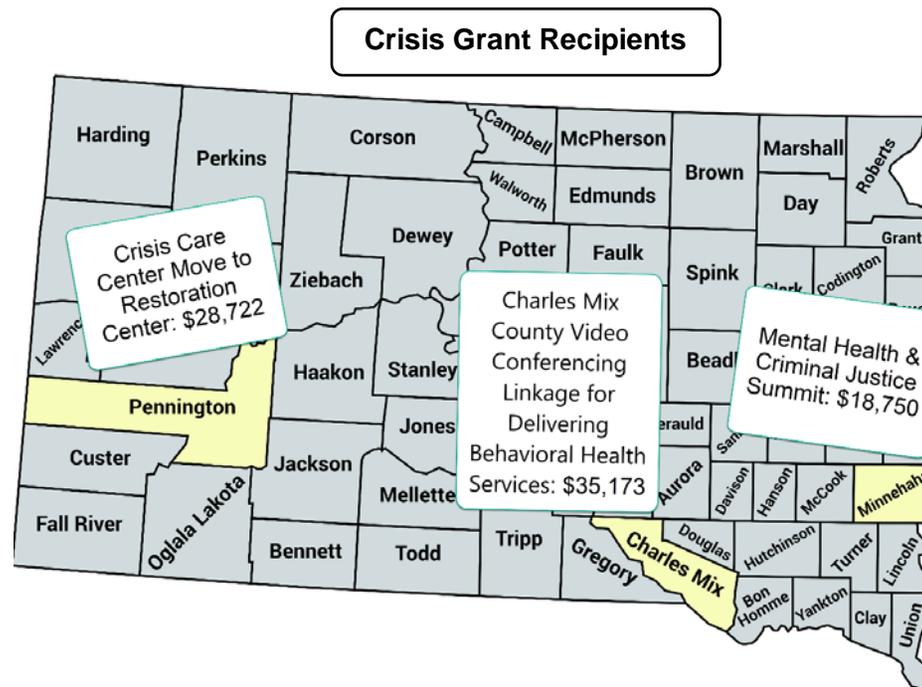
## TOOLS FOR LAW ENFORCEMENT

**CIT coordinator planned.** A job description was developed and distributed to hire a statewide crisis intervention training coordinator to ensure statewide access to crisis response training. Interviews are scheduled for July 2018.

## CRISIS RESPONSE SERVICES

### Crisis grants distributed.

Department of Social Services provided one-time grants totaling \$82,000 to three communities to expand crisis response services.



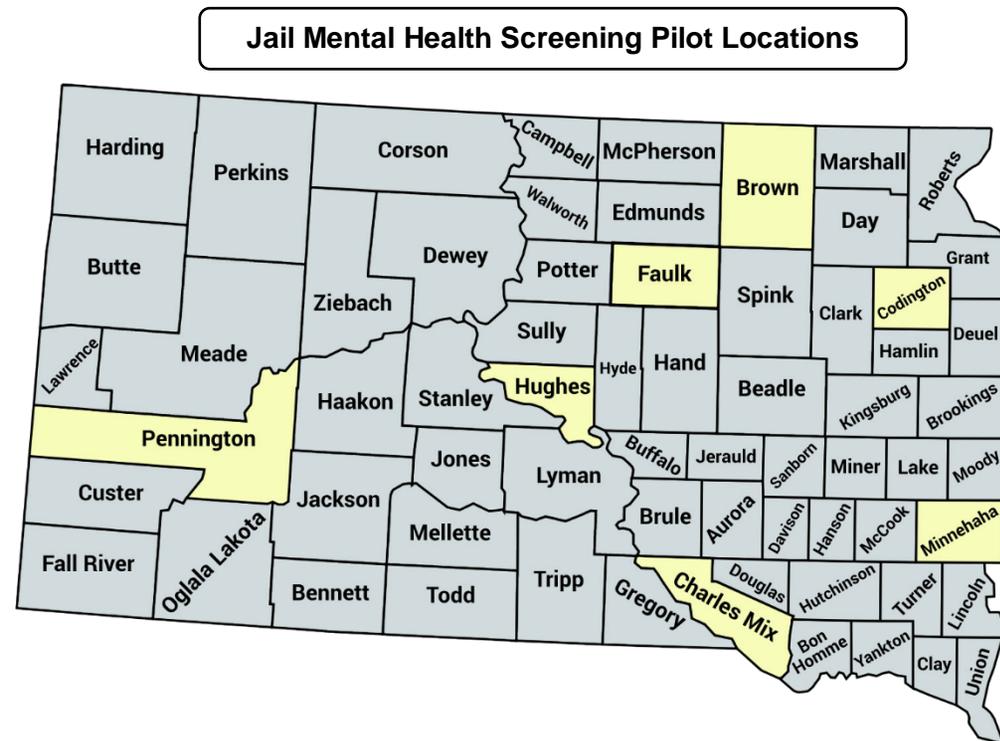
# Identify mental illness early and strengthen opportunities to divert people from the criminal justice system

**Challenges:** The criminal justice system lacks adequate procedures to identify mental illness early once an arrest has been made. People with indicators of mental illness are more likely to be jailed pretrial and to stay longer in jail, yet jails are not equipped to address their needs. Options to divert people from the criminal justice system are limited to certain geographic areas.

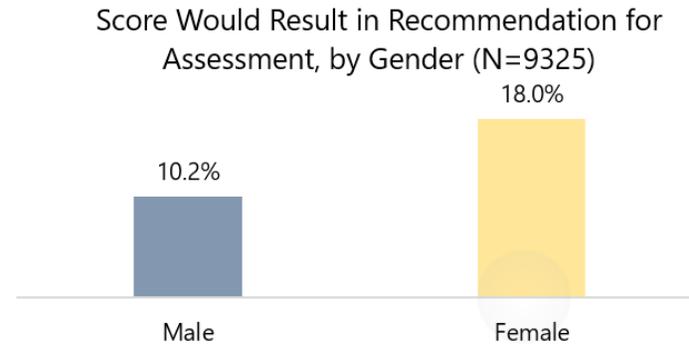
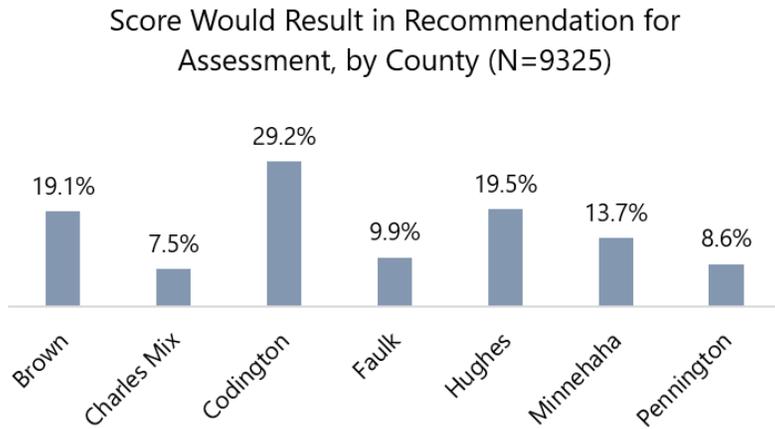
**New Approach:** Establish a data collection pilot program to screen people for serious mental illness when booked into jails, and plan for statewide rollout of jail screening; and establish mechanisms to appropriately divert people from the criminal justice system to mental health treatment

## JAIL MENTAL HEALTH SCREENING

**Seven counties volunteered to participate in a jail pilot program** from February 1 to June 30, 2018. The pilot program collected data about whether individuals have indicators of serious mental illness.



**13 percent of the jail screens across the pilot sites indicated individuals should be recommended for a mental health assessment.**



## COURT-LED DIVERSION TO TREATMENT

**Mental health response team pilot identified.** The Presiding Judge in the Fifth Judicial Circuit established a planning committee in Brown County to reduce re-arrests of people with serious mental illness through a team-oriented case management approach.

**Mental health court funding approved.** In the 2018 session, the legislature funded a mental health court in Pennington County.

**Legislature approved Pennington County Mental Health Court funding of \$248,447**

# Expedite the completion of competency exams to ensure speedier court processing and shorter jail stays

**Challenge:** Court orders regarding competency evaluations tripled in a 3-year period, while the common practice of multi-purpose evaluations and wait times for evaluations drove higher costs

**New Approach:** Three-pronged approach to expediting the completion of competency to stand trial evaluations:

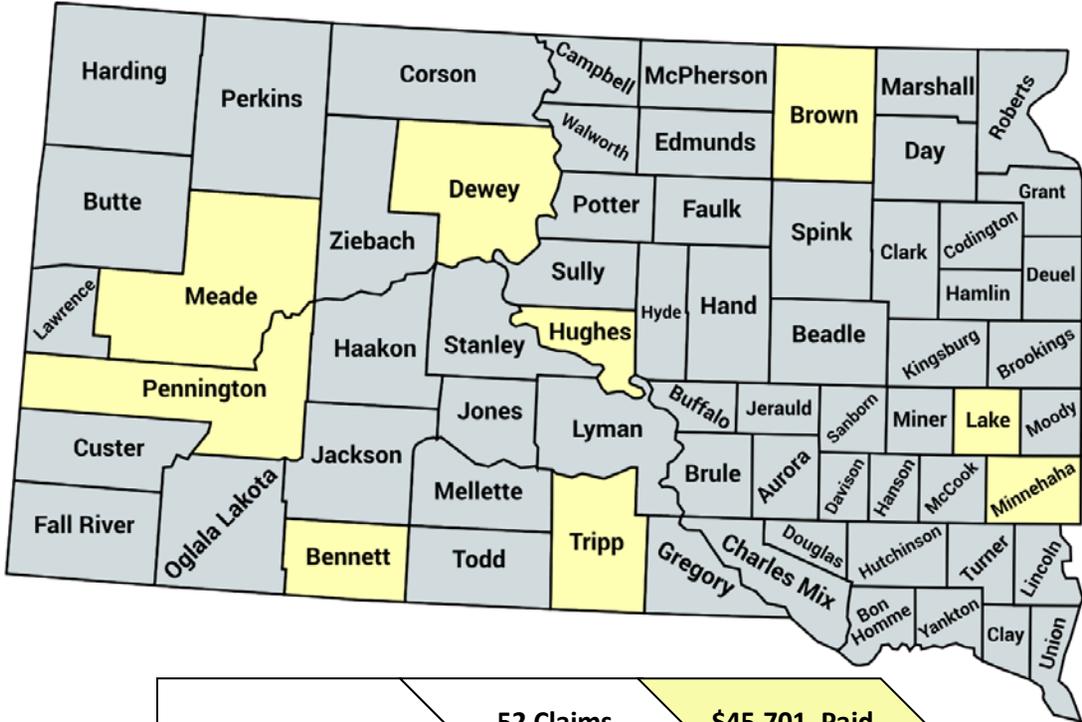
1. Establish a fund to reimburse counties for competency evaluations conducted locally
2. Authorize additional professionals to conduct evaluations
3. Set a 21-day timeframe for completion of competency evaluations

## COMPETENCY EVALUATION FUND

**Fund established.** A fund has been established through the transfer of competency evaluation funds from 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 by expediting court processing.

**Reimbursement.** Counties may request reimbursement for competency evaluations twice per year and are generally eligible for up to \$1500 per evaluation. In the first year, 61 claims were submitted and 52 were reimbursed. The claims not paid were determined to be evaluations for purposes other than competency or the type of evaluation could not be determined based on the documentation submitted.

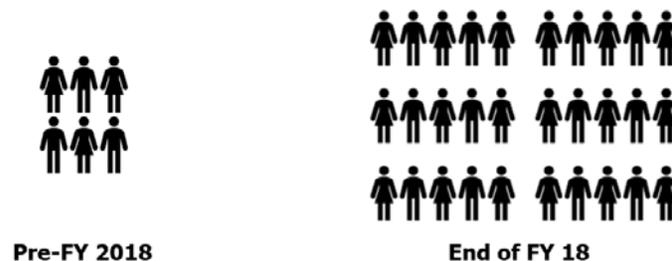
**Competency Fund: Counties Reimbursed in Year 1**



## COMPETENCY EVALUATION TRAINING

**More evaluators.** The number of psychiatrists and psychologists available to conduct competency evaluations has grown from six known evaluators to 31 on the approved evaluator list at the end of FY 18. This list is available to the courts for consideration when ordering competency evaluations.

### Growth in Number of Competency to Stand Trial Evaluators



**Training program established to expand the number of competency evaluators.** Consistent with American Bar Association Criminal Justice Standards on Mental Health and other states, South Dakota authorized additional professionals authorized, with specialized training, to conduct competency evaluations. These professionals are: certified social worker, certified nurse practitioners or clinical nurse specialist, and licensed professional counselor-mental health.

To assist the added professionals in meeting the specialized training requirement, UJS contracted with a licensed psychiatrist and competency examination training expert to develop Best Practices in Competency to Stand Trial, an online training program for the newly authorized professionals interested in becoming approved evaluators. This training went live in May 2018. Individuals from these professions will be added to the list as they complete training.

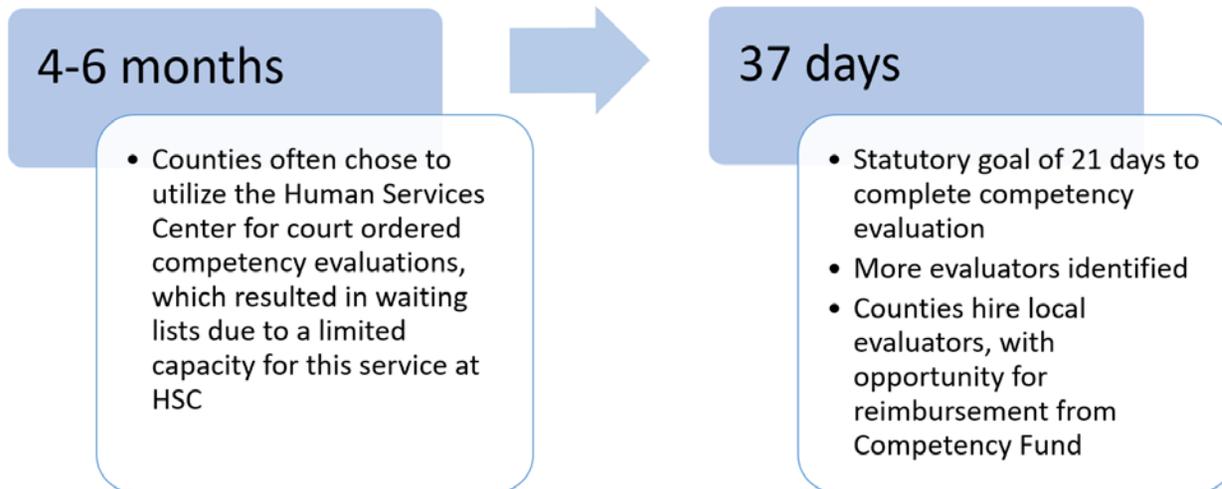
**Scholarships offered.** UJS awarded scholarships for ten individuals to be trained as competency evaluators who are willing to perform examinations in underserved areas.

10 scholarships awarded for Best Practices in Competency to Stand Trial training, ensuring statewide coverage.

## 21-DAY TIMEFRAME FOR COMPETENCY EVALUATIONS

**Wait times reduced.** The combination of setting a timeframe for completion. The increased availability of evaluators and the Competency Fund has led to a significant reduction in the average time between an order for competency evaluation and the completion of that evaluation.

### Reduction of Wait Times for Completion of Competency to Stand Trial Evaluations



# Improve access to treatment for those with mental illness in the criminal justice system through training and studying treatment options

**Challenge:** Besides those going through the Law Enforcement Training Academy, there were no mental health training requirements for criminal justice stakeholders

**New Approach:** Require all criminal justice stakeholders to be trained in the recognition of the signs and symptoms of mental illness to begin to improve pathways to treatment

## MENTAL HEALTH SCREENING FOR PROBATIONERS

**Court Services implementing a screening process.** While not statutorily required, UJS is working with DSS to implement the Correctional Mental Health Screen (CMHS) along with a set of questions to identify probationers who may need a referral for mental health evaluation and/or treatment.

## STATEWIDE MENTAL HEALTH TRAINING PLANS

**Trainings identified for all stakeholders.** South Dakota is the only state known to have training requirements for all criminal justice stakeholders.

<b>Criminal Justice Stakeholder</b>	<b>Training Explanation</b>	<b>Number Trained</b>	<b>Frequency of Training</b>
<b>Law Enforcement</b>	In August 2017, Law Enforcement Training doubled the crisis intervention training hours provided in its Basic Certification Course to 16 hours of instruction	Response to Persons in Crisis= <b>129</b>	Required for all new law enforcement officers
<b>Public Defenders</b>	Mental health training for court appointed attorneys was offered at the State Bar of South Dakota Annual Meeting in June 2018 and online training was made available as of June 2018	Representing Clients in Criminal Proceedings with a Mental Illness = <b>165</b>  UJS Video Training Series: Attorneys Representing a Client with a Mental Illness = <b>75</b>	Required for all court-appointed defense attorneys
<b>State’s Attorneys</b>	Training was held at the May 2018 State’s Attorneys conference	Building the Next Generation of Prosecutor-Led Diversion Programs = <b>104</b>	Mental illness training required every 4 years
<b>Jail Corrections Officers</b>	Training is offered online by the Substance Abuse and Mental Health Services Administration, and all jail offers were asked to complete the course by December 2018	Creating Safe Scenes = <b>433</b>	Mental illness training required every 4 years
<b>Judges</b>	Training completed at May 2017 judges conference	Judicial Work at the Interface of Mental Health & Criminal Justice = <b>45</b>	Determined by Chief Justice
<b>State Prison Corrections Officers</b>	DOC trained all staff and continues to train new hires	Mental Health First Aid = <b>1367</b> Dialectical Behavior Therapy = <b>847</b>	Mental illness training required every 4 years
<b>Court Services Officers</b>	Trainings completed at CSO professional development training in April 2017 and April 2018	Trauma Responsive Court = <b>130</b> Trauma Informed Court = <b>125</b>	Determined by State Court Administrator