



WORKING TOWARD AN EFFECTIVE MENTAL HEALTH CARE SYSTEM IN THE UNITED STATES VIRGIN ISLANDS

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The U.S. Virgin Islands, with its beautiful sunshine and welcoming beaches, is often referred to and enjoyed as the “American Paradise.” The Virgin Islands is home to over 108,000 people of whom 76.2 percent identify themselves as African American/Caribbean, 14 percent as Latino/Hispanic, 14.4 percent as white and 7.2 percent as individuals of multiethnic backgrounds (U.S. Census, 2000).

Regrettably, the Territory also experiences serious mental health care challenges and significant levels of poverty. More than a quarter of the Territory’s residents (27.4% of the population) live in poverty.¹

According to estimates of the National Institute for Mental Health (NIMH), diagnosable mental disorders affect about one in four adults (26.2%) of the U.S. adult population.² While we cannot establish that these statistics include the U.S. Virgin Islands’ population, if we examine the Territory’s population and compare it to the NIMH estimates, over 18,000 people in the VI will experience a diagnosable mental health disorder and may be at risk because of their inability to

¹ U.S. Virgin Islands Kids Count Data Book 2006. Our Children Now! Prosperity in the Future, Community Foundation of the Virgin Islands, p. 35.

² National Institute of Mental Health, Health & Outreach, Statistics (2008).

obtain effective mental health treatment as a direct result of the Territory's limited financial resources and lack of service options.

The Territory's mental health care system is dysfunctional, largely because of meager public financial support, the inadequate number of mental health professionals, and a community mental health infrastructure that is still at the fledgling stage.³ The 1999 ruling of the U.S. Supreme Court (*Olmstead v. L.C.*, 527 U.S. 581) affirmed that people with disabilities have a right to receive community-based services in the most integrated setting appropriate to their needs. Nevertheless, it has not been the practice of the Virgin Islands Government to encourage the development of integrated residential settings for people with mental illnesses. This has resulted in the perpetuation of a system in which a person with a mental illness has one of three choices:

1. placement in a long-term care facility, institution or jail,
2. recurring short-term hospital stays, or
3. life on the streets.

This document will examine the following questions:

³ Protection and Advocacy for Individuals with Mental Illness, Monitoring Visit Report of the Disability Rights Center of the Virgin Islands, May 2-4, 2006, Division of State and Community Systems Development, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, p. 24.

- What is the role of the Territory's protection and advocacy system as it relates to persons with mental health disabilities?
- What is the law in the U.S. Virgin Islands with respect to the civil commitment of persons with mental health disabilities?
- What government agencies now exist to serve people with mental health disabilities?
- Which community agencies provide services and support systems developed specifically for persons with mental health disabilities?
- And finally, a proposal to enable the Territory's mental health system to work effectively.

What is the role of the Territory's protection and advocacy system as it relates to persons with mental health disabilities?

The Disability Rights Center of the Virgin Islands (DRCVI) is a nonprofit corporation designated by the Governor of the U.S. Virgin Islands in 1977 to act as the "protection and advocacy agency for persons with developmental disabilities." Before 1977, DRCVI had been known as the Committee on Advocacy for the Developmentally Disabled and as Virgin Islands Advocacy, Inc.

The mission of DRCVI is to advance the legal rights in the U.S. Virgin Islands of people with disabilities. Its work is conducted from two locations: a main office in Frederiksted, St. Croix, and an office in Charlotte Amalie, St. Thomas. DRCVI operates under eight federal grant programs, including the Protection and Advocacy for Individuals with Mental Illness (PAIMI) program. The PAIMI program was specifically created to establish a system in each state and territory to protect and advocate for the rights of individuals with mental illness through administrative, legal, and other appropriate remedies.

The DRCVI provides the following services to people with mental health disabilities, as well as to eligible clients with other disabilities:

- Legal representation;
- Training on disability rights and service issues;
- Investigation of abuse or neglect complaints;
- Outreach to, and monitoring of, facilities for their care;
- Public policy advocacy;
- Assistance that includes information, advice and referral.

These services are offered in an effort to help enable people with mental health disabilities to receive appropriate, recovery-focused care from the mental health system. Toward that end, DRCVI filed a class-

action lawsuit in 2003 against the Government of the Virgin Islands and local healthcare entities for failing to provide adequate mental health services and for failing to operate a community mental health treatment system.

DRCVI has been very successful in its use of litigation as a tool to achieve positive results for people with disabilities in the U.S. Virgin Islands.

What is the law in the U.S. Virgin Islands concerning the civil commitment of persons with mental health disabilities?

The procedures for committing a person for short-term emergency hospitalization (called voluntary commitment) and the procedures for committing a person involuntarily to the longer-term custody of a psychiatric unit are governed by Sections 722 and 723, respectively, of the Virgin Islands Code. (See, 19 V.I. Code Ann. Sections 722-23.) The authorities granted under each section are not interchangeable. Each Section provides a separate and specific grant of civil authority to commit a person who is considered to be causing serious harm to himself or to another individual. In one instance, such authority is given to the administrator of an approved public treatment facility, and in other instances such authority is granted to the Superior Court. Each section

dictates the length of time and degree of allowable discretion that may be used in determining how long that person may be detained.

Section 722 –Emergency Commitment

Section 722 states that the *administrator or mental health professional* of an approved public treatment facility—upon receipt of an appropriate written application, and certificate of evaluation and observation of the person who is to be committed—may *request* that the person be taken to an approved treatment facility for “emergency examination and/or treatment,” unless the administrator believes the application and certificate “fail to sustain the grounds for commitment.” Section 722 confers no authority upon the Court (the Superior Court) to act.⁴ All authority contained in Section 722 is allocated to the *Administrator* of the approved public treatment facility. Once committed under the authority of the administrator, a person may be held for a maximum of five business days, not including holidays and weekends. Any detention in excess of the five days is permissible only by a court order or the filing of a petition for a court order, pursuant to Section 723.

Section 723 – Involuntary Commitment

⁴ *In re K.D.*, No. IC 7/1999, 1999 WL 552769, at 2 (Terr. Ct. V.I. June 29, 1999)

An involuntary civil commitment pursuant to Section 723 may occur with or without a prior Section 722 emergency voluntary commitment. The Court's authority to commit a person arises only under Section 723, which states that "a person may be committed to the custody of the *Department of Health*" by the Court upon the filing of a petition, accompanied by a certificate of psychiatric examination made within two days *before* submission of the petition.⁵ Psychiatric examination must have already occurred and the certificate attesting to the results completed; a statement that the examination *will* occur is insufficient.⁶ If the person refuses to submit to a medical examination, the fact of the refusal should be indicated in the petition.

It should be noted here that, contrary to the wording of the statute, the Department of Health no longer has custodial authority over civil commitment cases. Such cases are now referred to the VI Government Hospitals and Health Facilities Corporation, which has jurisdiction over the Juan F. Luis Hospital and Medical Center (St. Croix) and the St. Thomas Hospital and Community Center, and Section 723 should be amended accordingly.

⁵ 19 V.I.C. Section 723 (a)(2)

⁶ *Virgin Islands ex rel. K.D.* 41 V.I. 57 (1999)

An involuntary civil commitment under Section 723 requires a hearing so that the Court can examine the person. In that instance, the Court will require clear and convincing proof of the grounds for commitment and a determination that the person will be provided “adequate and appropriate treatment” that “is likely to be beneficial.”⁷ In accordance with Section 723 (e), a person may be ordered into involuntary custody for treatment for “either a time certain established by the court, or for an indefinite period ... subjected to close periodic scrutiny designed to protect said person from prolonged and unnecessary commitment.”

Right to Counsel

The right to legal counsel attaches to every stage of the Section 723 judicial commitment proceedings.⁸ If a petition for a Section 723 involuntary commitment is made during a Section 722 emergency commitment, the administrator in charge of the approved public treatment facility where the patient is being held must provide (to the person who is to be committed) a written explanation of his/her right to

⁷ 19 V.I.C. Section 723 (d)

⁸ 19 V.I.C. Section 723 (h)

counsel and a reasonable opportunity for that person to consult counsel.⁹

What government agencies are established to serve people with mental health disabilities?

For persons with mental illness, the Government of the Virgin Islands provides care and rehabilitation at the following facilities:

Acute Care:

Within the Territory's general hospitals: the Roy L. Schneider Hospital on St. Thomas and the Juan Luis Hospital on St. Croix are the Neurological-Behavioral Unit and the Psychiatric Unit, respectively. These units handle acutely ill persons with mental illness. The Neurological-Behavioral Unit accepts patients from the St. John and St. Thomas district, and the Psychiatric Unit serves the people on St. Croix. These hospitals are semiautonomous, Board administered, and accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO). Patients admitted for psychiatric care must meet the guidelines of the Commission. Both hospitals receive operating funds from the Government of the Virgin Islands.

⁹ 19 V.I.C. Section 722 (f)

Long-Term Rehabilitation and Chronic Care:

With the support of the federal government, the Virgin Islands has established community facilities in an attempt to meet more adequately the needs of persons with mental health disabilities. Mental health services are provided by the Division of Mental health, Alcoholism and Drug Dependency at the following locations:

- An outpatient clinic at Barbel Plaza, St. Thomas.
- An outpatient clinic at Morris de Castro Clinic on St. John
- Two outpatient clinics on St. Croix: one in Frederiksted at the Nesbit Clinic and one in Christiansted at the Charles Harwood Medical Complex.
- The Eldra Schulerbrandt Residential Long-term Care Facility is on St. Thomas. It serves the entire Virgin Islands, and has about thirty beds.

The Division of Mental Health, Alcoholism, and Drug Dependency falls under the jurisdiction of the Virgin Islands Health Department, this is headed by a Commissioner of Health appointed by the Governor of the Virgin Islands.

The Division is mainly funded by grants from the Federal Government and supplemented by funds from the VI Government at the discretion of the Commissioner of Health.

The Virgin Islands Government, through its Division of Mental Health, maintains a number of persons with mental illness in various hospitals on the mainland of the United States of America and Puerto Rico because it does not have a fully functional mental health treatment system to care for its own citizens here at home.

Challenges within the System:

The following four typical scenarios demonstrate some of the challenges within the system:

Scenario 1: A person, mentally ill and homeless, is in need of rehabilitation. This person has been without medication for the past five years. He is delusional but not totally disoriented. The individual is escorted by police officers to the emergency room of the appropriate hospital, pursuant to a 722 commitment application made by a responsible person with personal knowledge of the individual, but he will not be admitted because he does not meet the criteria for admission according to JCAHO. He is seen in the emergency room and discharged back to the streets. He receives no treatment. Thus, the stabilization

and monitoring that is required to start the rehabilitation process has been denied.

Scenario 2: Police officers tend to feel that it is easier to take a homeless and mentally ill person to jail in order to get him off the streets than to “waste time” taking him to the hospital.

Scenario 3: A young woman has her first psychotic episode and is admitted to the hospital. She receives fairly adequate care despite the lack of important adjunctive therapies—psychologists, psychiatric social workers, occupational therapists and/or recreational therapists. She is given medication and is discharged. She is told to attend the outpatient clinic on a given date. She stops taking the medication and does not go to the clinic. There is no outreach team to check on her. Her repeated failure to take her medication and attend the outpatient clinic may result in a refusal to readmit her to the hospital for psychiatric assistance.

Scenario 4: John Jones has been attending the psychiatric outpatient clinic for many years. He participates in the weekly group meeting and speaks only if spoken to. He is now 36 years old and lives with his mother. There are no plans to assist this man to become independent.

Which community agencies provide service and support specifically for persons with mental health disabilities?

There are a number of nonprofit organizations in the Territory that will accept responsibility for providing care to persons with mental illness, but few have specified that it is their mission to provide care and rehabilitation for persons who are mentally ill.

The Care of Children with Mental Illness

No government facility has been established to provide care for children with mental health disabilities. Some services are rendered to children on an outpatient basis within the adult clinics but inpatient care is left to nonprofit community agencies. The Virgin Islands Behavioral Services agency provides a comprehensive system of care for certain children, including residential services, but it is unable to provide care for children who are acutely psychotic, suicidal or homicidal. Those children are sent off-island to the mainland United States for treatment, which is paid for by either the Department of Health and Human Services or the Department of Education.

Transitional and Supportive Housing and Rehabilitation for Adults

Within the past five years, Clear Blue Skies, a nonprofit organization on St. Thomas, established the Clear Blue Skies

Clubhouse and Karen's House, a residential home for about 10 persons referred from the Eldra Schulerbrandt Facility. Clear Blue Skies belongs to the International Center for Clubhouse Development (ICCD) family of clubhouses, and provides a program that is consistent with clubhouses around the world.

Ten Thousand Helpers of St. Croix, a nonprofit organization, established Rainbow House, a residential rehabilitation program for persons who are homeless and mentally ill, or dual-diagnosed (suffering both mental illness and substance abuse or addiction). Rainbow House also provides daily activities in a safe haven for its target population. This is a pilot program that is "client-centered" as well as innovative in its approach to rehabilitation.

The Village, run by Virgin Islands Partners in Recovery, had for many years resisted accepting persons with mental illness into its program. Today, The Village has a multifaceted project for persons who are homeless and dual-diagnosed. It includes a Drop-in Center, an Outreach Program, and a Residential Treatment Program.

A number of other nonprofit organizations include persons in their programs who are mentally ill although these organizations are not exclusive to that population. These are:

Catholic Charities, which runs an outreach program from its soup kitchen for persons who are mentally ill. It also makes available to the entire homeless population a shower, clean clothes and a meal.

The Lighthouse, run by the Southgate Baptist Church, is a breakfast center for persons who are homeless.

The Methodist Training and Outreach Center provides outreach, housing and support to persons who are homeless. On occasion, the Center has provided shelter to persons with mental illness.

Eagle's Nest is a shelter for homeless men with substance abuse problems and will occasionally house someone with a mental illness.

Bethlehem House, run by Catholic Charities, is a shelter for homeless women and children. The facility would prefer not to provide shelter for persons with mental illness, but has done so in the past.

Lutheran Social Services provides permanent housing for persons with disabilities, including persons with mental illness.

Advocacy

The Disabilities Rights Center of the Virgin Islands advocates for the rights of all persons with disabilities and, through its PAIMI (Protection and Advocacy for Individuals with Mental Illness) Advisory Council, it has zeroed in on the many areas of neglect, negligence and stigma within and outside the system that daily confront persons with mental illness in the U.S. Virgin Islands.

Clear Blue Skies, The Virgin Islands Alliance for the Mentally Ill, and Ten Thousand Helpers of St. Croix work to educate the community on issues pertaining to mental illness.

Toward an Effective Mental Health Care System

The Government of the Virgin Islands has given lip service to the idea of improving the mental health system. It is the opinion of the authors of this report—one of whom has extensive experience in rehabilitation and has worked for over 43 years as an occupational therapist—that the Virgin Islands mental health system has been in a state of decline for the last 24 years.

What should be done to improve the present state of the Territory's mental health system? The following systemic approaches are recommended:

Step 1

- Re-establish—under one umbrella—the acute treatment units and the community treatment clinics.

If our hospitals find it difficult (due to the constraints of accreditation protocols) to admit and treat patients with a chronic mental illness who have relapsed, then new guidelines must be developed for the emergency-room handling of such patients, and service providers and the public must be made aware of such guidelines.

Suggestions

- a) A patient brought in on a Section 722 commitment application should be seen by a psychiatrist and kept for at least 24 hours before being discharged. The very nature of mental illness and the fact that its sufferers can frequently appear “normal” makes it necessary to observe him/her for at least 24 hours.
- b) The person who signed the Section 722 commitment application should be notified of the discharge.
- c) The patient should be given clear information about the medication and treatment provided and guidelines as to where s/he can continue to see a psychiatrist.

Step 2

Staffing for the inpatient unit:

- Psychiatrists: Ratio 1:5 Therefore, a 10-bed unit will have 2 psychiatrists.
- Psychologists: 1
- Psychiatric Social Workers: 1
- Occupational Therapist: 1
- Psychiatric Nurses: Number to provide adequate coverage for 24-hour supervision

Mandate that psychiatrists and social workers work in the Psychiatric or Behavioral Unit and at the Community Clinics.

Or

Set up acute aftercare clinics at the hospital for newly discharged patients.

This will establish a two-month continuum of care for the patient, who will continue with the same psychiatrist and social worker who treated him/her in the acute setting.

The successful recovery of persons with mental illness requires building trust, interpersonal relationships and empathy.

Step 3

Staff at the Community Psychiatric Clinics:

- Psychiatrists: 2 per clinic

- Psychologists: 1 per clinic
- Social Workers: 2 per clinic
- Mental Health workers: 4 per clinic
- Psychiatric Nurse: 1 per clinic

Establish two treatment teams, each headed by a psychiatrist. Each team will be responsible for its own patients. Each team will be connected to work closely with one of the psychiatrists at the in-patient unit. This would give the patient the security that is needed for him/her to recover. Mental health workers will report to the social worker and be responsible for the case management of each client.

Step 4

Community Psychosocial Program:

Together with community organizations, establish psychosocial clubs in areas of the community that are geographically convenient for clients' attendance. On the island of St. Croix, for example, one such program could be located in Christiansted, one mid-island, and one in Frederiksted. The programs should be designed by an occupational therapist and conducted by occupational therapy aides or activity aides. This will smooth the way for the clients' re-entry into the community.

Step 5

Supportive Housing, Transitional Housing and Permanent Housing

The concept of transitional housing for the homeless and mentally ill is important because often, after many years of living on the streets, a person loses a great deal of his social and coping skills. These skills have to be retaught.

The trend today, however, is to provide permanent housing with skilled and supportive staff who will work closely with their clients in their homes.

Step 6

Establishment of Long-Term-Care Facilities

Long-term-care facilities should not exceed 15 beds and they must include rehabilitation programs designed to enhance recovery. Clients should be discharged from these facilities to supportive, permanent housing settings.

Proposed Staffing at Long-Term-Care Facilities:

- The psychiatrists at each clinic will work closely with the residents and staff of the long-term care facility in their area
- Mental health workers will function as case managers
- An occupational therapist will design the rehabilitation program and the activity aides will conduct it.

- Nurses will provide 24-hour supervision

Step 7

Obtain the services of a psychiatrist who specializes in the treatment of children and adolescents, and who will design a program for the treatment of, and support for, children with emotional problems.

- Establish a Child Guidance Clinic.
- Establish a screening program for teenagers to provide early attention for those who are experiencing emotional trauma.

Step 8

Ongoing Education on the Subject of Mental Illness and Mental Health

Efforts to remove the stigma that is associated with mental illness would help increase the number of persons who would willingly seek needed treatment:

1. Service providers—from psychiatrists to activity aides—must embrace the recovery model of treatment rather than the medical model. This, simply put, requires us to pay more attention to the patient, who would then be at the center of the treatment plan.

2. The V.I. mental health care treatment system should adopt more positive attitudes toward the prognosis of the individual and celebrate each small step made by the patient on his/her road to recovery.
3. Nonprofit organizations also have a supportive role to play. They need to provide more innovative programs for persons with mental health disabilities; and, wherever possible, showcase individuals in positive situations.
4. Educating the community on the subject of mental illness will undoubtedly help to remove the social stigma that pervades the mental health community and can also be effective in mending lives that have been shattered by mental illness.

Step 9

Putting the System in Place

Renovation or rebuilding always requires the spending of money. It is important to recognize this and to weigh this cost against the benefits that will accrue (improved treatment, more timely recovery of clients, less recidivism, money saved) as a result of the changes made. Again, it is important to pool all resources—including financial—as we begin to put the new system in place.

The salary scale for mental-health service providers (and clinicians, in particular) is not competitive when compared with salaries offered on the U.S. mainland. Because of this, we often fail to attract the best-qualified people or we have to compromise by allowing a clinician to work privately so that he/she can supplement inadequate income. The salary scale must be improved so that the Virgin Islands can attract a broader array of qualified mental health professionals.

We can use our institute of higher learning, the University of the Virgin Islands, to supply the professional and paraprofessional needs of the community. This can be accomplished if the University makes a more concerted effort to build collaborative relationships with professional associations toward the goal of creating a program to train psychology aides, social worker aides, occupational therapy aides, and other needed personnel.

And, finally, we can improve our mental-health-service delivery system by positioning ourselves more effectively to pursue funding opportunities from a wide variety of sources that will support the recovery model of treatment and ongoing public education.

*Submitted by: Judy E. Bain and Amelia Headley LaMont **May, 2008***

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