Behavioral Health Care Subcommittee

Joint Commission on Health Care

Staff Update: Work on Groups Examining Virginia Tech Tragedy

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Background

- In the wake of the tragedy at Virginia Tech (VT) on April 16, 2007, four workgroups were convened to review the events, understand what went wrong, and make recommendations for improvement and prevention.
- The workgroups include:
  - Virginia Tech Review Panel,
  - Virginia Tech Internal Review,
  - Health, Welfare and Institutions (HWI) Committee, and
  - House Courts of Justice Committee.
- In addition, the Supreme Court of Virginia, Commission on Mental Health Law Reform, which was convened prior to the tragedy, will issue a preliminary report on civil commitment this winter.

Virginia Tech Review Panel Findings

- Immediately following the tragedy, Governor Kaine appointed a panel "to review the events leading up the tragedy; the handling of the incidents by public safety officials, emergency service providers, and the university; and the services subsequently provided to families, survivors, care-givers, and the community."
- The panel submitted its final report and recommendations to the Governor on August 30, 2007.
  - Some of the key findings related to the specific incident and to Virginia's mental health system in general follow.

Virginia Tech Review Panel Findings (Cont.)

- Findings specific to the VT Tragedy:
  - Cho appeared to be high risk during his school years; this risk was mitigated by interventions and accommodations at school, as well as the support of his family;
  - Numerous incidents occurred during his time at VT that were warnings of instability, but the various individuals with knowledge and information did not communicate with each other in order to intervene effectively;
  - Persons who interacted with Cho explained that their failures to communicate with one another or with Cho's family stemmed from their belief that such communication would violate privacy laws.
  - The fact that a Community Services Board (CSB) representative did not attend the commitment hearing and the failure to certify a copy of the outpatient commitment order to the CSB resulted in an absence of oversight for Cho's outpatient treatment.
  - There was a lack of doctor-to-clinician contact between the hospital and the counseling center.

Virginia Tech Review Panel Findings (Cont.)

- Lack of sufficient resources in Virginia's mental health services, including short term crisis stabilization and comprehensive outpatient services, results in gaps in the system;
- The Involuntary Commitment process is flawed in the following ways:
  - Unrealistic time constraints that impede the collection of vital psychiatric information required for risk assessment,
  - Involuntary commitment standard is one of the most restrictive in the nation and is not uniformly applied,
  - Lack of critical psychiatric data and collateral information, and
  - Barriers to open communications among key professionals.

Virginia Tech Review Panel Recommendations

- Key recommendations related to Virginia's mental health system:
  - "The State should study what level of community outpatient service capacity will be required to meet the needs of the Commonwealth and the related costs in order to adequately and appropriately respond to both involuntary court-ordered and voluntary referrals for those services. Once this information is available, it is recommended that outpatient treatment services be expanded statewide;"
  - Modify the criteria for involuntary commitment to promote more consistent application of the standard and to allow involuntary treatment in a broader range of cases involving severe mental illness;
  - Expand the number and capacity of secure crisis stabilization units where needed in Virginia to ensure that individuals who are subject to a TDO do not need to wait for an available bed;
  - Clarify the role and responsibilities of the independent evaluator in the commitment process
  - Clarify the steps required to assure that the necessary reports and collateral information are assembled before the independent evaluator conducts the evaluation.
  - The following documents should be presented at the commitment hearing:
    - The complete evaluation of the treating physician, including collateral information; reports of any lab and toxicology tests; reports of prior psychiatric history; and all admission forms and nurse's notes.

Virginia Tech Review Panel Recommendations (Cont.)

- Key recommendations to amend the *Code of Virginia* in order to:
  - Extend the time periods for temporary detention to allow for more thorough mental health evaluations;
  - Authorize magistrates to issue temporary detention orders based on evaluations conducted by emergency physicians trained to perform emergency psychiatric evaluations;
  - Require the presence of the pre-screener, or other CSB representative, at all commitment hearings, and to provide adequate resources to facilitate CSB compliance.
    - The independent evaluator, if not present in person, and the treating physician should be available where possible if needed for questioning during hearing.

Virginia Tech Review Panel Recommendations (Cont.)

- Clarify with regard to involuntary outpatient orders the:
  - Need for specificity in involuntary outpatient orders.
  - Appropriate recipients of certified copies of orders.
  - Party responsible for certifying copies of orders.
  - Party responsible for reporting non-compliance with outpatient orders and to whom noncompliance is reported.
  - Mechanism for returning the noncompliant person to court.
  - Sanctions to be imposed on the noncompliant person who does not pose an imminent danger to himself or others.
  - Respective responsibilities of the detaining facility, the CSB and the outpatient treatment provider in assuring effective implementation of involuntary outpatient treatment orders.

Virginia Tech Review Panel Recommendations (Cont.)

- Clarify that the clerk shall immediately upon completion of a commitment hearing complete and certify to the Central Criminal Records Exchange (CCRE), a copy of any order for involuntary admission or involuntary outpatient treatment.
  - Conduct a comprehensive review of the *Code of Virginia* to determine whether there are additional situations in which court orders containing mental health findings should be certified to the CCRE.

Virginia Tech Review Panel Recommendations (Cont.)

- Key recommendations to amend the Virginia Health Records Privacy Act to:
  - Provide a safe harbor provision which would protect health entities and providers from liability or loss of funding when they disclose information in connection with evaluations and commitment hearings.
  - Ensure all entities involved with treatment have full authority to share records with each other and all persons involved in the involuntary commitment process, while providing the legal safeguards needed to prevent unwarranted breaches of confidentiality.
  - Expressly authorize treatment providers to report non-compliance with involuntary outpatient orders.

Virginia Tech Internal Review

- On May 9, 2007, Virginia Tech President Charles Steger directed three internal reviews "to look at strengths and weaknesses of our existing systems/infrastructure and how they may be improved or augmented to address emergency situations that might arise in the future." These reviews included:
  - Security Infrastructure Group,
  - Information and Communications Infrastructure Group, and
  - Interface Group.
- In comparison to the Governor's Review Panel which was investigatory, this was "a forward looking review of university policy, resources, and infrastructure through the prism of April 16."
- Most notable, for our purposes, the Interface Group looked at areas related to identifying and supporting at-risk students.

Virginia Tech Internal Review
(Cont.)

- Examples of Recommendations by the Interface Group include:
  - Refining and Expanding the CARE Team, a key SA group that responds to at-risk students, by including the Virginia Tech Police Department;
  - Creating a Threat Assessment Team to examine the most distressed students that would be empowered to act quickly;
  - Expanding Case Management Capacity to improve follow-up with students and to improve information flow about students at-risk; and
  - Improving communication between campus agencies, with particular focus on privacy law education.

HWI Review

- In response to member requests, Delegate Hamilton requested the Speaker of the House to authorize the HWI committee to convene up to 4 times prior to the 2008 Session to study Virginia's mental health system.
- The purpose of the meetings is to allow members to better understand Virginia's mental health system in anticipation of mental health legislation during the 2008 General Assembly.
- HWI has met 3 times and a final meeting will be held on October 9th (at 1:00 p.m. in House Room D); members will hear presentations from interested stakeholders.

Summary of HWI Meetings

- During the first meeting (held on June 18th) presentations were made by the Office of the Attorney General and DMHMRSAS regarding, emergency custody orders (ECO); temporary detention orders (TDO); voluntary and involuntary commitment; and other relevant mental health issues.
- The second meeting (held on July 30th) focused on the work of private mental health providers.
- The third meeting (held on September 6th) focused on the work of the Chief Justice's Mental Health Law Reform Commission.

House Courts of Justice Committee Review

- On September 10th, the House Courts of Justice Committee held a meeting to educate members regarding all aspects of Virginia's civil commitment process in anticipation of civil commitment bills being filed during the 2008 General Assembly.
- Members heard presentations regarding:
  - Current civil commitment laws,
  - Outpatient commitment issues,
  - An advocate's perspective of the commitment process,
  - A special justice's perspective of the commitment process,
  - A family members perspective of the commitment process, and
  - Operational issues of the commitment process.

Commission on Mental Health Law Reform

- The Commission on Mental Health Law Reform was established by Chief Justice Leroy Hassell of the Virginia Supreme Court in the fall of 2006
  - Charged with completing "a comprehensive examination of Virginia's mental health laws – not only as they appear in the *Code*, but also as they operate in practice – and to offer a comprehensive proposal for reform."

Commission on Mental Health Law Reform (Cont.)

- Chief Justice Hassell appointed a separate Task Force to address each of 5 specific goals set for the Commission:
  - "reducing the need for commitment by improving access to mental health services, [TF on Access]
  - reducing unwarranted criminalization of people with mental illness, [TF on Criminal Justice]
  - redesigning the process of involuntary treatment so that it is more fair and more effective [TF on Commitment]
  - enabling consumers of mental health services to have more choice over the services they receive, and [TF on Empowerment and Self-Determination]
  - helping young people with mental health problems and their families before these problems spiral out of control." [TF on Children & Adolescents]

Commission on Mental Health Law Reform (Cont.)

- The Task Forces will submit separate reports to the Commission in November 2007.
- A preliminary Commission report that will include "a general blueprint for reforming Virginia's civil commitment statutes and related aspects of mental health law" will be issued this winter.
  - Initial recommendations primarily related to outpatient commitment laws may be included.
- "A comprehensive, integrated legislative proposal to implement this blueprint will be developed by the fall of 2008."

Source: Statement of Richard Bonnie, Chair of the Commonwealth of Virginia Commission on Mental Health Law Reform, Presented to the Virginia Tech Review Panel, July 18, 2007.

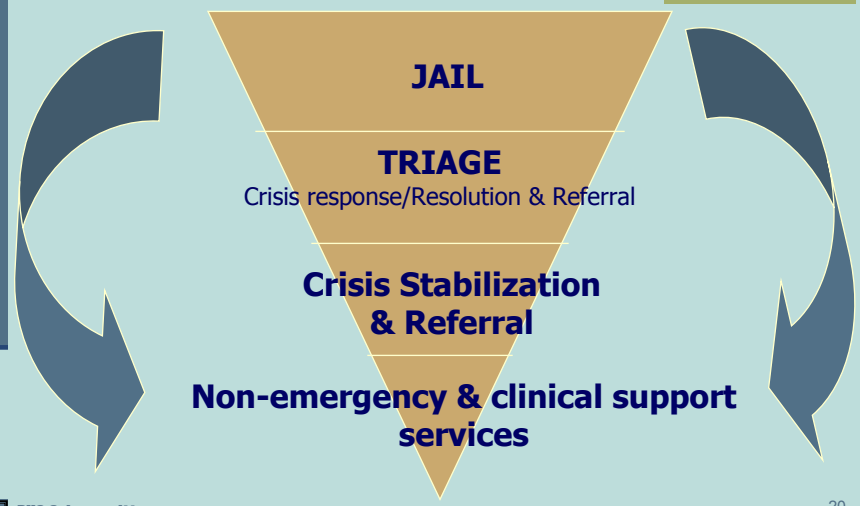
Commission on Mental Health Law Reform (Cont.)

- *Selected Slides from*

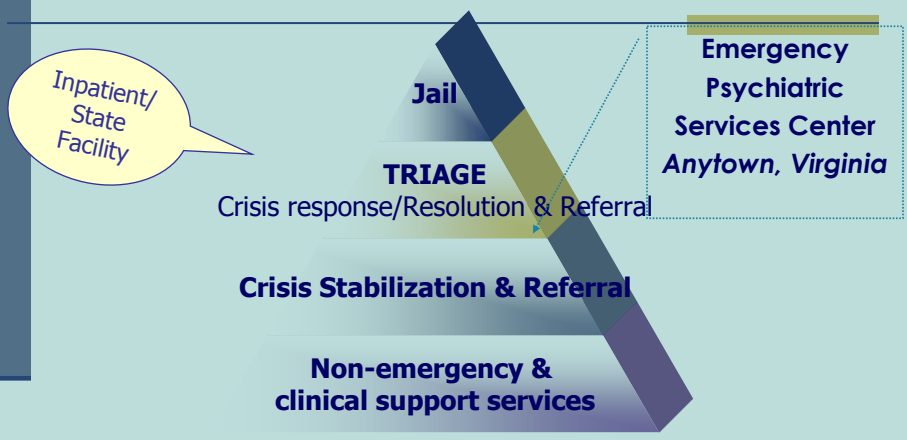
Access Task Force Report

Presentation to House Health, Welfare and Institutions
General Assembly Building
September 6, 2007

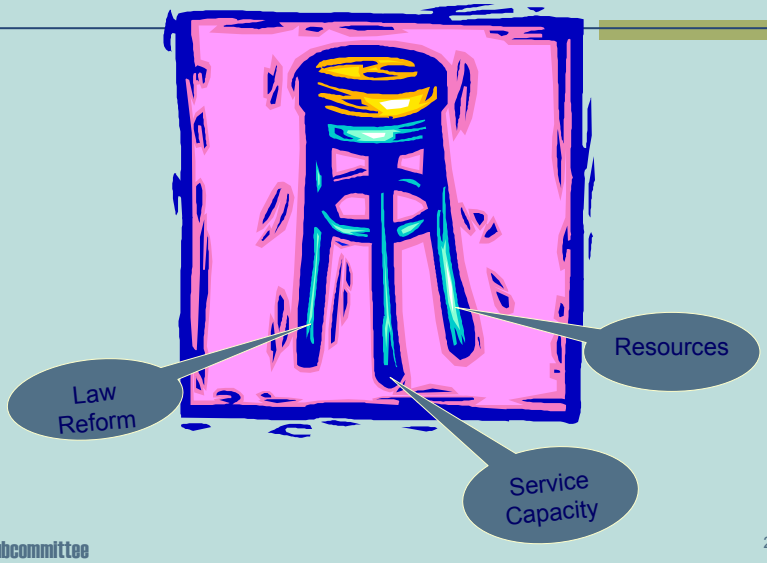
What the system looks like now...



What it should look like



Solutions will be found in …



The Three Legged Stool

- Law Reform
  - The statutory framework for delivering mental health services
  - State and local policies governing care provided by public and private agencies and providers
- Service Capacity
  - The continuing need for private and public community- based services accessible by all Virginians
- Resources
  - Funding (SGF, local funds, Medicaid/Medicare and other insurance, SSDI, Auxiliary Grant support, etc.)

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