

House Select Committee on Involuntary Commitment and Public Safety



North Carolina Sheriffs' Association
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Topics

1. NCSA Positions
2. IVC Respondents
3. Criminal Defendants in Jail
4. Incapable to Proceed to Trial
5. Iryna's Law
6. Conclusion



NCSA

Positions



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Mental Health and Substance Abuse

- The Association **SUPPORTED**
 - Medicaid expansion because the Association believes
 - Medicaid will provide needed medical care for persons with mental health and substance abuse issues; and
 - a healthier population in general will result in less medical expenses for the county
 - so that jails will not become hospitals.



Mental Health and Substance Abuse (continued)

- The Association **SUPPORTED**
- House Bill 307, Iryna's Law because the Association believes it is a step in the right direction to address the current
 - “catch and release” policies allowing dangerous criminal defendants to continue to wreak havoc in our communities; and
 - number of people in jails with mental health and substance abuse issues.



Mental Health and Substance Abuse (continued)

- The Association **SUPPORTS** further work to
 - help IVC respondents and criminal defendants
 - who suffer from mental health and substance abuse issues
 - to ensure they receive the humane treatment they deserve whether they are criminal defendants or not.



Recommended Solutions

- The Association continues to **SUPPORT** adequate state funding for
 - state mental health hospitals to provide mental health and substance abuse treatment to
 - IVC respondents; and
 - criminal defendants in a **secure** portion of these facilities.



Recommended Solutions (continued)

- The Association **OPPOSES** any effort to
 - shift the burden to sheriffs' offices (i.e. county taxpayers) to provide mental health or substance abuse care and treatment to criminal defendants; and
 - shift state funding to the counties or sheriffs' offices to provide mental health, or substance abuse care and treatment to inmates.
- Jails **are not** and **cannot become** hospitals.



IVC

Respondents



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Transportation – Who is Responsible?

- Sheriffs and police officers are transporting respondents for an IVC First Examination and to and from a 24-hour facility.
- Statutes provide for how, when, and where IVC respondents must be transported to receive an IVC First Examination.



Transportation – Who is Responsible (continued)

Within the County:

- The city has a duty to provide all transportation of a respondent who is taken into custody within the city limits.
- The county has a duty to provide all transportation of a respondent who is taken into custody outside the city limits.
- Cities and counties may contract with each other to provide all transportation.



Transportation – Who is Responsible (continued)

Between Counties

- All transportation between counties is provided by the sheriff's office of the county where the respondent is taken into custody.



Transportation – Who is Responsible (continued)

- Transportation by family, friends or a health care provider of the respondent may be authorized by a magistrate.
- Only if the danger to the public, to family or friends of the respondent, to the health care provider, or to the respondent is not substantial.



Transportation – Who is Responsible (continued)

- Depending on the reason the person is being considered for involuntary commitment (many of whom are severely and persistently mentally ill),
- a law enforcement officer may be the only **safe** transportation that can protect the respondent, their families, and the community.



IVC Respondents

- Pursuant to statute, IVC respondents may not be detained in a jail awaiting a First Examination.
- Therefore, even if telepsychiatry was available in a jail, it would not be available to IVC respondents; and
- would not reduce the (1) transportation costs incurred by sheriffs or (2) staff time dedicated to transporting IVC respondents.



Issues for Law Enforcement - IVC Process

- The IVC process is
 - potentially dangerous for law enforcement, and
 - time-consuming for law enforcement; and
 - IVC respondents often cycle through the system time and time again.



Issues for Law Enforcement – IVC Process (continued)

- Law enforcement officers
 - must stay with the respondent until it is determined that a physician or psychologist is available to conduct the First Examination;
 - do not have to wait for the First Examination to be conducted; and
 - should ensure that the respondent is left under **appropriate supervision.**



Issues for Law Enforcement – 24-Hour Bed Space

- There is insufficient 24-hour facility bed space.
- IVC respondents languish for long periods of time in emergency departments waiting for a bed at a 24-hour facility; and
- law enforcement officers must often stay with the IVC respondents for the duration of this time.



Issues for Law Enforcement – 24-Hour Bed Space (continued)

- The closest available 24-hour facility may be across the state from the respondent.
- These transports provided by law enforcement
 - can be long for an already agitated respondent;
 - can be dangerous for law enforcement; and
 - may require stops along the way at rest areas or other facilities if a respondent or a law enforcement officer needs a restroom break, etc.



Issues for Law Enforcement – 24-Hour Bed Space (continued)

- Finding an available 24-hour bed is not easy, but it should be.
- Multiple telephone calls, over multiple hours or days in a row should not be required to find a bed in a 24-hour facility.



Issues for Law Enforcement – 24-Hour Bed Space (continued)

- A directory of all available beds should exist and be accessible and updated 24 hours a day – 7 days a week.
- When a bed is needed, a clinician should be able to call a telephone number and find a bed within a short period of time.



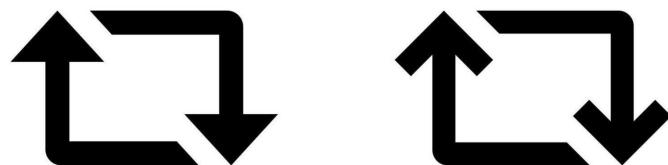
Issues for Law Enforcement – Repeat Encounters

- The outcome of this broken process is IVC Respondents do not get the medical, mental health and substance abuse treatment they need.
 - They are released by an emergency department or a 24-hour facility with inadequate or no follow up or community resources.



Issues for Law Enforcement – Repeat Encounters (continued)

- This creates a likelihood that law enforcement will encounter this person again either as an IVC respondent or as a criminal defendant.



Criminal Defendants in Jail



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Criminal Defendants

- Criminal defendants almost never go through the IVC process while they are in jail.
- Instead, sheriffs are
 - providing care required by the jail's medical plan;
 - seeking a safekeeper order;
 - asking District Attorneys and defense attorneys to expedite the defendant's criminal case(s).



Medical Plans for Jails

- The NC Administrative Code requires each jail to
 - develop a plan for medical care
 - in consultation with the following:
 - the sheriff,
 - the county physician,
 - the local or district health director; and
 - the local medical society.



Medical Plans for Jails (continued)

- Among other things, the written medical plan shall include policies and procedures addressing the following:
 - the handling of routine medical care and routine care related to mental health and substance abuse disorder;
 - the administration, dispensing, and control of medications;



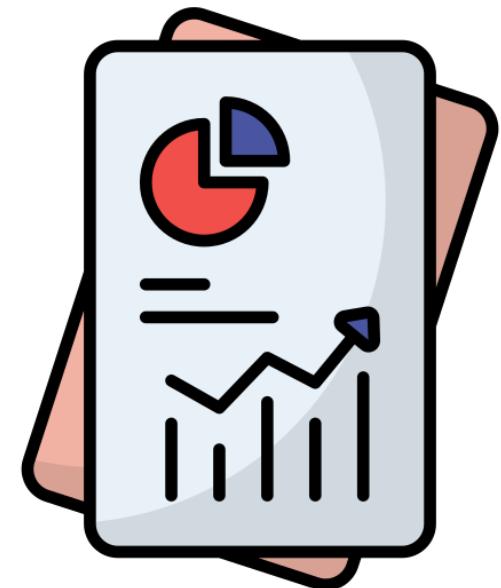
Medical Plans for Jails (continued)

- The written medical plan **shall** include policies and procedures addressing the following:
 - the handling of emergency medical needs including mental health and substance abuse disorder; and
 - privacy during medical exams and conferences with medical and mental health professionals.



Medical Plans for Jails (continued)

- The medical plan shall be reviewed
 - at least once a year
 - by the local or district health director
 - who should determine whether it needs to be updated.



Issues for Law Enforcement – Medical Plans

- Each jail has a unique medical plan based on the medical resources available to that jail.
 - Some medical plans likely already allow for telepsychiatry in the jails while others may not, based on a lack of available resources.
 - Some sheriffs use telepsychiatry now but only have the capacity to use it for suicide watch.



Issues for Law Enforcement – Telepsychiatry

- Some criminal defendants do not trust telepsychiatry.
 - Some defendants refuse to come out of their cell for a telepsychiatry visit.
 - Some defendants who are paranoid do not trust the camera and believe they are being surveilled or that cameras or microphones are hidden to record them.



Safekeeping

- The Department of Adult Correction (DAC) is only allowed to accept 200 safekeepers pursuant to General Statute.
 - This cap can only be waived by the Secretary of DAC.
 - Safekeeper bed space is for those defendants in jail who:
 - are security risks;
 - have physical medical needs; or
 - have mental health medical needs.



Issues for Law Enforcement – Lack of Safekeeping Bed Space

- Bed space for 200 means bed space for 200 from across North Carolina, not 2 beds allotted per county.
- There is no dedicated safekeeping unit for female inmates.
- Female inmates can be accepted at North Carolina Correctional Institute for Women if there is an available mental health bed and available psychiatrist at that facility.
 - Sometimes no such bed is available.



Issues for Law Enforcement – Lack of Safekeeping Bed Space (continued)

- If there is **no safekeeping bed**, the defendant will stay at the jail **until and if** a safekeeping bed is available or the defendant's charges are disposed of.
- This leaves the defendant with only the resources the local jail can provide according to the jail's medical plan.



Issues for Law Enforcement – Lack of Safekeeping Bed Space (continued)

- This potentially places other inmates and sheriff's office staff in physical danger; and
- leaves the defendant without the more comprehensive medical and mental health care they could receive in DAC, or in a secure medical facility.



Issues for Law Enforcement – Lack of Safekeeping Bed Space (continued)

- If the defendant is not a candidate for safekeeping, the sheriff will
 - provide the defendant medical care and mental health care as provided for in the medical plan for the jail; and
 - will work with the district attorney and defense attorney or pro se defendant to expedite the defendant's criminal cases.



Issues for Law Enforcement – Lack of Resources for Defendants

- A defendant may plead guilty and receive an active sentence in the jail or in DAC.
 - In a jail the defendant will receive medical care and mental health care according to the jail medical plan.
 - In DAC, more options for medical care and mental health treatment are available.



Issues for Law Enforcement – Lack of Resources for Defendants (continued)

- A defendant could also plead guilty, and

Option A	Option B
<ul style="list-style-type: none">• receive credit for time served; and	receive a probationary sentence ordering treatment as a condition of probation
<ul style="list-style-type: none">• be sent back into the community with no treatment and likely no resources	



Issues for Law Enforcement – Lack of Resources for Defendants (continued)

- A defendant could also receive a dismissal allowing
 - the defendant released into the community with no treatment and no resources, likely to see law enforcement again as an IVC respondent or a criminal defendant; or
 - the sheriff could take the defendant to the magistrate and start the process for an IVC as a civilian respondent.



Incapable to Proceed to Trial



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Incapable to Proceed to Trial

- A district attorney, defense attorney, judge, or a criminal defendant themselves
 - may make a motion
 - to have a defendant's mental capacity examined
 - at any point in a criminal proceeding.



Incapable to Proceed to Trial (continued)

- The medical evaluation required to make that determination, and restoration services required to restore a defendant's capacity to proceed to trial usually occur at a state hospital.



Incapable to Proceed to Trial (continued)

- To help address the long wait for capacity restoration services, DHHS created three detention-center capacity restoration programs (DCCRP) in the following counties:

NORTH CAROLINA

- Mecklenburg
- Pitt
- Wake



Incapable to Proceed to Trial (continued)

- These programs are referred to as Restoring Individuals Safely and Effectively program, or RISE programs.
- DHHS worked with the sheriffs in these 3 counties to allocate and arrange reimbursement for county jail beds to be used for RISE.

NORTH CAROLINA



Incapable to Proceed to Trial (continued)

- The goal of RISE is to
 - provide services in a jail to restore a defendant's capacity quicker and more efficiently reducing the
 - need for transportation to a state hospital to receive capacity restoration services; and
 - reduce wait time between court ordered capacity restoration services and the conclusion of criminal cases.



Incapable to Proceed to Trial – Lack of Bed Space and Psychiatrists

- Even with RISE programs, there is still insufficient bed space and psychiatrists for capacity examinations and capacity restoration services in state hospitals.
- Sometimes, ITP defendants earn so much jail time waiting for restoration services at a state hospital that their cases will be dismissed so they will not serve more time than is allowed by their crime.



Issues for Law Enforcement – Lack of Bed Space and Psychiatrists (continued)

- Not every defendant qualifies or agrees to receive capacity restoration services in a RISE program.
- RISE programs are run by sheriffs voluntarily and should remain voluntary programs.
- It is yet to be determined whether these programs are the best use of state resources.



Issues for Law Enforcement – Lack of Bed Space and Psychiatrists (continued)

- Very few jails have the resources available to operate a RISE program.
- RISE beds will likely always be limited.
- More state hospital beds and psychiatrists for capacity examinations and capacity restoration are still needed.



Iryna's Law



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Iryna's Law

- The Association supported Iryna's Law.
- It requires criminal defendants
 - charged with a violent offense and who have been the subject of an IVC order within the prior 3 years; or
 - charged with any offense who are a danger to themselves or others;



Iryna's Law (continued)

- to receive a First Examination in the IVC process
- in an emergency department or crisis facility, and
- **not in a jail.**



Iryna's Law (continued)

- The Association would oppose
 - A requirement to conduct First Examinations for criminal defendants via telepsychiatry in a jail because:
 - the cost for these examinations would be shifted to the sheriff (i.e., to the county taxpayers); and
 - jails do not have adequate medical staff and resources like a hospital to conduct physical health screenings at the time of the First Examination as is required by statute.



Issues for Law Enforcement – Jails are not Hospitals

- Pursuant to statute, First Examinations for IVCs must take place at a location that can perform both a mental health exam and a physical health screening.
- This is necessary because mental health issues can be caused by an underlying physical health problem.
- Treating the underlying physical health problem may resolve the mental health issue.



Issues for Law Enforcement – Jails are not Hospitals (continued)

- Unlike jails, hospitals have access to resources like:
 - laboratories,
 - specialists,
 - x-ray and MRI machines; and
 - medications that jails do not have



for a physical health screening and treatment of physical health issues.

Issues for Law Enforcement – Jails are not Hospitals (continued)

- People who pursue a career in law enforcement could have pursued a career in health care but chose not to.
- They had different aspirations, motivations and goals.



Issues for Law Enforcement – Jails are not Hospitals (continued)

- Likewise, dermatologists do not train to be brain surgeons; and
- Because they chose to be a dermatologist, they have different skill sets, different resources, etc.



Issues for Law Enforcement – Jails are not Hospitals (continued)

- We should not expect a law enforcement officer or detention officer to treat mental health and substance abuse issues.
- We do not expect a law enforcement officer or detention officer to provide long-term medical care beyond CPR to a defendant who has a heart attack.



Conclusions



Conclusion

- IVC respondents and criminal defendants with medical conditions, whether mental or physical, should be treated by medical professionals.
- It is unrealistic to expect appropriate mental health care to be provided by detention officers or law enforcement officers in a jail.



Conclusion (continued)

- Change to the current system is necessary so that IVC respondents and criminal defendants receive the quality mental health care that they need and deserve.
- Meaningful changes will be fiscally expensive and will require sacrifice from every profession involved in this process, but changes are necessary.



Conclusion (continued)

- The Association continues to **SUPPORT** adequate state funding for
 - State medical facilities to address the mental health and substance abuse treatment needs of North Carolina citizens and IVC respondents; and
 - **secure** state operated and state funded medical facilities to address the mental health and substance abuse treatment needs of criminal defendants.



Conclusion (continued)

- The Association **OPPOSES** any effort to
 - shift the burden to sheriffs' offices (i.e. county taxpayers) to provide medical, mental health or substance abuse care and treatment to inmates; and
 - shift state funding to the counties or sheriffs' offices to provide medical, mental health, or substance abuse care and treatment to inmates.
- Jails **are not** and **cannot become** hospitals.





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