



A Toolkit for Legislative Reform: Improving Criminal Justice Responses to Mental Illness in Rural States

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Crime and Justice Institute

A division of Community Resources for Justice

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About the Helmsley Charitable Trust

The Leona M. and Harry B. Helmsley Charitable Trust aspires to improve lives by supporting exceptional efforts in the U.S. and around the world in health and select place-based initiatives. Since beginning active grantmaking in 2008, Helmsley has committed more than \$1.8 billion for a wide range of charitable purposes. Helmsley's Rural Healthcare Program funds innovative projects that use information technologies to connect rural patients to emergency medical care, bring the latest medical therapies to patients in remote areas, and provide state-of-the-art training for rural hospitals and EMS personnel. To date, this program has awarded more than \$300 million to organizations and initiatives in the upper Midwest states of North Dakota, South Dakota, Nebraska, Wyoming, Minnesota, Iowa, and Montana. For more information, on Helmsley and its programs, visit www.helmsleytrust.org.

About the Crime and Justice Institute

The Crime and Justice Institute (CJI), a division of Community Resources for Justice, strives to make criminal and juvenile justice systems more efficient and cost effective and to promote accountability for outcomes. CJI takes pride in its ability to improve evidence-based practices in safety and justice agencies, gain organizational acceptance in difficult work environments, create realistic implementation plans, put these plans into practice, evaluate their effectiveness, and enhance the sustainability of sound policies and practices. With funding from the State of South Dakota provided as a result of a grant by The Leona M. and Harry B. Helmsley Charitable Trust, CJI began work in 2016 with the State of South Dakota's Task Force on Community Justice and Mental Illness Early Intervention. The Task Force's work resulted in policy recommendations in November 2016. Based on these policy recommendations, the State of South Dakota in early 2017 designed and passed sweeping mental health reform legislation that will improve outcomes for people with mental illness who come into contact with the criminal justice system. For more information, visit www.crj.org/cji.

Acknowledgments

This toolkit would not have been possible without the commitment of many individuals who worked through a process to develop realistic opportunities for improvement from which other rural states can learn.

CJI is thankful for the opportunity to have supported the reform effort prioritized by South Dakota Chief Justice David Gilbertson, Governor Dennis Daugaard, and Lieutenant Governor Matt Michels to improve how their state addresses mental illness in the criminal justice system.

CJI appreciates the persistence of the members of the *Task Force on Community Justice and Mental Illness*, listed to the right, as they worked to identify the main issues impacting South Dakota; explore promising practices from around the state, other states and local communities; negotiate a strong set of recommendations to state leaders; and mobilize during the legislative session to ensure improvements to how the criminal justice system prioritizes mental health.

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CJI is especially appreciative of the people who shared with the task force members and staff their own experiences with mental illness and the experiences of their family members.

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A Toolkit for Legislative Reform: Improving Criminal Justice Responses to Mental Illness in Rural States

Background

One in five US adults has experienced some form of mental illness in the past year¹, yet less than half of those individuals received mental health care.² There are many reasons for this including the cost of care, stigma around mental illness, not knowing where to get services, and the belief that treatment will not help.³ The issues with mental health care are even more pronounced in rural areas.

Another concerning issue with mental health is that law enforcement has become a primary response to mental health crises, and jails and prisons are expected to be mental health providers. Also problematic is that the full scope of this is not known. There is no nationwide data on law enforcement encounters with individuals with mental illness and no national data collected on individuals with mental illness in the court system, their pretrial experiences, court processing times, or sentences.

National-level data on jails and prisons is available but limited. The Bureau of Justice Assistance (BJS) released a new report in June 2017; prior to this report, the most recent statistics were from a 2006 BJS study. Both reports present a concerning picture of overrepresentation. These data indicate that three times as many people in jails⁴ have a mental health problem than the general US population⁵, and rates of serious mental health issues among jail inmates are five times higher than those not in jail.⁶

Challenges in Rural States

Many rural Americans are in desperate need of mental health care. Individuals in rural areas experience mental health concerns at similar (and sometimes higher) rates as those living in urban areas.⁷ Yet, rural areas can be dense with poverty and unemployment, as well as stressors

¹ Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, *Behavioral Health Trends in the United States: Results from the 2014 National Survey on Drug Use and Health*, HHS Publication No. SMA 15-4927 (Rockville, MD: Center for Behavioral Health Statistics and Quality, 2015).

² HHS, SAMHSA, *Receipt of Services for Behavioral Health Problems: Results from the 2014 National Survey on Drug Use and Health* (Rockville, MD: Center for Behavioral Health Statistics and Quality, 2015).

³ Ibid.

⁴ Department of Justice, Office of Justice Programs, *Special Report: Mental Health Problems of Prison and Jail Inmates*, NCJ 213600 (Washington, DC: Bureau of Justice Statistics, 2006).

⁵ SAMHSA, *Results from the 2014 National Survey on Drug Use and Health* (2015).

⁶ DOJ, OJP, *Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, 2011-12*, NCJ 250612 (Washington, DC: BJS, 2017).

⁷ HHS, SAMHSA, *Rural Behavioral Health: Telehealth Challenges and Opportunities*, HHS Publication No. SMA 16-4989 (Rockville, MD: 2016).

that can contribute to high rates of depression, suicide, and other mental health concerns.^{8,9} Despite this need, those who live in rural areas face significant barriers in getting care. Three main barriers faced by rural Americans are *accessibility*, *availability*, and *acceptability*.

Accessibility is the ability to physically get to a health care provider. Many living in rural locations must travel long distances to reach a medical provider. This is especially difficult for individuals who do not have a reliable car or a driver's license, and who face a lack of public transportation options. The cost of traveling that distance may also be prohibitive, especially given the high rates of poverty in rural areas.¹⁰ Traveling a great distance may mean taking time off work, or leaving children for long periods of time, adding yet more pressure to a rural individuals' attempt to travel to care.¹¹

The challenges with *Availability* are cost and lack of treatment providers and services. Even if an individual is able to make the trip to a hospital or doctor's office, there may not be a mental health professional at that location.¹² Specialty providers are simply not available in many rural areas, so rural Americans are more likely to rely on their primary care physician for their mental health needs. However, primary care physicians often do not have the training to diagnose or properly treat mental health issues.¹³ Along with this shortage of practitioners, rural areas often lack essential services and the most recent evidence-based practices.¹⁴ Finally, cost can make specialty care unattainable, as rates of poverty and of the uninsured can be particularly high in rural areas.¹⁵

Acceptability is the stigma around mental health problems. Perceptions about mental health can make an individual believe treatment will not help them. The South Dakota Health Survey¹⁶ found that many rural South Dakotans screened positive for indicators of mental health conditions, but did not think they needed care. When researchers looked into this further, they discovered many participants viewed mental health issues as a normal part of life, not something worth getting treatment for.¹⁷ Added to this can be a fear of judgement from the community. In an interview, one small town mental health provider noted that clients did not

⁸ Dr. Dianne Travers Gustafson, et al., "Mental Health: Overlooked and Disregarded in Rural America," *Center for Rural Affairs* No. 4 (2009).

⁹ Maryland Family Policy Impact Seminar, "Barriers to Mental Health Access for Rural Residents" (University of Maryland: 2003).

¹⁰ Richard L. Hough et al., "Workforce Capacity for Reducing Rural Disparities in Public Mental Health Services for Adults with Severe Mental Illness," *Journal of Rural Mental Health* 35.2 (2011): 35-45.

¹¹ SAMHSA, *Rural Behavioral Health: Telehealth Challenges and Opportunities* (2016).

¹² Western Interstate Commission for Higher Education, Mental Health Program, "Rural Mental Health: Challenges and Opportunities Caring for the County."

¹³ SAMHSA, *Rural Behavioral Health: Telehealth Challenges and Opportunities* (2016).

¹⁴ Ibid.

¹⁵ Helmsley Charitable Trust, *Focus on South Dakota: A Picture of Health* (2015).

¹⁶ Conducted by the Helmsley Charitable Trusts from 2013-2014.

¹⁷ Helmsley Charitable Trust, *Focus on South Dakota: A Picture of Health* (2015).

want to be seen coming into his office, as the whole community would find out they had sought treatment.¹⁸

One result of these barriers to care is the same for rural areas as for urban ones: law enforcement (particularly jails) have become the primary responders to mental health crises.¹⁹ Nearly 14 percent of men and 24 percent of women booked into jails have a serious mental health condition,²⁰ far greater than in the general population. Many also have co-occurring substance use disorders. Once incarcerated, these individuals are more likely to stay in jail longer and to return again after release than those without mental or other behavioral health concerns.²¹ Rural county jails have become de facto mental health providers as much as urban jails have, but the former often lack the resources to provide the services to these inmates that some urban facilities provide.

In short, rural communities face special challenges and barriers to accessing behavioral health care. Models of care are often created with urban areas in mind, and applied to rural areas with a faulty “one size fits all” mentality.²² The special needs of rural community mental health care call for special solutions, specifically designed with rural barriers in mind.

Aware of these challenges, state leaders in South Dakota took on the task of improving the way the criminal justice system addresses mental health crises and responds to those with mental illness who come into contact with the criminal justice system.

The South Dakota Experience

In the fall of 2015, South Dakota’s largest newspaper, the Argus Leader, wrote a series of articles called *Locked in Limbo*. The series focused on delays in competency examinations for defendants in jail awaiting trial. The *American Academy of Psychiatry and the Law* defines competence to stand trial as “a legal construct that usually refers to a criminal defendant’s ability to participate in legal proceedings related to an alleged offense.”²³ The standard was established by the Supreme Court’s decision in *Dusky v. United States* with a one-sentence formulation requiring that the defendant “has sufficient present ability to consult with his lawyer with a reasonable degree of rational understanding—and whether he has a rational as well as factual understanding of the proceedings against him.”²⁴

¹⁸ Patrick Reardon, “Mental Health Services are a Critical Rural Need,” *Health Progress* (2010).

¹⁹ National Association of Counties, *The Stepping Up Initiative: Reducing Mental Illness in Rural Jails*.

²⁰ Henry J. Steadman et al., “Prevalence of Serious Mental Illness Among Jail Inmates,” *Psychiatric Services* 60, no. 6 (2009): 761–765.

²¹ NACo, *The Stepping Up Initiative*.

²² WICHE, “Rural Mental Health.”

²³ “Practice Guideline for the Forensic Psychiatric Evaluation of Competence to Stand Trial,” *Journal of the American Academy of Psychiatry and the Law* 35.4, Supplement (2007).

²⁴ Rogers, Richard, and Jill Johansson-Love. “Evaluating Competency to Stand Trial with Evidence-Based Practice.” *Journal of the American Academy of Psychiatry and the Law* 37.4 (2009): 450-560.

With growing attention to these delays and recognition of the ethical concerns, Supreme Court Chief Justice David Gilbertson suggested to Governor Dennis Daugaard that a task force be formed to address the delays. Through their early discussions with criminal justice leaders within the state, the scope of the task force was expanded to take a more comprehensive look at the intersection of mental health and the criminal justice system.

Governor Daugaard secured generous support from The Leona M. and Harry B. Helmsley Charitable Trust for technical assistance for the task force and together, he and Chief Justice Gilbertson formally announced the 22-member *Task Force on Community Justice and Mental Illness Early Intervention* on March 30, 2016.

That same day, the Chief Justice, as Chair of the task force, convened the members to begin their study of how individuals with mental illness encounter law enforcement and move through the court system, jails, and probation. The Chief Justice charged the group with:

1. Improving public safety and the treatment of people with mental illness in contact with the criminal justice system through appropriate evaluation, intervention, diversion, and supervision;
2. More effectively identifying mental illness in people coming into contact with the criminal justice system through improved training in local criminal justice systems, better use of screening tools and skills, and expanded response and diversion options in communities for law enforcement and the courts, all while holding offenders and government more accountable; and,
3. Better allocating limited local resources to improve early intervention services and preserve limited jail and prison resources for violent, chronic, and career criminals.

Over the course of seven months, task force members learned about mental illness nationally and in South Dakota, studied state laws on options for people with mental illness and requirements for mental illness evaluations, analyzed court and jail data, considered promising practices, and solicited input from over 100 stakeholders statewide. The task force found that:

- Options to divert people from the criminal justice system were limited to certain geographic areas;
- The criminal justice system lacked procedures for early identification of mental illness;
- People with indicators of mental illness were more likely to be detained pretrial and to stay longer in detention, yet jails were not equipped to address their needs; and,
- Court orders regarding competency evaluations had tripled in a 3-year period, while the common practice of multi-purpose evaluations and wait times for evaluations drove higher costs.

Based on these findings, the task force completed its work by issuing a set of 15 policy recommendations in November 2016.

A number of these recommendations were quickly and broadly accepted by South Dakota's legislature, and were used in developing proposed legislation in House Bill 1183 on February 2, 2017. The bill:

- Provides tools to law enforcement and communities to address mental health crises early and prevent jail admissions;
- Strengthens opportunities to divert people from the criminal justice system into mental health treatment;
- Expedites the completion of competency examinations ensuring speedier court processing and shorter jail stays;
- Improves access to treatment of those with mental illness in criminal justice system through training and studying treatment options; and,
- Requires the state to continue to identify ways to improve criminal justice responses to those with mental illness.

On March 15, 2017, Governor Daugaard signed HB 1183 into law.

Purpose of Toolkit

Much of the work to improve criminal justice system responses to people with mental illness across the country has been done at the local level. Communities have decided to take the issues on within their local context, taking into consideration availability of treatment resources, the role of local law enforcement in responding to mental health crises, and the impact on local jails. In other words, stakeholders in local jurisdictions have come together to come up with solutions and resources to support those solutions.

This toolkit, on the other hand, is designed as a resource for rural states that want to take a statewide, legislative approach to improving criminal justice responses to mental illness. The benefits of utilizing legislation as a vehicle for reform include opportunities to:

- Make mental health in criminal justice a public policy priority;
- Bring greater consistency in best and promising practices statewide, including rural areas;
- Tap into economies of scale to provide resources to local jurisdictions across the state;
- Collect better data on the issue to use for future decision making and fiscal investment; and,
- Sustain the policies through transitions in state and local leadership.

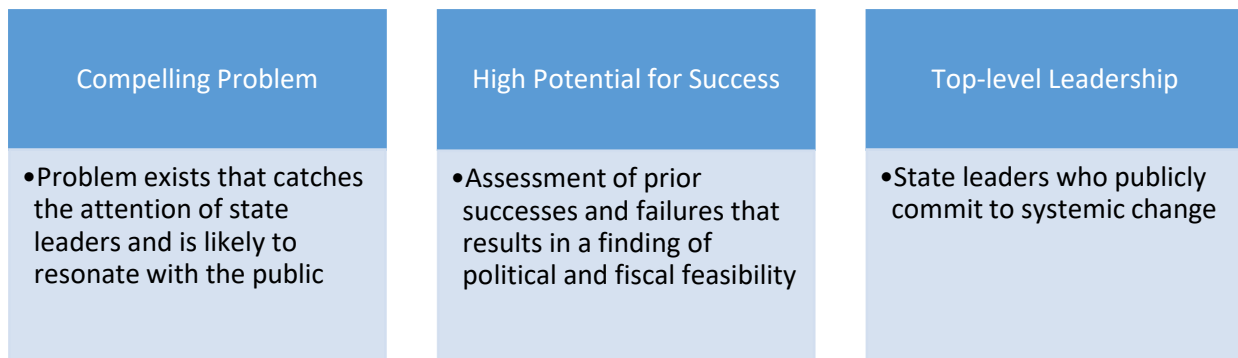
The toolkit provides a road map for statewide legislative reforms using the process employed in South Dakota as a model. It covers four major steps:

- The decision to pursue statewide reform;
- Launch of the effort;
- Policy recommendations, then consensus policy development; and
- Setting the stage for sustainability.

The Decision to Pursue Statewide Reform

The model used in South Dakota was to institute reforms primarily through legislation so that the changes would apply statewide and would be lasting. Administrative and programmatic changes can be easier to initiate but are susceptible to changes in leadership and shifting budget priorities at the local and agency levels.

Because of the difficulty of legislative reform, there are certain factors that should be weighed before a final decision is made to pursue mental health reforms in the criminal justice system. The diagram below shows the three most important factors that should be considered.



Compelling Problem

The challenges facing the criminal justice system regarding mental illness are not new. Over the last few decades, law enforcement and jails have become primary responses to mental illness. Yet, in many places across the country, they have not secured or been provided the tools and resources to do this job well. Nevertheless, it is now commonly accepted practice, so those considering statewide reform **need an identified problem to compel people and systems to consider different solutions.** In other words, there must be a reason for people to care.

Impetus for Reform: The South Dakota Problem

For leaders in South Dakota, it was a media outlet that caught their attention and sold the public on the idea that there was a subset of people with mental illness in local jails facing an injustice that could and should be corrected. In the fall of 2015, the Argus Leader published a series called Locked in Limbo. The series focused on individuals detained in county jails experiencing 4- to 6-month wait times for competency evaluations, the potential causes for the delays, the impact on county jail budgets, and the stories of people impacted.

Following the media reports, the courts pulled their data and found that orders for competency evaluations had tripled over the previous three fiscal years. The media reporting, court data findings, and resulting narrative served as the impetus for a reform effort that began in early 2016.

High Potential for Success

Comprehensive, multi-faceted legislative packages are not easy to get through state legislatures. For this reason, it is important to evaluate the potential for success before you begin. Just because something is 'the right thing to do' does not mean that the time or climate is right.

The text box below provides sample questions to help evaluate potential for success. This process requires more than a cursory, optimistic inquiry. An honest assessment must be done by those who have been involved in past reform efforts and have an inside track on the fiscal condition of the state and the priorities and interests of state leaders.

Evaluating the Potential for Success: Questions to Ask

Even without knowing what a legislative package may look like at the end of a policy development process, there are questions that can be considered to help inform whether a legislative package is likely to pass.

- *Have similar efforts been attempted in recent years?*
 - *If yes, were they successful? What were the drivers of that success?*
 - *If they were not successful, what were the causes?*
- *Who within the state was involved in prior reform efforts? What were their roles? Are those same individuals supportive of mental health reform in criminal justice?*
 - *If not, can they be brought on board?*
- *What is the fiscal situation within the state? What is the likelihood that funding would be available to kick start and support the implementation of new policies and practices that may be recommended?*

Top-level Leadership

Clearly, any change effort is bolstered by the support of state leadership. However, when engaging in a legislative reform process, general support is not always sufficient. To increase chances of success, it is best to have state leaders attach their names to the effort and show public support for it before it begins. In other words, it is important to have multiple state leaders claim ownership of the issue, process, and possible solutions.

It is also crucial that these leaders come from more than one branch of government. Mental health reforms in criminal justice impact staff, agencies, and budgets under the purview of the Executive and Judicial branches, and in most states the Governor's Office and Legislators together drive budget priorities.

This chapter of the toolkit is about the decision to proceed with a legislative reform effort. While each state has unique circumstances to consider in that decision, it is imperative that there be a problem that resonates across a broad array of people, an in-depth assessment of the potential for real and lasting change as a result of a reform effort, and a true and visible commitment from leaders in the state.

The next chapter is about kicking off a statewide change effort and some of the factors that can help to develop momentum for the process and results.

Launch of the Task Force to Study the Problem

Once the decision is made that there is a need for reform, it is essential to formally introduce the effort to emphasize its importance, and to ensure a strong group of influential and knowledgeable people are appointed to carry out the work.

Public Commitment to Change

The most common way to introduce an initiative is a press conference and/or press release. The conference and the release are the opportunity to:

- Explain the problem that will be studied and addressed, and the reasons people should care; and
- Demonstrate the commitment of state leadership to solve the problem.

In South Dakota, Governor Daugaard issued a press release (annotated and shown on the next two pages) and held a press conference. Both featured the Governor, Chief Justice Gilbertson and the funder for the task force. Each conveyed from their own perspective why it was important to examine how people with mental illness experience the criminal justice system, the specific challenges in rural areas, how the study would be conducted, and expressed their commitment.

To view Gov. Daugaard's press conference with Chief Justice Gilbertson and Walter Panzirer of The Helmsley Charitable Trust, click or copy and paste this URL into your browser:

<http://www.crj.org/news-article/south-dakota-engages-cji-developing-solutions-mental-illness-criminal-justice-system/>

Governor's Press Release to Launch South Dakota's Effort



PRESS RELEASE

For Immediate Release: Wednesday, March 30, 2016
Contact: Tony Venhuizen or Kelsey Pritchard
605-773-3212 | <http://sd.gov>

Leadership
Commitment

Helmsley Charitable Trust Awards Grant to Support Mental Health Task Force

PIERRE, S.D. – The South Dakota Department of Health has received its third grant from The Leona M. and Harry B. Helmsley Charitable Trust. The grant, announced by Gov. Dennis Daugaard at a press conference this morning, will enable DOH to support the newly formed Task Force on Community Justice and Mental Health Early Intervention.

“Mental illness and substance use issues are often overlooked and underserved conditions, especially in rural areas,” said Walter Panziner, a trustee of the Helmsley Charitable Trust. “By researching and studying existing municipal or county models across the U.S. and adapting them for a rural, statewide population, South Dakota has the opportunity to provide a model that can be replicated by other states.”

Problem

In 2015, the results of a healthcare survey funded by the Helmsley Charitable Trust were released in a report entitled Focus on South Dakota: A Picture of Health. The survey found that South Dakota may have a higher prevalence of anxiety, post-traumatic stress disorder and alcohol misuse compared to national rates, and that the state's emergency rooms see a high rate of individuals with mental health concerns.

Problem

According to the report, addressing the mental health needs of individuals is more challenging with the state's mental health professional worker shortages and geographic maldistribution.

Problem

The task force established by Supreme Court Chief Justice David Gilbertson, with support from Gov. Dennis Daugaard, will examine mental health as it relates to the state's criminal justice system.

How?

The task force will:

- Examine how individuals with mental illness come into contact with law enforcement and move through the court system, county jails and probation;
- Consider evidence-based practices and successful reforms from other states, and develop tailored policy options for South Dakota; and
- Explore reallocation of any savings into strategies that improve public safety and treatment of mental illness.

How?

“The task force’s work cannot succeed without both in-depth preparation and a comprehensive study of how mental illness affects all facets of South Dakota’s criminal justice system. This is not easily or quickly done,” said Chief Justice David Gilbertson. “The grant from the Helmsley Charitable Trust is an essential step towards the successful work of the task force. I personally am most grateful to the Trust for recognizing the importance of this issue and assisting with the work of the task force.”

The \$302,500 award will provide the task force with technical assistance from the Crime and Justice Institute, an entity that assisted the Governor and Chief Justice with the recent adult criminal justice reforms and juvenile justice reforms.

How?

In addition, six state entities including the Department of Health, Unified Judicial System, Governor’s Office, Department of Corrections, Department of Social Services and Department of Tribal Relations are providing substantial in-kind contributions of \$116,090 to support the work of the task force.

Leadership
Commitment

“We have a strong history of developing bipartisan, inter-branch solutions to complex issues in our criminal and juvenile justice systems,” said Gov. Dennis Daugaard. “We must ensure we are making the best use of our collective criminal justice and behavioral health resources to identify and treat people as early as possible to avoid deeper involvement with the system.”

Problem

The task force consists of representatives from all three branches of government, local government, criminal justice stakeholder groups and mental health stakeholder groups.

How?

The first meeting of the task force is being held today in Pierre at Red ~~Rossa~~.

Click [here](#) to watch an archive of today’s press conference.

Vehicle for Studying the Problem and Solutions

As with any major change effort, there should be a group of people designated to study the issues and propose solutions. In identifying who should be part of the group, there is always tension between broad representation and group size. Broad representation is one way to ensure wider support throughout the process. Yet, if the group is too large it is difficult to accomplish the task at hand.

South Dakota had two prior criminal justice reform efforts to inform both composition and group size. While their prior workgroups had under 20 members, the Governor and Chief Justice decided this task force needed to be slightly larger (22) to get the right members with representation from both criminal justice and mental health.

The graphic that follows illustrates the types of questions state leaders might consider when appointing members to study mental health in the criminal justice system.

Considerations for Task Force Composition

Is each branch of state government represented?	<ul style="list-style-type: none">•Executive•Judicial•Legislative
Is each level of government represented?	<ul style="list-style-type: none">•State, Tribal•Local - county, city, town
Are differing viewpoints represented?	<ul style="list-style-type: none">•Prosecutors and public defenders•Republicans and Democrats•Urban and rural representatives
Are people with mental health challenges represented?	<ul style="list-style-type: none">•Advocates•Persons with mental illness, their family members
Do you have members of the professions that deal with the issues daily?	<ul style="list-style-type: none">•Judges, law enforcement officers, corrections staff•Behavioral health providers
Are there funders on the group?	<ul style="list-style-type: none">•State agency(ies) responsible for behavioral health funding•Appropriators

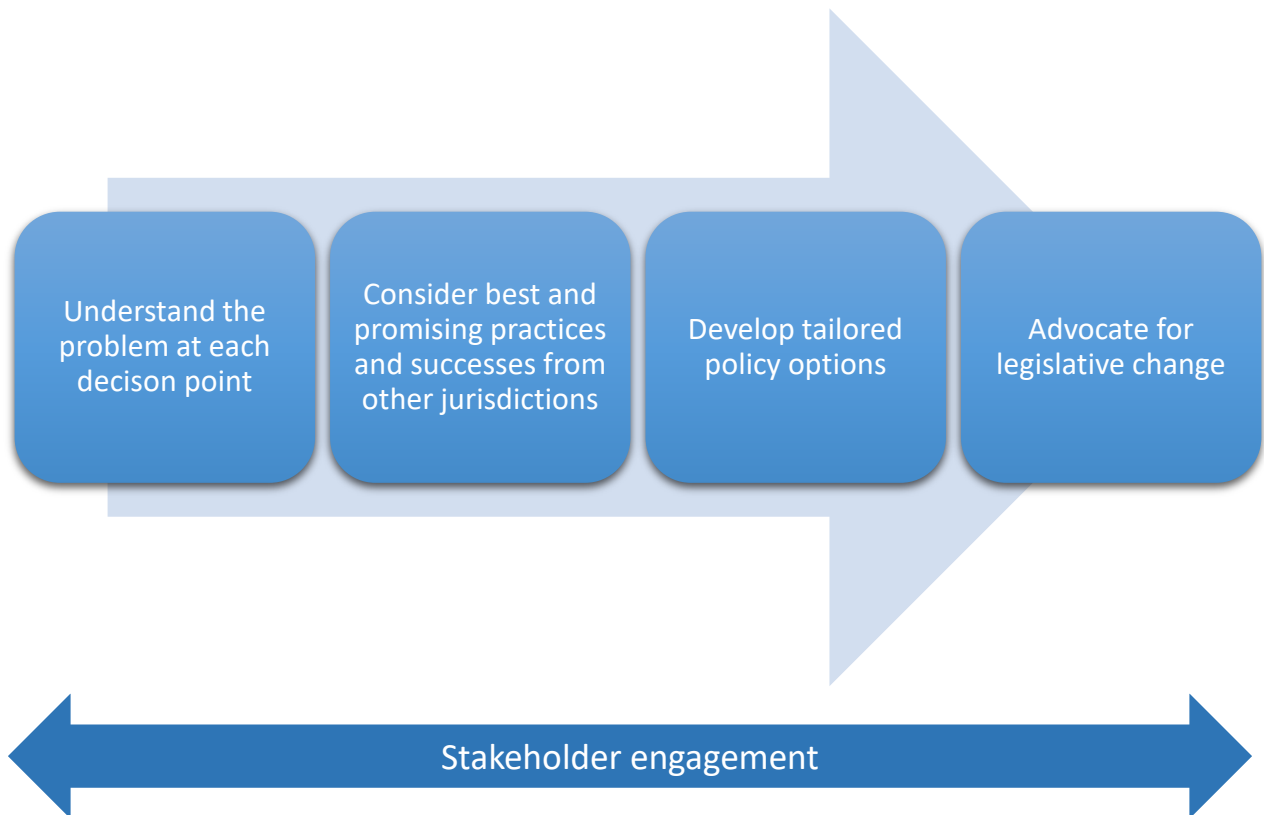
The good news is that some individuals will fall into multiple categories above, but there are also other ways to meaningfully engage and regularly obtain input from people with interests and expertise in the problem. Some of these methods are covered in the next section.

In addition to a task force or workgroup, it is essential to have outside technical assistance. Ideally, this would be a neutral party with experience in task force facilitation and support, as well as legislative experience. Outside technical assistance can be key because state leaders and task force members have full-time commitments, and comprehensive change efforts require a tremendous amount of time and focused attention.

Consensus Policy Development

The task force or work group with the responsibility for proposing policy recommendations to state leadership must have a well-thought out framework for studying current problems and possible solutions. Without a clear framework, it would be difficult to make recommendations in a timely way. And with policy, timeliness matters. It is hard to maintain the momentum created by the launch of an effort and sustain the support of state leaders because they are faced with many pressing problems, and it is impossible to predict what issues may arise over time.

South Dakota utilized a basic change framework, depicted below. It is based on the idea that you must fully understand the problems at each point in the criminal justice system before turning to solutions. Once the problems are understood, research is conducted on possible solutions from instate and other places, and then those solutions can be applied to the specific state context. These solutions are then translated into specific recommendations for implementing change across the state. Underlying this entire framework is the involvement of stakeholders.



Problem Identification

While under the guise of different names, many change models rely on some type of “decision point analysis.” When a task force is working to understand exactly what the issues are around criminal justice responses to mental illness, the members need to ask:

- **What are all the criminal justice decision points?**
- **What decisions are made at each point in the process?**
- **Who makes the decisions?**
- **How long does the decision take to make?**
- **What options are available to decision makers? What options are not available and why?**
- **How does each available option impact people?**

These questions need to be answered using multiple sources of information. The most common sources are state statute and administrative and court rules; stakeholders and practitioners; and, law enforcement, court, and corrections data.

Statutory and Rule Review

One of the first steps to understanding what issues a state faces is to conduct a review of state statutes and rules. The review will include many topics such as emergency mental illness holds, involuntary and voluntary commitment, competency evaluation and restoration, criminal pleas related to mental illness, administration of services by the state’s behavioral health department, authorized diversions, and criminal proceedings. Below is an example of what that review may look like.

Topic	Code Section	Description
Referral to Crisis Team	27A-10-21	<ul style="list-style-type: none"> - In lieu of an emergency hold and/or petitioning for commitment, law enforcement or a QMHP may refer the person to the direct supervision of a mobile crisis team or crisis intervention team - If the crisis team accepts supervision, it may: 1) resolve the issue on a voluntary basis utilizing services in the community, 2) direct that law enforcement proceed with apprehension and transport the person to an appropriate facility for mental illness examination or detox
Discretion of Law Enforcement to Arrest	27A-10-22	<ul style="list-style-type: none"> - Law enforcement retains discretion to arrest - However, law enforcement must give priority to placing severely mentally ill people who have committed misdemeanors in treatment (and intoxicated people into detox)
Immunity from Liability	27A-10-23	Law enforcement, crisis teams, and medical professionals acting in accordance with this statute in good faith are immune from any civil liability (exceptions for gross negligence or willful or wanton misconduct)
Reporting	27A-10-24	The board must report a person who has been involuntarily committed because he is found to pose a danger to himself or others.

Knowledge of the statutes and administrative and court rules allows the task force to understand how the system currently should operate, what is authorized and not authorized, and where there are gaps and opportunities to make different decisions within the criminal justice system.

System Stakeholder and Practitioner Input

The statutory and administrative rules review sets the stage for the task force members to learn about actual practice—that is, how agencies and people respond to mental health issues and how agencies and people experience the criminal justice and mental health systems.

The table below shows the types of people from whom input and information should be gathered. This can be done through different means, but the common way of soliciting information is through structured interviews, focus groups, and surveys. While the information collection protocols should be tailored to each type of stakeholder, generally the following questions should guide the process:

- What is your role in the process?
- For practitioners: could you describe in detail what happens when you come into contact with a person with mental illness and what options you have available?
- For others: could you describe in detail what happens when you interact with law enforcement/attorneys/courts/jails/behavioral health providers/hospitals and what options you have?
- What is working well? What is not working well?
- What are the biggest challenges you face?
- What resources/options are available to you? What resources/options would you like available to you?
- What would you change about the system?

Practitioners	Other Stakeholders
<ul style="list-style-type: none">◦ Law enforcement, including police chiefs and sheriffs◦ Defense attorneys◦ Prosecutors◦ Judges◦ Jail administrators◦ Jail mental health staff◦ Probation officers◦ Publicly and privately funded mental health providers◦ Hospitals◦ State behavioral health agency	<ul style="list-style-type: none">◦ People with mental illness who have experienced the criminal justice and/or mental health systems◦ Family members of people with mental illness◦ Behavioral health and disability advocates◦ Community members◦ County commissioners◦ Law enforcement and corrections trainers◦ Decision makers in the civil commitment process

Again, the reason for gathering this information is to better understand what is happening at each point in the process and where there may be opportunities to divert people or create more or different options.

Data Collection and Analysis

Data is key to understanding policies and practices, but there are challenges when it comes to data on mental illness and the criminal justice system. National-level data is sparse. The sidebar to the right shows helpful data sources that are paid for and published by federal agencies, specifically the Substance Abuse and Mental Health Services Administration (SAMHSA) and Health Resources and Services Administration (HRSA) under the US Department of Health and Human Services, and the Bureau of Justice Statistics in the Department of Justice. Only the latter, however, reports on mental illness in criminal justice populations.

For legislative reforms, statewide data would be optimal; however, many states do not have this available. To have access to the data, there needs to be some reliable way to identify mental illness early in the criminal justice process. South Dakota had no means for early identification (e.g., a mental health screening tool at jail or court intake). To overcome this data challenge, the task force surveyed the state's jails, and analyzed and reviewed data provided by the two largest jails in the state and by the court system. For the jail and court data, proxy measures for mental illness were used.

Armed with the best available data, an understanding of state laws and rules, and how those laws are carried out in practice, South Dakota's task force articulated its findings and moved into the exploration of policy options to address the identified problems.

Helpful National-Level Data

National Survey on Drug Use and Health

<https://nsduhweb.rti.org/respweb/homepage.cfm##>

Health Professional Shortage Areas

<https://bhwh.hrsa.gov/shortage-designation/hpsas>

Projections of National Expenditures for Mental Health Services and Substance Abuse Treatment

<https://store.samhsa.gov/product/Projections-of-National-Expenditures-for-Mental-Health-Services-and-Substance-Abuse-Treatment-2004-2014/SMA08-4326>

Indicators of Mental Health Problems Reported by Prisoners and Jail Inmates, 2011-2012

<https://www.bjs.gov/index.cfm?ty=pbdetail&iid=5946>

Tailored Policy Options

Coming up with policy options entails researching best and promising practices in the state and in other areas of the country that fit the findings from the first part of the process (understanding the problem). It is only with sound research and rigorous examination that policy recommendations should be shared with state leadership.

Research Policy Options

The goal is to research policies and practices that show positive impacts or signs of promise. This research should be targeted to the gaps or problems identified at each decision point in the criminal justice system.

Because of the amount of work this entails, South Dakota's task force broke out into three policy subgroups:

1. Early identification and diversion
2. Court processing and detention
3. Continuum of treatment services

Each subgroup had a facilitator and received intensive staff support. This support included background research on promising and best practices (e.g., target population, the practice itself, resources needed, costs, and evidence of effectiveness) and compilation of the research into a digestible format. Equipped with this information, each subgroup negotiated internally as to which policies to recommend to the larger group and any adaptations needed to fit South Dakota's context.

Negotiate Policy Recommendations

Once a set of recommendations is on the table, it is important that the task force or work group get to consensus on the package that will be submitted to state leaders. It is important that the study result in recommendations that everyone in the group can live with and will own.

In South Dakota, the task force negotiations took about a month following the final task force meeting in October, culminating in the publication of the group's November 2016 report which can be found on this webpage: <https://mentalillnesscommunityjustice.sd.gov/>. The report marked the completion of the task force's efforts, and included a description of the background of the task force, key findings, and recommendations with sufficient detail to allow the recommendations to be translated into legislation.

Implementation of Task Force's Recommendations in South Dakota and Beyond

Following the well-received publication of the task force's report, key stakeholders rapidly advanced the efforts to reform the criminal justice system's response to mental illness in South Dakota by adopting many of the policy recommendations recommended by the task force. In the case of South Dakota, these stakeholders coordinated a legislative advocacy effort to support the passage of legislation related to the recommendations.

Legislative Package

This toolkit is provided to states wishing to create lasting change or at least kick start major criminal justice system improvements around mental health. As discussed in an earlier section, the use of legislation as a vehicle is more lasting than alternatives such as administrative changes. However, it is not solely a list of policies that leads to real systems change. The legislation should also include methods for ensuring implementation of those policies. For example, the legislative package may name a group responsible for overseeing implementation, contain performance measures, and include an appropriation.

It is unrealistic to think that any major system reform can take place without a new appropriation for key provisions. Appropriations are possible even in an uncertain fiscal climate such as South Dakota was facing during its 2017 legislative session.

South Dakota funded its reforms in three ways:

1. The state transferred dollars from the state hospital's forensic evaluation budget to the county commissioners' association to pay for competency evaluations locally to increase timeliness;
2. It utilized non-general fund dollars from the court automation fund to pay for a pilot statewide crisis intervention training coordinator, establish one-time community grants for crisis response startup or expansion, development of online training modules for various stakeholders, and technical assistance to the oversight body that will monitor implementation of the legislation; and,
3. It appropriated a small amount in the general fund for updating online training modules.

Not only did these appropriations fund key provisions in the legislation, but they were a visible commitment to improving options for those with mental illness.

In addition to the policies and related appropriations, South Dakota's legislation included a set of performance metrics to measure each major policy and an oversight group to monitor them (discussed in detail in the next section). The oversight group was also charged with monitoring implementation of the provisions and coordinating various workgroups to study specific topics and to make recommendations to the state for future changes and pilot programs. Having a statutorily mandated oversight group creates ownership for implementation and ensures that people will track progress and make mid-course recommendations if the intended outcomes are not achieved.

Legislative Education and Advocacy

Even in small, rural states, legislators are asked to consider hundreds of substantive bills each session. The assumption cannot be made that, just because criminal justice responses to mental illness are important, legislators will be aware of such a bill or support it. A coordinated effort is needed to ensure that legislators understand and see the benefits of the bill.

The coordinated effort should utilize the people who were involved throughout the policy development phase, including task force members and stakeholders. These are the individuals who can best communicate the importance and benefits of the bill. They should be provided specific tasks, as well as the information and materials they need to carry out those tasks.

State leaders who publicly supported the reform effort should take on prominent roles at this point. Specifically, they should take advantage of media opportunities and utilize their time with the legislative leaders and members to promote the policy package.

Examples of how education and advocacy were conducted around South Dakota's HB 1183 are shown in the table below.

Legislative Education and Advocacy: Examples from South Dakota
<ul style="list-style-type: none">➤ Secure multiple and diverse bill sponsors➤ Have legislative members supportive of the task force's recommendations talk to their peers about the bill and secure support➤ Create and distribute one-pagers explaining the bill to secure targeted endorsements by powerful groups and to educate legislators➤ Ask advocates to email legislators who support their causes to emphasize the importance of supporting the bill and the human impact it will have➤ Use media as a vehicle to communicate and garner support➤ Highlight the bill in addresses to the legislature (i.e., Governor's State-of-the-State and Chief Justice's State of the Judiciary)➤ Publicize the entities endorsing the bill➤ Ask bill endorsers to conduct targeted outreach➤ Utilize key stakeholders to conduct outreach to their legislators➤ Coordinate public testimony in legislative committee hearings

Also as part of the coordinated approach, someone needs to oversee tracking votes during the legislative session. This is not only important for floor votes in the House and Senate but for committee hearings as well. It is only through this process that the right legislative support can be garnered to ensure passage.

Below are two examples of communications tools South Dakota used during the legislative session. The first is a one-page document explaining the bill to legislators. The second is a weekly column authored by Governor Dugaard encouraging support.

HB 1183 Overview

In the fall of 2015, news media reported that criminal defendants with mental illness in South Dakota often faced months-long waits in county jails before being evaluated for mental competency to stand trial. A 22-member task force, of law enforcement, county officials, mental health providers, legislators, and others assembled to examine this problem and other challenges facing persons with mental illness, stakeholders in the justice system, and communities.

The group spent 8 months studying the interface of mental illness and criminal justice in South Dakota, examining best practices in-state and beyond, and formulating recommendations to provide greater training and resources to system stakeholders and build on and improve processes that exist in State law. HB 1183 includes those recommendations.

What HB 1183 Does:

Provides tools to law enforcement and communities to address mental health crises early and prevent jail admissions

- Sets up a one-time grant program to encourage local governments to establish or expand crisis response services as a way to divert individuals with mental health concerns away from jail
- Expands training resources for law enforcement and jails on mental illness and crisis intervention

Expedites the completion of competency exams ensuring speedier court processing and shorter jail stays

- Transfers existing funds from the Human Services Center forensic evaluation budget to a fund administered by the SD Association of County Commissioners to reimburse counties for competency examinations
- Sets a 21-day timeframe for completion of competency examinations and expands the types of professionals who can perform these examinations

Strengthens opportunities to divert people from the criminal justice system into mental health treatment

- Encourages state's attorneys to use deferred prosecution for defendants with mental illness by providing training on mental illness and available services
- Revises the conditions of bond to allow the court to add as a condition the requirement that a defendant complete a mental health assessment and follow treatment recommendations
- Allows courts to establish multi-disciplinary teams to help plan and manage cases for people with mental illness

Improves access to treatment of those with mental illness in criminal justice system through training and studying treatment options

- Requires training on mental illness for court-appointed criminal defense attorneys, officers in jails and state prisons, judges and court services officers to encourage appropriate response and available services
- Establishes a group to recommend ways to improve communication between jails and mental health providers

Continues to identify ways to improve criminal justice responses for those with mental illness

- Creates a 14-person oversight group to monitor implementation and impacts of the Act, and to continue to study related issues and make recommendations to state leaders to improve justice responses
- Pilots the use of a jail mental health screen to establish a procedure for early identification of mental illness, a baseline for how many defendants need further mental health assessment, and a process for statewide rollout
- Requires the Unified Judicial System to track data on probationers assessed and referred for treatment

Rising in support of HB 1183: SD County Commissioners Association, SD Sheriffs' Association, SD Association of Criminal Defense Attorneys, SD Council of Mental Health Centers, National Alliance for the Mentally Ill South Dakota, SD Chapter of the National Association of Social Workers, Avera Health, SD Association of Healthcare Organizations, SD Psychological Association, SD Department of Social Services, SD Unified Judicial System, SD State's Attorney Association, SD State Bar Association

Governor Daugaard's Weekly Column: Steps Forward in Mental Health

Posted on **February 19, 2017** by **Pat Powers**

Steps Forward In Mental Health

A column by Gov. Dennis Daugaard:

A significant number of Americans struggle with mental illness. For many the struggle is silent. Some experience short-term mental health problems; it's not uncommon for individuals temporarily to face mild forms of mental illness at some point during their lives. For others though, it's a lifelong battle that requires consistent treatment. No community is untouched by mental illness. It affects schools, work places and families.

Last year the Helmsley Charitable Trust's Rural Healthcare Program released a study on mental health in South Dakota. The study found that our state has a high prevalence of undiagnosed and untreated depression as well as a very high prevalence of post-traumatic stress disorder and anxiety. While 87 percent of survey respondents reported receiving all needed medical care, only 64 percent reported receiving all needed mental health care, and just 54 percent received all needed substance use care.

Without proper treatment, individuals with mental health problems can land in the emergency room or in jail. When a person showing signs of mental illness behaves in a way that causes arrest, a court may order an evaluation of the person's fitness to stand trial. In recent years, the increased number of these court-ordered evaluations has caused delays for the mentally ill. In some instances, mentally ill individuals had to wait in jail several months for competency evaluations to be completed.

Recognizing this problem, South Dakota Supreme Court Chief Justice David Gilbertson convened a task force to address delays in court-ordered mental health evaluations and shortfalls in treatment for the mentally ill within the justice system.

Funded by a grant from the Helmsley Charitable Trust, the task force released its report in November. Among its findings, it recognized that our system lacks procedures to identify mental illness quickly after an arrest, and in many cases jails are not equipped to deal with mental health needs. In some cases, diversion options that are already authorized by statute are not available in all areas of the state.

This legislative session, the Legislature is considering House Bill 1183, which would enact the task force's recommendations.

The legislation will provide law enforcement with tools to better identify and respond to mental health crises, prevent unnecessary jail admissions, and assist communities in building capacity to offer intervention services. The bill will also expand the pool of providers who can provide competency evaluations, and will shift funding from the Human Services Center directly to counties to perform these evaluations. An oversight council will monitor implementation and recommend changes to future legislatures.

I thank the Chief Justice and task force members for undertaking this work and offering their recommendations, and I thank the Helmsley Charitable Trust for the funding they provided.

Employing Stakeholder Engagement

Stakeholder engagement is an often-mentioned component of any change process, but rarely is “the how” explained. To accomplish statewide reform, the concept of stakeholder engagement must be made real and utilized in a way to not only build broad support for the reform but to (1) gather information to understand the issues facing a state and how people with mental illness experience the criminal justice system, (2) collect best and promising practices, (3) field test potential recommendations, and (4) support legislation. In other words, this type of engagement is what holds up and holds together the reform effort.

The table on the following page identifies the types of questions to ask stakeholders at different points in the reform process. It also provides examples of the types of engagement employed in South Dakota.

For a diverse set of groups and individuals to ultimately support a legislative package, the main ingredient for stakeholder engagement is ***authentic engagement***. This means that those coordinating the effort have to not only listen to stakeholders—they have to do something with the information. In other words, stakeholders who contribute to the process should see their input reflected in the final product. When that is not fully possible, they should be provided with an honest explanation of why their input was not or could not be included and how that decision was made. With authentic engagement, people might disagree but will either support the reform package or simply not oppose it.

Examples of Stakeholder Engagement

Phase of Work	Research/Recommendation Efforts			Implementation Efforts
	Understanding the Problem	Considering Best/Promising Practices	Developing Tailored Policy Options	Implementing Recommendations
Overarching Questions for Stakeholders	What is working and not working in the state? What and where are the challenges for people who encounter or are in the criminal justice system? What are the challenges for those working in the criminal justice system?	What best/promising practices are employed in the state? What practices have you heard about that have shown promise in jurisdictions outside the state?	How will the policies work in practice? Are they feasible? Will your peers support the changes? What will they need to support the changes?	What can you do to support passage of the legislation?
Types of Engagement	<ul style="list-style-type: none"> • Survey of jails/sheriffs • Meetings with jail intake and data staff • Interviews of mental health providers, law enforcement, probation officers • Focus groups with families, people with mental illness, mental health providers, hospital personnel, law enforcement, psychologists 	<ul style="list-style-type: none"> • Interviews with law enforcement about CIT and crisis services • Interviews and panel discussion with psychiatrists about available services and assessments • Focus groups with families, people with mental illness • Interviews with state’s attorneys on diversion 	<ul style="list-style-type: none"> • Review of initial policy options with judges, state’s attorneys, public defenders, chief of police, sheriffs, mental health providers 	<ul style="list-style-type: none"> • Organize individuals to contact legislators to express support • Organize key groups and individuals to testify at legislative committee hearings • Formal endorsements of legislative package by statewide and community-based groups
Ongoing engagement of stakeholders	<ul style="list-style-type: none"> • Time on task force agendas for public input • Website for public input • 2-way task force member communication with their constituents, staff, and peers • Technical assistance provider calls with individual task force members and a small group of influential advisors (e.g., a police chief, hospital administrator, directors of provider organizations, presiding judges) 			

Setting the Stage for Sustainability

A successful legislative effort is a good first step to ensuring sustainability, but it does not guarantee that reforms are implemented as intended and implemented well. The keys to successful implementation and sustainability of reforms are **ownership, listening, planning, communicating, and measuring progress**.

Ownership by an Oversight Group

Working towards improvements in criminal justice responses to persons with mental illness involves state and local agencies and groups. When you have an effort that will not be successful without careful coordination, collaborative decision making, and negotiations, the implementation and monitoring of progress cannot be driven by a single person or agency. Just as with the task force responsible for recommending policies to state leaders, there should be a multi-disciplinary, bipartisan group that includes state and local government and community-based entities. When considering who to appoint to such a group, one consideration is for the members to have access to and influence with high level policy makers. This will increase the likelihood that policy makers will be invested in the group, stay engaged, and will consider future policy recommendations put forth. As shown in the textbox below, South Dakota codified this type of oversight group in statute, and, by virtue of how the appointments are made, each member has a connection to state leadership.

Section 34 of HB 1183: Oversight Group Membership

The oversight council shall be composed of fourteen members. The Governor shall appoint the following four members: a member from the Department of Social Services; a member from law enforcement; a member from a mental health provider; and one at-large member. The Chief Justice shall appoint the following four members: a member who is a criminal defense attorney; a member who is a judge; one member who is a county commissioner; and one at-large member. The majority leader of the Senate shall appoint two senators, one from each political party. The majority leader of the House of Representatives shall appoint two representatives, one from each political party. The attorney general shall appoint two members, one of whom shall be a state's attorney.

In addition to the carefully selected membership, the charge to the oversight group should be clearly communicated. South Dakota's legislation provides specific roles and responsibilities of the group that generally fall into six categories:

- **Review** performance measures, implementation progress, and administration of specific grants, trainings, and a fund established within the legislation
- **Study** mental health professional recruitment and retention strategies, and ways to expand access to mental health services for people who encounter and are involved with the criminal justice system

- **Establish Workgroups** to guide the implementation specific policies (e.g., process for mental health assessment following positive jail screening) across disciplines and agencies
- **Evaluate** the need for and feasibility of specific mental health services (e.g., forensic assertive community treatment) and modes of delivery (e.g., telehealth)
- **Report** required performance measures, averted costs resulting from implementation, evaluation findings
- **Recommend** continuation of pilot programs (e.g., statewide crisis intervention coordinator) and new pilot programs

Listening to Stakeholders

During policy development, stakeholder engagement is crucial to understanding the issues the criminal justice system has in responding to people with mental illness and developing recommendations to improve those responses. Similarly, engagement of key stakeholders across the state should continue during implementation. This can be accomplished through listening sessions or focus groups with different constituencies, asking individuals to advise the oversight group and implementing agencies on certain policies and approaches, presentations to criminal justice and mental health groups and other interested community-based organizations, media coverage, and publications, for example.

These types of engagements help to maintain support as policies are implemented and grow the number of people who carry the message of the need for continued improvements. They can also be important in the identification of local success stories to share, clearing up misconceptions, and learning about any implementation challenges or unintended consequences that result. Engagement of stakeholders should be included in the state's implementation plan.

Planning for Implementation

Comprehensive reform includes multiple policies for which many stakeholders and agencies are responsible. Nowhere is that truer when those reforms cross two disciplines—criminal justice and mental health. Because of the level of coordination needed for success, a statewide implementation plan should be developed.

The implementation plan should cover each policy, identify who is responsible, and include due dates. For each policy, the plan should identify not only the steps the responsible agency or agencies need to take but also specify data collection and reporting, steps to engage stakeholders, and communications efforts needed. An excerpt from South Dakota's HB 1183 Implementation Plan is shown on the following page as an example of what this might look like.

Excerpt from HB 1183 Implementation Plan

Goal: Provide tools to law enforcement and communities to address mental health crises early and prevent jail admissions			
Policy: Crisis Response Services Grants			
HB 1183 Section 7	Establishes a grant program for cities, counties, or groups of counties to establish or expand crisis response services. Requires reporting to the oversight council.	Effective Date: July 1, 2017	
Major Tasks and Milestones	Person, Agency Responsible	Due Date	Status/Notes
Develop and release Request for Proposals	AP, Dept of Social Services	7/31	Complete
Review proposals, select recipients	AP, Dept of Social Services	8/25	
Announce grant awards	LV, Dept of Social Services	9/15	
Check in on status of grants	Oversight Council staff	Monthly	
Collect information and data required by legislation	AP, Dept of Social Services	Ongoing	Requirements: # of applications for the grant program, # and % of applications accepted, amount awarded to each grantee, and the location, purpose, and population served by grants
Report progress to Oversight Council	AP, Dept of Social Services	Quarterly	
Report required performance measures to Oversight Council	AP, Dept of Social Services	Semi-annually	
Stakeholder Engagement: Collect stories of grant activities and success from stakeholders	SS, Unified Judicial System BP, CJI	End of each quarter	Stakeholders include grantees, community partners, service recipients
Communications: Disseminate stories of implementation progress and success	SS, Unified Judicial System BP, CJI	Within 1 month of end of quarter	Mode of communication to be determined based on story and region of the state
Reporting: Include progress and required information in annual report	SS, Unified Judicial System BP, CJI	Annually	

In addition to the plan itself, implementation requires an intensive level of coordination and monitoring. To ensure success, a staff person should be assigned or technical assistance provider identified to coordinate implementation. This coordination includes cross-agency convening, research on best or promising practices and lessons learned from other jurisdictions to assist implementing agencies, staffing of the oversight group and its workgroups, compiling data and information to report to the oversight group and for annual reporting, and updating the implementation plan. In the case of South Dakota, the State Court Administrator within the Unified Judicial System used both a policy analyst primarily assigned to criminal justice initiatives and a contracted provider for technical assistance for coordination.

Communicating Progress and Successes

Communications is important at each step in a legislative reform process, but is often neglected after a bill is signed into law. A communications plan should be developed as part of implementation planning. Without that plan in place, critics and those opposed to all or parts of the effort are likely to fill the communications void with their own narratives. Ideally, the narrative would focus on telling the story and successes of implementation to keep people engaged and to celebrate progress and outcomes.

A sample communications plan format is provided on the next page. There are many ways to articulate a communications plan, but layout of the plan itself is far less important than someone or some group owning it. As with any plan, a communications plan needs to specify who is responsible for each task as well as due dates, and should be periodically reviewed for progress and the need to adjust it as circumstances change. This will not happen unless a person or group takes on ownership.

Sample Communications Plan Outline

Overall Purpose of the Communications Plan

Goals

Objectives

Key Messages

- Overview of the Process (story of the reform effort)
- Problem Statement (what prompted the reform effort)
- Policies to Address the Problem (key policies)
- Plans for Implementation (who is responsible for implementation and the timeframe)
- Measuring Success (how policy makers and the public will know the reforms are working)

Audiences, Communication Channels, Timeline and Persons Responsible

Target Audience	Purpose of the Communication	Key Messages	Communication Channels	Timeline/Frequency	Person or Entity Responsible
<i>Who is the recipient of the communication?</i>	<i>Why are you communicating to this audience?</i>	<i>What do you want to convey?</i>	<i>How will you communicate your messages?</i>	<i>When or how often will you communicate?</i>	<i>Who is responsible for this communication?</i>

Evaluation (process and frequency for reviewing the plan's effectiveness and continued relevance)

Measuring Progress

Typically, performance measures are used primarily to monitor implementation and track outcomes. But, when there is a scarcity, and in some cases, complete lack of data, performance measures can be established to better understand the problem at hand and to have data in the future to inform policy decisions and improvements.

As is the case in many areas of the country, South Dakota had no statewide data on law enforcement encounters with people with mental illness or diversions from jail, no statewide data on mental illness among jail inmates, and there was little data on people with mental illness in the court system. To overcome this during the policy development phase of the work, the task force used national data on mental illness and mental health professional shortages, a recent health needs survey by The Helmsley Charitable Trust, a sample of studies on law enforcement contacts with people with mental illness, and slightly outdated national studies on mental illness among jail inmates. The task force coupled these data sources with a jail survey and analysis of data from the courts and two largest county jails using proxy measures for mental illness and serious mental illness. The findings from these latter sources were consistent with national trends.

The legislation drafted following South Dakota's task force recommendations included numerous requirements to collect information and data, as shown on the following pages. Data is required to be reported to the oversight group at various intervals and to state leaders in annual reports.

HB 1183 Required Data Collection and Reporting

Goal: Provide tools for law enforcement and communities to address mental health crises early and prevent jail admissions

CIT review team assessment of statewide CIT coordinator

- Number of requests for assistance from CIT coordinator
- Names of agencies requesting assistance
- Number of requests granted
- Number of law enforcement officers trained
- Training adherence to Memphis or other evidence-based model

Grant program for cities, counties, or groups of counties to establish or expand crisis response services

- Number of applications for grant program
- Number of applications accepted
- Amount awarded to each grantee
- Location, purpose, population served by grant

Goal: Expedite completion of competency exams ensuring speedier court processing and shorter jail stays

Fund administered by the Association of County Officials to provide funding to counties for competency evaluations

- Amount distributed annually in total
- Amount distributed annually by county
- Number of competency evaluations completed with funds from the program

21-day timeframe for completion of competency evaluations

- Average number of days from court order to completion of competency examinations
- Number of competency examination continuances requested
- Number of competency examination continuances granted

Goal: Strengthen opportunities to divert people from the criminal justice system into mental health treatment

Allowable conditions of bond may include a requirement that a defendant complete a mental health assessment and follow treatment recommendations

- Number and percent of defendants for whom MH assessment is required as a condition of bond

- Number and percent of defendants for whom MH treatment is required as a condition of bond
- Number and percent of those with assessment and treatment as a condition of bond who comply with bond conditions

Mental health response teams to identify eligible individuals and utilize a multi-disciplinary approach to treatment planning, making treatment referrals and referrals to non-mental health services, and information sharing

- Name of any circuits that establish mental health response teams
- Number of persons meeting the response team criteria
- Number meeting criteria who are released pretrial and referred for MH assessment or treatment
- Percent meeting criteria who are released pretrial and referred for MH assessment or treatment

Mental health court

- Number of persons referred to any MH court
- Number and percent admitted to MH court
- Number and percent admitted who complete MH court requirements
- Number and percent convicted of a new crime within one to three years of completing MH court

Goal: Continue to identify ways to improve criminal justice responses for those with mental illness

Jail mental health screening pilot program and statewide rollout

- Number of persons screened
- Number and percent screening positive

Data collection on probationers assessed and referred for mental health treatment

- Number and percent of probationers referred for MH assessment
- Number and percent of probationers referred for MH treatment
- Annual cost of probationer MH assessments and treatment, in total and by funding source

Concluding Thoughts

The reliance upon law enforcement as a primary response to mental health crises and reliance on jails and prisons to provide mental health care for people who could not, in some cases, access needed treatment in the community is a decades-in-the-making approach to a complex problem that impacts many people across the country. National studies estimate that one in five adults had a mental health issue in the past year, and four in every 100 individuals had some form of serious mental illness in the past year. Furthermore, rates of mental illness have been shown to be far greater among our jail and prison populations, yet many correctional facilities lack funding for mental health staff, training for corrections staff, and physical space conducive to treatment and recovery. This is often more pronounced in rural areas.

Until state and community-based behavioral health systems are better funded, it is important to provide law enforcement, prosecutors, defense attorneys, judges, correctional staff, and probation officers with better tools to respond to people in their care and custody. As Pennington County, South Dakota Sheriff Kevin Thom says, "Unlike community-based providers and state and local hospitals, we don't have the option of turning people away."

While the issues at the intersection of mental illness and criminal justice can be more pronounced in rural states, not in number of people impacted, but in resources, there are tangible opportunities for improvement that can be made real as the result of the process described in this toolkit. South Dakota, as an example, is a state of 860,000 people. State leaders know their constituents and are truly responsible to them. When communities face challenges, they come together to solve them and take care of their neighbors. A statewide study of criminal justice responses to mental illness with resulting legislative action, if done well and with a multi-disciplinary, coordinated approach, can begin to change the trajectory of those responses and have a positive impact on people's lives.



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