

Miami-Dade Forensic Alternative Center Pilot Program Status Report

Background: Individuals with serious mental illnesses ordered into forensic commitment have historically been the fastest growing segment of the publicly funded mental health marketplace in Florida. Between 1999 and 2007, forensic commitments increased by 72 percent, including an unprecedented 16 percent increase between 2005 and 2006. In 2006, Florida experienced a constitutional crisis when demand for state hospital beds among people with mental illnesses involved in the justice system drastically outpaced the number of beds in state treatment facilities. With an average waiting time for admission of nearly three months, the Secretary of the Department of Children and Family Services (DCF) was found in criminal contempt of court and threatened with an \$80,000 personal fine and jail time for failing to comply with a court order. This ruling followed months of controversy and high-profile media attention surrounding DCF's inability to place forensically adjudicated individuals in state treatment facilities within 15 days as required by state law. In the wake of this crisis, the Secretary of DCF resigned and the state was forced to allocate \$16 million in emergency funding and \$48 million in recurring annual funding to create 300 additional forensic treatment beds. Florida currently spends more than \$210 million annually – *one third of all adult mental health dollars and two thirds of all state mental health hospital dollars* – on 1,700 beds serving roughly 3,000 individuals under forensic commitment.

In response to the 2006 forensic bed crisis, and at the urging of DCF, the Supreme Court of Florida convened a special committee to address issues relating to the disproportionate representation of people with serious mental illnesses involved in the justice system and to evaluate the role of the forensic treatment system. Consisting of representatives from all three branches of government, as well as top experts from the criminal justice and mental health communities, this body developed a report titled *Transforming Florida's Mental Health System*¹ detailing recommendations for planning, leadership, financing, and service development. The recommendations target effective and sustainable solutions that will help divert people with mental illnesses from the justice system into more appropriate community-based treatment settings. Steps are also outlined to begin shifting investment from costly, deep-end services provided in institutional settings into more effective and cost-efficient front-end services provided in the community.

One of the primary recommendations of the Supreme Court Task Force was to develop safe and cost efficient community-based residential treatment alternatives to serve individuals charged with less serious offenses, who do not pose significant safety risks, and who otherwise would be admitted to state treatment facilities. This recommendation was based on the observation that individuals admitted to state forensic facilities for competency restoration typically receive services focused on resolving legal issues, but not necessarily targeting long-term wellness and recovery from mental illnesses, or eventual community reintegration. As a result, once competency is restored in state treatment facilities, most individuals are discharged from the treatment provider's care and are generally returned to local jails where they are rebooked and incarcerated while waiting for their cases to be resolved. In most cases individuals either have their charges dismissed for lack of prosecution or the defendant takes a plea such as conviction with credit for time served or probation. Individuals are then released to the community, often with limited if any community supports and services in place,

¹ Available at: http://www.floridasupremecourt.org/pub_info/documents/11-14-2007_Mental_Health_Report.pdf

which places individuals at increased risk of reentering the justice system, either as the result of committing a new offense or failing to comply with the terms of probation.

The following report describes outcomes a pilot program implemented to evaluate an alternative approach to forensic service delivery in which services are provided in a locked residential treatment setting by a single treatment provider which is responsible for delivering forensic treatment services, as well as comprehensive recovery and community re-entry services. What is particularly unique about this approach is that participants remain engaged with the service provider following discharge from residential treatment and re-entry into the community to ensure ongoing receipt of services and to respond to treatment and support needs that develop over time.

Concept: In August 2009, the Florida Department of Children and Families (DCF) and the Eleventh Judicial Circuit of Florida implemented a pilot program to demonstrate the feasibility of diverting individuals with mental illnesses adjudicated incompetent to proceed to trial (ITP) from placement in state treatment facilities to placement in community-based treatment and competency restoration services. Program participants have been charged with less serious offenses and are screened to ensure they do not pose public safety risks. They are initially placed in a locked inpatient setting where they receive crisis stabilization, short-term residential treatment, competency restoration services, and community reintegration and living skills. When ready to step-down to a less restrictive placement in the community, participants are provided assistance with re-entry and ongoing service engagement. Unlike individuals admitted to forensic treatment facilities, pilot program participants continue to be monitored in the community by the treatment provider following discharge from forensic commitment to ensure ongoing linkage to services and to respond to any emerging treatment and/or support needs.

Program description: The pilot program, known as the Miami-Dade Forensic Alternative Center (MD-FAC), is operated by a community-based treatment provider under contract to DCF's local managing entity, the South Florida Behavioral Health Network. Participants include adults age 18 and older who have been found by the circuit court to be incompetent to proceed on a second or third degree felony(s), who do not have significant histories of violent felony offenses, and are not likely to face incarceration if convicted of their alleged offenses. Admission to MD-FAC is limited to individuals who otherwise would be committed to DCF and admitted to state forensic treatment facilities.

Screening includes review of criminal history for indications of risk of violence or public safety concerns, as well as appropriateness for treatment in an alternative community-based setting. Eligibility criteria exclude admission of any individual who is currently incompetent to proceed, or who has previously been convicted of, found incompetent to proceed on, or found not guilty by reason of insanity of one of the following criminal offenses:

1. Homicide of any kind;
2. Aggravated assault of any kind;
3. Felony battery, as defined in section 784.041, F.S.;
4. Domestic battery by strangulation, as defined in s. 784.041;
5. Aggravated battery of any kind;
6. Kidnapping;
7. Sexual battery of any kind, except as provided in section 794.05, F.S.;
8. Lewd or lascivious battery;
9. Lewd or lascivious molestation;

10. Arson or any offense related to fire bombs or explosive devices;
11. Carjacking;
12. Home invasion robbery;
13. Aggravated child abuse;
14. Aggravated abuse of an elderly person or disabled adult; and
15. Aggravated stalking.

Upon admission to the program, individuals are placed in a locked inpatient crisis unit where crisis stabilization services are provided. Upon stabilization, participants are transferred to a locked, inpatient residential treatment unit where competency restoration and treatment services focusing on illness management and community re-entry are provided. Once competency is restored or the participant no longer meets criteria for continued forensic commitment, the program prepares a treatment summary and recommendations for step-down into community placement. The committing court then holds a hearing to review the recommendations and appropriateness of the recommended community placement. Upon authorization of step-down from inpatient services into community placement by the court, MD-FAC staff provides assistance with re-entry and continues to monitor individuals to ensure efficient and ongoing linkage to necessary treatment and support services.

The MD-FAC program is responsible for providing or assisting participants in accessing a full continuum of care and competency restoration services during both the period of forensic commitment and following community re-entry. The program also provides assistance in accessing entitlement benefits and other means to build economic self-sufficiency, developing effective community supports, and improving living skills. This comprehensive care model contributes to more effective community re-entry and recovery outcomes.

Program Referrals:

Since August 2009, a total of 176 referrals, accounting for 161 unduplicated individuals, have been made to the MD-FAC program. Outcomes of these referrals are as follows:

All referrals:	Total (n=176)
Accepted, admitted to program	111 (63%)
Not eligible for admission to program	57 (32%)
Accepted, not admitted to program	5 (3%)
Referral pending	3 (2%)

Five individuals screened and accepted for placement in the MD-FAC program, were admitted to forensic facilities. The reasons these individuals were not admitted to the MD-FAC program are as follows:

Individuals accepted but not admitted:	Total (n=5)
MD-FAC program at capacity, admitted to forensic treatment facility	4 (80%)
Individual admitted to forensic facility at request of attorney	1 (20%)

Fifty-seven individuals were assessed and found not to meet eligibility criteria for placement in the MD-FAC program. Reasons individuals were not eligible for admission are as follows:

Reason not eligible for admission to MD-FAC:	Total (n=57)
Legal criteria (past/present criminal history)	23 (40%)
Clinical criteria (psychiatric diagnosis)	13 (23%)
Commitment criteria (non-restorable, didn't meet statutory requirement for commitment)	12 (21%)
Defendant refused screening	6 (11%)
Behavioral management/violence concerns	3 (5%)

Program Admissions and Outcomes:

To date, the MD-FAC program has received 111 admissions accounting for 103 unduplicated individuals. Eight individuals were re-admitted to the program following discharge because they were found to be incompetent to proceed and met criteria for forensic commitment following discharge to the community.

A total of 39 admissions have been discharged to other placements: 7 admissions were transferred to forensic treatment facilities because it was determined that their needs could not be effectively met through the MD-FAC program, and one admission was transferred to a community hospital due to acute medical needs:

Status of admissions to MD-FAC program:	Total (n=111)
Remain in MD-FAC under forensic commitment	10 (9%)
Stepped down to the community from forensic commitment	87 (78%)
Transferred to forensic facility because needs could not be met*	13 (12%)
Transferred to community hospital due to acute medical needs	1 (1%)

*Thirteen individuals were transferred to forensic facilities because they either refused medication and did not meet criteria to petition the court for authorization of involuntary treatment orders, it was determined that the individual was not likely to regain competency within a reasonable amount of time, or because of safety concerns.

Individuals admitted to the MD-FAC program are identified as ready for discharge from forensic commitment an average of 64 days (43%) sooner than individuals who complete competency restoration services in forensic treatment facilities, and spend an average of 32 fewer days (19%) under forensic commitment. This is due, in part, to the fact that not all individuals admitted to the MD-FAC program complete competency restoration training while under forensic commitment. Where possible, the MD-FAC program works to identify individuals who can be safely stepped-down to less restrictive and less costly placements even if they have not yet completed the competency restoration process. In these situations, the individual continues to receive competency restoration services in the community with MD-FAC program staff providing support and linkage to full array of community-based treatment services. This helps to make more efficient use of the limited number of MD-FAC forensic commitment beds.

	Forensic facilities	MD-FAC	Difference
Average time to notify court of discharge readiness	149 days	85 days	-64 days (-43%)
Average length of stay**	170 days	138 days	-32 days (-19%)

** Comparison of length of stay is between individuals who complete competency restoration services in forensic treatment facilities and individuals admitted to MD-FAC program who may or may not complete competency restoration prior to stepping-down from forensic commitment. See narrative for additional

details.

Program costs:

The MD-FAC program operates 16 beds and demonstrates modest savings to the state over services provided in forensic treatment facilities. It should be noted, however, that a substantial proportion of the costs associated with the current program are reflected in minimum staffing standards for licensing short-term residential treatment facilities as well as fixed costs (e.g., utilities, insurance) associated with operations. Because staffing standards allow for additional bed capacity without substantially increasing program staff or fixed costs, operations will become more efficient as program capacity is increased. Based on projections developed by DCF in consultation with treatment providers, increasing pilot program capacity from 10 to 20 beds will result in an average cost of less than \$230 per bed/per day, a savings of \$107.50 bed/day (32%) over services provided in state forensic treatment facilities. As such, in order to maximize the organizational efficiency of pilot programs such as MD-FAC and to achieve more significant cost savings over state forensic facilities, it is strongly recommended that any such programs be funded to operate at least 20 beds.

Treatment setting	Total bed/days (16 beds x 365 days)	Average bed/day cost	Total cost
Traditional forensic treatment facility	7,300 bed/days	\$337.00	\$2,460,100
Forensic diversion program	7,300 bed/days	\$229.50	\$1,675,350
Cost difference		-\$107.50	-\$784,750 (-32%)

Criminal Justice Outcomes:

While a suitable comparison group for evaluating outcomes of the MD-FAC program has yet to be identified, examination of jail bookings and days in jail among individuals who remain linked to services following community re-entry and those who do not reveal substantial differences.

The vast majority of individuals who remain actively linked to services through the MD-FAC program after stepping down from forensic commitment or complete the program and no longer require monitoring demonstrate no additional involvement in the criminal justice system. In fact, only one such individual has been charged with committing a new offense (misdemeanor, petit theft) since reentering the community. Eight of the 27 individuals (30%) have been rebooked into the jail as the result of sanctions for non-compliance with conditions of release; however all have been successfully re-engaged in treatment services. Overall, individuals who remain linked to services have experienced a total of 11 jail bookings and have spent a total of 85 days in jail since stepping down from forensic commitment.

By contrast, 9 of the 11 individuals (82%) who are no longer linked to MD-FAC services have been re-booked into the jail. This includes a total of 23 bookings resulting from new criminal offenses and 15 bookings resulting from technical violations such as warrants or probation violations. In total, these individuals have spent 1,435 days in jail since stepping down from forensic commitment.

Overall, individuals who remain linked to MD-FAC services demonstrate 68% fewer jail bookings and 94% fewer jail days following step-down from forensic commitment as compared to those who are no longer linked to services.

Criminal justice outcome across all individuals stepped down from forensic commitment (total n=33)	Actively linked to MD-FAC services or completed program (n=27)	No longer linked to MD-FAC services (n=11)
Total individuals re-booked into the jail	8 (30%)	9 (82%)
Number of jail bookings for committing a new offenses	1	23
Number of jail bookings for sanctions, warrants, and/or violations	11	15
Total days incarcerated	85	1,435

Added Value:

- Unlike most individuals admitted to state forensic treatment facilities, individuals admitted to the MD-FAC program are not rebooked into the jail following restoration of competency. Instead, individuals remain at the treatment program where they are re-evaluated by court appointed experts while the treatment team develops a comprehensive transition plan for step-down into a less restrictive community placement. When court hearings are held to determine competency and/or authorize step-down into community placements, individuals are brought directly to court by MD-FAC staff. This not only reduces burdens on the county jail, but eliminates the possibility that individuals will decompensate while incarcerated and require subsequent readmission to state treatment facilities. It also ensures that individuals remain linked to the service provider through the community re-entry and re-integration process.
- Among individuals discharged from forensic treatment facilities who are restored to competence and can return to court to successfully to take a plea, roughly 80-90 percent have their charges dismissed for lack of prosecution or the defendant takes a plea such as conviction with credit for time served or probation. Most of these individuals are then released to the community, often with limited community supports and services in place. While forensic treatment facilities do provide recommendations regarding continued treatment and placement at the time of discharge, these institutional programs are not designed or equipped to monitor individuals once they leave the hospital or to ensure individuals are linked to services upon community re-entry.
- Because MD-FAC program staff provides ongoing assistance, support, and monitoring following discharge from forensic commitment and community re-entry, individuals remain linked to a continuum of care and are more likely to access necessary services in a timely and efficient manner. This decreases the likelihood of returning to jails, prisons, state treatment facilities, emergency rooms, and other crisis settings.
- Over the course of the individual’s inpatient stay, the MD-FAC program provides intensive services targeting competency restoration as well as individualized community-living and re-entry skills.
- MD-FAC provides assistance to all eligible individuals in accessing federal entitlement benefits that pay for treatment and housing services upon discharge. While some forensic treatment

facilities may provide assistance with accessing benefits, it has not yet become standard practice.