

POLICY MANUAL

State Mental Health, Mental Retardation and Substance Abuse Services Board
Department of Mental Health, Mental Retardation and Substance Abuse Services

POLICY 1014(SYS)86-20 Provision of Forensic Services

Authority	Board Minutes Dated <u>October 22, 1986</u> Effective Date <u>November 19, 1986</u> Approved by Board Chairman <u>s/James C. Windsor</u>
References	§§ 19.2-168.1, 19.2-169.1, 19.2-169.2, 19.2-169.3, 19.2-169.5, 19.2-169.6, 19.2-175, 19.2-176, 19.2-177.1, 19.2-178, 19.2-182.2 through 19.2-182.16, 19.2-264.3:1, 19.2-301 and 37.1-197(12), <i>Code of Virginia</i> (1950) as amended. NGRI Manual: Guidelines For The Management of Individuals Found Not Guilty By Reason of Insanity. State Board Policy 1031(SYS)90-4 Emergency Services.
Purpose	To establish the State Board's position in regard to the provision of forensic services.
Definition of Forensic Services	<p>In the broadest sense, forensic services are evaluation or treatment services for individuals who are involved in both the mental health and criminal justice systems. Services can be provided in a variety of settings, including general inpatient psychiatric units, civil hospitals, maximum security hospitals, jails, and the community. Forensic clients are distinguished by their current level of involvement in the criminal justice system. That is, clients may be defendants (pretrial), jail inmates (post conviction), acquittees found "not guilty by reason of insanity" (NGRI), or at other points in the criminal justice system. Forensic services are unique in that evaluation or treatment services typically have some impact upon the clients' legal situation.</p> <p>Evaluation activities may include, but are not limited to, pretrial assessments to determine: (1) competency to stand trial; (2) criminal responsibility; or (3) waivers of juvenile court jurisdiction. Post-trial evaluation issues may include: (1) amenability to treatment; (2) need for hospitalization; (3) risk assessment and the need for treatment in a secure setting or the community; (4) NGRI conditional release to the community; or (5) capital sentencing.</p>

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Definition of Forensic Services (Continued)

Treatment interventions may take place at any point during an individual's involvement in the criminal justice process. Treatment services that successfully ameliorate the manifestations of mental illness may enable an individual to attain competency and, thus, be able to participate in legal proceedings or to be safely returned to the community. Some services, such as emergency treatment prior to trial or treatment delivered to inmates in jail are considered "forensic services," although they may not be tied to an identified legal outcome.

The provision of forensic services requires a full recognition of the goals and standards of both the mental health and criminal justice systems, including the interface between these two complex systems. Service providers must receive specialized training regarding complex legal issues, evaluations, courtroom testimony, court report writing protocols, and the ethical issues specific to this area of practice. In all forensic treatment activities, a constant balance must occur between providing high quality evaluation and treatment services to individuals while maintaining both legal standards and public safety.

At the present time, all treatment services for Virginia prison inmates are provided by the Department of Corrections (DOC) with the sole exception of involuntary hospitalization for female prison inmates. This is currently provided at Central State Hospital-Forensic Unit while DOC works to add this service to its comprehensive continuum of care.

General Policy

It is the policy of the State Mental Health, Mental Retardation and Substance Abuse Services Board to provide quality forensic services to citizens involved in the criminal justice system as set forth in the Code of Virginia. Forensic services shall be provided in the community whenever possible. The Board recognizes the uniqueness of forensic services issues and the special needs of individuals at the interface of the mental health and criminal justice systems.

Policy for the Department

It is the policy of the State Mental Health, Mental Retardation and Substance Abuse Services Board that:

- The Department of Mental Health, Mental Retardation and Substance Abuse Services shall provide or arrange provisions for forensic services consisting of specialized evaluations and treatment consistent with the *Code of Virginia*.

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Policy for the Department (Continued)

- The Department shall develop and maintain appropriate forensic services within its facilities and provide leadership in the further development of forensic services within the community services boards.
- The Department shall provide ongoing appropriate training, education, and research activities regarding the provision, evaluation and development of forensic evaluation and treatment services.
- The Commissioner shall designate hospitals as appropriate for treatment and evaluation of persons under criminal charge, as required in §§ 19.2-169.1 (B), 19.2-169.5 (B), and 19.2-169.6 (B).
- The Department shall maintain a Memorandum of Agreement with the Department of Corrections clarifying the responsibility of each agency in providing mental health services to prison inmates. The Department of Corrections currently agrees to assume full responsibility and authority for the mental health treatment of inmates convicted and sentenced to Department of Corrections facilities. It also agrees to operate a psychiatric facility licensed by DMHMRSAS to provide mental health services.

Policy for Community Services Boards

It is the policy of the State Mental Health, Mental Retardation and Substance Abuse Services Board that:

- Community Services Boards shall develop and maintain joint annual written agreements with local courts and sheriffs, in compliance with § 37.1-197 (12).
- Community Services Boards shall provide emergency services to local jails, in compliance with State Board Policy 1031 (SYS)90-4 Emergency Services.
- Community Services Boards shall consult with local courts in placement decisions for hospitalization of forensic clients based upon the individual's clinical condition, need for a secure environment, and other relevant factors.
- Community Services Boards shall consider seeking Commissioner designation of local hospitals for the treatment and evaluation of persons under criminal charges, in accordance with § 19.2-169.1 (B), 19.2-169.5 (B), and 19.2-169.6 (B).

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**Policy for
Community
Services Boards
(Continued)**

- Community Services Boards shall provide or arrange for the provision of forensic evaluations required by local courts, in accordance with the Board's commitment to a high quality community-based forensic evaluation system.
- Community Services Boards shall work jointly with DMHMRSAS staff in evaluating, treatment planning, planning for conditional release/discharge, and in implementing conditional release of insanity acquittees in the community, in compliance with §§ 19.2-182.2 through 19.2-182.16.

**Access to
Services**

Access to forensic services will not be inhibited by the needs of individuals with physical, sensory, cognitive, and cultural differences.

**Monitoring of
this Policy**

The Director of Forensic Services will develop a plan for implementation, monitoring and evaluation of this policy.
