

SOLUTIONS FOR THE MENTALLY ILL IN THE CRIMINAL JUSTICE SYSTEM: A SYMPOSIUM INTRODUCTION

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Finding effective strategies for working with mentally ill persons in the criminal justice system is important to me, both personally and professionally.

As a family member of a person who once suffered from depression, I am aware of the stigma of mental illness. It is not a popular subject, but it is one that I am passionate about. As a former trial judge, I saw first hand the effects of mental illness on the legal system. I am extremely concerned about keeping people with mental illness out of jail and diverting them into appropriate mental health treatment.

I. WHY THE NEED?

The numbers say it all.

- In 1955, there were 558,239 severely mentally ill patients in our nation's public psychiatric hospitals. In 1994, there were 71,619. Based on population growth, at the same per capita utilization as in 1955, estimates are that there would have been 885,010 patients in state hospitals in 1994.¹
- Where have these severely mentally ill patients gone? Our jail population of people with mental illness has swelled to 285,000. According to a U.S. Department of Justice July 1999 Report, sixteen percent of state prison inmates and sixteen percent of those in local jails reported either a mental condition or an overnight stay in a mental hospital.²
- According to that same study, half of mentally ill inmates reported three or more prior sentences.³ Among the mentally ill, fifty-two percent of state prisoners, and fifty-four percent of jail inmates

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¹ E. FULLER TORREY, M.D., *OUT OF THE SHADOWS: CONFRONTING AMERICA'S MENTAL ILLNESS CRISIS* 8-9 (1997).

² Paula M. Ditton, *Bureau of Justice Statistics Special Report: Mental Health and Treatment of Inmates and Probationers*, NATIONAL CORRECTIONS JOURNAL (July 1999), available at <http://www.umaryland.edu/behavioraljustice/issues/mentalillness/treatment.html>.

³ *Id.*

reported three or more prior sentences to probation or incarceration.⁴

- In fact, according to March 2000 statistics from the Ohio Department of Rehabilitation and Correction, there were 6,393 mentally ill inmates, 3,051 of whom were classified as severely mentally disabled.
- The National Institute of Corrections estimates the number of people booked into America's jails at 10 million per year.⁵ Utilizing the aforementioned sixteen percent statistic from the U.S. Department of Justice, we can estimate that nearly 1.6 million people per year with a mental condition or mental illness will pass through America's jails.
- Jail inmates with mental illness stay in jail an average of three to four times longer than other inmates.⁶ Thus, the 1.6 million inmates could equate to more than 4.8 million in regards to bed space in our jails.
- Many of the severely mentally ill who have been released into the community through deinstitutionalization are now part of the 600,000 people in America who are homeless. Of these, it is believed that at least a third are mentally ill.⁷

A revolving door problem has developed in this country. Jails and prisons have become the de facto mental health system of our day. We must reverse this trend. Over the past few years, innovative diversion programs and other pioneering efforts across the nation have been successful in attacking this crisis. We must persevere to be able to provide community treatment for this population that was previously "warehoused," but that is now slipping through the cracks of our safety nets.

If not for altruistic reasons, this change is crucial in terms of the cost savings to the taxpayer. Mentally ill inmates require far more jail and prison resources because of treatment and crisis intervention. But this revolving door has other costs, too. Taxpayer dollars are paying for police

⁴ *Id.*

⁵ Council of State Governments, Criminal Justice/Mental Health Consensus Project Report 4 (2002) (citing Linda Teplin & Karen Abram, Co-Occurring Disorders Among Mentally Ill Jail Detainees: Implications for Public Policy, *American Psychologist* 46:10, 1036-45).

⁶ Fox Butterfield, *Prisons Replace Hospitals for the Nation's Mentally Ill*, *NEW YORK TIMES*, Mar. 5, 1998, at A1 (citing to testimony of Dr. Arthur Lynch, director of Mental Health Services for the New York City Health and Hospitals Corporation, before the Subcommittee on Mental Health, Mental Retardation, Alcoholism and Drug Abuse Service (Apr. 22, 1998)).

⁷ Martha R. Burt & Barbara E. Cohen, *AMERICA'S HOMELESS: NUMBERS, CHARACTERISTICS, AND PROGRAMS THAT SERVE THEM* (1989).

officers to repeatedly arrest, transport, and process mentally ill defendants, as well as for jail costs associated with treatment and crisis intervention, salaries of judges and court staff, prosecutors and defense attorneys, and many more hidden costs. The question becomes, would we rather spend these dollars to keep mentally ill citizens homeless, revolving in and out of our criminal justice system, or would we rather spend these dollars to help them to become stable, productive citizens?

II. OHIO'S RESPONSE

In Ohio we have formed the Ohio Supreme Court Advisory Committee on the Mentally Ill in the Courts to address this problem. The committee is comprised of representatives from the Ohio Department of Mental Health, Ohio Department of Alcohol and Drug Addiction Services, the Ohio Department of Rehabilitation and Correction, the Ohio Department of Mental Retardation and Developmental Disabilities, the Ohio Office of Criminal Justice Services, judges, law enforcement officials, mediation experts, housing and treatment providers, consumer advocacy groups, and other officials from across the state. It is a collaborative effort that is the heart of this bill.

The Advisory Committee is working to establish local task forces in each county to bring similar local representatives together to collaborate and work on the issues of the mentally ill in the criminal justice system. We encourage each county to start a mental health specialty docket to deal with the issues, but we have also found that the collaboration that results when all these groups work together goes far beyond the courtroom. The Advisory Committee provides guidance, resources, materials, and information to the local task forces. It shares the experiences of successful mental health court dockets with other courts, and it funnels on grants and other funding opportunities to the task forces.

III. THREE OHIO SUCCESSES

There are three projects from our Advisory Committee that provide a sample of our progress in this area. First, in 2001, the National Alliance for the Mentally Ill (NAMI-Ohio) developed a curriculum for jail and court personnel entitled, *Working with People with Mental Illness in the Criminal Justice System*. Participants learn about diagnoses, treatment, symptoms, dual diagnosis (substance abuse and mental illness), psychotropic medications, crisis de-escalation, and jail suicide prevention. Jail personnel report that this is some of the best training they have received in an area they feel woefully unprepared to handle.

Second, the Advisory Committee has worked to encourage Crisis Intervention Team (CIT) training state-wide. CIT is a collaborative effort between law enforcement and the mental health community to help law enforcement officers handle incidents involving mentally ill people and by taking them to a mental health facility instead of jail when appropriate.

The CIT is a community-based collaboration between law enforcement, NAMI, mental health consumers, courts, mental health providers, and local universities. Volunteer patrol officers receive forty hours of training in mental illness and the local mental health system. The training is provided free of charge and focuses on providing practical techniques for de-escalating crises. Because our committee continually promotes CIT as a key to the collaboration effort, interest in training has exploded. We are now expanding to train parole and probation officers and even university, college, and campus police who frequently deal with troubled college students.

Third, our Advisory Committee has recently formed a subcommittee to develop jail standards for detainees with mental illness. Recently, I met an architect charged with designing jail cells for mentally ill detainees. The architect shared with me his frustration that he could find no standards for designing jail cells that would be appropriate for mentally ill, such as color, size, or use of restraints. In response, our Advisory Committee formed a subcommittee entitled the Jail Standards Sub Committee to review this issue. The subcommittee has employed the advice of psychiatrists and other mental health professionals and has drafted twelve proposed standards. After reviewing this matter nationally and finding very little data available on this issue, the sub committee plans to share these standards with other states.

IV. COLLABORATION IS KEY

The key to all of this is collaboration—working together. We have discovered there are many resources out there that can be used more effectively when we join forces. All of the money we now spend warehousing the mentally ill in jail can be re-channeled to mental health care, job training, housing. These are permanent solutions, not just a revolving door. A recent study by the Corporation for Supportive Housing found that stabilizing the homeless and mentally ill had resulted in \$16,000 annual savings of social, mental health, and jail expenses per person.⁸ The end result is a reduction in crime and safer communities.

A. *An Example of Collaboration*

An example of a collaborative model is in Franklin County, Ohio. About a year ago, we helped Franklin County, one of the largest counties in Ohio, create a task force. As one of the largest counties in Ohio, Franklin had a large population of mentally ill in the local jails, and the mental health department was frustrated.

About ten people attended the first meeting. There were some mental health and drug and alcohol representatives and a few judges. The judges were not even aware that Franklin County had received a Department of

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The Corporation for Supportive Housing, June 2001 Report, at 21, 23.

Mental Health grant to work with the mentally ill in the jail. The local housing board, which had funding for more than 500 beds for the homeless, had never worked with the courts, nor did it have a leading program to train mentally ill to work.

A year later, there are more than 55 community representatives on the task force, which also has active sub committees. The mayor has approved CIT training and two classes of police officers are in training. The municipal court has started a mental health docket, and the common pleas court has started a drug court docket that will include room for a mental health court. The Franklin County courts have jointly obtained two grants, one with thanks to Senator Mike DeWine's first mental health courts bill. The task force has expanded its collaboration effects far beyond the jails. The community is finally working together.

IV. NATIONAL SYMPOSIUM ON MENTAL ILLNESS AND THE CRIMINAL JUSTICE SYSTEM

A. *The Criminal Justice System*

Another terrific example of collaboration was the National Symposium on Mental Illness and the Criminal Justice System. The symposium was held in Columbus, Ohio on Thursday and Friday, April 10-11, 2003, and was co-sponsored by *Capital University Law Review* and the Supreme Court of Ohio.

The symposium brought together leading state and national experts to examine collaboration between courts and the mental health system; appropriate sentence responses for defendants with mental illness; crisis intervention teams and assertive community treatment programs; and successful uses of mental health courts and other diversion programs. Speakers included Dr. Fred Frese, a psychologist who was diagnosed with schizophrenia thirty years ago. Dr. Frese has been featured on local and national television, including pieces on CNN, ABC's World News Tonight with Peter Jennings, the *Wall Street Journal* and PBS. Dr. Penny Frese, the wife of Fred Frese, spoke regarding advocacy. She is a consultant on Red Flags, a school-based depression awareness and early intervention program in Ohio.

Senator Paul Simon was our luncheon speaker on Thursday, and he gave the audience members strategies for working with their legislators on mental health issues. After lunch, we were treated to a panel discussion regarding mental health courts. The panel included the Honorable Evan D. Goodman, Marion Superior Court (Indiana), the Honorable Ginger Lerner-Wren, Broward County Mental Health Court (Florida), the Honorable Joyce Ann Campbell, Fairfield Municipal Court, the Honorable Michael J. Sage, Butler County Common Pleas Court, and the Honorable Elinore Marsh Stormer, Akron Municipal Court.

Friday we learned about the systematic approach to decriminalization of the seriously mentally ill from Dr. Mark Munetz, professor of psychiatry at the Northeastern Ohio University College of Medicine. Major Sam Cochran, Memphis Police Department CIT Program, gave an intriguing presentation about the advent of Crisis Intervention Training. Lt. Michael S. Woody, retired CIT program officer, Akron Police Department, presented information about CITs.

Michael Hogan, director of the Ohio Department of Mental Health and chair, President's New Freedom Commission on Mental Health, thoroughly reviewed the new report to the President by the Freedom Commission. Finally, we closed our symposium with some practical solutions from Terry Russell, executive director, NAMI-Ohio, and Doug DeVoe, executive director, Ohio Advocates for Mental Health.

Our speakers truly inspired our audience and the symposium generated much excitement about how the mental health and criminal justice systems can work together to more appropriately treat offenders with serious mental illness. The conference demonstrated that Ohio is a leader in this field. I believe that together we are making a difference in the lives of so many.⁹

V. CONCLUSION

In the 1800s, the greatest challenge to the mental health and criminal justice systems was to get the mentally ill out of jails and prisons and into appropriate treatment. Still today, we face the same problem. But by joining forces and working together, we are making a difference. In the end, we save money, but more importantly, we save lives.

⁹ The Second National Symposium on Mental Illness and the Criminal Justice System was held on May 20 & 21, 2004, at the Hyatt Regency and was co-sponsored by Capital University Law School, NAMI (National Alliance for the Mentally Ill) Ohio Chapter, and the Supreme Court of Ohio.