Decriminalizing Mental Illness: Background and Recommendations

A White Paper Prepared by the Forensic Taskforce of the NAMI Board of Directors

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In 2006, it was conservatively estimated that there are at least 350,000 persons with serious mental illnesses incarcerated in U.S. jails and prisons. The actual numbers today are probably considerably higher. Although some of these individuals, particularly those who are in prisons, have been convicted of serious crimes, many have been charged or convicted of misdemeanors or minor felonies related to their untreated mental illnesses. Although jails and prisons are not "psychiatric treatment facilities," they have, by default, assumed increasing responsibilities for responding to the needs of individuals who need intensive psychiatric treatment and supports.

A number of reasons for persons with mental illness being placed in the criminal justice system have been proposed. These include deinstitutionalization and the resulting loss of acute, intermediate and long-term hospital beds; more formal and rigid criteria for civil commitment; the lack of adequate community-based services and supports; the adoption of "get tough on crime" policies that have impacted particularly negatively on persons with co-occurring mental illnesses and substance abuse disorders; and the belief among many law enforcement personnel that the criminal justice system is better equipped to respond to "deviant" behaviors than the mental health system.

The research literature suggests that jails are being asked to function as de-facto inpatient psychiatric treatment facilities, in many cases. A recent retrospective study of inmates with serious mental illnesses incarcerated in a large, urban jail revealed that 76% of these individuals required and received psychiatric inpatient care or its equivalent while incarcerated. The burdens imposed on correctional facilities have helped to fuel efforts to divert persons with serious mental illnesses from incarceration into community treatment. These jail diversion efforts generally occur either prior to arrest and incarceration (pre-booking diversion), or after arrest (post-booking diversion).

Law enforcement officers have increasingly become front-line responders to people with serious mental illness who are in crisis. These officers are frequently not adequately trained to recognize the symptoms of mental illness and to respond appropriately to individuals experiencing psychiatric crises. Moreover, even if they are trained, these officers often have few options other than arrest and incarceration because mental health services and supports are inadequate and there is little coordination between law enforcement and mental health systems. Police Crisis Intervention Team

(CIT) programs have been established in many communities in an effort to help officers respond effectively to people in crisis as well as to link people with needed treatment. Today these CIT programs, often referred to as the "Memphis Model," are functioning in hundreds of communities throughout the nation.

Mental Health Courts and other post-booking diversion programs are also in place in a large and growing number of communities. These court-based programs make use of a variety of alternatives to incarceration. However, they will only be successful if inpatient and community-based mental health services and supports, including safe, affordable, and supported housing are available for those who are diverted. In addition to medications, services and support may also include:

- Intensive case management services;
- Forensic Assertive Community Treatment (FACT) programs;
- Supported and therapeutic living arrangements, such as Housing First programs, group homes and other congregate living arrangements, as well as permanent supportive housing linked to health, mental health, employment and other services;
- Integrated mental health and substance abuse treatment for people with cooccurring disorders;
- Consumer and family education and support programs; and
- Crisis services and inpatient treatment for those who need them.

Mental health systems must strive to achieve cultural and language competence in the delivery of these services.

Policy Recommendations

Pre-Booking Diversion

Public and private resources should be directed to support the development and
implementation of Crisis Intervention Team (CIT) programs. CIT programs have
been proven effectiveness in reducing costs associated with incarceration and
increasing the safety of law enforcement officers and people with serious mental
illness, to whom they are responding.

Police are first responders to people with serious mental illness in crisis. Therefore, all police officers should be trained to recognize and interact effectively with persons with serious mental illness. Additionally, a sub-group of officers (approximately 25%) should receive specialized, intensive CIT training and be designated, whenever possible, to respond to calls involving people experiencing psychiatric crises.

Post-Booking Diversion

• A variety of post-booking jail diversion options should be considered and supported at state and local levels. These options could include but not be limited to mental health courts and diversion programs operating in non-mental health courts, such as Connecticut's statewide jail diversion project and Memphis' Jericho Project.

Linkages Between Criminal Justice and Mental Health Systems

• Strong linkages should be established at state and local levels between law enforcement, the courts, corrections and the mental health system to ensure that the mental health and related service needs of people with serious mental illness are coordinated prior to release and are accessed immediately following release.

Mental Health Services and Supports

- A range of therapeutic and supported community-based living options should be available for people with serious mental illnesses involved or at risk of being involved with criminal justice systems. These should include:
 - > Permanent supportive housing options, linked to health, mental health and other services:
 - > Group homes and other congregate living arrangements; and
 - ➤ "Housing First" programs, which provide permanent independent housing and the availability of intensive services, such as ACT teams, on a voluntary basis for individuals with serious mental illness who are homeless.
- Integrated mental health and substance abuse treatment services must be available in one setting for individuals with mental illnesses reentering communities after incarceration or at risk of involvement with the criminal justice system. Studies suggest that at least 75% of people with serious mental illness who are incarcerated also meet DSM-IV-TR criteria for drug and/or alcohol abuse or dependence.
- Family and peer support and educational programs are vital resources in the recovery
 of offenders with serious mental illnesses and should be available for all who can
 benefit from them. For example, the Forensic Peer Specialist model developed in
 New York City offers promise as a model for helping offenders with mental illnesses
 reintegrate into their communities.

- Adequate numbers of inpatient beds for acute, intermediate and tertiary psychiatric care must be maintained for individuals who need them. It is cruel, inhumane and highly inappropriate to use jails and prisons as substitute inpatient treatment facilities.
- Mobile crisis management teams and crisis stabilization services should be available
 and easily accessible for individuals in crisis who need immediate assistance. This
 would significantly reduce the burden on law enforcement officers who are first
 responders.
- Mental health services should be culturally competent and designed to respond to the
 unique needs of people of diverse racial, cultural and ethnic backgrounds as well as
 people of different ages and genders.
- Funding for inpatient and community-based services for people with serious mental illnesses must be increased significantly so that the needs of all individuals with these illnesses are addressed. Adequate funding of mental health services will result in savings for other systems, such as criminal justice, that have, in recent years, frequently been forced to assume the burdens of responding to people in crisis.