

EXHIBIT 20DATE Jan 19 2005

Introduction

The number of people with psychiatric disabilities in jails and prisons is on the rise. By the end of 2000, nearly one million adults with mental illnesses were in the criminal justice system.¹ Nearly two million new jail admissions were of people with mental illnesses—a rate of 35,000 individuals a week²—mostly for nonviolent offenses.³ The number of youth with mental or emotional disorders entering juvenile detention centers and correctional facilities is also climbing.⁴

Mental health advocates have been distressed for years about the disproportionate number of people with psychiatric disabilities who are arrested or held in jail or prison. The growing numbers are also raising concern in criminal justice circles. Police express frustration about repeated—and time-consuming—encounters with people in their communities who appear in need of mental health treatment. Those who run jails, prisons and juvenile corrections programs worry about people with psychiatric disabilities in their facilities. They are concerned about these inmates themselves and about staff and other inmates, and outraged because these inmates need help more than—or instead of—punishment.

Equally disturbing—especially for the individuals themselves and their families—is the endless cycle of recidivism that results when people with psychiatric disabilities are released with their needs unmet. In these times of lean state budgets, lawmakers and public officials have raised serious concerns about the financial burden recidivism places on law enforcement, corrections and their community.

The Council of State Governments (CSG) recently completed two years of study and meetings of hundreds of individuals involved in criminal justice or mental health systems at the state and local levels.⁵ As the CSG found, “individuals with mental illnesses leaving prison without sufficient supplies of medication, connections to mental health and other support services, and housing are almost certain to decompensate, which in turn will likely result in behavior that constitutes a technical violation of release conditions or a new crime.”⁶ This confirmed a 1991 study finding that within 18 months of release from prison, 64 percent of offenders with mental illnesses were rearrested and 48 percent were hospitalized.⁷

This cycle can be broken, by ensuring that inmates with psychiatric disabilities have immediate access to the mental health services, housing and other supports they need to avoid rearrest. Building Bridges offers an approach that states can use to afford recently released inmates with psychiatric disabilities a successful transition to community life.

As the CSG recognized, people with psychiatric disabilities rely heavily on federal benefit programs to pay for housing, food and other necessities and to receive health and mental health services. Disability benefits such as Supplemental Security Income (SSI) and Social Security Disability Income (SSDI) provide a cash benefit that is often essential to securing housing. Medicaid provides access to health, mental health care and substance abuse services. Although these are federal programs, states can put in place policies that will enable inmates with psychiatric disabilities to be enrolled or reinstated in these programs, receive needed services speedily and establish connections to the community-based mental health system prior to release. As the CSG noted, access to these services “is the most effective ‘precontact’ diversion from the criminal justice system for people with mental illness.”⁸ Building Bridges provides a legislative template for enacting such policies.⁹

How to Use the Model Law

A summary of the model law follows to provide a broad overview. In the succeeding sections, the text of the proposed legislation is paired with a commentary with background and explanation to assist advocates and policymakers in working to adapt the model to their state. The commentary highlights potential issues, explains the choices we made as the language was drafted and provides references to helpful sources and supplementary materials. We have assumed that states will want to enact implementing rules or regulations related to benefit-reinstatement legislation, and accordingly have included suggestions as to what those rules should contain.

Several states are already working with earlier drafts of this template. We hope many more will use Building Bridges to enact legislation that will address a critically important part of the growing crisis of serious mental illnesses. We urge advocates to form or join local task forces to discuss the issues and tailor the model law to fit state or local codes and circumstances. We welcome the opportunity to work with members of such task forces who are interested in adapting the law for enactment in their state.

Next: Summary

Notes

1 Calculated using the respective rates of mental illness reported in Bureau of Justice Statistics Special Report, Mental Health Treatment of Inmates and Probationers (NCJ 174463) and year-end jail and prison population numbers reported in Bureau of Justice Statistics Bulletin, Prisoners in 2000 (August 2001, NCJ 188207) and probationers reported in Bureau of Justice Statistics press release of August 26, 20001.

2 Based on admission rates reported in Bureau of Justice Statistics Bulletin, Census of Jails, 1999 (August 2001, NCJ 186633) multiplied by the percentage of jail inmates with a mental illness (16.3%) reported in Bureau of Justice Statistics Special Report, Mental Health Treatment of Inmates and Probationers (July 1999, NCJ 174463).

3 Bureau of Justice Statistics Special Report, Mental Health Treatment of Inmates and Probationers (NCJ 174463)(citing a figure of 70 percent).

4 Cocozza, Joseph. J., & Skowrya, Kathleen R. Youth with Mental Health Disorders: Issues and Emerging Responses (April 2000). Juvenile Justice, Volume VII(1), Washington DC: Office of Juvenile Justice & Delinquency Prevention.

5 Council of State Governments , Criminal Justice/Mental Health Consensus Project (June 2002), New York: Council of State Governments. The report may be found at www.consensusproject.org.

6 Id. at p. 274.

7 Feder, L., "A profile of mentally ill offenders and their adjustment in the community," Journal of Psychiatry and the Law, 19:79-98 (1991).

8 Council of State Governments at p. 33; Id at p. 274 ("Linkage with appropriate government benefits in a timely manner can make the difference between success and failure in the community.").

9 The Bazelon Center for Mental Health Law has authored several publications focusing on individuals with serious mental illnesses in the criminal justice system and their return to the community following

Fact Sheet #3

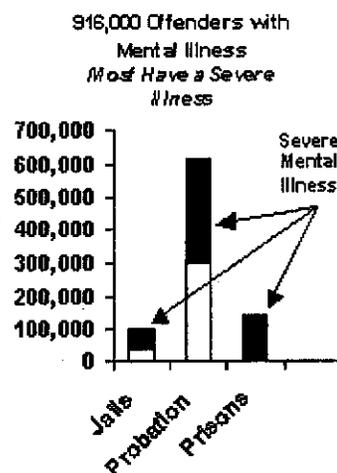
Individuals with Mental Illnesses in Jail and Prison

Data

- Nearly two million new jail admissions are of people with mental illnesses—35,000 individuals a week.¹
- At the end of 2000, nearly one million individuals with mental illnesses were in the criminal justice system.²
- More than 16% of jail inmates have a mental illness, according to the United States Department of Justice.³
- Seventy percent of jail inmates with mental illnesses are there for nonviolent offenses.⁴

Offenders with Mental Illness

- **In Jails:** 101,000 individuals with mental illnesses were inmates in local jails at year-end 2000. Of these, 63,000 had a severe mental illness.⁵ Jails are locally operated facilities that hold people pending arraignment or awaiting trial, conviction or sentencing. Sentencing is either to probation or incarceration in jail (generally under a year) or prison. There are 3,365 local jails.⁶
- **In Prisons:** 201,000 individuals with mental illnesses were inmates in state (191,000 or 16.2%) and federal (10,000 or 7.9%) prisons at year-end 2000. Of these, 132,000 had a severe mental illness.⁷ There are 1,558 adult correctional facilities housing state prisoners and 110 facilities housing federal prisoners.
- **On Probation:** 614,000 individuals (16%) with mental illnesses were on probation at year-end 2000. Of these, 315,000 had a severe mental illness.⁸ Probation represents a more moderate sanction than incarceration. It is generally given to offenders with few or no prior convictions or to those guilty of less serious offenses.



Description of the Population

New Department of Justice data confirm previous research findings that most individuals with mental illnesses in the criminal justice system have had extensive experience with both the criminal justice and mental health systems and have a severe mental disorder and poor functioning.

As seen in this table on offenders with mental illness, on every item, in all settings—jails, state prisons, federal prisons and probation—offenders with mental illnesses are more likely than other offenders to have the reported problem.

Next: Policy

1. Based on admission rates reported in Bureau of Justice Statistics Bulletin, Census of Jails, 1999 (August 2001, NCJ 186633, p. 5) multiplied by the percentage of jail inmates with a mental illness (16.3%) reported in Bureau of Justice Statistics Special Report, Mental Health Treatment of Inmates and Probationers (July 1999, NCJ 174463).

2. Calculated using the respective rates of mental illness reported in Bureau of Justice Statistics Special Report, Mental Health Treatment of Inmates and Probationers (NCJ 174463) and year-end jail and prison population numbers reported in Bureau of Justice Statistics Bulletin, Prisoners in 2000 (August 2001, NCJ 188207) and probationers reported in Bureau of Justice Statistics press release of August 26, 20001.
3. Bureau of Justice Statistics Special Report, Mental Health Treatment of Inmates and Probationers (NCJ 174463).
4. Id.
5. Based on self reports by inmates and probationers and, for severity, on overnight admissions to a mental hospital or treatment program.
6. Bureau of Justice Statistics Bulletin, Census of Jails, 1999 (August 2001, NCJ 186633).
7. Bureau of Justice Statistics Bulletin, Prisoners in 2000 (August 2001, NCJ 188207).
8. Bureau of Justice Statistics Special Report, Substance Abuse and Treatment of Adults on Probation, 1995 (March 1998, NCJ 166611).
9. Bureau of Justice Statistics Special Report, Mental Health Treatment of Inmates and Probationers (July 1999, NCJ 174463).

Fact Sheet #4

Policy to Address Issues Regarding People with Serious Mental Illnesses in the Criminal Justice System

Impact

The increase in the number of individuals with serious mental illnesses who come in contact with law enforcement officers or are booked into jail or sentenced to incarceration means that more and more individuals suffer significant harm. For example:

- They experience great trauma in connection with arrest, booking or detention.
- They are unnecessarily stigmatized by involvement with criminal justice.
- They are penalized in their eligibility for housing, employment and public benefits as a result of—and long after—arrest or detention.

The various parts of the criminal justice system also face major problems, including:

- repeated use of significant police time and judicial resources;
- significant stress among law enforcement personnel (for example, when individuals with depression try to encourage the officer to shoot them);
- occupancy of jail beds needed for more serious offenders;
- management problems in jail, often requiring suicide watch or causing major disruptions for jail staff;
- challenges to probation and parole officers who lack special training or are too few in number to work with people with serious mental illnesses;
- a scarcity of financial resources as a result of these and other issues.

Taking a Different Approach

What is needed is a new approach to policy that will:

- assure that individuals with serious mental illnesses do not end up in the criminal justice system when a mental health approach would be more appropriate or because of prior failures to make mental health services accessible;
- effectively move people with serious mental illnesses out of the criminal justice system more expeditiously; and
- ensure that those who have been arrested or incarcerated do not return.

Goals for Policy

Such policies will result in:

- better outcomes for the individual with mental illness;
- greater safety for all—the community, law enforcement officers, correctional staff, the individual with a mental illness and his or her family; a more efficient criminal justice system;
- greater cost-effectiveness across the criminal justice and mental health system, as mental health

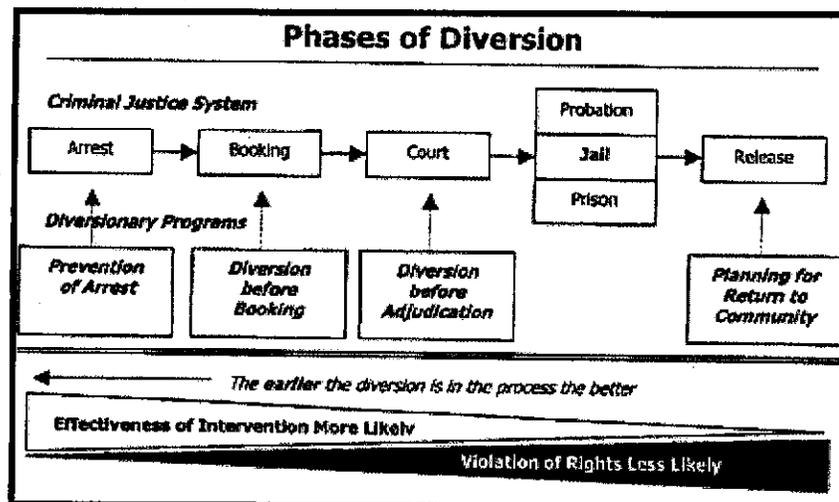
issues are addressed earlier and in a more appropriate forum;
a more pleasant community for all.

Approaches That Have Been Tried

Many communities have adopted programs that will divert people with serious mental illness from the criminal justice system at various stages of the process:

- time of arrest (pre-arrest diversion);
- as the individual's case is initially processed in the jail (pre-arrest diversion);
- following booking, but without a trial (post-arrest diversion);
- at adjudication or the trial stage (court-based diversion); or
- following incarceration (re-entry programs).

Diversion is most likely to succeed, to violate individual rights less and to be less costly to the criminal justice system if it occurs in the early stages of criminal justice processing. However, depending on the seriousness of the crime or the individual's prior history in the criminal justice system, this may not be feasible.



Next: A Better Way

Fact Sheet #10

Re-Entry Programs

Linkages Between Jails, Prisons and Community Providers

New York City Link

Population Served: Individuals with serious mental illnesses who were charged with violent or non-violent misdemeanors or with felonies and are being released from jails and prisons. Seventy-five percent have co-occurring disorders, 37% are homeless and 40% live in marginal situations in high-crime neighborhoods.

Program Description: NYC-LINK has been in operation since 1995 and is sponsored by the city's mental health department. It currently serves 70-100 clients a year and provides court-based diversion, discharge planning and transition services to people with mental illnesses being released from city jails or state or federal prisons. Linkage planners conduct comprehensive intake assessments to determine eligibility.

Planners are at the city's jail (Rikers Island); for those in state or federal prison, telephone contact is made prior to release. Following assessment, a community-services plan is created, applications are filed for appropriate benefits and housing referrals are made (and sometimes completed). LINK team members meet clients as they are released (at a transit station or at the jail) and take them to their residence and also to their initial report to their parole officer.

Staff furnish case management services and advocate for clients with service providers and with courts. The program provides access to medications while clients are waiting for Medicaid coverage and provides any necessary additional help on benefit issues. Peer support services are also offered. Staff make monthly case management visits, conduct weekly calls to community providers and intervene in emergencies.

Services are intensive for the first two months after release. Less intensive follow-up is conducted for one year for misdemeanants and two years for felons.

Funding: New York State office of mental health and New York City.

Patuxent Institution Community Integration Project, Maryland

Population served: Inmates with serious mental illnesses or dual diagnoses who are within eight months of mandatory release.

Program Description: This program is a collaboration between the Patuxent Correctional Institution, Baltimore Mental Health Services, Baltimore Intensive Case Management Programs (ICM) and Baltimore city mental health providers. Eight months prior to release, inmates are identified for participation in the program, which is voluntary. The ICM program in the community may reject the case.

Three months before release, inmates meet with the ICM, which assesses their needs and prepares community-services plans for them. The community services plan addresses the individual's need for

intensive case management, mobile services, outpatient treatment, psychiatric rehabilitation, housing, vocational and educational services, access to entitlements, family supports and substance abuse treatment. Upon release, inmates are transported from the correctional institution to the appropriate agreed-upon site in Baltimore during normal working hours. They are supplied with medication for 7-10 days and given a prescription for an additional 30 days. Patuxent Institute staff follow up with released inmates at 14, 30 and 90 days after release to monitor how well the inmate is linked to necessary services.

Costs: The Baltimore ICM is paid \$500 for each client for whom a services plan is completed upon release.

Funding: Baltimore Mental Health Systems and the state mental health authority.

Hamden County, Massachusetts

Population Served: Inmates among the 1,700 residing at Hamden County Correctional Center who have been incarcerated more than 30 days, losing their Medicaid eligibility.

Program Description: Corrections officials partner with Behavioral Health Networks, which has a forensic division and an extensive network of community clinics. Two to three months before an inmate with a mental illness is released, a full-time discharge facilitator screens for Medicaid eligibility. The discharge planner helps inmates complete their applications, which the planner then flags with a sticker, "pre-release incarcerated," and sends with a letter to the state Medicaid agency's central processing unit. The information is entered into the computer, which automatically rejects the application because the applicant is incarcerated and generates a letter to that effect which goes back to the discharge planner. On the day of release, the inmate is given five days' medication, an appointment at a mental health center within that time and a letter explaining that the Medicaid application is on file. The discharge planner also faxes a letter to the Medicaid agency notifying it of the inmate's release. Because the application is already in the Medicaid agency's computer, the mental health worker can reactivate it immediately during the inmate's first appointment.

Rensselaer County, New York

Jail staff are trained to help inmates complete application forms for entitlement programs so they can access their benefits more quickly upon release. Staff also accompany the individual to their local Social Security Office to complete the application process. As a result, many receive these benefits within 24 hours of release.

New York State pays for psychiatric medications for people leaving jail or prison, provided the individual applies for Medicaid, and transition managers assist former inmates in filing claims for benefits.

In addition, because inmates have often lost identification documents and lack of ID can preclude access to benefits and services, inmates receive picture identification cards.

Next: Resource Issues