NAMI Kansas
National Alliance on Mental Illness

Joint Committee on Corrections and Juvenile Justice Oversight

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NAMI Kansas is the state organization of the National Alliance on Mental Illness, a grassroots organization whose members are individuals living with mental illnesses and their family members who provide care and support. NAMI Kansas provides programs of peer support and education by and for our members through a statewide network of local affiliates. We advocate for individuals who are living with mental illness to ensure their access to treatment and supportive services.

This testimony will address both what is needed to keep our people from being incarcerated and what we need to do after individuals with mental illness become involved in the justice system.

Decriminalize Mental Illness

The need for mental health services is being felt increasingly in corrections environments. This means that our community-based supports and services are not adequate to get the job done of preventing the incarceration of individuals with serious mental illness.

While we are interested in ensuring that offenders with mental health conditions are receiving the right level of medical support while incarcerated, our goal is first and foremost to decriminalize mental illness by maximizing the extent to which we are able to divert individuals from jail and into treatment programs. In order for diversion programs to be successful, we must have more robust community-based treatment resources. Otherwise, incarceration become the default for many individuals.

The reduction in the level and frequency of care being provided through our Community Mental Health Centers (CMHCs) due to substantial reductions in funding has created delays in receiving timely treatment. Despite the availability of effective treatments, there are already long delays—sometimes decades – between the first onset of symptoms and when people seek and receive treatment.[1]

We know that treatment works if you can get the right treatment for the right duration. Our goal should be to provide evidence-based treatments that will help individuals achieve recovery that

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enables them to live independently without the need for institutional care in state hospitals or being incarcerated. We have the know how to provide early intervention services for adolescents and young adults that will spare them a lifetime of lost productivity and trauma, including involvement with the justice system.

One of the issues that needs the Joint Committee's attention is the current system where Medicaid beneficiaries are terminated from the program upon admission to the state hospital or during incarceration in a county jail. This has been an ongoing issue which should be corrected by suspending access and not terminating benefits during periods of hospitalization or incarceration. The delays in getting individuals' benefits restored runs counter to a focus on recovery.

Employment and housing are the cornerstones of recovery. Moving individuals with serious mental illness toward gainful employment contributes to more stable situations and enhances their recovery. Safe and affordable housing options represent the other critical ingredient. We need resources for transitional housing for those discharged from inpatient mental health facilities, jail and prison as well as permanent supportive housing options. Stable housing will lead to decreased re-admissions and recidivism overall. It will save tax dollars and help vulnerable Kansans achieve recovery.

The work at KDADS regarding recommendations for the Adult Continuum of Care should be lifted up in our policy discussion and get high priority for allocating state resources. Our failure to ensure adequate community-based services for individuals with serious mental illnesses simply means that they will show up as statistics for the Department of Corrections or for county jails.

Resources for Offenders

I serve as a co-chair of the Justice Involved Youth & Adults Subcommittee of the Governor's Behavioral Health Services Planning Council. Through our regular meetings, we are identifying issues and bringing recommendations forward to both reduce the level of justice system involvement and to improve the outcomes for individuals who are justice involved.

The Subcommittee has identified a number of best practices which are being developed in a number of areas of the state to support individuals who are justice involved. Crisis Intervention Teams (CIT) are the first line of defense. CIT is a primary pre-arrest diversion program that attempts to de-escalate crisis situations and re-direct individuals who have not committed a crime to appropriate treatment venues. CIT officers coupled with mental health co-responders create an even stronger model for assisting individuals in crisis.

CIT is expanding across the state and will soon have the support of a state coordinator housed at KDADS. In 2012 the Kansas Legislature recognized CIT as a best practice in law enforcement in the resolution attached to my testimony. Following a fatal shooting in Hays this past August, are working with individuals in western Kansas to adapt the CIT model for rural and frontier communities.

Once arrested and detained, individuals with a history of mental illness must be identified, evaluated and provided treatment for their health care needs as would any offender for other health conditions. Sadly, this is not the case in most jurisdictions. We have long since abandoned jail standards which would require adequate treatment for persons with mental illness. Sheriffs lack the resources to meet the needs of offenders even though their jail represents the county's largest mental health institution. There is substantial inconsistency in the care of individuals with mental illness in the jails as there is

among the availability of personnel from the CMHCs to engage with offenders during their period of incarceration. We would not ignore the health care needs of an offender who has symptoms of diabetes or a cardiac condition, so why is it okay to ignore the offender who displays symptoms of a serious mental illness? In addition to the lack of treatment resources in jails, individuals with serious mental health conditions who are symptomatic are likely to exhibit challenging behaviors and also likely to be placed into solitary confinement which tends to exacerbate their symptoms. We have work to do to overcome these limitations of our justice system. I have been advised that Alabama has done some positive work in this area.

We believe that a promising and cost-effective intervention at the level of county jails is to have Certified Peer Specialists (CPS) involved with offenders with a mental health condition. CPS staff are currently part of treatment teams at the CMHCs and also work in other venues like the VA hospitals. I have had a preliminary conversation with the Kansas Sheriffs Association about considering these placements. More work is needed to identify, recruit and train peers who have a history of justice involvement along with their lived experience of mental illness. While the Sheriff would host the CPS staff, they would ideally be employed and supervised by the CMHC which serves that county.

Kansas statutes already provide for pre-trial diversion programs at the discretion of county and district attorneys. Johnson County has the best articulated diversion program but even so it is not highly utilized. Data from other counties about pre-trial diversion programs is hard to come by. However, engaging offenders at this level of their proceedings has a lot of potential to avoid incarceration and to focus on rehabilitation.

Similarly, mental health courts and other specialty courts provide an opportunity to divert individuals from jail. To date, only two mental health courts have been established at the municipal level in Topeka and Wichita, although Douglas County is considering a mental health docket at the District Court. Johnson County also has established a Veterans Treatment Court within the District Court.

Notwithstanding the presence of pre-arrest, post-arrest and post-conviction diversion programs, the bottom line comes back to the availability and accessibility of community-based treatment programs. Without adequate investments across the continuum of care, these diversion programs are all challenged to maintain good outcomes that move individuals toward recovery and away from recidivism.

Additional work is also needed to address issues with our systems for determining competency to stand trial. The Justice Involved Youth & Adults Subcommittee has had some preliminary conversations in this area but has not yet brought any recommendations forward. Clearly one starting point is to focus on increasing the number of community-based competency evaluations thus reducing the cost of hospital-based evaluations, including transport, and avoiding the long waiting period in jail pending the availability of a bed at Larned State Hospital. Standards for competency evaluations has been raised as an issue to be addressed by the Legislature. This is a fruitful area for additional study.

Mental Health System Data

19.9 percent of adults in the U.S. are affected by mental illness and 4.8% had a serious mental illness such as schizophrenia, major depression or bipolar disorder[2]. That translates into an estimated 95,000 adults in Kansas who are affected by a serious mental illness.[3] Fewer than 40% of adults

with a diagnosable mental disorder receive any mental health services in a given year. The annual cost burden on Kansans for untreated serious mental illness is estimated to be $1.17 billion.[4] More than 36% of this cost burden falls to private sector employers reflecting the loss of productivity as a result of illnesses.

Early treatment of mental illnesses reduces the extent of disability and recurrences of symptoms. 66 percent of Americans believe that treatment and support can help people with mental illnesses lead normal lives. Recovery rates with treatment and medication have been noted at 80 percent for bipolar disorder, 65-80 percent for major depression, and 60 percent for schizophrenia. Individuals living in recovery are contributing members of their community and can work and pay taxes.

Reductions in state general funds since FY 2008 place vulnerable Kansans with serious mental illnesses at immediate risk of going without treatment. Kansas' public mental health system provides services to only 15 percent of adults who live with serious mental illnesses.[5] In light of funding reductions, community mental health centers are in many cases ill-equipped to provide the robust array of services needed for persons with chronic mental illnesses.

As state general fund dollars have been removed from the system, mental health centers have been pushed to rely more on Medicaid as a payer source. This strategy further undermines the safety net and is destabilizing to the mental health centers. It is important to note that less than 40 percent of the clients being treated by the CMHCs have Medicaid as their sole source of payment.

One in five people with a serious mental illness is uninsured.[6] People with low income and no insurance are twice as likely to have a psychiatric disorder.[7] Approximately 15 percent of the uninsured have a serious mental health condition.[8] Without treatment, individuals with a serious mental illness are at an increased risk of hospitalization.[9]

The impacts of the cuts to date have translated into a reduction in the level and frequency of care being provided to the uninsured and has created delays in receiving timely treatment. Despite the availability of effective treatments, there are already long delays—sometimes decades – between the first onset of symptoms and when people seek and receive treatment.[10] We cannot afford to exacerbate these delays by not having adequate resources in place when individuals present themselves for treatment.

The consequences of an under-resourced treatment system are substantial for the health and well-being of our citizens and for the ability of other agencies, including health, law enforcement, courts, hospitals, and schools that depend on the safety net services which our mental health centers provide. To the extent that we cut corners in providing adequate funding for community-based care for mental illness, there will be more demand on state hospitals for providing treatment. Of great significance is the finding that half of admissions to the state hospitals are patients who have had no previous connection to the public mental health system. Daily costs for state hospital treatment are almost 20 times as much as community-based treatment for an individual with a chronic mental illness. Other sectors, particularly law enforcement, also bear the brunt of an under-funded mental health treatment system, especially when crisis stabilization services are limited or non-existent.

The cost of untreated mental illness continues to be shifted to law enforcement and corrections agencies. These costs are corroborated by the published data including report from the U.S. Department of Justice which indicates that 24 percent of state prisoners and 21 percent of local jail prisoners have a recent history of a mental health disorder. Approximately 2,000 adults with serious

mental illnesses are incarcerated in prisons in Kansas.[11] The cost for incarceration at the Larned Correctional Mental Health Facility is almost four times as much as the cost of community-based care. We have five times as many beds for individuals with serious mental illness in jails and prisons than we do in our state hospitals.

Thank you for the opportunity to brief the Joint Committee. We stand ready to work with the Legislature and state agencies on strategies to reduce the criminalization of mental illness and to ensuring successful community re-integration for individuals who are justice involved.

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[1] Wang, P., Berglund, P., Olfson, M., Pincus, H., Wells, K. & Kessler, R. (2005). Failure and delay in initial treatment contact after first onset of mental disorders in the National Comorbidity Survey Replication (NCS-R). *Archives of General Psychiatry*, 62, June 2005, 603-613.

[2] Results from the 2009 National Survey on Drug Use and Health: Mental Health Findings. Substance Abuse and Mental Health Services Administration. http://oas.samhsa.gov/NSDUH/2k9NSUDH/MH/2K9MHResults.pdf.

[3] Holzer, III, C.E. and Nguyen, H.T., psy.utmb.edu.

[4] Health Care Foundation of Greater Kansas City, *The Costs of Untreated Mental Illness* (2012). http://hcfgkc.org/costs-untreated-mental-illness

[5] Aron, L.,Honberg, R., Duckworth, K., et al., *Grading the States 2009: A Report on America's Health Care System for Adults with Serious Mental Illness,* (Arlington, VA, National Alliance on Mental Illness, 2009)

[6] SAHMSA, Office of Applied Studies, National Survey on Drug Use and Health, 2005

[7] Mechanic, D. (2001). *Closing Gaps in Mental Health Care*. Health Services Research 36:6.

[8] SAHMSA, Office of Applied Studies, National Survey on Drug Use and Health, 2005.

[9] McAlpine, D.D. (2000). Utilization of Specialty Mental Health Care Among Persons with Severe Mental Illness: The Roles of Demographics, Need, Insurance, and Risk. Health Services Research. 35.1

[10] Wang, P., Berglund, P., Olfson, M., Pincus, H., Wells, K. & Kessler, R. (2005). Failure and delay in initial treatment contact after first onset of mental disorders in the National Comorbidity Survey Replication (NCS-R). *Archives of General Psychiatry*, 62, June 2005, 603-613.

[11] Sabol, W.J., West, H.C., and Cooper, M., *Prisoners in 2008,* U.S. Department of Justice, Bureau of Justice Statistics, (2009) and James, D., and Glaze, L., *Mental Health Problems of Prison and Jail Inmates,* U.S. Department of Justice, Bureau of Justice Statistics, (2006).

House Concurrent Resolution 5032, as reflected below, was adopted by the Kansas House and Senate in 2012.

WHEREAS, Mental illness is a serious medical condition that affects children, adolescents, adults and the elderly; and

WHEREAS, In response to the need for law enforcement officers to better understand and resolve issues arising from persons with mental illness, 1,250 Crisis Intervention Team (CIT) programs have been developed nationally and in the Kansas counties of Reno, Lyon, Johnson, Shawnee, Sedgwick and Wyandotte; and

WHEREAS, More than 900 law enforcement officers statewide have been trained by local CIT councils and the Kansas Law Enforcement Training Center, including officers of the Capitol Police, Kansas Department of Corrections, as well as School Resource Officers and local jail and dispatch personnel; and

WHEREAS, CIT training is a 40-hour curriculum, based on the Memphis Police Department Crisis Intervention Team model of best practices for law enforcement intervention with persons who have a mental illness;

WHEREAS, The CIT program trains law enforcement officers to effectively and humanely intervene and assist in situations involving children and adults who find themselves in psychiatric crisis; and

WHEREAS, Implementing the CIT program on a statewide basis means building strong working partnerships between law enforcement agencies and mental health resources in the community, which enable law enforcement and mental health agencies to collaborate to identify appropriate and long-term solutions for persons with mental illness; and

WHEREAS, The CIT program is proven to reduce the likelihood of physical confrontation and use of force in intervention situations, improve officer safety and decrease injuries to law enforcement officers involved in crisis intervention; and

WHEREAS, The CIT program decreases the use of arrest and detention of persons experiencing a mental health crisis by providing these persons with better access to timely and appropriate mental health treatment and community services; and

WHEREAS, The CIT program provides an immediate response to crisis intervention situations by specially trained law enforcement officers; and

WHEREAS, Many local jails now operate as the largest mental health institutions in their community and CIT programs reduce the number of nonviolent persons with mental illness in local jails as a result of minor offenses; and

WHEREAS, Most of those incarcerated with mental illness also have alcohol and drug problems and are categorized as having "co-occurring disorders"; and

WHEREAS, Such persons are better served through treatment of their mental illness in the community than by being detained in jail, thereby resulting in significant cost savings for both police and jails, while providing treatment that will reduce the likelihood of recidivism; and

WHEREAS, The CIT program promotes good will between law enforcement and members of the community; and

WHEREAS, Not all law enforcement agencies in Kansas have CIT-trained officers; and not all CIT-trained officers are connected to a CIT program that is implemented in partnership with mental health providers: Now, therefore,

Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the Legislature of the State of Kansas recognizes the outstanding leadership of the Crisis Intervention Team programs and CIT as a model of best practice for law enforcement intervention with persons who have a mental illness; and

Be it further resolved: That the Legislature encourages law enforcement agencies to lead the effort in partnership with community mental health centers and local advocacy organizations representing individuals living with mental illnesses and their family members to establish local and regional CIT programs.

KANSAS MENTAL HEALTH COALITION

.....Speaking with one voice to meet the critical needs of people with mental illness

Mental Health and Criminal Justice Issues

Position: The Kansas Legislature must adopt a public policy that focuses on: (1) Mental health diversion programs that connect persons with serious mental illness with treatment resources that keep them out of the criminal justice system; (2) Therapeutic care for offenders who are living with mental illness; and (3) Effective discharge planning to ensure that individuals with serious mental illnesses receive community-based services upon their release.

The Problem: Significant numbers of individuals living with serious mental illness have encounters with law enforcement agencies and find themselves in the criminal justice system where the recognition and treatment of mental illness is not the primary mission and where there is no statutory requirement to provide therapeutic mental health care. KDOC reports a 13.8 percent increase among inmates diagnosed with a mental illness each year since 2009.[i] Increases in routine encounters with law enforcement lead to unnecessary arrests and detentions as well as occasional tragic outcomes for communities. There is a lack of continuity in mental health treatment between corrections facilities and community-based treatment venues. There is inconsistency state wide in the care of individuals with mental illnesses in county jails. Average daily costs for incarceration are $67-$80 at KDOC and $88 in county jails. The average daily cost for Medicaid reimbursed treatment is $10-$22.

Repeated detentions and hospitalizations for offenders who are released from the criminal justice system result in increased costs to state and local agencies.

Why this matters: Repeated detentions and hospitalizations for offenders who are released from the criminal justice system result in increased costs to KDOC, counties, local jails, Medicaid and the public mental health system. Persons with mental illness in county jails may have to wait weeks or months for admission to the Larned State Security Program (LSSP) for the purpose of being evaluated or for competency treatment. This continued waiting period is of significant concern to the courts, county jails, KDADS, and mental health advocates.

The bottom line: Only a limited number of Kansas communities have taken steps to reduce the criminalization of people living with mental illness through pre-arrest and post-arrest diversion programs. More action is needed to develop alternatives to incarceration, including continued support for Crisis Intervention Teams (CIT), establishing diversion programs by prosecutors, mental health specialty courts, and post-release programs designed to reduce recidivism.

Need more information? Drill deeper into this issue on the back of this page.

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The rest of the story about mental health and criminal justice issues

The mental health system is part of our public safety infrastructure: A policy that aims to reduce the number of incarcerations of people with mental illness includes many of the programs listed below. Introducing or expanding these will greatly benefit our communities.

- Crisis Intervention Teams. CIT programs establish law enforcement protocols for crisis situations and provide training for law enforcement officers. They have been established in nine (9) counties, including Douglas, Johnson, Leavenworth, Reno, Sedgwick, Shawnee, and Wyandotte counties, with 1,400 law enforcement and criminal justice professionals trained. The legislature appropriated $25,000 in 2013 for the Kansas Law Enforcement Training Center to provide CIT training to help expand these programs.
- Crisis Stabilization Treatment Centers. A regional network of stabilization treatment centers is needed as an alternative to jail or hospitalization for persons in crisis and should be modeled after the RSI facility in Wyandotte County. However, RSI is restricted to voluntary admissions. Consequently, individuals in crisis often still end up in jails, ER's and state hospitals. An expanded model should be created to include short term voluntary and involuntary crisis stabilization, which many states have found to be essential.
- Mental Health Diversion Programs. Diversion programs, such as one in Johnson County, help persons with severe mental illness to receive case management services and follow a treatment plan for a specified period. Charges are dismissed upon completion of the diversion. The majority of diversion cases in Johnson County are for violent offenses.
- Mental Health Courts. Mental health courts seek to prevent incarceration by making connections to mental health resources, then developing and assuring adherence to a treatment plan. The City of Wichita has had a mental health court for several years; Topeka just recently established an Alternative Sentencing Court.
- Community Based Competency Evaluations. Funding is needed to increase the number of competency evaluations completed in the community or in local jails. This reduces the cost of hospital-based evaluations, the often long stays in county jails waiting for an available bed at Larned State Hospital, and the cost of transportation.
- Expand Services at the State Security Hospital. The State Security Hospital (Larned) evaluates, treats, and cares for individuals living with serious mental illnesses that are committed or ordered by courts of criminal jurisdiction, and/or transferred from the Department of Corrections. The Larned unit is full with a 60-90 day backlog.
- Improve Access to Treatment for Offenders. Mental health pods in county jails such as those in Shawnee and Sedgwick counties provide more humane treatment of offenders living with serious mental illness. KDOC needs additional specialized beds for inmates with serious mental illness. See reference to KDOC annual report below.

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[i] KDOC's 2014 annual report (http://www.doc.ks.gov/publications/Reports/2014) cites 37% of inmates have a mental illness. KDOC needs 126 more specialized beds for treatment of mental illness. County jail data is similar although not well documented. The report also documents that 75% of parole violators have a history of substance abuse or mental illness.