REPORT ON THE CURRENT STATUS OF SERVICES FOR PERSONS WITH MENTAL ILLNESS IN MAINE'S JAILS AND PRISONS: 2002

THE CITIZEN'S COMMITTEE ON MENTAL ILLNESS, SUBSTANCE ABUSE, AND CRIMINAL JUSTICE
AND
NAMI MAINE

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Introduction

In the fall of 2000, NAMI Maine released a report on conditions for people with mental illness and/or substance abuse in Maine's jails and prisons. That report raised serious concerns about inmate suicide, inadequate or unavailable mental health services in many of Maine's jails, and the use of segregation as a common practice for handling psychotic or highly symptomatic inmates with mental illness. The report was prompted by the suicide of 18 year old James Thomas, a Lincoln County Jail inmate transferred to Maine's most restrictive prison because of his suicidal behavior in the jail and the jail's inability to secure treatment services for him. Although the law doesn't allow jails to transfer inmates to prison because of medical or mental health problems, difficulty coping with difficult behaviors, lack of services inside the jails, and inability to access community mental health services often brought jail inmates with mental illness to the supermax prison.

The facts in 2000 were startling:

- A prison inmate suicide in 1998 and 2000.
- Over 5,000 of Maine's jail inmates were in need of mental health treatment with most of Maine's 15 jails reporting inadequate or no mental health resources.
- A massive outlay of cash was occurring nation-wide for construction of new correctional facilities – Maine too, building a prison in 1992, a prison in 2000, as well as new juvenile facilities. A $20 million increase in the Department of Corrections budget between 1990 and 1999 was primarily devoted to operational costs.
- National recidivism rates were 80% for inmates with mental illness.
- A lack of community services, in-jail services, and diversion programs leading to a policy of transferring mentally ill inmates from county jails to the supermax as the only other alternative to "manage" their behavior;
- Inmates in 23-hour lock down for years at a time;
- A policy of stripping psychotic inmates and placing them in stripped down cells. A policy of disciplinary punishment for suicide attempts. All of the above conducive to poor mental health outcomes for inmates.
- Inmates who did manage to get treatment in a hospital were returning to prison from psychiatric hospitals with no discharge plan and no instructions for their care and treatment.
- Legislation requiring assistance to county jails and a state-wide strategy for diversion which was not/or partially implemented.

NAMI Maine called for immediate action, including increased funding for mental health/substance abuse services in Maine's correctional facilities, the creation of effective diversion programs, improved training for law enforcement and correctional staff, cessation of any use of Maine's super maximum security prison for inmates with mental illness, and expansion of quality review boards for Maine's prisons. Two years have passed since these findings and recommendations were released. In the last six months, five inmates have successfully committed suicide in Maine's jails and prisons. This

report is a call to action prepared jointly by The Maine Sheriffs' Association, the Maine County Commissioner's Association, and NAMI Maine.

Maine's Jails and Prisons are in trouble

News reports in 1978 and 1979 are headlined "*Plans would bolster jails' mental health service*" Maine Sunday Telegram, March 11, 1979 and *"Better mental health care for prisoners under study"* Kennebec Journal, November 22, 1978. Both articles describe deplorable conditions for people with mental illness who are arrested and shortages of treatment for them – both in correctional facilities and at the State Hospitals. Both articles describe a commission that is recommending change. Twenty years later, news coverage looks much the same. (See summary of newspaper articles over the past three years- attached.)

Here are the facts about conditions for people with mental illness in Maine's Jails and prisons. Between 1998 - 2002:

- **Four inmates at the Maine State Prison have committed suicide; a fifth survived** – two on the mental health unit. The four dead inmates are Ronald Pelletier (10-98), James Thomas (2-00), Dennis Larson (1-01), and Adam Dupuis (5-02). James Larabee, hung himself on July 3, 2002. Helicoptered to a hospital, he survived.
- **Thirteen Maine jail inmates – dead**. Robert Hale (12/98) Cumberland County Jail, David Mitchell (12/98) Cumberland County Jail, Darren Chamberlain (11-00) Kennebec County Jail, Leroy Hampton, Jr. (11-00) Androscoggin County Jail, Barbara Luszczki (5-01) Knox County Jail, Jason Rozwell (4-02) Kennebec County Jail, Brian Whitehouse, (5-02) Cumberland County Jail, Lee Chambers, (6-3-02) Waldo County Jail, John Stewart, (7-9-02), Waldo County Jail, Joseph Hayes, Somerset County Jail (7-29-02), Gardner Whalen, Penobscot County Jail (9-02-02), Bruce Hanson, Penobscot County Jail (9-03-02). Ten jail inmates dead by suicide, one dead due to medical problems, one dead from a drug overdose, one dead from alcohol withdrawal related seizure.
- **One jail inmate, saved from hanging**, but hospitalized. Larry Alexander (11-01) Washington County Jail.
- **One jail riot**. Inmates at the York County Jail riot (2-01). Riot is blamed on overcrowding, lack of staffing, poor classification of inmates, and lack of recreation time outside of the cell. On the day of the riot, 116 inmates were housed in a jail designed for 58.
- **Seven Maine jails deemed over crowded, one deemed unsafe**. Overcrowding in Skowhegan (20 over capacity and doesn't meet fire safety codes), York (58 over capacity), Waldo (25 over capacity), Bangor, and Lincoln County Jails (28 over capacity.
- **35% of Maine's jail inmates have mental illness (according to a jail survey carried out by NAMI Maine). 25% of Maine's prison inmates on medications for mental illness.** These figures are above the national average of 16%.

- **50% of Maine's jails report they cannot access psychiatric hospital beds** even when inmates are psychotic and have been blue papered for danger to self or others. (Attached survey of Maine jails).
- **Deinstitutionalization has become transinstitutionalization** – hospital beds have closed, but community systems of care are almost non-existent for mentally ill offenders. Lack of Medicaid, lack of outreach services, lack of housing .. community systems of care are failing mentally ill inmates.
- **Maine's new prison, built to provide capacity for ten years is full** due to an increase of 9% in prison inmates between November and June of 2002.

External Review of Prison Health Services

Two external audits of health care at the Maine State Prison's facilities (carried out by expert in national accreditation standards) were conducted – one in December of 2000 and one in November of 2001. The results are summarized in the attached chart. The audits show significant deterioration in the prisons' ability to provide medical and mental health care in a manner that meets national standards. Specifically, between 2000 and 2001, non-compliance with national standards more than doubled, with the auditor noting there is "a notable slippage in the quality of care delivered at these facilities within the last year."

Efforts to Obtain Real Improvements

During the same time frame (1999-2002) multiple efforts have been made to improve Maine's response to people with mental illness who are in jail or prison. These included:

- A 2000 call to action by NAMI Maine, followed by introduction of legislation designed to improve treatment for people with mental illness in Maine's jails and prisons.
- Consistent support from Maine's Sheriffs, County Commissioners, and others for legislative action to solve the problems facing Maine's jails.
- Multiple facility improvements and reorganization within the prison system, including a new women's unit in Windham.
- Cumberland County jail became the first jail in Maine to meet national accreditation standards.
- A 2000-01 Legislative study committee that (l) understood and responded to the variety of problems which contribute to problems in our jails and prisons and (2) resulted in a recommendation that $9 million dollars be spent to address the problems (diversion programs, gaps in mental health services, in-jail services, in-prison service enhancement), but only $65,000 was appropriated.
- Two memorandum's of agreement between local jails and the Department of Behavioral and Developmental Services – one with the Kennebec County Jail (11-00) and one with the Penobscot County Jail (5-02). These are designed to link these jails more closely to intensive case managers and psychiatry available through BDS Regional offices.

- NAMI Maine provided 56 workshops to law enforcement and correctional officers during 2001-2002, all designed to help them recognize and respond appropriately to people with mental illness.
- A nationally recognized jail diversion program, CIT, started in Portland, Maine in March of 2002.
- The Maine Legislature appropriated $65,000 for one pilot project for one jail in Maine - $110,000 less than requested. Nonetheless, in a time of great fiscal distress, this is a significant achievement. In addition, the legislature passed language which requires discharge plans for inmates, treatment plans for inmates, adequate access to modern medications, and a separate grievance procedure for medical and mental health issues, and accreditation for Maine's prisons within five years.
- Maine's Department of Behavioral and Developmental Services has provided Intensive Case Managers to Maine's jails, funded a mobile crisis system which carries out mental health assessments in Maine's jails, and created several police ride-along programs to assist correctional and law enforcement officers to cope with the needs of people with mental illness when they are in crisis. They have also required, via contract language, Community Mental Health Centers who receive state funding to provide in-jail mental health services to the jails in their counties

Hard Work, Good Intentions, but Problems Grow Worse

The groundwork has been laid. The Maine Legislature and stakeholders with an interest in the safety and well being of people with mental illness who are incarcerated understand the problem and have discussed successful solutions. The Maine Department of Corrections and the Maine Department of Behavioral and Developmental Services have also recognized (l) the need to work together and (2) the need for system change. The Department of Corrections created and filled a position of Director of Mental Health, further recognition of the need for additional attention to the needs of inmates with mental illness or those with co-occurring substance abuse problems. Nonetheless, real change, change that keeps people with mental illness out of jail and prison and assures their safety when they are inside, has been slow to materialize. There is a growing crisis in Maine's jails, including a series of inmate suicides/deaths in Maine's jails and prison in the Spring of 2002. The fact that Maine's correctional facilities are the largest providers of mental health services in Maine document the failure of deinstitutionalization and the failure of the state to meet its promise to people with mental illness and their families.

Barriers to Change

Barriers to change include budget deficits, differences in system philosophies and training, and stigma and public distaste for criminal offenders. In addition, the problem crosses legislative committee jurisdictions (Judiciary,

Health and Human Services, and Criminal Justice) as well as Departments of government (Public Safety, Corrections, Behavioral and Developmental Services), and levels of government (County, City, State). All must be involved in an effort to design the plan to bring **real** change. It is especially important that Counties participate in reform efforts.

The recent deaths of seventeen inmates is a painful and tragic reminder of the need for immediate reform. As described in the Criminal Justice Committee's *Report on the Needs of People with Mental Illness who are Incarcerated* there is a need for jail diversion, in-jail mental health programming, training, advocacy and oversight, and additional in-prison programming.

Two years after NAMI Maine's first report, and six months after the Legislature's impressive response, little has changed -- except in Maine's jails where suicide and suicide attempts are on the rise. Maine's jails are overcrowded and unsafe, they have few if any mental health services available for inmates and are unable to access psychiatric hospital beds for those who are deemed eligible for involuntary hospitalization due to suicidality or homocidality. Seventeen inmates died in the last two years – many of them by hanging. Maine's prison system continues to have one of the highest number of mentally ill inmates in the nation and to lack adequate staff to meet their needs. There has been an inmate suicide in the prison system for four of the past five years. External reviews of health and mental health services and procedures in the prison system document a growing, rather than shrinking, failure to meet national accreditation standards. These audits show significant deficits in the prison's ability to protect the health and safety of inmates.

The promise that hospitals would close and community services would meet the needs of people with mental illness and their families has not been met. State spending on mental health is shrinking – 30% less than in 1955. Between 1990 and 1997, per capita state spending on mental health fell 7% when adjusted for inflation. During the 1990s state spending for mental health services grew 33 percent, total state spending grew 56%, and spending on corrections grew 68%. As a result, the share of state spending devoted to mental health is dropping – by 15% from 1990 to 1997 (shrinking from 2.12% of state spending to 1.81% of state spending). [1]

Maine's jails and Maine's emergency rooms feel the impact of inadequate community systems of care most acutely. The revolving door from the street, to the jail, to the emergency room, and back to jail is costly in human lives and in dollars In fact, The Economist, in August of 2002[2], says "Some believe that the upturn in the crime rate is directly linked to the number of unreformed ex-convicts on America's streets." Unless mental health and substance abuse services are sufficiently available, and unless those services are mobile and

[1] Bazelon's Disintegrating Systems, pg. 15-15
[2] The Economist. "Too many convicts". August 10, 2002.

include outreach, Maine's jails and prisons will continue to be the largest providers of mental health services. The fact that Maine has expanded its spending on community-based services has not solved the problem. In fact, the people in Maine's jails and prisons are those people who cannot access community services. And once there, they cannot access hospital psychiatric services either. To many jail administrators it seems there IS no community mental health system.

A Call To Action

The deaths of seventeen inmates in Maine's correctional facilities in the last two years is a tragedy and a disgrace. Any other publicly funded and publicly governed institution in Maine where Maine citizens are housed and for whom government is responsible, that had 17 deaths would be investigated and possibly lose its license. No other public institutions in Maine are unlicensed, un-accredited, and ignored by the State in terms of funding, attention, and assistance. Instead, the problems associated with the incarceration of people who break STATE laws is left to Maine's property tax payers.

Certainly no facility responsible for persons with mental illness should be left in a condition where the health and safety of these vulnerable people is at risk. Unfortunately, jails and prisons are the largest providers of mental health services in the nation and the least trained, the least equipped, and the most under-resourced. *This must change*.

In addition to the health and safety risks to inmates, correctional employees are also placed at risk. Staff turnover, under-staffing, under funding, and facilities that don't meet health and safety standards create unhealthy and dangerous work environments. Maine's correctional system is in crisis. Immediate action is needed. The Citizens Committee on Mental Illness, Substance Abuse, and Corrections and NAMI Maine call for the following:

1. As originally enacted in 1995, Title 34-B, section 1219, the Legislature called for the production and implementation of a comprehensive state strategy for preventing the inappropriate incarceration of seriously mentally ill individuals and for diverting those individuals away from the criminal justice system. The strategy must be developed with the participation of all stakeholders. This process could begin by holding a state-wide summit to bring together top decision and policy makers from the three branches of state government (Legislative, Executive, Judicial) and County government to review current conditions and plan improvements. The Chief Justice, Legislative leaders, Commissioners of BDS and DOC, and County officials should make decisions about how to reduce incarceration rates and improve treatment inside jails and prisons in Maine. In times of budget deficits, it is important to recognize that the cost of incarceration ($50,000 for a supermax bed; between $24,000 and 40,000/year for a jail bed) far

exceeds the cost of community treatment ($10,000/person for an ACT team)[3]. This summit must be designed to develop a plan and implement it. It is also important to note that the Judiciary must be involved if real change is to occur – mandatory sentencing laws and misunderstanding about mental illness contribute to the problem. Finally, the four legislative committees of jurisdiction (state and local government, health and human services, judiciary, and criminal justice) must also be involved if change is to be enacted. These participants must develop AND IMPLEMENT a plan for change.

2. Implement and fund the recommendations included in the report from the Committee to Study the Needs of People with Mental Illness who are Incarcerated. These recommendations must be enacted in full. Of special note is their recommendation that the judiciary receive training in diversion strategies if the root of the problem is to be addressed.

3. Carry out the recommendations made by the 1999 Maine Inpatient Treatment Initiative Report. These recommendations involve improved community services for people with mental illness – noting that the new AMHI will be too small if these improvements are not made.

4. Increase mental health support to local jails through performance standards for community agencies providing services and require reports about actual services provided. Title 34B, section 3604, paragraph 4 requires mental health providers who receive funding from the state to serve jails. Insure that all contracts do, in fact, include this requirement. And, monitor what is actually provided and if it is helpful. Insure flexible funding so that these services can be provided.

5. Assure that correctional officers and law enforcement officers receive required training about serious mental illness, suicide, and appropriate interventions. Require that these facilities report to DOC documenting that required training has occurred. Fund the police, jails, and prisons so that they can afford to train their staff.

6. Develop partnerships between the Department of Corrections and community psychiatric hospitals to provide inpatient treatment for adolescent forensic patients.

7. Insure that inmates who have been "blue-papered" actually are admitted to a psychiatric bed. Require jails to collect this information and report annually to DOC regarding their need for psychiatric hospitalization and their ability to

[3] Skyrocketing costs are described in Community Corrections in America. National Coalition for mental and substance abuse health care in the justice system. CSAT No. 5-H87-T100290. 1996. "Costs of the correctional system are escalating faster than any other costs of government, including the even no infamous costs of health care. Punishment costs are one fourth of Alabama's entire state budget." Pg. 13

obtain it. Require jails to provide an annual report to the Legislature on their ability to treat and care for inmates.

8. Provide physical improvements at the prison facilities that are old and out dated and which have been recommended for renovation or rebuilding. A bond package has been proposed. Even though the bond package is needed, correctional buildings are not the appropriate answer to the needs of people with mental illness. Adequate community mental health programs and diversion are the answer.

9. Eliminate the prison protocol that penalizes inmates who make a serious suicide attempt or who are punished because of the symptoms of their mental illness, mandating treatment instead of punishment. Develop a treatment first approach instead of the current situation where jails are the placement of last resort.

10. Change the Community Corrections Act from a subsidy to a proportional reimbursement to county jails from the state general fund. Base the amount provided to each jail on the number of inmates and the cost of bed-days. Provide an incentive for obtaining accreditation by providing a higher percentage of state general fund dollars for jails who obtain accreditation.

11. Carry out a full, independent review, by mental health and co-occurring disorders experts on the treatment programs at the prison's mental health unit and in Maine's 15 jails. Report the findings of this review and needed modifications to the legislature. Fund the modifications recommended by that review.

12. Expand the number of beds that will be available at the new Riverview Psychiatric Center, now under construction. Use the expansion footprint built into the design. Fund this expansion immediately.

Attachment One
Summary of External Audits of Maine's Prison Facilities

Attachment Two
Summary of Events 1999-2002

Attachment Three
Survey of Maine's Jails
Summer, 2002