Illinois

Improving the Court and Community Response to Persons with Mental Illness and Co-Occurring Disorders Through Compassion and Hope

October 6, 2020

Virtual Presentation

Ending the Criminalization of Mental Illness

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Thank you very much for the invitation to participate today and for your interest in addressing these complex issues. I particularly want to thank Justice Zenoff for her unwavering commitment and years of dedication to reduce the over-representation of people with mental illnesses in the criminal justice system. Also, a special thank you to Judge Sharon Sullivan for all of her efforts with this program and for her efforts in Cook County.

What you learn after several years on the bench – is that in many ways the criminal justice system is the repository for most failed public policy's. And there is no greater failed public policy than our treatment towards people with mental illnesses. The fact that we have applied a criminal justice model to an illness rather than a population health model or disease model explains why we have failed this population so miserably.

It's hard to address these issues in a vacuum. As you get a deeper understanding of these issues you begin to realize that this is not a "criminal justice problem, but a systematic problem with our "Mental Health System," including our civil commitment system. The mental health "system" is structurally broken.

You can have the best involuntary commitment law in the country, but without making systematic changes nothing will really improve and you can have the best criminal justice response to people with mental illnesses, but without developing a better system of care, the outcomes will be limited.

For example, there is a strong correlation between multiple involuntary civil examinations and arrests of people with mental illnesses.

In a study by the Florida Mental Health Institute (FMHI) at the University of South Florida, they found that each involuntary examination was associated with a 12% increase in the risk of arrest, with a greater

increase for felony arrests (20%) than misdemeanor arrests (8%). What the researchers found – is that "In many cases an Involuntary examination for a state hospital admission is just one more disjointed and uncoordinated intervention in the lives of people who because of various vulnerabilities are generally at risk for arrest."

While we didn't start out to address the racial disparities in our justice system, you'll find that if you do this right it will have a significant impact on issues of racial disparities in the CJS, on excessive use of force and on police shootings.

While the United States has 4% of the world's population, we have 25% of the world's inmates housed in our jails and prisons.

Prior to the pandemic, 1 out of every 115 adults were behind bars and 1 out of every 38 adults were under correctional supervision. Since 1980, the number of people going to jail and prison has increased by 500% and length of sentences has increased by 166%. Much of these increases are due to untreated mental illnesses and substance use disorders.

In fact, people with mental illnesses in the United States are 10 times more likely to be incarcerated than hospitalized. They are 19 times more likely to find a bed in the criminal justice system than at a state civil hospital. Annually, more than 1.7 million people with serious mental illnesses are arrested. On any given day there are about 380,000 people with these illnesses in jails and prisons and another 574,000 are on probation or community control. A survey of 1,400 families completed by the National Alliance on Mental Illness found that 40% of family members with severe mental illnesses had been arrested one or more times.

Aside from the enormous human cost of using the criminal justice system as the de facto mental health system, the fiscal impact to the government and taxpayers is astronomical providing few if any

measurable

positive outcomes. Miami-Dade County, for example, currently spends $636,000 dollars per day – or $232 million dollars per year – to warehouse approximately 2,400 people with serious mental illnesses in its
jail. Comparatively, the state of Florida spends $47.3 million dollars annually to provide mental health services to about 34,000 people in Miami-Dade and Monroe Counties, leaving almost 70,000 people in these two communities without access to any mental health services.

Put another way, taxpayers pay $100,000 a year for each person with a mental illness in jail, with no positive impact but allow only $1,400 a person to treat those with mental illnesses to help them maintain stable lives and contribute to their families and communities and zero for a large number who get nothing. This makes absolutely no sense!

Annually, our counties spend about $26 billion dollars on jails and our states spend another $63.5 billion dollars on prisons. Billions more are spent on trying to restore competency to proceed to trial for a relatively minuscule group of people with mental illnesses in our jails.

This situation is particularly shameful because treatment works. We have a system problem more than a treatment problem. **Most of the money we spend related to mental illnesses is wasted on acute care treatment provided in institutional settings such as jails, hospitals, and competency restoration facilities. In fact, most states spend more money to incarcerate people with mental illnesses than to treat them.** As the Miami-Dade County example so clearly illustrates, the system is backwards.

Paradoxically, the pandemic affords us the opportunity to finally address this crisis. As our jail populations have been significantly reduced due to Covid-19, and arrests are at an all-time low, let's take this occasion to

re-envision and restructure the delivery of mental health services in this country. We know what works. We have lacked the political will and an

opportune time to act. The pandemic gives us that once in a lifetime chance to act.

There is substantial evidence, based on well-researched and proven strategies, of how to fix this problem.
The Good News is that it is fixable:

And you don't have to start by overhauling the entire system, you start by addressing individuals who are the highest users of the system. The same high utilizers in your civil commitment system are generally the same high utilizers in the criminal justice system.

USF/FMHI has the ability to identify the highest users of criminal justice and mental health services in a community. Miami-Dade sent 3,300 names to FMHI – narrowed to 97 individuals, primarily men, primarily diagnosed with schizophrenia or a schizo-effective disorder, primarily co-occurring, primarily homeless – who over a 5 year period, were arrested almost 2,200 times, spent 27,000 days in the DCJ, 13,000 days at a public psychiatric facility and costs taxpayers $14.7 million and we got absolutely nothing for it.

Where to Start The Miami-Dade Approach: It starts at the local level – (**80% solution**) – **Cross System collaboration (STEPPING UP – CNTY RESOLUTION) (Conf of Chief Justices unanimously passed a Resolution encouraging judges to take a more active role in addressing this problem)(JPLI)**
None more important then - CCJ/COSTCA Initiative

While more and more judges are becoming involved in this issue, the reality is that none of us can fix this problem alone. It is going

to take a collaborative effort between the judiciary and all the non-traditional stakeholders - such as law enforcement, St. Atty., Public Defender, Corrections, DCF, local AND county government,

mental health providers, primary health providers, hospitals administrators, family members and consumers.

For many years there was recognition that our forensic mental health system was a disaster – in need of a total overhaul.

We began this reform in June of 2000 by holding a 2 day Summit with the assistance of the GAINS Center (PRA) – who provided us with three nationally recognized **experts** to help us analyze and reform our system. (**IT'S ALL ABOUT COLLABORATION**)

What was most impressive about the summit was that everyone in attendance agreed we had an enormous problem and the realization that the problem was not being addressed because we were all so busy doing our jobs – no one was looking at the system as a whole. Judges-Judging, Police Policing, Prosecutor-Prosecuting, PD-Defending. No one was looking at the entire system when in fact this population was utilizing the resources of everyone in that room and then some. There is No other population of individuals who utilize so many different expensive resources.

As a Result of the Summit, we initially created a 2 part approach: (Started slow - We had no money/No Staff) Identified existing services and everyones interest

1) Pre-Arrest Diversion - CIT
2) Post-Arrest Diversion

(3) If I had to do it again, it would have been a 3 part approach) School Based/Pediatric Program to ID kids showing signs/symptoms of Trauma/SMI (ACE's) (Explain Trauma)

After we successfully executed the pre and post arrest diversion program we added a

3) Competency Restoration Alternative Program (MD-FAC)

4) AOT Program in our County Court Criminal Division

5) Jail In-Reach Program

Developed Staff – Project Coordinator, Court Case Mngt. Specialist, Peer Specialist (funded by county, state and fed)

SOAR – Federal Expedited Benefits Program (SSI/SSDI Outreach Access and Recovery) (90% eligible 1st applic. 30-40 days approval)

1) Pre - Arrest Diversion/CIT – over 7,600 Officers Trained 36/36 Agencies – 16,000-19,000 CIT calls Annually -) 2010 thru 2019 - 105,268 CIT Calls (2018 missing City of Miami) 198 Arrests 118,000 arrests per year to 53,000 last year.

LARGEST REDUCTION OF A JAIL AUDIT Over 7,300 – 4,000 **CLOSED A JAIL $12 million dollar annual savings! ($84 million)**

The City of Miami Police Shootings were significantly reduced – 5 years prior to CIT there were 90 police shootings, in the five years following CIT there were only 30 police shootings

Approximately 3,700 fewer arrests per year since implementing CIT, which equals 109,704 fewer arrests to date or 300 years of jail bed days at an annual cost avoidance of $29 million per year.

Reg. Mtgs. CIT Coalition

- All 911 Call Takers Trained
- Roll Call and recurring training
- Executive CIT Training
- Developed TMU (Threat Mngt. Unit)
- Monthly and quarterly meetings between CIT Officers/Providers
- **PTSD - among Police - 150 calls per month**
- Moving Towards Co-responder Program (CAHOOTS/Houston)
- DACOTA - County-wide Data Sharing Program (Technology)
- Civil AOT

2) Post - Arrest Diversion - began by diverting misdemeanor D's who met criteria for involuntary hospitalization, now all eligible misdemeanors and non-violent individuals charged with felonies.

- **Post - Arrest Diversion Misdemeanor/Felony**

  Since 2001, the post-booking jail diversion program is estimated to have served more than 5,000 individuals.

Misdemeanor Diversion - (Psychiatrist Story)

- Changed Jail Screening Process (Validated Screening Tool) - Describe

- Stopped Initially Ordering Competency Evaluations for Misdemeanants - saved County $1-2 million annually

- Jail Screens for civil commitment criteria - not competency - If they meet criteria - PC, Case goes before Cnty Judge next day, transportation Order signed, Corrections Transfers to CSU all within 3 days of the arrest - Case reset 2 weeks.

- If D refuses treatment at the CSU, CSU files petition in civil court and if they still meet criteria they get treatment, NOT competency restoration

- Most cases, they take meds, staff visits - offers program - if yes, transported to court NOT jail - Peer waiting with food, clothes, mediation, transportation and housing. PEERS offer HOPE…

- If they refuse, we may have them evaluated for AOT. If not AOT eligible, back to jail possibly for a plea, if issues of competency still exist, then competency evaluation - last resort - small fraction of cases.

- Rather then use a competency evaluation, we use an assessment tool to see if they meet criteria for the program - qualifying illness - schizophrenia, bi-polar, major depression or PTSD (75% + co-ocurring/50% + homeless) done at several stages of the process, jail, bond hearing, jail division.

- Once screened and deemed eligible and they accept - voluntary program - we do 3 assessments

    i. Psycho-social
    ii. ORAS (Ohio Risk Assessment System) Validated/Free
    iii. TCU (Tx Christian Univ) Drug Screen

- After we know their needs, a treatment plan is put together and the state lets us know how long they need to stay in the program

and how it will be resolved.

- Full array of services - Essential Elements - co-occurring treatment, housing, meaningful day activities, school if appropriate, employment (Club House/Fresh Start) Peers - re-establish relationships, intensive case mngt., Trauma services*.

- Pre-adjudicatory- can always go to trial - no one does, charges dropped in vast majority of cases

AOT for Misdemeanor Criminal Defendants - Describe

- How do we pay, qualify them for federal benefits use existing services.

Recidivism rates among misdemeanor program participants decreased from roughly 75 percent to 20 percent

Felony Diversion

- 65% of participants successfully complete all program requirements.

- 25% recidivism rate among individuals who successfully complete the program after 1 year and 35% recidivism after 2 years.

- For every 100 participants who complete the program approx. $750,000 in cost avoidance

- Total jail bookings and days spent in the county jail decreased by 59% and 57% respectively resulting in approximately 31,000 fewer days in jail **(nearly 84 years of jail bed days).**

Florida 2006

In Florida, upon an adjudication of incompetency on a felony, the state has 15 days to physically move the individual to a competency restoration facility.

In 2006, the state ran out of restoration beds and was unable to meet the 15 day requirement, resulting in horrific tragedies - gauged eyes, broken neck and terrible over-crowding in local jails.

PD and Sheriff sued DCF Secy. held in criminal contempt, fined 80K and ordered to comply.

Legislature had to allocate an emergency $16 million plus an additional $48million ($64 million) to rent 300 additional beds but did nothing to fix the problem.

The Fl SC created a Task Force to look in into this crisis. While they were pleased the legislature was finally paying attention to the issue, they weren't very comfortable with judges holding members of the Executive Branch in criminal contempt of court.

What they found at that time was that FL was spending almost 30% of its entire adult mental health budget (approx.$250 million annually) to restore between 2,500-3,000 people while at the same time between 150,000-160,000 people at the time of their arrest needed acute MH treatment.

Maybe that would be ok if the majority of these individuals committed heinous offenses and needed to go to prison, but we also discovered that the average stay in prison for inmates in Fl with SMI is only 2.5 – 4 years because the vast majority don't commit serious and violent offenses.

Which makes sense when you consider the following:

People with mental illnesses are no more dangerous than the general population and on medication they are much less dangerous than the general population. And people with SMI are much more likely to be victims of violent crimes then perpetrators.

We also discovered that for 80% of the individuals who were restored to competency 1 of 3 things happen to them:

1) they had their charges dropped ,
2) they were sentenced to credit for time served or
3) they received probation

And under all three scenarios, they generally walked right out of the courthouse without any access to treatment after the state spent almost a third of their MH budget on 2500-3,000 people.

INSANITY – Doing the same thing over and over again and expecting a different outcome!

3) MD- Forensic Alternative Program - focus on community re-integration rather than competency restoration.

Must meet criteria for residential competency restoration.
Focus on community reintegration - not restoration
About 30 cheaper, 30-50% quicker, 100% better outcomes
Upon release, they enter the JDP felony diversion program where they are monitored for another year.

Focus on community re-integration rather than competency restoration – a very old and expensive concept with very very poor outcomes.

C. AND THE COMPETENCY SYSTEM WASN'T BAD ENOUGH, JUST CONSIDER THE IMPACT ITS HAVING ON OUR PRISONS: By not having a continuum of care that

integrates both the civil and forensic systems we have created a pipeline to prison for people with serious mental illnesses

Historically the fastest growing subpopulation in Florida's prisons and in most American prisons are people with mental illnesses

Between 1996 and 2012 the overall inmate population in FL prisons grew by 56%.

In contrast, the number of inmate receiving ongoing mental health treatment increased by 153%. 7,000 – 17,000. Inmates experiencing moderate to severe mental illnesses increased by 170%

It is growing so fast, that the number of prison inmates is expected to almost double over the next 10 years from 17,000 to more than 30,000 requiring Florida to build 10 new prisons. The cost to build and operate 10 new prisons just for people with mental illnesses over a 10 year period is almost $2.2 Billion. The average inmate with mental illness only spends between 2 and one half years and 4 years in prison.

There is something terribly wrong with a society that is willing to spend more on imprisoning people with mental illnesses than to treat them.

As a result of JDP:

- Improved Public Safety
- Reduced Police Injuries
- Faster return to patrol
- Saved Critical Tax Dollars
- Saved Lives
- De-criminalized Mental Illness

IF TIME (at 40 min) SHOW VIDEO
Not about building better jails for people with SMI

Still have plenty to do, particularly for the most acutely ill who we continue to recycle through the criminal justice and hospitalization - (about 20%)

> **And as good and successful this has been – limited – because our states mental health system is too fragmented and antiquated to provide adequate treatment and services for our most acute population. Diversion is great – but if the services are inadequate – it will fail. We need comprehensive seamless system of care.**

Which is why we are developing a new diversion forensic facility - $43.1 million Bond Issue plus $8 million from JMH ($51.1 million) - One stop shop for the most acutely with all the essential elements for recovery in one place.

This one-stop shop will offer all of the essential elements of recovery in one location - a medical home model, providing both primary health and mental health services along with dental, eye treatment and tattoo removal. In addition, there will be supportive employment – culinary program, supportive housing and trauma services, day activities run by people with mental illnesses to teach self-sufficiency.

In addition, it will serve as a workforce development center where we can teach all disciplines the best new practices in medicine, psychiatry, nursing, social work and administration so we can improve the entire community's delivery of mental health services.

It will also serve as a research hub for the most acutely ill who continue to recycle through homelessness, jail and hospitalization – to help us develop treatment protocols and programs that will end this cycle of despair.

Construction began on May 31st 2019 and will be completed in the Fall of 2021.

The current shortcomings of the community mental health, criminal justice and juvenile justice systems did not arise recently, nor did they arise as the result of any one stakeholder's actions or inactions. None of us created these problems alone and none of us will be able to solve these problems alone. We all must be a part of the solution.

If we can do this, we will improve our public health and safety, save critical tax dollars, and return hope, opportunity and dignity to people with mental illnesses. To do otherwise and to go back to our pre-pandemic, atrocious response to people with mental illnesses would be immoral, dangerous and ridiculously expensive.

Thank you.

Critical Principles of a Mental Health - Criminal Justice Effort

First, start treating mental illnesses as illnesses and not crimes. Arrests and incarceration should be the very last resort for people with serious mental illnesses. It should be as uncommon to arrest someone with a mental illness as it is to arrest someone with dementia or cancer. And high-quality mental health care treatment should be easily accessible and affordable like other illnesses.

Second, identify, assess, and treat youth at-risk of developing mental illnesses, particularly those with histories of serious trauma (92% of women in jail and prisons with SMI – sexually assaulted as young girls and 75% of men in jail and prisons with SMI serious histories of Trauma).

Third, develop seamless systems of care that include effective crisis care, supportive housing, integrated treatment for co-occurring disorders, meaningful day activities, and supportive employment.

Fourth, develop a coordinated criminal justice response with pre and post arrest diversion programs including crisis intervention team police programs, co-responder models with civilian transportation and peer specialists. For individuals needing court intervention, when possible, those cases should be heard in the civil court system.

Fifth, modernize our civil involuntary commitment laws and criminal statutes that govern people with serious mental illnesses.

And finally, we should limit the use of competency restoration to the most serious offenses and take the savings and re-direct them to front end services.