NAMI Kansas
National Alliance on Mental Illness

House Committee on Corrections & Juvenile Justice

Testimony on House Bill 2498

February 1, 2012

Presented by:
Rick Cagan
Executive Director

NAMI Kansas is a statewide grassroots membership organization dedicated to improving the lives of individuals with mental illness. Our members are individuals who are living with mental illnesses and the family members who provide care and support. NAMI Kansas provides peer support through a statewide network of local affiliates. We sponsor educational programs targeted at consumers of mental health services, their family members, and the general public. We advocate for individuals who are living with mental illness to ensure their access to treatment and supportive services.

The most recent data from the Substance Abuse & Mental Health Services Administration indicates that 19.9% of adults in the U.S. had a mental illness in 2010 and 4.8% had a serious mental illness such as schizophrenia, major depression or bipolar disorder[1]. Close to 95,000 adults in Kansas are affected by a serious mental illness.[2] Fewer than 40% of adults with a diagnosable mental disorder receive any mental health services in a given year.

The criminal justice system has become our other treatment system. Increases in routine encounters between individuals living with mental illness and law enforcement personnel lead to unnecessary arrests and detentions. There is a lack of continuity in the treatment for persons with mental illness in the community versus jail and correctional facilities and inconsistency statewide in the care of individuals with mental illnesses in county jails. 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 a 2006 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. In 2008, approximately 2,000 adults with serious mental illnesses were incarcerated in prisons in Kansas.[3] KDOC documentation shows that from July 2008 to June 2009, 18% of inmates (1,558) were on psychotropic medications. In that same timeframe, 1,037 inmates were newly diagnosed with a psychiatric disorder or dual diagnosis. These data reflect the financial burden on state and local governments from untreated mental illness. The cost for incarceration at the Larned Correctional Mental Health Facility is almost four times as much as the cost of community-based care. I have attached to my written testimony additional supporting documentation from Jeffrey Fewell, Jail Administrator for the Wyandotte County Sheriff.

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Although steps have been taken to reduce criminalization of people living with mental illness through support of police Crisis Intervention Teams (CIT) in six communities, more action is needed to develop alternatives to incarceration. NAMI Kansas believes that we need a comprehensive public policy which in part emphasizes diversion opportunities from the criminal justice system for individuals living with a serious mental illness. This is based on the premise that re-directing individuals into the treatment system is more cost effective and recovery-focused and in many cases will reduce recidivism. Early treatment of mental illnesses reduces the extent of disability and recurrences of symptoms. 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.

Mental health diversion programs are designed to assist persons with severe mental illness to receive case management services and follow a specific treatment plan for a specified period. Charges for non-violent offenses are dismissed upon completion of the diversion contract. HB 2498 is based on the successful diversion program which has been operating in Johnson County for the last several years. It provides a framework for the expansion of diversion programs to other communities across the state.

We understand that creating the mechanism for re-directing additional individuals to the public mental health system places pressure on the mental health centers following a period of enormous reductions in funding to the system. Since HB 2498 does not mandate that any jurisdiction adopt a diversion program, there is no immediate fiscal impact on the system. However, should the bill become law, we see this as an opportunity to discuss a much needed funding stream for mental health centers to ensure the success of diversion programs as they are developed. Any investment made for community-based treatment will result in savings to law enforcement, the courts, jails, and corrections as individuals avoid these more costly alternatives.

Judges and Prosecutors Support Expansion of Diversion Programs

Through the Forensic Subcommittee of the Governor's Mental Health Services Planning Council, we conducted a survey in January of judges and prosecutors to get some perspective on their interest and concerns about expansion of mental health diversion programs. The survey data includes 79 responses from municipal and district court judges and 37 responses from city and county prosecutors. Urban, rural and frontier communities are represented.

Responses from Ellis, Johnson and Sedgwick counties indicated that their community has a formal diversion program in place, although there was an indication that the program had been discontinued in Sedgwick due to funding cuts to the mental health center. 76% of respondents indicated that they are interested in a mental health diversion program being established in their community.

Many of the specific comments received emphasized the need for investment of resources at the community level to support ongoing treatment as part of any diversion program. Quite a few bemoaned the cuts to mental health services which undermine the ability of communities to deal effectively with offenders who have a history of mental illness. The responses clearly indicate that support for diversion programs is tied to having adequate resources available in the treatment system.

Other comments excerpted from the survey provide a flavor for some of the feedback we received:

- "A significant percentage of the chronic offenders that the Court deals with on a regular basis have diagnosed mental health problems. Incarceration of these offenders costs .... tens of thousands of dollars annually."
- "Since we are not able to ask for a competency hearing at the municipal level, a diversion program would be a good alternative for those who have some degree of mental illness..."
- "Without a doubt, the diminution of mental health beds and other services has led to a greater number of people with serious mental health issues spending time in jail..."
- "The problem is that without a formal statutory scheme, there is a risk that similarly situated defendants will unintentionally receive unequal treatment. I also believe that the court and prosecutors would benefit from statutory guidelines."
- " ... the system is overwhelmed, leaving gaps that usually result in the mentally ill being unnecessarily incarcerated ... I would like to see more done to keep them out of jail and help them maintain in society."

Community Advocates and Individualized Diversion Plans

Research and literature about the effectiveness of mental health services suggests that forced treatment in mental health programs has a lower rate of success than voluntary participation, but there are at least two simple strategies that help to improve that success rate. One approach is to include the participant in the development of a comprehensive and individualized service plan. The other is to ensure access to a trained advocate from the community.

Too often a service plan only addresses the immediate mental health needs of a person with mental illness and focuses solely on medication and intermittent therapy. To make these diversion programs as successful as they can be, we believe it is particularly important ensure the plans that are developed for participants consider all facets of an individual's needs.

We request that the Committee accept our offer to work with you to develop language to be added to the bill that would insert a role for a *Community Advocate,* and to add language that provides for participant involvement in the development of service plans.

We believe that the knowledge that a Community Advocate is participating in each step of the diversion plan process will help to significantly improve the participants' understanding of the process and their overall chances of success in the diversion program. Providing a list of Community Advocates to the diversion participant will ensure a higher success rate by helping the participant understand what is expected of them and to build a *working alliance* with participants toward goals for their recovery and improved social functioning.

The goal is to achieve coordination and cooperation during the development of the diversion plan between the participant, the Diversion Coordinator (County or District Attorney), the Diversion Supervisor (Mental Health Center), and a Community Advocate. We want to ensure that advocates are available to participants to make good use of proven strategies to create diversion plans with the best possible outcomes.

Thank you for your consideration of these suggestions. We look forward to working with you to move this bill forward during the current session.

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[1] 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.
[2] Holzer, III, C.E. and Nguyen, H.T., psy.utmb.edu.
[3] 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).

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MEMORANDUM

TO: **Personnel Concerned**

DATE: **January 27, 2012**

SUBJECT: **Mental Health Crisis in Wyandotte County Jail**

As the Jail Administrator for one of the poorest and mostly densely populated counties in the great state of Kansas, we humbly ask for immediate attention regarding our mentally ill citizens. As we all know, there are several areas in crisis in our time to include economic, political, and socio. Our crisis, one crisis, is the criminalization of the mentally ill in Wyandotte County.

For years governments have reduced budgets and services that has had a direct impact on the mentally ill citizens of this region. Last year, the Wyandotte County Adult Detention Center conducted mental health assessments for over 9,893 inmates. Of these assessments, 551 inmates were seen by the facility psychiatrist. From these assessments, 1,625 inmates were placed on psychotropic medication.

The rising cost of the mentally ill is not a hidden financial burden the tax payers must bear. This burden is in our face and rising. Current jail populations that are on the increasing are 1.) the mentally ill, 2.) female, and 3.) the elderly. These populations are increasing in numbers without resources to keep up with the demand. These populations often require critical and expensive medical/mental health care. This facility spends $30,000 a month on psychotropic medication and $2.7M for medical needs of our citizens.

The Wyandotte County Adult Detention Center has become the default crisis center for the region. This implies the criminalization of the mentally ill for the citizens of this county. As a government and a people, we owe our citizens better care than offered in a jail cell.

Any questions pertaining to this memorandum can be directed to the undersigned, 913-573-8940.

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