

Testimony of
Mr. Ron Honberg

July 30, 2003

STATEMENT OF RON HONBERG
ARLINGTON, VA
ON BEHALF OF THE CAMPAIGN
FOR MENTAL HEALTH REFORM

REGARDING
S. 1194, "THE MENTALLY ILL OFFENDER AND CRIME REDUCTION ACT OF 2003"

BEFORE THE SENATE JUDICIARY COMMITTEE

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Chairman Hatch, Senator DeWine, Senator Leahy and distinguished members of the Committee, thank you for affording me this opportunity to testify at this important hearing. My name is Ron Honberg and I am Legal Director for the National Alliance for the Mentally Ill (NAMI). NAMI is the nation's leading voice on mental illness, representing individuals with mental illnesses and their families. Founded in 1979, NAMI today works to achieve equitable services and treatment for more than 15 million Americans living with severe mental illnesses. Hundreds of thousands of volunteers participate in more than one thousand local NAMI affiliates and fifty state organizations to provide education and support, combat stigma and advocate for treatment and services for people with mental illnesses of all ages.

I am also testifying on behalf of the Campaign for Mental Health Reform, a collaboration among leading mental health organizations, including the National Mental Health Association (NMHA), the Bazelon Center for Mental Health Law, the National Association of State Mental Health Program Directors (NASMHPD) and NAMI, working to advance the goals set forth in the report recently released by President Bush's New Freedom Commission on Mental Health.

The New Freedom Commission's report emphasizes what this Committee already knows - that our nation's jails and prisons have become "de-facto" psychiatric treatment facilities. In 1999, the U.S. Department of Justice released a report estimating that 16% of all inmates in our nation's

jails and prisons suffer from serious mental illnesses - schizophrenia, bipolar disorder, major depression and other serious psychiatric disorders. (1) And, sheriffs and police officers throughout the country will tell you that they regularly respond to people who are experiencing psychiatric crises in their jobs.

In view of this, the lineup of impressive leaders in the criminal justice field on this panel reflects the reality that the criminal justice community has become our strongest ally - and, in some cases, the leader - behind efforts to promote better mental health treatment and programs to reduce the unnecessary criminalization of people with mental illnesses. The landmark Criminal Justice/Mental Health Consensus Project, convened by the Council of State Governments and participated in by national leaders in law enforcement, corrections, courts, and mental health, is an illustration of just how important these issues have become. (2) And, while compassion for a particularly vulnerable segment of our population is certainly evident in these efforts, the significant involvement of the criminal justice community in efforts to promote jail diversion, better treatment in facilities, and community reentry services for offenders with mental illnesses reflects something more - recognition that reducing the involvement of individuals with mental illnesses in criminal justice systems benefits not only those individuals but criminal justice systems and society as a whole.

Most individuals with mental illnesses who come into contact with law enforcement or criminal justice systems are not violent criminals. Most are charged with non-violent crimes or engaged in non-violent but bizarre behaviors that have attracted the attention of law enforcement officers. And, most of these individuals did not have access to the treatment and services they needed that very likely would have prevented their involvement with the criminal justice system.

Mental illness is the leading cause of disability in the world and in American society. (3,4) Yet sadly, fewer than half of all people with these illnesses have access to even minimally adequate treatment and services. (5) With treatment, recovery is very possible and most people with these illnesses can live productive and meaningful lives. Without treatment, the consequences are frequently horrendous - homelessness, dependence on families and/or public benefits, suicides - or involvement with criminal justice systems.

It is frankly unfair - and very poor public policy - to saddle criminal justice systems with responsibility for responding to people with mental illnesses in crisis. Police officers around the country spend many hours transporting people to hospitals - and sitting for hours in emergency rooms - only to see the same people back out in the streets again the next day engaging in the same behaviors that attracted the attention of law enforcement in the first place. The hours these officers spend in responding to people with mental illness are hours that they are unable to spend fighting crime.

Criminal justice systems and personnel are also unequipped to respond to people with serious psychiatric needs. Traditional correctional responses to individuals unable to follow the rules of the system - such as administrative segregation, solitary confinement or use of restraints - tend to exacerbate severe psychiatric symptoms. Yet, jails and prisons are not set up to provide psychiatric treatment.

In 2000, this Committee demonstrated its commitment to the cause of reducing the unnecessary criminalization of people with mental illnesses by enacting "America's Law Enforcement and Mental Health Project," a bill that authorized funding for Mental Health Courts. This bill represents the next logical step forward.

Mr. Chairman, we applaud you for scheduling a hearing to tackle this troubling problem. We are also deeply grateful to Senator DeWine for introducing legislation that provides an important

approach to badly needed community reform. This legislation wisely recognizes that solutions to the problem of criminalization of people with mental illnesses will ultimately be found in communities across this country. They will be solutions that take account of the strengths and the weaknesses in the local mental health systems, the criminal and juvenile justice systems, and often other systems as well. No two communities will necessarily bring the same needs, resources, capabilities, and vision to those problems. But what the federal government can do - and what good legislation must do - is to provide support for a wide range of collaborative community programs to ensure that low-level offenders with mental illnesses avoid unnecessary detention and incarceration, and provide avenues for effective and appropriate treatment. The Campaign is gratified by the Committee's continuing interest in addressing the needs of people with mental illnesses who come into contact with criminal justice systems. With key elements listed below in mind, we are eager to continue working with you to advance this important initiative and, once it is enacted, secure needed funding. I would like to use the remainder of my time to highlight principles of particular importance to the mental health community.

Diverting individuals with mental illnesses from our jails and prisons requires a collaborative effort by criminal justice and mental health systems.

A very strong feature of S. 1194 is that grant recipients would be required to engage in comprehensive planning and develop partnerships between mental health, criminal justice and other key systems in states or communities that would receive grants. Without collaborative efforts of this kind, the most creative approaches to addressing the mental health needs of non-violent juvenile or adult offenders with mental illnesses will not succeed. The Campaign therefore applauds the sponsors of this legislation for recognizing, and proposing a framework for fostering collaborative partnerships in grantee communities.

Jail diversion and community reentry programs will succeed only when mental health services and supports are available to address the needs of individuals who are diverted.

As stated above, the growing numbers of individuals with mental illnesses in criminal justice systems frequently reflect lack of available mental health services and supports in communities. A critical component of any successful approach to jail diversion or community reentry therefore must include access to treatment and services such as medications, case management services, housing and rehabilitative services. Children and adolescents with mental disorders who come in contact with the juvenile justice system must also have access to appropriate educational services.

The best type of jail diversion is that which occurs prior to arrest and incarceration.

Many approaches have emerged around the country to divert low level, non-violent offenders with mental illnesses into treatment. Some of these are "pre-booking" programs, i.e. programs that link people with services before they ever get caught up with criminal justice or court systems. Others are "post-booking" programs, i.e. programs that link people with services after they are arrested. While both of these approaches have proven very effective, it is always best to link people with services before they are arrested or fall under the jurisdiction of the Courts. For example, the nationally renowned Memphis Police Crisis Intervention Team (CIT) program

is designed to link people with treatment in lieu of arrests. This program has been so successful that it has been replicated in scores of communities around the country. Key to the success of this program is the collaboration between the police and the mental health system. In Memphis, police receive extensive training in recognizing the signs and symptoms of mental illnesses and in crisis intervention techniques. They know how to respond to these individuals in ways that defuse rather than escalate these crises. Whenever possible (i.e. when the individual in question has not committed a serious crime), the police transport the individual to a specially designed psychiatric emergency room at a local hospital, rather than arrest and charge him/her with a crime.

The Memphis CIT program has achieved remarkable results. Research shows that this program, first implemented in 1988, has resulted in:

- ? Fewer arrests of individuals with mental illnesses;
- ? Lower injury rates for individuals with mental illnesses at the hands of the police;
- ? Lower injury rates for police officers responding to people with mental illnesses in crisis;
- ? Decreased use of expensive tactical intervention units and SWAT teams; and
- ? Increased officer satisfaction, confidence in their ability to respond to people with mental illnesses, and knowledge that the mental health system will respond effectively to individuals diverted to treatment instead of incarceration.

Communities should be encouraged to employ an array of post-booking diversion strategies, tailored to local needs and systems.

A wide range of models exists for responding to low-level offenders after they have been arrested. For example, Mental Health Courts have been established in more than 70 communities in the country.

As with other forms of diversion, the effectiveness of these Courts is very much dependent upon the availability of mental health services and supports. For example, many of the individuals under the jurisdiction of the Broward County (Ft. Lauderdale) Mental Health Court in Florida are homeless. The Court has struggled to link individuals with community placement options. Using her position as political leverage, the Judge who presides over the Court successfully appealed to the Florida state legislature for funding for a three year program to develop a residential treatment facility, resources for intensive case management, and independent housing options for individuals within the jurisdiction of the Court.

The Federal Government can provide important help to communities that have invested in jail diversion strategies by continuing the progress that has been made in addressing chronic homelessness. The work that Senator DeWine and Senator Bond have done in pushing HUD to develop more permanent supportive housing and President Bush's Samaritan Initiative are important steps forward.

Mental Health Courts are not the only effective means for providing court-based jail diversion services. Other approaches place less responsibility for supervision with judges and more responsibility with mental health or other systems. Programs such as CASES in New York involve collaborations between parole and probation and mental health providers to coordinate mental health treatment, substance abuse treatment, and other vital services for individuals with mental illness who violate parole for reasons related to their illnesses. (6)

The importance of discharge planning and reentry services.

The successful reintegration of individuals with mental illnesses back into communities following incarceration is frequently hampered by lack of services upon reentry. This is particularly unfortunate because lack of services is frequently what led to involvement with the criminal justice system.

S. 1194 attempts to address this crucial problem by allowing grantees to use funds "for transitional, re-entry programs for those released from any penal or correctional institution." (Sect. 4, Part HH, (b)(5)(I)(iv)). The Campaign applauds the Sponsors of this legislation for recognizing this need and making provisions for the use of grant funds to support these vital services.

We would like to emphasize two particularly important components of discharge planning and reentry services - the first is the need to initiate these services prior to discharge, the second is the importance of restoring vital income supports and medical benefits to individuals upon their discharge. Restoration of Medicaid or comparable medical benefits is particularly important so that individuals will be able to pay for medications and other important mental health services.

Conclusion:

NAMI and the Campaign greatly appreciate this opportunity to testify on this important issue. Enactment of legislation and appropriation of funds to give those on the front lines vitally needed new tools to avert the needless criminalization of juveniles and adults with mental illnesses who are not violent criminals offer the promise of both saving lives and improving the quality of life in our communities. As the President's New Freedom Commission on Mental Health has underscored, our country can and must do a better job of helping people across the country who require treatment. With that powerful report as a call to action, this Committee has an extraordinary opportunity to help communities establish alternatives to incarceration. We stand ready to be partners in working with the committee to move legislation to make that hope a reality.

Respectively Submitted,

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2. Council of State Governments, Criminal Justice/Mental Health Consensus Project, 2002 (available at www.consensusproject.org).
3. World Health Organization, The World Health Organization 2001, Mental Health: New Understanding, New Hope, 2002.
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5. U.S. Public Health Service Office of the Surgeon General, Mental Health: A Report of the Surgeon General, (1999).
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