

Written Testimony of Judge Jay M. Quam  
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## INTRODUCTION

Good morning. My name is Jay Quam, and I have been a state district court judge in Minnesota's Fourth Judicial District located in Hennepin County, Minnesota, for more than seven years. I served three and one half of those years as the presiding judge of our mental health commitment court, where I estimate I presided over more than a thousand cases involving people with mental health disorders. Many of those cases involved people with mental health conditions coming from the jail. I now have rotated to a team that handles serious felony matters, an area that also involves a number of people with mental health conditions.

Before I begin my comments, I need to make clear that, while I am a judge of district court in Minnesota's Fourth Judicial District, I am neither testifying on behalf of, nor taking any positions for, the Fourth Judicial District or the Minnesota Judicial Branch. I am appearing solely in my personal capacity, which is informed by my service as the presiding judge of mental health court and by my other responsibilities.

### **Most people with mental health conditions don't belong in jail.**

People with mental health conditions are brought into all areas of our justice system in disproportionate numbers, and they rarely fare well. But the area of the legal system where those with mental health conditions are brought most frequently, and with the most tragic and heartbreaking outcomes, is the criminal justice system. To put it bluntly, people with mental health conditions are brought to jail far too often, they too often languish there, and there is danger in keeping them there.

This point became graphic to me when the hospital room of Michael Schuler became my courtroom in 2012 as I presided over his civil commitment hearing. When I arrived I saw Mr. Schuler with large bandages over both eyes. The bandages were there because, while in jail and in a floridly psychotic state, Mr. Schuler had stabbed both eyes out with a pencil. During his 40 days in the local jail, Mr. Schuler told deputies he was the Prince of Wales. He stood naked in his own feces and talked to himself for hours. Mr. Schuler did not receive his medications while in jail, leading him to descend into his psychotic state. The county ended up paying Mr. Schuler \$1 million to compensate him for his injuries.

Michael Schuler was not an isolated incident. Five days after Mr. Schuler stabbed his eyes out, Tyondra Newton, twenty five and schizophrenic, hanged herself after spending thirty four days in her cell. A week later, Jason Moore, an All-America wrestler at a local liberal arts college before he succumbed to schizophrenia, broke his neck after repeatedly smashing his face into a cell toilet.

The danger within the jail is not confined to those with mental health conditions. The case of Sergeant Brad Berntson, a former Army Ranger and a deputy at our county jail, proved that to me. On Dec. 31, 2011, an inmate who was born HIV-positive and who had a dozen separate mental health diagnoses, complained that he didn't receive a spoon with his lunch tray. When Sgt. Berntson and two deputies began to search the inmate and his cell for the spoon, the inmate struggled with them. The inmate eventually bit Berntson on the right leg, clamping down for several seconds and breaking the skin through the pant leg. Sgt. Berntson took medications to avoid becoming infected, but he reacted poorly to them. He died several weeks later from complications. Whatever the exact cause of death, I strongly believe that Sgt. Bertson's death would not have occurred if he had not been bitten by the inmate who was in mental health crisis.

**We need the Justice and Mental Health Collaboration Act.**

There is no simple way to fix a problem that is so complex and so entrenched, but the Justice and Mental Health Collaboration Act is a critical

step in the right direction. It is a critical step in the right direction because it is based on three fundamental principles:

***The best way to prevent people with mental health conditions from languishing in jail is to keep them from being brought there in the first place.*** Crisis Intervention Teams (CIT) and similar law enforcement training have been proven to be extremely effective in reducing risk and promoting positive outcomes when law enforcement officers come into contact with a person in mental health crisis. CIT teams reduce the number of people in mental health crisis brought to jail.

Further, law enforcement officers need somewhere to bring people in mental health crisis beside the emergency room or jail. Mental health hubs have proven to be an outstanding alternative by meeting the needs of those with mental health conditions and saving tens of millions of dollars. Later in my remarks I will describe an effective, cost-savings model in Florida that offers hope for a better way forward;

***Secondly, in appropriate cases it is best to divert people with mental health conditions from jail as soon as it is possible and safe to do so.*** Mental Health Courts are efficient and effective at meeting the needs of those with mental health conditions; and

***Thirdly, transitional services are essential in preventing people with mental health conditions from cycling back into jail.*** Transitional services have proven to have a high success rate in reducing recidivism and the use of emergency services.

There is no time to waste. I urge you to pass the Justice and Mental Health Collaboration so that we can continue to better meet the needs of those with mental health conditions.

## **BRIEF HISTORY**

When we began closing our mental health institutions in the 1970s, we promised families and patients there would be resources within our

communities that would meet the needs of those with mental health conditions. We broke that promise, and the consequences reverberate daily through virtually every community in the form of overwhelmed support systems, devastated families, and shattered lives.

Our broken promise to those with mental health conditions manifests itself in tragic numbers in our criminal justice system. It has caused a dramatic influx of people with mental health conditions into our jails, our court systems, and our prisons. One often-cited statistic reveals the sad state of our current mental health care system, and how our jails and prisons have been forced to fill the void: more than 350,000 people with severe mental health conditions are currently locked up in jails and prisons, while only about 35,000 people with severe mental health conditions reside in state funded psychiatric beds.

### **JAIL OFTEN IS THE WRONG PLACE FOR THOSE WITH MENTAL HEALTH CONDITIONS**

We should no longer ask whether people with mental health conditions should be allowed to languish in jail. Instead, we should ask how we can effectively help people with mental health conditions thrive in their communities when it is safe for them to do so.

The harms associated with keeping those with mental health conditions in jail show that:

- People with mental health conditions are usually kept in jail longer than others charged with similar crimes, sometimes dramatically so;
- People with mental health conditions frequently deteriorate in jail, sometimes irreversibly so;
- A disproportionate number of people with mental health conditions commit suicide or harm themselves or others while incarcerated;
- People with mental health conditions are held in solitary confinement far more often, and longer, than other inmates; and

--A disproportionate number of people with mental health conditions are harmed or abused by other inmates.

Judges Kerry Meyer, Peter Cahill, and others in Hennepin County District Court have done an excellent job streamlining our court processes for those with mental health conditions. And I have been working closely with our Sheriff's Office, Hennepin County Sheriff Rich Stanek, on speeding up other parts of the process for our inmate population who have mental health conditions. Even with the changes made to court practices and our state laws, however, we still have people with mental health conditions unnecessarily languishing in our jail for months at a time.

### **THE JUSTICE AND MENTAL HEALTH COLLABORATION ACT TAKES THE RIGHT APPROACH TO SOLVING THE PROBLEM**

The JMHCA rightly takes the approach that we need to fund programs that divert people with mental health condition from jail at every stage of the criminal justice system when it is appropriate to do so. Each stage is discussed below.

#### **The JMHCA recognizes we need to fund programs that properly train law enforcement.**

The first point of contact a person with a mental health condition has with the criminal justice system is usually with a law enforcement officer. The nature of that contact, and the training that the officer has, determines whether or not it ends tragically.

Every state has an overarching, tragic story that epitomizes our failure to recognize the needs of people with mental health conditions. Minnesota has Barbara Schneider. Mrs. Schneider was about 50 years old, held two Masters degrees and was very active in the community. She also had a severe mental health disorder that began to appear when she was in college. On June 12, 2000, law enforcement responded to a noise complaint in Mrs. Schneider's home, and she was aggressive toward the

police officers as they approached her. Not understanding how to deal with someone in mental health crisis, the officers shot and killed Mrs. Schneider.

Following that shooting, the Minneapolis Police Department and individuals from the mental health community came together and agreed to do everything they could to prevent this type of confrontation from ever ending again. They worked together to bring the Crisis Intervention Training model (CIT) to Minneapolis, with that work expanding into many communities around Minnesota. The result is consistent with every community that has used CIT: many tragedies are avoided when law enforcement officers are trained to deal with people in mental health crisis.

The JMHCA reinforces the need to provide training for our law enforcement community so that they can better respond to people with mental health conditions. Without proper training for our law enforcement communities, we cannot meet the needs of those with mental health conditions-another reason why the passage of this act is so important.

**We need mental health hubs as alternatives to jails and emergency room.**

Better law enforcement training is only a first step. The JMHCA recognizes the unfortunate reality that exists in most of our communities today: no matter how well our law enforcement officers are trained, they generally only have three options when they encounter someone in mental health crisis. Those options are:

- 1) Leave them on the streets, which is generally a poor option and doesn't address the underlying problem;
- 2) Bring them to an emergency room, which rarely produces a good long term outcome and is always an expensive option; or
- 3) Book them into jail where jailers admit they cannot adequately care for them.

The JMHCA supports a fourth option, which is creating a facility that is a central point for accepting, assessing, and addressing the needs of

mentally ill people brought in by law enforcement. This type of facility can consolidate many of the existing resources and provide a continuum of care that could address the immediate, short-term, and long term care needs of individuals with mental health conditions who would otherwise languish in jail. Law enforcement supports the creation of this alternative option.

Based on the need to provide law enforcement officers with this fourth option, several state legislators in Minnesota are pushing a bill that would serve the entire state. Other communities are ahead of Minnesota, however, and have proven that mental health hubs work.

One of the best-established mental health hubs is in Orange County, Florida. The Orange County facility has existed for ten years, and has collected data on its results. That data is unequivocal: Not only do mental health hubs serve the needs of those with mental health conditions, but they save money. Some of the impressive data from the Orange County facility is that, over the past ten years, it has:

- served over 47,000 people;

- saved up to \$20 million in jail and correctional costs by avoiding over 100,000 jail bed days;

- saved between \$17-\$44 million by avoiding over 22,000 emergency room bed days;

- saved over \$4.2 million through care coordination; and

- saved over \$3.1 million in law enforcement costs by reducing law enforcement drop off time to about 12 minutes.

By supporting the creation of mental health hubs, the JMHCA is supporting a critical piece of what we must do to better meet the needs of those with mental health conditions who may otherwise languish in jail.

**Mental health and veterans' courts are an important part of any solution.**

It is inevitable that some people with mental health conditions will be brought to jail. The JMHCA recognizes that we can help many of them effectively manage their mental health conditions through mental health and veterans' courts.

Mental health and veterans' courts work on a simple principle: We can effectively divert many people with mental health conditions from jail by teaming our court professionals with assessment and support services. The focus is not on traditional notions of crime and punishment, but on solving the problems that cause involvement in the criminal justice system in the first place.

The success we have had in Hennepin County with mental health and veterans' courts is typical of mental health and veterans' courts around the country. Studies show that mental health and veterans' courts result in lower recidivism, less time spent in jail and prison, increased public safety, and people with mental health conditions better able to live meaningful and satisfying lives.

**Transitional services are essential.**

It is a recipe for failure to simply cut loose many people with mental health conditions without help in transitioning back to the community. The JMHCA recognizes this fact by supporting programs that help those with mental health conditions successfully transition back into the community.

Transitional programs work. As an example, a program in Orange County, Florida, called the A.N.C.H.O.R. program (short for Accessing New Choices for Housing Opportunities and Recovery) has provided transitional services for people with mental health conditions and substance abuse issues. The goal of the program is to assist its clients with developing the necessary skills to maintain permanent housing and assist in recovery.

The results have been impressive. Because of the transitional services available through the A.N.C.H.O.R. program, many clients successfully maintain their housing; they are successful in their treatment and recovery; they find employment; they no longer need the services of

the emergency room; and they are not brought back to jail. In short, they are able to lead productive, satisfying lives.

**WE NEED TO ADDRESS MENAL HEALTH DISORDERS WITH THE SERIOUSNESS WE ADDRESS CANCER BECAUSE THEY ARE SIMILAR.**

One of the most important things I have learned is that mental health conditions are analogous to cancer. Both strike the undeserving without regard to race, gender, background, or economic circumstances. Both are nonpartisan, striking without regard to where a person is on the political spectrum. And both devastate--even kill--their victims.

While mental health conditions and cancer have similarities, they are different in very important ways. People who are stricken with cancer are typically surrounded by treatment teams who provide the best cancer treatment available. Their co-workers understand, and their family and friends support them. They can even set up websites so that whole communities can help them through their difficult circumstances.

All of this is as it should be. It is what cancer victims need, and deserve, so they may have the chance to live healthy and productive lives.

But mental health conditions are different. Because of their nature and the enormous stigma that is still attached to them, together with our inadequate mental health system, people with mental health conditions are often isolated from friends and family. Too often, they are ostracized by the entire community.

I see this isolation every day. Most people with mental health conditions come into my courtroom alone. They leave my courtroom alone. And they are left to try to meet the challenges presented by their mental health condition, alone. We must do better.

## **CONCLUSION**

Given that our country's three largest mental health care centers are the jails of Los Angeles, New York, and Cook County, there can be no doubt that we broke the promise we made over 50 years ago to those with mental health conditions, their families, and their communities. We have a duty as public servants to rectify the problems that were created when we broke that promise. Accordingly, I urge you to pass the Justice and Mental Health Collaboration Act as a first step toward making good on the promise we made to those with mental health condition so long ago.