

TESTIMONY ON INMATES WITH MENTAL ILLNESS AND SUBSTANCE ABUSE ISSUES

PRESENTED TO THE
SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

BY

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Good morning, Senator Vance, Senator Kitchen, and members and staff of the Senate Public Health and Welfare Committee. My name is Kevin Barnhardt, and I serve as a commissioner in Berks County, PA. I am pleased to be here today, representing the County Commissioners Association of Pennsylvania, where I serve as the Chairman of the Courts and Corrections Committee, and as a member of the CCAP Board of Directors. On behalf of all 67 counties which are represented by CCAP, we appreciate the opportunity to share our concerns and perspectives regarding the growing problem of inmates in our county corrections systems who have mental illness.

While many county jails have successfully instituted best practices to reduce jail populations or reduce the rate of growth, nearly all report that they still have a fast growing sector of the population that challenges every aspect of their operations: Inmates with mental illness and substance abuse issues. This trend has clear and direct correlations to policy change over the past several years. The commonwealth has closed state hospitals and reduced access to forensic services required for evaluation and treatment. Services in the community have been severely strained by more than a decade of declining state and federal financial support. Homelessness and unemployment have increased because of economic conditions, and veterans returning from service who experience depression, posttraumatic stress and other mental health issues are not accessing treatment. The result in each instance is at-risk populations defaulting into the criminal justice system. No comprehensive approach exists to assure that inmates with substance abuse or mental health issues have the supports needed to keep them out of the prison system or to remain out of jail upon release.

While there is a system in place to treat drug and alcohol problems, that system, just like the mental health services system, is strained financially and is not provided in a coordinated fashion that would assure diversion before booking an inmate into a county jail, or that would assure a plan of care after an inmate has been released.

The County Commissioners Association of Pennsylvania (CCAP) believes that a series of policy changes can materially lessen the problem of constantly incarcerating and releasing the same inmates.

Studies have shown that treating the reasons behind criminal behavior are the most effective at reducing admissions and readmissions to county jails. Continuity of treatment post-release is also a critical element, along with a policy to encourage efforts to divert inmates and assurance of a means of payment for services. For those reasons, to address the issue of inmates with mental health or substance abuse problems, CCAP has chosen the set of components that follow as a priority for 2015.

Rapid Restoration of Benefits Upon Release

In Pennsylvania, immediately upon incarceration individuals receiving medical assistance have their benefits terminated. However, federal Medicaid rules allow states to suspend, rather than terminate, benefits during the period of incarceration. Suspension allows benefits to be restored upon release much more quickly than reinstatement from termination. By providing much shorter disruption of

services, it ensures better continuity of treatment, access to medications and therapy services and improved chances against recidivating.

Pennsylvania has cited difficulties in changing existing technologies to facilitate suspension rather than termination, but CCAP believes the long-term program benefit of suspension easily exceeds the short-term practical difficulty of technology upgrades.

Create the Necessary Structures for Inmate Qualification for Health Insurance

During the period of incarceration, counties provide first-dollar payment for inmate medical care. These are purely taxpayer dollars. CCAP supports changes in law to provide inmates with health care coverage through low-cost benefit programs. CCAP believes such changes will result in state as well as county inmates having improved access to health care services, including treatment for addictions and mental illness, even while incarcerated, and helps better manage use of taxpayer dollars for care.

Develop Diversion Programs

Diversion programs, particularly for those with mental health and substance abuse problems, can lead to immediate reductions in county inmate populations. Diversion requires local collaboration and cooperation with police, providers and the courts to assure that homelessness and unemployment are not drivers for inmates with mental illness and substance abuse issues incarceration decisions. Treatment and support options should be considered first where possible, while still assuring public safety.

Assist Counties in Developing Best Practices for Diversion/Re-entry

Counties are stretched thin when it comes to capacity for providing services for citizens, and in most cases there are few if any resources available to assist with the development of effective programs such as re-entry and diversion programs. To assure counties receive assistance to help reduce costs for both them and the commonwealth, CCAP supports commonwealth investment in programs and services of this type.

Additional Commentary: Public Benefits Suspension/Termination

I would like to discuss suspension vs. termination of Medicaid and other public health benefits just a bit more. A number of states have successfully changed their systems to permit an individual's Medicaid case to be placed into suspension.

County jails across the country experience significant turnover, including high recidivism rates. Jail inmates suffer from chronic health conditions at a higher rate than the general population and about 64 percent experience mental illness. More than 76 percent of those with a mental illness also suffer from substance abuse issues, as does 53 percent of the general jail population. Approximately two-thirds of those detained in jails are there pretrial, many of whom are being held simply because they cannot afford their bail or who have just been arrested and will be released within a few hours. Terminating coverage for such short stays in jail affects a huge number of individuals and greatly

slows the speed at which they can be reconnected to coverage upon release as well as preventing them from obtaining needed treatment.

Suspension of Medicaid coverage, instead of termination, allows for quicker reinstatement of benefits when a person leaves jail and fewer challenges in obtaining mental health, addiction or other health services during the critical first months post-incarceration. These issues have a major impact on how much counties must spend on justice, public safety and correctional services. Maintaining a continuum of care between mental health, addiction and medical services delivered in jail and those available in the community upon release could prevent reoffending and a return to county jails.

In most states, Medicaid eligibility is automatically terminated upon an individual's detention or incarceration in a county jail, but termination is not required by federal law. Instead, federal law (42 U.S.C. § 1396d (a)(28)(A)) only prohibits the use of federal funds for individuals while they are incarcerated, with the exception of 24-hour inpatient care. The Centers for Medicare and Medicaid Services (CMS) encourages states to suspend rather than terminate Medicaid eligibility to limit long delays in access to healthcare services upon release.

A 2012 study of recidivism rates in the Philadelphia jail system found higher re-incarceration rates among those with co-occurring mental illness and substance abuse than those with no diagnosis. The study found recidivism occurred for 54 percent for people with severe mental illness, 60 percent for people with no diagnosis, 66 percent for people with substance abuse, and 68 percent for people with co-occurring mental illness and substance abuse.

California, Colorado, Florida, Iowa, Maryland, Massachusetts, Minnesota, New York, North Carolina, Ohio, Oregon and Texas suspend benefits rather than terminate, although not every state has the same policy. For example, some states suspend for 30 days, and if the period of incarceration continues beyond 30 days, benefits are terminated. We believe the most prudent public policy to be suspension for the duration of incarceration.

I know that Warden Quigley and Doctor Mihalick will be sharing their perspectives as well – and while we are all representing one county, I can easily say that the issues and concerns are statewide. The issue is also taking on renewed consideration across the nation, with the National Association of Counties recently unveiling an initiative, in conjunction with the Council of State Governments Justice Center and the American Psychiatric Foundation, to help advance counties' efforts to reduce the number of adults with mental illnesses and co-occurring substance use disorders in jail. I would be pleased to provide the committee with additional information on this initiative, or you can see more at www.stepuptogether.org.