



MENTAL HEALTH AND THE JUSTICE SYSTEM

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Mental Health and the Justice System

- Disclaimer:
 - I am not a lawyer. This is not legal advice, which is why you're unlikely to get a lawyer to do this presentation. They don't want to be liable.
 - I do not have the answers you are wanting. There is no magic bullet or good options, or my family - and hundreds of thousands of other families in the US - would not be in the situation we are in
 - Some of this info may be triggering for you. If so, there will be people available at the end of the presentation to talk with you and help. Don't feel bad about this - it still triggers me, too!
 - I have typed everything I'm saying so that you can refer back afterward: the organizer will send you a copy
 - My greatest hope is that I can somehow help even one listener. Thanks for being here!



A little about my family's story: You can't know what you don't know



My biggest regret is not knowing Mike had a mental illness until it was too late! If you can contribute to Ending The Silence (ETS), please consider it so we can help other families avoid the nightmare.



Pre-contact with Law Enforcement. Plan ahead:

- Crisis Plan :
 - If possible, use the plan to work with the person in crisis to get a different result than arrest
- See if your loved one is OK with notifying your local PD ahead of time to get the mental illness in their database
 - May help, if there is contact when you aren't around

MAKING THAT CALL – IT’S NEVER EASY

- Start with local Crisis Line, Case Manager or Crisis Center if there is one
- If you have to call Law Enforcement, ask for CIT trained officers and/or QMHP. CAHOOTS if in Lane County
- Concern over weapons on-hand; may consider videoing the arrest
- Police limitations - “imminent danger”
- Don’t feel guilty. We have very few options. If it’s a matter of safety, we can work out the emotions later



Post-Arrest and Pre-Trial



It is important to NOT discuss anything that can have legal ramifications over the phone or on visits. Everything is recorded – even your initial phone call. Don't ask “what happened” or “how could you have...” no matter how much you want/need answers.

Essential Safety concerns:

- Medications, glasses, etc: call jail and ask for “Medical”
 - Use terms like “disability”, “physiological illness”; jails have a legal responsibility to care for inmates' illnesses, including mental illness!
 - Having a connection in medical can be helpful later. Don't abuse it, so you have it when you need it. But make sure they are aware of any diagnoses.
- Suicide watch: means Isolation cell. Depending on the jail, could also mean no phone or mail privileges, no reading materials and no eyeglasses. Be careful, but honest
 - Suicide watch does NOT equal therapy sessions. Don't expect MH services
- Isolation or Solitary Confinement: what it is and why it matters.
 - In our jail, the inmates could choose Isolation. Our son was in it for almost 3 months

Post-Arrest Pre-Trial: Important Communications



- Lawyers: how to get a good one
 - If you can afford to hire a lawyer, ask around if anyone knows one that has experience with mental illness. FSG is a good place to ask, or if your affiliate has a Facebook page, ask there. NAMI can't give legal advice, but members can share their experiences. This is a great resource!
- Ask your loved one to sign a release allowing the lawyer to speak to you about their case. Otherwise, you can share info with them, but they can't with you. Even if they do sign, the lawyer may choose not to share.
- Aid & Assist: A&A is when someone is deemed mentally incapable of aiding in their own defense
 - If you think your loved one is not capable of aiding their defense, start asking jail for an eval *right away*.
 - they will resist b/c of political pressures not to send people to OSH.
 - If there is a community-based program to "return to competency" (probably a County program), try to find out who is in charge of it and contact them.
- Try to get the lawyer to order psychiatric evaluation immediately (not the same as Aid & Assist) – the longer they wait, the more likely the inmate won't be in the same state! This can lead to incorrect evaluation of the loved-one's mental space at the time of the crime. (For us, it took 6 months! He was over-medicated and flat-affect by then and got the worst incorrect diagnosis possible: antisocial disorder and that was the end of the lawyer trying for GEI)
- Let the DAs office know your loved one has a mental illness. Do NOT assume they will figure it out or do their own eval. (they never did with our son). Lawyer may tell you not to, but you need to decide if you feel the illness is the reason for the crime...lawyers are not you. If your area has a mental health court, as for the DA assigned to that court.

A Grounding Break

- Let's take a moment for a deep breath. This is a lot of deep and difficult information



Mental Health Court (MHC)

- What MHC is: a post-arrest diversion program designed to keep people with mental illness out of jail and prison. Not all counties have one.
 - It typically takes 12-18 months to complete the program, which includes case management for housing and employment, addiction treatment placement if applicable, mental health services including medication and therapy. Participants typically attend MHC every week or two to give updates and determine compliance.
 - It is hard and lengthy so sometimes defendants choose a short jail sentence instead
 - If they complete the program, their charges are usually dropped and/or expunged
- Limitations: MHC decides who they will take, and they do not always take Measure 11 crimes or sexual crimes
 - In our case, MHC had just started up and was not yet taking Measure 11 crimes. I doubt they would even today, b/c of the stigma associated with “Attempted Murder”
- If participants are terminated from the program, they go to jail or prison
- Determine if your area has an MHC and how people are referred



- Found Guilty Except for Insanity (GEI)
 - This verdict will send the defendant into the Psychiatric Safety Review Board (PSRB) system
 - First stop: Oregon State Hospital
 - Then will step down into gradually less-restrictive supervised housing
 - Meds and treatment are mandatory. Can stay at OSH for full sentence
 - Emphasis on treatment and support
 - DA may push for longest sentence possible (still the misconception that mental illness is being used to get off “easy”)
 - The statistics of the PSRB vs prison are impressive:
 - Recidivism rate of PSRB: 0.49% (less than one half of one percent)
 - Recidivism rate of state prisons: 83%
- Pressure to Plead Guilty: District Attorney Office culture and focus is on convictions, not best outcomes for all
 - Issues with Measure 11 and stacked vs consecutive sentences and how it pressures the defendant to plead
 - If plead guilty, may not be able to appeal
 - Judge will ask “Do you understand?” but do they really? Does a drunk person know when they are drunk?

TRIAL & SENTENCING



◦ Prison:

- Punitive, not treatment-based
 - Yet we have more mentally ill in prisons than in our state hospitals
 - Estimated that between 40 & 60% of prison inmates have a diagnosed mental health condition.
 - Prisons are better funded
- If prison sentence, you need to prepare for a long haul
 - If not already doing so, find an FSG or some kind of support group and therapist
 - Make it a priority – you will need to be in good shape to help the inmate survive. I am not exaggerating. I wish I was.
- Salem BHU touts improvements, but Salem is reserved for the most severe mental illnesses (throwing feces, inconsolable, highly suicidal), and there are at least seven facilities that take mental health designated inmates

TRIAL & SENTENCING



HELPING YOUR LOVED ONE SURVIVE PRISON: Understanding the prison culture

- Entrenched beliefs in punishment and “character defects”
- No transparency; not “customer-oriented” and very much CYA
- Certain types of people are attracted to this field – some b/c they want to help. Some because they like the power
- Taking account of a mental health condition is still very minimal (more on this later)
- They will discount anything you say, unless you have evidence and are willing to raise the visibility of the issue to elected officials, the press and legal advocates like Disability Rights Oregon
- Do not expect them to listen to reason but be reasonable anyway. And document all interactions. Example: solitary confinement for MH symptoms



HELPING YOUR LOVED ONE SURVIVE PRISON: Mental Health Care

- Try to find a contact Inside the Behavioral Health personnel
 - Keep records of all emails and phone calls
- Advocate to get your loved one into a MH or BH Ward: are “soft units” with much less gang activity and violence, although there is drama
- Medication is not mandatory, but there is a prescriber. Encourage the inmate to contact them if they seem unstable
- Therapy:
 - prison culture makes it difficult to delve deep in talk therapy.
 - “one-on-one” sessions need to be pre-approved and are for 8 sessions per approval
 - Groups like DBT are more open but are difficult b/c of trust issues sharing in front of other inmates
- You may end up being the inmate’s main source of info regarding their illness (consider F2F if haven’t already taken it)



HELPING YOUR LOVED ONE SURVIVE PRISON: Solitary Confinement



A typical Isolation cell for 23-24 hrs/dy. Inmates are shackled through the slot in the door to transport to showers or yard. They are also fed through this slot.

- Aka “the hole”, “DSU” or “Isolation”. A 10x10’ room alone
 - Process of booking into DSU is traumatic: shackles and cages
- No phones, no personal possessions (inc. TV and radio), no human contact
- Used for anything from “Disrespecting Officer” to “Assault”.
- The results of extreme sensory deprivation: escalation of symptoms of psychosis, mania, anxiety or depression. Onset of PTSD and agoraphobia
 - UN decried the practice as “torture” in 2011
- Vera Institute for Justice stats: mentally ill overrepresented in DSU
- Maximum time for someone w/MH designation is 30 days. Average is 30 days.
- Special programs are often reserved for people with “long” sentences of 90-180 days, so MH don’t get to be involved in Mindfulness, Meditation, Coping Mechanisms, etc
 - Those who do get programs are shackled to their desks so there is a small number of desks available in the facilities
- They will tell you they are checked on my QMHPs. However, inmates seldom trust them enough to tell the truth and they talk through the door



A DSU Yard. A 10x10 empty metal cage without equipment or even a stool. “Incentive” yards may have a push up and pull up bar welded inside for those who have 30 days Good Behavior.

Processing: Cages & Shackles

HELPING YOUR LOVED ONE SURVIVE SOLITARY CONFINEMENT

- Understand that the reason they are there is that they have an SMI that makes it impossible for them to regulate their nervous system and their emotions. Do not berate them or guilt-trip them. They will do that on their own with all the time they sit there.
- Write them every day. Even a postcard with a line or two. This is their only stimulation. (It may take a few days before you realize they are in the hole. If you aren't sure, you can call the prison and ask.) They only get 1 or 2 envelopes to write you
- You can send them books, but they can't have ones you've sent previously (they have Library once a week also)
- Medication is not mandatory; encourage them to take it when you write. They may want to skip it b/c it is their only form of control but it hurts them worse than it hurts the establishment
- Immediately contact your Inside person - via email in writing - and explain all the reasons why the hole is detrimental to the disability. Forward email strings to anyone you can who might help apply pressure to shorten the DSU period. (This worked for us once)
- If your inmate's facility does offer programs for DSU inmates, encourage them to participate. This will slow the worsening of symptoms. You may have to contact the prison to find out; they won't always tell the inmate about programs.
- Join our efforts to end Solitary Confinement for people with mental illness: Contact me to get on the End Solitary list
 - This gives your loved-one some hope to focus on while in the hole and lets them know you really care and understand. It also role models for them

HELPING YOUR LOVED ONE SURVIVE PRISON: Your Support



- Keep money on your (collect) phone account so they can stay in contact with the outside world
 - This has been shown to be a major factor in reducing recidivism
 - 80% of inmates have no one; their families have given up; it is a long and frustrating haul
 - Money for canteen is also helpful; can get good shoes also supplements and art supplies, TV, for coping
- Write regularly
- Support any hobbies, even if you think they are worthless or juvenile. Anything at all is better than an idle brain!
- Understand the level of expectations you are now at; the level system and learned helplessness
- Expect new/additional MH conditions
- Ask your NAMI Connection group or facilitator for advice if specific symptoms arise
- Don't give up on them!

Advocating: why it matters

- The issues surrounding the Justice System and Mental Health have been largely invisible for a long time; change won't come without awareness!
- Talk to others about what you've seen and learned – don't keep it a secret!
- Organizations:
 - Disability Rights Oregon; send them documentation of discrimination
 - Your local NAMI and NAMI Oregon for state legislation
 - Local representatives; they can support or sponsor Bills that can change some of these laws
 - Local law enforcement; encourage increased use of CIT and de-escalation training
- Start or support efforts to increase diversion programs in your area, both pre- and post-arrest so there is less likelihood of your loved one getting arrested or imprisoned after they come home (such as Eugene's CAHOOTS)

Q&A

- Resource material:
 - Vera Institute for Justice Report on Oregon Department of Corrections (email me if you'd like a copy); Vera website
 - United Nations Interim report of the Special Rapporteur of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment, August 2011
 - Most of my knowledge is from my own experiences and our son's. Please feel free to contact me.

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