

ADVOCATING FOR PEOPLE WITH MENTAL ILLNESS IN THE NEW JERSEY CRIMINAL JUSTICE SYSTEM

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INTRODUCTION

This guide is intended to assist family members or other individuals who might advocate for a person with a mental illness who has been arrested or is otherwise involved in the New Jersey criminal justice process. It follows that process from the response to an incident to the potential release of the person from prison. It is not intended to provide legal advice.

Obviously, far too many people with mental illnesses become entangled with the criminal justice system due to a lack of effective treatment. A study by the Federal Department of Justice found that 16% of jail and prison inmates nationwide have a mental illness.

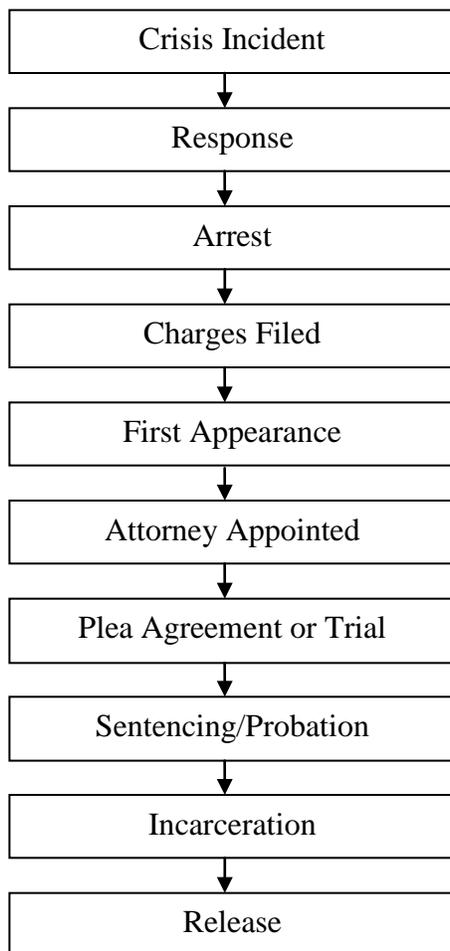
NAMI-NJ works to promote the availability of community mental health services and supports so that people can live successfully in the community with no or minimal contact with law enforcement and the criminal justice system. Concurrently, NAMI-NJ supports efforts to divert people with mental illness in the criminal justice system from jails into treatment, advocate for their access to medications and treatment while incarcerated and to appropriate discharge planning to prevent recidivism.

Psychiatric symptoms such as delusions, hallucinations, and abuse of alcohol or illegal drugs to self-medicate may cause a person with mental illness to encounter the criminal justice system. When a psychiatric or behavioral crisis occurs, a law enforcement officer often responds, which may lead to a criminal justice outcome (arrest, filing charges, etc.) rather than a mental health outcome (referral to crisis services, outreach or hospitalization).

Advocating for your loved one with law enforcement officers and court personnel can be a frustrating, stressful and intimidating experience – but it can also make a significant difference. Sharing your information about the individual with key decision-makers – law enforcement officers, judges, prosecutors, defense attorneys and jail staff – is likely to contribute to both a better short and long term outcome. Regardless of whether you are a criminal defendant's family member, peer advocate, community mental health worker or just their friend, almost certainly you will know more about them than anyone in the criminal justice system will. As a result, your efforts on their behalf may well help them avoid or reduce jail time, have criminal charges reduced or dismissed, avoid a probation or parole violation or have them be sentenced to treatment rather than incarceration.

Having someone with you such as clergy, a friend or mental health professional, when talking to law enforcement officers or jail staff, can be very helpful to the situation and reduce your own stress level. Not only is there another person to remember what was said but it demonstrates that more than one person is concerned about the plight of the individual with mental illness. Personnel within the criminal justice system possess a lot of discretion regarding the final disposition – from the law enforcement officers, to the prosecutor and finally the judge.

SIMPLIFIED POTENTIAL CHAIN OF EVENTS



At each stage in the chain the person could be released or diverted out of the criminal justice system into the mental health system and your advocacy could facilitate that result.

Below, each stage in this potential chain of events will be explored. When terms which appear in the Glossary section appear for the first time in the text below, they are **BOLDED**.

CRISIS INCIDENT

When a mental health or behavioral incident occurs, family members or friends may have a variety of options to choose from. Before choosing which option to pursue, assess the situation. Consider whether the person is in danger of hurting themselves, others or property, or whether you need emergency assistance, guidance or support.

If you do not believe the situation involves immediate danger, you can call a mental health or medical professional who is familiar with the person's history. This professional can help assess the situation and advise on further action. They may be able to obtain an appropriate appointment for the person or may be able to admit him or her to the hospital, if necessary. If you cannot reach someone and the situation is worsening, do not continue to wait for a return call. Take another action, such as calling a local screening center. If you think the person with mental illness needs emergency medical or psychiatric attention, drive them to the nearest emergency room – but only if you can do so safely. If safety is a concern, call 911. If you want advice, support and someone to assess the situation, contact your local screening center. The teams differ greatly across the state, so it's helpful to know in advance what type of crisis services they offer. Most teams are mobile and will come to a person's home.

If the situation threatens safety or if serious property damage is occurring, call 911 and ask for law enforcement assistance. When you call 911, tell them your loved one is experiencing a mental health crisis and explain the nature of the emergency. Telling the law enforcement agency that it is a crisis involving a person with mental illness increases the chance that they will send an officer trained to work with people with mental illnesses. Be sure to tell them – if you know for certain – whether the person has access to guns, knives or other weapons.

When providing information about a person in a mental health crisis, always be very specific about the behaviors you are observing. Instead of saying “my son is behaving strangely,” for example, you might say, “My son hasn't slept in three days, he hasn't eaten anything substantive in over five days, and he believes that the FBI is transmitting messages through his fillings.” Report any active psychotic behavior, huge changes in behaviors (such as not leaving the house, not taking showers), threats to other people, and increase in manic behaviors or agitation (pacing, irritability). You need to describe what is going on right now, not what happened a year ago. Finally, in a crisis situation, remember: when in doubt about safety, leave the scene. Do not put yourself in harm's way.

SCREENING/LAW ENFORCEMENT RESPONSE

When the mobile outreach staff from the screening service and/or the law enforcement officer arrives, provide them with as much relevant and concise information about the person as you can, including their:

1. Diagnosis;
2. Medications;
3. Hospitalization history; and
4. Previous history of violence or criminal charges.

If the person has no history of violent attacks, be sure to point this out. Lay out the facts efficiently and objectively, and the mental health professional or the officer will decide the course of action.

Depending upon the situation and the individuals involved, they may take your loved one to **jail** instead of to a hospital emergency room. Law enforcement officers often have broad discretion in deciding who to **arrest**, hospitalize or ignore. If you are at the scene, encourage any involved law enforcement officer to view the situation as a mental health crisis. Be clear about what you want to have happen without disrespecting the law enforcement officer's authority. But remember, once 911 is called and law enforcement officers arrive on the scene, if they believe a **disorderly person's offense** or crime has occurred, they have the power to arrest and take into custody a person that they suspect has broken the law. Also, in some situations, police are mandated by New Jersey law to arrest certain individuals, such as suspected perpetrators of domestic violence.

THE ARREST

Most arrests occur when a law enforcement officer has witnessed a crime, was told by a reliable person that a crime has just occurred or otherwise has what the law refers to as **probable cause** to believe that a crime has been committed. The behaviors of the individual with mental illness could have been observed by others in the community or the law enforcement officer directly. It may not always be the family member who has contacted law enforcement.

Once an officer arrests a person, the officer also has the right to search them and the area within their immediate control. If the officer discovers illegal possessions such as drugs or weapons, those charges will likely be added to the original charges.

Law enforcement officers may use what appear to you to be aggressive methods to make arrests. They are legally obligated not to use excessive force, but they are also trained to gain control over an **arrestee** very quickly if they believe that the arrestee has shown any sign of resistance. An arrest can be upsetting to observe. Officers are quick to react to any indication that people near the arrest might hinder or interfere with their actions. If you are concerned about the way

that a person is being arrested, the best thing that you can do is to step back and do nothing other than very calmly advise the person to go quietly with the officer. Even this behavior on your part may prompt a negative response from an officer.

Although officers must give you their names and badge numbers if you request them, this is often an unwise thing to do in the heat of an arrest. Some officers might treat this question as interference with their work, which is a crime, and may arrest the questioner. You can easily get the identity of the law enforcement officer later from the reports the officer must file after the arrest.

It is never wise to resist in any way officers who have decided to arrest your loved one. Any issues that arise during the arrest can be addressed by you, your loved one or a lawyer at a later and more appropriate time and place. You can be most helpful to your loved one by remaining calm and advising them to be calm as well. When the situation is safe and under control, most officers are willing to hear about special needs of the person being arrested.

If a person has been arrested rather than transported for a screening center assessment, law enforcement officers will usually take them to the local police station of the town or city where the arrest occurred. If the arrest has been for a serious offense, the person will often spend time at the station being questioned. The police may also take away much of their property, including medication, for security reasons and catalog it for safe return later. Fairly soon after most arrests, the person will be transferred to the local county jail. However, depending on the timing, a person could occasionally be transported directly to see a judge.

Following an arrest for a minor offense, an officer may decide to issue a summons and release the person. A summons briefly describes the charge and tells the person where and when to go to court to answer it. Law enforcement officers tend to give summonses for minor offenses committed by persons who have a place to stay, adequate identification, and present no indication that they will continue to offend if released. People who receive a summons must obey them or face a **bench warrant** being issued for their arrest. Offer to take as much responsibility as you feel comfortable accepting. If you can reinforce that the person will appear in court, the law enforcement officer may be willing to release them.

Generally, the criteria for issuing a summons are whether the law enforcement officer believes the person will show up for court and will remain law-abiding in the interim. If the law enforcement officer releases the person with a summons, do everything you can to ensure that the person appears in court on the specified date. If they do not appear on that date, a bench warrant will be issued for them to be taken into custody and a law enforcement officer may rearrest them.

If you think that an arresting officer acted inappropriately or used excessive force with your loved one, it is best to discuss this with your loved one's defense attorney before taking any action. The circumstances of the arrest might affect the outcome of the case, and filing a

complaint against an officer may result in that officer's refusal to consent to a plea bargain later in the process. Write down what happened during the arrest as soon as possible to support your memory of the event.

Of course, when an individual is being arrested or is in police custody, any information they communicate to the police can later be used against them in court to prove criminal charges. Generally, the police need to give a "Miranda warning" prior to asking an arrestee questions related to the incident. Police do not have to warn individuals who have yet to be arrested or who start talking spontaneously themselves. Defense attorneys typically advise clients to not talk to police about an incident while in custody.

Not all arrests take place when law enforcement officers have observed a crime or were told that a crime has just occurred. Arrests can also occur at the end of an investigation of some incident that occurred days, weeks or even many months earlier.

Sometimes, particularly when a warrant has been issued for a suspect, arrangements can be made with an arresting authority to turn the suspect in, rather than wait for an arrest to occur. Ordinarily, the county sheriff's office or local police authority would handle such arrangements. Advance notice to the sheriff's office that the suspect has a mental illness may lead to authorities responding more appropriately to the suspect at the time of the surrender. On occasion, particularly for a disorderly person's offense, the sheriff's office might advise that the suspect may surrender to the authorities early in the morning, before court convenes, in order to get the accused in front of a judge as soon as possible. This might result in a shortened detention for the individual, since he or she will have shown by surrendering to the authorities that he or she is not a flight risk pending the resolution of the criminal **charges**.

THE JAIL

Generally, county jail **inmates** are **defendants** who are awaiting trial after having been denied **bail**, are unable to pay the bail or have been convicted and sentenced to less than one year of incarceration. Jail conditions can vary widely from county to county, including how limited or extensive their mental health services might be.

If you are present when the person is arrested, the law enforcement officers can tell you where they are taking the person. But if all you know is that the person was or may have been arrested, finding them can be difficult, unless the individual calls you. For this reason, it is a good idea for your loved one to carry the phone numbers of their case managers, family members and advocates at all times.

If the person does not call you, you can typically find the location of the county jail or courthouse either online or in the county government section of the phonebook. Then you can call or go to the jail or courthouse and talk to the staff in person.

Once the person is taken to the jail, they will be searched again and often “booked.” This process, which involves fingerprinting, photographing and obtaining the person’s criminal history, can be time-consuming, depending on how busy the jail is. Often, a person who is waiting to be booked has to wait for a considerable period of time in uncomfortable and stressful conditions. Persons who appear to have mental health symptoms might be segregated from others while awaiting their booking. People who have been arrested are often given the opportunity to make a phone call after the booking is complete.

The determination whether to set bail and, if so, in what amount is made by the court pursuant to a bail schedule. If the person has been arrested for a minor offense, the court may release the defendant immediately if he or she promises to appear in court at a later date. Once bail has been set, you may contact a **bail bondsman** immediately. After bail has been posted, your loved one will be released, allowing you to seek their admission to a hospital if needed. If they are not released based on their promise to appear or by paying bail, they will need to wait in jail until their **first appearance**, which would be their first opportunity to go before a judge. Their attorney could make an argument at the first appearance for a bail reduction.

Some defendants may be secured in a holding cell at the courthouse while waiting for their arraignment. These cells are usually very stark and may be crowded. Access to any medications or health care is extremely limited. The person may be interviewed by a **probation** officer in the holding cell. If a person has been arrested for a serious offense, they may have a much higher bail.

When your loved one has been arrested, you will probably want to:

1. Advocate for their release and/or receipt of a complaint in lieu of their being taken into custody;
2. Be present at the first appearance so you can inform the court of his/her mental illness;
3. Advocate for their release with appropriate conditions pending their **hearing**;
4. Notify the mental health staff or the nurse at the jail about the medications that the person needs; and
5. Notify the jail staff and the jail nurse if the person may be suicidal.

People who commit suicide in jail usually do so within the first few days of their arrival. Notifying jail staff that the individual may be suicidal could save their life.

Access to health care services by jails in New Jersey may vary greatly from county to county. People may not receive mental health services or medication if they do not ask for them. Even if the person is identified as having a mental illness, the jail staff typically will not have specific information about their treatment needs. You may have important information about your loved one’s medication that the jail’s medical staff, usually nurses, need. Some jails have limited access to doctors and psychiatrists. If your loved one has a personal psychiatrist, the doctor may be able to see your loved one in jail.

Your best first step is to contact the medical staff at the jail, usually the jail nurse. Be aware that health care rules of confidentiality of information apply in jails also. But those rules do not limit what information you can give to the medical staff about your loved one; they limit what information the medical staff can give to you. You should communicate the specifics of their medication, diagnosis, treating physician and any suicidal history. You should also request that the staff obtain a signed release from the inmate so that the staff could share details of his/her medical condition with you in the future.

In most cases, you can bring the person's medications to the jail. Be sure that the medications are in their original bottles and that the prescription instructions are with the medicines. Jails have an interest in giving their detainees appropriate medications. In most cases, accepting medication for detainees is a matter of jail policy and contributes to general security. However, your loved one must be willing to take the medicine when offered. The jail nurse will generally not force your loved one to take medication.

It is helpful to write down the name and phone number of every jail employee with whom you speak. Consider contacting them regularly to follow up on the information you have exchanged. You may want to keep a notebook summarizing the content of the conversations.

FIRST APPEARANCE

The first appearance is the first time during the criminal process when a defendant sees a judge. It has two main purposes: 1) to tell the arrestees what crimes they are being charged with; and 2) to set bail and decide the conditions of their release pending their trial.

The jail staff, Court Clerk, County Central Intake, or Bail Unit should be able to inform you of the location and time of the first appearance. If a defendant is not represented by a lawyer at the appearance, the judge will probably ask questions to see if a **public defender** should be appointed. If the defendant does not qualify financially to receive a public defender and they want to hire an attorney, they are usually given another court date so that they can appear with an attorney.

The prosecutor may be willing to resolve the defendant's case with an **adjournment** in contemplation of dismissal, sometimes referred to as a conditional discharge, if the offense is minor enough. This means that the case will be put off, usually for six months to a year, during which the defendant must follow certain conditions (such as taking medications, going to treatment, not drinking alcohol, staying in touch with their probation officer, making restitution to victims, paying court costs) and be law-abiding. If the person follows the conditions, the charges will be dismissed. If the person doesn't follow the conditions or is rearrested, the case will be restored to the court's calendar and the process would start all over again.

The defendant may enter a guilty plea. Guilty pleas usually happen only after some discussion has occurred with the **prosecutor** about limitations on the **sentence** that the judge could impose

or whether some charges will be dismissed if the defendant pleads guilty. After the guilty plea, the judge will either sentence the defendant immediately or direct the defendant to be interviewed by a probation officer (presentence investigation), who will then give information to the judge to take into account before sentencing.

Generally, however, defendants don't plead guilty to serious charges at the first appearance, and a not guilty plea is entered. Typically, the judge will then issue an adjournment in contemplation of dismissal or the prosecutor will offer participation in the **Pre-trial Intervention (PTI)** program, if the defendant has no prior offense.

PTI provides opportunities for alternatives to the traditional criminal justice system process of ordinary prosecution and seeks to render early rehabilitative services to the defendant, including linkage to community mental health services. Specified conditions are imposed upon the defendant which may include performance of community service, payment of restitution, submission to evaluations and compliance with recommended treatment programs.

Participation in the PTI program typically lasts from one to three years. If PTI is successfully completed, the original charges are dismissed. The absence of a criminal **conviction** allows the defendant to avoid the stigma of a criminal record.

If the criminal case continues beyond the first appearance, the judge will decide whether or not to impose conditions of release. This may occur even if the defendant is not in custody and has come to court for the first appearance. Conditions of release may mean staying away from a victim, submitting to a chemical dependency or psychological evaluation, maintaining a residence with relatives or other responsible parties, taking medications or anything else the judge believes will help the defendant remain law-abiding and come to court when ordered. In addition, the judge can order bail to be posted before the defendant can leave jail.

The appearance can be a frustrating experience and the wait to be heard may be lengthy. A schedule of the appearances for that day may be posted outside the courtroom. There may be no one readily available who can answer questions or provide assistance. Family members must be prepared to seek and ask for help. The person in court most likely to be able to help is the court clerk, who sits near the judge in the courtroom. That person is usually very busy preparing for court to be in session and may not have or take time to answer many questions right away.

If a defendant's case is dismissed, he or she will be able to go home after the jail has finished the process. If the case does not end at the appearance, the judge will decide whether to **release** the defendant **on their own recognizance** (no bail) or to set a bail amount, and if so, how much. Similarly, if no one can pay a bail amount, the defendant will be taken into custody until trial or the bail can be paid subsequently. If the judge sets a bail, the attorney, court officer or clerk can explain to the defendant and their family how to post bail or to purchase a bond instead of providing the whole bail amount. A defendant must satisfy all of the conditions set by the court

before they will be released. It can take a long time for a case to go to trial, so trying to get your loved one released in the interim is very important.

DEFENSE ATTORNEYS

Every person accused of a crime has the right to be represented by an attorney. Either the defendant or a family member can hire a criminal defense attorney. If the person is indigent and cannot afford an attorney, the court will appoint a public defender. Private attorneys can become involved at any time – even before the arraignment. A public defender may be appointed at the person's first appearance before the court.

Public Defenders

The court appoints a public defender attorney if it determines that the defendant cannot afford to hire a private attorney. A person can request at any time that a public defender be appointed, but this is usually done at the first court appearance. If the defendant is eligible for such representation and is charged with an indictable offense, the public defender office will decide which assistant public defender will handle the case. The defendant usually does not get to choose which assistant public defender will handle their case. Each county has a public defender office which should be able to inform you which attorney is representing the defendant. If the defendant is charged with a disorderly persons or **petty disorderly person's offense**, he or she will be represented by a municipal public defender who is employed by the city or town where the case is heard.

Public defenders are often hard-working, dedicated attorneys. It is important, however, to understand that public defenders work with very limited resources, including insufficient funding and excessive caseloads. On their website, for example, the New Jersey Office of the Public Defender states that their regional client staffs are outnumbered by their counterpart Prosecutor's staffs by at least 2 to 1 ratios in all 21 counties. Try to be patient but persistent with a public defender.

Private Criminal Defense Attorneys

People who have enough income to hire a defense attorney will be required by the court to do so. However, those who qualify for a public defender should be cautious about going into debt to hire an attorney. Families should carefully consider their options before going into debt to hire a private attorney.

It is very important to find an attorney who is experienced in criminal law within your locale and has a good general reputation. Some attorneys specialize in criminal defense and some may have experience with defendants with mental illness. People might typically assume that a privately paid criminal defense attorney will almost invariably perform better than the usually lower paid public defender. After all, in our society greater competence and experience costs more in most

service employment areas. But many public defenders perform very well professionally. Also, unlike private practice attorneys, they have supervisors to complain to if you have any dissatisfaction and they encounter clients with mental illness more regularly than attorneys for the well-heeled do.

The New Jersey State Bar Association can give you information on whether an attorney has had complaints or reprimands filed against them.

A defendant has the right to act as their own attorney, which is called pro se representation. Judges typically allow this only if they determine that the defendant is competent to do so, which he/she is very unlikely to do if it is known that the defendant has a history of mental illness. This is rarely a good idea in any cases involving jail time.

Working with an Attorney

The best way to find out what is happening with the case is to work with the defense attorney. Often the most accessible person will be the attorney's law clerk or legal secretary. They can relay information from you to the attorney.

The defense attorney is the only person in the criminal justice system who has direct contact with the defendant and who knows the defendant's version of the facts leading to the arrest as well as likely outcomes. They also have the law enforcement officer's and/or victim's versions of what happened. The defense attorney will also know what the defendant wants to do (e.g., plead guilty or go to trial) and whether they are interested in receiving mental health and/or drug treatment.

The defense attorney will not be able to talk to you about some aspects of the case, since they are required by law to keep a confidential relationship with their client. If you want to talk with the attorney about such information, ask your loved one to give consent to their defense attorney to talk to you about confidential matters.

You may also have information the attorney needs to help the defendant. The defense attorney probably knows little about the defendant's psychiatric diagnosis and history. Most defense attorneys have no specialized training in mental health issues and they might miss even obvious clues that their client has a mental illness. They also may not know how to ask their clients about these issues.

Even if the defendant has told the defense attorney that they have a mental illness, the defense attorney may not talk to their client's mental health providers or family. By contacting the defense attorney, you have the opportunity to inform them about your loved one's mental health history.

Talking to the Defense Attorney

Remember that defense attorneys are very busy and private attorneys charge substantial fees, so be succinct. If he/she experiences you as focused, they will be more likely to return your calls and reach out to you for assistance. Try to avoid jargon (MICA, ADHD, etc.) as much as possible.

You may want to take a few minutes prior to the call to identify the information below and jot it down:

1. Information about their mental illness, recent hospitalizations, medication and treatment;
2. Contact information for their psychiatrist and mental health case manager;
3. Witnesses who can confirm their mental illness;
4. Brief information about what stressors might have been happening in their life at the time of the offense;
5. The individual's criminal history; and
6. Support systems and help available to the defendant in the community.

Let the attorney ask you questions, and answer them. Do not hesitate to politely ask the attorney to explain any legal terms you don't understand.

Another option is to provide the pertinent information in writing, especially since the attorney probably does not have much time for phone calls. This way, you can ensure the attorney will have the information if you are not able to get through to them by phone.

Once you have established contact with the defense attorney, it is a good idea to call them a day or two before your loved one's court date. The attorney can inform you whether the hearing has been postponed and what they expect to happen that day.

Be aware from the outset of your contact with the defense attorney that you might at some point have different perspectives of what course of action may be in the better long term interest of the defendant. Some defense attorneys may focus on avoiding all criminal sanctions and preserving their legal rights. You might believe that this emphasis is too narrow and fails to appreciate that longer term behavior change, such as compliance with treatment, is more critically important for your loved one. If such a difference develops, you will need to educate the attorney about your experience with his client and what you have learned over many years. At the same time, you will need to remember that the defendant is the attorney's client, not you. Persuasion is your best tool; not direction.

If you should ever talk to the judge on your own, be sure the defense attorney is aware of the conversation and be mindful of the potential impact of what you share. You may also have the opportunity to address the judge in person on a court date, but you should consult with the defense attorney about this communication.

Likewise, the defense attorney should be aware of any potential conversation that you might have with the prosecutor. Information you think will help the defendant may be harmful in the hands of a prosecutor. A defense attorney has a professional responsibility to not disclose client information that may be against their interests. However, a prosecutor's primary responsibility is to protect public safety and information that you give to him/her may be used in the case to the detriment of your loved one. Your loved one's defense attorney should usually be the one to speak directly with both the prosecuting attorney and the judge.

The only person who may request a change of legal representation is the defendant themselves. No matter how unhappy family members are with an appointed attorney, they cannot fire the attorney. The attorney represents the defendant's interests. Even if the attorney is hired and paid for by the family, the attorney's professional responsibility is to zealously represent the defendant. If the defendant tells the attorney not to talk to loved ones, the attorney may not talk to them. If the defendant makes choices that the attorney believes are not in their best interest (e.g., refusing a generous plea bargain offer), the defense attorney cannot impose his/her recommendations on the defendant. But they should explain the basis for their recommendation thoroughly to the defendant.

If the defendant is dissatisfied with an appointed attorney, they can request that the attorney be "relieved" from the case and a new attorney be appointed. The defendant must tell their attorney they want to do this, and the attorney will then communicate that request to the judge.

Judges, however, are often reluctant to grant a request to assign a new attorney. A judge may deny a request because they feel the attorney is competent or that it would take a new attorney too long to become familiar with the case. If the defendant has already made the same request and did receive a new attorney, the judge may deny a second request because it is unreasonable. An attorney may also request to be relieved from representing a particular client, but this occurs rarely in these types of cases.

BENCH WARRANTS

A bench warrant may be issued for a person's arrest if they:

1. Fail to appear on a scheduled court date;
2. Do not pay a fine;
3. Do not complete community service as ordered by the court;
4. Discontinue court-ordered treatment; or
5. Fail to follow any other court-ordered condition while in the community.

A bench warrant will likely be issued the same day as any failure to appear for a court hearing or any other failure to comply with conditions that have been brought to the judge's attention.

One can ascertain whether a bench warrant has been issued by calling the court where the person was supposed to have appeared or where they were sentenced. You should not need to disclose the defendant's whereabouts. If someone asks you, explain that the defendant plans to return to court. Ask when and where they should appear. If the court does not track warrants, ask from whom that information could be obtained.

Be sure to contact the defense attorney because they may be able to help clear up the bench warrant. Explain any known reason for the defendant's non-compliance. The attorney should be able to tell you how best to proceed.

If you can't reach the defense attorney or they cannot help clear up the bench warrant, you can help your loved one respond to it. Gather as much specific information as you can from the law enforcement official about where and when the defendant should appear. Sometimes a defendant might have to go back to jail before seeing a judge. Sometimes a defendant will be given instructions to go to a specific court where the judge will decide whether they can remain in the community or not.

If you are going to the court, it's best to arrive early to explain to the court officers that you want to help the defendant clear up a bench warrant. Be prepared for a potentially long wait. Explain the reason for the non-compliance. In these situations, the presence of a family member or mental health professional in court to advocate for the defendant and interpret their non-compliance to the court may make the difference between an outcome allowing the defendant to remain in the community or not. If no one can accompany the defendant, perhaps a supportive letter from a treatment provider can be obtained and brought to the court appearance by the defendant.

Although the aggressiveness with which law enforcement officers track down outstanding warrants varies considerably, they should always be addressed as soon as possible. A law enforcement officer may arrive at a defendant's known residence the evening the warrant was issued to arrest that person. Generally, law enforcement officers put more effort into finding people with outstanding warrants who are charged with the more serious offenses. Even if the law enforcement officer does not arrive at the door, the warrant still exists and will reappear if the person has another encounter with police. Warrants do not disappear on their own, and there is no time limit on how long a warrant can exist.

Also, in recent years, the Social Security Administration (SSA) has begun checking whether applicants have any outstanding warrants. If SSA learns that an applicant or benefit recipient has a warrant, it may negatively impact their eligibility to receive benefits.

Also, as long as someone has a warrant out for their arrest, they are considered a fugitive by the criminal justice system, no matter how minor the offense. Sometimes the stress of worrying about a warrant can be worse than the actual consequences of clearing it up.

When a defendant voluntarily returns to court to deal with a bench warrant, the outcome can depend on a variety of factors – including whether the person has an excuse and how old the warrant is. If there is a persuasive excuse – the defendant was in a psychiatric hospital or a mental health professional can verify that the defendant was psychiatrically disabled – the defendant may not suffer additional consequences for their non-compliance. Documentation of the admission and discharge dates of any hospitalization may be necessary and should be brought to court.

If the defendant does not have a good explanation for their non-compliance or if it's longstanding non-compliance, they may suffer additional court-ordered consequences at the court hearing. The judge may order that bail be set, a fine be levied or incarceration occur. A defendant's chances of avoiding these consequences diminish if they are apprehended rather than voluntarily clearing up their own bench warrant. The best thing that you can do for a loved one with an outstanding bench warrant is to help them understand the options/consequences and offer to accompany them to court.

Probation and **parole** officers also have the authority to issue a warrant (directly or by seeking one from a judge) whenever a person under their supervision fails to comply with any probation or parole conditions. If your loved one believes that they have a warrant for a probation or parole violation and wants to clear it up, you or they can call the probation or parole officer to find out. Even if a warrant has been issued, one can try to convince the officer to offer an option on how to proceed that might minimize potentially non-therapeutic consequences to the defendant. However, only a court can legally vacate a warrant.

PLEA BARGAIN

Most criminal cases never go to trial because the attorneys involved mutually agree to a recommended outcome to propose to the judge, i.e. a **plea bargain**. It might entail a probationary sentence, a certain number of months in jail or **prison**, community service or even treatment in lieu of incarceration.

IST AND NGRI (KROL) DETERMINATIONS

When criminal charges have been brought against a defendant, the law, reflecting our basic sense of justice, requires that they must be mentally competent for their trial to proceed. If a court concludes, at any stage of a trial, based upon expert psychiatric testimony, that a defendant lacks the capacity to understand the criminal proceedings against him and to assist in his own defense (see N.J.S.2C:4-4 in appendix for specific criteria), the defendant is deemed to lack **fitness to proceed** or **competence stand trial**, and the criminal proceedings are suspended until the defendant has been restored to competency.

A criminal court judge may order a psychiatric examination of a defendant for fitness to proceed at the request of either the defense attorney or the prosecutor or at the judge's own request. These psychiatric examinations typically occur at either a county jail or a public psychiatric hospital in New Jersey, but may also occur at a doctor's office. Also, clinicians from the New Jersey Division of Mental Health Services may evaluate inmates for fitness to proceed and NGRI determinations at their jail locations.

In determining whether the defendant is fit to proceed, the judge relies on the expert opinions contained in any psychiatric reports, but is not bound to rule in accordance with its conclusions. If the judge determines that the defendant is fit to proceed, the criminal proceedings resume. If the judge determines that the defendant is not fit to proceed, the judge typically orders treatment for the defendant at a public psychiatric hospital until he/she is subsequently deemed fit to proceed. If, in time, the defendant cannot be restored to be "fit" to proceed, the judge will dismiss the charges against the defendant.

In New Jersey, the terms "**insanity defense**," "not guilty by reason of insanity (**NGRI**)," and "**Krol patient**" all essentially refer to the same concept; namely, whether an individual is held criminally responsible for their alleged conduct. Specifically, New Jersey statutes (N.J.S.2C:4-1) state that one is not criminally responsible for conduct "...if at the time of such conduct he was laboring under such defect of reason, from disease of the mind as not to know the nature and quality of the act he was doing, or if he did know it, that he did not know what he was doing was wrong." For this insanity defense to succeed, the defendant's attorney must so convince the jury by a preponderance of the evidence. Insanity defenses are rarely attempted and generally do not succeed when attempted.

The New Jersey standard, referred to as the M'Naghten test, is, generally, viewed in legal circles as a narrow exclusion from criminal responsibility and difficult to meet. Someone experiencing hallucinations, a thought disorder, or delusional thinking for example, at the time of the offense does not automatically meet it. A prosecutor often can still offer **evidence** that the defendant knew what they were doing and that it was wrong.

Many seriously mentally ill defendants refuse to allow their attorneys to use an insanity defense, even when it might be in their best interest, because they do not believe that they have a mental illness. Due to tactical considerations by defense attorneys, both insanity defenses and fitness to proceed provisions are far more likely to be employed for very serious criminal charges and less so for the more minor or "nuisance" offenses committed by some seriously mentally ill individuals. The amount of time and financial expense needed to examine these individuals during extended hospitalizations cannot usually be justified given the relatively small criminal sanctions likely to be given for a rather minor offense.

Consequently, for the vast majority of mentally ill criminal defendants, until recently, there have historically been no special legal mechanisms for courts to address their "misdeeds" and mental

health needs in a balanced and fair way. Alternative mechanisms, however, have begun to emerge nationally and within New Jersey within the past ten years.

MENTAL HEALTH DIVERSIONARY PROGRAMS

The term “jail diversion” typically refers to programmatic efforts to keep individuals with mental illness who have been or may be charged with a crime out of jails or prisons by providing some type of mental health treatment alternatives which are more likely to lead to effective, long-term outcomes. These diversionary interventions occur either before police make arrests or file charges (pre-booking) or after such charges are filed (post-booking).

Pre-booking diversion programs typically intervene when an individual’s non-violent behavior appears to be related to severe mental illness. Usually, they involve either training police to recognize individuals with mental illness more readily and intervene with them more readily, or utilizing specially trained mental health professionals within law enforcement settings.

Post-booking diversion programs screen individuals for mental health problems, evaluate them for diversion eligibility and may negotiate with courts or prosecutors for a disposition that includes mental health treatment. They typically are located either in arraignment courts, jails, holding pens, crisis triage centers or community-based mental health centers. Program staff may develop and implement a service plan which, if agreed to by the court and individual, may result in the individual being released on bail or a condition for the deferral or dismissal of charges.

Currently in New Jersey, thirteen counties operate some form of jail diversion programming for individuals with mental illness. The New Jersey Division of Mental Health Services presently funds eleven of these programs, while two programs are directly funded only by county governments (Middlesex and Morris counties). (See the Appendix for the location and contact information of all of these programs.)

In State fiscal year 2007 (SFY '07), more than 2,500 individuals were reported to be assessed by these programs with more than 500 being diverted in some form prior to adjudication utilizing information provided in the assessment. Nearly 1,300 individuals were reported to be enrolled in some form of diversionary programming in SFY '07. Additionally, some of these diversionary programs have effectively trained local police officers in recognizing the symptoms of mental illness and locating community resources to assess and assist these individuals.

THE TRIAL

If your loved one’s case ends up going to trial rather than being diverted to probation or a treatment outcome, it is important for you to be present in the courtroom if that is legally permissible. Your presence can help the person feel supported in what is undoubtedly a frightening experience. Also, your presence signals to the jury that this individual is more than a criminal defendant, that they are part of a concerned and caring family and a community.

If a family member will be a trial **witness**, they will probably be kept apart from the defendant. In that case, another individual's courtroom presence should be arranged to support the defendant.

SENTENCING: TREATMENT

If the person you love is at risk of going to jail or prison, you may want to advocate for court-ordered treatment instead. Increasing numbers of defendants, even some charged with serious crimes, have the option to enter treatment rather than prison or jail with the agreement of the attorneys and the judge. It is unlikely, however, that such a treatment option would be approved without the defendant's cooperation.

The defense attorney has a professional duty to protect the legal rights of their clients, usually by minimizing negative consequences to them or avoiding consequences altogether. Some defense attorneys may not believe that helping a client into treatment is their responsibility; however, many are happy to consider their client's treatment needs when the treatment is preferable to the sentence that would otherwise be imposed.

Treatment may not always be considered, especially when a defense attorney has an opportunity to quickly remove the client from the criminal justice system and their own overwhelming caseloads. If the defense attorney thinks that treatment is not appropriate, especially if the offense is minor or they think that the defendant will not succeed, they are not likely to pursue treatment as an option. If a defendant has a choice between two weeks in jail or a four-month treatment program and they decide to enter the treatment program, they may face negative consequences by the court if they fail to complete the treatment. Some attorneys may think that a civil commitment is a much worse option than a few weeks in jail. Some defendants may prefer to be in jail than in treatment.

The prosecuting attorney may not agree to treatment in lieu of incarceration due to a statutory requirement of incarceration. They may also consider how likely it is that the person will reoffend, the violent nature of the act and even the amount of publicity the case generated.

Family members often find themselves advocating for the person's best long-term mental health interests. They may feel frustrated that the defendant must commit a serious offense before the criminal justice system responds effectively. Sometimes family members feel that intervention through the criminal justice system is their last hope to help a person into treatment. Avoiding jail or prison may be preferable because people with mental illness who go to jail are more likely to be victimized and mistreated than individuals who do not have a mental illness. You can use your knowledge and experience to convince the judge, prosecutor and others that this person would benefit from treatment and that there are treatment programs capable of helping them avoid reoffending. Enlist the defense attorney as your ally towards this end.

If your loved one is currently receiving supervision from a probation or parole officer and is facing either new charges or revocation, the supervising officer can be a valuable ally in persuading the court to accept a treatment option. Often family members can establish good working relationships with these officers. Since the officer has prolonged contact with the client, the court often considers the officer's recommendations very seriously. If the probation or parole office does not support a plan for a treatment sentence, the judge may be unlikely to accept it. By using your knowledge of the defendant and the mental health system, you may greatly assist a defense attorney insofar as persuading a reluctant officer.

Sometimes the most challenging part of the process is finding an appropriate treatment program which will accept your loved one. Often, for serious charges, the judge and/or prosecutor will insist that the defendant go to a residential treatment program. However, there are not enough residential treatment beds in New Jersey, and the application process for these programs can be a daunting experience. Many programs will not accept people being released from jail.

Even when a case manager is helping the defendant, the process can be frustrating. Specific issues, such as whether the defendant has a substance abuse problem, affect how difficult it is to find a program. Stay in touch with the case manager regularly to encourage them to make this case a priority. Just be aware that the process may take a long period of time.

If your loved one discontinues or otherwise fails to cooperate with court-ordered treatment in any way, he/she risks program staff notifying the judge or probation officer. If this occurs, the judge may resentence the person to be incarcerated. Such individuals need to be reminded of the potential consequences of their non-compliance sooner rather than later.

SENTENCING: JAIL OR PRISON

If your loved one ends up in jail or prison, you will want to continue to advocate for them. You want to make sure that the jail or prison staff is aware of their diagnosis, medications needed, history and so on. Be sure to learn the rules for visitation and what you can or cannot bring to your loved one.

Prisons and jails are hard places for people who have a serious mental illness. People in prisons may feel pressure not to take their medications for fear that they will be viewed as vulnerable and more likely to be abused by other inmates. Life in any correctional facility is difficult, and someone with a serious mental illness may find it very hard to understand or follow the rules and thus may spend more time in disciplinary segregation. New Jersey prisons have special units for people who have a serious mental illness.

At the New Jersey Department of Corrections' Central Reception and Assignment Facility in Trenton, all sentenced adult males are initially processed and objectively classified for placement within the Department of Corrections (DOC) system. The facility conducts intake, medical, dental, education and psychological evaluations. Family members may provide important

information during this 30-day evaluation period about new inmates which may result in better services and placements for their loved ones. Although jails and prisons may legally medicate inmates over their objections, the specific policies on this issue can vary depending upon the jail or prison.

For help and support during this time, you may wish to contact the NAMI Forensic Network, which is made up of individuals with mental illness who are or have been in prison and their family members.

SENTENCING: PROBATION

Generally, probation is a type of sentence that is used as an alternative to incarceration. Some probationary sentences may include jail time with a portion of the jail time held in abeyance during a defendant's subsequent probationary period.

Probationers receive supervision and must comply while living in the community with specific conditions set by the probation officer or the judge. Probationers must regularly report to their officers. If a person on probation fails to comply with their conditions, the probation officer may ask the court to issue a warrant for their arrest. If a warrant is issued and the person is arrested, they will appear before a judge who will decide whether to continue probation or sentence the defendant to incarceration.

If you call your loved one's probation officer, he or she may positively involve you in their probationary process. People with mental illnesses who are on probation need advocates. A single probation officer may be supervising over 100 people. Most probation officers do not have special training with mental health issues. By helping a probation office understand your loved one's mental health needs, you may prevent your loved one from becoming a probationary violator at some later point.

COMMUNITY REENTRY FROM A JAIL OR PRISON

Before your loved one returns to the community from a jail or prison, you should advocate for appropriate discharge planning. Continuity of care is critical to ensure their linkage to available benefits and needed services, including mental health treatment and a residential arrangement at a minimum. Your full participation in this process will require that your loved one consent by signing an Information Release form. Otherwise, the correctional and mental health staff can only listen to your input and concerns without sharing any specifics regarding treatment or discharge.

You should contact the mental health staff or nurse in the jail or prison as far in advance of their release date as possible. Ask specific questions about the plan to make certain that when the person leaves the jail or prison they will have appropriate medications and prescriptions, as well as suitable mental health services. Community mental health programs vary statewide in their

ability and willingness to maintain contact with their incarcerated clients and to participate fully in discharge planning. You may need to advocate for their appropriate involvement during your loved one's incarceration.

Most financial benefits that a person received before being sentenced to a period of incarceration are terminated or suspended during the incarceration. If your loved one receives Supplemental Security Income (SSI) or Social Security Disability Insurance (SSDI) benefits and is incarcerated for less than one year, they will need to reapply for their SSI or SSDI benefits, but their disability status remains unaffected. If the beneficiary is incarcerated for more than one year, they will need to be recertified as disabled before they can reapply. The toll-free phone number for Social Security is 1-800-772-1213 and its website is www.ssa.gov.

If your loved one is the parent or guardian of a minor they may receive TANF funds to help support the family. While incarcerated, these funds may be reassigned to the minor's caretaker, but an application must be filled out. To acquire TANF benefits after release, your loved one will have to prove that they are the minor's caretaker once again.

Military veteran health care benefits are also not available while the person is incarcerated, but are available immediately upon their release. For veteran disability compensation, disorderly person's convictions do not affect the continuation or amount of cash benefits. Indictable offense convictions will reduce your loved one's cash benefits by half after 60 days of imprisonment. If your loved one receives a veteran's pension, any conviction will cause your loved one's cash benefits to be suspended after 60 days of imprisonment. Your loved one can call 1-800-827-1000 to find the regional Veterans Affairs Office and reapply.

Some inmates may be involuntarily civilly committed upon completion of their criminal sentence as a Sexually Violent Predator pursuant to N.J.S. 30:4-82.4.

New Jersey law (N.J.S.A. 2C:52) provides a limited right to **expungement** of criminal arrest or conviction records for eligible individuals with one or very few convictions. An eligible individual must file a Petition for Expungement in Superior Court in the county where the arrest or prosecution took place. A judge then decides whether to issue an Expungement Order which, with some exceptions, clears the record of the criminal proceedings. Thus, an individual would not need to reveal expunged arrests or convictions as part of most application processes. At the Legal Services of New Jersey website (<http://www.lsnjlaw.org>) one can find more detailed information, including step-by-step petition filing instructions.

PAROLE

Parole is the criminal justice system's supervision of a former inmate at a state prison upon their return to the community. Parolees must report to a parole officer and comply with specific conditions or risk rearrest and reincarceration. If, with the parolee's permission, you connect with their officer early in the process, they will be more likely to contact you if a problem occurs

and less likely to immediately violate the parolee. By so doing, you would also be cultivating more credibility with the parole officer as an advocate.

APPENDIX

LAWYER REFERRAL SERVICES

Following is a listing of county bar associations that offer lawyer referral services. Locate your county of residence and contact the appropriate service.

Atlantic County Bar Association

Atlantic County Court House 1201
Bacharach Boulevard
Atlantic City, NJ 08401
(609) 345-3444; Fax: (609) 345-6279
E-Mail: atcobara@aol.com

Bergen County Bar Association

15 Bergen Street
Hackensack, NJ 07601
(201) 488-0044
Internet: <http://www.bergenbar.org>

Burlington County Bar Association

45 Grant Street
Mount Holly, NJ 08060
(609) 261-4862; Fax: (609) 261-5423
Internet: <http://www.burlcobar.org>

Camden County Bar Association

1040 N. Kings Highway, Suite 201
Cherry Hill, NJ 08034
(856) 482-0618; Fax: (856) 482-0637
Lawyer Referral Service: (856) 482-0618
Internet: <http://www.camdencountybar.org>

Cape May County Bar Association

Rt. 9, Main Street, P.O. Box 425
Cape May Court House, NJ 08210
(609) 463-0313; Fax: (609) 778-1193
E-Mail: cmcba@comcast.net

Cumberland County Bar Association

P.O. Box 2374
Vineland, NJ 08362
(856) 453-7000; Fax: (856) 453-7008
Internet: <http://www.cumbnjbarassoc.org>
E-Mail: info@cumbnjbarassoc.org

Essex County Bar Association

Essex County Historic Courthouse
470 Dr. Martin Luther King Jr. Boulevard
Room B01
Newark, NJ 07102
(973) 622-6207; Fax: (973) 622-4341
Lawyer Referral Service: (973) 622-6204
E-mail: info@essexbar.com
Internet: <http://www.essexbar.com>

Gloucester County Bar Association

Justice Complex, P.O. Box 338
Woodbury, NJ 08096
(856) 848-4589
Email: baroffice@gcbanj.org
Internet: <http://www.gcbanj.org>

Hudson County Bar Association

583 Newark Avenue
Jersey City, NJ 07306
(201) 798-2727; Fax: (201) 798-1740
Internet: <http://www.hcba.law@verizon.net>

Hunterdon County Bar Association

P.O. Box 573
Annandale, NJ 08801
(908) 236-6109; Fax: (908) 236-6119
E-mail: hcba@patmedia.net

Mercer County Bar Association

1245 Whitehorse Mercerville Road
Suite 420
Hamilton, NJ 08619
(609) 585-6200; Fax: (609) 585-5537
E-mail: info@mercer.com
Internet: <http://www.mercerbar.com>

Middlesex County Bar Association

87 Bayard Street
New Brunswick, NJ 08901
(732) 828-0053
Exec. Dir.: Jonathan P. Cowles
E-mail: admin@mcbalaw.com
Internet: <http://www.mcbalaw.com>

Monmouth Bar Association

Court House
Freehold, NJ 07728
(732) 431-5544; Fax: (732) 431-2843
Executive Director: Tracey A. Maciewicz

Morris County Bar Association**Sussex County Bar Association**

28 Schuyler Place
Morristown, NJ 07960
(973) 267-5882; Fax: (973) 605-8325
Internet:
http://www.morriscountybar.com/lawyer_referral/index.htm

Ocean County Bar Association

Courthouse, P.O. Box 381
Toms River, NJ 08753
(732) 240-3666; Fax: (732) 240-4907
Internet: <http://www.oceancountybar.org>

Passaic County Bar Association

Courthouse 77, Hamilton Street
Paterson, NJ 07505
(973) 278-9223
Internet: <http://www.passaicbar.org>

Salem County Bar Association

(856) 935-5629
Internet: <http://www.salemcountybar.org>

Somerset County Bar Association

Courthouse, 10 N. Bridge Street
P.O. Box 1095,
Somerville, NJ 08876
(908) 685-2323; Fax: (908) 685-9839
Internet: <http://www.somersetbar.com>

Union County Bar Association

Courthouse, 1st Floor,
Elizabeth, NJ 07207
(908) 353-4715; Fax: (908) 354-8222
Exec. Dir.: Jeffrey M. Clar
Internet: <http://www.uclaw.com>
Monday-Thursday, 10 A.M.-1 P.M.

Warren County Bar Association

413 Second Street
Belvidere, NJ 07823
(908) 387-1835

LOCAL COURTHOUSE ADDRESSES

Atlantic County Civil Court Building
1201 Bacharach Boulevard
Atlantic City, NJ 08401
(609) 345-6700

Atlantic County Criminal Court House
4997 Unami Boulevard
Mays Landing, NJ 08330
(609) 909- 8154

Bergen County Justice Center
10 Main Street
Hackensack, NJ 07601
(201) 527-2700

Burlington County Court Facility
49 Rancocas Road
Mount Holly, NJ 08060
(609) 518-2600

Camden County Hall of Justice
101 South Fifth Street
Camden, NJ 08103
(856) 379-2200

Cape May County Courthouse
9 North Main Street
Cape May Court House, NJ 08210
(609) 465-1000

Cumberland County Courthouse
Broad & Fayette Streets
Bridgeton, NJ 08302
(856) 451-8000

Essex County Courts Building
50 West Market Street
Newark, NJ 07102
(973) 693-5701

Gloucester County Courthouse
I North Broad Street
Woodbury NJ 08096
(856) 853-3200

Hudson County Administration Bldg.
595 Newark Avenue
Jersey City, NJ 07306
(201) 795-6000

Hunterdon County Courthouse
65 Park Avenue
Flemington, NJ 08822
(908) 237-5800

Monmouth County Courthouse
71 Monument Park
Freehold, NJ 07728-1266
(732) 677-4300

Morris County Courthouse
Washington & Court Sts.
Morristown, NJ 07963-0910
(973) 656-4000

Ocean County Courthouse
118 Washington Street
Toms River, NJ 08754
(732) 244-2121

Passaic County Court House
77 Hamilton Street
Paterson, NJ 07505-2017
(973) 247-8000

Salem County Courthouse
92 Market Street
Salem, NJ 08079
(856) 935-7510

Somerset County Courthouse
North Bridge Street
Somerville, NJ 08876-1262
(908) 231-7191

Sussex County Judicial Center
43-4 7 High Street
Newton, NJ 07860
(973) 579-0675

Union County Courthouse
2 Broad Street
Elizabeth, NJ 07207
(908) 659-4600

Warren County Courthouse
413 Second Street
Belvidere, NJ 07823
(908) 475-6161

NEW JERSEY JAIL DIVERSION PROGRAMS FOR PERSONS WITH A MENTAL ILLNESS

Atlantic County

Mental Health Partnerships
Jewish Family Service of Atlantic County
607 Jerome Ave.
Margate, NJ 08402-1527
(609) 822-1108

The Jewish Family Services program intervenes at the initial hearing which takes place at the Atlantic County jail through video hook-up with local municipal courts. The program intervenes at post-initial hearings in order to screen for diversion eligibility and for re-entry and provides re-entry services including working closely with probation officers who have specified case loads of individuals with serious mental illness.

Bergen County

Jail Diversion Program
Care Plus NJ, Inc.
611 Valley Health Plaza
Paramus, NJ 07652
(973) 574-0655

The Bergen County Jail Diversion Program provides transition planning from the county jail back to the community. Potential cases are identified by jail staff and/or JD staff. A collaborative transition plan is developed with the client/inmate, criminal justice system, and treatment providers. The service begins in the jail with the identification of needed services, applying for or reactivation of benefits, documentation of past criminal justice and treatment history.

Depending on the particular stipulation identified by the court the program provides case reports to the court, attorney, prosecutor and probation. These reports usually focus on the client's participation in the service, linkages and referrals, and outcomes.

Camden County

CIT Program
Twin Oaks Community Services
499 Cooper Landing Road
Cherry Hill, NJ 08002
(856) 482-8747

Through the CIT program, specially trained police officers may de-escalate a situation after being called to the scene and return the person to their home or refer to mental health service; they may also coordinate with the Twin Oaks Community Services if more intense services are needed. Diversion may be accomplished through post booking deferred prosecution through the Camden County Judicial Processing Unit, which will screen defendants for mental health and substance abuse issues providing an opportunity to have their charges dropped or reduced by participating in a program for a specified period of time and successfully completing program requirements.

ICMS/PATH/BRIDGE Programs
Twin Oaks Community Services
19 East Ormond Ave.
Cherry Hill, NJ 08034
(856) 428-1300

The Correctional Reentry program is designed to assist detainees from the Camden County Correctional facility to reintegrate into the Camden County community. Clients are linked to resources to get basic needs met such as financial (welfare, Social Security or work), mental health services including medication monitoring and partial care, housing and reestablishing natural supports. The program case managers coordinate with the Camden County Probation Department for those individuals who are released on probations.

PROMISE (Program for Returning Offenders with Mental Illness Safely and Effectively)
New Jersey Department of Parole
1 Federal St
Camden, NJ 08103-1004
(856) 614-3700

The New Jersey State Parole Board, in collaboration with the Department of Corrections, Division of Mental Health Services, Department of Community Affairs and the New Jersey Housing and Mortgage Finance Agency has implemented a pilot program, PROMISE, for a target population of offenders with mental health disorders who are reentering the community on parole supervision. PROMISE will provide ex-offenders with opportunities for successful community re-integration by providing/linking to mental health services, housing and employment services for parolees at risk of homelessness and recidivism.

Cumberland County

Cumberland County Guidance Center
814 Elmer Street
Bridgeton, NJ 08302
(856) 453-4887

The Cumberland County Guidance Center, in collaboration with a county consortium including the Cumberland County Corrections Department, County Prosecutor 's Office, Drug and Alcohol Services, and South Jersey Healthcare will provide re-entry services for persons with severe mental illness incarcerated at the county jail.

This will include identification of eligible participants, pre-release planning and linking to a continuum of care committed to through the county Jail Diversion Task Force. Coordination of services will ensure that the jail will report release dates and plans for inmates so that critical mental health and social services can be delivered upon community re-entry. It is expected that approximately 40 individuals with severe mental illness will be served in the initial year of the project.

Essex County

Jail Diversion program
MHA of Essex County
39 South Fullerton Ave.
Montclair, NJ 07042-2683
(973) 274-6179

The goal of this program is to divert individuals with mental illness from the criminal justice system. Diversion is to take place at the earliest point possible by providing services onsite at the Essex

County Corrections Facility (ECCF) where at risk individuals are screened for a therapeutic disposition as opposed to a correctional disposition. Depending on the charges, the client may be diverted or identified as forensic and seen by the psychiatrist in 24 hours. Once a client is admitted to the program, they will go in front of a judge within 48 hours to assess charges; at that time, a public defender is assigned. A case manager or case management team assists with re-entry back to the community. Case management services are designed to assist consumers gain access to needed medical, social, educational, vocational, housing and other services and resources.

Gloucester County

BRIDGE Programs
New Point Behavioral Health Care
1070 Main St., PO Box 448
Sewell, NJ 08080
(856) 256-3320 x1238

The Gloucester County Bridge Program is designed to identify, assess and develop a plan to address the needs of the Seriously and Persistently Mentally Ill (SPMI) population incarcerated for non-violent offenses. Through the Program, this population has the option of receiving mental health and non-mental health services when released into the community. Program staff works in collaboration with the Gloucester County Jail staff and community providers to create a seamless transition from the jail to the community. During incarceration, Program staff develops a transition plan that outlines the inmate's resource needs. Coordination of the identified service needs begins prior to release in order to expedite meeting the consumer's immediate needs when released. Case management services continue in the community with contact occurring in the consumer's residence. Psychotropic medications are provided without cost to the consumer until benefits are in place. The case manager assures that all required follow-up is completed and all accepted service resources are in place. Clients are monitored in the community for approximately 3 to 6 months. Consumer support is then maintained by community providers where the consumer has accepted services.

Mercer County

Corrections Project
Greater Trenton Behavioral Health Care
1001 Spruce Street, Suite 205
Trenton, NJ 08607
(609) 396-5944 x132

Through its Coming Home Project, which currently provides re-entry services in conjunction with the Mercer County Correction Center, Greater Trenton Behavioral Healthcare will provide post-booking diversion services for arrested individuals. Intervention will occur at three potential points; following booking when the individual is taken into custody and detained at the Mercer County jail; at the initial appearance/arraignment. Critical treatment, housing, employment and social services will be arranged in order to address issues that might lead to re-offending. The program takes referrals from State Parole, Adult Probation, the Public Defender's Office, the Mercer County Prosecutor's Office, Municipal and Superior Court Judges, all NJ state prisons and the county jail if the person is returning to Mercer.

Middlesex County

SCMOS (Specialized Case Management and Outreach Services)
UMDNJ-University Behavioral Health Care
151 Centennial Avenue
Piscataway, NJ 08854
(732) 235-6184

Reentry program is designed to assist detainees from the Middlesex County Correctional facility to reintegrate into the community. Clients are linked to resources to get basic needs met such as financial (welfare, Social Security or work), mental health services including medication monitoring and partial care, housing and reestablishing natural supports.

Morris County

ICMS (Forensic)
Mental Health Assoc. of Morris County, Inc.
100 Route 46 East, Building A
Mountain Lakes, NJ 07046
(973) 334-3496

Reentry program designed to assist detainees from the Morris County Correctional Facility to reintegrate into the community. Clients are linked to resources to get basic needs met such as financial (welfare, Social Security or work), mental health services including medication monitoring and partial care, housing and reestablishing natural supports.

Ocean County

Preferred Behavioral Health of New Jersey
PO Box 2036
Lakewood, NJ 08701
(732) 458-1700 x106

The Jail Diversion Project focuses on pre and post booking. Pre-booking involves law enforcement and emergency services at the point of contact. Post arrest diversion can either be at the initial hearing or detention, at the courts or Ocean County Jail, or through the request of prosecutors, defense attorneys and/or mental health providers. Through the use of assessments and recommendation at the earliest possible intervention, a mental health disposition rather than a criminal justice disposition will be sought. The project seeks to serve about 70 individuals in the first year and 160 annually. A collaborative effort led by the Jail Diversion Committee, a subcommittee of the Ocean County Mental Health Board, has been meeting to plan this Jail Diversion Program since 2006. In addition to key mental health providers, the Sheriff's Department, Department of Corrections, Prosecutor's Office, Public Defender, County Jail Mental Health Services and Board of Social Services have all participated.

Passaic County

St. Mary's Hospital Behavioral Health Services, Seton Center
211 Pennington Ave.
Passaic, NJ 07055
(973) 470-3026 V
(973) 470-3478 F

The goal of the program is to provide an assessment within seven (7) days of meeting with the client. These Psychosocial Assessments will provide information to the Criminal Justice System in order to identify treatment needs, refer the individual to treatment resources, and provide communication between the Criminal Justice System and mental health providers in order to better coordinate treatment services and decrease recidivism rates due to lack of communication concerning the individual's needs. If that individual is not currently in treatment and is agreeable to the recommendations, the Jail Diversion Team will make the referrals with the individual by scheduling appointments and following up with the treatment provider to ensure that the linkage has been made.

Union County

Department of Behavioral Health & Psychiatry
Trinitas Hospital
654 East Jersey Street
Elizabeth, NJ 07206
(908) 994-7278

Criminal Justice Linkage (CJLP) staff stationed at the Union County Jail work with Correctional Health staff to screen each admission to determine mental health history and potential for referral to Jail Diversion Program (JDPP) team. JDPP clinicians may be called to evaluate individuals that have been brought to Trinitas Screening Center with minor criminal offenses such as failure to pay fines and trespassing. The program works with local law enforcement to advance the concept of pre-booking jail diversion. Individuals who qualify are either referred to existing/traditional services or enrolled in the case management component of the program for more intensive community support and linkage services and monitoring. All decisions regarding eligibility are processed with the Union County Prosecutor who may, with the written or verbal consent of the client, contact municipal prosecutors and public defenders to discuss jail diversion as a disposition option.

INSANITY AND FITNESS TO PROCEED STATUTORY PROVISIONS

2C:4-1. Insanity defense

A person is not criminally responsible for conduct if at the time of such conduct he was laboring under such a defect of reason, from disease of the mind as not to know the nature and quality of the act he was doing, or if he did know it, that he did not know that he was doing was wrong. Insanity is an affirmative defense which must be proved by a preponderance of the evidence.

2CL:4-4. Mental incompetence excluding fitness to proceed

a. No person who lacks capacity to understand the proceedings against him or to assist in his own defense shall be tried, convicted or sentenced for the commission of an offense so long as such incapacity endures.

b. A person shall be considered mentally competent to stand trial on criminal charges if the proofs shall establish:

(1) That the defendant has the mental capacity to appreciate his presence in relation to time, place and things; and

(2) That his elementary mental processes are such that he comprehends:

(a) That he is in a court of justice charged with a criminal offense;

(b) That there is a judge on the bench;

(c) That there is a prosecutor present who will try to convict him of a criminal charge;

(d) That he has a lawyer who will undertake to defend him against that charge;

(e) That he will be expected to tell to the best of his mental ability the facts surrounding him at the time and place where the alleged violation was committed if he chooses to testify and understands the right not to testify;

(f) That there is or may be a jury present to pass upon evidence adduced as to guilt or innocence of such charge or, that if he should choose to enter into plea negotiations or to plead guilty, that he comprehend the consequences of a guilty plea and that he be able to knowingly, intelligently, and voluntarily waive those rights which are waived upon such entry of a guilty plea; and

(g) That he has the ability to participate in an adequate presentation of his defense.

INFORMATION

Diagnosis _____

The medications that are prescribed for your family member by name, dosage, and time of day to be administered

Treating Mental Health Professional(s) (Name, address, phone number)

Previous Hospitalizations (name, dates, location)

Police (list each police and state police and/or Sheriff, if applicable)

Courts, Probation/Parole (names, phone number)

Public Defender, Attorney (names, phone and fax numbers)

Other

GLOSSARY OF TERMS

Acquittal: A verdict in a criminal trial in which the defendant is found not guilty of the charge.

Adjournment: A postponement in a criminal case or the time between court dates.

Ann Klein...: Anne Klein Forensic Center, a forensic psychiatric hospital in Trenton operated by the New Jersey Division of Mental Health Services which evaluates, diagnoses, and/or treats individuals with mental illness charged or adjudicated with a criminal justice status.

Appeal: A legal action in which a defendant asks a higher court to review and reverse a lower court's decision.

Arrest: The actual taking into custody of an individual, which may include necessary restraint, being charged with a public offense.

Arrestee: An individual in police custody following arrest.

Arrest Warrant: A judicial notice to law enforcement officers that an individual is wanted by a criminal justice system and, therefore, should be sought and arrested.

Bail: An amount of money that a defendant must pay to be released from jail while a criminal case is pending which is intended to ensure that he/she does not flee to evade prosecution. If the defendant appears at all court proceedings as required, the bail money is returned at the end of the case. If the defendant fails to appear as required, the bail may be kept by the court.

Bail Bondsman: An individual who pays a bail on behalf of a defendant and typically receives a nonrefundable fee of 10% of the bail ordered.

Bench Warrant: An arrest warrant issued by a judge, usually issued because a defendant did not appear at a scheduled hearing.

Charge: Specification of which criminal code provisions that a defendant has violated.

Competence to Stand Trial: A variable standard adopted by each state and the U.S. Federal Court which defines that mental state necessary for a defendant to be fairly subjected to a criminal trial. It refers to a defendant's present mental state, not that which

existed at the time of the alleged criminal act. (See the Appendix for the current New Jersey standard.)

Conviction: Having formally been found guilty of a criminal offense by a court.

Defendant: An individual charged with a criminal offense.

Detention: Being held in jail awaiting criminal trial.

Disorderly Person's Offense: A relatively minor criminal offense typically heard in a New Jersey Municipal Court which is punishable by six months or less of incarceration.

Docket: The list of cases to be heard on a court's schedule.

Evidence: The information used in a court proceeding to prove or disprove an allegation or charge.

Expungement of Record: The process by which a record of criminal conviction is destroyed or sealed after either an expiration of time or meeting certain conditions.

First Appearance: A defendant's initial presentation before a judge after being arrested when he/she is informed of the charges against him/her and bail or release conditions are determined.

Fitness to Proceed: See "Competence to Stand Trial" above.

Forensic: Relating to the law or legal proceedings.

Grand Jury: Twenty three citizens empanelled to hear evidence presented by a prosecutor to determine whether there is sufficient evidence to bring a person to trial for a crime.

Hearing: A court proceeding in which evidence may be presented to determine facts or legal issues that are in dispute.

Hung Jury: A jury that is deadlocked and cannot agree on a verdict.

Indictment: A formal, written accusation presented to a court by a grand jury charging an individual with a crime, but not proving that offense.

Inmate: An incarcerated individual in a county jail or state prison.

Insanity Defense (Krol/NGRI Status): A variable standard adopted by each state and the U.S. Federal Court which defines that mental state necessary for a defendant to be absolved of criminal responsibility for an otherwise criminal act that they have

committed. New Jersey employs a version of the so-called McNaghten rule (see Appendix).

Jail: County operated correctional facility which confines individuals convicted of disorderly person's offenses and serving a sentence of one year or less, or defendants awaiting a trial. Rules and procedures typically vary from county to county.

Krol: See "Insanity Defense" above.

Mistrial: A trial that is terminated by the judge before a verdict is reached due to a deadlocked jury, an impropriety or procedural problem.

Municipal Court: More than 500 municipal or local courts of limited jurisdiction in New Jersey which handle minor criminal and quasi-criminal matters occurring in that town. No jury trials occur here; only judges determine guilt or innocence. Many first court appearances for more serious crimes, however, may also be set here before the case is referred to the county prosecutor for review.

NGRI: Not Guilty by Reason of Insanity. See "Insanity Defense" above.

Parole: Community supervision with an assigned parole officer and specific conditions, of a released, former inmate.

Petty Disorderly Person's Offense: A minor criminal offense typically heard in a New Jersey municipal court which is punishable by thirty days or less of incarceration.

Plea Bargain: An agreement between a criminal defendant and a prosecutor in which the defendant admits having committed a crime and the prosecutor in return typically either dismisses the charges or requests that the judge impose a less severe sentence than one likely to have been imposed if the defendant had been convicted at a trial.

Pre-Trial Intervention (PTI): A program based on a rehabilitative model which provides defendants, generally first time offenders, with opportunities for alternatives to the traditional criminal justice process of ordinary prosecution.

Prison: State operated correctional facility which confines individuals convicted of indictable crimes with sentences that exceed one year.

Probable Cause: A belief that sufficient evidence exists to charge an individual with a criminal offense.

Probation: A sentence of community supervision, with an assigned probation officer and specific conditions, which may be imposed with or without any period of incarceration.

Prosecutor: An attorney representing “the people of the State of New Jersey” in a criminal case who attempts to prove that a defendant committed a criminal offense.

Public Defender: An attorney representing an indigent defendant in a criminal case employed by a non-profit organization funded by the government.

Released on Recognizance: Released from custody by a judge without being required to post bail, but required to return to criminal court on a specific date.

Search Warrant: A written judicial order allowing a law enforcement officer to search a person, place or thing for evidence and to hold any property seized.

Sentence: The punishment imposed by a judge on a defendant who has been convicted of a criminal offense.

Superior Court, Criminal Division: Twenty-one state courts which handle every case at a county courthouse (see Appendix listing) in which an adult has been accused of committing an indictable offense. Defendants have a right to a jury trial and some juveniles charged with very serious crimes may be treated as adults and handled here.

Testimony: Statements made by a witness in a court proceeding.

Verdict: The decision as to guilt or innocence of the jury in a jury trial or of the judge in a bench trial.

Vicinage: For administrative purposes, the Superior Court, Criminal Division courts are divided into 15 vicinages or regions, some of which include more than one county.

Witness: An individual who offers evidence in a court proceeding.

RESOURCES

BAZELON CENTER FOR MENTAL HEALTH LAW

Provides national legal advocacy for people with mental disabilities by protecting and advancing their rights through litigation, policy analysis, coalition – building, public information and technical support for local advocates.

Address: The Bazelon Center for Mental Health
1101 15th Street, NW
Suite 1212
Washington, DC 20005

Telephone: 202-467-5730
E-mail: info@bazelon.org
Website: <http://www.bazelon.org/index.html>

COMMUNITY HEALTH LAW PROJECT

Provides legal and advocacy services, training, education and related activities to low income persons with disabilities and to organizations representing their interests. Through negotiation, litigation and advocacy, CHLP strives to remove discrimination, protect rights and preserve an individual's independence and quality of life at field offices in Bloomfield, Elizabeth, Trenton, Asbury Park, and Collingswood and an administrative office in South Orange.

Address: Community Health Law Project
185 Valley Street
South Orange, NJ 07079

Telephone: 973-275-1175
E-mail: chlpinfo@chlp.org
Website: <http://www.chlp.org>

DISABILITY RIGHTS NEW JERSEY

A consumer directed, non-profit organization designated as New Jersey's protection and advocacy system for people with disability. It provides information, referral, and a broad range of advocacy services, including legal services in numerous cases in state and federal courts.

Address: Disability Rights New Jersey
210 South Broad Street, 3rd Floor
Trenton, NJ 08608

Telephone: 609-292-9742
1-800-922-7200 (in NJ only)
E-mail: advocate@drnj.org
Website: www.drnj.org

MENTAL HEALTH ASSOCIATION IN NEW JERSEY

Strives to assist individuals with mental illness in New Jersey in achieving mental health through advocacy, education, training, and services.

Address: Mental Health Association in New Jersey
88 Pompton Avenue
Verona, NJ 07044

Telephone: 973-571-4100
E-mail: info@mhanj.org
Website: <http://www.mhanj.org>

NAMI NEW JERSEY

A statewide non-profit organization dedicated to improving the lives of individuals and families who are affected by mental illness through education, support, and systems advocacy. Affiliate self-help and grassroots advocacy groups located in each county offer emotional support, information and advice about treatment and community resources.

Address: NAMI NJ
1562 Route 130
North Brunswick, NJ 08902

Telephone: 732-940-0991
E-mail: info@naminj.org
Website: <http://www.naminj.org>

NATIONAL GAINS CENTER

Primarily focuses on expanding access to community-based and integrated services for adults diagnosed with co-occurring mental illness and substance abuse disorders involved with the criminal justice system. The GAINS Center helps states to forge collaborations among their mental health, substance abuse and criminal justice systems.

Address: National GAINS Center
1 Choke Cherry Road
Rockville, MD 20847-2345

Telephone: 800-311-GAIN
E-mail: gains@prainc.com

Website: <http://www.gainscenter.samhsa.gov>

NEW JERSEY DIVISION OF MENTAL HEALTH ADVOCACY (within the New Jersey Department of the Public Advocate)

Provides legal representation to and responds to complaints from individuals with mental illness in New Jersey who are facing a loss of liberty or other rights through either involuntary civil commitment or guardianship proceedings. More broadly, NJDMHA promotes, advocates and ensures the adequacy of care and quality of life of individuals with mental illness within state-funded mental health facilities and programs. NJDMHA has field offices in Trenton, Wall, Newark, and Camden County.

Address: New Jersey Division of Mental Health Advocacy
240 West State Street, 16th Floor
P.O. Box 851
Trenton, NJ 08625

Telephone: 609-826-5090

Website: <http://www.state.nj.us/publicadvocate/mental>

NEW JERSEY DIVISION OF MENTAL HEALTH SERVICES

Serves adults with serious and persistent mental illnesses by contracting with more than 120 agencies statewide for a wide range of community mental health services, by funding and monitoring psychiatric services provided by a number of county hospitals, and by operating five state psychiatric hospitals.

Address: Division of Mental Health Services
50 East State Street
P.O. Box 727
Trenton, NJ 08625-0727

Telephone: 1-800-382-6717 (toll free)

Website: http://www.state.nj.us/humanservices/dmhs/about_dmhs.html

NEW JERSEY JUDICIARY

The independent branch of New Jersey government constitutionally entrusted with the fair and just resolution of disputes and the protection of rights and liberties guaranteed by the federal and New Jersey constitutions and statutes.

Address: Administrative Office of the Courts
Hughes Justice Complex
P.O. Box 037
Trenton, NJ 08625

Telephone: 609-292-9580
Website: <http://www.judiciary.state.nj.us>

NEW JERSEY OFFICE OF THE PUBLIC DEFENDER

Provides constitutionally mandated legal representation for financially eligible adults and juveniles charged with indictable criminal offenses through 21 county-based offices statewide. NJOPD requires that each client pay a small administrative fee and reimburse NJOPD "...for the reasonable costs of defender services once your case is completed."

Address: Office of the Public Defender
Hughes Justice Complex – 1st Floor, North Wing
25 Market Street
P.O. Box 850
Trenton, NJ 08625

Telephone: 609-292-7087
E-mail: thedefenders@opd.state.nj.us
Website: <http://www.state.nj.us/defenders/index.shtml>

NEW JERSEY STATE BAR ASSOCIATION

Maintains a directory of contact information for county bar associations as part of its public education program to enhance awareness of the legal profession and legal system in New Jersey (see Appendix).

Address: New Jersey State Bar Association
New Jersey Law Center
One Constitution Square
New Brunswick, NJ 08901-1520

Telephone: 732-249-5000
Website: <http://www.njsba.com>