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Shift the Responsibility of Untreated Mental Illness Out of the Criminal Justice System

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As executive director of the National Sheriffs' Association and also a long-time member of the American Correctional Association, it is a privilege to have this forum as a "guest editorial" author in *Corrections Today*. My thanks to ACA Executive Director James Gondles, Jr. for this opportunity.

In the December 2002 issue of *Corrections Today*, Gondles spoke of alternatives to incarceration. A serious issue for sheriffs and jail administrators is the incarceration of severely mentally ill offenders. Our jails and prisons have started to become psychiatric hospitals. According to the U.S. Department of Justice, 16 percent of inmates are severely mentally ill. There is a critical need for alternatives regarding mental illness and the need to shift the responsibility of untreated mental illness out of the criminal justice system.

The diversion of the mentally ill from the criminal justice system needs a systemwide/communitywide approach. Early intervention and treatment of the mentally ill are critical to diversion from the criminal justice system and back to mental health professionals. The three largest de facto psychiatric facilities in the United States are now the Los Angeles County Jail, Rikers Island Jail in New York City and Cook County Jail in Chicago. There are twice as many mentally ill people in the Miami-Dade County Jail than the South Florida Evaluation and Treatment Center. In many jurisdictions in the nation, the county's jail holds more

people with severe psychiatric illnesses than any psychiatric facility in that county.

The problem continues to escalate — it is a major quality of life issue for severely mentally ill inmates because they are more likely to be beaten, victimized or commit suicide than those who are not sick. The handling and control of these inmates pose a serious safety threat to staff. It is also a major expense for jail systems — the L.A. County Jail spends about \$10 million per year on psychiatric medication.

Failure to treat people before they enter the criminal justice system is a major reason for the increase in jail populations. Jail diversion programs and mental health courts are positive steps but do not address the fundamental problem: treating people before problems occur. Today, the Treatment Advocacy Center reports, there are nearly five times more mentally ill people in the nation's jails and prisons (nearly 300,000) than there are in all the state psychiatric hospitals (about 60,000). The problem is untreated mental illness.

The National Institute of Mental Health reports that there are 4.5 million Americans with schizophrenia and manic-depression. And at any given time, 40 percent, or 1.8 million people, are not receiving adequate treatment, according to *Archives of General Psychiatry*. Legal reforms in the 1970s contributed significantly to the criminalization of mentally ill people. Treatment laws were changed to require that individuals be a danger to them-

selves or others before they could be treated involuntarily. So what typically happens? A family whose child stops taking medication calls county mental health professionals who tell the family they cannot do anything until the child becomes "dangerous." When the child deteriorates to the point at which he or she is dangerous, the mental health professionals are no longer the ones who respond; it becomes sheriffs and police. That means sheriffs' deputies and police officers are on the front line when a person's mental condition deteriorates to the dangerous levels dictated by the law. Law enforcement's role in mental illness crisis response has increased significantly and the most serious issue is that these encounters too often turn deadly.

Every year, both law enforcement officers and mentally ill offenders are killed in these types of encounters. Just last September, two deputy sheriffs in Prince George's County, Md., were shot and killed by a man with paranoid schizophrenia while serving commitment orders. In addition, a 1998 report showed that justified homicides by police involving people with severe and persistent mental illnesses occurred at a rate four times greater than in the general population.

The most important point to consider is that when people with severe mental illnesses are being treated, they are no more violent than the rest of the population. But treatment noncompliance significantly increases the risk of violence. Shifting the responsibility of caring for people in psychiatric crises

to law enforcement and corrections, rather than medical professionals, poses a significant risk to officers and individuals, and a significant risk of liability to local government. Untreated mental illnesses also impact law enforcement and jails in the area of suicides. The National Institute of Mental Health indicates that 72 percent of people who commit suicide have severe and persistent mental illness. Jails are no place for people with severe mental illnesses and most local jails do not even have the resources to provide adequate psychiatric services.

Many of the tragedies on the street and in jails involving the severely mentally ill could be prevented through medication compliance, but the majority of those refusing treatment have impaired awareness of their illness — the illness affects their ability to recognize that they are ill and they, therefore, refuse treatment. The medical reality is confounded by many state laws requiring that a person become a “danger to self or others” before anything can be done if the person refuses treatment.

NSA actively supports efforts to consider new laws that require treatment based on a “need for treatment” rather than just “dangerousness,” and it supports laws that will allow a court to order assisted outpatient treatment in the community for individuals who are in need of treatment but refuse it. A study also showed that long-term assisted outpatient treatment combined with routine outpatient services reduced the predicted probability of violence by 50 percent and reduced arrests by 74 percent. It is likely that reductions in jail admissions would also be affected by assisted outpatient treatment. This has obvious benefits for corrections, law enforcement and the public.

There is something fundamentally wrong when, for some families, the only way to obtain involuntary treatment for a mentally ill family member is to have that person arrested. But that is, in fact, regularly happening in many states. It is time to shift the responsibility of caring for the mentally ill back to the professionals who are trained to do so rather than waiting until only law enforcement and corrections can respond. ♦