

*Prosecutors
Against Gun Violence*

March 24, 2015

Hilton Miami Downtown

ENDING THE CRIMINALIZATION OF MENTAL ILLNESS

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Good morning – Welcome to Miami, thank you for your tremendous public service and for being here today – not sure you appreciate how incredibly important this mtg. is nor the kind of excitement it has generated – frankly because your voice has been missing in the national dialogue about what we should be doing about the over-representation of people with mental illnesses in the criminal justice system. You have the unique opportunity and ability to help lead this discussion and shepherd in a more effective approach to this failed public policy.

I want to particularly thank my SA – Kathy Fernandez-Rundle not only for her foresight in putting this event together but for her remarkable leadership in our community on issues of such great public importance. None of the gains that we have made on this issue would have been possible without her. She is simply remarkable. Because what she truly understands – that at the end of the day – this is about public safety – and just allowing people with mental illnesses to continually recycle thru the criminal justice system does no-one any good.

Today's program is not about never arresting people with mental illnesses or putting people with mental illnesses in jail or prison – it's about recognizing that people with mental illnesses are no more violent than the general population, in fact on medication they are much less likely to commit a violent crime than someone without mental illness and that recovery rates for people with mental illnesses are better than people with diabetes and heart disease. It's also about helping people get their lives back so they have the motivation to get and stay into recovery.

The key is collaborating with the stakeholders to develop a system that keeps people with mental illnesses out of the criminal justice system that don't belong, diverting the right people out of jail and into services and using the limited resources of the CJS to wrap our hands around the highest risk individuals who are most likely re-offend.

- I. When I became a judge, I had no idea I would become the gatekeeper to the largest psychiatric facility in the State of Florida; the Miami-Dade County Jail. In the US people with mental illnesses are 14 times more likely to be incarcerated than hospitalized. Annually, 1.5 million people with SMI arrested, any given day 500k in jail another 850K on

probation/community control. 40% of all people with SMI's will come in to contact with the criminal justice system at some point in their life.

II. VIDEO/My Journey into the MH World – Psychiatrist

III. 3 Lessons

i. MH Crisis in Miami-Dade

35% of inmates (1,526/4400 on psychotropic meds)

\$218k per day - \$80 mill annually

Until recently 3 floors out of 9

Since conditions NOT conducive to treatment -Stay in jail 4-8 x longer than no illness and Cost 4- 7 x higher than no illness

24 people died during a police encounter

ii Not local/State – But a national problem

SG Satcher – “Silent Epidemic of our times”

iii Community MH and Crisis System – antiquated, fragmented – does not reflect modern science and medical research and practices and is in need of great reform.

IV. **HISTORY – Before we can fix the problem, we need to understand how we got here.**

From the time our country was founded until the early 1800's we incarcerated people with mental illnesses – because we didn't know better. In the early 1800's a Quaker (Dorthia Dix) visiting a MA jail came across men freezing to death in a local jail – their crime – mental illness. She was so horrified by what she saw, she began a national movement in the US that started in France called Moral Treatment - to hospitalize people with mental illnesses rather than incarcerate.

By 1900, every state had a psychiatric hospital. However, there was no real treatment, no medication and really no psychiatry. These “hospitals grew

rapidly – ignoring the idea of keeping them small – often housing thousands of individuals. They became houses of horror with human experimentation – insulin, electroshock therapy and even lobotomies become the norm.

In his last public bill signing, in 1963 President Kennedy signed a 3 billion dollar authorization to create a national network of community mental health facilities. The idea was to take people out of these horrible hospitals and return them to their communities and provide them with the newly created medications. Tragically, with the assassination of President Kennedy and the escalation of the Vietnam War not one penny of the 3 billion dollars was ever appropriated.

However, a whole slew of federal lawsuits were filed in the late 1960's against the states for operating these houses of horror – and in 1971 the 1st major case is decided in the federal court – Wyatt v Stickney which ultimately led to the “deinstitutionalization” of our state hospitals.

Unfortunately, there was no national network of community mental health facilities to absorb these new patients.

And make matters worse, the closings continue today at an accelerated rate. In fact, since 1990 - twice as many state hospitals have closed than in the previous 20 years. As these closings were going on we had an economic collapse resulting in over \$5 billion dollars in mental health cuts at the legislative level resulting in the perfect storm. No facilities and limited access to community treatment.

V The Impact is staggering

- 1955 - 560,000 in State Psyc. Hospitals around U.S./5,000 in custody
- Today, less than 40,000 in State Hospitals (if no change – today 1.5 million beds)
- However, last year 1.5 million people with mental illnesses were arrested.
- Approximately 500,000 people w/ Mental Illnesses in US Jail/prisons

- Another 850,000 people w/Mental Illnesses on Community Control/Probation – total 1.35 million
- Since 1955, the number of psychiatric hospital beds in US has decreased by more than 90 percent, while the number of people with mental illnesses incarcerated in our jails and prison has grown by more than 400 percent.
- Jails in the US ARE THE LARGEST PSYC Facilities (Warehouses).
- Approximately 25 percent of the homeless population has an SMI and over 50 percent of these individuals have spent time in a jail or prison.

VI TWO SAD AND HORRIBLE IRONIES:

1st - WE DID NOT DE-INSTITUTIONALIZE – WE ALLOWED FOR THE TRANSFER OF RESPONSIBILITY for people with mental illnesses from St. Psychiatric institutions to Correctional Institutions and in many cases put them in far worse conditions than the St. Hospitals they left, making it more difficult for recovery because a criminal record often leads to housing and employment restrictions.

2nd - The sadder and cruel irony is that in the US WE HAVE COME FULL CIRCLE - 200 years have passed and jails are again the primary warehouses for people with mental illnesses. It is the one area in civil rights in the US we have gone backwards. With all of the advances our society has made during the past 200 years, we have failed those with mental illnesses, miserably.

VII Consequences

- Homelessness increased
- Police Injuries increased
- Police Shootings of people w/ mental illness increased
- Waste Critical Tax Dollars
- Mental Illness = Crime

In Florida the police actually initiate more Involuntary Examinations under our Baker Act Law than the total # of arrests for Robbery, Burglary and Grant Theft Auto – combined.

VIII And if this wasn’t disturbing enough - Just consider the fiscal impact our existing system is having on our local and state budgets and the projected impact over the next decade.

A. LOCAL (Miami-Dade) We recently looked at the “heavy users” of acute services with mental illness in our misdemeanor diversion program over a 5 year period. The results were breathtaking.

97 people, primarily men, with a schizophrenia spectrum disorder, mostly homeless, over 5 years were arrested 2,200, spent 27,000 days in the Dade Co. Jail, 13,000 days at an ER, Crisis Unit or Psychiatric facility – cost taxpayers almost \$13 million and we got absolutely nothing for it.

Event type	Total events	Average per individual over 5 years	Average per individual, per year	Estimated per diem cost	Estimated total cost
Arrests	2,172	22	4.4	-	-
Jail days	26,640	275	55	\$134	\$3.6 million
Baker Act initiations	710	8.6	-	-	-
Inpatient psychiatric days	7,000	72	-	\$291	\$2 million
State hospital days	3,200	33	-	\$331	\$1 million
Emergency room days	2,600	27	-	\$2,338	\$6 million
Total jail/inpt/hosp/ER days	39,440	407	81	-	\$12.6 million

I guarantee everyone in this room lives in a community with 97 individuals just like the ones I described that are driving our acute care systems with little or no strategy to deal with these individuals.

People who would have been hospitalized 40 years ago because of the degree to which mental illness has impaired their ability to function are now forced to seek services from an inappropriate, fragmented, and unwelcoming system of community-based care

Insanity – Doing the same thing over and over again and expecting a different outcome!

B) Prison Growth – (explain)

Historically the fastest growing subpopulation in Florida's prisons and in most American prisons are people with mental illnesses

Between 1996 and 2012 the overall inmate population in FL prisons grew by 56%.

In contrast, the number of inmate receiving ongoing mental health treatment increased by 160%. 7,000 – 18,000

Inmates experiencing moderate to severe mental illnesses increased by 178%

It is growing so fast, that the number of prison inmates is expected to double over the next 10 years from 18,000 to 36,000 requiring Florida to build 10 new prisons. The cost to build and operate 10 new prisons just for people with mental illnesses over a 10 year period is almost \$2.2 Billion. Average stay only 2 1/2 – 4 years

There is something terribly wrong with a society that is willing to spend more on imprisoning people with mental illnesses than to treat them.

IX After 14 years in this field, it has become quite evident to me that if we treated people with primary health needs the way we treated people with mental illnesses there would be massive lawsuits and criminal indictments for gross negligence.

X Good news is that much of this is fixable -

First - Community Response that should include – 10 Essential Elements that each community needs to have an effective system of care

- 1) Proper Diagnosis and Co-occurring Treatment
- 2) Intensive Case Mngt. Services
- 3) Trauma Related Services – 92% of woman sexually assaulted 75% men
- 4) Meaningful Day Activities – like a CLUBHOUSE – Dr. Kandel – it actually has a physiological benefit that helps people recover. Every community mental health system should work to develop or link with a Clubhouse in their community. It should be standard practice.
- 5) Treat long –term institutionalization (Snitch & Stitch Disorder) with program like (SPECTRUM)
- 6) Supportive Housing
- 7) Supportive Employment
- 8) Address the Clinical and Criminogenic factors with cognitive behavioral programs and peer specialists who serve as boundary spanners/navigators
- 9) Coordinated Criminal Justice Response – Diversion/Mental Health Courts & CIT (EXAMPLE 4,400 trained CIT– 2013 Miami-Dade/Miami 10,626 MH calls – 9 arrests) closed a jail \$12 million saved). Reduced MM recidivism from 72% to 20%, Felony diversion recidivism holding around 6% - 35-40 years jail bed days saved

Forensic Diversion Program – virtually no recidivism
- 10) Use advanced technology to eliminate the fragmentation of the

community mental health system, to better manage individuals with Serious Mental Illnesses and to develop evidence based treatment protocols for effective outcomes – Otsuka/IBM project

Second, we need to Reform Involuntary Hospitalization Laws – Heart attack of the brain – toxicity. Heart attack – don't run to court first

XI The current shortcomings of the community mental health, criminal justice, and juvenile justice systems did not arise recently, nor did they arise as the result of any one stakeholder's actions or inactions. None of us created these problems alone and none of us will be able to solve these problems alone. We all must be a part of the solution.

If we are able to do this, we will finally begin to accomplish what the SC hoped would happen when they ordered the closing of our state hospitals.

Thank You.