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INCARCERATION OF YOUTH WHO ARE WAITING FOR COMMUNITY MENTAL HEALTH SERVICES IN CALIFORNIA

PREPARED FOR

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EXECUTIVE SUMMARY

The U.S. Surgeon General has found that debilitating mental disorders affect one in five U.S. youth, but access to effective treatment is often limited. This report documents what happens to California youth with mental illnesses when treatment is not available. It finds that hundreds of California youth are inappropriately incarcerated every day to wait for community mental health services.

In July 2004, Rep. Henry A. Waxman and Sen. Susan Collins released the results of a national survey of juvenile detention facilities that assessed the inappropriate detention of youth with mental illness. The survey found that without access to treatment, some youth with serious mental disorders are placed in detention even if they do not have any criminal charges pending against them. In other cases, youth with serious mental disorders are ready to be released for treatment but must remain incarcerated for extended periods because no inpatient bed, residential placement, or outpatient appointment is available. The survey found that two-thirds of the nation's juvenile detention centers in 49 states needlessly incarcerate thousands of youth.

At the request of Rep. Henry A. Waxman, this report analyzes the responses of California juvenile detention facilities. The report finds:

- **Most California juvenile detention facilities hold youth who are waiting for community mental health treatment.** In four facilities, youth with mental illness are held in detention centers without any charges against them. Youth incarcerated unnecessarily while waiting for treatment are as young as eight years old.
 - One California administrator stated: “We are overwhelmed by the sheer number of mentally challenged youth that we must deal with. We have become the depository of last resort for all acting out, behaviorally challenged, developmentally disabled [youth] when others don’t know how to handle [them].”

- **Over a six-month period, more than 750 incarcerated youth waited for community mental health services in California.** Each night, more than 250 youth wait in detention for community mental health services. On average, youth waiting for treatment remain in detention for about two months.
 - An administrator commented: “We have little or no options for kids who are grossly psychotic and require hospitalization.”
- **Nearly all California juvenile detention facilities that hold youth waiting for community mental health services report that some of these youth have attempted suicide or attacked others.** Yet over half of these facilities provide no mental health training for staff.
 - An administrator stated: “Locked detention facilities are designed and programmed for youth with criminal offenses, not the mentally ill.”
- **California juvenile detention facilities spend an estimated \$10.8 million each year to house youth who are waiting for community mental health services.** This estimate does not include any of the additional expense in service provision and staff time associated with holding youth in urgent need of mental health services.
 - One administrator wrote: “Children should not be housed in jail or juvenile detention to wait for services. There are not enough services for the many needs that we have.”

The misuse of detention centers as holding areas for mental health treatment is a major problem in California. It is unfair to youth, undermines their health, disrupts the function of detention centers, and is costly to society.

I. INTRODUCTION

The Surgeon General has reported that more than one in five U.S. children ages 9 to 17 has a mental or addictive disorder that causes impairment.¹ According to the National Institutes of Mental Health, “no other illnesses damage so many youths so seriously.”²

While effective therapies for depression, bipolar disorder, schizophrenia, post-traumatic stress disorder, and other conditions exist, families often face difficulties in accessing care. Insurance coverage is often inadequate, and many communities do not have sufficient inpatient, residential and outpatient treatment services.³ Large gaps in children’s access to mental health care have been reported in California.⁴

When children cannot obtain the mental health care they need, severe consequences can result. In April 2003, the General Accounting Office (GAO) reported that at least 12,700 families relinquished custody of their children to the child welfare or juvenile justice systems so that they could receive mental health services.⁵ This estimate did not include data from California.

Another consequence of the failure to provide sufficient mental health care is the inappropriate use of juvenile detention centers to hold youth with mental disorders. Some youth are placed in detention without any criminal charges pending against them, solely to wait for community mental health services to become available. In other cases, youth with mental illness who have been charged with crimes are incarcerated only because no mental health treatment is available. The misuse of detention centers as holding areas for mental health

¹ Department of Health and Human Services, *Mental Health: A Report of the Surgeon General*, 123 (1999).

² National Institutes of Mental Health, *Blueprint for Change: Research on Child and Adolescent Mental Health* (2001).

³ President’s New Freedom Commission on Mental Health, *Achieving the Promise: Transforming Mental Health Care in America* (July 2003); American Psychiatric Association, *A Vision for the Mental Health System* (Apr. 2003).

⁴ See, e.g., *Budget Cuts Hit County’s Mentally Ill*, Los Angeles Times (Aug. 10, 2004); *Foster Children’s Care Inadequate*, Los Angeles Times (July 19, 2002); *Mentally Ill Children Denied Hospital Beds*, Contra Costa Times (June 11, 2001).

⁵ General Accounting Office, *Child Welfare and Juvenile Justice: Federal Agencies Could Play a Stronger Role in Helping States Reduce the Number of Children Placed Solely to Obtain Mental Health Services* (Apr. 21, 2003).

treatment is unfair to youth, undermines their health, disrupts the function of the detention centers, and is costly to society.⁶

In March 2002, the Special Investigations Division of the minority staff of the Committee on Government Reform examined the problem of incarceration of youth with serious mental disorders in one state, New Mexico. This report found that 13 of 14 juvenile detention facilities in New Mexico incarcerated such youth solely to wait for mental health services to become available. The report also found that one in seven youth in detention was waiting for mental health treatment.⁷

In 2003, the Special Investigations Division broadened its investigation to all U.S. juvenile detention facilities. More than 500 juvenile detention facilities responded to a survey from the Special Investigations Division, representing a response rate of more than 75%. At a Senate hearing in July 2004, Rep. Henry A. Waxman and Sen. Susan Collins released a report summarizing the results of the nationwide survey. This report found that that two-thirds of U.S. juvenile detention facilities needlessly incarcerate thousands of youth waiting for mental health treatment. This report, however, did not provide a detailed state-by-state breakdown of the data.⁸

At the request of Rep. Waxman, this report examines whether youth with mental illnesses are unnecessarily incarcerated in California detention centers. It is the first comprehensive analysis of the problem in California.

⁶ See, e.g., Anne E. Casey Foundation, *Juvenile Detention Alternatives Initiative* (2004) (online at <http://www.aecf.org/initiatives/jdai/>); National Juvenile Detention Association and Youth Law Center, *Juvenile Detention Center and Training School Crowding: A Clearinghouse of Court Cases* (Aug. 1998); American Academy of Child and Adolescent Psychiatry, *Recommendations for Juvenile Justice Reform* (Oct. 2001).

⁷ Minority Staff, Government Reform Committee, U.S. House of Representatives, *Incarceration of Youth with Mental Health Disorders in New Mexico* (Mar. 18, 2002).

⁸ Minority Staff, Government Reform Committee, U.S. House of Representatives, *Incarceration of Youth Who Are Waiting for Community Mental Health Services in the United States* (July 2004).

II. METHODS

In August 2003, the Special Investigations Division sent a survey to 698 detention centers across the nation.⁹ The survey requested that detention center administrators provide data about “youth with mental illness who do not need to be in detention.” Specifically, the survey asked for data about any youth “waiting for mental health services in the community, including placement in a treatment facility . . . [who] leave the detention center as soon as appropriate treatment services become available.” The survey covered the period January 1, 2003 to July 1, 2003.

This report is based upon an analysis of the responses received from juvenile detention facilities in California. In total, 49 juvenile detention facilities in the state were sent the survey, the most of any state.

For the purposes of this report, the term “juvenile detention” refers to the holding of youth age 21 and under in secure correctional facilities in three settings: (1) without charges; (2) pre-adjudication; or (3) immediately post-adjudication. It does not refer to the juvenile prison system, where youth who are convicted of crimes go to serve their sentences. “Community mental health services” refers to mental health services that are available outside of the juvenile justice system, including inpatient hospitalization, outpatient services, residential treatment, and specialized foster care.

⁹ The survey was initially mailed to 814 facilities identified by the American Correctional Association as possible providers of juvenile detention services. A second mailing was completed in October 2003, and one followup phone call to nonresponding facilities was made in November 2003. From the initial list, the Special Investigations Division identified 698 facilities providing secure juvenile detention services. Those facilities that were not included in the final list of 698 juvenile detention facilities included: (1) facilities that no longer exist; (2) entries that were duplicates; (3) facilities that do not provide juvenile detention; and (4) juvenile detention facilities that are not secure.

III. FINDINGS

A. Nearly All California Juvenile Detention Facilities Responded to the Survey

Of 49 juvenile detention facilities surveyed in California, 43 responded (88%). Responding facilities included 17 located in rural areas, 13 in urban areas, and 11 in suburban areas.¹⁰

B. Most California Juvenile Detention Facilities Hold Youth Who Are Waiting for Community Mental Health Services

Twenty-seven California juvenile detention facilities (63%) reported that their facilities needlessly hold youths waiting for mental health services outside of the juvenile justice system.

The legal status of incarcerated youth who are waiting for services varies. Seventeen facilities hold youth waiting for community mental health services prior to their adjudication; 15 hold such youth after adjudication. Four juvenile detention facilities California reported holding youth with mental disorders without any charges against them.

C. California Children as Young as Eight Years Old Are Incarcerated while Waiting for Mental Health Services

California juvenile detention facilities frequently hold young children because of the absence of community mental health services. One facility reported holding an eight-year-old child, and 17 facilities reported holding children 12 years and younger.

¹⁰ Two facilities did not respond to the question about location. In order to preserve the confidentiality of the respondents, a more detailed geographic analysis of the responses was not conducted.

D. In a Six-Month Period, over 800 California Youth Waited in Detention for Community Mental Health Services

Administrators from 21 facilities were able to provide quantitative data on the number of children and youth with mental illness who were waiting for community mental health services. These data indicate that 799 youth were incarcerated at these facilities while waiting for mental health services from January 1 to July 1, 2003, representing approximately one in 40 of the total number of juveniles held by these facilities (32,582).

One administrator commented, “We are overwhelmed by the sheer number of mentally challenged youth that we must deal with. We have become the depository of last resort for all acting out, behaviorally challenged, developmentally disabled [youth] when others don’t know how to handle [them].”

Youth who are held while waiting for treatment stay about a month longer, on average, than the general population of juvenile detainees. Detention center administrators report that youth who are waiting for services stay an average of 64.2 days in detention, versus 30.8 days for all detainees.¹¹

Assuming an even distribution of unnecessary stays in detention, on any given night, there are 281 incarcerated youth waiting for community mental health services in California. On any given night, these youth represent more than one in 20 of all youth incarcerated at these facilities (51,310 total person-days out of a total of 1,004,104).

E. Nearly All California Juvenile Detention Facilities That Hold Youth Waiting for Community Mental Health Services Report That These Youth Have Attempted Suicide or Attacked Others

Of 27 facilities where youth are held while waiting for community mental health services, 19 facilities (70%) report suicide attempts among these youth. Twenty facilities (74%) report that these youth have attacked others. In total, 23 facilities (85%) report either suicide attempts or aggressive behavior by youth waiting for mental health services.

¹¹ Administrators from 20 detention facilities were able to provide data on lengths of stay for youth waiting for mental health services. Administrators from 36 detention facilities were able to provide data on overall length of stay.

F. California Detention Facilities Are Generally Not Equipped to Provide Adequate Care to Youth with Mental Illness Who Are Incarcerated while Waiting for Treatment Services

Juvenile detention administrators report that incarcerated youth who are waiting for community mental health services suffer from a range of serious mental disorders, including depression (noted in 24 facilities), substance abuse (24 facilities), attention deficit hyperactivity disorder (21 facilities), retardation and learning disorders (17 facilities), and schizophrenia (17 facilities). Other conditions noted by administrators among children unnecessarily incarcerated include anorexia nervosa, post-traumatic stress disorder and bipolar disorder.

All 27 facilities that held youth waiting for services report that youth are able to receive some mental health treatment in detention. But even when treatment is available, the staff is often ill-equipped to handle the youth. Of the 27 facilities, 16 (59%) report that the staff has no mental health training. Moreover, those most in need of services sometimes cannot receive them. An administrator stated: “We have little or no options for kids who are grossly psychotic and require hospitalization.”

One administrator noted, “Locked detention facilities are designed and programmed for youth with criminal offenses, not the mentally ill.”

Another administrator commented: “Children should not be housed in jail or juvenile detention to wait for services. There are not enough services for the many needs that we have.”

G. California Detention Facilities Spend over \$10 Million Each Year to House Youth Waiting for Community Mental Health Services

Incarcerating youth who are waiting for community mental health services is costly. Of the 27 facilities holding youth unnecessarily, per-capita information on cost was available from the American Correctional Association for 8 facilities with approximately 10% of reported inappropriate detentions in California. The mean per-capita cost at these facilities was \$116 per day. These facilities spent an estimated \$612,039 on unnecessary detentions in the first six months of 2003. Extrapolating this rate of expense to the total reported number of unnecessary

days produces a cost estimate of \$5.4 million in the first six months of 2003. On an annual basis, this is a \$10.8 million expense.

This calculation is almost certainly an underestimate. It does not take into account any additional expenses, such as extra service provision and staff time associated with incarcerating youth with urgent mental health needs.

H. California Youth Wait in Detention for a Variety of Community Mental Health Services

The most appropriate setting for the treatment of youth with mental health disorders depends on the severity of the disease. Youth with the highest risk of causing injury to themselves or others require inpatient psychiatric hospitalization. Those requiring close monitoring by professionals can thrive in residential placements, such as group homes. Others can live with their families at home if intensive community-based services are available. Finally, some youths can leave detention once a foster family is located.

While the survey was not designed to determine why so many youths are incarcerated to wait for mental health services, detention facilities across California reported deficiencies in many levels of care. Youth waited for residential treatment in 26 facilities, for inpatient hospitalization in 13 facilities, for foster placement in 13 facilities, and for outpatient services in 4 facilities.

IV. POTENTIAL FOR UNDERESTIMATION

For several reasons, the results presented in this report are likely to underestimate the extent to which youth are incarcerated unnecessarily while waiting for community mental health services:

- Some secure juvenile detention facilities did not respond to the survey. Unnecessary detention of mentally ill juveniles in these institutions is not included in the totals presented in this report.
- Among responding administrators, some did not provide usable quantitative data. As a result, these facilities also did not contribute to the totals in this report.
- According to several experts consulted by the Special Investigations Division, other administrators may have been reluctant to report the inappropriate use

of their facility out of fear that it would reflect poorly on the detention center itself.

V. CONCLUSION

The unnecessary detention of youth who are waiting for mental health treatment is a serious problem in California. Detention facility administrators across the state reported that hundreds of California youth with mental health problems are being held unnecessarily in the juvenile justice system. Inappropriate detention is dangerous for youth and the staff of detention centers and is costly to society. Major improvements in community mental health services are urgently needed.