



Substance Abuse and Mental Health Services Administration  
The Center for Mental Health Services  
The Center for Substance Abuse Treatment

**TAPA Center**  
for Jail Diversion  
A Branch of the National GAINS Center

# **Towards a Blueprint to Respond to the President's New Freedom Commission on Mental Health Recommendations on Adult Criminal Justice Diversion**

Notes from an Expert Panel in Annapolis, MD,  
October 28–29, 2003

## The New Freedom Commission's Recommendations Regarding Criminal Justice Diversion

The final report of the President's New Freedom Commission on Mental Health, "Achieving the Promise: Transforming Mental Health Care in America," issued in July 2003, outlined six goals to transforming the mental health system:

- Goal 1** Americans understand that mental health is essential to overall health.
- Goal 2** Mental health care is consumer and family driven.
- Goal 3** Disparities in mental health services are eliminated.
- Goal 4** Early mental health screening, assessment, and referral to services are common practice.
- Goal 5** Excellent mental health care is delivered and research is accelerated.
- Goal 6** Technology is used to access mental health care and information.

Among the Commission's recommendations to reach Goal 2 was to align relevant Federal programs to improve access and accountability for mental health services. Specifically, the Commission recommended *"widely adopting adult criminal justice and juvenile justice diversion and re-entry strategies to avoid the unnecessary criminalization and extended incarceration of non-violent adult and juvenile offenders with mental illnesses."*

## Planning to Implement the Commission's Recommendations Regarding Criminal Justice Diversion

The Substance Abuse and Mental Health Services Administration (SAMHSA) is the lead Federal agency charged with implementing the recommendations of the Commission. Funded by SAMHSA, the Technical Assistance and Policy Analysis (TAPA) Center for Jail Diversion in October 2003 convened a meeting in Annapolis, MD, of national experts, consumers and family members to provide input to SAMHSA as it crafts a comprehensive plan to implement the Commission's recommendations.

In keeping with the TAPA Center's mission, the focus of the meeting was on adult jail diversion programs. The TAPA Center invited leaders working at the Federal, State and local levels, including representatives of national associations, State and local departments of mental health, corrections and the courts, nonprofit community service providers, and people with mental illness. The meeting was structured around three themes:

- ☒ Expanding access to community-based services relying on evidence-based practices (EBPs)
- ☒ Clarifying policies and procedures for paying for these community-based services
- ☒ Changing communities and the way they serve people with mental illness in contact with the criminal justice system

This brief summarizes the key points of group consensus. It is organized around what the experts saw as the action steps needed at the local, State and Federal levels. A fourth perspective incorporated into all deliberations was that of the consumer of the services in question.

## ***Expanding access to evidence-based practices in community-based services for people with mental illness diverted from the criminal justice system***

### LOCAL

- ☒ Build organizational capacity through outside service boards and community groups
- ☒ Provide basic needs to individuals first, including food, housing, and health care
- ☒ Norm EBP's to localities, including the ethnic and cultural composition of each community
- ☒ Emphasize providing evidence-based services that enmesh the individual in the community, rather than separating them from the community, e.g., supported employment rather than continuing day treatment
- ☒ Develop educational products such as bench manuals for judges, program manuals for jail diversion programs, such as that created by the Hawaii County program, and other criminal justice standards, policies and practices to ensure consistency of program implementation
- ☒ Evaluate jail diversion's impact on systems as well as individuals

### STATE

- ☒ Consider creating a State commission on mentally ill offenders/detainees modeled on Texas, Arizona, and California
- ☒ Create recognizable statewide loci for diversion, such as Ohio's Coordinating Center of Excellence in Mental Health and Criminal Justice Jail Diversion Alternatives
- ☒ Remove constraints which exclude criminal justice clients from housing or services; make criminal justice clients a priority for housing, as done in Maryland
- ☒ Pass legislation encouraging or requiring jail diversion programs, as done in Florida, Michigan, Indiana, and Connecticut

### FEDERAL

- ☒ Balance support for EBP's, best practices and emergent practices; don't disregard services that haven't yet been evaluated or are currently in the process of being evaluated, such as trauma services and peer support services
- ☒ Recognize specific EBP's through initiatives such as the National Registry of Effective Programs (NREP)
- ☒ Develop a framework of systems of care, e.g., planning services/initiatives that emphasize more than just treatment and create systems geared toward a life in the community
- ☒ Expand options for Institutes for Mental Disorders (IMDs), including expanding current bed limit
- ☒ Examine reimbursement systems that may support outmoded practices/services; eliminate reimbursement for services that have been found ineffective

### PERSPECTIVE OF PEOPLE WITH MENTAL ILLNESS

- ☒ Inspire people how to be in the world by helping them develop the skills to live successfully in the community
- ☒ Support the development of peer support services
- ☒ Accept perspective of conversion and transformation
- ☒ Create certification and education programs for consumers
- ☒ Address the impact of stigma against people with criminal justice histories, including in housing, rules against fraternizing with others that may impinge the use of mutual support groups, and the issues of disclosure in employment settings

## Paying for jail diversion programs and community-based services

### LOCAL

- ☒ Reorganize around tight budgets to take advantage of opportunities to creatively collaborate and share resources across systems; e.g., in Maryland, the HIV/AIDS community provide trauma training
- ☒ Create incentives for criminal justice/diversion referrals to service and housing providers; for example, adult living facilities in Miami-Dade County must comply with standards set by the district court's mental health project to receive referrals
- ☒ Blend funding streams through state/local partnerships, e.g., use of Byrne grants in Maryland for community-based services
- ☒ Foster non-traditional advocacy partners, such as correctional administrators and sheriffs, as done by Florida Partners in Crisis
- ☒ Plan for sustainability early by collecting evaluation data, including the numbers served, number of jail days and hospital days; use the data to "sell" your program, as done by the Nathaniel Project in NYC

### STATE

- ☒ Create criminal justice priority eligibility group, without "net-widening" or limiting services to others; for instance, using HUD funds for housing and Byrne Program grants
- ☒ Address State Medicaid eligibility rules for criminal justice-involved individuals
- ☒ Clarify presumptive eligibility and application process for Medicaid

### FEDERAL

- ☒ Clarify Federal regulations on disenrollment from SSI and Medicaid of criminal justice-involved individuals; educate the States regarding suspension/disenrollment so that they will not implement disenrollment when it is not required
- ☒ Use the state planning process to coordinate funding across systems, with criminal justice, mental health and substance abuse systems, as per New Freedom Commission report
- ☒ Clarify HUD eligibility rules for public housing by providing guidance to localities re: the use of their discretion, to encourage access to housing for people with mental illness exiting the criminal justice system
- ☒ Establish guidelines for implementing the Supreme Court's Olmstead decision in criminal justice settings

### PERSPECTIVE OF PEOPLE WITH MENTAL ILLNESS

- ☒ Educate advocates regarding fiscal issues to allow them to more effectively advocate; e.g., state and federal funding for services, rules regarding access to SSI and Medicaid benefits
- ☒ Broaden the concept of "costs" to include social costs and costs regarding children; use these larger cost concepts in evaluating costs saved/created through jail diversion



## **Changing communities and the way they serve people with mental illness in contact with the criminal justice system**

### LOCAL

- 5. Prioritize mapping your community's mental health, substance abuse and criminal justice systems to identify gaps in services and to prioritize where to intervene
- 5. Identify and leverage common goals across systems, focusing on the common goal of improving access to services; for instance, the goal of reducing crowding in the jail can be addressed by the goal of diversion to services
- 5. Plan for appropriate peer supports for people diverted, for example, peer monitors in Lane County, OR; make contact with local consumer-run organizations, support the development of mutual support/self-help groups
- 5. Nurture the judiciary as leaders, as in Miami-Dade and other counties; judges can often influence stakeholders to come together and are perceived as neutral
- 5. Formalize agreements among systems with ceremonial signings, including formal agreements such as MOUs, and informal agreements such as goal statements
- 5. Publicize local activities, such as conference and meeting attendance by stakeholders, to build community support
- 5. Acknowledge the importance of the children of people diverted; for example, in Tulsa, CIT training includes information about what police should do if children are at the scene

### STATE

- 5. Legislate task forces made up of mental health, substance abuse, and criminal justice stakeholders to legitimate addressing the issues
- 5. Involve state mental health authority in planning and implementation of jail diversion programs
- 5. Utilize the State planning process integrating mental health, substance abuse and criminal justice; identify incentives to get stakeholders in each system to the table
- 5. Support programs using people with mental illness as cross-trainers
- 5. Involve victims rights groups as partners in program planning

### FEDERAL

- 5. Support involvement of people with mental illness at all levels; use individual stories and successes to fight stigma
- 5. Support technical assistance to States and localities for change, such as using outside consultants to address local issues
- 5. Consider the impact of barriers faced by people with criminal justice histories to housing and employment
- 5. Clarify HIPAA requirements as they relate to information sharing and evaluation of jail diversion programs

### PERSPECTIVE OF PEOPLE WITH MENTAL ILLNESS

- 5. Involve people with mental illness early on in program planning, implementation and evaluation; include people at all levels of recovery from mental illness and substance abuse
- 5. Recognize the importance of culture and ethnicity

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