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Mark Gale

Thank you for providing members of the public, such as myself, with the opportunity to advance our ideas for reform. I am doing this as a private citizen as NAMI is already providing testimony through NAMI California.

That said, I am very involved in these issues here in my county both in the problems in our jail as well as in advocating for the expansion of our diversion programming for IST defendants. I have also included an article I wrote on this subject that was published in the Southern California Psychiatric Society newsletter.

Thank you,

Mark Gale

NAMI Greater Los Angeles County, Criminal Justice Chair

California's FIST Catastrophe: Where Is Our True North?

By: Mark Gale

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In the State of California there are currently 1700 individuals who have been found to be incompetent to stand trial (IST) for their felony charges. They are on a Department of State Hospital (DSH) waiting list so they can be sent there for treatment and "competency restoration." They cannot go to trial because their serious mental illness is so acute they cannot participate in their own defense, a constitutional mandate. A recent court decision has forced the state's hand that mandates people must move forward from jail to treatment within 28 days. The current backlog is anywhere from 8-14 months and sometimes longer. Should our state amend and patch a broken and dysfunctional system, or completely reimagine the role of our state hospitals in this process, their function, and the statutes that govern them? What are our goals and what is the mission? Where is our True North?

Existing California statutes mandate that if one has been charged with a felony and is found to be Incompetent to Stand Trial (Felony IST, or FIST), the person must be sent to a state hospital for "competency restoration." The law also allows for Jail Based Competency Treatment (JBCT) as one way to reduce the waiting list. The decision to build 22 new JBCT's was made years ago, but the recent convening of the California Health and Human Services IST Solutions Workgroup has arrived years too late. Why did we not properly study this issue before authorizing hundreds of millions of dollars for JBCT's? And why are we not building restoration programs in community-based therapeutic mental health settings instead of jails? Again, where is our True North? People do not get well in jails. JBCT's may be helpful in reducing the current immense backlog, but wouldn't it make more sense to build a network of therapeutic facilities in

our communities designed for this population providing the opportunity to phase out JBCT's over a period of years? A significant percentage of FIST clients who are sent there may not require that level of security and some may not be dangerous, violent, or a risk to public safety. They are very seriously ill and yet they sit in jails across our state waiting their turn for a state hospital bed simply because they are too sick to go to court.

Who are these individuals and why have both the private and public mental health systems failed them? They are people who became very seriously ill and could not access the level of mental health care that they needed. Many suffer from anosognosia, or lack of insight, and are "too ill to know they are ill." This advocate believes they are individuals who needed acute inpatient hospitalization, medication, and/or long-term residential care in a locked facility called an IMD (Institute of Mental Disease) and were unable to access that level of treatment or refused all help. They are often homeless and live with substance use issues. These are the

"revolving door" mental health clients who repeatedly cycle through the mental health and criminal justice systems. They certainly are not patients who voluntarily seek help at the local clinic or request mental health care through the Department of Mental Health outpatient system, or their private insurance carrier.

It would seem that the high security level of a state hospital facility should only be used for those who cannot survive safely in the community themselves and require a very high level of care, or pose a public safety risk too great to place them in a less secure environment. Los Angeles County has been awarded additional funds to expand our Felony Incompetent to Stand Trial-Community Based Restoration (FIST-CBR) pilot as our Office of Diversion and Reentry has shown that we can successfully manage such a program. If Los Angeles can do it, can't other counties do the same? If a large percentage of people deemed FIST are not a public safety risk and can be restored in more therapeutic settings in the community, shouldn't that be our goal? I believe we should begin by re-defining which categories of mental health patients truly require placement in a state hospital bed and who could be served in a less secure, more therapeutic treatment environment in the community, both locked and unlocked. The current practice of pushing so many FIST clients through this expensive and backlogged system does not seem to be in anyone's best interest. Do we continue this fiasco simply because that is the way we have always done it?

The state has convened an IST Solutions Workgroup to look for short, mid-term, and long-term solutions to this difficult and complex problem. This is a population that few know exist and even fewer care about. As I write this article, there are 400 men in Twin Towers who are FIST. Approx. 75% of them should be in the acute inpatient psychiatric hospital inside the jail, but the jail only has 31 separate beds in their Forensic Inpatient Program (FIP). So they sit isolated in cells, many untreated and very ill. Psychosis and incarceration make for very nasty bedfellows. They are human beings who have families and deserve humane treatment regardless of the crimes they may have committed. Los Angeles County has said we are dedicated to a "Care First, Jails Last"

approach and to the “decriminalization of the mentally ill.” We cannot use those phrases and then leave the 400 sickest people in the county in our county jail. I know that is not our true North!

If you want to contribute to this effort, please attend the IST Solutions Workgroup meetings and the three new Working Groups that are also open for public participation. For those of you with expertise on these subjects, please attend and make your views known. You can find this information at <https://www.chhs.ca.gov/home/committees/ist-solutions-workgroup/>

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