

**RECOMMENDATIONS RESPECTFULLY SUBMITTED TO
THE TRUMP ADMINISTRATION REGARDING
MENTAL HEALTH POLICY**

Mental illness affects approximately 44 million adults in the United States, or about one out of five Americans.¹ Of these, approximately 9.8 million suffer from a serious mental illness.² The need for comprehensive, effective and accessible treatment for persons with mental illness is a bipartisan issue that we urge the incoming Administration to address.

Persons with mental illness face degradation, stigmatization, and discrimination. They are more likely to be incarcerated, to be shot and killed by police, to face discrimination at work, and to struggle to find adequate affordable housing. The quality of treatment available—both on an inpatient basis in hospitals and prisons, as well as on an outpatient basis—needs to be improved. There are currently over 40,000 persons with mental illness institutionalized in psychiatric hospitals across the country.³ Between 15-20% of jail and prison inmates suffer from a serious mental illness.⁴ In 2015, a quarter of all police shooting deaths involved persons with signs of mental illness.⁵ And the annual number of persons appearing in immigration proceedings who have mental disabilities has been estimated to be 57,000 people.⁶

¹ NATIONAL INSTITUTE OF MENTAL HEALTH: SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION, available at <http://www.samhsa.gov/data/sites/default/files/NSDUH-FRR1-2014/NSDUH-FRR1-2014.htm> (43.6 million adults in the U.S. reportedly suffered from “any mental illness” (AMI), of whom 9.8 million suffered from “serious mental illness” (SMI), in 2014).

² *Id.*

³ US CENSUS BUREAU, Table PCT20: GROUP QUARTERS POPULATION BY GROUP QUARTERS TYPE, available at http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_SF1_PCT20&prodType=table.

⁴ E. Fuller Torrey, Aaron Kennard, Don Eslinger, Richard Lamb, and James Pavle, *More Mentally Ill Persons are in Jails and Prisons than Hospitals: A Survey of the States*, available at http://www.treatmentadvocacycenter.org/storage/documents/final_jails_v_hospitals_study.pdf (May 2010).

⁵ THE WASHINGTON POST 2015 SURVEY, available at <https://www.washingtonpost.com/graphics/national/police-shootings/>.

⁶ See Human Rights Watch and the American Civil Liberties Union, *Deportation by Default: Mental Disability, Unfair Hearings and Indefinite Detention in the US Immigration System* 16 (June 2011), <http://www.hrw.org/reports/2010/07/26/deportation-default> (estimated number of non-citizens with a mental disability in immigration proceedings in 2008, i.e., 15% of total immigrant population in detention).

The New York City Bar Association (“City Bar”) was founded in 1870 and is a private, non-profit organization of more than 24,000 attorneys, law students and law school professors. The City Bar has long supported the vigorous and fair enforcement of laws protecting civil rights. The City Bar’s Mental Health Law Committee respectfully urges the incoming Administration to consider the following measures to provide better treatment and opportunities to millions of Americans with mental illness.

1. PROGRAMS THAT PROVIDE BETTER TRAINING FOR POLICE OFFICERS WHO INTERACT WITH PERSONS WITH MENTAL ILLNESS OR WHO ARE IN PSYCHIATRIC CRISIS

The incoming Administration has proposed the Restoring Community Safety Act,⁷ which would provide an increase in funding for programs to train and assist local police. Specialized training is crucial for law enforcement personnel, who must interact with persons with mental illness in the course of their duties, in order to save lives and reduce unnecessary incarceration. Furthermore, persons with mental illness should be diverted to mental health treatment programs that are set up for the purpose of providing comprehensive community treatment options, rather than placing individuals in psychiatric crisis in the criminal justice system.

Training for law enforcement agencies and personnel should involve the following factors⁸:

- a. De-escalation techniques
- b. Use of nonlethal force
- c. Diversion options instead of incarceration, ensuring that persons with mental illness receive treatment and avoid the criminal justice system

2. PROGRAMS TO PROVIDE BETTER MENTAL HEALTH TREATMENT FOR PERSONS IN CORRECTIONAL FACILITIES

As noted above, 15 to 20% of persons in jails and prisons suffer from a serious mental illness. A 2010 study indicates that nationwide there are far more mentally ill people in prisons and jails than in psychiatric hospitals.⁹ Many of these individuals cycle between prisons and hospitals, receiving little, if any, aftercare. Persons with mental illness in jails and prisons are more likely to serve longer sentences, to have disciplinary infractions, and to have their illness

⁷ Donald J. Trump Contract with the American Voter, available at <https://www.donaldjtrump.com/press-releases/donald-j.-trump-delivers-groundbreaking-contract-for-the-american-vote1> (October 22, 2016).

⁸ See, e.g., City of Memphis Crisis Intervention Team (2016), available at <http://www.memphistn.gov/Government/PoliceServices/CrisisInterventionTeam.aspx>; Amy C. Watson and Anjali J. Fulambarker, *The Crisis Intervention Team Model of Police Response to Mental Health Crisis: A Primer for Mental Health Practitioners*, 8 BEST PRACG MENT HEALTH 71, (2012).

⁹ E. Fuller Torrey, Aaron Kennard, Don Eslinger, Richard Lamb, and James Pavle, *More Mentally Ill Persons are in Jails and Prisons than Hospitals: A Survey of the States*, available at http://www.treatmentadvocacycenter.org/storage/documents/final_jails_v_hospitals_study.pdf (May 2010).

exacerbated from the use of solitary confinement.¹⁰ They are also more likely to commit suicide.¹¹

Programs to improve mental health treatment in correctional facilities should include the following components¹²:

- a. Training for correctional employees to screen and identify persons with mental illness and ensure they receive appropriate treatment, including using de-escalation techniques, reducing punitive segregation, and creating specialized units
- b. Expanding access to effective mental health treatment in correctional facilities that is therapeutic rather than punitive
- c. Re-entry services to include supportive housing and outpatient mental health treatment

3. PROGRAMS TO PROVIDE BETTER COMMUNITY SUPPORTS FOR PERSONS WITH MENTAL ILLNESS

We urge the incoming Administration to maintain support for community-based mental health treatment programs. Too often, persons with mental illness face unnecessary institutionalization because of a lack of adequate community supports, or they are released from hospitals or jails without being connected to appropriate community support and housing programs.

Creating affordable, supportive housing and ensuring community-based services for people with mental illness through enforcement of the Americans with Disabilities Act (“ADA”)¹³ is critical for the safety and wellbeing of this population as well as that of the general public. Persons with mental illness are entitled to the least restrictive alternative where treatment is concerned, and this means living in the community if they are capable of doing so. The ADA requires States to provide community-based treatment, and unjustified isolation is discrimination based on a disability.¹⁴ Yet, persons with mental illness continue to face unjustified isolation due to confinement in both psychiatric hospitals and adult homes.

¹⁰ Council of State Governments, Criminal Justice/Mental Health Consensus Project, *available at*: <https://www.ncjrs.gov/pdffiles1/nij/grants/197103.pdf> (June 2002)

¹¹ The Sentencing Project, *Mentally Ill Offenders in the Criminal Justice System: An Analysis and Prescription*, *available at*: <http://www.sentencingproject.org/wp-content/uploads/2016/01/Mentally-Ill-Offenders-in-the-Criminal-Justice-System.pdf> (January 2002).

¹² See e.g. City of New York Mayor’s Task Force on Behavioral Health and Criminal Justice, *First Status Report*, *available at*: http://www1.nyc.gov/assets/criminaljustice/downloads/pdfs/BHTF_StatusReport.pdf (July 2015).

¹³ 42 U.S.C. § 12132 (2006).

¹⁴ *Olmstead v. L.C. ex rel. Zimring*, 527 U.S. 581, 607 (1999).

Community-based services should include the following components:

- a. Affordable supportive housing
- b. Job training and day programs that emphasize community integration and employment opportunities
- c. Case management to ensure continuity of care
- d. Support for caregivers. The incoming Administration has proposed the Affordable Childcare and Elder Act,¹⁵ which would allow Americans to deduct childcare and elder care expenses from their taxes; this legislation should include family members who care for persons with mental illness or intellectual disabilities.

4. PROGRAMS TO PROVIDE MENTAL HEALTH EDUCATION IN PUBLIC SCHOOLS TO REDUCE STIGMA AND PROVIDE EARLY ACCESS TO TREATMENT¹⁶

One in five children, either currently or at some point in their lives, has had a seriously debilitating mental disorder.¹⁷ Mental health education for public school administrators, faculty and students would promote and advance health and safety for all stakeholders in our school communities.

School-based mental health education programs should include the following components:

- a. Increasing mental health awareness to reduce stigma and create environments where students feel comfortable to speak about these issues
- b. Mental health training for educators and school staff to identify signs and symptoms of mental illness in children, as well as knowledge of resources available
- c. Reducing reliance on suspension and instead using research-based restorative approaches to address the root causes of misbehavior

¹⁵ See *supra* note 6.

¹⁶ See, e.g., National Council on Disability, *Breaking the School-to-Prison Pipeline for Students with Disabilities*, available at: <http://www.ncd.gov/publications/2015/06182015> (June 18, 2015); City of New York Mayor's Leadership Team on School Climate and Discipline, *Safety with Dignity*, available at: <http://www1.nyc.gov/assets/sclt/downloads/pdf/safety-with-dignity-final-complete-report-723.pdf> (July 2015); City of New York Mayor's Leadership Team on School Climate and Discipline, *A Plan for Safety and Fairness in Schools*, available at: http://www1.nyc.gov/assets/sclt/downloads/pdf/SCLT_Report_7-21-16.pdf (July 2016).

¹⁷ NATIONAL INSTITUTE OF MENTAL HEALTH: Any Disorder Among Children, available at <https://www.nimh.nih.gov/health/statistics/prevalence/any-disorder-among-children.shtml>.

The treatment of persons with mental illness is a vitally important issue and we urge the Administration to acknowledge and address these issues affecting millions of Americans.

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