

# Criminal Justice

Advocating for an Adult  
with a Mental Illness

A

ADULTS



**nami**

National Alliance on Mental Illness

**MINNESOTA**

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NAMI Minnesota champions justice, dignity, and respect for all people affected by mental illnesses. Through education, support, and advocacy we strive to eliminate the pervasive stigma of mental illnesses, effect positive changes in the mental health system, and increase the public and professional understanding of mental illnesses.

# **CRIMINAL JUSTICE**

## *Advocating for an Adult with a Mental Illness*

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## INTRODUCTION

This booklet is for anyone trying to advocate for a person with a mental illness who has been arrested or is otherwise involved in the Minnesota criminal justice system. It contains basic information about the criminal justice process from the response to an incident all the way to release from prison. This booklet does not contain legal advice.

Too many people with mental illnesses become entangled with the criminal justice system due to lack or failure of treatment. NAMI works to ensure that community mental health services and supports are available so that people can live successfully in the community and so that contact with law enforcement and the criminal justice system does not occur. At the same time, it works to ensure that if people with mental illnesses do end up in the criminal justice system, they are diverted whenever possible from jails into treatment, that they have access to medications and treatment while incarcerated and that there is discharge planning to prevent recidivism.

Psychiatric symptoms, such as delusions and hallucinations, are often the reason a person with a mental illness encounters the criminal justice system. Sometimes it involves self-medicating through the use of alcohol or illegal drugs. When a crisis occurs, a law enforcement officer often responds, which leads to a criminal justice response (arrest, filing charges) rather than a mental health response (referral to crisis services, outreach or hospitalization).

Unfortunately, people with mental illnesses are overrepresented in Minnesota correctional facilities. About 25% of the men and 65% of women in state prisons receive treatment for mental illnesses. The percentage is unknown in Minnesota jails. Across the country, an estimated 56% of people in state prisons and 64% of people in jails live with a mental illness (Bureau of Justice Statistics, 2006).

Advocating for your loved one with law enforcement officers and courts can be very difficult, stressful and intimidating—but it can also make a difference. As a family member, friend, peer advocate or community mental health worker, you should know that sharing information about the individual can be helpful. Key decision-makers—law enforcement officers, judges, prosecutors, defense attorneys and jail staff—will make important decisions about this person using the information that is available.

Advocating alone is not a good idea. Don't hesitate to reach out to leaders in your faith community or groups you belong to and ask them to accompany you to the jail, court and so forth. Having someone with you in stressful situations, such as talking to law enforcement officers

or jail staff, can be a huge help. Not only is there another person to remember what was said, but it demonstrates that more than one person is concerned about the plight of the individual with a mental illness. The criminal justice system contains a lot of discretion, starting with the law enforcement officers, then the prosecutor and finally the judge. Your advocacy is important because it may result in improving the person's situation.

### FLOW CHART OF EVENTS



At every stage in this chain of events (simplified in this illustration), the chance exists that the person could be released or diverted out of the criminal justice system into the mental health system. The next sections will explain in more detail each stage in this chain of events. ■

## MENTAL HEALTH CRISIS

For more in-depth guidance on, refer to NAMI's booklet, *Mental Health Crisis Planning: Learn to Recognize, manage, prevent and plan for your loved one's mental health crisis*.

When a mental health or behavioral emergency occurs, family members or friends often don't know what to do. If you are worried that the person with a mental illness is in or nearing a crisis, you can seek help in a number of ways. Before choosing which option to pursue, as-

assess the situation. Consider whether the person is in danger of hurting themselves, others or property. Consider whether you need emergency assistance, guidance or support.

If you do not believe the person is in immediate danger, call a psychiatrist, clinic nurse, therapist, case manager or family physician who is familiar with the person's history. This professional can help assess the situation and advise on further action. The professional may be able to obtain an appointment or may be able to admit the person to the hospital. If you cannot reach someone and the situation is worsening, do not continue to wait for a return call. Take another action, such as calling a county mental health crisis team or 911.

If you think the person with a mental illness needs emergency medical or psychiatric attention, drive them to the nearest emergency room—but only if you can do so safely. **If safety is a concern, call 911.**

If you want advice, support and someone to assess the situation, contact your county's mental health crisis team. The teams differ greatly across the state, so it's helpful to know in advance what type of crisis services they offer. Many teams are mobile and will come to a person's home.

If they do come out, they can assess the person, offer options, negotiate with the individual and sometimes provide a nurse who can order an "emergency hold." An emergency hold is used to confine a person with a mental illness for 72 hours to assess whether commitment is necessary. They can also provide continued assistance for several days if needed. (For more information on Minnesota's commitment law, see the NAMI booklet entitled "Understanding the Minnesota Civil Commitment Process.") Even if the team doesn't come out to the person's home, they can provide advice and support.

Some of the teams are not heavily staffed, so they may refer you to law enforcement or another agency. If the situation changes, don't be afraid to call the crisis team back. Although they could not come out the first time you called, they may be free later.

If the situation is life-threatening or if serious property damage is occurring, call 911 and ask for law enforcement assistance. When you call 911, tell them your loved one is experiencing a mental health crisis and explain the nature of the emergency. Telling the law enforcement agency that it is a crisis involving a person with a mental illness increases the chance that they will send an officer trained to work with people with mental illnesses. Be sure to tell them—if you know for certain—whether the person has access to guns, knives or other weapons.

When providing information about a person in a mental health crisis, always be very specific about the behaviors you are observing. Instead of saying “My son is behaving strangely,” for example, you might say, “My son hasn’t slept in three days, he hasn’t eaten anything substantive in over five days, and he believes that the FBI is transmitting messages through his fillings.” Report any active psychotic behavior, huge changes in behaviors (such as not leaving the house, not taking showers), threats to other people and increase in manic behaviors or agitation (pacing, irritability). You need to describe what is going on right now, not what happened a year ago. **Finally, in a crisis situation, remember: when in doubt, go out.** Do not put yourself in harm’s way. ■

## LAW ENFORCEMENT RESPONSE

When the law enforcement officer arrives, provide them with as much relevant and concise information about the person as you can, including the individual’s:

- ▶ Diagnosis
- ▶ Medications
- ▶ Hospitalization history
- ▶ Previous history of violence or criminal charges

If the person has no history of violent acts, be sure to point this out. Lay out the facts efficiently and objectively, and the officer will decide the course of action.

Depending upon the law enforcement officer involved, they may take your loved one to jail instead of to a hospital emergency room. Law enforcement officers have broad discretion in deciding who to arrest, hospitalize or ignore. If you are at the scene, encourage the law enforcement officer to view the situation as a mental health crisis. Be clear about what you want to have happen without disrespecting the law enforcement officer’s authority. But remember, once 911 is called and law enforcement officers arrive on the scene, they determine if a possible crime has occurred and they have the power to arrest and take into custody a person that they suspect of committing a crime. ■

## THE ARREST

Most arrests occur when a law enforcement officer has observed a crime or was told by a reliable person that a crime has just occurred. The behaviors of the individual with a mental illness could have been noticed by others in the community or the law enforcement officer directly. It is not always the family member who contacts law enforce-

ment. Again, it is important to remember that law enforcement officers have the power to arrest and take into custody a person they suspect of committing a crime.

It's also important to know that once an officer arrests a person, the officer has the right to search them. If the officer discovers illegal possessions such as drugs or weapons, those charges will be added to the original ones.

Law enforcement officers may use what appear to you to be aggressive methods to make arrests. They are legally obligated not to use excessive force, but they are also trained to gain control over an arrestee very quickly if they believe that the arrestee has shown any sign of resistance. An arrest can be upsetting to observe. Officers are quick to react to any indication that people near the arrest might hinder or interfere with them. If you are concerned about the way that a person is being arrested, the best thing you can do is to step back and do nothing other than very calmly advise the person to go quietly with the officer. Even this behavior on your part may prompt a negative response from an officer.

Although officers must give you names and badge numbers if you request them, this is often an unwise thing to do in the heat of an arrest. Some officers will treat this question as interference with their work, which is a crime, and may arrest the questioner. You can easily get the identity of the law enforcement officer from the reports the officer must file after the arrest.

**It is never wise to resist in any way officers who have decided to arrest your loved one.** Any issues that arise during the arrest can be addressed by you, your loved one or their lawyer at a later and more appropriate time and place. You can be most helpful to your loved one by remaining calm and advising them to be calm as well. When the situation is under control, most officers are willing to hear about special needs of the person being arrested.

If your loved one is arrested, they may be referred to as an *arrestee* (a person who has been arrested), the *accused* or a *suspect*. These terms mean that the person is suspected of committing a crime and may face charges.

Once a person is arrested, the law enforcement officers will usually take them first to the local police station of the town or city where the arrest occurred. If the town or city is not large enough to have its own police department, the arrestee will be taken to the investigative department of the sheriff in the county in which they were arrested. If the arrest has been for a serious offense, the person will often spend time at the station being questioned. Fairly soon after most arrests, however, the

person will be transferred to the local county jail, which is under the control of the county sheriff and the sheriff's deputies.

After a person has been arrested, the officers may decide to issue a citation and release the person. A citation briefly describes the charge and tells the person where and when to go to court to answer it. Law enforcement officers tend to give citations for minor offenses committed by persons who have a place to stay, adequate identification and present no indication that they will continue to offend if released. People who receive citations must obey them or face a warrant being issued for their arrest. Offer to take as much responsibility as you feel comfortable accepting. If you can promise the person will appear in court, the law enforcement officer may be willing to release them.

Issuing a citation, or what is sometimes referred to as an appearance ticket, rather than keeping the person in custody is generally within the law enforcement officer's discretion. The decision is based on whether the law enforcement officer believes the person will show up for court and will remain law-abiding. If the law enforcement officer releases the person with an appearance ticket, do everything to ensure that the person appears in court on the specified date. If they do not appear on that date, a bench warrant will be issued and a law enforcement officer will rearrest them.

If you have a complaint about the behavior of an arresting officer because they acted inappropriately or used excessive force with your loved one, it is best to discuss this with your loved one's defense attorney before taking any action. The circumstances of the arrest might affect the outcome of the case. Write down what happened during the arrest as soon as possible.

Not all arrests take place when law enforcement officers have observed a crime or were told that a crime has just occurred. Arrests can also occur at the end of an investigation of some event that occurred days or even weeks earlier. Arrests can also occur if a suspect has failed to make a court appearance in response to another charge and a judge has issued a bench warrant for the suspect.

Sometimes, particularly when a warrant has been issued for a suspect, arrangements may be made with an arresting agency to turn the suspect in to the authorities, rather than wait for an arrest to occur. Ordinarily, the county sheriff's office handles such arrangements. Advance notice to the sheriff's office that the suspect has a mental illness may lead to authorities responding more appropriately to the suspect at the time of the surrender. On occasion, particularly for a minor offense, the sheriff's office might advise that the suspect may surrender to the authorities

early in the morning, before court convenes, in order to get the accused in front of a judge as soon as possible. This might result in a shortened detention for the individual, since he or she will have shown by surrendering to the authorities that he or she is a good risk for release pending the resolution of the criminal charges. ■

## THE JAIL

If you are present when the person is arrested, the law enforcement officers can tell you where they are taking the person. But if all you know is that the person was or may have been arrested, finding them can be difficult, unless the individual calls you. For this reason, it is a good idea for your loved one to carry phone numbers of their case managers, family members and advocates at all times.

If the person does not call you, find the location of the jail or courthouse by looking it up in the county government section of the phonebook. Then call or go to the jail or courthouse and talk to the staff in person. Inmates are registered according their name and date of birth.

Once the person is taken to the jail, they will be searched again and often “booked.” This process, which involves fingerprinting, photographing and running a criminal history, can be time-consuming, depending on how busy the jail is. Often, a person who is waiting to be booked has to wait for a considerable time in uncomfortable, sparse conditions. Persons who appear to have mental health symptoms might await their booking in segregation. People who have been arrested have the right to make a phone call only after the booking is complete.

If the person has been arrested for a minor offense, the deputies in the jail may decide to release them immediately if they promise to appear in court at a later date. If they are not released on their promise to appear, they may have a bail set by the deputies. This means that they can be released until their court appearances if they can meet the bail amount. Once bail has been set, you may contact a bail bondsman immediately. After bail has been posted, your loved one will be released, allowing you to seek their admission to a hospital if needed. If they are not released based on their promise to appear or by paying bail, they will need to wait in jail until their arraignment, which is their first opportunity to go before a judge.

Some people may be held in a holding cell at the courthouse while waiting for their arraignment. These cells are usually very stark and may be crowded. Access to any medications or health care is extremely limited. The person may be interviewed by a probation officer.

If a person has been arrested for a serious offense, they may be placed on “PC” (probable cause) status with a much higher bail or with no release on bail available at all. Persons on probable cause status are being held while more investigation is being done on their case so that a prosecutor may make a decision whether to charge them with serious offenses. Persons may be kept on this basis for as long as 36 hours past the midnight following their arrests. If the person has been arrested on a weekend or holiday, the 36 hours does not start until 12:01 a.m. of the first business day after the arrest.

When you care about a person who has a mental illness and they are jailed, you have a crisis. Your first priority is to ensure safety and appropriate treatment. In order to be helpful, you must first find your loved one.

*Ways to help your loved one:*

- ▶ Advocate for their release and/or receipt of a citation or appearance ticket
- ▶ Be present at the arraignment and influence the bail decision
- ▶ Advocate for an release with appropriate conditions
- ▶ Notify mental health staff or the nurse at the jail about which medications the person needs
- ▶ Notify jail staff and jail nurse if the person is suicidal. *People who die by suicide in jail usually do so in the first couple of days. Notifying jail staff that an individual may be suicidal could save their life.*

Minnesota law requires jails to conduct a mental health screening of persons being detained. This screening helps to identify suicidal thoughts and other mental health concerns.

## **Mental Health Services and Medications in the Jails**

Many Minnesota jails have access to health care services and mental health services. This access, however, varies greatly from county to county. People may not receive mental health services or medication if they do not ask. Even if the person is identified as having a mental illness, the staff will not have information about treatment needs. You may have important information about your loved one’s medication that the jail’s medical staff, usually nurses, need. Some jails have limited access to doctors and psychiatrists. If your loved one has a personal psychiatrist, the doctor may be able to see your loved one in jail.

Your first step is to contact the medical staff at the jail, generally the jail nurse. This may be difficult. Jail medical staff may not be willing to talk with you because of confidentiality rules. **If this happens, be polite but persistent.** Say something like:

*“I’m not asking you for any information from you right now. I want to give you information. \_\_\_\_\_ (Name) was arrested and is in your jail. (Name) has a mental illness. Their diagnosis is \_\_\_\_\_, and they take \_\_\_\_\_ milligrams (dose) of \_\_\_\_\_ (medication) and \_\_\_\_\_ milligrams dose of \_\_\_\_\_ (medication) twice a day. Their doctor can be contacted at this number, \_\_\_\_\_. They have a history of suicide attempts. When you speak to them, could you please ask them to sign a release so you can speak to me about their condition? I will call you back tomorrow morning.”*

Share whatever information is specific to the person’s condition and needs. If they are at risk of suicide, ask that they be put on suicide watch. This may involve placing them in segregation.

In most cases, it is possible to bring the person’s medications to the jail. Be sure that the medications are in their original bottles and that the prescription instructions are with the medicines. Try to be in contact with the jail nurse. Jails have an interest in giving their detainees appropriate medications. In most cases, accepting medication for detainees is a matter of jail policy and contributes to general security. However, your loved one must take the medicine when offered. The jail nurse will not force your loved one to take medication unless it is ordered by the court during a commitment hearing (called a Jarvis hearing). It may still be unlikely, however, that a jail nurse will inject someone with a medication against their wishes.

It is helpful to write down the name and phone number of every person with whom you speak. Consider contacting them regularly to follow up on the information you have shared. You may want to keep a notebook summarizing the conversations. ■

## **ARRAIGNMENT**

The arraignment is the first time during the criminal process when a defendant sees a judge. **It has two purposes: 1) to tell the arrestee what crimes are being charged and 2) to decide the conditions of release.** In addition, if a defendant appears without a lawyer, the judge will ask questions to see if a public defender should be appointed. If the defendant does not qualify for a public defender and they want to hire an attorney, they are usually given another court date so that they can appear with an attorney. You will note that the person is now called a *defendant*.

If the defendant is in custody, the arraignment usually takes place within 36 hours of the arrest, beginning at midnight of the day the person was arrested, excluding weekends and holidays. This means

if the person was arrested during the day on Thursday, the 36-hour period does not begin until midnight on Thursday night. Saturdays, Sundays and holidays are not included in the 36-hour period, so the person may not get into court until Monday. To find where the arraignment will take place, call the jail or clerk of court in the county where your loved one is being held. These phone numbers can be found in the county government pages of the phonebook or on the county website. To identify your loved one's case, you will need their full name and date of birth.

Arraignments can have many different outcomes, with some of the common ones being:

## **Continuance Without Plea**

The defendant may be offered a continuance for dismissal by the prosecutor if the offense is minor enough. This means that an appearance will be put off, usually for six months to a year, during which the defendant must follow certain conditions (such as taking medications, going to treatment, not drinking alcohol, staying in touch with their probation officer, making restitution to victims, paying courts costs or costs of prosecution) and be law-abiding. If the person follows the conditions, the charges will be dismissed. If the person doesn't follow the conditions, charges can be refiled and the process will start all over again. Defendants charged with some more serious offenses may receive a continuance (if the prosecutor agrees), but generally the conditions are stricter and involve a "pretrial diversion program."

## **Plead Guilty**

The defendant may enter a guilty plea. Ordinarily, defendants do not plead guilty to serious cases at the arraignment. Regardless of the seriousness of the charge, guilty pleas usually happen only after some discussion has occurred with the prosecutor about limitations on the sentence the judge will impose or whether some charges will be dismissed if the defendant pleads guilty. After the guilty plea, the judge will either sentence the defendant immediately or direct the defendant to be interviewed by a probation officer (presentence investigation), who will then give information to the judge to take into account before sentencing.

## **Plead Not Guilty**

The defendant may enter a not guilty plea for charges that are petty misdemeanors or misdemeanors, and be told by the court when to return for future appearances. When the charge is a serious offense (felonies,

most gross misdemeanors), defendants who do not plead guilty are not asked to plead not guilty at the arraignment. The court sets future appearances for this.

## **Case Dismissed**

If the prosecutor has not filed charges against the defendant, the judge will dismiss the case and release the defendant from jail unless the prosecutor asks for more time to investigate the case. If the case is dismissed because charges are not filed, it is always a good idea to make sure that the prosecutor has a good address for the defendant so if new charges are filed, the defendant can be notified by mail rather than by being arrested.

If the case does not end at arraignment, the judge will decide whether or not to impose conditions of release. This may occur even if the defendant is not in custody and has come to court for the arraignment. Conditions of release may mean staying away from a victim (see *No Contact Orders* below), submitting to a chemical dependency or psychological evaluation, maintaining a residence with relatives or other responsible parties, taking medications or anything else the judge believes will help the defendant remain law-abiding and come to court when ordered. In addition, the judge can order bail to be posted before the defendant can leave jail.

The arraignment can be a frustrating experience. The wait may be lengthy, sometimes all day. A schedule of the arraignments for that day may be posted outside the courtroom. There may be no one readily apparent who can answer questions or provide assistance. Family members must be prepared to seek and ask for help. The person in court most likely to be able to help is the court clerk, who sits near the judge in the courtroom. That person is usually very busy preparing for court to be in session and may not have or take time to answer many questions right away.

If a defendant is released, they will be able to go home after the jail has processed them out. If the judge requires bail, the attorney, court officer or clerk can explain to the defendant and their family how to post bail or to purchase a bond instead of providing the whole bail amount. A defendant must satisfy all of the conditions set by the court before they will be released. It is important to note that it can take a while for a case to go to trial, so trying to get them released can be very important.

Ramsey and Hennepin counties have mental health courts. These courts are established specifically for individuals with mental illnesses who end up in the criminal justice system. Mental health courts typically

hear misdemeanor and gross misdemeanor offenses where the person has a documented or suspected mental illness. The person, if they agree, is referred to the court by the public defender and the prosecuting attorney. The judge has several options, such as pre-plea diversion in which charges are dismissed if the person satisfies certain conditions; post-plea diversion in which the guilty plea is reduced or dismissed if the person satisfies certain conditions; or a probationary sentence in which the person must satisfy certain conditions instead of being placed in jail. It is important to note that a person must plead guilty to use a mental health court.

Some counties have special projects or work with nonprofits to offer pre-trial services. Ramsey County uses Project Remand, a private, nonprofit organization that offers alternatives to jail. For example, they will conduct an evaluation for conditional release, screen for alcohol problems, monitor for psychological treatment and help with employment, among other things. Staff from these programs may also be very helpful in answering questions and providing support.

## **No Contact Orders**

In some arraignment cases, the judge may issue a no contact order. A no contact order is a court order protecting a person or place (a particular business or address) from a defendant. No contact orders are often issued when a defendant is charged with harming another person in some way.

If a no contact order is issued to your loved one, try to help them understand and comply with the order. If the order is violated, your loved one risks serious consequences. Though your loved one may disagree with the order, they should not ignore it. They may ask the defense attorney to try to have it lifted. ■

## **DEFENSE ATTORNEYS**

Every person accused of a crime has the right to be represented by an attorney. The person or you can hire a criminal defense attorney. If the person is indigent and cannot afford an attorney, the court will appoint a public defender. Private attorneys can become involved at any time—even before the arraignment. A public defender is appointed at the person's first appearance before the court.

## Public Defenders

The court appoints a public defender attorney if it determines that the defendant cannot afford to hire a private attorney. A person can request at any time that a public defender be appointed, but this is usually done at the first court appearance. Once the court agrees, the local chief public defender decides which assistant public defender will handle the case. The defendant usually does not get to choose which assistant public defender will handle their case.

There are also five public defense corporations in Minnesota: the Legal Rights Center in Minneapolis, the Neighborhood Justice Center in St. Paul, White Earth Defense Corporation, Leech Lake Defense Corporation and Indian Legal Assistance. They serve specific communities and are available to people who cannot afford an attorney. You can access their websites through the State of Minnesota Board of Public Defense website.

If your loved one is assigned a public defender, it may be challenging to find out who that person is. Your loved one may be able to tell you this information. Sometimes, the system is so confusing that a defendant can go through the process, be released or sent to jail without even knowing who represented them. Finding the defense attorney is possible with a little detective work. The clerk of courts may have that information. The court records will either include a certificate of representation, if your loved one has a private attorney, or the identity of the public defender. Generally, the public defender is named at the arraignment. See the table, “Public Defender Offices in Minnesota,” to find the public defender’s office for the county where your loved one is being prosecuted.

Public defenders are often hard-working, dedicated attorneys. It is important, however, to understand that public defenders work with very limited resources, including insufficient funding and excessive caseloads. Try to be patient but persistent.

## Public Defender Offices in Minnesota

JUDICIAL DISTRICT	COUNTIES SERVED	CONTACT INFORMATION
<b>First Judicial District</b>	Carver Dakota Goodhue Le Sueur McLeod Scott Sibley	919 Vermillion St. Suite 200 Hastings, MN 55033 Phone: 651-480-0122
<b>Second Judicial District</b>	Ramsey	101 E. Fifth St. Suite 1808 St. Paul, MN 55101 Phone: 651-757-1600
<b>Third Judicial District</b>	Dodge Fillmore Freeborn Houston Mower Olmsted Rice Steele Wabasha Waseca Winona	400 South Broadway Suite 204 Rochester, MN 55904 Phone: 507-285-7370
<b>Fourth Judicial District</b>	Hennepin	701 4th Av S. Suite 1400 Minneapolis, MN 55415 Phone: 612-348-7530
<b>Fifth Judicial District</b>	Blue Earth Brown Cottonwood Faribault Jackson Lincoln Lyon Martin Murray Nicollet Nobles Pipestone Redwood Rock Watonwan	12 Civic Center Plaza Suite 2070 PO Box 1059 Mankato, MN 56002 Phone: 507-389-5138

## Public Defender Offices in Minnesota

JUDICIAL DISTRICT	COUNTIES SERVED	CONTACT INFORMATION
<b>Sixth Judicial District</b>	Carlton Cook Lake St. Louis	1400 Alworth Building 306 W. Superior St. Duluth, MN 55802 Phone: 218-733-1027
<b>Seventh Judicial District</b>	Becker Benton Clay Douglas Mille Lacs Morrison Otter Tail Stearns Todd Wadena	816 W. St. Germain St. Suite 410 St. Cloud, MN 56301 Phone: 320-255-3753
<b>Eighth Judicial District</b>	Big Stone Chippewa Grant Kandiyohi Lac Qui Parle Meeker Pope Renville Stevens Swift Traverse Wilkin Yellow Medicine	432 SW Litchfield Av. Willmar, MN 56201 Phone: 320-231-6064
<b>Eighth Judicial District</b>	Big Stone Chippewa Grant Kandiyohi Lac Qui Parle Meeker Pope Renville Stevens Swift Traverse Wilkin Yellow Medicine	432 SW Litchfield Av. Willmar, MN 56201 Phone: 320-231-6064

### Public Defender Offices in Minnesota

JUDICIAL DISTRICT	COUNTIES SERVED	CONTACT INFORMATION
<b>Ninth Judicial District</b>	Aitkin Beltrami Cass Clearwater Crow Wing Hubbard Itasca Kittson Koochiching Lake of the Woods Mahnommen Marshall Norman Pennington Polk Red Lake Roseau	619 Beltrami Av. NW Suite 240 Bemidji, MN 56601 Phone: 218-755-4333
<b>Tenth Judicial District</b>	Anoka Chisago Isanti Kanabec Pine Sherburne Washington Wright	433 Jackson St. Suite 120 Anoka, MN 55303 Phone: 763-422-3350
<b>Appellate Office</b>	All	540 Fairview Av. N. Suite 300 St. Paul, MN 55104 Phone: 651-201-6700

### Public Defense Corporations in Minnesota

ORGANIZATION	COUNTIES SERVED	CONTACT INFORMATION
<b>Indian Legal Assistance</b>	Carlton St.Louis	107 W. First St. Duluth, MN 55802 218-727-2881
<b>Legal Rights Center</b>	Hennepin	1611 Park Av. S. Minneapolis, MN 55404 612-337-0030
<b>Neighborhood Justice Center</b>	Dakota Ramsey Washington	500 Laurel Av. St. Paul, MN 55102 651-222-4703

<b>Public Defense Corporations in Minnesota</b>		
<b>ORGANIZATION</b>	<b>COUNTIES SERVED</b>	<b>CONTACT INFORMATION</b>
<b>Regional Native Public Defense</b>	Becker County Beltrami County Cass County Clearwater County Itasca County Mahnommen County	<i>Cass Lake Office:</i> 232 2nd St. NW PO Box 487 Cass Lake, MN 56633 218-339-5680  <i>White Earth Office:</i> 35500 Eagleview Rd. PO Box 290 White Earth, MN 56591 218-983-3285

### **Criminal Defense Attorneys**

People who have enough income to hire a defense attorney will be required by the court to do so. However, those who qualify for a public defender should be cautious about going into debt to hire an attorney. Families should carefully consider their options before going into debt to hire an attorney.

It is very important to find an attorney who is experienced and effective. You can call the Minnesota Bar Association (1-800-292-4152) to verify that an attorney specializes in criminal cases. Some attorneys specialize in criminal defense and work extensively with defendants with mental illnesses. These attorneys have the expertise to handle the problems unique to people with mental illnesses. If you hire an attorney, make sure that criminal defense work is one of their specialties.

The Minnesota Board of Professional Responsibility (1-800-657-3601) can give you information on whether an attorney has had complaints or reprimands. You can search for an attorney’s record on the Internet at [www.courts.state.mn/lprb/SearchAttorney.aspx](http://www.courts.state.mn/lprb/SearchAttorney.aspx).

### **Other Options**

A defendant has the right to act as their own attorney, which is called pro se representation. This is allowed only if a judge determines that the defendant is competent to do so. This is rarely a good idea in felony cases or any cases involving jail time.

## Working with an Attorney

The best way to find out what is happening with the case is to work with the defense attorney. Often the most accessible person will be the attorney's law clerk or legal secretary. They can relay information from you to the attorney.

There are two reasons you may want to consider contacting the defense attorney:

- 1. THEY MAY HAVE INFORMATION THAT YOU WANT.** The defense attorney is the only person in the criminal justice system who has direct contact with the defendant who knows the defendant's version of the facts leading to arrest and what is likely to happen. They also have the law enforcement officer's and/or victim's versions of what happened. The defense attorney will also know what the defendant wants to do (e.g., plead guilty or go to trial) and whether they are interested in receiving mental health and/or drug treatment. The defense attorney is your best source for information about the case.

The defense attorney will not be able to talk to you about some aspects of the case, since they are required by law to keep a confidential relationship with their client. If you want to talk with the attorney about such information, ask your loved one to give consent to their defense attorney to talk to you about confidential matters.

- 2. YOU MAY HAVE INFORMATION THE ATTORNEY NEEDS TO HELP THE DEFENDANT.** The defense attorney probably knows little about the defendant's psychiatric diagnosis and history. Most defense attorneys have no specialized training in mental health issues and may not know to ask their clients about these issues.

Even if the defendant has told the defense attorney that they have a mental illness, the defense attorney may not talk to their client's mental health providers or family. By contacting the defense attorney, you have the opportunity to inform them about your loved one's mental health history.

## Talking to the Defense Attorney

Once you reach the defense attorney, be brief. Do not tell the defendant's whole story.

*Relevant facts to share:*

- ▶ Information about their mental illness, recent hospitalizations, medication and treatment
- ▶ Contact information for their psychiatrist and mental health case manager

- ▶ Witnesses who can confirm their mental illness
- ▶ Brief information about what stressors might have been happening in their life at the time of the offense
- ▶ The individual's criminal history
- ▶ Support systems and help available to the defendant in the community

It is a good idea to practice sharing your story before calling. Tell the attorney or clerk who you are calling about and that you have important information. Let the attorney ask you questions, and answer them. Avoid jargon. Do not hesitate to politely ask the attorney to explain any legal terms you don't understand.

Another option is to provide the pertinent information in writing, especially since the attorney probably does not have much time for phone calls. This way, you can ensure the attorney will have the information if you are not able to get through to them by phone.

Once you have established contact with the defense attorney, it is a good idea to call them a day or two before your loved one's court date. The attorney can inform you whether the hearing has been postponed and what they expect to happen that day.

## **Talking to Other Individuals in the Criminal Justice System**

You should not talk to the judge on your own unless you have the consent of the defense attorney. You may have the opportunity to address the judge in person on a court date, but you should do so only with the defense attorney's approval.

Do not talk to the prosecuting attorney without the defense attorney's consent. Information you think will help the defendant may be harmful in the hands of a prosecutor. However, the prosecutor also may understand that your loved one has a mental illness and work with the defense attorney. Your loved one's defense attorney should be the one to speak directly with both the prosecuting attorney and the judge.

## **Changing Attorneys**

The only person who may request a different attorney is the defendant. No matter how unhappy family members are with an appointed attorney, they cannot fire the attorney. The attorney represents the defendant only. Even if the attorney is hired and paid for by the family, the attorney's responsibility is to act on the defendant's wishes. That means that if the defendant tells the attorney not to talk to loved ones, the

attorney may not talk to them. If the defendant makes choices that are not in their best interest (e.g., refusing a generous plea bargain offer), the defense attorney must obey the client's wishes.

If the defendant is unhappy with an appointed attorney, they can request that the attorney be "relieved" from the case and a new attorney be appointed. The defendant must tell their attorney they want to do this, and the attorney will then tell the judge on the next court date.

Judges, however, rarely grant a request to assign a new attorney. A judge may deny a request because they feel the attorney is competent or that it would take a new attorney too long to become familiar with the case. If the defendant has already made the same request and did receive a new attorney, the judge may deny a second request because it is unreasonable. An attorney may also request to be relieved from representing a particular client, but this is rare. ■

## WARRANTS

Generally, a warrant is issued for a person's arrest if they commit an offense or violate a judge's order.

*Examples of violations:*

- ▶ Fail to appear on a scheduled court date
- ▶ Do not pay a fine
- ▶ Do not complete community service as ordered by the court
- ▶ Leave treatment when it has been ordered by the judge
- ▶ Do not follow a condition set by the judge for release from jail

The warrant will likely be issued the same day as the missed court date or within days or weeks of not following the judge's order. You should first make sure there really is a warrant. Call the court where the person thinks they were supposed to have appeared or was sentenced. Ask whether there is a warrant. You should not need to disclose the defendant's whereabouts. If someone asks you, explain that the defendant plans to deal with the warrant. Ask when and where they should appear. If the court does not track warrants, the county sheriff should. Ask the court how to reach that office. Be sure to contact the defense attorney. The defense attorney who represented the person when the warrant was issued may be able to help clear up the warrant. Call the attorney, explain there is a warrant and tell them if the defendant has a good excuse. The attorney should tell you when and where to go, and they may be able to meet you there.

Remember, it is not only the warrant that is pending but also the reason for the warrant. So, if criminal charges were pending, the defendant

may face possible conviction. If the defendant did not successfully complete a probationary sentence, they will be resentenced.

If you can't reach the defense attorney or they cannot help clear up the warrant, help your loved one respond to the warrant. Gather as much specific information about where you should appear and when from the sheriff's deputy who holds the warrant or from the court that issued it. Sometimes a defendant will have to go back to jail before seeing a judge. Sometimes a defendant will be given instructions to go to a specific court where the judge will decide whether they can remain free or go to jail.

If you have the option of going to court, show up early and explain to the court officers that you want to clear up a warrant. You will be directed to a specific courtroom. When you arrive, if you have not arranged to meet the defense attorney, you should ask a court officer or attorney whether an attorney is there who can "stand up" for the person when the case is called. If an attorney can help, explain any excuse the person has for the warrant. Be prepared for a long wait. Clearing up a warrant can take all day. Even though it may feel like a waste of time, the presence of an advocate can make all the difference—often between jail and a second chance.

It is very important to clear up a warrant. Someone with a warrant for their arrest is unlikely to be able to ignore it forever. How aggressively law enforcement officers track down outstanding warrants varies. It is possible that the law enforcement officer will arrive the evening the warrant was issued to arrest that person. Generally, law enforcement officers put more effort into finding people with outstanding warrants who are charged with serious offenses. Even if the law enforcement officer does not arrive at the door, the warrant still exists and will reappear if the person has another encounter with police. Warrants do not disappear on their own, and there is no time limit on how long a warrant exists.

Even if a person is 100% confident that they will never have another encounter with the police, there is another good reason to clear up a warrant. In recent years, the Social Security Administration (SSA) has begun checking individual applicants to confirm whether they have outstanding warrants in the United States. If SSA finds out someone has a warrant, they send a letter stating that because this person is a "fugitive," they will no longer receive Supplemental Security Income (SSI) and that benefits cannot be reinstated until the warrant is cleared up. Cases have even occurred in which SSA has demanded that persons with outstanding warrants pay back all benefits received while the warrant was in effect.

There is one more reason for clearing up a warrant: stress. As long as someone has a warrant out for their arrest, they are considered a fugitive, no matter how minor the offense. The reality is that sometimes the stress of worrying about a warrant is worse than the actual consequences of clearing it up.

When a defendant voluntarily returns to court to deal with a warrant, the outcome depends on a variety of factors—mainly whether the person has an excuse and how old the warrant is. If there is a persuasive excuse—the defendant was in a psychiatric hospital or a social worker is able to verify that the defendant was psychiatrically disabled—or if the warrant was issued only a couple of days ago, the defendant may not be in additional trouble. In this situation, the defendant will likely be required to follow through with their prior sentence, such as show up for court, pay a fine or complete community service.

If it is impossible for the defendant to do this, explain the situation to the court. Having an advocate in court, if possible a mental health worker with knowledge of the defendant's mental illness, will make the defendant more believable. If such a person is unavailable, it is helpful to bring a letter from the defendant's treatment provider. If you are unable to appear in court, giving the defendant a letter to show the judge is better than nothing, but being there in person is the best option. If the defendant does not have a good explanation for the warrant, they are likely to be in more trouble than before the warrant was issued, particularly if more than a couple of days have passed. "More trouble" could mean the defendant may have to pay bail or wait in jail before going to court, or they may be sentenced to jail time, rather than paying a fine or doing community service or both. A person will usually be in less trouble if they voluntarily clear up a warrant than if a law enforcement officer must bring them in. Judges are impressed when a defendant shows responsibility.

Deciding to clear up a warrant is a difficult and stressful decision. The only one who can decide is the person subject to the warrant. The best thing you can do for a loved one with a warrant is to help them understand the options and consequences. Explain how you can help if they decide to clear up a warrant, and give them time to decide.

Probation and parole officers also have the power to issue a warrant (either directly or by asking a judge) if a person under their supervision fails to report or comply with probation or parole conditions. It is difficult to determine when a warrant will be issued for a probation or parole violation. It may be immediately with parole or may take months with probation.

If your loved one believes that they have a warrant for a probation or parole violation and wants to clear it up, call the probation or parole officer. Ask whether a warrant was issued and try to prevent its issuance if that hasn't already happened. Even if a warrant has been issued, try to convince the officer to give the person another chance. In this situation, the person is more likely to stay out of jail if they have an advocate. ■

## **PLEA BARGAIN**

Most criminal cases never go to trial. Typically, the attorneys work out a deal beforehand, often on the day of the trial. This agreement is called a plea bargain and can entail a probationary sentence, a certain number of months in jail or prison, community service or even treatment. For people with mental illnesses, community service or treatment is preferable to being incarcerated. ■

## **RULE 20 PROCEEDINGS**

You will hear people talk about Rule 20 Proceedings. This phrase can refer to either Rule 20.01, which concerns the defendant's competency to proceed, or Rule 20.02, which concerns whether or not the defendant was criminally responsible for the offense. These rules are contained in the Minnesota Rules of Criminal Procedure. The presence of a mental illness is relevant to both types of proceedings. If your loved one has been assigned a public defender or has retained an attorney, let the attorney know your concerns about your loved one's mental health.

### **Rule 20.01: Competent to Stand Trial**

A defendant must be competent to proceed with the criminal case when charges have been brought against them. Competent means that the defendant is able to consult with the defense attorney, understand the proceedings and participate in the defense. If either the prosecuting or the defense attorney doubts that the defendant is able to proceed because the defendant has a serious mental illness, the attorney must bring this concern to the court's attention. The court will then order that a competency examination be conducted and appoint a psychiatrist or psychologist to conduct the examination. Once the decision is made to have the defendant examined, criminal proceedings are suspended.

*The examination may be conducted:*

- ▶ on an out-of-custody basis
- ▶ in the jail
- ▶ in a hospital (such as St. Peter Security Hospital) when clinically indicated
- ▶ Both the prosecuting and defense attorneys are allowed to hire their own examiner and have that examiner present at the examination conducted by the court's examiner.

*Contents of the examination report:*

- ▶ A diagnosis of the defendant's mental condition
- ▶ An opinion about the defendant's ability to understand the criminal proceedings and to participate in their own defense
- ▶ Recommendations for treatment
- ▶ An estimation of the likelihood that the defendant will eventually become competent
- ▶ The factual basis for these opinions

The report is given to the judge, prosecutor and defense attorney. The judge determines whether the defendant is competent based on the report and any objections from the attorneys. If the judge finds the defendant competent, then the defendant must go back to court and criminal proceedings continue. If the judge finds the defendant incompetent in a misdemeanor case, then the court may start civil commitment proceedings and must dismiss the criminal case. If the defendant is found incompetent in a gross misdemeanor or felony case, then the criminal charges are suspended. If the defendant is already civilly committed—which is when the court has ordered a person into treatment for a mental illness—the commitment will continue. Otherwise, the court will institute civil commitment proceedings against the defendant.

If the defendant is civilly committed, the institution or facility where the defendant is in treatment must periodically report to the court on the defendant's mental condition and provide an opinion on the defendant's ability to return to court. These reports are typically done at least once every six months. At any time, the court can conduct a hearing on the defendant's competency. There is no limit on the number of these hearings. A defendant cannot enter a plea or be tried or sentenced for any offense as long as they are judged to be incompetent. If the charges against the defendant do not include murder, they will be dismissed three years after the date the defendant was found incompetent, unless the prosecuting attorney files a notice of intent to prosecute at any time within this period. If this notice is filed, the criminal proceedings against the defendant will continue once the defendant is found competent, even if it takes more than three years.

It commonly happens that when a defendant who is initially found to be incompetent to stand trial receives medication and treatment, the defendant becomes competent and then stands trial.

## **Rule 20.02: Mental Illness Defense**

Minnesota law sets the standard that the criminal courts use to determine if a defendant with a mental illness should be held criminally responsible for an offense. In Minnesota, the mental illness defense, or what is commonly called the “insanity defense,” is referred to as the M’Naghten test, named for the defendant who was tried for murder in England, in 1843 and judged too mentally ill to be found guilty of the offense. The standard is that the defendant’s mental illness was so serious at the time of the offense that the defendant did not know the nature of the act or that it was wrong. It is important to note that this a very high standard and is not used very often by defendants.

The standard requires a significant cognitive incapacity. Someone experiencing hallucinations, a thought disorder or delusional thoughts does not automatically meet the standard. The mental illness must directly interfere with the defendant’s understanding of the offense at the time the offense was committed.

Many defense attorneys are reluctant to use this defense, in part due to the high threshold necessary to be found not responsible but also because a successful defense immediately triggers (except in very rare cases where the court is willing to waive it) a civil commitment proceeding. If civilly committed, the defendant may be held in a secure treatment facility for a longer period of time than the prison sentence would have been if the defendant had been found guilty. ■

## **THE TRIAL**

If your loved one’s case ends up going to trial, it is important for you to be present in the courtroom. You must be quiet. You are not allowed to talk to the person if they are in custody, and you are not allowed to speak to the judge, jurors and often the attorneys. Your presence can help the person feel supported in what is often a scary experience. Also, your presence lets the jury know that this individual is more than just a defendant, that they are part of a family and a community. ■

## SENTENCING: TREATMENT

If the person you love is at risk of going to jail or prison, you may want to advocate for treatment. Increasing numbers of defendants, even some charged with serious crimes, have the option to enter treatment rather than prison or jail. But you will need to get the attorneys and the judge to agree.

The defense attorney must protect the legal rights of their clients, usually by minimizing consequences or avoiding consequences altogether. Some defense attorneys may not believe that helping a client into treatment is their responsibility; however, many are happy to consider their clients' treatment needs when the treatment is preferable to the sentence that would otherwise be imposed. Treatment may not always be considered, especially when a defense attorney has an opportunity to quickly remove the client from the criminal justice system. If the defense attorney thinks that treatment is not appropriate, given the seriousness of the offense, or that the defendant will not succeed, they are not likely to pursue treatment as an option. If a defendant has a choice between two weeks in jail or a four-month treatment program and they decide to enter the treatment program, they may face consequences by the court if they fail to complete the treatment. Some attorneys may think that a civil commitment (six months) is a much worse option than a few weeks in jail. Some defendants may prefer to be in jail than in treatment.

The prosecuting attorney may not agree to treatment due to public safety concerns. They will look at how likely it is that the person will reoffend, the violent nature of the act and even the amount of publicity the case generated.

Family members are often looking after the person's best long-term mental health interests. They may be frustrated that the defendant must commit a serious offense before the criminal justice system helps. Sometimes family members feel that intervention through the criminal justice system is the only way to help a person into treatment. Avoiding jail or prison may be preferable because people with mental illnesses who go to jail are more likely to be victimized and mistreated than individuals who do not have a mental illness. You can use your knowledge to convince the judge, prosecutor and others that this person would benefit from treatment and that there are treatment programs capable of helping them avoid reoffending. Work with the defense attorney to do this.

Minnesota law (Minnesota Statute 609.1055) states that if a defendant with serious and persistent mental illness will be committed to the Department of Corrections (prison) for more than one year, the court may instead place the defendant on probation and require that the offender

successfully complete treatment. This standard generally applies to defendants who have committed felony offenses. The definition of mental illness used here is different than the M'Naghten standard; it is the one used in the adult mental health act [Minnesota

Statutes 245.462, subdivision 2099(c)]. This is a departure from the sentencing guidelines and is at the discretion of the judge at sentencing or when the individual's probation has been revoked.

Typically, unless treatment has been ordered as condition of pretrial release, the person must plead guilty before they are released to the program. The defendant must successfully complete the program as a condition of staying out of jail. They are required to comply with the program and regularly report to a probation officer or the court. If the defendant leaves the program, refuses to take medication, uses illegal drugs or otherwise does not cooperate with treatment, the treatment program will notify the probation department or the judge. In this case, the judge may give the person another chance or may sentence them to jail or prison—perhaps for an even longer sentence. If your loved one is sentenced to treatment, make sure they understand the consequences of failing to go to treatment.

If your loved one is currently receiving supervision from a probation agent or a parole agent and is facing either new charges or revocation, the supervising agent can be a valuable ally in persuading the court to accept a treatment option. Often family members can establish good working relationships with supervising agents. Since the agent has prolonged contact with the client, the court often considers the agent's recommendations very seriously. The supervising agent can ask for a Rule 20 (psychological competency) evaluation; if they believe that chemical dependency also was related to the offense, they can also ask for a Rule 25 (chemical dependency) evaluation.

## **Treatment Programs**

Sometimes the most challenging part is finding a treatment program that will accept the person. Often, for serious charges, the judge and/or prosecutor will insist that the defendant go to a residential treatment program. However, there are not enough residential treatment beds in Minnesota, and the application process for these programs is complicated. Many programs will not accept people straight from jail. You and the defense attorney will need to find someone (usually a social worker or case manager) who can process the application to help the defendant enter a program. Most defense attorneys' offices have their own social workers, called dispositional advisors, who can help explore programs.

Otherwise, the social worker may work for the court or be part of a community agency providing this service.

Even when a social worker or case manager is helping the defendant, the process can be frustrating. Specific issues, such as whether the defendant has a substance abuse problem, affect how difficult it is to find a program. Stay in touch with the social worker or case manager. Check in regularly and encourage them to make this case a priority. Just be aware that the process may take months. ■

## **SENTENCING: JAIL OR PRISON**

If your loved one ends up in jail or prison, you will want to continue to advocate for them. You want to make sure that the jail or prison staff is aware of their diagnosis, medications needed, history and so on. Be sure to learn the rules for visitation and what you can or cannot bring to your loved one.

When speaking with jail or prison staff about a loved one's mental illness, it is important to remain as calm and tactful as possible. Many people who contact staff are agitated or angry. Your calmness can help set you apart and be more effective in advocating for your loved one.

Talking to staff about your loved one's mental illness will not necessarily make the person's stay in the facility more comfortable. Facilities have different protocols their staff must follow regarding inmates with mental illnesses or risk of suicide. Facilities also vary in their ability to respond to mental health concerns. You may want to talk to staff about what options are available so you can weigh the pros and cons before raising your concerns.

Prisons and jails are hard places for people who have a serious mental illness. People in prisons feel pressure not to take their medications or ask for help for fear that they will be viewed as vulnerable, abused by other inmates or placed on suicide watch. It may be difficult for the person to follow the rules, and they may end up in segregation as a result.

### **Support For the Family**

Armed with the information in this booklet, you can advocate for your loved one more effectively. Still, having an incarcerated family member often involves feelings of frustration, burn-out and beyond. For support, you may wish to contact the NAMI Forensic Network (651-484-8218) and attend their meetings. The Forensic Network is

open to anyone with a mental illness who is or has been in prison and their family members.

## **Mental Health Treatment During Incarceration**

The amount and type of mental health treatment available varies from jail to jail. All Minnesota jails must administer a brief mental health screen at intake. Most jails use a short list of “yes” or “no” questions that takes about three minutes to administer. Those who indicate that they may have a mental illness or are at risk for suicide may receive a mental health assessment. However, many jails have little to no nursing or psychiatry services, and many lack the funds to pay for mental health assessments. When a jail does provide treatment, it is usually limited to medications. Therapy is not usually available in jails.

Minnesota prisons have more treatment options than local jails. As in the jails, each person receives a short mental health screen at intake, and if the screen indicates that they may have a mental illness, they are referred for further evaluation. Minnesota prisons provide crisis evaluations as needed. They offer mental health services based on need and available resources:

### *Levels of service:*

- ▶ **Level 1:** Self-help groups run by professional staff and volunteers. These usually meet weekly and have about 5 to 15 members. Examples include Alcoholics Anonymous, Narcotics Anonymous, grief support, personal empowerment, anger management, parenting and relationships.
- ▶ **Level 2:** Outpatient treatment, psychoeducation groups, psychotherapy groups and individual psychotherapy provided by licensed mental health professionals.
- ▶ **Level 3:** “Supportive Living Services” (SLS) provided by professional staff. SLS units are located in certain areas or residential units and provide mental health and daily living support services. There are SLS units at Lino Lakes, Stillwater, Rush City, Shakopee, Oak Park Heights and Red Wing.
- ▶ **Level 4:** Residential care with acute and chronic mental health care in a secured environment. They are available at Oak Park Heights, Shakopee and Red Wing.

Some state prisons may also have small, grant-based treatment options. If your loved one has treatment needs not currently being met, it is worth contacting the psychological services department at that prison to ask about what treatment options may be available at that specific prison (see the next few pages for prison psychological services contact information).

If your loved one experiences a mental health crisis in prison, two key factors may influence how the staff respond to the situation: (1) time of day and (2) severity of the symptoms. It may be easier for staff to respond during business hours and to less severe symptoms. It is important to know that all correctional facilities have a protocol staff must follow if they believe an inmate is at risk of suicide. Suicide watch protocols vary from facility to facility. You can ask staff what the protocol is at the facility where your loved one is incarcerated.

It is possible to arrange for an outside doctor to see and treat someone incarcerated in a Minnesota prison. The Department of Corrections will view the outside doctor's treatment plan only as a recommendation. Ultimately, prison mental health staff will decide what treatment plan to implement. The family must pay the expenses for bringing in an outside doctor, including travel time.

In addition, some Minnesota state prisons now have Crisis Intervention Team (CIT) trained officers who can help ensure appropriate responses to mental health crises in the prisons. The prisons in Stillwater, Oak Park Heights, Rush City, St. Cloud and Shakopee all have at least some trained officers. Additional prisons will likely send officers for CIT training soon after the printing of this booklet.

## **Substance Abuse Treatment During Incarceration**

As with mental health treatment, substance abuse treatment varies widely from jail to jail, and there are more treatment options in the state prisons. The Department of Corrections provides substance use treatment in all prisons except the maximum security facilities. These services include:

### ***Treatment readiness programs***

These are trainings designed to help people to participate more actively in and get more out of their treatment.

### ***Long-term treatment***

Inmates in long-term chemical dependency treatment work with therapists and licensed mental health supervisors. There is a shortage of this type of treatment. About 2,400 people entered Minnesota prisons in 2008 with a sentence to complete long-term chemical dependency treatment, but the prisons had funding to treat only 1,300 people that year.

### ***Aftercare***

Aftercare provides continuing support after a person completes treatment. Minimum-security inmates who have completed substance abuse treatment can receive aftercare. A staff member will identify communi-

ty-based programs that can provide aftercare for each individual after they are released from prison.

## If You Have Concerns About Treatment in a Minnesota State Prison

If you have concerns about your loved one’s mental health treatment in a Minnesota prison, contact the director of Psychological Services at their facility (see the “Minnesota State Prisons” table for telephone numbers at each facility).

If you have concerns *not* related to mental health, you should contact your family member’s case worker. Find the case worker’s name online at [www.doc.state.mn.us](http://www.doc.state.mn.us). From that page, click on “Offender Information,” then “Search Offender Records,” and then “Offender Locator.” Enter your family member’s name, and the case worker’s name and telephone number will appear in the search results. You can also call the prison where your loved one resides, ask them for the case worker’s name and request to speak with that person.

Minnesota State Prisons			
FACILITY	TELEPHONE NUMBER	POPULATION	OTHER DETAILS
<b>Faribault</b>	507-334-0700  Psychological Services: 507-332-4507	1,583	Level 3, medium-security facility for adult males.  A level 1 and 2 minimum-security unit, also for adult males, is located outside the secure perimeter.
<b>Lino Lakes</b>	651-717-6100  Psychological Services: 651-717-6526	1,310	Level 3, medium-security facility for adult males transferred from the state’s higher-security prisons.  A level 1, minimum-security unit is located outside the secure perimeter.

<b>Minnesota State Prisons</b>			
<b>FACILITY</b>	<b>TELEPHONE NUMBER</b>	<b>POPULATION</b>	<b>OTHER DETAILS</b>
<b>Oak Park Heights</b>	651-779-1400  Psychological Services: 651-779-1436	436	Level 5, maximum-security facility for adult males.  Receives offenders transferred primarily from other adult male institutions who are classified as maximum custody or extreme risks to the public.
<b>Red Wing</b>	651-267-3600  Psychological Services: 651-267-3752	180	Houses 150 serious and chronic male juvenile offenders.  Runs a separate community reentry program for 30 minimum-security adult male offenders.
<b>Rush City</b>	320-358-0400  Psychological Services: 320-358-0474	976	Level 4, close-custody facility for adult males.
<b>Shakopee</b>	952-496-4440  Psychological Services: 952-496-4919	544	Houses adult women of all security levels.
<b>St. Cloud</b>	320-240-3000  Psychological Services: 320-240-3030	986	Level 4, close-custody facility for adult males. Serves as the intake center for all adult males entering the Minnesota state prison system.

<b>Minnesota State Prisons</b>			
<b>FACILITY</b>	<b>TELEPHONE NUMBER</b>	<b>POPULATION</b>	<b>OTHER DETAILS</b>
<b>Stillwater</b>	651-779-2700  Psychological Services: 651-779-2780	1,454	Level 4, close-custody facility for adult males.
<b>Togo</b>	217-376-4411  Psychological Services: 218-376-4025	49	Houses juveniles in a 3-week program operated separately for boys and girls from 13 to 17 years of age.  Houses boys in a 3-month residential program and a chemical dependency treatment program.  Houses adult females in the Challenge Incarceration Program, a 6-month boot camp program for up to 24 non-dangerous women with chemical dependencies.
<b>Willow River/ Moose Lake</b>	218-485-5000  Psychological Services: Moose Lake: 218-485-5039  Willow River: 218-372-3101	Moose Lake: 753  Willow River: 162	Moose Lake: Level 3, medium-security facility for adult males.  Willow River: Houses adult males in the Challenge Incarceration Program, a 6-month boot camp program for up to 162 non-dangerous men with chemical dependencies.

Minnesota State Prisons			
FACILITY	TELEPHONE NUMBER	POPULATION	OTHER DETAILS
<b>Prairie Correctional Facility</b>	320-289-2052  Health Services (in MN): 320-289-2052, ext. 2230  Mental Health Director (Nashville): 800-624-2931, ext. 36628	1,200	Level 3, medium-security facility for adult males.  This facility is privately owned by a nationwide company, and the Department of Corrections contracts beds there.

## Data Privacy

The Department of Corrections cannot share health-related information with the family unless the person signs a release form. You can request that the facility ask your family member to sign a release form. Also, the department is unlikely to share information if the family has initiated a lawsuit against the department. However, you can always share important information with your loved one's treatment providers.

## Other Options

Life in any correctional facility is difficult, and someone with a serious mental illness may find it very hard to understand or follow the rules and thus may spend more time in disciplinary segregation. The Department of Corrections has a protocol to allow prisoners to be released from disciplinary confinement in a timely manner. The department is also required to develop a reentry plan for those inmates in disciplinary confinement who are nearing their release date so that they don't go directly from solitary confinement to the community. ■

## SENTENCING: PROBATION

Probation is a type of sentence that is used as an alternative to jail and for when a person has a stayed sentence. Some probationary sentences include jail time with a portion of the jail time held over the defendant's head while the defendant tries to follow the conditions of probation.

Probationers are supervised in the community and must comply with specific conditions set by the probation officer and the judge. Probationers must regularly report to their officers. If a person on probation fails to comply, the probation officer may ask the court to issue a warrant for their arrest. If a warrant is issued and the person is arrested, they will appear before a judge who will decide whether to continue probation or sentence the defendant to incarceration.

Make contact with your loved one's probation officer before there is a problem. Call the probation officer and introduce yourself. By making contact early, the officer will be more likely to call you if a problem arises.

People with mental illnesses who are on probation need advocates. A single probation officer may be supervising over 100 people. Most probation officers do not have special training with mental health issues. By helping a probation office understand your loved one's mental health needs, you may prevent your loved one from violating probation. ■

## LEAVING THE JAIL OR PRISON

Reentering the community from jail or prison involves many challenges, from getting back onto benefits to finding housing and employment. You and your loved one can take action to make this transition easier, especially if you take action before the person is released.

### Discharge Planning

Before your loved one leaves jail or prison, you will want to advocate for discharge planning. Discharge planning connects people to benefits and services in the community before they leave jail or prison. These services and benefits can include medications, treatment, benefits, housing, employment, economic assistance and more. Please note that your loved one's participation in discharge planning is voluntary.

In Minnesota prisons, people with serious and persistent mental illnesses are eligible for release planning. The same is true for inmates in chemical dependency programs. Prisons have both general and specialized release planners. You will want to ask for a release planner

who specializes in either mental health or substance abuse, depending on which is the highest need for your loved one. The prison will ultimately decide what type of release planner works with your loved one. Unlike prisons, most jails do not have discharge planners. However, be sure to ask because a growing number do.

Contact the mental health staff or nurse in the jail and the release planner in prison months before the person's release day. In prison, this process will start at least 90 days before they are released.

Release planners can share information with the family if the person signs a release form. You may also want to ask if the facility will let you participate in the discharge planning meetings. Some facilities may allow this if your loved one is willing. Ask specific questions about the plan to make certain that, when the person leaves jail or prison, they will have their medications and prescriptions, case management services, community mental health services and housing or residential treatment available immediately upon release. Without a privacy release, release planners can listen to your concerns and suggestions, but they cannot share information with you.

If your loved one is in a jail that does not provide discharge planning services, keep in contact with the nurse or the mental health staff. In some situations, the local county human services department may help the person connect to benefits, case management or psychiatrist appointments (in some counties, the department that does this is called social services or family services instead of human services).

Maintain regular contact with the release planner assigned to the case. They will work with willing family members and send them the plan when the person is about to leave. Make sure that when the person leaves jail or prison, they have everything they need to successfully move back into the community.

## **Health & Financial Benefits**

Most public benefits stop once a person is incarcerated. There is a slightly different process to restart each benefit.

### ***Medical Assistance (MA)***

Someone who was on MA before incarceration and was incarcerated for less than a year can reopen their MA benefit using a shortened process. Up to 45 calendar days prior to release and no later than 10 days after release, the individual or their authorized representative may request MA to be reopened. Upon release, they will fill out a reinstatement form,

not a full application. If someone has been incarcerated for more than a year, they will need to fill out the full application to reapply for benefits. When the person is being considered for eligibility, the state will consider any “gate” money that they receive upon leaving jail as unearned, lump-sum income. Gate money up to \$65 counts as “infrequent and irregular income” and does not affect MA eligibility. Gate money over \$65 counts as “regular income” and can affect eligibility.

### ***Other Health Care Benefits***

Medical Assistance (MA), MinnesotaCare and General Assistance Medical Care (GAMC) have the same application, which can be filled out online at [www.dhs.state.mn.us](http://www.dhs.state.mn.us). If someone was on GAMC, they will remain on GAMC for up to a year in a county jail; after that, the person must reapply for benefits. (Please note that the governor vetoed funds for GAMC, so GAMC may not be available starting March of 2010.) If someone was receiving services through an MA waiver, they will most likely lose their eligibility for that program. People who were on Medical Assistance for Employed People with Disabilities (MA-EPD) will have to pay their premium before the case can be reopened.

### ***Supplemental Security Income (SSI) and Social Security Disability Insurance (SSDI)***

If someone has SSI or SSDI and is incarcerated for less than one year, they need to reapply for these benefits, but their disability status remains unaffected. If someone is incarcerated for more than one year, the person will need to be recertified as disabled before reapplying. If the person’s card was lost or not returned upon discharge, Social Security can provide another one. The toll-free phone number for Social Security is 1-800-772-1213. The website for Social Security is [www.ssa.gov](http://www.ssa.gov).

### ***Temporary Assistance for Needy Families (TANF)***

If your loved one is the parent or guardian of a minor, they may receive TANF funds to help support the family. While incarcerated, these funds may be reassigned to the minor’s caretaker. An application must be filled out to make that happen. To acquire TANF benefits after release, your loved one will have to prove they are the minor’s caretaker once again, and they may have to complete a drug or alcohol treatment program. Contact a TANF representative in Minnesota at 1-800-657-3739.

### ***Veterans’ Benefits***

Veteran health care benefits are not available while the person is incarcerated but are available immediately upon their release. For veteran disability compensation, misdemeanor convictions do not affect the

amount of cash benefits. Felony convictions will reduce your loved one's cash benefits by half after 60 days of imprisonment. If your loved one receives a veteran's pension, both misdemeanor and felony convictions will cause your loved one's cash benefits to be suspended after 60 days of imprisonment. Your loved one can call 1-800-827-1000 to find the regional Veterans Affairs (VA) office and reapply. You can also visit [www.macvso.org](http://www.macvso.org) to find your local County Veteran Service Officer (CVSO), who will usually be your first contact to assist with VA benefits and issues.

## **Treatment, Services & Supports**

There are many treatment options for people with mental illnesses or chemical dependencies or addictions. What is available depends on a person's health insurance coverage and economic situation. Community mental health centers, for example, can provide treatment using sliding fees for low-income clients with no health insurance.

One example of a mental health service is "ARMHS," or Adult Rehabilitative Mental Health Services. ARMHS workers can come to the home to assist people in areas such as community living skills, budget management, cooking, transportation and medication management. The goal of an ARMHS worker is to promote stability and functioning in the community. Assertive Community Treatment (ACT) teams are another example. An ACT team is a group of at least two mental health professionals who can provide assistance similar to, but more intensive than that provided by ARMHS workers. ARMHS and ACT services are covered by MA, MinnesotaCare and GAMC.

Having a diagnosis can provide access to some programs and limit access to others. For example, people with serious and persistent mental illnesses are eligible for county case management. However, having a mental illness may limit access to some chemical dependency programs that lack the expertise needed to treat mental illnesses. Similarly, some mental health programs will not accept clients who use drugs or alcohol.

For people with mental illnesses who abuse drugs or alcohol, the best results can be achieved by treating both issues together. Treating both disorders at the same time, preferably with the same treatment team, is called integrated dual diagnosis treatment. Integrated treatment uses the best techniques from mental health and chemical health treatment, combining them into a unique approach specifically designed for co-occurring disorders. Finding a program that can do this often takes extra time and effort, and these programs are not available everywhere.

When looking for a program, ask whether the provider offers integrated treatment, or integrated dual diagnosis treatment. It is important to know that integrated dual diagnosis treatment is new, and there are very few programs at this time.

For *mental health services*, visit [www.dhs.state.mn.us](http://www.dhs.state.mn.us) and click on “Disabilities” at the top of the page. Then click on “Adult Mental Health” on the left side of the page and then “Programs and Services.”

For *drug and alcohol abuse services*, go to [www.dhs.state.mn.us](http://www.dhs.state.mn.us) and click on “Disabilities” at the top of the page. Then click on “Alcohol and Drug Abuse” on the left side of the page and then “Programs and Services.”

Finally, many family members benefit from counseling or therapy for themselves during this difficult time. If you have insurance, call your insurance company to find therapists covered by your insurance (the phone number is on the back of your insurance card). If you do not have insurance, contact your local community mental health center (find yours at [www.dhs.state.mn.us/Licensing/ProgramLists/pdf/flmhc.pdf](http://www.dhs.state.mn.us/Licensing/ProgramLists/pdf/flmhc.pdf)). You can also find a psychologist [www.mnpsych.org](http://www.mnpsych.org) or search online for local clinics that charge sliding scale fees for counseling.

## **Housing**

Finding a place to live is an important but often challenging step toward successful reentry. Also, finding housing within a specific period of time after release is usually a condition of probation.

There are many types of housing. What works best will depend on your loved one’s financial situation and conditions of release. Many housing options may be limited by certain types of convictions, especially sex offenses and violent offenses.

Housing options for people released from jail or prison include:

### ***Private Rental***

Rental housing is the most widely available option. It may be possible to receive public assistance to help pay for rent or the security deposit. However, rental property owners may screen for and refuse to rent to people with criminal backgrounds.

### ***Living with Family Members***

This option may provide emotional and financial support and is likely to be immediately available. However, living together may not work for some families due to too much stress, instability or other reasons. The family should find out whether their housing could be lost if a person with a criminal record moves in.

### ***Public Housing (for example, Section 8 housing vouchers)***

Rent is based on income in public housing, so this option may be more affordable than private rental. Be prepared for long or closed waiting lists. You should know that the law allows public housing programs to screen for and refuse to accept people who have been convicted of certain offenses. Also, formerly incarcerated individuals may not be immediately considered “homeless” and therefore not be prioritized for placement in some programs. Additional services and supports are sometimes available with public housing. Minnesota has a program called the “Bridges Housing Subsidy” to help people pay for rent while they wait for a Section 8 voucher. However, there is also a waiting list for this program.

### ***Nonprofit or Privately Owned Affordable Housing***

In these programs, the tenant pays a certain percentage of his or her income (usually 30%) toward rent. This is often more affordable than private rental. Additional services and supports are sometimes available through this type of housing. Again, be prepared for long or closed waiting lists. Owners are bound by Fair Housing laws but may exclude people with criminal histories.

### ***Halfway Houses or Transitional Housing***

No two halfway houses or transitional housing programs are alike, but they usually provide supervision for people just after release from jail or prison. Many also provide substance abuse programs. Most do not provide mental health programs. Residents usually must follow certain rules to live in this type of housing. Waiting lists may be long. Many of these programs have a rigid structure, which may not work well for people who have serious mental illnesses. Also, most of these programs provide short-term housing only and do not address long-term housing.

### ***Supportive Housing (for those with special needs or who are homeless)***

In these programs, the tenant pays a certain percentage of his or her income (usually 30%) toward rent. Like public housing, this is often more affordable than private rental. This type of housing includes case management and support services. The focus is usually on stability instead of behavior change or treatment. This type of housing can lower the risk

of rearrest among formerly homeless people who have mental illnesses. Some programs may exclude people who have criminal records.

### **Specialized Reentry Housing**

This housing is similar to supportive housing but also provides services specifically for people reentering the community from jail or prison. These programs may provide emergency, transitional or long-term housing. Staff are often trained to work with criminal justice personnel, such as probation and parole officers. This type of housing is not available in most places, but it is available in the Twin Cities Metro Area.

Specialized reentry housing can sometimes be an alternative to incarceration for people with serious and persistent mental illness. When a Minnesota judge would otherwise sentence someone to prison, the judge can instead sentence the person to a period of probation in an appropriate supervised alternative living program with a mental health treatment component. This option is only available for people who would need to serve more than a year in prison at the time of sentencing.

#### *Resources for housing options:*

- ▶ Visit [www.housinglink.org](http://www.housinglink.org)
- ▶ Visit the Housing Resources ToolBox at [www.dhs.state.mn.us](http://www.dhs.state.mn.us). Click on “Economic Supports” at the top of the page, “Housing” in the left-hand column and then “Housing Resources ToolBox”
- ▶ See NAMI Minnesota’s booklet, Hope for Recovery (for a copy, visit [www.namihelps.org](http://www.namihelps.org) or call 651-645-2948)
- ▶ Review the Council on Crime and Justice’s list of community resources, including organizations with a focus on ex-felons at <http://www.crimeandjustice.org/pdfFiles/Family%20Resources.pdf>
- ▶ Dial 211, United Way’s free help line
- ▶ Search the Internet using keywords such as: low income sub-sidized residential housing or supportive housing in Minnesota

## **Employment**

Finding a job after incarceration is often difficult, especially for people who have had a felony conviction. There are some organizations that can help connect people to employment. They can help search and apply for jobs, prepare for job interviews, learn to answer the question “Have you ever been convicted of a felony?” and so on.

Thanks to a recent campaign called “Ban the Box,” job applications in Minnesota may no longer ask about criminal history. Employers may ask about criminal history after the initial job application, however. The Department of Human Rights is responsible for enforcing this new law. If you apply for a job and find a criminal history question on the job ap-

plication, you may file a complaint with the department (call 651-539-1100, TTY 651-296-1283 or toll free at 800-657-3704).

To find employment services near you, try searching the Internet using key words such as: prison, jail or offender reentry employment services in Minnesota. You can also call your local WorkForce Center ([www.mnworkforcecenter.org](http://www.mnworkforcecenter.org) or 1-888-438-5627) or dial 211 to speak with United Way's help line.

There are two programs you can take advantage of when applying for jobs. Both are meant to encourage employers to hire people who have a criminal conviction.

- 1. WORK OPPORTUNITY TAX CREDIT (WOTC):** WOTC is a federal tax credit for employers who hire people from specific groups. One of these groups is economically disadvantaged ex-felons. To use this program, a person must be hired within a year of their release from prison.
- 2. FEDERAL BONDING PROGRAM:** This program provides fidelity bonds for job applicants who cannot be bonded by an employer's private bonding company because of a criminal record. Fidelity bonds insure employers against any loss resulting from an employee's dishonesty. This program provides bonds for people with criminal records at no cost to the employer.

Most employment services organizations, such as WorkForce Centers, can help you determine how to take advantage of these programs.

## Education

If a person has been convicted of a felony, it is important to research whether they can work in their field of interest before spending money on education in that area. Many people have gone back to school only to find that they cannot get a job in their field because of a felony conviction. A felony conviction limits which jobs a person can perform legally. For example, people with certain felony convictions cannot be school bus drivers or nurses. Contact the Minnesota Department of Corrections (651-361-7200 or [www.doc.state.mn.us](http://www.doc.state.mn.us)) for an updated list of occupations that are limited by felony convictions.

## Identification

Proper identification is an important tool for everything from seeking a job to cashing a check. If your loved one is in prison, they can ask a caseworker or a transition staff member for help, including copies of applications, fee assistance and a form letter verifying his or her name.

### ***Minnesota Birth Certificate***

A person born in Minnesota can obtain a birth certificate from the Office of the State Registrar in the Minnesota Department of Health (e-mail [health.osr1@state.mn.us](mailto:health.osr1@state.mn.us), call 651-201-5970 or download an application from [www.health.state.mn.us/divs/chs/osr/birthappandfees.pdf](http://www.health.state.mn.us/divs/chs/osr/birthappandfees.pdf)). The application must include valid proof of the person's full birth name, date of birth, city of birth (if known), father's name and mother's name, including maiden name. Alternatively, you can apply in person at the local registrar's office nearest you. You do not need to go to the local registrar in the county where you were born. If you do not have identification, you can have a witness accompany you to the registrar's office to attest to your identity. Find your local registrar's office online at [www.health.state.mn.us/divs/chs/osr/registrars.html](http://www.health.state.mn.us/divs/chs/osr/registrars.html).

### ***Birth Certificate from another State or Territory***

If you were not born in Minnesota, visit [www.cdc.gov/NCHS/w2w.htm](http://www.cdc.gov/NCHS/w2w.htm) and click on your home state or territory for more information on ordering a birth certificate.

### ***Social Security Card***

A social security card can be obtained from the U.S. Social Security Administration ([www.ssa.gov/ssnumber/](http://www.ssa.gov/ssnumber/)) with valid proof of legal U.S. citizenship or immigration status, age and identity.

### ***Minnesota Driver's License or Identification (ID) Card***

You can obtain a Minnesota driver's license or ID card from Driver and Vehicle Services. To apply, you can present a previous Minnesota driver's license, identification card or instruction permit (it must be current, expired for five years or less with a photo or expired for one year or less without a photo). If you do not have one of these items, you must present one primary and one secondary form of identification. The primary document must contain your full legal name (first, middle, and last) and the month, day and year of your birth. Call 651-297-3298 for more information or for examples of primary and secondary documents. ■

## **ST. PETER STATE HOSPITAL**

The Minnesota Security Hospital (MSH) in St. Peter is a maximum security psychiatric facility that provides treatment for people with serious mental illnesses. MSH is not a jail or prison; nor is it technically a hospital. However, many people are housed there involuntarily.

People go to MSH for one of two reasons:

- 1. THEY ARE CIVILLY COMMITTED FROM PRISON:** The Department of Corrections may initiate the civil commitment of someone to St. Peter if they cannot function in prison due to a mental illness. *Civil commitment* is court-imposed treatment for people with serious mental illnesses who refuse or cannot seek treatment or cannot care for themselves and are a danger to themselves or others due to their mental illness. Civil commitment can be an emotionally difficult path to take and is viewed as a last resort when nothing else has worked. Sometimes civil commitment is the only way to get a loved one back to functioning better. For more information about the civil commitment process, see NAMI Minnesota's booklet, *Understanding the Minnesota Civil Commitment Process* (for a copy, visit [www.namihelps.org](http://www.namihelps.org) or call 651-645-2948).
- 2. THEY ARE CIVILLY COMMITTED AS "MI & D":** The person may be committed as "mentally ill and dangerous to the public" (often called "MI & D"). The term *mentally ill and dangerous* refers to a person with a mental illness who presents a clear danger to the physical safety of others due to his or her illness. When the court commits someone as mentally ill and dangerous, it is for an indefinite period of time. The commissioner of the Minnesota Department of Human Services will decide when the person should be discharged from commitment. Someone committed indefinitely must petition the Special Review Board (SRB) for any change in place or status of commitment. They may petition the SRB for a hearing once every six months. The person can hire an attorney for these proceedings, present evidence and witnesses and cross examine witnesses. Within 21 days after the hearing, the SRB must send written findings and recommendations to the commissioner of the Department of Human Services. The commissioner then has 14 days to issue an order and five days to send the order to the person under commitment.

The order goes into effect 30 days after it is signed. The person may appeal the decision if they disagree with the commissioner's order.

A person can also be placed in a secure treatment facility if they are found to be incompetent to stand trial. If this happens, the person will be sent to MSH or, if they need a hospital level of care, Anoka Metro Regional Treatment Center. At MSH or Anoka, they will receive treatment until they are determined to be competent to stand trial. Once the person stands trial, they may still receive a prison sentence. (See the Rule 20.01 section earlier in this booklet for more information about competency to stand trial.)

## Family Involvement, Advocacy and Complaints at MSH

MSH staff hold regular treatment team meetings for each patient. Impromptu meetings are held if acute or crisis situations arise. Family members can participate in treatment team meetings when desired by the patient and the family. Visiting rules and policies are available to all patients and family members upon request.

For visiting information or to participate in treatment team meetings, family members can speak with treatment staff directly, or they can call the clinical director (507-985-2160) or the program director (507-985-2328).

If you have a concern about the treatment of a patient at MSH, first try talking with your loved one's treatment team. This is usually the quickest way to resolve an issue. If this does not work, contact the clinical director (507-985-2160) or the program director (507-985-2328). Another resource you can use is the MSH patient advocate (507-985-2836).

If you feel MSH has not resolved the issue, you can call the State Operated Forensic Services Administration, which oversees MSH.

State Operated Forensic Services Administration  
100 Freeman Drive  
St. Peter, MN 56082  
Forensic Administrator: 507-985-3128  
Medical Director: 507-985-2009, 507-931-7711 (fax)

If you would like to file a complaint outside the MSH system you can contact either the Division of Licensing at the Department of Human Services or the Office of Health Facility Complaints. The appropriate office will investigate your complaint.

Division of Licensing  
MN Department of Human Services  
P.O. Box 64242  
St. Paul, MN 55164-0242  
651-296-3971  
651-297-1490 (fax)  
800-627-3529 (TTY/TDD)

Office of Health Facility Complaints  
P.O. Box 64970  
St. Paul, MN 55164-0970  
651-201-4201  
1-800-369-7994 (toll-free)  
651-201-4202 (fax)

You can also contact the Office of the Ombudsman for Mental Health and Developmental Disabilities (651-296-3848 or 1-800-657-3506) about concerns or complaints about services, questions about rights, grievances, access to appropriate services, general questions or information about services for people with disabilities. ■

## **CONCLUSION**

Advocating for someone in Minnesota's criminal justice system can be confusing, frustrating and overwhelming. It is important to find people who can help you understand the system and advocate for your loved one.

This booklet is not intended to provide legal advice. Its purpose is to help you understand the basic workings of the criminal justice system so that you can ensure that your loved one who is living with a mental illness has an opportunity to be diverted out of the criminal justice and into the mental health system or to receive mental health treatment while in the criminal justice system. If you have comments or suggestions for future printing of this publication, please contact the NAMI Minnesota office. ■

## COMMON TERMS

**Adjournment:** a postponement in a criminal case or the time between court dates.

**Allocution:** a defendant's right to make a personal statement at sentencing.

**Arraignment:** the first appearance before a judge after a person is arrested. Should be held within 36 hours of arrest. The purpose is to inform the defendant of the charges against them and decide the conditions under which they may be released.

**Arrest:** taking a person into custody so that the person may be held to answer for a public offense. Includes actually restraining a person or taking them into custody.

**Arrestee:** a person in custody following arrest.

**Arrest warrant:** a notice to the law enforcement officers that a person is wanted and should be sought out and arrested.

**Bail:** the amount of money a defendant must pay in order to be released from jail while a criminal case is pending. Designed to ensure that defendant does not run away.

**Bail bondsman:** a person who receives a nonrefundable fee, usually 10% of the bail ordered, to pay a bail on behalf of a defendant.

**Bench warrant:** a warrant issued by a judge, usually because an individual did not return to court when they were supposed to.

**Charge:** accusation relating to the specific law that a defendant is said to have violated.

**Civil commitment:** court-imposed treatment for people with mental illnesses who refuse or cannot seek treatment and are a danger to themselves or others due to their mental illness.

**Continuance:** a postponement in a criminal case or the time between court dates.

**Conviction:** having been found guilty of a crime.

**Defendant:** person charged with a crime.

**Detention:** being held in jail awaiting trial.

**Disposition:** the sentence received by a defendant after a finding of guilt.

**Felony:** a crime punishable by more than a year of incarceration.

**Forensic:** relating to the law or legal proceedings.

**General population:** the regular, unsegregated section in a jail or prison.

**Gross misdemeanor:** a crime punishable by imprisonment for one year, a fine of up to \$3,000 or both.

**Indictment:** an accusation in writing, presented by a grand jury to a competent court, charging a person with a public offense.

**Indigent:** poor, usually unable to afford an attorney.

**Inmate:** a person in jail or prison.

**Jail:** a local correctional facility where people awaiting trial and people sentenced to less than one year of incarceration or who have less than 18 months remaining to serve are held.

**Mentally ill and dangerous (MI & D):** a term that refers to a person with a mental illness who presents a clear danger to the physical safety of others due to his or her illness

**Misdemeanor:** an offense punishable by not more than 90 days of incarceration or not more than a \$1,000 fine or both.

**Parole:** supervision in the community of someone who has been released from prison.

**Plea bargain:** an agreement in which a defendant pleads guilty to an offense in return for a concession by the prosecutor (usually a better sentence than they would have received after losing a trial).

**Prison:** a state correctional facility where people convicted of felonies and sentenced to more than one year of incarceration are confined.

**Probable cause:** enough evidence to believe that a person committed a certain crime.

**Probation:** a sentence of supervision in the community which sometimes includes jail time.

**Prosecutor:** an attorney representing the “people of the state of Minnesota” whose job it is to prosecute people accused of crimes and to defend the interest of the community in public safety and quality of life. The prosecutor does not represent crime victims.

**Public defender:** a defense attorney who is paid by the government to represent criminal defendants who cannot afford to hire an attorney.

**Rap sheet:** the record of every time a person has been arrested and what happened in each case.

**Search warrant:** a written order allowing a law enforcement officer to search and hold any property seized.

**Sentence:** the punishment imposed at the conclusion of a criminal case.

**Suicide watch:** when a jail inmate who is believed to be potentially suicidal is checked regularly as a preventative measure. ■

## RESOURCES

### **NAMI Minnesota**

[www.namihelps.org](http://www.namihelps.org) 1-888-NAMI-HELPS

The National Alliance on Mental Illness of Minnesota (NAMI Minnesota) is a statewide grassroots organization that provides education, support and advocacy to children and adults with mental illnesses and their families. NAMI offers free education classes, support groups and information and advocates for an improved mental health system.

### **Minnesota Judicial Branch**

[www.courts.state.mn.us](http://www.courts.state.mn.us)

The judicial branch's mission is to provide justice through a system that ensures equal access for the fair and timely resolution of cases and controversies. Its website contains information about and links to courts around the state, along with information about attorneys, bail bond agents, court forms, etc.

### **State of Minnesota Board of Public Defense**

[www.pubdef.state.mn.us](http://www.pubdef.state.mn.us) 612-349-2565

The board's mission is to provide excellent criminal and juvenile legal defense services to indigent clients through an independent, responsible and efficient public defender system. You can obtain the locations and phone numbers of the public defender offices and legal defense corporations on its website.

### **Minnesota Department of Corrections**

[www.doc.state.mn.us](http://www.doc.state.mn.us)

This department is responsible for operation of adult and juvenile state correctional facilities; provision of probation, supervised release, and parole services; administration of the Minnesota Community Corrections Act; and provision of assistance and guidance on a statewide basis in the management of criminal justice programs and facilities. At its website, you can learn about each of the facilities, which ones have mental health units (such as Oak Park Heights) and directions to them.

### **Minnesota Department of Human Services**

[www.dhs.state.mn.us](http://www.dhs.state.mn.us)

The department helps people meet their basic needs by providing or administering health care coverage, economic assistance and a variety of services for children, people with disabilities and older Minnesotans. You

can obtain a list of mental health providers in the state and applications for health care programs from its website.

### **Bazelon Center for Mental Health Law**

[www.bazelon.org](http://www.bazelon.org)

The mission of the Judge David L. Bazelon Center for Mental Health Law is to protect and advance the rights of adults and children who have mental disabilities. The center envisions an America where people who have mental illnesses or developmental disabilities exercise their own life choices and have access to the resources that enable them to participate fully in their communities.

### **GAINS Center**

[www.gainscenter.samhsa.gov/html](http://www.gainscenter.samhsa.gov/html)

The center's primary focus is on expanding access to community-based services for adults diagnosed with co-occurring mental illnesses and substance use disorders at all points of contact with the justice system. The center emphasizes the provision of consultation and technical assistance to help communities achieve integrated systems of mental health and substance abuse services for individuals in contact with the justice system.

### **Consensus Project**

[www.consensusproject.org](http://www.consensusproject.org)

The Criminal Justice/Mental Health Consensus Project, coordinated by the Council of State Governments Justice Center, is an unprecedented national effort to help local, state and federal policymakers and criminal justice and mental health professionals improve the response to people with mental illnesses who come into contact with the criminal justice system.

### **The Innocence Project**

[www.ipmn.org](http://www.ipmn.org)

Established in 2002, the Innocence Project of Minnesota (IPMN) is a private, volunteer-based, nonprofit 501(c)(3) organization that provides free investigative and legal assistance to prisoners trying to prove their innocence. IPMN investigates potential claims of wrongful conviction from prisoners convicted of crimes in Minnesota, North Dakota and South Dakota.

## **Minnesota State Bar Association**

www.mnbar.org

The Minnesota State Bar Association has a Lawyer Referral Service that provides the names of lawyers who practice a particular type of law in the county chosen by a member of the public. If there is no match in the specific county selected, the system will provide a list of lawyers in other parts of Minnesota who practice the type of law requested. LRS is not a reduced-fee or free service; you will need to discuss with the lawyer their fees when you meet.

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