

Mental Health Care For Released Inmates

by {ga=rosenbloom}

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The city will for the first time provide mental health care for mentally ill inmates after they are released from jail, thanks to an agreement approved by New York County Supreme Court Justice Richard F. Braun on April 2, which comes after a lawsuit filed by mentally ill inmates themselves.

New York City jails yearly house 33,000 mentally ill pre-trial detainees, individuals not convicted or sentenced of a crime. The average stay in jail for these inmates is as long as 43 days.

While in jail, the city provides these inmates with mental health care and treatment. The care ranges from in-jail, outpatient treatment to placement in segregated mental health units or psychiatric wards. The inmates' treatment can include psychotropic medications and individual or group therapy.

Prior to the settlement, the inmates' care and treatment was terminated upon their release. Once released, the inmates were not provided with care, treatment, government assistance, housing referrals or other assistance to make the transition to society.

Instead, the released mentally ill inmates were taken by bus to Queens Plaza subway station between 2:00 and 6:00 am, given a buck, fifty and a roundtrip Metrocard.

In 1999, several of the inmates who were receiving mental health care during their confinement sued to stop this practice on their own behalf and all other mentally ill inmates.

The city fought the suit, using various legalistic arguments. It claimed that the inmates did not have legal standing in which to sue, since, it argued, even if the city was breaking the mental hygiene law, which required treatment and transition upon the inmates' release, only the state attorney general had the right to enforce that law. The city also claimed that the mental hygiene law applied to developmental centers, patients at psychiatric centers or patients at certain psychiatric inpatient services, but not to city jails.

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In a curt decision on July 14, 2000, Justice Braun repudiated the city's arguments. Yes, he ruled, mentally ill inmates do have the authority to challenge the city's policy and enforce the mental hygiene law. And, he ruled, enforcing the mental hygiene law to prevent mental illness is a matter of "public concern" applicable to and enforceable by all, including those incarcerated.

The court ordered the city to continue to provide care to all inmates older than 18 suffering from a mental illness, if that inmate is unlikely to survive safely in the community without supervision, has a history of failing to comply with treatment, is unlikely to participate in the recommended treatment, may relapse, and would benefit from assisted outpatient treatment.

Justice Braun rejected the city's argument that the mental hygiene law did not apply to city jails. The state law, and city regulations, Justice Braun found, specifically provided for intervention and transitional services to released inmates at correctional facilities. The city appealed and the Appellate Division, First Department, the state's intermediate appellate court, upheld the decision.

This decision led to a settlement on January 8, 2003 between the parties, which the court approved on April 2nd.

Under the settlement, the city must provide discharge planning for inmates released from custody. Qualifying inmates are entitled to receive a wide range of mental health treatment and services upon release, including medication, referral to programs, substance abuse treatment and case management service. As part of the discharge planning, qualifying inmates also receive help in submitting applications for Medicaid, food stamps, social security, veteran's benefits and other public assistance benefits. The city has also stated that it would, "in most cases," release mentally ill inmates during daylight hours.

The settlement is valid for five years. During that time, two independent monitors, one chosen by counsel for the inmates and one by the city, will oversee the city's compliance. The monitors will report quarterly, develop performance goals and make recommendations.

Justice Braun's bold July, 2000 order should be recognized as the impetus for the settlement and for remedying a dangerous and compassionless policy of releasing mentally ill inmates in the middle of the night with no transitional assistance. The devastating effect the policy had on

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former inmates is difficult to ascertain, but, as Justice Braun noted in his order the former inmates were simply "return[ing] to the cycle of likely harm to themselves and/or others, through substance abuse, mental and physical health deterioration, homelessness, indigence, crime, re-arrest, and re-incarceration."

The injustice brought about by this policy has now been remedied though an 80-page settlement. The benefits will not only be felt by the individual former inmates, but also by society. Again, quoting Justice Braun's decision "[i]t is not only to the[inmates'] benefit to provide them with a discharge plan but to that of all of us if such a plan can aid at least some of [the inmates] to become healthier and thus more productive members of society who are not harmful to themselves and/or others."

The case is: Brad H. v. City of New York, Index No. 117882/99 (Braun, J.) (N.Y.Cty.Sup.Ct.) (Attorneys: Christopher K. Tahbaz, Patricia G. Corley, Emily O'Neil Slater, Douglas Lasdon, Raymond H. Brescia, Heather Barr, John A. Gresham, John Beaglehole, Eileen Sullivan, Faune Devlin, Jeffrey K. Powell, for Brad H.; Michael A. Cardozo, Thomas C. Crane, Jeffrey S. Dantowitz, for NYC).

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