



when a person with mental illness is arrested:

HOW TO HELP

A New York City handbook for family,
friends, peer advocates and community
mental health workers

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THE URBAN JUSTICE CENTER IS A NOT-FOR-PROFIT legal organization that advocates for individual rights and system-wide social change on a variety of issues of concern to poor and homeless New Yorkers. The Urban Justice Center consists of six autonomous projects: the Homelessness Outreach and Prevention Project, the Family Violence Project, the Lesbian and Gay Youth Project, the Human Rights Project, the Harm Reduction Project, and the Mental Health Project.

The Mental Health Project at the Urban Justice Center focuses on access to services for mental health consumers. Our 10 person staff provides assistance to individual consumers in the following areas:

- Discharge planning advocacy for homeless psychiatric inpatients
- Legal representation in housing court
- Legal representation in fair hearings regarding Public Assistance, Food Stamps, Medicaid, and Social Security benefits
- Assistance with problems related to Medicaid managed care

We also work to eliminate barriers to services on a system-wide level. Our system-wide efforts have included an active role in the NY/NY II Campaign for supportive housing, litigating the Koskinas lawsuit that resulted in improved discharge planning for psychiatric inpatients, coordinating the Coalition for Presumptive Medicaid Eligibility, and filing the Brad H. lawsuit that will require better discharge planning for consumers leaving New York City jails.

Introduction	1	A few very practical tips on dealing with defense attorneys	16
What happens when you get arrested in New York City?	2	Finding the defense attorney	16
Arrest	2	Getting in touch with the defense attorney	16
The precinct	2	Talking to the defense attorney	17
Central Booking	2	Laws relating to defendants with mental illness: 730 exams and NGR1 pleas	18
The court pens	3	Advocating for a defendant to be sentenced to treatment	20
Meeting your defense attorney	3	Advocating for discharge planning	21
The arraignment	3	Advocating for someone on probation or parole	22
Going to jail	4	Find help	23
How to find a person who has been arrested		Can we stop the criminalization of mental illness?	23
(and what to do when you find the person...)	4	Phone numbers	24
First thing: Preventing arrest or advocating for a DAT	4	Helpful websites	26
First 24 hours: Going to the arraignment	5	Glossary of confusing terms	28
First 24 hours: Orders of protection	7	Footnotes	32
After the first 24 hours:			
Getting appropriate treatment in jail	8		
Working with a defense attorney	10		
If the defense attorney and I are trying to help the same			
person, why isn't s/he more cooperative?	11		
“You have a right to an attorney. If you cannot afford			
one, one will be appointed for you...”	11		
How does a poor person get a defense attorney?	12		
Can you fire a free lawyer?	12		
A free lawyer is better than a cheap one	13		
What is the defendant's best interest?	14		
A defense attorney's job is to get the defendant out of			
the criminal justice system. Period.	15		

WARNING! The information in this handbook was current as of January 2001. Because much of it is phone numbers and other very specific information, it will change. Be persistent and creative!

THIS HANDBOOK IS DESIGNED FOR ANYONE CONCERNED about a person with mental illness who is involved in the New York City criminal justice system.¹ This handbook should not need to exist, because it should be very unusual for a person with mental illness to encounter the criminal justice system. Very often when mental health consumers get in trouble with the law, it is a direct result of psychiatric symptoms. When this happens, the response should be a mental health response (referral to crisis services, outreach, or hospitalization, for example), rather than a criminal justice response (filing charges, arrest, etc.).

Unfortunately, the reality is that in New York City, and nationally, enormous numbers of people with mental illness are passing through the criminal justice system, and into jails and prisons every day. A 1999 study by the federal Department of Justice found that about 16% of jail and prison inmates nationwide have mental illnesses. In New York City, 25% of all jail inmates require mental health services while incarcerated and about 15% have serious mental illnesses, according to the New York City Department of Mental Health, Mental Retardation and Alcoholism Services.

If you have read this far, you probably have concerns about how mental health consumers are treated by the criminal justice system. Your next question may be, “Is there really anything I can do to help?”

The answer is, “Absolutely.”

While the criminal justice system may seem confusing and even Kafkaesque, and lawyers and judges may seem intimidating, the truth is that ANYONE who takes the trouble to get involved in the system as an advocate for an individual can make a huge difference. If you are a defendant’s family member, or a friend, peer advocate or community mental health worker who has known the person for some time, then you know more about this person than anyone in the criminal justice system does. Key decision-makers – police, the judge, prosecutor, and defense attorney, and jail mental health staff – will be making incredibly important decisions about the defendant, even life and death decisions, without much information. You need to make yourself heard! Your efforts may mean that the person you are fighting for can get better treatment while in jail (which can prevent suicide), can spend less time in jail (or even avoid jail entirely), can have charges dismissed or lowered, can avoid violating probation or parole, or can be sentenced to treatment rather than incarceration.

This handbook is designed to help you to make the criminal justice system do its job and treat the person you care about like a human being.

IF YOU WANT TO ADVOCATE FOR A CONSUMER in the criminal justice system, you need to understand what happens when someone gets arrested. By understanding the process, you can figure out where a person in custody is likely to be located and what the most important issue for advocacy is at that moment. This section describes the steps that an individual goes through following arrest in New York City.

ARREST

Most arrests happen spontaneously, because a police officer has observed a crime or been told that a crime just occurred. The police officer has the power to arrest the person believed to have committed the crime and take that person into custody. Once the police officer arrests the person, the officer has the right to search the arrestee. If this search turns up anything illegal (e.g., drugs or weapons), those charges will be added to the original ones.

THE PRECINCT

Once you are in police custody, you are usually taken to the local precinct house. New York City is divided into 76 precincts; arrestees are taken to the precinct house for the precinct that they were arrested in. Once at the precinct house, a person in police custody may be given a Desk Appearance Ticket and released, or they may remain in custody. If you are given a Desk Appearance Ticket, you must go to court on the day that it specifies, or you will have a warrant for your arrest.

If you remain in police custody, you will typically spend several hours at the precinct, either in a cell or handcuffed to a chair, while the police complete paperwork and perhaps fingerprint you. During this time you will probably have the opportunity to make a phone call, and you may be given something to eat. The police will also take away much of the property you have with you, including medications, and voucher it for you to pick up later.

CENTRAL BOOKING

From the precinct you will be driven to Central Booking in the borough in which you were arrested. Central Booking is located in the basement of the Criminal Court; there is a Criminal Court in each borough. At Central Booking, people in police custody sit in crowded cells. These cells do not have mattresses or blankets, but they do have pay phones. While you are at Central Booking, several things happen. You will be screened by Emergency Medical Technicians to ensure that you do not need urgent medical treatment. You will be fingerprinted. You will also be interviewed by the Criminal Justice Agency, which will ask about your community ties and call to verify those ties in order to make a recommendation to the judge regarding whether you should be released without bail or not. While these things are going on, the prosecutor will obtain your “rap sheet” and decide what to charge you with.

There are two exceptions to the above. If, on a weekday, you are arrested for a misdemeanor (a minor offense) in Manhattan between 14th and 59th Streets, west of Lexington Avenue, or if you are arrested for prostitution anywhere in Manhattan, rather than going to Central Booking at the Manhattan Criminal Court, you will be taken to Midtown Community Court. If, on a weekday, you are arrested in Red Hook, Brooklyn, rather than going to Brooklyn Criminal Court, you may be taken to the Red Hook Community Court.

THE COURT PENS

After you have completed the process described above, there is nothing left to do but wait to meet your lawyer and see the judge. This waiting is done in cells in the courthouse basement known as the “court pens.” The cells are the same as in Central Booking, and you may sit in them for a long time. *The entire process, from the moment that you are arrested to the moment you see the judge, takes about 24 hours.*

MEETING YOUR DEFENSE ATTORNEY

While you are in the court pens, unless a lawyer has already been hired and arrived to represent you, someone has put your paperwork on the defense table in the courtroom. One of the attorneys (“public defenders”) working that shift picks up the paperwork, thus becoming your lawyer. After reviewing the paperwork, the lawyer will go back into the court pens to meet you and talk about the case. After this discussion, the lawyer will go back into the courtroom and will put your name on the list of cases ready to be called.

THE ARRAIGNMENT

The first time you see a judge after being arrested is called the arraignment. Once your lawyer signs your case in, you will be brought from the pens into the courtroom to wait on a bench for your case to be called. When the case is called, you and your lawyer will stand up in front of the judge. The arraignment has two purposes: one is to tell you what you’re charged with (your lawyer will have already done this back in the pens), and the other is to decide whether to release you or not.

Very often, cases end at arraignment. The case may be dismissed, the defendant may be given an adjournment in contemplation of dismissal (an ACD – meaning stay out of trouble for six months and the case will be dismissed), or the defendant may plead guilty and be sentenced immediately to pay a fine, do community service, or go to jail. However, if the case does not end at arraignment, the judge will have to decide whether to release the defendant without bail on recognizance, whether to set bail (and if so, how much), or whether to deny bail. If you are released on recognizance, you will be able to walk right out of the court and go home. If the judge sets bail, the lawyer can explain to your family how to pay it. If you cannot pay it right away, or if you are denied bail, you will be taken to jail.

GOING TO JAIL

New York City jails are run by the NYC Department of Correction. The Department of Correction has about 14 jails: ten on Rikers Island plus Houses of Detention in Manhattan, Brooklyn, and Queens,² plus several barges that are used as needed. If you are an adult man, you may be taken either to one of the jails on Rikers Island or to the House of Detention in the borough you were arrested in. If you are a woman (any age) or a man under the age of 18, you will be taken to Rikers Island.

how to find a person who has been arrested
(and what to do when you find the person...)

WHEN SOMEONE YOU CARE ABOUT HAS BEEN ARRESTED, the first thing that you need to do is figure out where they are. After all, you can’t advocate for someone until you find them! Finding someone who is in police or corrections custody in New York City can be difficult, particularly during the first 24 hours, unless the individual calls you to tell you where they are. For this reason, it is a good idea for case managers and peer advocates to make sure that clients carry their phone number at all times.

You need to find out where the person is right away so that: 1) you can advocate for the person to be released and/or to receive a desk appearance ticket; 2) you can go to court for the arraignment and influence the bail decision; 3) you can be at the arraignment to make sure an inappropriate order of protection is not issued; and/or 4) you can let mental health staff at the jail know what medications the person needs. *People who commit suicide in jail usually do so in the first couple of days, so notifying jail staff that an individual may be suicidal could save the person’s life.*

FIRST THING: PREVENTING ARREST OR ADVOCATING FOR A DAT

Don’t assume that just because the police have arrived or the person has been taken into custody it’s too late to do something. Police have broad discretion in deciding who to arrest, who to hospitalize, and who to ignore. If someone you care about is in a situation where they could get arrested, and you are fortunate enough to be there, ask the police not arrest the person. Be assertive without making the police feel that you do not respect their authority. Say something like, “I know he shouldn’t have done that, but he just needs to get his medication. I’ll come with him – can you drive us to the hospital?”

Even after an arrest has occurred, you may be able to get the person in effect “un-arrested.” Find the address of the precinct house the person has been taken to; there is a map of precincts in the blue pages of the phone book, or you can call NYPD general information at (212) 374-5000. You can also find information about precincts by calling the appropriate NYPD Patrol Borough Command:

Manhattan South	(212) 477-7436
Manhattan North	(212) 678-1851

Brooklyn South	(718) 287-3231
Brooklyn North	(718) 963-5333
Bronx	(718) 299-4314
Queens	(718) 969-8602
Staten Island	(718) 667-2220

Find out where the person is being held and go there, or call if you can't go. Talk to the police and ask if they can drop the charges or, if not, at least let the person out to come back to court later. Offer to take as much responsibility for the person as you feel comfortable doing. If you can promise to bring the person to court, the police may be willing to release someone who would otherwise have "gone through the system." Issuing a "Desk Appearance Ticket" (DAT) versus keeping the person in custody is within police discretion; this decision is usually based on whether the police believe that the person will show up for court. If the police release the person with a DAT, do everything you can to make sure that the person goes to court on the date specified by the DAT. If the person does not appear on that date, a bench warrant will be issued and the police will arrest the person again.

If the police do not agree to release the person, be sure to ask the police for the arrest number, because you will need it to find out when the person will arraigned.

FIRST 24 HOURS: GOING TO THE ARRAIGNMENT.

By going to the arraignment you may be able to help someone avoid going to jail or even help get the charges lowered or dismissed. By being there, you demonstrate to the judge that this defendant has ties to the community and people who will help him/her remember to return to court. It is also a chance to give the defense attorney specific information about the person's mental health situation; this information may help the defense attorney get the defendant released or even have charges dismissed.

If you want to go to the arraignment, you will need to find out quickly when the arraignment will be — it should be within 24 hours of the arrest. During the first 24 hours after the person was arrested, you will probably not be able to do anything about getting the person medications.

First, you need to know which borough the person was arrested in. With this information, you can get the arrest number by calling the NYPD office at the court house in the appropriate borough. Phone numbers for the NYPD court offices are:

Manhattan	(212) 374-3921/5918
Brooklyn	(718) 935-9240/9210
Bronx	(718) 590-2815/2817
Queens	(718) 268-4899/4523
Staten Island	(718) 876-8135/8493

You can also get the arrest number from the precinct where the person was arrested. Once you have the arrest number, you may need to speak to the clerk at the appropriate courthouse to get a sense of when the person will be arraigned; these numbers are:

Manhattan	weekdays	(212) 374-5880/5881
	eves & weekends	(212) 374-6242/3/4/5/6/7/8
Brooklyn	weekdays	(718) 643-4044/5/6
	eves & weekends	(718) 643-5675
Bronx	weekends	(718) 590-2865/6/7
	eves & weekends	(718) 590-2886/7/8
Queens		(718) 520-1985
Staten Island		(718) 390-8400

If you are not successful at getting the information you need about an arraignment using the above numbers, try calling the NYPD general number at (212) 374-5000, or the NYPD Central Office Community Affairs at (212) 374-5323. If you have the arrest number, you can also try the automated Criminal Court Information Line at (212) 374-5880, but this can take forever. This process can be very frustrating; you may find that no one answers some of these phone numbers, or the people who answer are not helpful. Be very persistent, and if all else fails, go to the courthouse and go to the clerk's office in person.

THE CRIMINAL COURTS ARE LOCATED AT:

Manhattan	100 Centre Street
Brooklyn	120 Schermerhorn Street
Bronx	215 East 161st Street
Queens	125-01 Queens Boulevard
Staten Island	67 Targee Street

Arraignments are held in specialized courtrooms, usually on the ground floor of the Criminal Court. There will be a list on the wall outside the arraignment courtroom – look to make sure the person you are there for is on the list. If they are not, go to the clerk's office to find out why.

If you go to the arraignment, be prepared for it to be a long, miserable and frustrating experience. You may wait all day and then be told to come back that night; or wait all evening and be told to come back in the morning. No one will offer you help figuring out what is going on unless you ask for it, and even then, it may be hard to get someone to check on whether the person you are advocating for is really there and if so, when s/he is likely to see the judge. The court officers may tell you to sit down and be quiet when you're just trying to ask a question; even the defense attorneys may not be very helpful – they're trying to handle dozens of cases at once. It will be very difficult for you to figure out what is going on even with the case you have been waiting for, for a couple of reasons: The acoustics are terrible, you are not allowed to sit in the front row (the front row is for lawyers only), and everyone is speaking quickly

and in jargon. The audience in the courtroom will be full of people in the same situation as you: Everyone is stressed out, but you can offer each other support.

If you are present at the arraignment, you must let the defense attorneys (they will be sitting on one side of the courtroom just in front of the barrier between the audience and the proceedings) know that you are there. If you are at the arraignment, but no one knows you are there, your presence will not help the person being arraigned. The court officers can help you find the lawyer assigned to the case. That lawyer will want to talk to you and will probably point out to the judge that you are present. Tell the lawyer who you are, that the person has a mental illness, and ask the lawyer to tell the judge, if bail is imposed, that the person needs psychiatric attention. You also need to get the lawyer's card or write down her/his name and contact information so that you can speak about the case later, if it is not finished at arraignment.

FIRST 24 HOURS: ORDERS OF PROTECTION

Another thing that often happens at the arraignment is that the judge issues an order of protection. An order of protection is a court order protecting a person or place from a defendant. Orders of protection are very often issued in cases where a defendant is charged with harming another person in some way.

There are two types of orders of protection – a “full order of protection” and a “limited order of protection.” A full order of protection means that the defendant cannot have any contact with the person who the order is issued to protect (the alleged crime victim): The defendant cannot go to or near the victim's house or job, and cannot call, write or e-mail the victim. If the defendant breaks any of these rules, s/he can be arrested and charged with contempt of court, which is a serious offense.

A limited order of protection is issued in situations where the defendant and the victim need or want to have contact with each other – often because they live together or are relatives. When a limited order of protection has been issued, there are no limits on contact between the defendant and the victim, but the defendant is not permitted to behave in an aggressive, abusive, or harassing manner toward the other person. If the defendant violates the order through inappropriate behavior toward the other person, s/he can be arrested and charged with contempt of court.

Judges prefer to issue full orders of protection rather than limited orders of protection, and sometimes this means that a full order of protection is issued even in a case where the victim wishes to have contact with the defendant. A defense attorney may not know to tell the judge that a limited order of protection is more appropriate, or the judge may not be willing to issue a limited order of protection rather than a full one unless the victim requests it. One of the important things that you can accomplish at an arraignment, particularly if you are the defendant's family member, is helping the defense attorney make it clear to the court which type of order of protection, if any, is appropriate.

Finally, if you are trying to help a defendant against whom an order of protection has been issued, one of the most helpful things that you can do for that person is to assist him/her in understanding and complying with the order of protection. Orders of protection should be taken very seriously. Even if not only the defendant but also the victim feel that the order of protection is overbroad or unreasonable, the defendant can be in huge trouble if caught violating the order. If you believe the order should be withdrawn or changed from a full order to a limited one, don't just ignore the order – ask the defense attorney to have it changed. As long as the order is legally in effect, the defendant must comply with it or risk being in serious trouble.

AFTER THE FIRST 24 HOURS: GETTING APPROPRIATE TREATMENT IN JAIL

When a person you care about who has a mental illness has entered the New York City jail system, you have a real crisis on your hands. Your first priority should be to make sure that the person is safe and gets appropriate treatment while in custody. Not only is it important that the person have continuity of care at this stressful time, the person's very life may be in danger – most people who commit suicide in jail do it in the first day or two in custody.

The first thing that you need to do is find out which jail the person is in. The easiest way to do this is to call the Department of Correction Records Department during business hours at (212) 487-7143/4/5. A live person answers this number promptly and can tell you not only which jail the person is in, but what they are charged with, what their bail is, and when and where their next court date is. If you speak to the Records Department, be sure to also ask for the person's “book and case” and “NYSID” numbers – these numbers will come in handy later if you talk to jail staff or visit the person. After business hours, you can get inmate locations by calling the Department of Correction automated information line at (718) 546-0700. You can also get information at these numbers about how to visit a person who is in jail.

The good news is that New York City jails have mental health services. The City spends over \$100 million per year on health and mental health services for jail inmates. On Rikers Island and in the Manhattan House of Detention, these services are provided by a private for-profit company, Prison Health Services, through a contract with the New York City Health and Hospitals Corporation. In the Brooklyn and Queens Houses of Detention, mental health services are provided directly by the Health and Hospitals Corporation.

The bad news is that an individual may not receive mental health services if s/he does not ask for them. And even if the person is identified as mentally ill and placed in a mental health unit, the staff there will not have information about the person's treatment needs (except perhaps in the form of a chart from a previous incarceration). You have important information about what medications the person has been taking and what medication do not work well for the patient. The mental health staff at the jail need this information.

It may be difficult to get in touch with jail mental health staff or to get them to respond to your concerns. Jail mental health staff may resist talking to you because of concerns about confidentiality. If this happens, be polite but firm. Say something like, “Look, I’m not asking you for any information right now. I’m calling to give you some information. This person was arrested Thursday and he is in your jail. He is mentally ill. His diagnosis is schizoaffective disorder and he should be getting 3 milligrams of Risperdal and 500 milligrams of Depakote twice a day. He has a history of suicide attempts and you need to put him on suicide watch right away. When you speak to him, please ask him to sign a release so that you can speak to me about his condition. I will call you back tomorrow morning.”

Write down the name and number of every person you speak to at the jail so that you can follow up if things are supposed to happen and don’t. Follow up regularly. Find a way to balance respecting the fact that the people who work in jail mental health services have too much to do and too few resources with letting them know that you’re involved and you’re not going away.

Get in touch with the mental health staff at the appropriate jail by calling the right number below. I have listed both the main number for the jail and the number for mental health (where I have it). Again, be persistent. This can be frustrating.

Manhattan House of Detention	(212) 225-1300
Brooklyn House of Detention	(718) 797-8301/8315 (718) 643-5392
Bronx House of Detention	(718) 579-4300/4372
Vernon C. Bain Barge (Bronx)	(718) 579-8300/8307
Queens House of Detention	(718) 520-5220/1 (718) 575-5311
Rikers Island (general #)	(718) 546-1560
AMKC (Anna M. Kross Center)	(718) 267-2301
mental health	(718) 626-3893/3894 (718) 626-3888/3897 (718) 626-3414x537/549
ARDC (Adolescent Center)	(718) 546-6900
mental health	(718) 626-3414 x471/537/549
CIFM (Correctional Inst. for Men)	(718) 956-2700
mental health	(718) 626-3414 x663
GMDC (George Motchen Center)	(718) 546-4500
mental health	(718) 626-3414 x361/385/387
GRVC (George R. Vierno Center)	(718) 546-2000
mental health	(718) 626-3414 x425
JATC (James A. Thomas Center)	(718) 546-5300/1
mental health	(718) 626-3414 x743
North Infirmary Command	(718) 546-1100
mental health	(718) 626-3414 x704
OBCC (Otis Bantum Center)	(718) 546-6400
mental health	(718) 626-3414 x214

RMSC (Rose M. Singer Center)	(718) 546-7500
mental health	(718) 626-3414 x267/268 (718) 546-7567
West Facility	(718) 546-4100

If you are having problems dealing with individual staff members, you can ask to speak to the Unit Chief – there is one in each facility. If you are very dissatisfied with the response from the staff in the facility, you can try calling the central office for mental health at Rikers Island at (718) 546-5141, or the director of health services for Rikers at (718) 546-5210. If the person you are trying to help is in Brooklyn, Queens, or Bronx House of Detention, these services are overseen by the Correctional Health Services at the Health and Hospitals Corporation; you can reach this office at (212) 788-4888/4845/4901/9244.

working with a defense attorney

ONCE YOU’VE DONE WHATEVER YOU CAN to keep the person out of jail and/or ensure that they receive appropriate treatment in jail, the next step is to talk with the defense attorney about what is going to happen with the case. There is a cliché that says there are two things you don’t want to watch being made; one is sausage and the other is law. The courts where criminal cases are heard can seem very much like an assembly line where defendants go by on a conveyor belt, the highest priority is speed, not the rights and needs of the individual, and no one really gets their “day in court.” As an advocate for someone in this position, your job is to stop the conveyor belt, to say to the court, “Hold everything, this is not an object on an assembly line. This is a human being with special needs and you’d better pay attention.”

In order to do this, you must work with the defense attorney. There are two reasons that you need to make contact with the defense attorney. The first reason does not necessarily have to do with advocacy – it is simply that the defense attorney has information you may want. The defense attorney is the only person in the criminal justice system who has direct contact with a defendant. The defense attorney will know what the defendant’s version of the “crime” is and the defense attorney will have a sense, as soon as s/he meets the defendant for the first time, of what is likely to happen with the case. The defense attorney gets information from the prosecutor about what the police and/or the complainant in the case say happened, as well as any statement the defendant may have made to the police. The defense attorney will also know what the defendant wants to do, for example whether s/he plans to plead guilty or go to trial, and whether s/he is interested in trying to get a disposition that includes mental health and/or drug treatment. If you need information about what is going on with someone’s case, the defense attorney is your best source of information.

The second reason to talk to the defense attorney is that you may have information the attorney needs, and you may be able to work with the attorney to help the defendant. The defense attorney probably does not know very much about the defendant's psychiatric problems and history. Most defense attorneys have no specialized training in mental health; they may neglect to ask the client about mental health issues and may miss even obvious clues that the defendant has a mental illness. Even if the defendant tells the defense attorney that s/he has a mental illness and takes medications and is in a program, it may not occur to the defense attorney to talk to the program or the family about these issues. By contacting the defense attorney, you educate him/her about the defendant's mental health problems and what supports are available to the defendant in the community to help her/him stay out of trouble in the future.

You generally cannot talk to the judge on your own initiative – s/he will never return your phone calls, and while you may have the opportunity to address the judge in person on a court date, you should do so only with the defense attorney's approval and assurance that what you plan to say will be helpful to the defendant.

Similarly, do not talk to the prosecutor without the defense attorney's blessing. Information that you think will help the defendant may actually be harmful in the hands of a prosecutor. Even the simple disclosure that an individual has a mental illness may lead the prosecutor to fight harder to keep the person in jail. If you disclose harmful information about the defendant to a defense attorney, that attorney is bound by professional ethics to never disclose that information; a prosecutor, on the other hand, is charged with protecting public safety and if you give a prosecutor any information that can be used to harm a defendant, it may be used to do so. Even if you find the defense attorney challenging to deal with, you must remember that the defense attorney is the only person in the criminal justice system whose job it is to look out for the needs and rights of the defendant.

IF THE DEFENSE ATTORNEY AND I ARE TRYING TO HELP THE SAME PERSON, WHY ISN'T S/HE MORE COOPERATIVE?

When you advocate for someone who is charged with a crime you must start with the person's defense attorney. Sadly, however, nearly every time I speak to family members or mental health workers about advocating for mentally ill criminal defendants, I hear bitter complaints about defense attorneys – stories of unreturned phone calls, abrupt conversations, or just plain refusals by attorneys to speak with their clients' workers and family members. Why is this? The answer is that while some attorneys may just be rude, the problem is usually one of resources, funding, and caseloads – and, often, different views of the client's "best interest."

"YOU HAVE A RIGHT TO AN ATTORNEY. IF YOU CANNOT AFFORD ONE, ONE WILL BE APPOINTED FOR YOU..."

The U.S. Constitution provides that every person charged with a crime has a right to an attorney, whether or not the defendant has money to hire one.

Unfortunately, the right to an attorney does not seem to include the right to an attorney who actually has the time to do a thorough job on every case or the breathing room to return phone calls. Public defenders may be representing 60 or 70 clients at one time. These caseloads are not their choice, but rather are a function of how much New York State is willing (or not willing) to pay to provide lawyers for people accused of being criminals. With that many cases, a defense attorney likely has a hard time remembering many clients' faces and names – your job is to convince the defense attorney that this is a special case.

Many public defenders chose their jobs for noble reasons – a desire to help people in trouble, a concern about the rights of disenfranchised people. Other lawyers representing poor criminal defendants may have a struggling tax law practice and have decided to supplement it by picking up a few criminal cases. One thing virtually all defense attorneys representing poor criminal defendants share, however, is that they have far too many cases and too few resources to devote a great deal of time to an individual case.

HOW DOES A POOR PERSON IN NEW YORK GET A DEFENSE ATTORNEY?

Several defense attorneys work every shift in an arraignment courtroom. Usually there are two or three lawyers from either the Legal Aid Society (most frequently) or the defender service for that borough. In addition, there are usually 18B lawyers assigned to each shift. These lawyers will each take a number of cases that day and, among them, will represent all of the defendants being arraigned that day who do not have hired lawyers.

The Legal Aid Society and the defender services are not-for-profit organizations funded by the city where lawyers are paid to spend all of their time representing criminal defendants who cannot afford a lawyer. The Legal Aid Society and the defender services also have social workers on staff who can be of great help to a defendant with mental illness. The Legal Aid Society is one large city-wide organization, whereas the defender services are separate organizations in each borough.

18B lawyers are lawyers in private practice paid by the city to represent criminal defendants who cannot afford to hire a lawyer. 18B lawyers may spend all of their time doing criminal defense or may only take a few cases. Many 18B lawyers are former Legal Aid Society lawyers or former prosecutors.

Which type of lawyer and which individual lawyer ends up representing a particular defendant is largely a matter of chance. Defendants and their families and advocates do not have any control over which lawyer or which type of lawyer is assigned to a case. The lawyer who represents a defendant at the arraignment will usually continue to represent the defendant until the conclusion of the case, although there are exceptions to this rule, in situations where a lawyer is relieved (described below) or the case is transferred to a different lawyer within the same organization.

CAN YOU FIRE A FREE LAWYER?

What if you, or the person you are advocating for, strongly believe that the

lawyer assigned to the case is not doing a good job? Can you demand a different lawyer?

The answer is “sort of.” First, the only person who can request a different lawyer is the defendant. No matter how unhappy family members may be with an appointed lawyer, they cannot fire the lawyer because the lawyer does not represent them – the lawyer represents only the defendant. Even if the lawyer is hired and paid for by the family, the lawyer’s only responsibility is to represent and obey the wishes of the defendant.

If the defendant is unhappy with an appointed lawyer, s/he can request that the lawyer be “relieved” from the case and a new lawyer be appointed. In order to do this, however, the defendant must tell her/his lawyer that s/he wants a different lawyer, and must have the current lawyer convey this request to the judge. This means that on the next court date, the lawyer will tell the judge that the defendant has requested a new lawyer.

Sometimes the judge will grant this request and a new lawyer will be assigned. Other times, however, the judge will deny the request. A judge may feel that the lawyer is doing a good job on the case, or that the case has been going on for so long that it will take a new lawyer too long to get up to speed, or, particularly in a case where a defendant has already made the same request before and received a new lawyer, that the defendant’s request is unreasonable.

It is worth noting that a lawyer can also choose to make a request to the judge to be relieved from representing a particular client.

A FREE LAWYER IS BETTER THAN A CHEAP ONE

Knowing all of this, you might assume that anyone who can possibly come up with the money to hire a lawyer should do so. Many people assume that a paid lawyer will always be better than a free one. This is not necessarily the case, however. People who are wealthy enough to spend a large amount of money on a defense attorney should do so – and will probably be required by the court to hire their own lawyer. But people who have limited funds and can meet the criteria to get a court-appointed lawyer should be extremely cautious about selling the car or mortgaging the house to hire a lawyer instead.

Why? Because, in general, a free lawyer is better than a cheap one. A lawyer who takes a case for a low fee has to take a lot of cases to earn a living – and thus can’t devote much time to any one case. A cheap lawyer may also be cheap because s/he is not a very good or experienced lawyer. Or s/he may practice tax law or real estate law most of the time and just pick up a criminal case once in awhile; someone who is a great real estate lawyer is, almost by definition, not likely to be a great criminal defense attorney. Inexpensive lawyers often have no support staff – not even a secretary or paralegal, let alone a social worker. In fact, I’ve encountered lawyers in private practice doing criminal defense who do not have fax machines or answering machines, and offices where when you call, you can hear a television in the background

and you know the lawyer is working out of his/her living room. If you hire an inexpensive lawyer in New York City, the lawyer you hire will very likely be someone who also does 18B work (many lawyers do both paid and 18B cases) – so you will pay for the same lawyer you could have had for free.

Finally, there is virtually no oversight of lawyers in private practice. If you are dealing with a lawyer working in a public defender agency and you are very dissatisfied with the lawyer’s work or cannot ever get in touch with the lawyer, you can speak to the lawyer’s supervisor. Lawyers in private practice have no supervisor.

WHAT IS THE DEFENDANT’S BEST INTEREST?

Sometimes social workers/family members/peer advocates and lawyers seem to speak languages so different that they cannot communicate at all. This often happens when a lawyer and someone from the mental health community discuss the best interests of a client who has mental health and/or substance abuse treatment needs, but is also facing criminal charges.

Imagine that you have been working as an outreach worker and have been trying for several months to engage a particularly hard-to-reach client. The client is a man with paranoid schizophrenia who is living on the streets, refusing psychiatric treatment and shelter, and using crack cocaine and alcohol every day. Your efforts to engage the client seem to be going nowhere and you are concerned that his lifestyle places him at great risk. One day you receive a phone call from the court because the client has been arrested and has shown your card as a contact person. You rush down to the courthouse and find the defense attorney who has been assigned to represent your client.

The defense attorney tells you that the client has been arrested for possession of crack cocaine. Because the client had only four bags of crack, the offense is a misdemeanor, punishable by up to a year in jail. You feel suddenly inspired; while of course you don’t view it as a good thing that your client has been arrested, you wonder whether this might not provide the opportunity you’ve been looking for to break through the client’s resistance and help him to get off the street and into treatment. You start outlining for the attorney the treatment plan you would propose for the client – an 18-month residential MICA program, assistance obtaining benefits, day treatment, medical care – in hopes that, with your assistance, the defense attorney can suggest to the prosecutor and judge that rather than being sentenced to a year in jail, the client should be mandated to comply with this treatment plan.

The lawyer interrupts you. “This case is small potatoes,” he says. “And the guy’s only got a couple misdemeanor and no felony priors. I know this A.D.A.– she’ll give me two weeks jail time on this case and I’m gonna have the guy take it.” With that, the lawyer walks away to deal with some other cases. A few minutes later, your client’s case is called, and he pleads guilty to criminal possession of a controlled substance, and is sentenced to two weeks in jail. Two weeks later, when you go out to do outreach, you see him back on his usual corner with a bottle of malt liquor.

What just happened? Well, what just happened was that you and the defense attorney had different views of what was in the client's best interest – and the defense attorney's view trumped yours. Defense attorneys have an obligation to look out for the legal rights of their clients, while social workers are concerned about a more holistic view of what is in a client's best long-term interest. Often these two perspectives are irreconcilable, particularly when a defense attorney has an opportunity to get a client out of the system quickly and a mental health advocate would rather use the opportunity to get the person into treatment.

While a few defense attorneys do not see getting a client into treatment as being part of their job under any circumstances, most are happy to consider their clients' treatment needs, but only when the treatment intervention is proportionate to the sentence that would otherwise be imposed. For example, if a month later the same client is arrested for selling crack cocaine, and is facing a minimum of two years in prison, the same defense attorney may be begging you to come to court and advocate for the client to go to an 18-month MICA program instead – because this time the client is in a lot more trouble, so 18 months of treatment seems proportionate.

A DEFENSE ATTORNEY'S JOB IS TO GET THE DEFENDANT OUT OF THE CRIMINAL JUSTICE SYSTEM. PERIOD.

The system described above can be maddening to someone concerned about the defendant's mental health, because of course there is often no relationship between how much trouble the client is in and how badly s/he needs treatment. Mental health advocates may be frustrated by a sense that the defendant will have to commit a serious offense before the criminal justice system will ever do anything to help the individual. Sometimes family members and mental health workers feel that it is only through criminal justice intervention that a particularly resistant consumer will ever become engaged in treatment – and wish the system was more intrusive about mandating treatment.

While these perspectives are certainly understandable, it's worth stepping back for a moment and remembering what a toxic place the criminal justice system is and how destructive being in that system is to people's physical and emotional well-being. This is why it is important that defense attorneys fight so hard to minimize the contact their clients have with the system. While it is clearly a mark of progress that courts have become more amenable to sending offenders to treatment as a disposition in a criminal case, the cost of obtaining treatment through the courts can be very high.

For example, the defendant described above may have a choice of taking a sentence of two weeks in jail, or being mandated to an 18-month MICA program. But if, three weeks into the program, he leaves the program and goes back to the streets, he may be sentenced to more than two weeks in jail – perhaps the full year – as punishment for having been “given a chance” and failed. Faced with those options, any competent defense attorney would advise the defendant to take the two-week sentence. Even if the defendant

desperately wanted treatment, the defense attorney would have to advise him to do the two weeks in jail and then seek treatment voluntarily after release – when the consequence of failure in treatment will not be so high.

a few very practical tips on dealing with defense attorneys

FINDING THE DEFENSE ATTORNEY

First you have to find out who the lawyer is. Hopefully you can find out from the person you are advocating for, but sometimes the system is so confusing that a defendant can go through the entire process and be released from the court or shipped off to Rikers Island without having any idea who represented him/her. Should this be the case, with a little detective work, you can find the defense attorney. Use the list below; go to list for the borough in which the person was arrested, start at the top of the list for that borough, and call each organization and ask if they are representing this defendant and if so who the individual attorney is and how you can reach her/him. (Please note that the phone numbers for the 18B Panel are centralized).

MANHATTAN

Legal Aid Society – Criminal Defense Division	(212) 732-5000
New York County Defender Services	(212) 803-5100
18B Panel	(212) 676-0063/0066

BROOKLYN

Legal Aid Society – Criminal Defense Division	(718) 237-2000
Brooklyn Defender Services	(718) 254-0700
18B Panel	(212) 676-0061/0066

BRONX

Legal Aid Society – Criminal Defense Division	(718) 579-3000
Bronx Defender Services	(718) 838-7878
18B Panel	(212) 676-0063/0066

QUEENS

Legal Aid Society – Criminal Defense Division	(718) 286-2000
Queens Law Associates	(718) 261-3047
18B Panel	(212) 676-0061/0066

STATEN ISLAND

Batiste, Aronowsky, and Suchow	(718) 354-3200
18B Panel	(212) 676-0061/0066

GETTING IN TOUCH WITH THE DEFENSE ATTORNEY

Once you know who the lawyer is, call. Chances are s/he won't be there – most criminal defense attorneys are in court most of the day. The best times to catch them are when the court is closed, typically before 9:30 or 10 AM,

between 1 and 2 PM, and after 4:30 PM. Leave detailed messages. Don't leave your name and number and say "Call me." Say, "You are representing my client/family member, John Doe. I have some important information regarding the circumstances of the offense he is charged with and his psychiatric history that I need to discuss with you."

Keep calling. If you leave a couple of messages and don't hear back, call the attorney's supervisor, if there is one. Don't trash the lawyer; just say, "I know Mr. Smith is very busy in court but I have some very important information that perhaps you can get to him."

TALKING TO THE DEFENSE ATTORNEY

Once you get in touch with the defense attorney, be concise. It is difficult to emphasize enough how important this is, not just the first time you speak to the lawyer, but every time. The defense attorney is incredibly busy, and is far more likely to return your phone calls and keep you apprised of developments in the case if s/he knows that you will be brief. Don't tell the defendant's whole story, starting with the first psychiatric break 17 years ago. The most relevant facts are whether the person is seriously ill, what was going on in his/her life at the time of the offense, and what supports are available to the defendant in the community. Don't insist on telling the story your way; let the lawyer ask you questions, and answer them.

Speak plain English. It's a rare lawyer who knows a MICA from an SPMI. Use words that a layperson would understand and when jargon is unavoidable, explain what it means. By the same token, don't hesitate to nicely ask the lawyer to stop talking about VOP holds and Wade-Huntleys.

You also must remember that, no matter how concerned you are about the defendant, the defense attorney does not work for you. The defense attorney represents the defendant, and that means that if the defendant tells the attorney not to talk to you, the attorney may not talk to you. Similarly, if the defendant is making choices that seem clearly to not be in his/her best interest (for example, refusing a generous plea bargain offer involving treatment), the defense attorney must obey the client's wishes.

Follow the defense attorney's advice unless it seems completely wrong. Information that you think is relevant may actually not be. For example, if the defendant says he did not do the thing he is accused of, then his psychiatric history and his need for treatment don't have much to do with the case; it will come down to whether the prosecutor can prove that he did it.

If you think the defense attorney is completely wrong, speak to her/his supervisor about your concerns. If the lawyer is an 18B, there is no supervisor, so your only options are to encourage the person you are advocating for to request a different lawyer or to complain to the 18B Panel.

Follow through on any promises you make to the defense attorney. If you tell the

defense attorney that you will make a phone call to a treatment provider or get a letter from a program or come to court, do it. The defense attorney will be counting on it, and may have conveyed your promise to the judge. Judges are impressed when someone other than the defense attorney cares enough to advocate for the defendant, but they get angry when people promise to find programs or make plans for a defendant then fail to follow through. The defendant will bear the consequences.

When there is an upcoming court date, check in with the defense attorney. By calling the defense attorney a day or two before the court date, you can make plans to meet in the appropriate court part at a specific time. You can also find out whether the defense attorney will be there or will be sending another lawyer in his/her place (this often happens), and what the defense attorney expects to happen that day.

laws relating to defendants with mental illness: 730 exams and NGRI pleas

THERE ARE TWO SECTIONS OF THE NEW YORK STATE Criminal Procedure Law which in effect provide for a mentally ill criminal defendant to be diverted out of the criminal justice system and into mental health services. These two sections deal with "730 exams" and verdicts or pleas of "not responsible by reason of mental disease or defect" (commonly referred to as a NGRI or "not guilty by reason of insanity" defense).

Under Criminal Procedure Law section 730, a judge who has reason to believe that a criminal defendant may be "incapacitated" must order that the defendant undergo a psychiatric examination. "Incapacitated" in this context means that because of mental disease or defect, the defendant is unable to understand the proceedings against him or assist in his own defense. A "730 exam," as such exams are referred to, can be requested by a defense attorney or an assistant district attorney, or may be ordered upon the judge's own initiative.

When a 730 exam is ordered, the case is delayed while the defendant is seen by two psychiatric examiners (psychiatrists or psychologists). During this adjournment, the defendant usually stays in jail, and is brought to the court or a hospital for the 730 exam. Each 730 examiner makes an independent determination as to whether the defendant is "fit" or "not fit" to proceed with the case. The 730 exam is very narrow; it looks only at the defendant's ability to assist in his/her own defense, and about two thirds of defendants are found fit after undergoing the exam.

If the defendant is found not fit to proceed and the case is a misdemeanor, the charges will be dismissed and the defendant hospitalized at a state psychiatric hospital (usually Manhattan Psychiatric Center), for as long as the hospital believes the person needs to stay there. If the charges are a felony, a "not fit" defendant will be hospitalized at a state forensic hospital (Kirby or Mid-Hudson

Hospital) until he becomes “fit,” and then returned to court.

The 730 process is the only legal mechanism intended for dealing with a mentally ill criminal defendant, except for the NGRI defense. Under New York law, a defendant must be found not guilty if s/he can demonstrate that at the time of the offense, “by reason of mental disease or defect,” s/he was unable to appreciate either the nature and consequences of the conduct, or that such conduct was wrong. NGRI is an “affirmative defense,” meaning that the prosecutor does not have to prove that the defendant was “sane” at the time of the offense; it is the defendant’s duty to prove that s/he was too ill to be held responsible.

NGRI defenses are rarely used. One reason is because they are often unsuccessful (for example, in Andrew Goldstein’s case), leaving the defendant facing sentencing after trial without the flexibility available in the plea bargaining process (in Goldstein’s case 25 years to life). Another reason for the limited use of the NGRI defense is that defendants found NGRI are not set free — they are committed to secure psychiatric facilities (Kirby or Mid-Hudson) for indeterminate (and usually very long) periods of time, so in many cases it may not be in the defendant’s best interest to seek to be found NGRI. Finally, many seriously mentally ill defendants refuse to permit their defense attorneys to use an NGRI defense even when it is in their best interest — either because they do not believe they have a mental illness (Colin Ferguson, for example), or because they prefer incarceration in a prison to long-term hospitalization.

Neither the 730 process nor the NGRI defense comes close to addressing the need for special ways of diverting mentally ill criminal defendants. Both standards (“fit to proceed” and “not responsible”) are very narrow; the majority of mentally ill criminal defendants are organized enough to understand the proceeding against them and were legally responsible for their actions. However, thousands of these “fit” and “responsible” defendants are seriously mentally ill and should be dealt with in ways that address their mental health needs. New York State law does not provide a mechanism to do so.

Another limitation of the 730 and the NGRI provisions is that both are most likely to be used in cases with very serious charges, and neither has much benefit to offer the mentally ill repeat misdemeanor or “nuisance” offender who passes again and again through the revolving door of the criminal justice system. In misdemeanor cases, even repeat offenders are unlikely to go to jail for very long, so remaining confined pending a 730 exam, or being retained in the hospital after being found unfit, may constitute a greater “punishment” than the sentence available through plea bargaining. This discourages defense attorneys from requesting 730 exams in most misdemeanor cases even when they know their client has serious psychiatric problems. Preparing to go to trial with a NGRI defense also requires time and resources that neither a defense attorney, a defendant, nor the court is likely to invest in a misdemeanor case.

As a result, for the vast majority of mentally ill criminal defendants, including

virtually all mentally ill misdemeanants, there is no statutory mechanism for addressing their mental health needs.

advocating for a defendant to be sentenced to treatment

IMPLICIT IN THE ABOVE SECTIONS IS AN ASSUMPTION that if the person you are advocating for is in danger of being sentenced to jail or prison, you will want to advocate for the person to be sentenced to treatment instead. Increasing numbers of defendants, even some charged with fairly serious crimes, are being given the option to go to treatment rather than prison or jail, but it is important for you to understand the process and some of the obstacles involved in making this happen.

THE DEFENDANT MUST WANT TREATMENT.

No one is ever sentenced to treatment unless they agree to it. No matter how much you think the defendant needs treatment, s/he will not be sentenced to treatment unless s/he chooses that option.

THE DEFENSE ATTORNEY MUST THINK TREATMENT IS A GOOD DEAL.

Although it is the defendant’s decision, if the defense attorney thinks that a treatment disposition is disproportionate to the seriousness of the offense, or believes that the defendant will not succeed in treatment, this disposition probably will not happen.

THE JUDGE AND THE PROSECUTOR MUST AGREE TO A TREATMENT SENTENCE.

If the person is on probation or parole, then probation or parole must also agree. This may be an area where you can be of great help to the defense attorney, by using your knowledge about the defendant to convince the judge and prosecutor (and probation or parole) that this person would benefit from treatment, and that there are treatment programs capable of helping the defendant avoid re-offending. Follow the defense attorney’s advice about how to do this.

SOMEONE MUST FIND A TREATMENT PROGRAM THAT WILL ACCEPT THE DEFENDANT.

Sometimes this is the hardest part. Usually, at least in a serious case, the judge and/or prosecutor will insist that the defendant go to a residential treatment program. There are not enough residential treatment beds in New York City, the application process for these programs is very complicated, and many programs will not accept people straight from jail. You and the defense attorney will need to find someone (usually a social worker) who can do the application process to get the defendant into a program. This social worker may be from the defense attorney’s organization, from NYC-LINK (a program mentioned below that does discharge planning for consumers in New York City jails), (in Manhattan) from the Nathaniel Project at CASE, or (in the Bronx) from the newly-created Bronx Supreme Court Mental Health Diversion Program (718) 237-9404x210.. Even once there is a social worker trying to get the defendant

into a program, the process can be very frustrating. Specific issues, like whether the defendant has a substance abuse problem or if the defendant is taking medications that are controlled substances (e.g., Klonopin), as well as the seriousness of the defendant's criminal behavior, will have an impact on how difficult it is to find a program. Once there is a social worker looking for a program, you should stay in touch with that worker and check in regularly to encourage her/him to make the case a priority, but you should also understand that the process may take months.

THE DEFENDANT MUST SUCCEED IN TREATMENT.

When someone is sentenced to treatment, that is almost never the end of the case. Typically, the person has to plead guilty before being released to the program and then is required to comply with the program and to return to court regularly to report on her/his progress. If the defendant leaves the program, refuses to take medication, uses drugs, or otherwise does not cooperate with treatment, the treatment program will notify the judge. In this event, the judge may give the person another chance, or may lose patience and sentence the person to jail or prison – perhaps for longer than the person would have received had s/he pled guilty in the first place rather than going to treatment at all. If you are working with someone who has been sentenced to treatment, you must make sure the person understands and remembers the consequences of failure.

advocating for discharge planning

AFTER YOU'VE ENSURED THAT THE PERSON you are advocating for gets appropriate treatment while in jail, and you've worked with the defense attorney to arrange the best possible disposition, you may face one more difficult task. If the person you have advocated for will be leaving jail or prison and returning to the community, s/he will need discharge planning. Discharge planning is the process of ensuring continuity of care as a patient leaves one treatment provider (the jail or prison) and goes to another (in the community). Prior to this transition, there must be a plan in place for how the person will get medications, treatment and public benefits (if necessary), and where s/he will live. A recent lawsuit established that mental health consumers leaving jails and prisons have a right to discharge planning, but you will still need to advocate to make sure it actually happens.

Get in touch with the mental health staff in the jail or prison well in advance of the person's release day, and ask them very specific questions about what their plan is for ensuring that the person leaving jail/prison will have a continuous supply of medication, a referral to community mental health services, assistance accessing public benefits, and placement in housing or residential treatment if necessary. Ask whether the person has been referred to the NYC-LINK program (a program that does discharge planning); if not refer the person yourself by calling (212) 788-4861 (for an inmate in a New

York City jail) or (718) 797-9229 or (718) 966-3377 (for an inmate in a New York State prison).

Follow up. Stay in touch regularly with the discharge planner in the jail and/or the NYC-LINK worker assigned to the case. Make sure that when the person you have been advocating for leaves jail or prison s/he has everything necessary for success in place already.

advocating for someone on probation or parole

FIRST YOU MUST UNDERSTAND the difference between probation and parole. Probation is a sentence. Probationers are supervised in the community for either one year (if they committed a B misdemeanor), three years (for an A misdemeanor), or five years (for a felony offense). Probationers must report to a probation officer and comply with specific conditions set by the probation officer. If a person on probation fails to comply with probation, the probation officer may return to the court that sentenced the defendant to probation and ask the court to issue a warrant for the person's arrest based on a violation of probation. If a warrant is issued and the person is arrested, s/he will appear before the same judge and the judge will decide whether to continue probation or sentence the defendant to incarceration.

Parole is the supervision of someone who has returned to the community after serving a sentence in State prison. Parolees must report to a parole officer and comply with specific conditions set by the parole officer. If a person on parole violates any condition of parole, the parole officer can arrest the person immediately and s/he will be sent to Rikers Island to await a hearing regarding whether s/he violated parole and should be sent back to prison.

Mental health consumers on probation or parole definitely need advocates. Probation officers may be supervising well over 100 probationers; parole officers also have high caseloads. Most of these officers also do not have any special training in mental health issues. By helping a probation or parole officer understand the mental health issues that a consumer is dealing with, and by making it clear that the consumer is getting help, you may be able to prevent a probationer from violating probation and going to jail or prison, or a parolee from returning to prison.

Make contact with the probation or parole officer before there is a problem; just call up and introduce yourself and, if you work for a mental health program, tell the officer a little about what your program offers. By making contact early, the officer will be more likely to call you if there seems to be a problem, and you will be more credible should you need to advocate for the consumer later on.

ADVOCATING FOR SOMEONE IN New York City’s criminal justice system can be an incredibly confusing, frustrating, and overwhelming experience. Find people who can help you understand what is happening to the person that you are advocating for, and how you can be the most effective advocate possible. Hopefully, you can get some of this information from the person’s defense attorney, but if s/he does not return your calls or is not willing to take the time to explain things to you, don’t give up.

New York City has many chapters of the National Alliance for the Mentally Ill (NAMI). NAMI facilitates support groups for people dealing with mental health issues, either as family members or consumers. In Manhattan, NAMI-NYC Metro has a support group focused specifically on the experience of mental health consumers in the criminal justice system. You can get more information about this group by calling NAMI-NYC Metro at (212) 684-3264. The New York State NAMI (NAMI-NYS) in Albany has a very kind and knowledgeable staff member in charge of criminal justice issues; his name is Bob Corliss, and he can be reached at 1-800-950-3228 or (518) 462-2000. There are also many other NAMI chapters in New York City; NAMI-NYC Metro should be able to refer you to the one nearest to you.

can we stop the criminalization of mental illness

PEOPLE WITH MENTAL ILLNESS do not belong in jail and prison. Sending them there wastes money, wastes lives, and lets the government off the hook for its broken promise of deinstitutionalization. Many of the “crimes” that mental health consumers end up in jail for today would be viewed as symptoms if we had enough residential and hospital treatment beds.

In the last year or two, the issue of people with mental illness in the criminal justice system has become something of a hot topic. But those of us who care about mental health issues – consumers, families, friends, treatment providers and advocates – should not assume that being in the spotlight will do anything to fix the problem.

The criminalization of mental illness is just one symptom of much broader problems with crumbling mental health systems across the country, but it may be the most tragic symptom. It is also a symptom of our country’s ever-expanding criminal justice system and tendency to view incarceration as the solution to every social problem. We must make federal, state and local officials realize what they have done by incarcerating hundreds of thousands of mental health consumers. Everyone who cares about mental health must work together to stop criminalization and demand a real community mental health system, regardless of whether someone you care about has been arrested – yet.

Below are all the phone numbers included in this handbook, listed together for convenience.

NYPD

General Information	(212) 374-5000
Central Office Community Affairs	(212) 374-5323

PATROL BOROUGH COMMANDS:

Manhattan South	(212) 477-7436
Manhattan North	(212) 678-1851
Brooklyn South	(718) 287-3231
Brooklyn North	(718) 963-5333
Bronx	(718) 299-4314
Queens	(718) 969-8602
Staten Island	(718) 667-2220

NYPD CRIMINAL COURT OFFICES:

Manhattan	(212) 374-3921/5918
Brooklyn	(718) 935-9240/9210
Bronx	(718) 590-2815/2817
Queens	(718) 268-4899/4523
Staten Island	(718) 876-8135/8493

CRIMINAL COURT ARRAIGNMENT OFFICES

Manhattan	weekdays	(212) 374-5880/5881
	eves & weekends	(212) 374-6242/3/4/5/6/7/8
Brooklyn	weekdays	(718) 643-4044/5/6
	eves & weekends	(718) 643-5675
Bronx	weekends	(718) 590-2865/6/7
	eves & weekends	(718) 590-2886/7/8
Queens		(718) 520-1985
Staten Island		(718) 390-8400
Criminal Court Info Line		(212) 374-5880

JAILS

DOC Records Department	(212) 487-7143/4/5
DOC Automated Info Line	(718) 546-0700
Manhattan House of Detention	(212) 225-1300
Brooklyn House of Detention	(718) 797-8301/8315
	(718) 643-5392
Bronx House of Detention	(718) 579-4300/4372
Vernon C. Bain Barge (Bronx)	(718) 579-8300/8307
Queens House of Detention	(718) 520-5220/1
	(718) 575-5311

Rikers Island (general #)	(718) 546-1560
AMKC (Anna M. Kross Center) mental health	(718) 267-2301 (718) 626-3893/3894 (718) 626-3888/3897 (718) 626-3414x537/549
ARDC (Adolescent Center) mental health	(718) 546-6900 (718) 626-3414 x471/537/549
CIFM (Correctional Inst. for Men) mental health	(718) 956-2700 (718) 626-3414 x663
GMDC (George Motchen Center) mental health	(718) 546-4500 (718) 626-3414 x361/385/387
GRVC (George R. Vierno Center) mental health	(718) 546-2000 (718) 626-3414 x425
JATC (James A. Thomas Center) mental health	(718) 546-5300/1 (718) 626-3414 x743
North Infirmary Command mental health	(718) 546-1100 (718) 626-3414 x704
OBCC (Otis Bantum Center) mental health	(718) 546-6400 (718) 626-3414 x214
RMSC (Rose M. Singer Center) mental health	(718) 546-7500 (718) 626-3414 x267/268 (718) 546-7567
West Facility	(718) 546-4100
Rikers Island Mental Health Central Office Director of Health Services for Rikers	(718) 546-5141 (718) 546-5210
HHC – Correctional Health Services	(212) 788-4888/4845/4901/9244

DEFENSE ATTORNEYS

MANHATTAN

Legal Aid Society – Criminal Defense Division	(212) 732-5000
New York County Defender Services 18B Panel	(212) 803-5100 (212) 676-0063/0066

BROOKLYN

Legal Aid Society – Criminal Defense Division	(718) 237-2000
Brooklyn Defender Services 18B Panel	(718) 254-0700 (212) 676-0061/0066

BRONX

Legal Aid Society – Criminal Defense Division	(718) 579-3000
Bronx Defender Services 18B Panel	(718) 838-7878 (212) 676-0063/0066

QUEENS

Legal Aid Society – Criminal Defense Division	(718) 286-2000
Queens Law Associates 18B Panel	(718) 261-3047 (212) 676-0061/0066

STATEN ISLAND

Batiste, Aronowsky, and Suchow 18B Panel	(718) 354-3200 (212) 676-0061/0066
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NATIONAL ALLIANCE FOR THE MENTALLY ILL

NAMI-NYC Metro	(212) 684-3264.
NAMI-NYS	1-800-950-3228 or (518) 462-2000

BRONX SUPREME COURT MENTAL HEALTH DIVERSION PROGRAM

(718) 237-9404x210

NYC-LINK (DISCHARGE PLANNING SERVICES)

NYC jails	(212) 788-4861
NYS prisons	(718) 797-9229 or (718) 966-3377

helpful websites

GOVERNMENT AGENCIES

New York City Department of Correction
<http://www.ci.nyc.ny.us/html/doc/>

New York State Department of Correctional Services
<http://www.docs.state.ny.us/>

INFORMATION ABOUT PEOPLE WITH MENTAL ILLNESS IN THE CRIMINAL JUSTICE SYSTEM

American Association of Community Psychiatrists
<http://www.comm.psych.pitt.edu/finds/mibb.html>

Bazelon Center for Mental Health Law
<http://www.bazelon.org/decrim.html#bradh>

Department of Justice report
<http://www.ojp.usdoj.gov/bjs/pub/pdf/mhtip.pdf>

National GAINS Center
<http://www.prainc.com/gains/>

National Mental Health Association's position on Juvenile Justice
<http://www.nmha.org/position/ps060198.cfm>

The Open Society Institute ("Hospitals of Last Resort," a report by the Urban Justice Center about people with mental illness in New York's criminal justice system.)
<http://www.soros.org/crime/MIRep-main.htm>

INFORMATION ABOUT NEW YORK STATE PRISONS

<http://www.corrassoc.org/>

FAMILIES AGAINST MANDATORY MINIMUMS

<http://www.famm.org/>

INFORMATION ABOUT FORENSIC PSYCHIATRY

(This website has many helpful links. However, it is a commercial website for an expert; this is not a recommendation of this doctor or any doctors listed on this site).

<http://www.forensic-psychiatrist.com/experts.html>

NATIONAL ALLIANCE FOR THE MENTALLY ILL

New York State chapter

<http://www.naminys.org/>

National chapter

<http://www.nami.org/>

NAMI-NYC METRO

<http://www.naminyc.org/>

NEW YORK CITY VOICES MENTAL HEALTH NEWSLETTER

<http://www.newyorkcityvoices.com/>

NEW YORK CITY MENTAL HEALTH REFERRALS

<http://www.800lifenet.com/>

ADJOURNMENT – A postponement in a criminal case. The time between court dates.

ADJOURNMENT IN CONTEMPLATION OF DISMISSAL (ACD) – A disposition where the charges will be dismissed if the defendant is not rearrested in the next six months.

ALLOCUTION – Answering questions and admitting to a crime in order to plead guilty as part of a plea bargain.

ALTERNATIVE TO INCARCERATION (ATI) – A program that a defendant is ordered to attend rather than being sentenced to jail or prison.

ARRAIGNMENT – The first appearance before a judge after a person is arrested. Should be held within 24 hours of arrest. The purpose is to inform the defendant of the charges against him and decide whether to release the person or set bail.

ASSISTANT DISTRICT ATTORNEY (ADA) – Prosecutor working for the District Attorney.

BAIL – An 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 makes a living by helping defendants pay their bail and taking a fee for doing so.

BENCH WARRANT — A warrant issued by a judge, usually because an individual did not return to court when they were supposed to.

BOOK AND CASE NUMBER – The number that the Department of Correction uses to keep track of jail inmates. This number changes with every new arrest.

CENTRAL BOOKING – Location in the Criminal Court basement where newly-arrested defendants are processed before seeing the judge.

CHARGE – Accusation regarding the specific law a defendant is said to have violated.

CONVICTION – Having been found guilty of an offense.

CRIMINAL COURT – The court where every criminal case starts, regardless

of whether it is a felony or a misdemeanor. There is one in each borough.

CRIMINAL JUSTICE AGENCY (CJA) – The agency that interviews every person arrested to assess the individual’s ties to the community and make a recommendation about whether the person should be released without bail.

CRIMINAL PROCEDURE LAW – Set of New York State laws governing the procedures in criminal cases.

DEFENDANT – Person charged with a crime.

DEFENDER SERVICE – Organization that represents indigent criminal defendants. Usually refers to Brooklyn Defender Services, Bronx Defender Services, or New York County Defender Services.

DEPARTMENT OF CORRECTION – The New York City agency that operates all of New York City’s jails.

DEPARTMENT OF CORRECTIONAL SERVICES – The New York State agency that operates all of New York State’s prisons.

DEPARTMENT OF PROBATION – The New York City agency that supervises people sentenced to probation in New York City.

DESK APPEARANCE TICKET (DAT) – A ticket ordering you to appear in court on a specific day to answer charges against you.

DETENTION – Being held in jail awaiting trial (usually because you can’t afford bail).

DIN # — “Department Identification Number” used by the State prison system (the New York State Department of Correctional Services) to keep track of prisoners.

DISPOSITION – The conclusion of a criminal case.

DISTRICT ATTORNEY – The person who prosecutes people charged with crimes. There is one District Attorney in each borough. He is elected (they are all “he”) and has several hundred “Assistant District Attorneys” working for him.

DIVISION OF PAROLE – The New York State agency that supervises people released from prison on parole.

18B – Attorney in private practice appointed to represent an indigent criminal defendant.

FELONY – Crime punishable by more than a year of incarceration.

FULL ORDER OF PROTECTION — A court order that a defendant may not have any contact, in person, by phone, or mail, with a specific person.

GENERAL POPULATION – Regular (non-segregated) section of a jail or prison.

INDIGENT – Poor.

INMATE – Person in jail or prison.

JAIL – Local correctional facility where people awaiting trial and people sentenced to less than one year of incarceration are held. New York City’s jails are the ones on Rikers Island, plus the Houses of Detention (in Manhattan, Brooklyn and Queens) and barges (such as the Vernon C. Bain Center in the Bronx) run by the Department of Correction.

LEGAL AID – The Legal Aid Society, New York City’s oldest and largest “public defender” or provider of indigent defense services.

LIMITED ORDER OF PROTECTION – A court order that a defendant, although permitted to have contact, may not behave in an aggressive, abusive, or harassing manner toward a specific person.

MENTAL HEALTH CENTER – The highest level of mental health care available in the New York City jails. There two mental health centers – they are at the Rose M. Singer Center for Women and at the Anna M. Kross Center for Men, both on Rikers Island.

MENTAL OBSERVATION UNIT (MOU) – The segregated mental health units in the New York City jail system.

MICA – “Mentally Ill Chemically Addicted.” Term used to refer to someone who is dually-diagnosed with mental illness and substance abuse and requires integrated treatment for both problems.

MIDTOWN COMMUNITY COURT – A specialized misdemeanor court in Midtown where an arrested person may be taken instead of Manhattan Criminal Court.

MISDEMEANOR – An offense punishable by a year or less of incarceration. There are two kinds of misdemeanor; an A misdemeanor is punishable by up to a year in jail, while a B misdemeanor is punishable by no more than three months in jail.

NYSID – New York State Identification number. This number is given to you the first time you are arrested, to match your fingerprints. It stays with you for the rest of your life, even if you are never arrested again.

PAROLE – Supervision in the community of someone who has been released from prison.

PENAL LAW – Set of New York State laws listing what actions are criminal in New York and what the sentences are for each offense.

PLEA BARGAIN – An agreement where a defendant pleads guilty to an offense in return for a specific sentence (usually a better sentence than s/he 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.

PROBATION – A sentence of 1, 3, or 5 years of supervision in the community.

PUBLIC DEFENDER – A defense attorney who is paid by the government to represent criminal defendants who cannot afford to hire a lawyer.

PUNITIVE SEGREGATION (ALSO “BING” AND “BOX”) – Unit where inmates being punished for disciplinary infractions are held in solitary confinement. On Rikers Island, there is a punitive segregation unit exclusively for inmates with mental illness – it is called the MHAUII.

RAP SHEET – Record of every time an individual has been arrested, and what happened in each case.

RED HOOK COMMUNITY COURT – A specialized court in Red Hook, Brooklyn, where an arrested person may be taken instead of Brooklyn Criminal Court.

RIKERS ISLAND – The island next to LaGuardia Airport where ten of New York City’s jails are located.

RELEASED ON RECOGNIZANCE (ROR’D) – Released from custody without being required to pay bail, but required to return to court on a specific date.

SATELLITE UNIT – A mental health facility within a New York State prison.

SENTENCE – The punishment imposed at the conclusion of a criminal case.

SPECIAL NARCOTICS PROSECUTOR – A separate prosecutor from the District Attorneys, who prosecutes only drug offenses, and does so city-wide.

SPMI – “Seriously and Persistently Mentally Ill.” This is a term used by the New York State Office of Mental Health. Whether an individual is “SPMI” or not depends on how much mental illness impairs his/her functioning. This term is important because many programs determine eligibility based on whether or not the person is “SPMI.”

SUICIDE WATCH – When a jail inmate who is believed to be potentially suicidal is checked on regularly as a preventative measure.

SUPREME COURT – The court felony cases are transferred to from Criminal Court after the defendant is indicted by a grand jury. There is one in each borough.

footnotes

WARRANT – A notice to the police that a person is wanted and should be sought out and arrested.

¹ This handbook does *not* discuss the juvenile justice system and Family Court, where young people under age 16 and charged with crimes are usually prosecuted. Nor does it cover the federal system where people charged with federal offenses are prosecuted. Anyone over the age of 16 charged with a crime (and children as young as 13 charged with some serious violent felonies) are treated as adults by New York’s criminal justice system.

² There is a House of Detention in the Bronx but it is currently closed for renovation. I have included the phone number in this handbook because it is expected to reopen in two years.