

## **SB 851 (Steinberg & Romero) Corrections Mental Health Act of 2007**

Across the United States, people with mental illness are overrepresented in prisons and jails. In September 2006, The U.S. Department of Justice (DOJ) reported that more than half of all prison and jail inmates throughout the country had a mental health problem. These conditions are serious and debilitating and include 43 percent of state prisoners who reported symptoms of mania, 23 percent with symptoms of major depression, and 15 percent who met the criteria for a psychotic disorder.

Without appropriate care for their mental health these individuals continue to reenter the criminal justice system. According to the same report, nearly a quarter of state prisoners with a mental health problem had served three or more prior jail terms, which is a prior incarceration rate that is 25 percent higher than for offenders without mental illness.

While Californians have deposited \$1.7 billion into the Mental Health Services Act Account since the passage of Prop. 63, those resources are not available for individuals in prisons and on parole. As one of the authors of Prop. 63, we intentionally constructed firewalls between offenders and community services. While the needs are vast wherever one looks, it was necessary to draw a line to ensure a significant, focused investment in community services. There are however a few opportunities for Prop. 63 to assist with mentally ill offenders. The most significant is for people not yet in the criminal justice system. Presently, when an officer encounters someone with severe mental health needs who has committed a minor crime, there is seldom capacity available in mental health programs and the only safe housing option is jail. However, once a more serious crime has been committed and a person becomes part of the state corrections system, Prop. 63 explicitly reads, "Funds shall not be used to pay for persons incarcerated in state prison or parolees from state prisons."

Now that community mental health needs are beginning to be addressed, it is time to revisit what was left undone. Now that population levels behind bars have become a court-intervention crisis, it is time to address offenders' mental health needs.

The opportunity is in routing mentally ill offenders into services as early as possible, thereby treating their needs, stabilizing their illness, increasing their ability to fully incorporate the living situation around them, and reducing the likelihood that they will reoffend. Given that the U.S. DOJ reports that only a fifth of mentally ill offenders in state prison had received mental health treatment during the year before their arrest, offenders must be routed into services when appropriate instead of relying on the corrections system. The following proposal looks at the continuum of an offender's experience in the criminal justice system by employing proven methods of care while identifying Prop. 63 support where appropriate.

**Sponsor:** California Council of Community Mental Health Agencies

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## **1. Pre-Incarceration: Mental Health Courts**

### Problem in the Law

No state statutes authorize Mental Health Courts.

### Background

Mental Health Courts are specialized dockets that offer defendants with mental illnesses, when appropriate, the opportunity to participate in court-supervised community-based treatment in lieu of typical criminal sanctions with the goal of both recovery and reducing the chance they repeat new crimes. These courts increase the cooperation between two systems that have traditionally not worked closely together – the mental health treatment system and the criminal justice system.

First beginning in 1997, Mental Health Courts now number 120 throughout the United States. A number of Courts have been funded in California through reprioritized currently existing county funds and federal funding for Mental Health Courts. However, with the limited capacity of county mental health programs the incentive to increase their utilization has been limited.

A federally-funded SAMHSA evaluation of Santa Clara County's Mental Health court revealed that participants had a "reduction in re-arrests, time in custody, and violations of probation and/or parole during and after participation." Results were swift in that within six months defendants were "getting better in terms of their mental health" and employment increased by ten percent. Specific results for the 278 graduates studied between January 2005 and June 2006 include:

- Avoided 31,315 jail bed days, resulting in a savings in excess of \$2,175,453 to Santa Clara County.
- Avoided 206,511 prison bed days, resulting in a savings in excess of \$18,635,552 to the State of California.
- 68% said they learned to solve their problems.
- 70% said they were better able to identify relapse triggers.
- 77% said they were better able to deal with a crisis.
- 78% able to reunite with families.
- 80% said they felt more in control of their lives.
- 100% housed, versus 87% homeless at time of entry into court.

New resources from Prop. 63 give the state and counties the incentive to expand these programs and explicit statutory authorization will assist in that expansion.

### Solution

Authorize Superior Courts to develop and implement Mental Health Courts based on the Santa Clara model. The court should have a dedicated calendar, coordinate substance abuse and mental health services, and hold frequent reviews of the offender's progress in order to hold the offender accountable.

## **2. Prison to Parole Transition: Provide Comprehensive Preparation**

### Problem in the Law

Current law does not provide planning for the full range of services mentally ill offenders may need once in the community on parole.

### Background

CDCR offers the Transitional Case Management Program – Mental Illness (TCMP) for mentally ill offenders, which conducts a pre-release needs assessment and benefits eligibility and application assistance. Unfortunately, 81 percent of eligible inmates never appear on a list indicating their need for TCMP services. Even if a parolee with a mental illness is organized enough to go straight to the welfare office, there will still be at least a 45-day wait for benefits and Medicaid. Without Medicaid or other insurance there is no access to treatment for these parolees.

#### Solution

Ensure sufficient planning and preparation for mentally ill offenders that will meet the full range of needs, including medication, benefits, counseling, vocational training, independent living, and wraparound services.

### **3. On Parole: AB 2034 Integrated Services**

#### Problem in the Law

Current law does not specify the administration of proven, effective mental health services for parolees.

#### Background

Of the 117,000 current parolees, 3,500 are EOP and 16,000 are CCCMS, comprising a total of 17 percent of the total parole population. Untreated serious mental illness is a key hindrance to any offender's rehabilitation. Untreated, the offenders will offend again. CDCR serves these offenders through Parole Outpatient Clinics (POC). However, 45 percent never receive any POC services and only 12 percent received enough POC services to drastically reduce the chances of being returned to custody.

Thankfully, we have a proven, evidence-based method. In 2000, the state began treating chronically homeless mentally ill individuals with a Systems of Care approach. This approach is individualized, understands that mental health needs are not limited to Mondays through Fridays before 5:00 p.m., and may take more than a pill. It recognizes there is no uniform response and considers that housing, income, and counseling may be needed in this "whatever it takes" system.

Systems of Care for Severely Mentally Ill Homeless, also known as AB 34/2034, produced astounding results. Among the 4,900 enrollees there was a:

- 56% reduction in the number of days hospitalized;
- 72% reduction in the number of days incarcerated;
- 67% reduction in the number of days spent homeless;
- 65% increase in the number of days employed full-time; and
- 280% increase in the number of individuals receiving wages.

Very little is needed to accomplish so much. The average cost per individual served is \$12,000 annually. Compare this to the \$110,000 it costs to keep an EOP inmate in prison each year.

#### Solution

Provide AB 2034 Systems of Care services for any parolee who had at any point been designated as EOP.

### **4. Parole Violators: Reentry Courts**

#### Problem in the Law

CDCR's only options for mentally ill parole violators are to ignore the violation or return them to prison.

#### Background

A CDCR study of parole revocation for mentally ill offenders showed that 76 percent of them had been revoked on parole and returned to prison within 12 months and that 94 percent had returned within 24 months. This is primarily due to untreated mental health needs resulting in technical violations or other criminal behavior. Many of the problems exhibited by these individuals when non-compliant with their parole conditions are related to the disorganization produced by their mental illness.

Solution

Allow Mental Health Courts jurisdiction over these violators in order to give these parolees mental health support when needed in the community where it is more cost effective than in prison.

**5. Parole to Community Transition: Identify Community Service Support**

Problem in the Law

There is no statutory direction to plan for the care of mentally ill individuals who are leaving parole.

Background

Prop. 63 provides community services for seriously mentally ill individuals. As parolees leave CDCR's jurisdiction there should be a plan for community services so individuals can benefit from a continuity of care.

Solution

Require counties receiving Prop. 63 funds to plan for the incorporation of seriously mentally ill offenders leaving parole into community-based services.