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To: The Senate Committee on the Judiciary
Re: Hearing: "Breaking the Cycle: Mental Health and the Justice System"
Date: January 26, 2016

Mr. Chair and Committee Members:

My name is William Ward. I am the State Public Defender for the State of Minnesota. I have worked with indigent clients for nearly 3 decades – in Minnesota and in Chicago/Cook County, IL. The subject matter of this bill, what folks are discussing today, is not a new issue. It is an issue that has affected tens of thousands of people. It's not hidden – it is in plain sight. Yes, it is a crisis. What needs to be done is two-pronged: 1) Keep individuals with mental health issues from ever entering the criminal justice system; 2) If arrested, provide the appropriate medical and psychiatric care necessary to keep individuals appropriately medicated without interrupting their current care and/or providing the care that is necessary and needed.

As with other states, Minnesota jails are being overburdened by persons with mental illness because the Minnesota lacks a fully-funded infrastructure to stabilize their lives including: access to crisis services, treatment healthcare, housing, employment and community support systems. Seeing the entire system as a *continuum of care* is critical to meet the needs of both the accused as well as the entire community.

As a young lawyer with the Cook County Public Defender's Office in the 80's, I often met with family members who were crushed when they saw that their brother, sister or significant other was caught up in the criminal justice system as a result of the accused having a mental illness. "We/I just wanted to get some help". "We didn't know what else to do". "No one would help us so we called the police". Family and friends believed by calling the police that somehow the person would now be in crisis care and finally get the help they needed. After finding out that the individual was now caught up in the abyss of the criminal justice system, the frustration turned to anger and resentment. The desire to help landed the individual with not only the stigma of being a "defendant" it also was accompanied by court ordered conditions and the collateral consequences of being convicted of a crime – even a low level offense. The court conditions were often simply setting up the individual for failure. My "education" on this issue as a young attorney made me re-evaluate – and often contemplate the difficult ethical considerations – how to "strategically" work the system to best help my client. In all honesty the vast majority of us were not approaching these types of low level offenses with the most holistic attitude. The idea

of my client being stuck in the Cook County Jail for at least 60-120 days because s/he was mentally ill was a sickening reality.

In 2016 my experiences remain the same. It is a shameful fact that little has changed. Now, with data harvesters compiling information on the accused, the collateral consequences of the accusations and stigma has made things worse for the individual caught up in the criminal justice system grappling with mental health issues. Families increasingly experience their loved ones arrested for low level offenses when often the accused was suffering from a lack of access to medication as well as the necessary full range of treatment one should expect when dealing with a serious malady.

> *"The lack of a funded and coordinated mental health system and the prevailing stigma surrounding mental illness has resulted in an increasing reliance on our justice system as a safety net. Some might say our jails and prisons are our largest treatment centers, but it would be incorrect to imply that real treatment – evidenced based and effective – is being – or even can be – truly carried out in correctional facilities".*
> *--"Changes in the Mental Health System". Sue Aberholden, Executive Director of NAMI Minnesota.*

According to a 2006 survey of jails and prisons in Minnesota coordinated by NAMI-Minnesota:

- 25 percent of prison inmates currently take medications for mental illness.
- Inmates with mental illness often have a co-occurring substance abuse problem.
- Upon release, individuals with mental illness often find that their criminal records make it difficult to access necessary resources.
- Individuals who are incarcerated for over 30 days lose their federal benefits, such as Medical Assistance and social Security Income. For many, these benefits are necessary to obtain medical health treatment and to help prevent further criminal justice contact.
- The majority of jail staff frequently recognized serious mental illness in the jail population.

The increasing numbers of individuals with serious mental illnesses has seriously strained resources and staff. Police and sheriff departments are too often called out to deal with low level nuisance crimes as well as serious psychotic episodes. Jail staff is responsible for keeping the offender and others safe while being housed. Judges, prosecutors and defense attorneys are overwhelmed with crushing caseloads and interacting with the "frequent flyer".

In 2014, responding to the concerns that this committee has also recognized, the Minnesota State Legislature directed the Department of Human Services to convene a workgroup in partnership with NAMI-MN to address issues related to offenders with mental illness who are arrested or subject to arrest. I was a part of that workgroup as were dozens of others from numerous

agencies. We examined the entire system – from prevention and early intervention and ultimately to recovery. The workgroup found it clear that the entire system needs to be examined as a continuum of care to meet the needs of the accused as well as to address public safety concerns.

As all of you in this committee have discovered, throughout our discussions there was a real appreciation for the need to deal with this grave issue as the current *process* affects all of us – no matter our occupation. In addition, we continue to bear the huge cost and safety concerns associated with doing nothing. We had robust discussion on every level and at every intersection. We may not have always agreed, but we did come to a consensus on a number of areas. Among our recommendations, we focused on the following areas:

1. **Mobile Mental Health Crisis Response Services**. A mobile mental health crisis response team can be an effective first responder and key to preventing contact with law enforcement and/or avoiding arrest.
2. **Residential Crisis Services**. While all jurisdictions have these services, a number of issues need to be addressed including: difficulty of receiving funding for room and board costs, increasing short term stays and high turnover, ability to address high level of symptoms and support needs, additional program capacity (more "beds") and the ability to serve more people who have commercial insurance.
3. **Central Receiving Center**. Currently, the police have two options when confronted with an individual with a mental illness – an emergency room or the jail. We need to consider the efficacy of a facility for a different more humane "option". While our workgroup could not agree on a "facility", the recommendation included creating sustainable funding methods for mental health urgent care services. These services include: Mental health crisis assessment; Access to crisis psychiatry; Chemical health screening; and crisis stabilization services.
4. **First Responder/Law Enforcement**. In order for law enforcement to more quickly assess a situation, recognize mental health symptoms, and respond appropriately, he or she needs to learn techniques for engaging people in respectful, non-stigmatizing manners that help to quickly de-escalate the crisis. CIT training model.
5. **Jails and Courts**. Coordinate with community providers on a consistent and wide spread basis. In addition to screening for mental health issues, conduct routine follow-up mental health screens in the jail to address mental health deterioration (often due to restrictive formularies to medication). Establish more Mental Health Courts.
6. **Discharge**. Increase community resources to direct the inmate following discharge – discharge planning. The planning needs to address housing, assistance in receiving benefits, employment and other services.

In Minnesota, we have three Mental Health Courts up and running. Our Mental Health Court in Ramsey County (which includes St. Paul) is a national model and one that we are proud of. However, maximum capacity is – appropriately – only 40. In 84 of our 87 counties, we do not have a Mental Health Court, and we have few Veterans Courts. I do not believe that every county needs to create a Mental Health Court. However, each county – our state - needs the resources to establish a system to fully deal with the intersection of our citizens who suffer from mental illness and the criminal justice system. Obviously, the best alternative is to intercept the individual and prevent him/her from ever entering the criminal justice system from the outset.

However, if charged with an offense, we owe it to the accused and our citizens to provide the appropriate care while within the institution and once discharged.

I have reviewed the Comprehensive Justice and Mental Health Act (S.993). Like our 2014 legislatively created Offender with Mental Health Workgroup, the Act recognizes and supports the need for funding for: mental health courts, crisis intervention teams, evidence based practices, CIT curricula for police academy and training, discharge and transitional services and, if able, intercepting/keeping individuals from the abyss of the criminal justice system. I fully support Senator Franken's Comprehensive Justice and Mental Health Act.