

Testimony of Pete Earley

**Before the Senate Judiciary's Constitution, Civil Rights & Human Rights
Subcommittee**

**“Law Enforcement Responses to Disabled Americans: Promising Approaches
for Protecting Public Safety”**

Senator Richard J. Durbin, Chairman

April 29th, 2014

Good morning. Thank you Chairman Durbin and Ranking Member Cruz for holding this hearing and inviting me to testify.

My family's story begins with a frantic car ride and my son saying these words:

“How would you feel dad, if someone you loved killed himself?”

My college age son, Kevin, asked me this question while we were racing down Interstate 95 from Manhattan to an emergency room near my home in Fairfax County, Virginia. Kevin had been diagnosed a year earlier with a mental illness, bipolar disorder, but had stopped taking his medication. When I picked him up, he had been wandering around New York for five days. He hadn't eaten, had barely slept and was convinced God had him on a secret mission. I pleaded with him to take his medication but he screamed at me: “Pills are poison. Leave me alone.”

At the emergency room, my son and I were taken into a separate waiting room because of his bizarre behavior. Four hours later, Kevin announced that he was

leaving. He yelled “There’s nothing wrong with me!” I ran into the hallway and grabbed a doctor. I will never forget how he came into the room. He entered with his hands up as if he were surrendering.

“I’m sorry, I can’t help your son,” he said. The nurse had told the doctor that my son thought pills were poison, and under Virginia law, my son could not be forced to take medication or undergo treatment unless he posed an imminent danger to himself or others. The fact that we had been waiting four hours and no one had been hurt was proof there was no danger. I was told to bring my son back after he tried to harm himself or someone else.

During the next forty eight hours, I watched my son sink deeper into a mental abyss. At one point he had tin foil wrapped around his head to keep the CIA from reading his thoughts. He slipped out of the house early one morning and broke into a stranger’s house. Luckily no one was home. He broke in to take a bubble bath. It took five officers and an attack dog to get him out. My son was charged with two felonies: breaking and entering and destruction of property.

I was so frustrated. Virginia laws had kept my son from getting help when he was not thinking clearly. Now Virginia laws wanted to punish him for a crime that he committed when he was not thinking clearly.

As a journalist, I decided to investigate and found my son's arrest was not some isolated event. There are more than 356,000 persons with serious mental illnesses, such as schizophrenia and bipolar disorders, currently in our jails and prisons.¹ Each year, roughly 2.2 million people experiencing serious mental illnesses requiring immediate treatment are arrested and booked into jails nationwide.² The largest public mental facilities in 44 of our 50 states are jails and prisons³, and the chance of you ending up in jail rather than getting help without incarceration if you have a mental breakdown such as my son are three to one nationally.⁴ In other words you are three times more likely to be put in jail. *This is a national scandal.*

Who are these prisoners? I spent ten months in the Miami Dade County jail to find out. I witnessed barbaric conditions in that jail. I routinely saw five to six men, completely naked, crowded into cells built for two prisoners. Beatings by guards were common.

I want to tell you about three prisoners who I followed through the Miami Dade Court system and whose stories I tell in my book.⁵ Alice Ann C. shoved an elderly woman at a bus stop who she thought was "stealing her thoughts." She faced a five year prison sentence as a habitual offender. Prosecutors sought the maximum because she had schizophrenia, was dangerous, and there was no place in the entire state of Florida to send her. No place. April H. was framed by her parents for car theft. They wanted her in jail because she was psychotic, homeless in South

Beach, and had been gang raped twice and beaten three times by teenagers on Friday nights. Her parents thought jail was safer for her. Freddie G. was so sick when I met him in jail, he could not speak. He stood naked in his cell where his keepers controlled him with sandwiches as if he were a dog performing for treats. He had been in and out of that jail a dozen times in a single year – charged with loitering but he never received help.

I learned that 97 chronically mentally ill prisoners in Miami– people like Freddy -- who were diagnosed with mental illness and most of whom were homeless, accounted for 2,200 arrests, 27,000 days in jail, 13,000 days in crisis units and cost the city \$13 million in a five year period with no demonstrable return on investment in terms of reducing recidivism or promoting recovery.⁶

Fortunately, my son got two years of probation for breaking into a stranger's home. Medication helped him, but he stopped taking it the moment his probation ended. I called a Fairfax Crisis Response team but was told I had to wait for my son to become dangerous. When he became violent, they refused to come and called the police. Officers came, shot my son twice with a taser and asked if I wanted to file charges. I didn't.

My son's last breakdown happened once again after he stopped taking his medication. Afraid I would call the police, he took off in his car. He ran out of gas

in North Carolina and called me. Voices were telling him that if he stepped out of his car, he would die.

I arranged for him to get gas. He drove up Interstate 95 completely psychotic, twice going off the interstate. I took him to a mental health facility. That night, he took off all of his clothes because he thought it made him invisible and walked out.

But this time my son was picked up by a Fairfax County Police officer who had received Crisis Intervention Training. When Kevin asked him to not handcuff him, the officer used his discretion and treated my son with respect. He didn't handcuff him and took him to an emergency room where he persuaded the doctor to admit my son. It is thanks in part to the CIT program that my son is thriving today rather than being in jail.

This time, my son got a case manager, Cynthia Anderson. She got him to a psychiatrist who actually took time to listen to him. The psychiatrist found a medication with few side effects. Cynthia got him into an apartment with two men who had schizophrenia.

Equally important, Cynthia asked my son what he wanted to do with his life.

"I have a mental illness," he said. "What can I do?"

"You need to control your illness, not let it control you," she said.

She got him into a peer-to-peer program. Just like Alcoholics Anonymous has recovering alcoholics help other alcoholics, the program involves persons with mental illness helping each other. Today my son works for Fairfax County as a peer-to-peer specialist on a jail diversion team that helps mentally ill men and women get into treatment rather than languish untreated in jail.

Actually my son has two jobs. On weekends, he works at a movie theater as an assistant manager. He lives in his own apartment, pays taxes and has not had a relapse in six years. My son is a heroic example of what can happen when a person with a severe mental illness is given the tools that he needs to recover. Crisis Intervention Training by the police, jail diversion, mental health courts, re-entry programs –all of these help persons avoid costly and unnecessary jail and prison sentences. Along with supportive housing, jobs and, most importantly, hope, persons such as my son can and do recover to live successful and fulfilling lives. I've not only seen it happen with Kevin but with dozens of others as a board member of the Corporation for Supportive Housing, a national non-profit which provides technical assistance and grants to communities to build supportive housing and implement jail diversion and re-entry programs.

I want to emphasize the importance of Crisis Intervention Training for law enforcement officers because of the important role that a CIT trained officer played in helping my son. While I was doing my research in Miami for my book, I rode

with CIT officers and saw them defuse at least a dozen situations without making arrests. I also saw first-hand the difference CIT can make. At the time of my research, the larger Miami Dade County Police Department refused to adopt CIT while the smaller Miami City Police Department incorporated CIT training. During a six year period, five persons with mental illness were fatally shot by Miami Dade officers compared to no persons with mental illness shot by Miami police officers, a contrast that I believe was directly linked to CIT training. Thankfully, both jurisdictions now offer CIT training to their officers.

There should be no shame in having a mental illness, any more than there should be shame in catching a cold. The only shame should be in us not helping someone who is sick. And sadly, our nation has much to be ashamed about when it comes to how we are treating individuals whose only real crime is that they got sick.

Citations:

- 1. In a September 6, 2006 report, the Bureau of Justice Statistics stated that there were 705,600 mentally ill adults in state prisons, 78,000 in federal prisons and 476,000 in local jails. (See <http://nicic.gov/mentalillness> or <http://www.bjs.gov/content/pub/press/mhppjipr.cfm>) However, this report was largely criticized because it used what critics claimed was an*

excessively wide definition of mental illness. The more commonly accepted figure used by the National Alliance on Mental Illness and more recently in a study by the Treatment Advocacy Center and National Sheriffs Association is 356,286 persons with mental illnesses in prisons and jails. (see

<http://tacreports.org/treatment-behind-bars/executive-summary/226-summary-of-findings>)

2. *Statement Judge Steve Leifman, Chair, Supreme Court of Florida Task Force on Substance Abuse and Mental Health Issues in the Courts, before Subcommittee on Oversight and Investigations of the Energy and Commerce Committee of the U.S. House of Representatives. March 26, 2014, page 8. (See <http://docs.house.gov/meetings/IF/IF02/20140326/101980/HHRG-113-IF02-Wstate-LeifmanS-20140326.pdf>)*
3. *The Treatment of Persons With Mental Illness in Jails and Prisons: A State Survey, April 8, 2014 Treatment Advocacy Center and National Sheriff's Association (see <http://tacreports.org/treatment-behind-bars/executive-summary/226-summary-of-findings>)*
4. *More Mentally Ill Persons Are In Jails and Prisons Than Hospitals, May 2010, Treatment Advocacy Center and National Sheriff's Association. (see http://www.treatmentadvocacycenter.org/storage/documents/final_jails_v_hospitals_study.pdf)*

5. *Alice Ann C., April H. and Freddie G. are pseudonyms used to protect the privacy of prisoners with serious mental disorders.*