



Delay in care for SMI defendants in Jail and Found Unfit to Stand Trial – L.Rizzi

Introduction:

MCMHB ED has received two calls this past year from mothers of Severely Mentally Ill (SMI) patients who were jailed (in McHenry County), found **unfit to stand trial**, and were not receiving services needed to adequately manage their SMI. First call was initiated by a mother after her son had died in our jails due to his co-morbid issues that went untreated, and was not placing blame but wanted to help with advocacy efforts for future SMI patients jailed.

ED has had several meetings with our Sheriff to understand the current problem. Also, the sheriff confirmed this incident above.

SMI patients make up about 4% of the population and greater care is needed to manage symptoms. Unfortunately, due to their illness, they oftentimes may enter into the criminal system for assaulting police officers or other behaviors with weapons for example.

Part of the process for mentally ill residents in our jails is to receive a fitness evaluation to assess if they are fit to stand trial. If they are found unfit, they are to be transferred to a State Operated facility (managed by DHS).

McHenry County contracts with a Healthcare Provider WellPath to manage general medical and psychiatrist wellness of jailed residents; however, they are not equipped to handle serious issues.

Problem Statement:

Placing individuals who have been found unfit to stand trial has been a huge issue for county correctional facilities for several years ultimately leading to a lawsuit filed by many Sheriff's against the State and Department of Human Services (<https://www.bnd.com/news/local/article264604376.html>). This issue was 'addressed' under the SAFE-T Act when legislators changed the language of the statute (<https://www.ilga.gov/legislation/ilcs/ilcs4.asp?ActID=1966&ChapterID=54&SeqStart=4200000&SeqEnd=6500000>). Specifically 725 ILCS 5/104-17 (b).

Prior to the SAFE-T Act:

If the court orders the defendant placed in the custody of the Department of Human Services, the Department shall evaluate the defendant to determine to which secure facility the defendant shall be transported and, within 20 days of the transmittal by the clerk of the circuit court of the placement court order, notify the sheriff of the designated facility. Upon receipt of that notice, the sheriff shall promptly transport the defendant to the designated facility.

After the SAFE-T Act:

If the court orders the defendant to inpatient treatment in the custody of the Department of Human Services, the Department shall evaluate the defendant to determine the most



appropriate secure facility to receive the defendant and, within 20 days of the transmittal by the clerk of the circuit court of the court's placement order, notify the court of the designated facility to receive the defendant. The Department shall admit the defendant to a secure facility within 60 days of the transmittal of the court's placement order, unless the Department can demonstrate good faith efforts at placement and a lack of bed and placement availability. If placement cannot be made within 60 days of the transmittal of the court's placement order and the Department has demonstrated good faith efforts at placement and a lack of bed and placement availability, the Department shall provide an update to the ordering court every 30 days until the defendant is placed.

The new law ultimately gave DHS the ability to ask for county correctional facilities to hold individuals unfit as long as they sent an extension letter.

Analysis:

Advocacy, support, and creative resource planning/sharing is needed to address this issue.

Our Sheriff reported that last fall he spoke with Dr. Sharon Coleman at DHS regarding the issues their department was having with placing unfit individuals in a timely manner. At that time, the state had approximately 2,000 beds to service individuals unfit. They were also running a 200-person backlog.

After inquiring further, Sheriff provided a spreadsheet that ED reviewed and analyzed. Of the **32 cases** in McHenry Co from 8/22-5/24, the average time awaiting transfer to a SOF was **85 days**.

Consider advocacy in changing the legislation to decrease the transfer time, however, the bigger issue is the lack of resources on the State level as noted by the backlog of cases awaiting transfer. Advocacy could include investments in more SOF and also creative solutions much like the McFarland residency program that has been recently put into place and exploring more local level solutions in partnership with DHS.

There's a program in Kankakee that our Sheriff informed ED which is worth exploring and there may be other creative innovative solutions across the state as well to serve the SMI population in the jails while awaiting transfer or even to treat fully there depending on which comes first.

Next Steps:

ED has solicited support from our Association (ACHMAI) to investigate this further with membership across IL and to discuss it at future virtual committee meetings including our December member meeting. ED made a commitment to the Sheriff to assist with this matter.