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Judge, others saw dire need for new system

By JOSEPH G. COTE Staff Writer



Judge James Leary was an integral part of establishing the mental health court.
Staff photo by Bob Hammerstrom

NASHUA – During a typical set of arraignments one mid-2005 morning, Nashua District Court Judge James Leary found himself face-to-face with an elderly mother tearfully begging him not to put her son in jail.

Leary had given the woman permission to approach the bench during the hearing. Her son, who was in his 40s, had been arrested the previous night, accused of assaulting and stealing from her. The woman told Leary it was because he had stopped taking his medication for mental illness and had started drinking, Leary said.

That was one of four similar cases – defendants whose mental illness had led to run ins with local police – that Leary presided over that morning. The experience was an epiphany of sorts for the former guidance counselor and social worker: What's wrong with the way the criminal justice system serves, or too often doesn't serve, the mentally ill?

"When it was thrown into my lap – what are we going to do with these people – it was really eye-opening," Leary said.

He wasn't the only one pondering the fate of sufferers of mental illnesses such as bipolar disorder, clinical depression and anxiety or schizophrenia when their illness directly leads them to relatively minor crimes ranging from simple assault and trespassing to shoplifting and disorderly conduct.

Soon after, a meeting came together with representatives from area mental health agencies, the state department of corrections, division of behavioral health, public defenders office and district court judges, among others.

"A group of us got together to talk about this. What can we do?" Leary said. "We just started crafting a program. We had a group of people who were very interested in this, and we worked it out."

After 18 months of talking, The Community Connections Mental Health Court Project was born in August 2006.

The mental health court, one of four in the state, is a diversion program that lets nonviolent offenders whose mental illness leads them to misdemeanor crimes avoid court and jail time and instead enter a court-supervised therapy program.

The program allows people to avoid jail but not accountability for their actions, said Dr. Hisham Hafez, executive director of the Greater Nashua Mental Health Center at Community Council.

"It's not a free pass," he said.

"The reason they're doing what they're doing is an untreated mental illness," Leary said. "They don't belong in jail, and we have no alternative to jail. Jail's not going to do them any good."

The need for better mental health care in jails and prisons across the country is well documented and, according to some experts, began in the 1970s when the mental health system was deinstitutionalized and insane asylums were shuttered in favor of community-based providers like Community Council.

While that seemed like a good idea, in retrospect it's clear there weren't enough of those community-based providers in place when those institutions closed, according to local mental health experts.

Since then, the number of psychiatric beds available in the state has nosedived from 2,800 to around 200 at New Hampshire Hospital in Concord.

"We haven't put enough services into the communities. The overflow certainly goes in the prisons," Carol Farmer, Community Council's associate executive director, said.

The newest estimates of the number of inmates with severe mental illness are the most eye opening. An estimated 14 percent of male inmates and 31 percent of female inmates suffer from a severe mental illness, according to a study by the Council of State Governments Justice Center and Policy Research Associates..

Researchers interviewed more than 20,000 individuals booked at five jails in New York and Maryland and, applied nationwide, indicate that more than 2 million people with mental illness are arrested annually, according to the study.

"The growth of local correctional populations has strained the limited capacity of jails to respond to the health needs of inmates," according to the study.

About 25 percent of Granite State prisoners received medication for mental illness, and that didn't include inmates who refuse medication or those who hadn't been evaluated, according to one study by the New Hampshire Association of Counties.

The numbers for juvenile offenders are more startling. An estimated 56,000 New Hampshire children ages 5-19 have a diagnosable mental illness and as much as 68-80 percent of juvenile offenders in the state have a mental illness, according to a Community Connections position paper.

Not only do millions suffer from mental illness, many of them also go to jail. Close to 50 percent of mentally ill inmates committed nonviolent crimes and usually stay in jail longer than other inmates, according to the Criminal Justice/Mental Health Consensus Project.

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