STATE OF NEW JERSEY

ASSEMBLY REGULATORY OVERSIGHT COMMITTEE

COMMITTEE MEETING

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DISCUSSION ITEM :

Mental Health Courts in New Jersey :

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Computer-aided transcript of hearing testimony taken stenographically in the above-entitled matter before KAREN L. DeLUCIA, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, at the State House Annex, Committee Room 14, 4th Floor, Trenton, New Jersey, on Thursday, June 15, 2006, commencing at 10:10 a.m.

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ASSEMBLYMAN PETER J. BARNES, JR., ESQ.

ASSEMBLYMAN SAMUEL D. THOMPSON

ALSO PRESENT:

JAMES F. VARI, Committee Aide

NICOLE BROWN, Assembly Majority Aide

KRISTIN ANTONELLO, Assembly Republican Aide

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ASSEMBLYMAN PAYNE: Good morning everyone. I'd like to call the role for the Assembly Regulatory Oversight meeting.

MR. VARI: Assemblyman Thompson?

ASSEMBLYMAN THOMPSON: Here.

MR. VARI: Assemblyman Barnes?

ASSEMBLYMAN BARNES: Here.

MR. VARI: Vice-Chairman Steele?

ASSEMBLYMAN STEELE: Here.

MR. VARI: Chairman Payne?

ASSEMBLYMAN PAYNE: Here.

Welcome everyone. I'm glad that you were able to come on short notice on this topic that we want to discuss today. The notice says that the Committee will hear testimony on the need for mental health courts and mentally disabled defendants in New Jersey. We will discuss both sides. We're not sure that there is a need. The purpose for this hearing, of course, is to air this area, this topic.

Obviously there are some very deep concerns that we have about the extremely high percentage of jail and prison inmates who have mental illnesses in our system. And we feel that it's necessary for us to look at this phenomenon which

has come to our attention and the attention of many others in recent times. We have talked very often about those in our society who are in need of but who seem to fall between the cracks, in need of mental health assistance services and et cetera, and seem to fall between the cracks.

There are too many people with mental illness who are ending up in our criminal justice system and ending up before the bar and the judges, et cetera. And too often I believe their conditions are not recognized and many times people are in the position that they are because of a misunderstanding. Very often during encounters police officers are almost twice as likely to arrest someone who appears to have a mental illness.

A Chicago study of thousands of police encounters found that 47% of people with a mental illness were arrested while only 28% of individuals without a mental illness were arrested for the same behavior. And 16% of the state and local inmates suffer from a mental illness and most receive no treatment beyond medication.

I think that these are some of the things that certainly point out the need for us to have

at least a review of this entire area; the approximately quarter of a million of individuals with severe mental illness who are already incarcerated at any given moment. About half arrests were nonviolent offenses, such as trespassing or disorderly conduct. This does not include more than half a million probationers with serious mental illnesses.

One of the things that we certainly need to explore is whether or not the kind of services that an individual needs should be identified, can be identified prior to their arrest or that they need to be identified certainly at the time of arrest to see whether or not there are services that a person might need rather than being simply incarcerated. Too often people are incarcerated who really need mental illness and/or are not given any services whatsoever.

So the possibility of establishing mental health courts which have been established in approximately 100 localities around the country where people who are determined to be suffering from mental illness are handled by a court which has experts in this area. Broward County in Florida I think was the first of these mental

health courts that were established and there is some record on what has transpired since that time. In Brooklyn, New York there's mental health courts; in Seattle Washington; and approximately a number of them established around the country.

So we want to hear today whether or not -- there are pros and cons of this -- whether or not we here in New Jersey need to have or should look more seriously at the possibility of establishing mental courts, mental health courts. We do know that many youngsters in juvenile detention centers are placed in these centers without any follow-up, without any treatment whatsoever. We have had experience in New Jersey in recent years where youngsters, one of them successfully committed suicide. I don't know if it's successful or fail, but committed suicide in one of our detention centers. We also have -- we do know that youngsters in virtually all of our detention centers who are under suicide watch and things of that nature should be receiving treatment and not receiving treatment. So I think this may be an area that we can look deeply into and find out the pros and cons.

With that I'm going to ask for testimony from

Kevin Martone, Assistant Commissioner from the Department of Human Services, Division of Mental Health Services.

Welcome.

MR. MARTONE: Thank you.

Good morning Chairman Payne, Vice Chairman Steele and members of the Committee. Thank you for the opportunity to provide testimony to you on the work that the Division of Mental Health Services is doing to address the needs of New Jersey residents who live with mental illness.

The Division is the State Mental Health Authority responsible for delivering services to adults with mental illness. The Division provides services to approximately 300,000 individuals annually through contracts with over 120 nonprofit agencies, and operates five psychiatric hospitals, one of which is a forensic psychiatric hospital, with an average daily census of roughly 2,300 patients.

As you may recall, former Governor Codey convened the Governor's Task Force on Mental Health which brought to light publicly the issues that people with mental illness face on a daily basis, as well as the significant issues that the

mental health system is experiencing The work of former Governor Codey and the Task Force resulted in $40 million of new funding to address service gaps, reinforced accepted principles that people with mental illness can achieve wellness and recovery, and presented a road map for the future of New Jersey's mental health system. As a member of the Task Force myself prior to being appointed to this position last August, I am proud to say that the Division is committed to the transformation recommended by the Task Force.

A particular focus area of the Task Force, as well as the Division in recent years, has been related to the increasing frequency of people with mental illness encountering the criminal justice system. Statistics nationally and within New Jersey bear out that approximately 17% of those incarcerated in prisons and jails are diagnosed with a mental illness. In New Jersey, this equates to approximately 7,000 people. In fact, the largest residential provider for people with mental illness in New Jersey is the correctional system. The State Parole Board estimates that about 1,200 of the offenders under its supervision at any point in time have mental health disorders.

There are over 140,000 probationers, 13.8% of whom have a diagnosable mental or emotional condition, according to Bureau of Justice Statistics.

There is consensus from academia, advocacy organizations, consumers and other constituents that lack of services in the community due to insufficient funding is a significant contributory factor to this problem. When people with mental illness lack access to medications, services, and other community supports they experience greater difficulty both in managing their illness, as well as the impact the illness has on their lives. It is at these times that inappropriate behaviors, sometimes those that violate the law, result in misdemeanor charges that may otherwise have been avoided. For example, a homeless gentleman is charged with loitering or a woman with mental illness is charged with creating a public disturbance for shouting obscenities in response to the voices she hears in her head. The greater our ability to increase evidenced-based, accessible services in the community, the greater our ability to engage people more effectively.

In fact, before all else, the Task Force recommended the continued development of the

voluntarily accessed, community-based service delivery system as a means to address this issue. This recommendation is reflected in this current fiscal year's new programs. Important to highlight are the housing initiative to create 10,000 affordable, supportive housing opportunities over the next ten years for people with mental illness and other disabilities, the expansion of our screening centers to strengthen mobile outreach capacity and increased case management services.

An equally important recommendation of the Task Force, supported nationally, is the need to improve communication between the mental health industry, law enforcement and criminal justice at the state, county and local levels. An example of growing awareness of this issue is that approximately 11 counties now have some version of a county-wide task force or work group to identify ways to improve collaboration between the local criminal justice and mental health systems.

However, the Task Force noted that in order to successfully address the issue of people with mental illness encountering the criminal justice system, consideration must be given in three broad

areas: (1) pre-arrest/pre-adjudication; (2) post-adjudication; and (3) post-incarceration. Jail Diversion Programs were recommended as a means to divert people with mental illness into treatment in both the pre-arrest/pre-adjudication and post-adjudication phases. When possible, diversion prior to booking has several advantages, among them include quicker more appropriate access to treatment.

While diversion at this stage could prevent costly incarceration, it also prevents unnecessary convictions that are stigmatizing and would likely have a negative impact on a person's ability to secure gainful employment or housing. It is common practice for most employers and landlords to conduct a criminal background check and reject applicants on that basis alone. An opportunity to explain the circumstances further compromises one's chances of securing a job or apartment due to stigma and discrimination. Denying someone employment or housing when they are otherwise capable and deserving can lead to greater poverty, homelessness and further distance from the service system.

In FY 2006, $1.8 million was added to the

Division's budget to create three jail diversion programs in Essex, Union and Atlantic County. The Task Force also recommended that these programs be expanded statewide, in each county, within five years. The three jail diversion programs have been awarded through a competitive process and are now being implemented. Each of the programs is attempting to work closely with local police, courts, prosecutors and public defenders to divert people in both the pre-arrest/pre-adjudication and post-adjudication phases. It is expected that a total of 150 people with mental illness will be diverted prior to booking in FY07 in these three programs, with another 150 individuals diverted from incarceration post-adjudication.

Staff from the Division has met with the Administrative Office of the Courts to assure that the jail diversion programs operate within the confines of the courts' authority. Furthermore, the relationships that the programs will develop with the police and courts will be invaluable in reducing stigma and improving the care for people with mental illness.

In situations when a person with mental illness has been incarcerated, the availability of

services post-incarceration is crucial to promote successful re-entry community tenure and prevent recidivism. In addition to service availability, tremendous coordination between the mental health and correctional system must occur.

In FY05, the Division expanded upon 3 pilot demonstration re-entry programs funded in Bergen, Camden, and Hudson counties by funding six additional counties to improve coordination and linkage between county jails and the community mental health system. The counties with the new programs included Atlantic and Gloucester in the south, Union and Mercer in the central and Essex and Passaic in the north. These programs work with county jails to enhance pre-release planning and post-release community re-entry of offenders with mental illness, connecting offenders or detainees with critical mental health, financial, social and employment services. One of the projects is working to divert individuals by using the county screening center as a point of contact for law enforcement for individuals not in crisis. Each of the projects serves between 60 and 100 ex-offenders or detainees with mental illness at a cost of approximately $1.2 million

As recommended by the Mental Health Task Force, the State Parole Board is piloting a project, the PROMISE program, to provide an intensive Parole support team for parolees with mental illness that will provide wrap around services and rental assistance to insure treatment, rehabilitation, and housing. This program is modeled after a very successful program piloted in the last 3 years by the Division where 75 patients with lengthy hospitalizations in our state hospitals have been successfully integrated into their communities. The Division of Mental Health has been intimately involved as a partner in the PROMISE program's development and ongoing implementation.

The Division is undertaking additional collaborative efforts, as well. Just recently, the Division and State Parole Board submitted a Federal Bureau of Justice Assistance grant to facilitate statewide planning between the parole and mental health systems to increase access to mental health services and divert parolees from being sent back to prison for parole violations as a result of their mental illness.

A Division of Mental Health Services and

Department of Corrections Clinical Review Committee also meets monthly to review the appropriateness of selected admissions, and other issues, to Ann Klein Forensic Center from Corrections for inmates with mental illness who are maxing out of the prison within 30-90 days.

In the area of post-adjudication, Mental Health Courts have been established in some states throughout the country as a way to divert people with mental illness from incarceration to treatment. At this time, the Division supports the strengthening of the voluntary community system of care in lieu of funding mental health courts. When considering mental health courts, great caution must be exercised for several reasons.

First, the goal should be to prevent people with mental illness from getting to the level of a mental health court - true diversion. If the ultimate goal is to assist people with accessing treatment, it should be done so in a way that does not criminalize them. The stigma associated with a criminal record will carry great consequences for that person as he or she works toward recovery.

Second, while there is evidence of decreased incarceration rates, there is insufficient evidence that mental health courts result in greater access to treatment or continued participation in treatment.

Third, mandating a person to services will displace people voluntarily seeking limited mental health services where waiting lists already exist.

Fourth, outcomes of treatment are better when services are sought voluntarily versus mandated.

Fifth, New Jersey is different from other states that have used mental health courts to solve the problem of criminalization of persons with mental illness because it has a Screening Law. That law serves a diversionary role and was designed to make sure that police had the option of calling a screening center, or bringing someone to the screening center without first arresting or charging the person with a crime when it was obvious to the police officer that the behavior was due to a mental illness and not criminal intent. Absent a screening law, other states have turned to mental health courts. New Funding this year will strengthen screening centers' diversion capabilities in coordination with local police.

Lastly, New Jersey's criminal justice system is administratively complex and the creation of mental health courts will cost money. It can be argued that the funds would be more wisely spent on expanding the base of voluntary community services thereby increasing the likelihood that people will access services and not come before the criminal justice system to begin with. It should also be noted that the Mental Health Task Force did not recommend Mental Health courts in New Jersey for similar reasons.

Additional services and coordination between systems will have positive outcomes. Other Task Force recommendations and efforts in other states provide additional opportunities for New Jersey, usually Crisis Intervention Teams, community treatment liaisons to police and courts, training for police, 911 dispatchers, first responders, parole and probation officers, concerted screening program/police interface, development of services for inmates with co-occurring disorders, new policies on deactivating public benefits, and changing general assistance regulations so that ex-offenders remain eligible for GA and emergency assistance.

In closing, Governor Corzine has supported the efforts of former Governor Codey and the task Force by maintaining and expanding the initiatives that were funded this year. However, the harsh reality of the State budget has precluded the Division from expanding the jail diversion, screening center and other Year II initiatives in FY07 that would support efforts in this area.

New Jersey residents with mental illness can achieve wellness and recovery. The fact that a large number of people with mental illness encounter the criminal justice system speaks largely to service capacity in the community and not about character or dangerousness of people with mental illness. The division will continue to explore opportunities in this area and continue to build upon our collaborative efforts with the Department of Corrections, Parole and on a more local level with the county and municipal law enforcement.

Thank you for the opportunity to speak with you.

ASSEMBLYMAN PAYNE: Thank you, Mr. Martone, for that informative testimony. Some of the points that you made I ask my colleagues if they

have any questions for you. But the fact that we say that in New Jersey 70% of those incarcerated in prison and jails were diagnosed with a mental illness in New Jersey; this equates to approximately 70,000 people, which, in fact, is the largest residential provider for people with mental illness in New Jersey is our correction system. That speaks volumes where we are and where we need to be.

MR. MARTONE: It does.

ASSEMBLYMAN PAYNE: You mention that there are three counties, Essex County, Atlantic County and Union County that have received grants for pilot programs.

The question I have is how far along are they? Have any of these programs been implemented?

MR. MARTONE: They're in the early stages of implementation now. We had to develop the competitive RFP process, go through that process, make the awards. We've awarded contracts in I believe it was March or April, so we're hoping for those remaining months of this year we're actually going to get some direct service implementation from each of the programs.

ASSEMBLYMAN PAYNE: When do we anticipate the programs will, in fact, be implemented?

MR. MARTONE: We believe they'll be fully implemented beginning July 1st for beginning Fiscal Year 07. And the numbers that we base for the 150, essentially, pre-booking, 150 post-booking would take into consideration a full year's activities in those programs.

Each of the those programs have stated that they're optimistic that once they build relationships with the police and the courts even further that they will increase the level of services and those numbers will grow.

ASSEMBLYMAN PAYNE: You mentioned something about -- your concern is that the mental health courts will put further strain on the treatment availability for people who are currently in need. I'm not so sure that that speaks too well for our society, either. That people here who need to have mental health services will have to be further back in line if, in fact, the court mandates. That just tells me that -- brings the question how many of these facilities do we need? How much service do we need for mentally ill people in the State of New Jersey? Is there a

limited number, therefore we know the need is much, much greater and we're providing for only a limited number of people and limited number of slots, et cetera? The fact that if we have a court such as this that mandates treatments puts these people ahead of the line, I guess, and just pushes the other people further back, which means that we need to look at the full picture, the total picture to see whether or not we're able to provide for those who really need it.

It seems as though for the -- my tenure in this legislature has been concerned about people who are involved, people who have mental illness, the people who are homeless, et cetera. And it always sounds as though we're going to start doing things to address the program. For the last eight years I've heard we're going to get ready to start, we're going to start; things get worse but we're always getting ready to do something and we don't ever seem to be able to begin to really cut down on the waiting list and how to address these kind of problems, et cetera. And I don't know whether or not this program addresses juvenile detention centers.

Are we talking about youngsters who are

juveniles, also?

MR. MARTONE: These programs will be directed more towards the 18 and older group. So if you have someone that does straddle that, they could be impacted, but not specifically.

ASSEMBLYMAN PAYNE: Finally, my final point you're saying that New Jersey has a screening process whereby people are screened prior to the screening law. People with mental illnesses are detected through the screening law and, therefore, reduces the need -- reduces the number of people that are, in fact, coming before the judge and that are incarcerated.

MR. MARTONE: It's really a diversionary program. Essentially what would happen out in the street is someone with mental illness -- there are concerns that come about for someone with mental illness and maybe the police are called first. And the police go out on site and will either try to request that the screening center come out and meet them on site or the police officer can bring a person to the screening center prior to an arrest because the person clearly has a mental illness and at that point turn over the person to the screening center. And then the screening

center will maybe try to accommodate that person as best they could; either make a determination that they need to be civilly committed into a hospital or not but can link them up with voluntary services in the community.

One of the big issues that the screening system has had is funding. The screening law was passed in 1987. The Mental Health Task Force did an in-depth look at the screening services in the state and had recommended over a three-year period to increase the funding of screening centers by 34.5 million dollars. That's how significantly under-funded they were. So they weren't able to really fulfill this role as much as they should.

And this current fiscal year, as part of Governor Codey's reforms, there was ten million dollars that was allocated to the budget for this year. And those screening centers -- each of the screening centers and the staff received an increase of -- a base of 4.5 new staff per screening center and an additional staff on top of that based on the number of -- the amount of activity that they would see in a particular area, which is good.

The concern as I pointed out related to the

fiscal issues that we're having is year two we're not able to implement the year two funding of that. So the improvements that we needed to make in the screening centers are going to be slowed.

ASSEMBLYMAN PAYNE: Thank you.

It also points out, however, that the screening law gives the police the option of calling a screening center. The option; not mandated, et cetera. And that's one of the concerns we had as to whether or not it should be an option or whether or not it should be mandated. I don't know how that would work. Same thing applies here. When we have in the area of juvenile offenders where the station house adjustment is something that should be implemented throughout the state. The attorney general last year stated that there should be station house adjustment whereby a juvenile who is brought to court can, in fact, be diverted from only being incarcerated or what have you. And that's not being mandated, so given the option is not really the strongest way to go.

I'll see if any of my colleagues have any questions.

Mr. Thompson.

ASSEMBLYMAN THOMPSON: I'd like to bring up one of your questions related to the screening centers.

How many screening centers do we have in the state?

MR. MARTONE: We have 23 in the state. Basically one per county.

ASSEMBLYMAN THOMPSON: Since it's been in operation for 19 years, are you aware of any data on how many people are actually referred to the screening centers for a year?

MR. MARTONE: We do have that data. I don't have it with me but we do have that data. It's a lot. Most of our people that go through the screening center end up either in our -- end up in the psychiatric end of the system; our hospitals or community based services, not in the criminal justice system. So they are doing good work.

ASSEMBLYMAN PAYNE: Can you provide us with that number?

MR. MARTONE: Sure. Absolutely.

ASSEMBLYMAN THOMPSON: Do you have a ballpark figure?

MR. MARTONE: I would say -- some of the counties probably experience several thousand.

ASSEMBLYMAN THOMPSON: Statewide ballpark.

MR. MARTONE: Probably talking over 100,000 contacts per year.

ASSEMBLYMAN THOMPSON: That's impressive when you got that many.

One of your comments was that outcomes of frequent veteran services sought voluntarily versus mandated. I would have a problem agreeing with that statement but my own thoughts are probably those with the greatest problems are the ones least likely to volunteer.

Is that a correct assumption or not?

MR. MARTONE: The ones with the greater problems are least likely to volunteer for services?

I don't know if we can generalize that. Mental illness is very individual. Some people who are very sick have insight into their illness and acknowledge the need for treatment. And some people who may be, quote/unquote, less sick lack that insight. And there's been a lot of research in that area. So that's a broad generalization.

ASSEMBLYMAN THOMPSON: The bottom line recommendation of the Division is that rather than consider mental health courts, any monies that

might be considered for that should be put into more community based services?

MR. MARTONE: Yes. That's correct.

We're not arguing that mental health courts wouldn't play a role. But the underlying service issues in the community are very crucial to that. Because one of the issues you have is a person who may come across the criminal justice system because they didn't have access to services in the community and they get into a mental health court and the mental health court mandates them back to that same system.

ASSEMBLYMAN THOMPSON: I note there are federal grants available for establishing these courts but as I look at the total amount of money available in the courts, I gather that really the federal grant would only cover a minimal part of total cost associated with the courts?

MR. MARTONE: That's correct.

ASSEMBLYMAN PAYNE: Mr. Steele.

ASSEMBLYMAN STEELE: Thank you, Mr. Chairman.

Assistant Commissioner, I just wanted to kind of touch on the point of the screening law. You stated that the officer has the option to make that call. I'm trying to visualize that from an

officer called to the scene, see the person, see the, quote/unquote, crime that may have been committed.

How much discretion does he have before he has to make a decision between the crime that was committed and the condition of the person?

How much latitude does the law give?

MR. MARTONE: Not being a law enforcement official, I think one of the things we have to keep in mind is that many of the offenses that people with mental illness are charged with and incarcerated with are misdemeanor offenses. And I think -- and some of the statistics that Chairman Payne had mentioned in terms of the rate of people with mental illness incarcerated for loitering is far greater than a person without mental illness being charged with loitering. It comes to training.

ASSEMBLYMAN STEELE: And I'm thinking now in terms of I guess trickling down to the fact that some of this really equates to money, which kind of emanate from us the state and the local. I'm looking at this officer who, obviously there's manpower situation, the time that he would now have been engaged in this process, which is quite

a significant one to deal with, now we're dealing with possibly overtime. I mean, the center -- is the center so strategically located that this person just walks in, drop off, I'm gone, or does that person now have to spend a couple hours processing this person at the center to make sure that his book work is in order.

MR. MARTONE: Understood. I think time is certainly an issue for the police officers. Clearly. I think as we strengthen the screening center capacity, the screening centers are much more efficiently able to respond to a person when they come into the front door.

In fact, in many instances our screening centers have lacked the ability to conduct mobile outreach. Mobile outreach gives them, the screening center the capacity to come out on site with the police officer right there. That decision can be made on site and then the screening center takes the person back to the hospital via ambulance and the police officer is relinquished from the scene. That's ideal.

ASSEMBLYMAN STEELE: And the 23 centers that we have, do each one of them have mobile ability?

MR. MARTONE: Up until this year that

capacity was lacking desperately. The new funding that we put in place this year is a step to increase that mobile capacity. That 10 million dollars that went in this year, though, does not solve the problem. Because it brings people up to -- it gets them closer to the point where they should be but they're not quite there yet. So it will increase the mobile capacity but just not there yet.

ASSEMBLYMAN STEELE: And then obviously the other thing that I really want to say is obviously to volunteer is far better than to be mandated because the outcome of the situation. And I don't think -- obviously anyone who has a problem first step is to acknowledge that they have a problem.

What do you do when you're caught between the person who needed the help and the person who -- obviously there is a problem and you would like for the person to volunteer to receive help from the problem and there is the letter of the law that says something must be done.

How do we grapple to get our hands between the reality of how do we handle that?

MR. MARTONE: We're getting into the personal --

ASSEMBLYMAN STEELE: And I mean it's like the homeless person is homeless and it's getting cold, the temp is going to drop; do we do it by force or do it by choice? In the midst of what we're looking for outcome.

MR. MARTONE: It gets into their personal rights. When a person becomes a danger to themselves, others or property we have the right in the state to civilly commit them to treatment; gets cold, someone is at risk of freezing to death. There may be situations where that person doesn't meet that criteria and that person is choosing not to participate in services for whatever reasons and that person may engage in criminal activity or criminal behavior. And at those times there may be no other option for the law enforcement to press charges on that person. We walk that fine line every day as a person drifting back and forth.

ASSEMBLYMAN STEELE: Thank you very much.

ASSEMBLYMAN PAYNE: Thank you.

Mr. Barnes.

ASSEMBLYMAN BARNES: Thank you very much, Mr. Chairman clarify.

My experience on mandatory screening on the

grass roots level as a police officer on the scene --

ASSEMBLYMAN PAYNE: Is your mic on, Mr. Barnes?

ASSEMBLYMAN BARNES: I guess I don't have the nice booming voice you have, Mr. Chairman.

My experience is that I think you have problems with mandatory screening because it would require very strict guidelines if they're going to be mandatory. And the police officer is going to have to be trained; these are the mandatory and he's going to list all of the reasons and there's always one that falls outside that screening.

So I think that the way the current law is written and the screening giving the police officer the option, particularly where you have patrolman then you have sergeants and then you have lieutenants, so any time something happens on the street where the patrolman isn't sure, he can always call up the sergeant and say, hey, what do you think. And then in most recent jurisdictions you have a lieutenant on the scene, on the road, and then you also have a lieutenant or a captain on the desk and the more experience they have when they're notified and advised of what they see on

the scene, they can usually say, well, I think maybe you better take them to county mental health. That's my experience.

In the two jurisdictions that I worked in I never recall hearing any concern about how police officers handled a situation involving a person with mental illness other than an event happened and the police officer not being the medical person, psychiatrist, psychologist doesn't have the ability to assess it and he makes an arrest rather than... But, you know, it's all to the greater good, I guess. He takes the situation.

I know of one situation recently where two police officers went in, to the other extreme, went into a home early in the morning and a person came running at them with a knife and the police officers dodged around a little, they looked into the other room and there were two bodies in there where the person with the knife had dissected two bodies, the mother and father. And in that case the person came at them with a knife, the police officer defending themselves shot and killed the person. So, you know, for a situation like that where you can have mandatory screening and the police officers kill the assailant, you're going

to -- in that situation the police officers were saying, hey, did we do the right thing. We have the mandatory screening and then the legal aspects involved in it; then they say, well, you shouldn't have shot them; you should have gone through the mandatory.

So with options I think it's a little bit better rather than mandatory. But I'd like to see what the mandatory standards would be for a police officer. I think you're really putting a lot of weight on the young man or woman out on the street.

My other question, Mr. Martone, where you indicate the PROMISE program, to provide intensive parole support to parolees with mental illness that will provide wrap around services and rental assistance and insure treatment, rehab and housing. You indicated it as a very successful program.

Is that -- I know you're not going to say no. My sense is that we've had prior hearings on parole and a lot of the folks that come out, as we say in the trade, out of the can, the problem is that there is no -- there are no resources for them to come back to. That's really the essential

concern and that's one of the reasons for reoccurring; they re-offend and they're back in because there's nothing there. So if this is true, you are out front of the regular system, the regular parole system because a lot of them do not have them. They're still hanging on the corner with no job and a lot of impediments to being hired, a driver's license and that.

So in all fairness, and I don't want to put you on the spot, is this program working better on mental illness people who have an additional problem than someone who would be in the mainstream mentally and released from jail?

Are you saying that the problems with mental illness is working better than the ones who come out of jail who have all their faculties?

MR. MARTONE: The PROMISE program, if I understand your question, the PROMISE program is essentially a supportive housing program and it gives you that support right away; pre-release and post-release. And it's not so far into what we do with a person who has mental illness and no criminal background. Because in many instances almost by chance that that person ended up in the criminal justice system or the mental health

system.

Programs like this are a little bit -- it's a different approach. It's a promising practice then having a person go to a day program and sit in there all day and do different activities. Not to say that that's not a valuable program but this program provides that housing, that intensive wrap around support, that case management services that helps that person whether coming out of a psychiatric hospital or a jail to engage in services, access services, provide them with support on Saturday night when the day programs or they're off from work are not available for them. And programs like this are showing to be very effective for parolees, as well as people with mental illness who aren't engaged in that system.

ASSEMBLYMAN BARNES: I'm sure you're aware -- I wasn't here the last meeting, I had to be out of town in connection with a personal matter -- but on the collateral problems dealing with parole, and I know that the chairman is aware that one of them is that if you are convicted under a certain crime and you want to go back into the housing where your mother is living and your family, you can't go back in.

So you're saying you have more success in these programs than in the regular programs?

MR. MARTONE: This type of housing -- let's use the housing as an example here -- would provide a person with rental assistance that would allow them to go rent an apartment somewhere in the community and you wouldn't necessarily have to get involved with any federal HUD regulations that would prohibit them from going back into HUD housing or things like that. So it gives them that opportunity to go independently with the supports. Certainly there are other systems issued outside of mental health and criminal justice such as benefits coordination and things like that that we have to continue to tackle so that people have benefits when they come out. But the structure of this program is successful.

ASSEMBLYMAN BARNES: I'm very glad to hear that. Thank you very much.

ASSEMBLYMAN PAYNE: Thank you very much.

Mr. Thompson.

ASSEMBLYMAN THOMPSON: I want to note that this is a pilot program. So apparently there's only a very limited number of people in their pilot program strictly and they do receive a lot

more resource assistance than a general program. So probably the smaller numbers are getting that but the majority of the people aren't.

MR. MARTONE: The allocation for this program that came out of the Task Force was $400,000 for that program; that equates to roughly probably $20,000 or so per person, $8,000 of which is rental assistance and the balance of which is for services.

That's pretty similar on a basis across the system in other supported housing programs that we're modeling in the community right now; yet it is a pilot program and certainly I think it's a program that we would look at expanding pending resource availability.

ASSEMBLYMAN PAYNE: Thank you, Mr. Martone, for your testimony. We appreciate it. And if you can provide the numbers that Mr. Thompson requested.

MR. MARTONE: Sure. Thank you.

ASSEMBLYMAN PAYNE: Thank you very much.

Nancy Wolff from Rutgers University.

MS. WOLFF: Good morning Mr. Chairman and members of the committee. My name is Nancy Wolff. I'm a professor at Rutgers in the program

for public policy in the E.J. Bloustein School of Planning and Public Policy.

I think, though, the title that's most relevant to this committee meeting is that I direct NIH Funded Study Center on Mental Health Services and Criminal Justice Research. Our population that we study is the population that would be thought of for a mental health court. I also direct a post-doctoral training program in also behavioral health services and criminal justice issues.

I want to give you a little background about my center. We have been funded for about four years. I've worked very closely with the State, with the Department of Corrections, with the Division of Mental Health Services, with the State Parole Board, with all the county jails in looking at this issue. I've also spent a year in the United Kingdom studying how they manage what they call mental disoriented offenders and then toured European countries to look at how they respond to these individuals. And I've also looked at a great deal of the innovative programs across the country that are responding to issues related to people with mental illness who have interactions

with the criminal justice system.

In terms of New Jersey my center has done a study as part of the CF/Terhune lawsuit that the Department of Corrections is under in terms of the provision of re-entry planning for people with serious mental illness who are leaving New Jersey prisons. That led me inside the prisons and to interview individuals with serious mental illness to look at their need structures, as well as to estimate the cost to the state of providing a comprehensive re-entry program for people leaving our prisons who have a serious mental illness.

That report I think was eventually submitted to the State Legislature for funding since it's part of a requirement under the CF/Terhune lawsuit. I'm not exactly sure where it is but I know that I estimated about a million dollars a year to do a comprehensive re-entry program that would respond to in a tiered way where you wouldn't give the most comprehensive services to people that really didn't need it but that you would really tier the response to people who have higher levels of need relevant to those with lower needs because you don't want to misuse your resources.

We also did a study looking at providing sex offender treatment to people at state parole offices which again was part of an initiative with the State Parole Board. And again we found that if you situate sex offender treatment at the parole offices, you increase the chances that these individuals will get access to the treatment. As a consequence of that, all state parole offices now offer sex offender treatment to sex offenders available on a sliding fee scale.

We have also done jail surveys where we've looked at the mental health services that are provided and as you all know, each jail is a separate entity, which is very different from the prisons which are under a state's legis. And so it's terrific variation across the state in terms of the accommodations inside jail.

Providing services to people with mental illness inside jail is much more difficult because of the rapid turn around of people inside. But many of our jails, at least three-quarters of those individuals who are in jail are being held on a detainment. They oftentimes once they get to court they're released for time served. So it makes it very difficult to engage them with

treatment when you really don't know when they're going to be released.

We also did a study of the re-entry program that the state is doing for people with mental illness leaving our jails. So we actually followed people through those programs to look at who are they engaging and what happens to them when they leave prisons or when they leave jails. We also have just been funded by the National Institute on Mental Health to do a randomized control trial of very innovative re-entry program for people leaving prison and relocating to Camden. It's called a Critical Intervention Team Model which has been used for the homeless population. And we're going to be randomizing people to that and the usual approach to look at whether intensive peer supported re-entry assistance gives better outcomes than other kinds of interventions. So that's going to be a five-year study. And we have both funding for the intervention and we're working closely with the State Parole Board, as well as with the Department of Corrections and with mental health providers.

I'm telling you all this just to know that there's lots and lots of things that are going on

in the state. There are lots of initiatives. From my 20 years of working in this field, I can tell you that there is no one single answer to the issue regarding people with mental illness being inside the criminal justice system.

I will also let you know that there are elephants in this room that have not been addressed, which is that a high portion of people who have mental illness have a co-occurring addictions problem. It is oftentimes those addiction problems that are bringing them into contact with the criminal justice system and bring them back to contact with the criminal justice system even when they receive mental health treatment. We also are not taking into account that a significant minority of people who have serious mental illness have also what's called Access II disorders; that is personality disorders, antisocial personality issue. So it's not they're schizophrenia necessarily, but it can be other kind of personality disorders that they have in combination with their addiction problems and we need to take those into account.

We also need to recognize that people with serious mental illness have the highest level of

unemployment of any group. It can be 60% to 80% of people with serious mental illness are unemployed. Meaning they're idle all day long living maybe on public assistance. They are very poor. They are oftentimes living in our most disadvantaged communities.

So I need you to make sure that when you think about trying to grapple with this problem, finding appropriate policies, that you have to bring all of the elephants into the room, label them and then decide how you're going to balance the tensions between all of those problems.

I know that you brought me here today to talk about mental health courts and I've given you my testimony, as well as a sample of papers. I've written quite a bit on this issue because I thought a great deal about mental health courts. I've actually watched my own assessment of them change. I was one of the first people that went to Broward County and actually observed that court in action. Went to Washington to see that court. Went to Alaska to see the court there. And I have followed this issue for the last ten years.

My opinion of it has definitely changed over the years as I've gone inside prisons and jails

and looked what the issues are when I talked to police officers. And my overall assessment is, is that this is a simple answer or a simple solution to a very complex problem that's not likely to be very effective overall. And, yes, it may be part of the portfolio of responses but should not be the leading investment. And we should have very, very limited expectations for a mental health court, if that's the way we go. And I'm going to try to impress upon you through my testimony about why I've come to this conclusion from someone who was very supportive of mental health courts ten years ago to someone who is now very cautiously not optimistic about mental health courts.

So with that, let me just go to my testimony here and say that it's a pleasure to be here to talk about this important issue. Mental health courts have been diffusing across the country in response to the public's concern about people with mental illness being incarcerated because they're not receiving appropriate mental health services. Mental health courts are just one of many remedies that could be used to divert people with mental illness to treatment away from jail and prison. But most states and localities have reflexively,

and I really want to stress reflexively responded positively to mental health courts in part because they're easy to understand.

When I first asked people who were supportive of mental health courts who said, well, we really know that they're not, you know, all that great, they're only going to solve a small part of the problem; and I said, well, then why are you pursuing them in the halls of the Congress. And they said, well, because we can explain it to Legislators in three minutes. Mental health courts make the three-minute rule in terms of explanation. They're very easy to understand. It's also in part because they're being federally subsidized as Assemblyman Thompson has mentioned. And also in part because it's consistent with the myth that it's the lack of treatment that's causing criminal behavior among people with mental illness.

Once again, I've very proud of the State of New Jersey for not jumping on the bandwagon of new trends. Our State has adopted instead what I think is a more deliberative process that reviews the evidence and considers alternatives in their applications for people with mental illness. And

I would, therefore, like to compliment this Committee for advancing the deliberative process on whether mental health courts are a reasonable public investment. I really think it's important that we phrase it that way.

You all know we have limited resources. If we're going to make a public investment, does this one make sense even though with a public subsidy that will be short lived?

Prior to the passage of America's Law Enforcement and Mental Health Project Act in November 2000 there were less than a dozen mental health courts in the United States. Within three years after the passage of that law there were over 70. The current count is that there were over 100 being represented in 34 states.

Mental health courts are analogous to drug courts and eventually written on the successes of drug courts. Their intent is to reduce criminal behavior and recidivism by treating the illness that is causing the criminal behavior. In the tradition of therapeutic jurisprudence, these courts are attempting the improve the justice by considering the therapeutic and antitherapeutic consequences associated with criminal processing.

It's important to acknowledge here that there is more speculation about mental health courts than facts. The available evidence says yes, we can recruit people for mental health court, and, yes, for some of them we can engage them in treatment. But in advance of the evidence I think it's very important to critically assess them to decide whether we like the mix of therapeutic and antitherapeutic consequences or whether we should consider some alternative model. More particularly to politicians, I think the issue is do you want to spend your political capital here in terms of this public investment.

Mental health courts are controversial. Their advocates will argue that these courts connect defendants with mental illness with treatment in lieu of incarceration; that they leverage the legitimacy of the court to broker the gap between the criminal justice and mental health systems; and that they protect people with mental illness, as well as society from harm. Their detractors, while often acknowledging these positive attributes, argue that these courts are theoretically flawed, that they are coercive, that they are antitherapeutic in the sense that they

are contrary to the normalization philosophy of community treatment legislation and that they foster discrimination and stigma.

I'm going to spend some time going over each one of those.

I think it is laudable that concern for the welfare of people with mental illness is motivating action to their behalf but it is my assessment that the promotion of mental health courts is misguided. Mental health courts are not a sensible public investment for several reasons. First, these courts at best will reach in and capture about 10% of the people that we're talking about here. That's the maximum effect, 10% reach in. That's leaving behind 90% of the other people who have mental illness who are in contact with the criminal justice system. I'll tell you that's the best and that's actually about what you see with drug courts, as well. You're leaving behind a sizeable proportion. Now, the public can easily come back and say, okay, corrections is still saying we got this problem with people with mental illness in the criminal justice system. You're going to look, well, but we funded mental health courts; I thought they were supposed to solve this

problem. Well, it's not going to solve the entire problem. Mental health courts are oftentimes called "boutique courts". They're boutique courts because they're specializing -- they are a very specialized focus but it's also because they are small scale and have a narrower region.

ASSEMBLYMAN PAYNE: Should we eliminate drug courts, also?

MS. WOLFF: I think we should -- I think there are -- here's the difference with drug courts. I think that with drug courts, and I'll come to this in a minute, are theoretically flawed. Drug courts have the theoretical evidence that says it's the addiction that's causing the criminal behavior and if you treat the addiction, you'll stop the criminal behavior because there's evidence to show that there's very strong predictive connections between those. Mental health courts many have argued should actually widen and that we should use them more or even bypass drug courts all together like California did and just mandate directly treatment and there are some sort of parole supervision.

So I think there are other ways in which you can do that. But I think that the issue here is

that first they have a very small region. They have a very small region in part because there's very selective criteria about who gets into mental health courts. Some mental health courts only take misdemeanor cases. Some will take felony cases but only certain types of felony cases. Some will only take felony cases if they're nonviolent. If you go back in the history, you can easily find characteristics that can disqualify somebody but then it just leads them back in. Which then argues that -- researchers will say there's a selection bias. You're taking the good risks into this program. These are people who have insight into their disorder; that they volunteered to want treatment, as was mentioned earlier. These kind of people would probably do better or do well in any program, not just a mental health court. And it's the notion that it's leaving behind people who, remember, choose not to go to mental health court; they don't want the treatment; they don't believe mental health is a problem; they don't want the supervision.

ASSEMBLYMAN PAYNE: Is this optional? You say those who choose to go to mental health

courts and those who don't choose?

MS. WOLFF: Yes. It's voluntary. Although some people call it a coerced voluntary decision because the possibility of jail is the leverage point. That if you plead guilty or if you waive your right to a trial, then you can go into a mental health court and then treatment is part of your sentence. Other alternatively -- but it is a choice variable. You can't force somebody to go into a mental health court.

ASSEMBLYMAN PAYNE: Can you force them to go into a drug court?

MS. WOLFF: No. It's still a voluntary choice, which is another reason why it is argued that drug courts have favorable outcomes; it's because you're taking those people who choose. For example, when I was in L.A., one time, L.A. was revising their sentencing because their jail was overflowing with people and they were going to reduce the sentence to I think 10% of your sentence in terms of the time served. And the judges that I was talking with in the drug courts were very concerned about it because if you have to only serve 10% of your sentence and you know if you go into a drug court you're going to have to

have longer supervision, they lost the leverage to get people to choose the drug court. But you still have to choose to want that kind of option with both drug courts and mental health courts.

ASSEMBLYMAN PAYNE: Let me let you go on.

MS. WOLFF: Okay.

Another reason why the mental health courts are not a sensible public investment is, again, that they're theoretically flawed. Mental health courts would, like drug courts, make theoretical sense if lack of treatment was the principal or proximate cause of criminal deviants. It's assumed that the reason why people with mental illness commit crimes is because their illness is untreated. But this is a presumption that is still in search of validating study. Like persons without mental illness offending behavior by persons with mental illness may be motivated by a host of socioeconomic and historical factors which have a separate impact on criminal tendencies. Said somewhat differently, people with mental illness may already be in active treatment and commit crimes or not be in treatment and commit crimes. There is no evidence that mental illness causes crime. The preponderance of evidence -- so

we can't really predict that treatment itself will stop criminal behavior. People with mental illness may commit crimes for the same reasons people without mental illness commit crimes. They are poor; they are unemployed; they are homeless; they are idle; they're living in crime ridden communities; and they're drug addicted.

Mental health courts will work for those who want treatment only, if and only if we have the appropriate treatment in the community. So just as was mentioned before, if mental health services are inadequately available in the community or inaccessible in the community, all mental health courts do is leverage the power of the court to get people ahead of the queue. It might displace other people out but more importantly there is something in criminal justice called net widening. That if police or family members or individuals find out that it's most expeditious to get into treatment by committing a low level offense, then there is an incentive to commit that offense to get into treatment through the court when you can't get in through the front door. There is some evidence that drug courts do engage in net widening. But the issue is why would we

need mental health courts if we had adequate services available and accessible in the community.

ASSEMBLYMAN PAYNE: Well, is it because the people who have mental health illnesses don't necessarily come to the attention of the authorities that then would recommend to the treatment centers?

Now, the person that comes to our attention because they've committed a crime, quote/unquote, and, therefore, they come to our attention, they might be directed towards a facility.

MS. WOLFF: Let me give you one example because this is such a complicated issue and I don't like to generalize from one case because if this issue gets caught up in polemics where you'll say, okay, here's this person with active psychosis who has schizophrenia and is not engaged in treatment. Well, we know that individual falls into a certain classification that they have a higher likelihood of engaging in violence and coming into contact with the criminal justice system. It's very connected to their mental illness. But we've had people in our study who have schizophrenia; if they have schizophrenia and

they are not taking their medications, they stay inside their house, their case manager finds them, they relapse, they are very passive, they end up going into treatment. When they come out and this individual is treated and doing well, he is a car thief, okay, but he still has schizophrenia and he is in treatment but he's a car thief because that's what he learned to do.

So we need to remember that people with mental illness come from the same communities of other people who are engaging in crime. And we shouldn't assume super normal behavior from people with mental illness that they would never engage in crime. They can engage in crime for the same reason. They can be goal directed crime. It can be other types of behavior. It can be their addiction problems that are leading to crime. We can't assume that it's just untreated mental illness and, therefore, if we treat the illness, we solve the problem.

ASSEMBLYMAN STEELE: Excuse me, Mr. Chairman.

Now you repeated their addiction problem.

Are you speaking about prescription drugs or other drugs?

MS. WOLFF: Illegal drugs.

ASSEMBLYMAN STEELE: Okay.

MS. WOLFF: So I think that it's important to recognize that we can't be making these huge broad generalizations that people with mental illness are engaged in crime only because they have untreated mental illness. These people are just like everybody else who commits crime. They have some extra challenges but we can't be stereotyping them.

The final reason for questioning the sensibility of investing public resources in mental health courts is they are discriminatory. Creating differences among arrestees on the basis of mental illness violates the equal treatment standard of the normalization philosophy established in the Community Mental Health Centers and Construction Act of 1963. You are specifically saying that these individuals should be treated differently because they have a mental illness. They should receive different treatment by criminal justice agencies, different sentencing; they should be absolved of any responsibility for their behavior. This is against therapeutic standards that says that you blame the illness; you don't hold individual

accountable for his or her behavior. So I think that we have to be very careful here and to remember that many non-mentally ill persons engage in similar behaviors under similar conditions.

Also remember that mental health courts are the first and only court -- is the only court that has in its label that it's mental health that is offending behavior. Drug courts say that drug use is the illegal behavior. Domestic violence courts say it's domestic violence that is the illegal behavior. Here we are associating with a court a psychiatric disorder and saying mental health courts. So there's a motion that even the court label itself as attributing mental health and mental illness to disorder behavior.

ASSEMBLYMAN STEELE: And I perceive that you conclude that that's a bad thing?

MS. WOLFF: Yeah.

ASSEMBLYMAN PAYNE: Dr. Wolff, are you...?

MS. WOLFF: I do offer some interventions that I developed inside. I think there are lots of interventions that could be done and I've certainly written extensively about them. But I came back to Assemblyman Steele's viewpoint before to say it's very important that we recognize, even

in the Temple and Chicago study that was mentioned, and she's a good colleague, that oftentimes it's the way that police respond to a situation that you can actually escalate it. It's also the case that people with mental illness oftentimes are less sophisticated in leaving the scene of a crime and that's also a reason why they're likely to be more arrested. So we have to really interpret that evidence very carefully. Also it's very clear that the more options, reliable options and guidance that you give police to divert and to make sure that diversion is an efficient option for them.

But I also agree with the Assemblyman Steele that you have to be very careful if you are trying to make our police officers clinical experts. They should not be in the field expected to be able to discern who's got a mental illness and who's not. It makes more sense for the policy makers to say which crimes do you not want to have criminalized and then tell the officers what are you supposed to do with people. I would be much more comfortable with a social welfare court.

ASSEMBLYMAN BARNES: Is that ever possible?

MS. WOLFF: A social welfare court?

ASSEMBLYMAN BARNES: Is it ever possible?

I'm sorry to jump in here but this is kind of...

Go ahead.

MS. WOLFF: Okay.

So I think that if you really want to depopulate jails and prisons of people with mental illness and allocate public resources efficiently, mental health courts would not be among the high yield investment options. There are other public investments that are likely to yield a better or more extensive set of therapeutic and justice outcomes. Consideration should be given first to establishing social welfare courts, building community based client sensitive mental health and addiction treatment capacity in socially disadvantaged communities. Providing reliable alternatives other than jail to police and training officers to de-escalate crime scenes. The citizens of the State of New Jersey deserve crime prevention investment strategy that preserves due process rights that's not discriminatory and addresses the primary factors that cause criminal behavior independent of the person's nationality, race, gender or psychiatric

disorder.

Mental health courts are not enough. Mental health treatment is not enough. We need a strategic set of policies that focus on crime types match to community based interventions that reduce the need to engage in crime as a survival tactic.

Thank you.

ASSEMBLYMAN PAYNE: Thank you, Professor Wolff. We're certainly clear to understand your position.

MS. WOLFF: Okay. Good.

ASSEMBLYMAN PAYNE: Perhaps we'll hear some other views before the day is over. I know you're very strong on your position.

I, too, agree that there should be far more facilities, treatment centers, et cetera, for people. But I wonder whether or not these folks, for instance you say that mental health court labels -- blames the mental illness as the crime, as well as the drug courts; uses the drugs as the crime as opposed to -- there's a difference here; you see a difference.

MS. WOLFF: The criminal behavior that you're setting up a court to respond to, you might want

to call it -- and that's why I think -- drug courts homogenize the issues that are being dealt with by the court. When you have a mental health court then you're dealing with all types of offenses that are committed by people who have mental illness that may not be related to their mental illness.

ASSEMBLYMAN PAYNE: May not be, it may not be. But also, however, brings it to the attention that there's a need for some kind of treatment for their mental illness and maybe there's no other way that they can get it. Throw these people into regular court, they can be sentenced to prison and, you know, whatever for a period of time without any consideration given to the treatment they need. I think one of the reasons I suppose for mental health courts is we can identify and then divert people to treatment.

The other courts don't do that, do they.

MS. WOLFF: Well, here's my response that I usually have to that. One is that once you're in a drug -- a mental health court, if it's post-adjudication, you've already been found guilty, you've already got a sentence, so you already have gone through the criminal

processing. If it's pre-adjudication, then you hold those charges in abeyance but you're still engaging that person in supervision by the criminal justice system.

The Babylon Center that reviewed 20 mental health courts found that two-thirds of them still use jail time as a way to get people to comply with their court mandated requirement. So it's not as if people through mental health courts are not finding themselves into jail. I think that especially when you're talking about misdemeanors, you don't need a mental health court for misdemeanors. If you're talking about social welfare or life-style types of crimes, treat everybody the same. We shouldn't have those individuals with those types of crimes in jails anyway. Take them all out. I've used people with mental illness as the canary in a mine shaft. We can't afford that. So find an alternative strategy for everybody committing those crimes so that there's horizontal equity. It's nondiscriminatory.

ASSEMBLYMAN PAYNE: Most of your testimony dealt with the people post-adjudication. Most of it dealt with -- I thought mental health courts

were to deal with people to divert them from incarceration?

MS. WOLFF: You can use something called jail diversion or police diversion is pre-adjudication. You can have mental health courts being pre-adjudication but you're still engaging them in the criminal justice system and holding those charges in abeyance.

ASSEMBLYMAN PAYNE: Thank you very much for your testimony.

Mr. Thompson.

ASSEMBLYMAN THOMPSON: We had in our package here a flier, I'll call it, from the Bureau of Justice Assistance, the Federal Department of Justice on Mental Health Courts Programs. It contains a statement in here which I think was intended to be self-supportive but I find it almost the opposite.

Some research study points to the relevant success of some individual mental health courts, such as the one in Broward County Florida in which defendants were twice as likely to receive services for their mental illnesses and were no more likely to commit a new crime.

That obviously pertained to those that didn't

go through mental health court were no more likely to commit a new crime than those that did. It does say they served less time in jail but I don't think that's what we intend if we go through this process.

MS. WOLFF: Right. And I think you have to really look carefully at the Broward County Court. They use very restrictive exclusionary criteria and a sizable proportion of the people who are in that court do not have a serious mental illness. They also are people who committed misdemeanors. At least last time I looked at that court they did not take any felony convictions. So these are individuals who have gone into pre-adjudication diversion programs, like police diversion, jail diversion or could go through the court and have parole supervision and not have jail time.

I think that what we fail to recognize is that 90% of the people with serious mental illness will still be standing before judges who have no understanding of mental health issues. And we're putting all of our specialized knowledge into one or two judges and 90% of the other people are being seen by judges who are not at all -- have no

background in mental health and don't think they have to because if this issue was a mental health issue, it should have gone to the mental health court. But it's generalized approach that we need so that all judges can get information to process the impact of mental health and use it as mitigating condition in sentencing, if necessary. But due process rights should not be sacrificed here. And you don't -- you can still have mental health information taken into account in the judicial process without having mental health courts. And by training all judges to be knowledgeable on mental health issues applies to a 100% of people with mental illness not 10%. And if we're concerned about the entire population, we should have the standard set for equal treatment and equal knowledge on behalf of judges and prosecuting attorneys and defense attorneys.

ASSEMBLYMAN THOMPSON: That was also a concern that I got as I read background information on this report. It says they usually involve judges, prosecutors, defense attorneys and other court personnel who have expressed an interest in or have experience in the field of mental health. I'm not sure where you find that

many judges, prosecutors and defense attorneys that do have that.

MS. WOLFF: Well, there are specialized training programs now for these mental health court just like they have for drug courts.

ASSEMBLYMAN THOMPSON: But what I'm saying here they're trying to put them all around the state. If you have one and you find personnel for that but if you want to put up 20 something of these courts, for example, one in each county, I think we might have a problem finding people that fall into that area of qualification.

MS. WOLFF: Right.

ASSEMBLYMAN THOMPSON: It also says all persons with mental illnesses identified for referral for community base services on initial booking. And I wonder how they are identified for referral on initial booking.

MS. WOLFF: They usually do have a screening. And my understanding --

ASSEMBLYMAN THOMPSON: Well, here we're talking about in general whether you have a court or don't have.

MS. WOLFF: Right.

ASSEMBLYMAN THOMPSON: How are they

identified for referral?

MS. WOLFF: Each court -- there is no unique mental --

ASSEMBLYMAN THOMPSON: This says upon initial booking.

MS. WOLFF: I understand that but usually within the court -- within the jail all people who are booked go through within 24 hours some sort of screening for mental illness. In New Jersey that's the case and in other states. And then if you get screened -- to get into a mental health court there's usually a very complex process where a team makes a decision and looks case-by-case where you have to get agreement between the prosecutor and the judge and the defense attorney that this is a case for a mental health court. So there has to be a behind-the-scenes decision that this individual is appropriate for a mental health court. And you can have a prosecutor say no, this case has got too many risks associated; no, I want to prosecute this case.

So it's much more idiosyncratic and it's very unique to the culture within this team that is characterized as a mental health court which involves a non-adversarial approach between the

judge, the prosecuting attorney and the defense attorney in making these decisions.

ASSEMBLYMAN PAYNE: The people are screened, now, right, when they're arrested?

MS. WOLFF: Yes.

ASSEMBLYMAN PAYNE: And what happens, I think you testified, Mr. Martone, that there's a screening process and it's recommended if a person suffers from a mental illness then what happens?

MS. WOLFF: That's different. That's different in terms of the screening that happens. Most of the time the screening in the community is different from the screening inside jails. So all jails screen within 24 hours and they ask a basic set of questions; they're all pretty much the same saying have you ever been treated for a mental illness; do you feel suicidal; are you currently on any psychotropic medications. Those types of things.

ASSEMBLYMAN PAYNE: What happens if the people answer in the affirmative?

MS. WOLFF: If it's affirmative, then they're usually given an assessment, follow-up assessment when they see a physician and then there is a protocol. And it varies by the 21 counties in

terms of exactly what they negotiated because many of them -- almost, I think, all the jails in New Jersey contract out for those services but they contract for screening, for assessment. They have their own formularies in terms of which medications are used, under what conditions do they use medications. What kind of services that they provide in terms of if they have group therapy, if they have addiction services therapy.

ASSEMBLYMAN PAYNE: So if a person is arrested and adjudicated and it's determined that they need some of these services, the jails you're saying in New Jersey we have outside contractors that we have these people treated by?

MS. WOLFF: Yes. And parents and public defenders oftentimes call the jail and say somebody was just -- my son was just arrested, he's got serious mental illness, he really needs these medications. If there's an intensive case manager or an act team that this person is already involved in programs that are set up at the county level and paid for by the Division of Mental Health Services, when they identify that their client is in jail, they will contact the social worker and say it's my client. They should, my

understanding, I don't want to speak too much for the Division of Mental Health Services, but they should go and follow their client into the jail and make sure they're continuity with their medications.

My understanding from talking with most of the clinical staff inside jails, and as well as the Department of Corrections, they try to maintain people on the medications that they are taking in the community and not change them to lower cost medications unless they think that the person is going to be there for a long enough time when they can supervise the transition of medications.

ASSEMBLYMAN PAYNE: Let me just stop you there because we are now going off into another direction. Let's just talk about mental health courts, I'd like to do that. I don't want to go too far into treatment of mentally ill patients or inmates once they're in prison. We have other people to testify about mental health courts and I'd like to keep there.

Mr. Barnes.

ASSEMBLYMAN BARNES: You say jail within 24 hours they're given this service; you mean county

jails. Because there's plenty of other jails they can be put and someone held 24 hours at the local police department and they don't --

MS. WOLFF: Yes. Absolutely right.

ASSEMBLYMAN BARNES: Another question, too.

I assume -- can we assume from your testimony that you're opposed to these mental health courts?

Is that a good assumption?

MS. WOLFF: I think that the way I would prefer to say my position on this is that if you have scarce money, then I would want to rank order the investments that we have for this and mental health courts would not be on the top of my list.

ASSEMBLYMAN BARNES: Is that vastly held by others in your field?

MS. WOLFF: Yes. And also places like mental health advocacy groups. That it could be part of the whole package but I think that Mr. Martone used the right language in everything that I've read to say that we should cautiously approach mental health courts and recognize that they have a very limited role to play. And that they should be confined to felony related offenses like the Brooklyn court is. And that the misdemeanor cases

should go to pre-adjudication through jail or police diversion. But it should be done in a nondiscriminatory way that we treat all people committing certain types of offenses and say social welfare offenses we're just not going to criminalize. We have to deal with the homelessness issues, the poverty, and the other issues that are leading to crime behavior, as well as the mental health treatment and addiction treatment issues.

ASSEMBLYMAN PAYNE: Thank you very much for your testimony.

I'm going to ask for Ms. Charlotte Davidson to please come forward from the New York State Office of Court Administration who will testify on this topic. Thank you very much.

MS. DAVIDSON: Good morning. I'm Charlotte Davidson from New York State's Office of Court Administration. I work for Judge Judy Harris Kluger who is the Deputy Chief Administrative Judge for court operations and planning in New York. And since August 2004 Judge Kluger has been responsible for overseeing the planning and operation for mental health courts in New York State on behalf of our Chief Judge Judith Kaye.

(Discussion off the record.)

MS. DAVIDSON: I'll speak briefly this morning about mental health courts in New York, the goals of the courts, how the model for the courts developed, and what we know so far about their success in New York State.

Our mental health courts are part of a growing array of problem solving courts in New York State established by our court administrator. Under the leadership of Chief Judge Judith Kaye, the number of problem solving courts has been increasing steadily over the last 13 years since the founding of the first community court in Manhattan. As mental health courts and other specialized courts have continued to show positive outcomes for our communities and our court system, their numbers have grown. And today there are well over 200 problem solving courts in New York State, including drug courts, domestic violence courts, integrated domestic violence courts, community courts, sex offense courts and mental health courts. And we currently have nine operating mental health courts in the state and another three that are in the planning phase.

None of the courts have been operating even

five years but they all have in the short time made a significant positive impact in their communities by increasing opportunities for successful alternatives to incarceration for eligible defendants who are mentally ill.

The mission statement for New York State's Mental Health Courts which grew out of research of the study of the existing mental health courts and identification of best practices reads as follows:

New York State's Mental Health Courts seek to improve public safety, court operations and the well-being of people with mental illness by linking to court supervised community based treatment, defendants whose mental illness is related to their current criminal justice involvement, and whose participation in the mental health court will not create an increased risk to public safety.

The impetus behind each mental health court in New York reflects local needs and priorities. Some mental health courts originated where drug courts were faced with challenges presented by drug court participants with co-occurring mental illness and substance abuse disorders. Others were designed to help alleviate overcrowding in

local jails. Virtually all of the mental health courts, however, have identified some combination of the following goals:

To improve public safety.

To reduce the length of time in jail or prison for offenders of mental illness.

To use overtaxed criminal justice resources more efficiently.

To improve the court's ability to identify, assess and monitor offenders with mental illness.

To improve the quality of life for people with mental illness.

And to improve coordination between the mental health and criminal justice system.

And in order to achieve those goals, the Office of Court Administration developed ten key principals that underlie the operations and the planning of all the courts, which I won't go into in detail but I'm going to submit written testimony; although I'm happy to discuss them, if you want. And they cover some of the issues that have been touched on so far, like voluntary participation, coordination with outside agencies, and individual treatment plans.

But let me jump forward to the success of the

court and the accomplishment of the courts. And from what we know so far, the mental health courts in New York have successfully accomplished many of the goals that I just stated.

The courts are still new in New York State but we do have the benefit of one study of the Brooklyn Mental Health Court which was completed in April of this year and was conducted by the Center for Court Innovation. This study followed the court from the beginning of its planning process in 2001 through the first 28 months of the court's operations; from March 2002 through June 2004.

The researchers made several positive findings. They found that the Brooklyn Mental Health Court succeeded in improving the court system's ability to identify, assess and monitor offenders with mental illness and to link those offenders to appropriate treatment services. The outcomes for the participants were positive on many measures, as well. The study showed a decrease in drug and alcohol use for individuals in this mental health courts; a decrease in the percentage of participants hospitalized; and significant improvement in problems of cognition,

depressed moods, living conditions and occupations and activities.

And just so you understand how this study were conducted, they looked at the participants in the 12 months prior to their involvement in the mental health court and then looked at the first 12 months of their participation and compared those two periods to get those rates of improvement. And the perceptions of the participants were equally positive. Participants did not perceive themselves as having been coerced into the mental health court and felt that the judge had treated them fairly and respectfully and was generally interested in them.

We have a number of other of our courts involved in studies going on currently but none of them have had results released yet. But beyond the statistical studies, the fact that we have nine mental health courts taking a more engaged approach to handling eligible cases, linking defendants to treatment, and coordinating more closely with outside agencies is itself a measure of success.

Just before I conclude, I want to acknowledge the role of the New York State Office of Mental

Health they have played in supporting our mental health courts. Most recently they've been involved in training for judges and court staff and in discussion issues of research and grant opportunities, as well as improving operations where the courts and mental health issues intersect.

So in closing, New York Office of Court Administration is very enthusiastic about the positive accomplishments of our mental health courts and the needs they fill and we look forward to the opening of our three new courts in the coming months.

ASSEMBLYMAN PAYNE: Thank you very much for your testimony. If I may ask a question or two.

You obviously feel that -- your Office of Court Administration feels that you have been successful and you're heading on the right track, et cetera, et cetera, and all the things that you mentioned. You said it's more efficient to have a drug courts -- I'm sorry, the mental health courts and apparently the investment in these courts is something that -- return on investment seems to be a positive one as opposed to some of the earlier testimony we may have heard.

MS. DAVIDSON: That's one of the important goals of the courts. That's one of the aims.

ASSEMBLYMAN PAYNE: You said that you've accomplished reduction in the time served in prison, that there's a coordination now able to link people with services, et cetera, through this system more successfully than without this type of court, correct?

MS. DAVIDSON: Right. There's close team work between the courts and other groups in order to establish individualized treatment plans and link mentally ill defendants with treatment.

ASSEMBLYMAN PAYNE: There are nine courts currently in operation and three more on the drawing board will be permitted soon?

MS. DAVIDSON: Yes.

ASSEMBLYMAN PAYNE: These are all in Brooklyn.

MS. DAVIDSON: No, they're not. They're all around the state.

ASSEMBLYMAN PAYNE: How many are in Brooklyn, for instance?

MS. DAVIDSON: One in Brooklyn; one in the Bronx; a second court in planning in the Bronx; and then the rest -- one in Queens. And the rest

are all upstate outside of New York City.

ASSEMBLYMAN PAYNE: Where would you say your bulk of the defendants who would require this service, would it be down state New York or upstate? You say you have two or three in down state but the rest are up in upper New York.

Why is that?

MS. DAVIDSON: Well, we have them in three of the boroughs, three out of five boroughs so far. Where they've been established has to do with local need; where it makes sense locally to start; where the community is supportive of establishing the court. There are a lot of factors that go into deciding where individual courts will be established. But I wouldn't stay that it's concentrated in one area of the state.

ASSEMBLYMAN PAYNE: Thank you.

ASSEMBLYMAN STEELE: Just a question.

What is the nature of the charges of a person who usually come before the court?

MS. DAVIDSON: It varies from court to court. Some of them are in city courts that hear only misdemeanors and some of them are in superior county courts and hear only felonies. So it depends on the court.

ASSEMBLYMAN STEELE: Have there been any results that show that if these persons would have voluntarily gone into a mental health center that without going through that process they would have -- the outcome would have been pretty much the same.

MS. DAVIDSON: A comparative study?

ASSEMBLYMAN STEELE: Yes.

MS. DAVIDSON: Not that I know of. Not so far.

ASSEMBLYMAN STEELE: Thank you, Mr. Chairman.

ASSEMBLYMAN PAYNE: Mr. Thompson.

ASSEMBLYMAN THOMPSON: In previous testimony mentioned in Brooklyn the ones going to the mental health courts were all felony, committed felonies as opposed to other places where it may be misdemeanors.

Is this true for all nine of the courts in all of the ones that are brought there are charged with felonies or charged with misdemeanors or what?

MS. DAVIDSON: It's court dependent. So some of the courts hear felonies, some of the courts hear misdemeanors.

ASSEMBLYMAN THOMPSON: So yes, not just

felonies, then; it does cover misdemeanors in some of the courts.

MS. DAVIDSON: Yes.

ASSEMBLYMAN THOMPSON: Again, background material indicated that usually mental health courts are just held periodically; that is a court is not set up as strictly mental health court and that's all they hear.

Is this the case in New York, that certain days are set aside to hear the mental court cases and other days the courts handle other non-mental health court cases; or do you have courts that do nothing but hear mental court cases?

MS. DAVIDSON: That's an interesting question.

Each mental health court, how many days a week the mental health court is in session depends on the locality and the case load. So, for instance, in Queens you may have one afternoon a week where the mental health court judge hears mental health cases and all the mental health court cases are scheduled for that day. She'll have other assignments on the other days of the week but there's a set time in court devoted to mental health.

ASSEMBLYMAN THOMPSON: Thank you.

ASSEMBLYMAN STEELE: Just one other question.

Of the participation of law enforcement, could you share a little bit of that, how their response to this process during the initial implementation process?

MS. DAVIDSON: I'm not really prepared to speak about it in detail but I do know that law enforcement can be involved in identifying potential participants in the mental health courts depending on the locality of how the court works to try to identify a potential participant. So in some of those courts law enforcement may play a role in that.

ASSEMBLYMAN STEELE: So there's testimony given by law enforcement as to the nature of what this person is going receive in the process?

MS. DAVIDSON: I'm not sure I'm enough of an expert in that. What I'm referring to is not testimony in the court, it would be maybe flagging the case to bring to the attention of the district attorney's office. But I'm not the right person to testify on that issue.

ASSEMBLYMAN STEELE: Thank you very much.

ASSEMBLYMAN PAYNE: Take me quickly through how a person is to be brought before a mental health court, how is the person selected? How are they chosen? Is there some screening process that goes on first to determine whether or not they're a candidate for the mental health court?

MS. DAVIDSON: Yes. Screening is one of the key components that we ask each court locally to develop a system in order to identify participants. And it's a challenge because you can't identify participants based on criminal offense. You need to go beyond what the particular penal law section was to know whether a participant is appropriate for mental health court. And the direction that the initial flagging of a possible participant comes from, it can come from a number of different places; it may be a family member of the defendant; it may be the prosecutor; it may be the defendant's own attorney; it may be the court. And how each court handles sharing that information and determining eligibility is established on a court by court basis.

ASSEMBLYMAN PAYNE: If a person gets arrested for loitering or pickpocketing or what have you,

the family member, what, notifies the court that this person actually has suffered some kind of mental illness; is that one of the ways that happens?

MS. DAVIDSON: That could be, or could notify the defendant's attorney or the prosecutor. I'm not really prepared to give that --

ASSEMBLYMAN PAYNE: The person is arrested and directed to go to court. Now, there's the mental health court now and there are other courts. The person is arrested for a violation of the law and they're brought before a court or to a process that determines whether or -- or a screening to find out whether or not they suffer from some type of mental illness which may have contributed to the crime that they committed or what have you, or they are arrested and the family member notifies the court that this person is mentally ill, or the prosecutor's office, the prosecutor's office may do this as well, by some screening process they have when the person is arrested.

How does it work; they go to this court or that court?

MS. DAVIDSON: That I'd have to give you --

to go into that level of detail, I would have to get back to you on that. And it really does depend court by court how they have chosen to set it up and what stage of the proceeding participants may come into the mental health court.

ASSEMBLYMAN PAYNE: When you say court, you mean vicinage?

MS. DAVIDSON: Among those nine, and plus the three in planning. Each one individually will determine what the process is going to be and in what stage participants may be eligible to come into mental health court, or to be sent to mental health court as opposed to -- or to be given the opportunity to enter into mental health court as opposed to remaining where they began.

ASSEMBLYMAN PAYNE: Thank you.

Mr. Thompson.

ASSEMBLYMAN THOMPSON: One more question.

You alluded to a study that was conducted related to the Brooklyn court to assess the success of the mental health courts; thus, the study was over a 28 month period. And indicated there were factors such as reduction in alcohol and drug abuse that occurred and various other

things of this nature, reductions had been seen. And that this was as a result of comparing the behavior for 12 months prior to their involvement with the mental health court versus while they're in it.

How did they get the data on how much abuse had occurred in the 12 months prior to contact with the mental health court?

MS. DAVIDSON: I can send you a link to the study itself, which I'm sure covers it. But I do know that there is drug and alcohol testing that goes on in the mental health courts.

ASSEMBLYMAN THOMPSON: Well, that's once they get there. I'm saying before they had contact with it, how do they assess how much abuse and so on had occurred before they were in contact with the court? They've never been brought there; there are no records I would not anticipate.

Do you mean by verbal statements, you know, how often did you abuse or something, compare the verbal testimony with what you now are able to test for?

MS. DAVIDSON: The study was based in part on interviews with participants so we'd have to look at the study. But my guess is that it's

self-reporting.

ASSEMBLYMAN THOMPSON: So reliability is only as good as the veracity of the statements they said about what they'd done before they got into the program.

MS. DAVIDSON: We'd have to look at the study. But our Center for Court Innovation has done a lot of these studies and it's pretty rigorous. So we can go back to the study and take a look at it. I'm happy to send you the link to find it online.

ASSEMBLYMAN THOMPSON: I can see where they've got good data once they're in the program but, again, trying to assess what occurred before they got there, that's a much more difficult thing.

ASSEMBLYMAN PAYNE: Thank you for coming over to testify. We appreciate it.

(Assemblyman Barnes departed the meeting at 1:55 p.m.)

ASSEMBLYMAN PAYNE: Maureen O'Brien from the Union County Prosecutor's office.

MS. O'BRIEN: Good afternoon Chairman, members. My name is Maureen O'Brien I'm an assistant prosecutor in Union County. I'm a

supervisor of our Special Offender Unit. That unit was created by Prosecutor Romankow approximately a year-and-a-half ago and it is -- we exclusively deal with mentally ill defendants in the superior court system.

Ms. Brown asked me to come and explain to you how we handle things in Union County. I have no written statement for you. I can actually answer a lot of the questions that you asked previous testifiers. I can run through how we do things and field questions as you have them or if you would like to just ask questions.

Union County is one of the counties that has both the jail re-entry grant and has the jail diversion pilot program. I'm involved in both of those. What happens in Union County, and it is developed over the last year-and-a-half for a number of reasons, one because the Prosecutor recognized the need that we had many, many defendants that were mentally ill that were languished in the county jail for a year-and-a-half before their charges were even resolved because nobody knew what to do with them. Either they were waiting a plea or they had pled but we were waiting sentencing because

everybody recognized we can't just put them back on the street but what do we do. Others were being sent to state prison for the sole reason that we don't know what to do with this person. And the Prosecutor recognized that there's got to be a better way to deal with this.

We have a relationship with Trinitas Hospital and Bridgeway as a result of other issues, such as sex offenders or domestic violence situation, so we had informally approached Trinitas and Bridgeway to work with both of those agencies dealing with the mentally ill. Shortly after we started that Bridgeway and Trinitas received the jail re-entry grant. So they were able to hire a case manager who would do some follow-up in the community, as well as put a discharge planner in our county jail. We were able to build on that with the $600,000 grant that Trinitas received for the jail diversion program.

Now, in Union County we are the only county of the three in which the Prosecutor's office acts as an actual partner in the program. My understanding is that Essex and Atlantic County are strictly jail diversion, they are strictly municipal court and I do not know how they

operate. But in Union County and because we had already started working and all three agencies recognized the need not just in the municipal court level but we had such a significant need in the superior court level for the reasons that I mentioned previously. We have people languishing in the county jail; we had people going to state prison that didn't belong there. And we felt we could take some of that funding and provide services both in municipal court and superior court. So that's what we're doing.

The way it actually works is -- well, let me back up for a second.

Union County has two screening centers plus a mobile screening unit. So we're very lucky there. There has been training ongoing for years. We can absolutely improve the way the police use the screening center; we can improve our relationship with the screening center; but many of the departments already make use of the screening center. Which is why we felt we needed to focus more on the superior court on the indictable level than the municipal court. While they're still in need, we felt that the police do use the screening centers and obviously we can

improve it. But we had a foundation there.

So if the police recognized immediately, and that is so incredibly rare, but if they recognize immediately that there is a mental health issue here, then they will contact the mobile screening unit or they will transport the person to either Trinitas or Muhlenberg, the two screening centers at the opposite ends of our county. But recognizing the fact that there is a mental illness is very difficult. And Assemblyman Steele I believe you raised the question before about, well, how do the cops know and how do they recognize. And having trained law enforcement in this area and having met with the chiefs, that's one of their major concerns. What liability is on us? How do we know whether the person is mentally ill? How do we know they're just whacked out on drugs or this is their personality and they're just belligerent? So they have significant concerns there. But when they either know a person from the community or it's pretty obvious that the person is mentally ill, they definitely use the screening centers. Doesn't necessarily mean that they're not going to press charges but they do take the person to the screening center.

When it's an indictable case, when the person is being brought into the county jail, either after the hospital or they never made it to the hospital, the medical unit does a screening. We have a psychiatrist in the county jail. We have a psychiatric social worker in the county jail. And we now have our jailed re-entry person who also assists in the screening. When a medical unit identifies a person as having a mental illness, either because the cops told them, the family called or in the screening process they find out about it, that gets referred to the Prosecutor's office. We have set up a system where every Thursday afternoon someone from my unit meets with the re-entry person who is employed by Trinitas, we meet, we go over every individual that has been brought into the county jail that has come to their attention as having a mental illness. If it's a municipal court case, we will assist in the appropriate contact people and referral to municipal court. But if it's a superior court case, if it's an indictable case, we'll take a look at that case and we'll do a legal assessment first. We'll look at the offense itself; we'll look at the criminal record, if there is one; and

we will make a determination whether or not the person is appropriate for placement in the community. It might be a charge that is technically a second degree charge, there's a robbery, technically there's a presumption of incarceration in state prison. Well, we're not going to automatically rule the person out just because it's a robbery charge. We want to look at nature of the offense itself; we want to look at the persons's criminal history. If based on the history and the nature of the offense there's a possibility, or at least from the legal standpoint I can be comfortable with putting this person on probation with the appropriate supervision, I will then refer that case to Trinitas. They will do a screening to see whether the person is clinically appropriate to be in the community. They've got as part of the jail diversion program, they have a psychologist and a psychiatrist who can do the assessment. The psychologist does the initial assessment. If Trinitas has no access to previous records or if there's a need for more in-depth assessment, it will be referred to the psychiatrist. If they believe that the person is clinical appropriate for treatment in the

community, it then gets referred to Bridgeway.

Now, all of this can happen in less than a week. This is not a very long referral process. And at times Trinitas and Bridgeway do a simultaneous intake interview. Assuming they're clinically appropriate, Bridgeway, who is our linkage agency and they have a day program and they have vocational rehab; they assist with housing; they assist with Social Security and welfare applications. So they then interview the person and find that they're appropriate for placement in the community. Trinitas and Bridgeway will jointly make a recommendation to the Prosecutor's office that the person needs these conditions. I will then offer -- assuming we're going to plead the case out as opposed to an outright dismissal -- I'll make a plea offer and I will incorporate as a condition of probation all of the recommendations that Trinitas and Bridgeway have made, in addition to any other conditions that might be legally inappropriate, like restitution or no contact with the victim.

We do not have a specific judge handling these cases. All seven of our superior court judges handle these cases. They have all been

incredibly supportive. We get -- we don't have a hard time dealing with the judges. They are more than willing to incorporate into their sentence any recommendations from Bridgeway and Trinitas. They are also -- they also make referrals because they may be ordering a psychiatric evaluation now as a condition of bail if there's a concern that an inmate might be a danger to self or others and there's a concern about putting them in the community without conditions other than a monetary bail. So they may refer the case over to the prosecutor's office to look at, or it be involved because of the conditions. They may also add additional conditions of bail such as they cooperate with Bridgeway; that they take their medications; that they attend whatever specific treatment program might be necessary.

And it's trial and error. We are still in the learning phase. As you heard earlier, the $600,000 for the jail diversion was just given out earlier this year. We really started looking at cases and meeting on a weekly basis in mid April. As I said, my office has had a unit to handle these cases for a year-and-a-half but just to look at the cases as a team, we've really only started

mid April. So the jail diversion or the jail re-entry person meets with the prosecutors once a week and then once a week the entire team meets to discuss issues that we have systemically or to discuss cases and just to try to make things go a little more smoothly.

We have a lot of work to do. We are doing training. I met with all the municipal court judges. We've offered to come out and meet with the municipal -- we'll go to a meeting with the municipal judges and municipal prosecutors and the municipal public defenders on an individual basis to tailor the team's response to their municipal court because each one is different. Not each municipal court meets full-time.

I've also met with the police chiefs and we are going to be doing some additional training. There's already a minimal training for using the screening centers and how to deal with the mentally ill. We are going to expand that training. It will be videotaped. And the prosecutor has mandated that every police officer in the county will have to view the videotape. But that's still a ways away because we're still in the process of coming up with the curriculum to

do that.

ASSEMBLYMAN PAYNE: Ms. O'Brien, thank you very much.

So you are one of the three counties that has received the re-entry grant and --

MS. O'BRIEN: Both. We were very lucky. We have both. We have the re-entry and the jail diversion pilot project.

ASSEMBLYMAN PAYNE: Essex County has the jail diversion pilot project, I believe; and Atlantic County, as well.

MS. O'BRIEN: Correct.

ASSEMBLYMAN PAYNE: And your county, as far as you know, is more advanced as far as implementation of programs than the other counties?

MS. O'BRIEN: I don't know that I can say more advanced because I'm not familiar with how the other counties are doing it but I do know that the other counties are limited to the municipal court level. We are definitely more advanced in dealing with it on the superior court level. And we're the only county that has a unit created just to deal with mentally ill defendants.

ASSEMBLYMAN PAYNE: Thank you very much for

your testimony. We appreciate it. We would like to be apprised as to the progress you guys make as you move along.

MS. O'BRIEN: Sure.

ASSEMBLYMAN PAYNE: And if you have any kind of written overview of your program or when you do, if you can provide that to this Committee.

MS. O'BRIEN: Certainly.

ASSEMBLYMAN PAYNE: Thank you very much.

We'll hear from Mental Health Association of New Jersey, Marie Verna.

MS. VERNA: Hi. My name is Marie Verna. I'm the Director of Advocacy for the Mental Health Association of New Jersey.

I want to thank all of you for grappling with this. And I want to reassure you that your confusion and your frustration is shared by all of us who are wrestling with this. I truly appreciate your attention to this matter. And I want to say, Jim, when I came in and I had to sign the form in favor or opposed, I chose to say in favor with caution; and I could have easily said opposed unless. If you'd like to mark up my sheet that way, I would be happy to have that go into the public record because Mental Health

Association of New Jersey's public policy committee has been grappling with this very same issue.

Is it time in New Jersey for courts? That's really the question.

Is it time to ask the Legislature to get involved and help us establish courts?

Ultimately what you've heard, and I know, I can tell that you've researched it, you've listened to constituents, you understand the complexity of this issue. The answers are exactly where you're headed; exactly where Kevin Martone enunciated; exactly where you heard Maureen in Union County. I'd like to help you understand some things that are happening on the ground in New Jersey all around the state; urban, rural, suburban.

The fact of the matter is a mental health court is a buzz word. It's a word but every single one that's been established in every state is different. So it's impossible for a legislator to say they're good or bad because you're not even talking about the same thing. So we have to bring it back to New Jersey.

Here in New Jersey we are very fortunate that

the conflicts came together in Union County. It's not an accident that Bridgeway is the program that's involved in the program that Maureen just outlined. Bridgeway is one of the most advanced programs in the state and we know that as advocates. We hear that form consumers all the time. We analyze these kinds of programs all the time. At the same time Trinitas is an exemplary hospital with very advanced assessment in terms of outpatient services. Mental Health Association actually has two offices in Union County. We have a separate 501-C3 and we have a separate office that's handling family issues. It's the only county in New Jersey where we actually have two offices.

So Union is definitely a place to be paying attention. But it's also premature to say that we should be legislating courts at this point because we don't know the answers to all the really, really serious questions. As Kevin outlined, the investment of $600,000 in three different places in our state has just recently been RFP'd and awarded. We don't know the answers to -- I've heard you grapple with the questions. Every single question that you want answered that would

mean that you could make a responsible decision as a Legislator having to either vote or not vote for something, there's no answer. The answer is it depends; it depends; it depends; because the case load differs; because the counties are different.

But I can tell you, Mr. Thompson, to answer your question of what goes on in our screening centers. If you had the benefit of talking to the people at the screening centers who worked there, as I do, off the record, these screening centers since 1987 have become the dumping ground for every one of our social problems. They were set up to handle issues of people with mental illness. What happened since 1987 is that every single problem we have ended up in our screening centers all over the state. They were under-funded from the beginning and we just paid attention last year when we invested that 10 million dollars into our screening centers. And we just said and we have to spend some money on mobile outreach so that we could de-escalate at the site. We didn't have to do this business of dragging people into the center.

To answer some of your other questions that have come up. I know that the community services

that we all say we need that our system is so terribly under-funded, we just paid attention last year with Governor Codey's Mental Health Task Force and we needed major infusion of funds. And I know all of you tried to pay attention to what is it that we need and why is it so expensive. That's because we're looking for people like Maureen. We need them everywhere. We need these police officers who we actually know. Police officers who do know the difference between mental illness. Who do know all of the characters in their community. They know these people. And if they're called to the scene and they're educated about mental illness, then they don't end up in the criminal justice system.

Down in Gloucester County we know that there was a lot of attention paid to training of police officers. Our NMHA chapter is doing a major educational effort of police officers. After the murder of Joe Cidel (ph.) in the Camden County Jail after about two or three years of advocacy and the infusion of the community service dollars from last year's Mental Health Task Force Cherry Hill finally took advantage of a national model of police training that started in Tennessee. At the

same time Nancy Wolff is absolutely correct, we need to train our court personnel. Our court personnel have to learn things.

And while we can say that it's rare that these people exist, it's becoming less and less rare because everybody is watching this dynamic of social problems ending up in our jails and prisons and our correctional budget simply is not able to handle them all. We are all watching it.

So in terms of what should you do and what should you do now. New Jersey just recently, just in 2003, I believe, moved our Department of Addiction Services from the Department of Health over to the Department of Human Services. That's very recent and it should have happened 15 years ago. With that we anticipate better coordination of what we in the field call co-occurring disorders; meaning you have a mental illness and you also have some type of substance abuse problem. And if you don't recognize both of them and integrate the treatment, you will not have success. You can send somebody to drug court, they'll come out of drug court but if you haven't handled the mental illness, you're not going to see success; and conversely. If you send them to

mental health court, they get that treatment but you don't get the addiction treatment, you're not going to have success. The numbers of people in with co-occurring disorders is growing at the same rate as -- that number is growing, too. So New Jersey is behind the curve on the treatment of co-occurring disorders.

Now, very much unfortunately Governor Codey's Mental Health Task Force was a five-year plan. We were so excited last year we got our year one infusion of money. Year two we didn't get anything. We got the stuff that had been mandated to grow but we did not get the integrated treatment dollars that we had hoped -- we planned. We said we needed 4.5 million dollars to make a beginning step of integrated treatment.

So that if you believe that a person commits a crime out of poverty or because they're addicted, which I do, I am a person with mental illness and I've never been homicidal; I've never been violent; and I've never been suicidal. I don't equate crime with illness. And it's not a crime to have a mental illness but it's a crime to steal. It's a crime to do lots of things.

These are -- here in New Jersey we're just

getting our act together with the co-occurring disorders because the O&B -- whatever we're calling the state level because we didn't approve the year two funding of Governor Codey's five-year plan, the Department of Mental Health Services is now seeking some federal dollars to do what we're calling the federal level. They're calling it a transformation meaning you're finally getting around to making some major systemic changes. And New Jersey is hoping that we get the award. We should hear in September some time whether or not we get it.

But the point is it's too soon in New Jersey to say that a mental health court works. We don't even know what we're talking about. We don't know whether or not we can proceed with caution making sure that it's not a coercive remedy; in fact, has no outcome that doesn't increase public safety and doesn't increase treatment and compliance. We don't know those things in New Jersey.

It is unique that we have the screening law. Our screening law allows lots of things to happen if you fund the screening centers. Other states can say, well, we have mental health courts and they're working. Well, they have no other

alternative, they have to say that it works. They don't have other options. Here in New Jersey we have other options.

The thing that I want you to also pay attention to is New York is often pointed to for some of these Legislative solutions but New York took some steps that New Jersey hasn't taken yet. New Jersey also infused their community system in the year 2001 with 147 million dollars. New Jersey did 40 million last year and that's not enough. So perhaps the solution in New Jersey -- I realize you guys are oversight, regulatory oversight, you're not budget. The solution in New Jersey is to continue with the plan we outlined last year. That's where when stand. Proceed with caution. Don't do it unless.

ASSEMBLYMAN PAYNE: Thank you. Thank you very much for your testimony.

(Discussion off the record.)

ASSEMBLYMAN STEELE: There was great testimony. This testimony this morning obviously raises a lot more questions than we initially had. I know certainly I have more. We had heard about this phenomenon of mental health courts, rather recent phenomenon and didn't quite

understand fully how they work. I still don't fully understand how they work and the very fact that everyone has brought up, the point that it varies from state to state, location to location. We're really not sure where they're going. I think it's certainly worthy of further discussion.

A number of things here, affluence of a number of things here; the fact that you have two grants in Union County that they're working along those lines. But I think we have talked frequently about the need for additional services; certainly under Governor Codey, the services for mental health people who have some kind of mental illness, et cetera, was highlighted during his tenure and I'm pleased that there was a task force to look into many of the areas of need in our state.

I'm never pleased to hear that the reason why couldn't implement some of these recommendations is because of funding, the lack of funding. Peoples' needs are there and we can not balance our budget on the backs of those who can least afford it. And this is something that troubles me a great deal. Said throughout the budget hearing,

you mentioned the budget committee, both Assemblyman Steele and I are members of the budget committee, and through the year, early spring we've been hearing about the conditions that exist and those that impact a great deal upon people in our society who can't really afford to have anymore problems put on their shoulders. But we are -- in many instances we are cutting back, being forced to cut back, I suppose, on services that really can't afford to be cut back. I don't subscribe to the notion that there simply is no money to take care of the homeless. It was mentioned before to provide 10,000 a slot; we need 30,000. And I find it very difficult to conform to the notion that this is the amount of money we have; these are the services we need.

I don't like a budget that's being driven from the top down. The budget needs to be crafted around the needs of the people of the State of New Jersey. And if, in fact, the needs are there and let's meet those needs. We can not say, well, we'll get to the ceiling and then lob off 5,000 people that need housing; take off summer jobs for people. No. We have to find a way to care for and take care of the needs -- the legitimate needs

that we have.

And what do you do with it?

I guess we need to have an increased revenue stream, which we are going to be talking about soon, and things of that nature. But I don't think a state -- I don't think a society that is as wealthy as we are should have people within our state who are ill served and not served at all because we don't have the money. I think that we have to identify the needs, clearly identify those needs and find a way to address those needs that people have. We can not have people in our society that are left out. And we can not have people in our society who wait -- the waiting list is long but have to wait another year or two to get the kind of service that you need, no. Investment is what we need. We have to invest in these services for the people because in the end the entire state benefits, the entirety of society benefits. It's a conundrum and we have to find the answers to the things we need.

Thank you for coming here. I don't know whether you enlightened me or caused more concern about what we need to do but we certainly have a lot more things to do.

Thank you very much. If my colleagues don't have anything further to say, this concludes this hearing.

Thank you very much.

MS. VERNA: Thank you.

(The hearing was concluded at 12:25 p.m.)

C E R T I F I C A T E

I, KAREN L. DeLUCIA, License No. XI01888, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, do hereby certify the foregoing to be a true and accurate transcript of my original stenographic notes taken at the time and place hereinbefore set forth.

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Karen L. DeLucia, CSR

Dated: July 12, 2006