

MAINE STATE LEGISLATURE

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**REPORT ON THE CURRENT STATUS OF
SERVICES FOR PERSONS WITH MENTAL
ILLNESS IN MAINE'S JAILS AND PRISONS: 2002
Two years after NAMI Maine's call to action**

**PREPARED BY NAMI MAINE
May, 2002**

Introduction

In the fall of 2000, NAMI Maine released a report on conditions for people with mental illness and/or substance abuse in Maine's jails and prisons. That report raised serious concerns about inmate suicide, inadequate or unavailable mental health services in many of Maine's jails, and the use of punishment and segregation as a common practice for handling psychotic or highly symptomatic inmates with mental illness. The report was prompted by the suicide of 18 year old James Thomas, a Lincoln County Jail inmate transferred to Maine's most restrictive prison because of his behavior in the jail. Although the law doesn't allow jails to transfer inmates to prison because of medical or mental health problems, difficulty coping with difficult behaviors often brought jail inmates with mental illness to the supermax prison.

The facts in 2000 were startling:

- A prison inmate suicide in 1998 and 2000.
- Over 5,000 of Maine's jail inmates were in need of mental health treatment with most of Maine's 15 jails reporting inadequate or no mental health resources;
- A massive outlay of cash was occurring nation-wide for construction of new correctional facilities – Maine too, building a prison in 1992, a prison in 2000, as well as new juvenile facilities. A \$20 million increase in the Department of Corrections budget between 1990 and 1999 was primarily devoted to operational and program costs.
- National recidivism rates were 80% for inmates with mental illness.
- Maine's policy of transferring mentally ill inmates from county jails to the supermax to "manage" their behavior; inmates in 23-hour lock down for years at a time. A policy of stripping psychotic inmates and placing them in stripped down cells. A policy of disciplinary punishment for suicide attempts. All of the above conducive to poor mental health outcomes for inmates.
- Inmate suicide attempts considered rules infractions and punished by loss of good time and other disciplinary actions.
- Inmates were returning to prison from psychiatric hospitals with no discharge plan and no instructions for their care and treatment.
- Legislation requiring assistance to county jails and a state-wide strategy for diversion which was not/or partially implemented.

NAMI Maine called for immediate action, including increased funding for mental health/substance abuse services in Maine's correctional facilities, the creation of effective diversion programs, improved training for law enforcement and correctional staff, cessation of any use of Maine's super maximum security prison for inmates with mental illness, and expansion of quality review boards for Maine's prisons. Two years have passed since these findings and recommendations were released. This report describes current conditions as well as actions taken during the past two years designed to improve conditions for people with mental illness who are incarcerated in Maine's jails and prisons today.

Substitute Amendment to the DNA Sexual Justice Act of 2002 - S. 2513

Section 1 - DNA Sexual Assault Justice Act of 2002

Section 2 - This provision requires the Attorney General to survey law enforcement to assess the extent of the backlog of rape kits and other sexual assault evidence waiting for DNA testing, and to determine federal spending priorities. Currently there is no exact tally of the backlog nationwide; the estimates run from 160,000 to 500,000 kits. To combat the problem of rape kit backlogs, it is imperative to know the real numbers, and how best to utilize federal resources. The Attorney General shall submit his findings in a report to Congress. Five hundred thousand dollars is authorized to carry out the assessment.

Section 3 - This section renames the DNA Backlog Elimination grants in honor of Debbie Smith, and amends the purpose area of the DNA Backlog grants to ensure the timely testing of rape kits and evidence from non-suspect cases.

Section 4 - This provision significantly increases authorizations in the DNA Backlog Elimination Act and extends the authorizations over the next five years. Under the current law, \$15 million dollars are authorized for 2003 to test offender samples. The DNA Sexual Assault Justice Act would increase that authorization to \$15 million per year from 2003 to 2007, a total increase of \$60 million. The current law authorizes \$50 million for 2003 and 2004 for DNA testing of crime scene evidence (including rape kits) and laboratory improvement. The DNA Sexual Assault Justice Act would increase that authorizations to \$75 million per year for 2003 through 2006, and \$25 million for 2007, for a total increase of \$275 million.

Considerable federal resources are necessary: (1) to eliminate the extensive state backlog in rape kits and other non-suspect case evidence; (2) to strengthen insufficient laboratory equipment and woefully inadequate staffing; and (3) to keep pace with the ever-expanding amount of offender samples to be tested. Virginia estimates that by performing DNA tests on all convicted felons, their ability to match DNA samples from rape cases with the DNA of convicted felons went from 8 percent to 30 percent. According to a recent report by the Inspector General for the Department of Justice, there is a backlog of 600,000 offender samples waiting for DNA testing.

Section 5 - This section authorizes local state governments and Indian tribes to apply directly for DNA Backlog Elimination Act grants so that federal resources can meet local needs more quickly.

Section 6 - This section requires that within three years all jurisdictions implement

procedures to forward DNA evidence in sexual assault cases to crime labs within six months. It also requires that grant recipients be in compliance with enhanced privacy protections for DNA evidence and DNA profiles contained in databases and with new national standards for the collection of DNA evidence. Finally, it amends the eligibility requirements by ensuring that applicants adhere to the FBI's quality assurance protocols and that applicants with the greatest backlog are given grant priority.

Section 7 - This section requires the Department of Justice to develop a recommended national protocol for the collection of DNA evidence. It also amends the Violence Against Women Act of 2000 so that emergency response personnel may receive training on sexual assault examinations.

Section 8 - This section creates a new grant program to establish and to maintain sexual assault examiner programs and training and to acquire forensic equipment. Priority is given to communities that do not have a sexual assault examiner program in place, and states, local governments, Indian tribal governments, universities and existing sexual assault examiner programs may all apply for grants. Grants are contingent upon use of standards developed pursuant to the Violence Against Women Act of 2000. The grant program is authorized until 2007 with \$30,000,000 for each fiscal year. This new program provides resources so that sexual assault examiner programs become institutionalized and integral to sexual assault prosecutions nationwide.

Section 9 - This section creates a new grant program to train law enforcement and prosecutors on the collection of, handling of and courtroom use of DNA evidence, and to train law enforcement on responding to drug-facilitated sexual assaults. Eligible entities are states, local governments, Indian tribal governments and universities, contingent upon adherence to FBI laboratory protocols and use of collection standards. The grant program is authorized until 2007 with \$10,000,000 for each fiscal year.

Section 10 - In federal sexual assault crimes, this provision authorizes the issuance of John Doe/DNA indictments which identify the defendant by his DNA profile. The indictments must issue within the applicable statute of limitations and abide by the applicable privacy standards, but once issued, the prosecution may commence at any time once the defendant is arrested or served with a summons.

John Doe/DNA indictments strike the appropriate balance between encouraging swift and efficient investigations, recognizing the value and durability of DNA evidence and preventing an injustice if a "cold hit" (a match between DNA at the crime scene and an offender sample) occurs outside the statute of limitations.

Section 11 - This provision increases grants to upgrade the national DNA database. Federal officials advise that an improved database software will handle the expected

influx of DNA information from the states and produce quicker matches.

Section 12 - This provision authorizes appropriations to process federal offender DNA samples and enter that information into the national DNA database. With each passing session, Congress passes more laws that increase the number of qualifying federal offender crimes for the database, and this funding will help the FBI handle the 5,000 to 7,5000 offender DNA samples coming into the system each year.

Section 13 - Requires the Department of Justice to promulgate privacy regulations that will limit the use and dissemination of DNA information generated for criminal justice purposes, and that will ensure the privacy, security and confidentiality of DNA information. This language mirrors privacy language in the USA Patriot Act and the Border Security Act.