

**Testimony of
The Legal Aid Society**

at a public hearing on

**Status of the Implementation of the Brad H Settlement
and the Discharge Plan for Mentally Ill Inmates**

Presented to:

**The New York City Council Committee on Mental Health, Mental
Retardation, Alcoholism, Drug Abuse and Disability Services,
the Committee on Fire and Criminal justice Services,
and the Subcommittee on Drug Abuse**

Presented by:

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Introduction

Good morning. My name is John Volpe, Director of The Legal Aid Society's Enhanced Defense-MICA Project. The Legal Aid Society welcomes the opportunity to testify at this joint public hearing before the New York City Council Committee on Mental Health, Mental Retardation, Alcoholism, Drug Abuse and Disability Services, the Committee on Fire and Criminal Justice Services, and the Subcommittee on Drug Abuse regarding the Status of the Implementation of the Brad H Settlement and the Discharge Plan for Mentally Ill Inmates.

Since 1876, The Legal Aid Society has provided free legal services to New York City residents who are unable to afford private counsel. Annually, through our criminal, civil and juvenile offices in all five boroughs, our staff handles about 275,000 cases for poor families and individuals. The services we provide reflect the entire gamut of the needs of our clients, from immigration representation for the newest arrivals, to health care benefits for the oldest New Yorkers.

By contract with New York City, The Legal Aid Society serves as the primary defender of poor people prosecuted in the State court system, at both trial and appellate levels. Although newer public defender agencies have been created in New York City, the Society continues to serve as the primary defender and play the central defense role in the City's criminal justice system. The Society is involved in the planning or implementation of specialized court parts

dealing with drug treatment, domestic violence and juvenile offenders. It has also sought to compel the State to fund more residential placements for persons with both a mental illness and a chemical addiction (MICA) and has been involved in seeking better discharge planning for mentally ill inmates so that they have the medication, housing and counseling they need immediately upon release.

The Legal Aid Society employs nearly 50 forensic social workers in the Criminal Defense practice. Much of their energy and time is spent providing services to the most marginalized group in the NYC jails, the Brad H. class members. Within this large practice is our Enhanced Defense MICA Project, which is geared to break the cycle of arrest by fostering long-term psychiatric and substance abuse treatment among criminal defendants dually-diagnosed with serious mental illness and substance abuse/dependence issues. The project teams attorneys and licensed social workers who are experienced in working with clients who have both mental illness and addiction. In addition to providing basic criminal defense legal services, project teams will link clients with other governmental agencies, community-based treatment providers and advocacy groups, and provide case management services to ensure that clients remain in treatment. Additionally, project staff provides training and consultation to other attorneys and criminal justice professionals and also spearheads advocacy for systematic change within New York City.

Since the Project's inception in 2002, we have screened over 1200 defendants. Almost 600 have successfully completed the prescribed monitoring period. A recent review of recidivism among our client caseload showed 50% reduction in re-arrests. Last year alone the staff consulted on an additional 1200 cases. We dedicate our efforts to improving the quality of services available to our clients in order that their chances of a return to the criminal justice

system can be minimized. The Society's dedication to the class members is unmatched, whether measured by the volume of cases handled and or the expertise and support on behalf of each and every client.

Brad H Positive Developments

A number of positive steps have been taken over the last few years to provide Brad H class members better mental health care and improved discharge planning in the city jails. We recognize that significant systemic changes were necessary to meet the requirements of the settlement. We are cautiously optimistic that a continued commitment to improving the provision of mental health treatment and discharge services can further improve the quality services in our city jails.

Among the positive improvements are:

- The Department of Health and Mental Hygiene's (DOHMH) Health Services Manager has been very helpful in bridging communication between concerned family, friends and community providers and the mental health staff in the city jails. The Manager's role as liaison has made substantial contributions toward promoting a continuity of care for newly arrested persons who were receiving treatment prior to incarceration. In our experience this office promptly addresses any community concerns involving jailed defendants in crisis.
- We have developed a good working relationship with the DOHMH. The Department has worked collaboratively with the Society over the last few years to address our concerns about improving mental health treatment and discharge

planning for class members.

- A great deal of effort has produced the infrastructure for providing appropriate discharge planning. Although there are areas for improvement, the existing groundwork should promote better discharge planning for class members in the months and years to come.

Issues of Continuing Concern

- As community-based advocates, we are often told by discharge planners that our defendants medical records are difficult to locate or “lost.” This frequently delays discharge planning. These records, which are handwritten, are often illegible, rendering them useless in providing vital information required to facilitate an appropriate discharge plan. A computerized medical record cannot be implemented soon enough. Such a computer record would also provide Correctional Health Services with access to prior incarceration records in the event someone returns to a city jail.
- The performance of individual discharge planners varies greatly. We have witnessed high staff turnover which impacts of the quality of service for class members. Improvement is needed in the initial training of discharge planners regarding their job responsibilities and functions. Better management and supervision of this important work is essential to insure quality services. At times, discharge planners fail to provide requested discharge planning services when ample notice is provided (more than the minimum 72 hours notice). This

has resulted in a difficult transition for some class members released from custody.

- The Human Resources Administration, The Department of Health and Mental Hygiene and The Department of Corrections should revisit the issue of insurance coverage for class members being released from custody. There are too many instances where medical benefit applications are not properly processed or incomplete at the time of the class members release. There are also cases where critical information is missing rendering the benefit useless. To our knowledge, the Human Resources Administration has not been forwarding temporary medicaid cards to DOC for placement with the prisoner property as stipulated in the settlement agreement.
- A lack of communication between discharge planners and defense counsel has resulted in divergent discharge planning. Often, the referrals provided by discharge planners are inappropriate for two reasons: 1. At times, the discharge planners fail to correctly assess the needs to the client and 2. the treatment referrals provided are often not consistent with the court mandated services required of the class member in the legal disposition. Contact with defense counsel would improve the efficacy of the treatment planning process.
- The procedure for securing medication when class members are released from court often presents as an obstacle to a smooth transition into the community. The current policy requires that all medications be picked up at the DOHMH office at 225 Broadway. This often means hours of travel on buses and trains

only to sometimes turn around and travel to an outer borough for a treatment appointment or a shelter bed. Any delay in delivery to 225 Broadway can result in missed appointments or worse the loss of a residential bed intake. Delivery of medication to a location near the courthouse is optimal and should be explored.

- Until recently, so called “mental health holds” were preventing class members from being released at the courthouse even when such was ordered by a presiding judge. Class members were being flagged by DOC for return to the jail in order to be cleared for release by either mental health or discharge planning. This is in violation of the settlement agreement. The situation has seemingly been rectified in the last year, but we strongly recommend that such policy never be re-implemented
- Securing residential beds for class members is often difficult because treatment providers find the process of entering the city jails too cumbersome and time consuming. Interviews by video conference are often not an option for those within the class. DOC should develop a plan that allows community treatment providers better access to class members for the purpose of assessment.

Conclusion

On behalf of The Legal Aid Society I want to thank you for this opportunity to testify. While there remains a lot of work to do, we believe the Brad H settlement has substantially improved the prospects for many of our clients. We look forward to continued progress in the treatment and discharge planning for class members in our city jails. If you have any questions you can contact me at 212-577- 3340 or Steve Banks at 212-577-3277.