



DEPARTMENT OF VETERANS AFFAIRS
Veterans Health Administration
Washington DC 20420

IL 10-2009-005

In Reply Refer To: 116

April 30, 2009

UNDER SECRETARY FOR HEALTH'S INFORMATION LETTER

**INFORMATION AND RECOMMENDATIONS FOR SERVICES PROVIDED BY VHA
FACILITIES TO VETERANS IN THE CRIMINAL JUSTICE SYSTEM**

1. Purpose. This Information Letter provides background on the needs of Veterans in the criminal justice system and clarifies Veterans Health Administration (VHA) authority to provide services to these Veterans. This Information Letter also outlines pertinent VHA outreach, and makes recommendations regarding services to this group of Veterans.

2. Background

a. The President's New Freedom Commission on Mental Health (2003) called for mental health treatment to be readily available in communities so that mental health consumers no longer faced unemployment, homelessness, or incarceration because of untreated mental illness.

b. The Substance Abuse and Mental Health Services Administration (SAMHSA) of the Department of Health and Human Services, in partnership with the Center for Mental Health Services' National GAINS Center, has been implementing and evaluating jail diversion initiatives since 1995, and in 2008, funded state and local pilot initiatives to connect justice-involved Veterans with needed mental health and substance abuse services. **NOTE: GAINS = G, gathering information; A, assessing what works; I, interpreting and integrating the facts; N, networking; S, stimulating change.** The Sequential Intercept Model informs SAMHSA's support for mental health and substance abuse focused treatment programs in the justice system. The Model indicates that people move through the justice system in predictable ways, and there are opportunities to examine movement through the justice system and look for ways to intercept people and move them away from avoidable contact with the justice system and into appropriate treatment. The intercept points are:

- (1) Law enforcement and emergency services;
- (2) Initial detention in jail and initial court hearings;
- (3) Jail, courts, forensic evaluations, and forensic commitments;
- (4) Community reentry from jails, prisons, and forensic hospitalizations; and

(5) Community corrections and community support.

c. High levels of untreated psychological trauma are found in correctional populations. SAMHSA policy emphasizes that trauma treatment is central to avoidance of unnecessary incarceration. SAMHSA has established the National Center for Trauma-Informed Care (NCTIC), a technical assistance center to build awareness of trauma-informed care and to promote implementation of trauma-informed practices in programs and services.

d. The Health Care for Reentry Veterans (HCRV) program intercepts Veterans at the fourth justice system intercept point (i.e., reentry from prison to the community). The Veterans Justice Outreach (VJO) program complements this function by targeting Veterans at the first, second, and third intercept points. When fully implemented, these two programs will provide services for Veterans involved in the justice system along the first four points of the continuum described by the Sequential Intercept Model to include the Department of Veterans Affairs (VA) outreach services to Veterans in reentry mode in prison or jail, and VA outreach and treatment services to Veterans not incarcerated but in contact with police or supervised by the courts.

e. In VHA Handbook 1160.01, each VA medical center is strongly encouraged to appoint and maintain an individual to serve two inter-related functions, both components of the facility's overall outreach and community education efforts: a Police Training Coordinator, with a commitment to educating law enforcement personnel about Post-Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), and other mental health issues relevant to the eligible Veteran population, and a VJO Coordinator, committed to interfacing and coordinating with the local criminal justice system, including jails and courts.

3. Veterans in Jails

a. The most recent United States (U.S.) Department of Justice Bureau of Justice Statistics (BJS) Survey of Inmates in local jails (2002) data indicate that 9.3 percent of people incarcerated in jails are Veterans. The controlling offense for 70 percent of these Veterans was a non-violent crime, and 45 percent had served two or more state prison sentences. At minimum, 90,000 of the 9 million unique inmates annually released from U.S. jails are Veterans. A large majority (82 percent) are eligible for VA services, having been discharged either under honorable (65 percent) or general with honorable (17 percent) conditions.

b. BJS reported in 2006 that 60 percent of all U.S. jail inmates had a mental health problem. As of 2005, only one in six jail inmates with a mental health diagnosis had received mental health treatment since incarceration. The 2002 BJS Jail Survey also found that 65 percent had screened positive for either an alcohol or drug dependency problem. Twenty-nine percent had been diagnosed with at least one of five psychiatric disorders (depressive, bipolar, psychotic, PTSD, or anxiety disorder). One in five (18 percent) Veterans was homeless in the year prior to the current incarceration.

c. Statistics on the jail and prison inmate populations suggest significant health risk for Veterans released from jail. Compared to prevalence in the general population, jail inmates had

five times higher rates for Acquired Immune Deficiency Syndrome (AIDS), nine times higher rates for Hepatitis C, and four times higher rates for Tuberculosis. Among the three chronic diseases studied, prevalence rates for asthma (8.5 percent) were higher among inmates, and while rates were lower for diabetes (4.8 percent) and hypertension (18.3 percent), the prevalence rates of these illnesses were still high.

d. Accordingly, significant numbers of Veterans incarcerated in the Nation's jails, at risk for homelessness, substance abuse, mental illness, and other disease and eligible for VA services, require multiple post-incarceration services at release. These services include:

- (1) Medical,
- (2) Behavioral health,
- (3) Substance abuse,
- (4) Transitional housing,
- (e) Vocational and employment, and
- (f) Veterans benefits assistance.

4. Veterans, Trauma, and Risk for Contact with the Justice System. Historically, reports of Vietnam and post-Vietnam era Veterans with histories of civilian or military trauma suggested an association between trauma and subsequent contact with the legal system. A VHA National Center for PTSD fact sheet reports that PTSD symptoms can indirectly lead to criminal behavior (for example, self medication or hypervigilance) or through direct linkage of a traumatic incident to a specific crime (VHA National Center for PTSD:

http://www.ncptsd.va.gov/ncmain/ncdocs/fact_shts/fs_legal.html?opm=1&rr91&srt=d&echorr=true). A 2008 RAND Corporation study found that nearly 20 percent of military servicemembers who have returned from Iraq and Afghanistan (300,000 at the time of the study) reported symptoms of PTSD or major depression, with only slightly more than half having sought treatment. Anecdotal accounts of encounters of Operation Enduring Freedom (OEF) and Operation Iraqi Freedom (OIF) Veterans with mental illness with the criminal justice system have been reported with some frequency by the news media.

5. Engagement of VA Medical Centers with the Criminal Justice System. Engagement of VA medical centers with the criminal justice system has been developing. In response to a June 2008 review, more than one third of VA medical centers (58 of 153) indicated that they either currently engage with local justice system partners to coordinate services for Veterans, or intend to request resources to support such engagement. VA medical centers have established relationships with a range of justice system and community partners including police and sheriffs departments, local jail administrators, judges, prosecutors, public defenders, probation officers, and community mental health providers.

April 30, 2009

6. VJO Initiative. The purpose of the VJO initiative is to avoid unnecessary criminalization of mental illness and extended incarceration among Veterans by ensuring that eligible Veterans in contact with the criminal justice system have access to:

- a. VHA mental health and substance abuse services when clinically indicated, and
- b. Other VA services and benefits as appropriate.

7. Authority

a. Under Title 38 Code of Federal Regulations 17.38(c)(5), VA excluded from the medical benefits package “hospital and outpatient care for a Veteran who is either a patient or inmate in an institution of another government agency if that agency has a duty to give the care or services.” Eligible Veterans released from incarceration to the community are eligible for VA treatment. The goal is prompt engagement in appropriate care upon release to promote positive community adjustment to avoid further criminal behavior.

b. In Public Law 107-95, Section 2022, Congress mandated that “the Secretary, acting through the Under Secretary for Health, shall provide for appropriate officials of the Office of Mental Health Services and the Readjustment Counseling Service of VHA to develop a coordinated plan for joint outreach to Veterans at risk of homelessness, including particularly Veterans who are being discharged or released from institutions after inpatient psychiatric care, substance abuse treatment, or imprisonment.”

c. To operationalize this mandate for outreach to incarcerated Veterans, the Office of Mental Health Services in 2007 established the HCRV program. As of the end of Fiscal Year 2008, its staff had provided more than 5,000 reentry assessments to Veterans incarcerated in over 400 state and Federal prisons.

d. VHA Handbook 1160.01, announces VHA’s commitment to the principle that when eligible veterans’ non-violent offenses are products of mental illness, Veterans and their communities are often better served by mental health treatment than incarceration. It also identified police encounters and court proceedings involving Veterans as potential avenues for improved access to mental health services, calling them “often-missed opportunities to connect eligible Veterans with VA mental health services as a negotiated alternative to incarceration or other criminal sanctions.”

8. Definition of a Justice-involved Veteran. For the purposes of this Information Letter, a Justice-Involved Veteran is:

- a. A Veteran in contact with local law enforcement who can be appropriately diverted from arrest to mental health treatment;
- b. A Veteran in a local jail, either pretrial or serving a sentence; and
- c. A Veteran involved in adjudication or monitoring by a court.

NOTE: Veterans incarcerated in prisons are not included in this definition as they are served through the HCRV Program. Veterans with a criminal background who are living in the community, including those on probation or parole, are not included in this definition as they can access VA services through the same avenues as other Veterans.

9. Recommendations

a. VA medical centers are strongly encouraged to develop justice outreach initiatives in partnership with local law enforcement, judicial, and community-based treatment entities. The goal is to provide timely access to VA services to Justice-involved Veterans. Veterans charged with non-violent crimes are to be considered a priority population in developing these initiatives. As resources permit, VA medical centers are strongly encouraged to plan for and dedicate staff resources in response to requests for:

- (a) Police training;
- (b) Mental health assessments;
- (c) Treatment planning; and
- (d) Referrals to relevant VA services.

NOTE: Where possible and warranted by demand, this response may involve a VA mental health staff member's physical presence in the justice system setting.

b. If a Veteran seen by a VJO staff member is currently incarcerated, the veteran's clinical treatment needs to remain the responsibility of the government entity responsible for the incarceration. VJO staff may, however, enter correctional facilities to:

- (1) Inform and advise Veterans regarding VHA and Veterans Benefits Administration (VBA) services;
- (2) Assist a Veteran in establishing eligibility for VHA and VBA services, at the veteran's request;
- (3) Conduct pre-release assessments; and
- (4) Engage in discharge or transition planning which refers or links Veterans to VA or community services upon release.

c. Written applications for VHA services are received and processed in the same manner as for other Veterans.

d. VJO staff provide post-release emergency psychiatric or crisis intervention services, and may provide brief or extended (in conjunction with the veteran's involvement with specialty

April 30, 2009

courts) clinical case management services. VA staff is knowledgeable about VA psychiatric emergency room and inpatient procedures, as well as procedures for screening and evaluating Veterans for various VA residential treatment programs.

e. In order to effectively assist Justice-involved Veterans, it is recommended that VA staff in VJO settings become knowledgeable regarding psychological and psychiatric evaluation in relation to justice-based forensic issues, such as:

- (1) Psychiatric diagnoses;
- (2) Developmental disabilities;
- (3) Medical issues (such as TBI);
- (4) Competency and sanity;
- (5) Neglect and abuse;
- (6) Parental rights; and
- (7) Life threatening issues, such as suicidality and homicidality.

f. VJO staff work with courts in accordance with applicable institutional rules and procedures. Communication with officers of the court regarding veterans' compliance with VA treatment programs, including attendance in treatment and results of toxicology tests conducted for treatment purposes, is a regular and ongoing part of the VJO staff members' role. In order to make treatment toxicology test disclosures to the court, the Veteran must check the appropriate category (Drug Abuse, Alcoholism or Alcohol Abuse, Testing for Infection with Human Immunodeficiency Virus (HIV), or Sickle Cell Anemia) on the veteran's request segment of VA Form 10-5345, Request for and Authorization to Release Medical Records or Health Information. "Information Requested" on VA Form 10-5345 indicates that past and present progress in treatment would be releasable up to the date of the veterans' signature and future progress in treatment created after the date of the signature.

(1) If VA's clinician is going to speak to a veteran's family about protected diagnoses, such as Drug and Alcohol abuse, or HIV, VA Form 10-5345 must be completed by the Veteran prior to speaking with the family or others who are involved in the veteran's care.

(2) VA staff need to observe provisions of VHA Handbook 1605.1, with particular attention to paragraphs 20 and 21 involving courts and law enforcement entities.

g. It is critical that VJO staff work to ensure that Justice-involved Veterans who are not incarcerated have access to all appropriate VA mental health evidence-based psychotherapeutic and pharmacotherapy interventions (VHA Handbook 1160.01). In addition, SAMHSA's National Registry of Evidence-Based Programs and Practices (NREPP) and maintains a Website

listing of interventions for justice-involved populations located at:
<http://www.nrepp.samhsa.gov/>.

h. Building and coordinating with a network of care is essential to effective reentry. Veterans Integrated Service Networks (VISNs) and VA medical centers are encouraged to engage all available VA, other appropriate Federal, state, and local government departments, faith-based and community agencies, and any other appropriate resources in supporting the community readjustment process for justice-involved Veterans. Among important resources, use of mentors and positive peer and Veteran support networks can provide assistance with navigation of VA and community resources, as well as continuous emotional and interpersonal support.

10. References

a. Munetz, Mark R., and Patricia A. Griffin. April, 2006. Use of the Sequential Intercept Model as an Approach to Decriminalization of People with Serious Mental Illness. *Psychiatric Services*, 57, 544-549.

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c. James, D.J. and Glaze, L.E. Mental Health Problems of Prison and Jail Inmates. U.S. Department of Justice, Bureau of Justice Statistics. NCJ 213600.

d. National Commission on Correctional Health Care. March, 2002. The Health Status of Soon-To-Be-Released Inmates. NCCHC: Chicago, IL.

e. Council of State Governments, Report of the Re-Entry Policy Council. 2005.
<http://www.reentrypolicy.org/Report/About>

f. Mumola, CJ. January, 2000. Veterans in Prison or Jail. U.S. Department of Justice, Bureau of Justice Statistics. NCJ 178888.

11. Inquiries. Questions regarding this Information Letter may be referred to James McGuire, at (310) 478-3711, extension 41450, or Sean Clark at (202) 461-7311.

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