My Family Member/Friend With a Mental Illness (Brain Disorder) Has Been Arrested - What Do I Do?

An informational guide compiled from the personal experiences of NAMI (National Alliance on Mental Illness) volunteers to help families / friends navigate the criminal justice system in Dutchess County when a family member/friend who has a mental health condition (brain disorder) is arrested.

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STEP ONE: SUPPORT YOUR FAMILY MEMBER / FRIEND

- If your family member / friend calls you and says that they have been arrested, help that person stay calm and offer your help and support.

- Advise any family member / friend who has been contacted / being held or arrested by any police agency to immediately contact the Public Defender's Office/private attorney BEFORE speaking to police. The Dutchess County Public Defender's Office phone number is (845) 486-2280. If it is after hours or on a weekend, remind the family member / friend not to make any statements to police until they have had an opportunity to consult with a public defender / private attorney. Remind them of their right to have an attorney present if being questioned by police officers or detectives. As a family member / friend, you should contact the Public Defender's Office / private attorney for them. Depending on the crime, they could be released by the arresting agency or transferred to the Dutchess County Jail (soon to be the Dutchess County Justice and Transition Center).

- Inform your family member / friend how important it is to discuss their medical / mental health concerns with the arresting agency or correctional facility where they are being admitted.

- If your family member / friend is already admitted to the Dutchess County Jail Receiving Area, they will be screened for mental illness, as well as other health concerns upon arrival. It is imperative that your family member / friend be direct and honest to benefit as much as possible from this screening process. Assure your family member / friend that it is OK to discuss their physical and mental condition (i.e., diagnosis, medications, etc.) with the staff conducting the screening, which includes correction staff, nursing staff and mental health staff.

- Alert the medical staff at the Dutchess County Jail as to the exact medications the family member / friend is prescribed and if aware that the family member / friend had actually been taking their medications. The medical information you provide is tremendously valuable in making an assessment and will help the mental health staff select the best treatment for your family member / friend. The PrimeCare Medical (PCM) staff must conduct its own assessment of your family member's / friend's condition and may not necessarily prescribe exactly the same medications, but there is a preference to try and maintain the effective current treatment. In the event that your observations of your family member / friend during visits and/or phone calls indicate to you that the family member / friend may not be receiving their prescribed medications, immediately contact the medical staff. If you believe your concerns are not being addressed, do not hesitate to contact the administrator of the facility.

STEP TWO: CONTACT THE ARRESTING AGENCY / SHERIFF'S DEPARTMENT OR COUNTY JAIL

- Call the arresting agency, Sheriff's Office or the county jail that is holding your family member / friend and ask to speak with a supervisor. Give the supervisor your family member's / friend's name and any aliases they may use. Inform the supervisor if they suffer from a mental illness and describe the diagnosis and any other concerns you might have. Be sure to explain any recent suicide attempts or suicidal ideations. Inquire as to your family member's / friend's status and estimated length of stay at this facility. Ask if your family member / friend is expected to be released directly from the arresting agency or if they are going to be released directly from the county jail (this sometimes occurs for minor offenses). Ask for the time and place so you can be there to pick them up. If your family member / friend is severely ill, ask if the arresting agency or Sheriff's Office would take them to a psychiatric hospital for an evaluation.

- If your family member / friend is not going to be released by the arresting agency, ask that they be transferred as quickly as possible to the Dutchess County Jail.

- **Be aware of the following information:**

    1. The next court arraignment date and address.

    2. Since the arresting agency cannot disclose the expected date and time of departure to the Dutchess County Jail, the family member / friend can call the county jail to inquire if the individual has been transferred to said facility. Once individuals are transferred to the county jail it is public information and therefore, officials at the jail can disclose this information to anyone.

TIP: Medication will not be accessible until your family member / friend arrives at the Dutchess County Jail. Therefore, impress upon the arresting agency the urgency for your family member / friend to receive essential medication. (This information may expedite the transfer to the Dutchess County Jail and/or the local Hospital Emergency Room).

STEP THREE: COUNTY JAIL INFORMATION

- If you believe your family member / friend has been admitted to the Dutchess County Jail, you can call the receiving area at (845) 486-3917 for verification. Any pertinent information a family member can provide regarding the incarcerated individual's medical / mental health condition can be provided 24 hours a day, seven days a week, to PrimeCare Medical staff at (845) 486-3918.

- Once your family member /friend is transferred to the Dutchess County Jail, contact the mental health liaison at the Dutchess County Jail and speak with said individual about your family member / friend.

- You can also contact the Dutchess County Probation Department at (845) 486-2600 and ask for the caseworker assigned to your family member / friend. The function of the Probation Department is to provide an alternative to incarceration; therefore, the caseworker's function is to facilitate your family member / friend being connected to mental health programs and/or facilities to address their needs. Keep in mind that while oftentimes your family member / friend may have rejected and/or not cooperated with such services in the past, the family member / friend oftentimes changes their attitude if faced with incarceration as the only other alternative.

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- Please use the following link to access the Dutchess County Jail web page for visiting hours, mailing address, and frequently asked questions or call the Dutchess County Jail at (845) 486-3900. https://www.dutchessny.gov/Departments/Jail/dutchess-county-jail.htm

- To use the link, place your cursor on any part of web address then press the CTRL button on keyboard and the left mouse button at the same time to access the site.

TIP: If at all possible, visiting incarcerated individuals with a mental illness is strongly encouraged.

STEP FOUR: HOW TO PROVIDE MEDICAL INFORMATION

- Click on the **Incarcerated Individual Medication / Mental Health Information Form**, English Version or Spanish Version on this web page. Complete the on-line form and print. Prior to faxing the form to PRIMECARE MEDICAL OF NEW YORK (PCM NY) staff at fax number (845) 632-8207, you **must** call the medical department at (845) 486-3918 and speak to a PCM staff member to advise them you will be faxing the completed **Incarcerated Individual Medication / Mental Health Information Form.** Print on the form the name of the PCM staff member you spoke with and their title (i.e., LPN, RN, Social Worker, etc.). The PCM staff member will retrieve your name and phone number and will advise you, via return phone call, whether your fax was received. Faxes can be sent 24 hours a day, seven days a week.

- If you do not have access to a computer, you can retrieve a blank **Incarcerated Individual Medication / Mental Health Information Form** (hard copy) and **Arrest Guide** (hard copy) from the visitors' lobby of the Dutchess County Jail during normal business hours (8:00 am – 8:00 pm). Bring the completed form to the Dutchess County Jail's visitor lobby and let the desk officer know you have a form that needs to be hand delivered to PRIMECARE MEDICAL OF NEW YORK (PCM NY) staff. Prior to handing the completed **Incarcerated Individual Medication / Mental Health Information Form** over to PCM staff, document on the form the title (i.e., LPN, RN, Social Worker, etc.) and name of the PCM staff member receiving your form**.** PCM staff is available 24 hours a day, seven days a week.

- If the form is unavailable, you can prepare a fax requesting that your family member / friend be screened for placement in the mental health unit by providing the below listed information in the Mental Health Unit Screening Request. **IMPORTANT**: Do NOT address any impending charges against your family member / friend in this fax. **Medical information only!**
  - Full legal name
  - Date of birth
  - Booking number
  - Name of facility
  - Incarcerated individual's diagnosis
  - Incarcerated individual's psychiatrist's name, phone number and address
  - Medications prescribed for your family member / friend by name, dosage and time to be administered.
  - Whether a particular medication has proven to be ineffective or has dangerous and/ or uncomfortable side effects
  - Any history of suicide attempts / threats or other violent intentions in the recent past. Briefly describe the events and when they occurred.
  - Any other urgent medical conditions that might require immediate attention, such as diabetes, high blood pressure, seizures, heart problems, etc., and medications currently prescribed for those conditions. Include their medical provider's name and therapist's name, address, and phone number for verification purposes.

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- Fax cover page: indicate whether your family member / friend has provided you with a written confidentiality waiver. If your family member / friend has not previously done so, ask that they be asked to sign one while in jail. The PRIMECARE MEDICAL OF NEW YORK (PCM NY) staff is prohibited by law from giving anyone information about a client's status unless they have the client's written consent, but the staff can receive information from family members or friends without the client's consent.

- Keep a copy of this fax for future reference. If your family member / friend is transferred to a different facility, you will need to fax this information again.

- Contact all your family member's / friend's mental health providers about their incarceration and encourage said professionals to contact the Dutchess County Jail themselves.

- Encourage PRIMECARE MEDICAL OF NEW YORK (PCM NY) staff to contact your family member's / friend's mental health providers.

STEP FIVE: COUNTY COURT, TOWN COURT, VILLAGE COURT, CITY COURT, PROBATION, JUDICIAL SUPERVISION:

- If your family member / friend has a private attorney, notify the attorney that they have been arrested and provide the attorney with your written observations and requests.

- If your family member / friend does not have an attorney, a Public Defender will be assigned at the arraignment, and you can provide the Public Defender with your written observations and requests at that time.

- You can provide brief written or oral statements about your mentally ill family member / friend to the defense attorney, prosecutor, and judge. The more concise the statement the better. The statements could include personal observations of their family member's / friend's behavior, the nature of circumstances surrounding the arrest, their diagnosis and current treatment plan, and relevant past history.

STEP SIX: DUTCHESS COUNTY DEPARTMENT OF BEHAVIORAL AND COMMUNITY HEALTH JAIL BASED STAFF:

- If you have any difficulty with this process, or require other Mental Health Service information, call the Dutchess County Department of Behavioral and Community Health Jail Based Staff at (845) 486-3959 during regular business hours and ask for assistance. Don't forget to provide your family member's / friend's name, location, and booking number (if known).

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STEP SEVEN: DECIDING ON LEGAL REPRESENTATION

- Your family member / friend may want to retain a private attorney or use the Public Defender's Office. A Public Defender will be assigned at arraignment if your family member / friend does not have or cannot afford a private attorney. Public Defenders have daily contact with the Courts, as well as the Probation Department and other services available for individuals with mental health issues. Public Defenders often have extensive knowledge of the system as it pertains to those who need mental health services.

- If your family member / friend decides to retain a private attorney, be sure to select one that is well versed in helping people with mental illness and understands how to access the treatment facilities and mental health services that are available.

IMPORTANT CONSIDERATIONS

Bail: Think carefully about posting bail for your family member / friend. No one wants a loved one to remain incarcerated for any length of time. It is an unpleasant experience for them as well as the family. However, you must ask yourself the following question. Will your family member / friend be able to comply with the terms of the bail and appear in court when required? Also, as hard as it may seem, jail may be a safer place for a person with severe mental illness who is in crisis rather than having your loved one wander the streets with no help at all. At least in jail they will be fed, have shelter and be given access to medication treatments.

Working with an attorney: Call the Dutchess County Public Defender's Office (845-486-2280) and ask for the name of the attorney who will be handling the case. The best time to reach them is after 3:30 pm. If you do not reach the attorney, be sure to leave a message requesting a return call with your name, phone number, your family member's / friend's name and if possible, the case number and court date. IF YOUR ASSIGNED ATTORNEY IS NOT READILY AVAILABLE DO NOT HESITATE TO CONTACT YOUR ASSIGNED ATTORNEY'S SUPERVISOR. Due to the attorney-client confidentiality requirement, the attorney may not be able to share all information with you. Remember, it is your family member / friend, not you, who is the attorney's client.

Inform the attorney of your family member's / friend's condition and any information that may be beneficial to the case. Provide the attorney with an extensive medical, psychiatric, social, and educational history of your family member / friend in writing. Include hospitalization, diagnosis information, medication treatment, contact information of those providers, and of facilities that have treated your family member / friend in the past. This information will be very useful in pursuing the best outcome for your family member / friend.

Patients' Rights: Patients' rights when admitted to various mental health facilities under the New York State Law. If your family member / friend has been transferred <u>from</u> jail <u>to</u> a psychiatric or mental health treatment, rehabilitation, or residential facility and admitted voluntarily or involuntarily under New York State Mental Health Law Article 9 "Hospitalization of Mentally Ill" and Article 33 "Rights of Patients", your family member / friend has a legal right to: care and treatment that is suited to their needs and skillfully, safely, and humanely administered with full respect for their dignity and personal integrity free from abuse and neglect. Depending upon circumstances, your family member / friend also may have a legal right to their own: social activities, recreation, education, religious freedom and practice, clothing, money, visitors, storage space, personal possessions, telephone, mail and writing materials, free from discrimination.

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Contact information:

Mental Health Hygiene Legal Services (MHLS) Poughkeepsie Office is: (845) 454-9460
New York State Office of Mental Health 1-800-597-8481
New York State Justice Center which advocates for people with special needs 1-855-373-2122

Supporting Your Family Member/Friend: Supporting and coping with a family member / friend suffering from a mental illness (brain disorder) can be extremely challenging and stressful. Knowledge, as well as your love and fortitude, will be essential in helping you become a strong and effective support system for your family member / friend. For information about support groups and educational programs provided free of charge in your area, contact the National Alliance on Mental Illness (NAMI) Mid-Hudson the local affiliate for Dutchess and Ulster Counties at (845) 206-9892 or on the internet at www.namimidhudson.org. If you are from a different county to find the closest affiliate to you visit nami.org. Once again, you can easily access this link by placing your cursor on any part of the web address then press the CTRL button on keyboard and the left mouse button at the same time to access the site.

Acknowledgment: This guide is based on a draft prepared for the Los Angeles County Jail System by Mark Gale and Jim Randall of the Los Angeles NAMI Criminal Justice Committee.

GLOSSARY OF TERMS *(adapted from – "How To Help When A Person With Mental Illness is Arrested", by NAMI New York State and the Urban Justice Mental Health Project)*

Adjournment – A postponement in a criminal case. The time between court dates.
Adjournment in Contemplation of Dismissal (ACD) – A disposition where the charges will be dismissed if the defendant is not rearrested in the next six months.
Allocution – Answering questions and admitting to a crime in order to plead guilty as part of a plea bargain.
Alternative to Incarceration (ATI) – A program that a defendant is ordered to attend rather than being sentenced to a jail or prison.
Appearance Ticket – A ticket ordering you to appear in court on a specific day to answer charges against you.
Arraignment – The first appearance before a judge after a person is arrested should be held within 48 hours of arrest. The purpose is to inform the defendant of the charges against him and decide whether to release the person or set bail.
Arrestee – A person in police custody following arrest.
Assistant District Attorney (ADA) – Prosecutor working for the District Attorney.
Bail – An amount of money a defendant must pay in order to be released from jail while a criminal case is pending. Designed to ensure the defendant appears in court.
Bail Bondsman – A person who makes a living by helping defendants pay their bail and taking a fee for doing so.
Bench Warrant – A warrant issued by a judge, usually because an individual did not return to court when they were supposed to.
Charge – Accusation regarding the specific law a defendant is said to have violated.
Conviction – Having been found guilty of an offense.
Co-occurring Disorders (formerly called MIDA = Mentally Ill Drug Addicted) – Someone who is dually diagnosed with mental illness and substance abuse.
Criminal Court – The court where every criminal case starts, regardless of whether it is a felony or misdemeanor.
Criminal Procedure Law – Set of laws governing the procedures in criminal cases.
Defendant – Person charged with a crime.
Department of Corrections / Prisons – The New York State agency that operates all of New York's prisons.
Detention – Being held in jail awaiting trial (usually because you can't afford bail).
Disposition – The conclusion of a criminal case.

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District Attorney – The person who prosecutes people charged with crimes. There is one District Attorney in each county. He/she is elected and has "Assistant District Attorneys" working for him/her.
Felony – Crime punishable by more than a year of incarceration.
Forensic – Relating to the law or legal proceedings.
Full Order of Protection – A court order that a defendant may not have any contact, in person, by phone, or mail, with a specific person.
General Population – Regular (non-segregated) section of a jail or prison.
Incarcerated Individual – Person in jail or prison.
Indigent – Poor.
Jail – Local detention facility used for the detention of persons awaiting arraignment, during their trial, and upon a sentence commitment.
Limited Order of Protection – A court order that a defendant, although permitted to have contact, may not behave in an aggressive, abusive, or harassing manner toward a specific person.
MIDA = Mentally Ill Drug Addicted (now called Co-occurring Disorders) – Someone who is dually diagnosed with mental illness and substance abuse.
Misdemeanor – An offense punishable by a year or less of incarceration. There are two kinds of misdemeanor; an A misdemeanor is punishable by up to a year in jail, while a B misdemeanor is punishable by no more than three (3) months in jail.
Not Responsible by Reason of Mental Disease or Defect (NYS CPL 330.30) – Under New York State Criminal Procedure Law, section 330.20, an individual found not responsible for a criminal act due to mental disease or defect is admitted to a state Forensic Psychiatric Center on an involuntary status for care and treatment.
Parole – Supervision in the community of someone who has been released from prison.
Penal Code – Set of New York laws listing what actions are criminal in New York and what the sentences are for each offense.
Plea Bargain – An agreement where a defendant pleads guilty to an offense in return for a specific sentence (usually a better sentence than s/he would have received after losing a trial).
Prison – A state correctional facility where people convicted of felonies and sentenced to more than one (1) year of incarceration are confined.
Probation – A sentence of one (1), three (3), or five (5) years of supervision in the community.
Prosecutor – A lawyer representing "The People of the State of New York" whose job is to prosecute people accused of crimes and defend the interest of the community in public safety and quality of life.
The prosecutor does not represent crime victims.
Public Defender – A defense attorney who is paid by the government to represent criminal defendants who cannot afford to hire a lawyer. A public defender usually works full-time for a not-for-profit organization funded by the government.
RAP SHEET – A criminal history of every time an individual has been arrested, and what happened in each case.
Released on Own Recognizance – Released from custody without being required to pay bail but required to return to court on a specific date.
Sentence – The punishment imposed at the conclusion of a criminal case.
SPMI – "Seriously and Persistently Mentally Ill" – This is a term used by some state Offices of Mental Health. Whether an individual is "SPMI" or not depends on how much mental illness impairs his/her functioning. This term is important because many programs determine eligibility based on whether or not the person is "SPMI."
Suicide Watch – When a jail incarcerated individual is potentially suicidal, they are checked on regularly as a preventative measure.
Supreme Court – The court felony cases are transferred from Criminal Court after the defendant is indicted by a grand jury.
Warrant – A notice to the police that a person is wanted and should be sought out and arrested.

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