



October 3, 2016

Steven H. Rosenbaum  
 Section Chief, Special Litigation Section  
 U.S. Department of Justice, Civil Rights Division  
 950 Pennsylvania Avenue, NW  
 Washington, D.C. 20530

Dear Mr. Rosenbaum:

On June 6, 2016, the undersigned organizations sent you a letter urging the U.S. Department of Justice to undertake an investigation into the circumstances and conditions at the Hampton Roads Regional Jail that led to the August 19, 2015 death of Jamycheal Mitchell in that facility. In the aftermath of the death in August 2016 of Henry Clay Stewart, a man whose pleas for medical assistance allegedly similarly went unheeded, and with the recent revelation that the U.S. Immigration and Customs Enforcement (ICE) terminated its contract in 2014 because of poor medical care, we urgently renew our request for this investigation to occur. Although there are clearly egregious problems in the way the Hampton Roads Regional Jail responds to individuals with serious medical needs, we strongly believe that the two recent

tragedies illustrate far broader problems in the lack of community services for and the lack of coordinated responses to individuals with serious mental health and/or medical needs. Local jails are rarely equipped to respond effectively to individuals experiencing serious psychiatric symptoms. These individuals would be far better served by local mental health systems, particularly when the offenses that gave rise to their arrest are of a minor, non-violent nature.

It is our fervent belief that Mr. Mitchell, an individual who was arrested for stealing \$5 worth of junk food, should not have spent one night in incarceration. The minor nature of his infraction did not justify a punitive response. The fact that he was incarcerated for months in the Hampton Roads jail while his condition deteriorated raises serious questions whether procedures existed for diverting him into more appropriate mental health services. If they don't exist, why not? And, if they do exist, why were they not followed?

We therefore urge the Department, pursuant to its authority under Title II of the Americans with Disabilities Act (ADA), to conduct a broader investigation of systemic deficiencies that serve as barriers to individuals such as Jamycheal Mitchell receiving timely and appropriate mental health services and supports and being diverted from jail. The scope of this investigation should not be limited to assessing the actions or lack of actions by the Hampton Roads Regional Jail. Additionally, the investigation should also consider the role and current capacity of the local and state mental health system to respond effectively and in a timely way to individuals like Mr. Mitchell, including by diverting them from incarceration.

Our organizations believe that a broad, systematic investigation is needed to prevent further tragedies from occurring in the Hampton Roads region. In addition to determining what went wrong in this particular case, the investigation should focus on steps that can be taken to ensure that tragedies like this one do not recur in the future. The ultimate goal should be to establish mechanisms for ensuring that individuals like Mr. Mitchell are diverted from incarceration or if incarcerated are transferred on a timely basis to programs or services that are equipped to address their mental health treatment needs.

Suggested areas of focus might include:

- Mechanisms and procedures currently utilized in the Tidewater region for conducting timely assessments of the medical/mental health status and treatment needs of individuals who are arrested or otherwise come into contact with the criminal justice system;
- Identification of evidence based or promising practices in addressing the needs of individuals identified as being appropriate for diversion into mental health services;
- The extent to which these evidence based or promising practices exist in the Tidewater region;
- Procedures currently utilized for diverting non-violent individuals with mental illness into timely mental health and substance use disorder treatment;
- Identification of barriers that currently exist to accessing or utilizing these services;
- Steps for improving diversion of individuals into mental health services and supports in the Tidewater region, including numerical goals and a timetable for achieving these improvements.

The current reality that jails and prisons have a gross disproportion of individuals with mental illness has been well documented. Most of these facilities are not set up to provide effective mental health treatment. The punitive orientation and isolated nature of these facilities frequently cause a worsening of symptoms and leaves individuals with disabilities ill-equipped to successfully

reintegrate into their communities. For minor offenders with mental illness, incarceration is a particularly cruel form of unnecessary segregation. In keeping with the integration mandate of Title II of the ADA, we once again urge the Department to intervene to help facilitate a more humane way of responding to people with serious mental health needs in southeastern Virginia.

Thank you for your attention to this urgent request.

Sincerely,

Mira Signer  
Executive Director  
NAMI Virginia

Claire Guthrie  
Executive Director  
ACLU of Virginia

Evelyn Steward  
President  
NAMI Hampton-Newport News

Bruce Cruser  
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Mental Health America of Virginia

James Boyd  
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Mary Giliberti, J.D.  
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CC: Kristin Hucek, US DOJ, Special Litigation Section