

## Tips from Parents on Arrests, Jail and Court

### When your relative living with mental illness is arrested...

First of all, try to not PANIC...and don't be embarrassed. Those living with mental illness get arrested quite often for a variety of reasons. It's NOT YOUR FAULT, and you have to remember they are ill and not behaving normally. You are NOT ALONE...many of us have already been there...even more than once. It's quite shocking at first – especially if you have no experience with jail or the courts. It's might seem like a waking nightmare, but we survived it, and so will you. Breathe and take it as easy as you can.

Before you try to blame yourself... REMEMBER, many of us had already tried to get our relative to seek help WAY BEFORE the arrest. We did interventions, attempted trips to the ER to get them to check themselves in, pleaded with them to call Behavioral Health for services, yelled, called the police ourselves for help and saw them through a number of hospitalizations. Due to patient rights, there are no 'mandated treatment' programs for those who cycle in and out of hospitals, short of Conservatorship. So, as long as people with mental illness are able to refuse treatment, arrest and jail can happen. YOU TRIED. Now it is up to them if they want to make changes in their life – and TREATMENT is a CHOICE ONLY THEY CAN MAKE.

For support from other family/friends dealing with similar issues, you might want to attend the **Family Jail Support Group** –

Meets on the 3rd Tuesday of month from 6:00-7:00 pm at NAMI SCC office:

1150 S. Bascom Ave, Suite 24 (parking in back)

For more information, email [courtjailcaregroup@yahoo.com](mailto:courtjailcaregroup@yahoo.com)

This group is made up of family members who offer their personal experience and support to family/friends of people in jail or court and living with mental illness. They meet 1 hour prior to the NAMI Family/Friends Support group that starts at 7:00 pm, so feel free to stay for that group also. You are welcome to your own dinner to the 6:00 pm meeting if you wish.

### Jail

Jail Experience - Strangely for some of us family members, jail can actually be a comfort. Our loved one is not on the streets unsupervised; we know where they are. Many of our relatives in jail wind up taking medication and seeing a psychiatrist for the first time in years, which is a good thing. Jail can't force them to accept treatment (patient rights again), but they have time to think and reflect on how they got to this low point, and that can create a change in their thinking about their choices. *A Social Worker in Jail once told a parent: "We've got him. Strange as this sounds, you should relax right now. He's not on the streets, and we'll be keeping a close eye on him and will try to get him to agree to treatment while he's here."*

Become Informed - The most important thing for you to do FIRST is to go to the NAMI Website and click on the NAMI SCC (Santa Clara County "[Family Member Arrested](#)") web page. Many followed this information to the letter, with very good results.

Communicate With the Jail – If the jail personnel, social workers and mental health professionals hear from family members, through paperwork we've faxed to them ASAP about medications, diagnoses, hospitalization, etc., the information might help them make a better jail placement for our relative. (Some of us feel San Jose Main Jail is better than Elmwood due to the separate floors for those living with mental illness).

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To provide this family member mental health information, download the [AB1424 form](#), fill it out and fax it to the jail as instructed on the NAMI SCC web site "[Family Member Arrested](#)" web page. When completing the AB1424 for jail, include diagnosis, meds that have worked, fears they may have, behaviors associated with the illness, including "lack of insight" and denial of their illness, as well as a concise list of key events like mental health crises and hospitalizations (the "Crisis Log). But leave criminal history off of the AB1424 for jail and the court; they only need to see mental health history. (The AB1424 form you send to your attorney and to outside hospitals, doctors, and social workers can include information about police contacts, arrests and jail time).

If they know something about our relative's condition after they're in jail, it's likely the jail psychiatric staff will check on our relatives often to be sure they're doing OK. They also know the family cares and are monitoring the situation by staying in contact with you. Not saying there is 'special treatment' here, but it might put our relative on their radar.

Those of us with experience with San Jose Main Jail have found that the psychiatric nurses, social workers, and other staff there tend to be extremely helpful. They generally are pretty good about taking a call from a family member now and then and about sharing information if the relative gives them permission. Also, if you notice something of concern during phone conversations or visits with your relative, you can call over to psychiatric staff and ask them to do a Welfare Check, which can be comforting.

Jail Treatment/Mistreatment - Many families have been relieved to learn from their loved one in jail that they have not been mistreated, even though we as family members still have that "nightmare scenario" in our brains. It's definitely not "fun", but informing staff of our relative's mental health condition can help them know how to provide safety for them and for other inmates. NAMI SCC was directly involved with the Jail Reform Commission that reviewed and worked to improve treatment of those in jail with mental illness, and the situation seems much better (although NAMI continues to advocate for ongoing improvements).

Bail - In the beginning, your extended family and friends might get calls from Bail Bonds reps due to your relative giving them your contact info. Believe it or not, it might be best NOT to bail out your relative (and to not feel about guilty saying no), and you might want to ask others to stick with NOT doing that as well. The goal really should be to convince them to get treatment, and jail can be the chance to do just that. Usually, there aren't any hard feelings later, and your relative might get motivated to accept treatment from the psychiatric staff in the jail.

Custody Moves - Sometimes the Jail moves those living with mental illness around between the psychiatric unit and the regular inmate section. This is due to the need to add space in psychiatry for emergencies, and if someone seems stable, they can be moved to the regular section for more socialization. For the most part, jail personnel do try to keep an eye out for signs of stress, and if they see problems, they will usually move those with mental health symptoms back into the psychiatric section for private time or observation.

Spending Money - Jail has a way to provide spending money ([the Inmate Welfare Fund](#)), so your relative can buy needed things at the jail Commissary. Some of us try NOT to give too much money here – just enough for basic necessities (not a bunch of junk food, etc.) While it's normal to be worried about your relative, you also don't want them too comfortable in jail either. The point is for them to think about their decisions and how these consequences can be avoided in the future.

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Jail Phone Services - Many of us had been frustrated by the jail Phone Service program. Apparently they have a NEW contractor running it, so hopefully things have improved. Sometimes it's not so bad that we have difficulty calling our relatives in jail. It's much better that THEY call us when they feel up to communicating with the family. While in jail they can become sober, stabilize a bit and have plenty of time to really think about their lives and how they might make better choices.

Jail Visits - In-person visits are a complicated issue for families. For some of us, these have not been beneficial, for us or for our relative, but the decision to visit is up to you and your loved one. Some of us just visit once and urge our relative to accept the psychiatric treatment offered in jail so they can start to recover a little. Then we let them know they can call us if they want to talk, so they know we're still there for them. But every situation is unique, so do what is right for YOU.

Visit Appointments - Going to the jail to obtain a visit appointment can be stressful: you wait in long lines in what seems like a very sad DMV office. But once it's your turn to pick an appointment (unless they run out of spots), staff are usually kind and try to help you. (Note that you can also [register online](#) to schedule jail visits). If you do decide to visit the jail, remember that you have to lock all your items in the trunk of the car, since you can't bring anything with you. If you can, ask a supportive friend/family member to come with you so you feel more comfortable. They can wait in the lobby area while you go in to see your relative. Visiting in the jail is not dangerous...just stressful and sometimes upsetting.

### Court System

Using the Public Defender: Many of us have done very well with the Public Defender's Office. As a rule, Public Defenders (PDs) tend to be better than private attorneys at representing those living with mental illness because they have so much experience with it. It's important to share the AB1424 Form and "Crisis Log" with your PD, so they are well aware of their client's situation in order to properly represent them. PDs can be good about setting up at least one meeting with family, so you can explain your concerns, your relative's mental history and what you WANT to happen to your loved one. This is when you really stress that you want your relative to be transferred into the Mental Health Treatment Court. The AB1424 form and full Crisis Log can assist them in advocating for Mental Health Court with the Judge and District Attorney. It's best not to email the PD too often, since they have large caseloads. But if you think something is important, do send an email. Providing information to the PD is CRITICAL role for us as family members. Even if they don't have a lot of time to meet with your relative before court, once they are in court together, the PD will explain procedures, offer guidance and try to represent their best interests. Because YOU provided the PD with a good history, they can do a better job at this.

The Court Hearing - Most PDs are very good at explaining to our relative what to do in court, how they should approach the judge, etc. They work directly with the Judge and the DA on our relative's behalf, and if we've provided a good mental health history, they can explain their mental health issues to the regular court and make the case for transfer to Mental Health Court. (You can stress early on to the PD that you want this transfer to happen). Some of us have actually had very kind judges in charge of our relative's court appearance, and they too can be good at explaining to our relative what is happening. The best-case scenario is for the regular judge to refer your relative to Dept. 64 (Mental Health Court).

Attending Court Hearings – The PD will leave it up to YOU to decide whether you want to be present in court for arraignment and other trial hearings. But they often say it can be comforting to your

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relative to have you there. Also, if you attend, the Judge and District Attorney will see that there IS family support. This might make a transfer of the case to Mental Health Court more likely, which is your ultimate goal. If you can bring a supportive friend/family member with you to court, please do. If this is your first time, court can be very upsetting. Seeing your loved one led in with other inmates, shackled and wearing an orange jumpsuit, can be painful. Don't be embarrassed if you get a little emotional...many of us have had tears in this situation and PDs are very understanding about that reaction. It would be stressful for anybody!

Sometimes the DA will come over and speak to us as family members. It's best to leave negotiations to the PD and simply share your concerns about your loved one's mental health and your hopes that they will receive treatment to help them recover. DAs can be very understanding, as they've seen this situation many times before. It doesn't hurt for the DA to know that the defendant has a family that cares and plans to support any treatment plan that is ordered by the court.

### Mental Health Court

About Mental Health Court - Usually, Mental Health Court is conducted by Judge Stephen Manley, but other judges preside at this Court too. Don't be surprised if your relative has to do more time in jail, depending on charges, but they often get credit for time they've already served. Your hope is that the Mental Health Court judge orders treatment in place of jail time. Just remember that your relative may have to stay in jail for a bit longer even if they have been ordered into a treatment program, because they are waiting for a bed to open up in a mental health recovery program. So patience is needed here, but remember there's a light at the end of the tunnel.

Attending Mental Health Court - It's a good idea to attend the Mental Health Court hearing, to show your support. As in a regular court appearance, your relative will have the orange jumpsuit on and will be among other inmates.

Mental Health Court Support Team - In this court, there is a team of Social Workers who work for Judge Manley. One is assigned to your relative, and they will go over and speak with your relative to understand their story, ask them what they hope to accomplish, etc. It's a good idea for you to approach the Bailiff and ask if your relative's Social Worker can speak with YOU after the court session ends. The Bailiff will notify the social worker of your request.

Judge Manley's Approach - Judge Manley is very kind but also tough. Your relative will observe people who were released from jail and currently appearing to testify to the judge on their progress in their court ordered program. The Judge will ask questions, request information from the Social Worker, etc. Participants are either:

Praised for their compliance with court ordered treatment (they will receive applause - actual clapping - from everyone in the courtroom) ...OR...

If they did NOT comply with court ordered treatment (they missed appointments, refused to take meds, etc.), the Judge will explain they are responsible for following court orders, and will remanded them back to jail for a limited amount of time so they can think about making better choices.

Your relative will observe ALL of this, and it can be educational for them. Judge Manley lectures the entire court about how people living with mental illness or substance abuse deserve a chance to get better, but that they have also control of their own lives and must choose what life they want. He is very good, with a tough love stance that works well with people who have mental health or drug problems.

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After Mental Health Court - After the court session, it's good to remind the Bailiff that you need to see your relative's Social Worker (you will meet with them out in the hall). You can ask the Social Worker for a highly structured, supervised program with medication management, give them a copy of the AB1424 form and mental health history, and discuss compliance issues that come up. Again, the MOST important thing you can do as a family member is to tell the TRUTH to court professionals, so they understand what your relative cannot (or will not) tell them. As a result, your relative might get a good placement in an effective program, even if they do have to wait in jail a bit longer for a bed to become available. The wait is really worth it. (Note: For many of us, placement in residential programs OUTSIDE of our home works better. Some of our relatives need to take more responsibility for their recovery, and professionals are best at this). Don't expect quick responses to your phone messages from court Social Workers...they are quite busy. Just leave short messages if important, and try to speak to them at the next court date after adjournment if you have concerns.

Re-Establishing SSI/SSDI/Medi-Cal - While a person's in jail, financial aid payments like SSI/SSDI and/or Medi-Cal are stopped. If your loved one has been SSI/SSDI and/or Medi-Cal, try to get them re-established once they have a jail release date. It's important to get the payments going again when they're released, so they have money for housing and medical services. But since they can still be placed in a treatment program per court order, not having all financial aid in place should not delay treatment.

After Release From Jail - Once released, the court usually has your relative transported straight to their recovery placement. Usually they will have to "stay onsite" for first two weeks or so (depending on the program). Some programs require group sessions, medication, doctor visits, therapy, chores in residence, following rules, etc. Usually you'll have to sign out your relative for offsite visits after the initial waiting period, and many programs have curfews and other rules you need to follow. It always helps for us to provide information to treatment staff on mental health history. If our relative gives permission, staff can let us know how they're doing. But it's best to try to allow your loved one to work directly with their professional team in the program without interference, to resist enabling or controlling THEIR consequences. You really want THEM in the driver's seat, taking responsibility for their own recovery. As much as you can, let this be their job.

Returning to Mental Health Court - Often the treatment program will be responsible for transporting your relative to Mental Health Court about once a month on their court date. They will also bring the court a report on compliance with meds, doctor visits, and other program requirements.

Probation - Some of our relatives also had Probation Officers who met with them regularly at their placement, and they provide reports to the court as well. Often, these officers are very helpful because they see so many clients who live with mental illness. They will monitor your relative's progress, and they have the resources to suggest better treatment if they feel it's needed. They will remand their clients back to jail if they break rules imposed by court, but they also try to support them as much as they can. Compliance with court-ordered programs tends to more be successful when Probation Officers remind clients about what happens if they fail to comply.

NAMI Programs - Even though this generally isn't ordered by the court, ask the social worker if the court can "suggest" that your relative attend the [NAMI Peer to Peer Class](#). If the idea comes from the court, they're more likely to go, and it's an excellent program. Your relative may not totally accept that they are living with a mental illness, but they will learn a lot and meet some supportive

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peers. And your relative will be able to tell the Judge when they complete the NAMI program, which will very much impress this particular court.

Mental Health Court Graduation - If your relative successfully stays with the program and does everything the Judge asks of them, they will “graduate” from the Mental Health Court Program. Usually this takes about 18 months, depending on the charges and progress. Ask the Social Worker about “expungement” of the charges on their record after this graduation. If expungement is successful, they can more easily apply for jobs in the future without having to report a jail record.

Post-Graduation Referrals- After graduation from the Mental Health Court program, our relatives are often referred by the court social work team to a less restrictive program through a mental health servicer provider. Make sure they have medications and referrals to a Case Manager, Psychiatrist and other services all ready to go. As always, ensure that the AB1424 and Crisis Log are distributed to the new treatment team. You may want to request Mental Health “SUPPORTIVE HOUSING”, with on-site supervision and medication assistance. If your relative has Medi-Cal and receives County Mental Health services, you will want to request a referral to FSP (full service partnership) program, which provides treatment at an outpatient center, including case management, psychiatry, therapy and often other useful services (job training, housing placement, information on VTA passes and free cell phone, etc.). Some of us have relatives assigned to Momentum for Mental Health, and have been pleased with their FSP program. Momentum is often “full”, in which case your relative will be referred to another clinic providing similar services, but you can still ask to be on the Momentum wait list.

Re-Framing the Jail/Court Experience - Try to think of what happened to your relative as a “gift” in a way...a chance for them to learn from mistakes and an extra incentive to take care of their health. Some families have seen great improvement in their loved ones with mental illness as a result of this type of experience. Many of us have never had to return to jail or court, while other families have had to be patient, as their loved ones still make mistakes resulting in legal consequences and need more time to learn better coping skills. Just try to stay positive and take good care of yourself regardless of the choices your loved one makes. Getting support from other families in similar situations and with hard-earned experience can be invaluable, so we offer a monthly “Family Jail Support Group” as listed below. And know that [NAMI Santa Clara County](#) is there to offer you support, education and advocacy when needed.

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