

If Your Family Member with Serious Mental Illness Has Been Arrested

The arrest of an individual with serious mental illness can be a very emotional and stressful time for the individual and for family members. Unfamiliarity with the criminal justice system and uncertainty about what to expect and how to proceed leads to anxiety and fear. Getting arrested is a traumatic experience regardless of the circumstances that led to the arrest. As much as possible, your family member is going to need your empathy and support.

Listed below are some steps you can take if a family member has been arrested and is in jail. These are general guidelines. Please understand that each jail will have its own policies and procedures which may be different from what is outlined below.

Disclaimer: The information listed below does not constitute legal advice and NAMI Utah recommends that you consult an attorney regarding your family member's case.

1. My family member with a serious mental illness has been arrested. What do I do?

Encourage your family member to notify jail staff of their diagnosis and medications they are taking.

Advise him/her to “give them the name and contact information of your prescriber (i.e., psychiatrist, APRN, or family doctor), the psychiatric medication you’ve been taking, and the pharmacy where the prescriptions are usually filled”. If they did not provide this information at the time they were booked into jail, encourage them to speak with a nurse or mental health provider as soon as possible. The request to see a medical provider needs to be done in writing. Remind your family member to report adverse reactions to past medications—including information about medications that were not effective—to the medical provider. Discuss any hesitations/concerns they may have about submitting a request for care. If they are unfamiliar with the jail setting they may fear negative consequences. An inmate will not be punished for requesting to see a medical provider unless multiple repeated requests are placed without valid reason.

If you believe that your family member is too ill to request care (i.e., was homeless and psychotic at the time of arrest) you may contact the jail with pertinent information. Be aware that privacy laws will prevent jail staff from giving you information about your adult family member. However, if you know which jail he/she was taken to you can call the jail to notify them of your family member’s serious mental illness, give them name and contact information of your family member’s prescriber (i.e., psychiatrist, APRN, or family doctor), the psychiatric medication(s)he is/had been taking, and the pharmacy where the prescriptions are usually filled. Medical staff at the jail may then contact the pharmacy and/or the

prescriber to verify this information. Depending on the size of the jail and whether they have medical staff on-site or only by consult, this verification process may take days or longer. Due to staffing constraints it may take anywhere from a few days to many *weeks* before your family member starts receiving medication once verification has been received. The following is a link to contact information for the county jails in Utah http://namiut.org/images/Utah_State_County_Jail_contact_information.pdf

There are additional factors that will affect the medications that are ultimately provided by the jail:

- a) The formulary that the jail has for their medications. Budget constraints will limit the jail prescriber's ability to order certain medications. If your loved one's medication is not on the formulary an alternate medication will be prescribed.
- b) Certain medications are never prescribed in the jails. Although there may be some variation depending on the jail, in general you can expect that medications for insomnia or stimulant medications will not be prescribed.
- c) Because some commonly prescribed psychiatric medications are used in a manner that was never intended (such as inmate attempts to divert their own medications to other inmates in the jail, and other abuses), there may be additional restrictions placed on medications that are prescribed. If inmates are discovered diverting their own medications or accepting medications that were not prescribed for them they will be sanctioned. The sanctions may include stopping the medication. If this happens to your family member, try to remember that the jail's main concern is safety—including safety of the inmates. If an inmate is given a medication by another inmate and suffers a significant adverse reaction, not only could someone be seriously hurt but the jail would be held liable.
- d) Your family member will not be forced to take medication against his/her will without an administrative hearing. Most people are under the assumption that once someone with serious mental illness is arrested the jail can automatically force them to take medications. This is not the case. The jail must hold an administrative hearing and there must be evidence that the individual is a danger to self or others before they will be medicated involuntarily. Multiple factors will affect whether or not a hearing takes place. Although your family member might be very ill if he/she is not disruptive or causing problems for the guards or other inmates a hearing may not take place. Be aware that sometimes inmates are punished instead of being treated when they are disruptive even though it's obvious that they are psychotic. Other factors can include that there isn't full time psychiatric or full time medical staff at the jail.

2. How can I find out about jail policies such as visiting hours, commissary, etc?

Most jails have a website with this information.

3. What if I don't know which jail my family member was taken to?

Start with the local jail in your city or county. There are also online inmate locator tools such as www.inmatesplus.com that can be used to locate an inmate.

4. How do I know when his/her court date is?

Court dates are considered public records. Felony charges will usually be filed with the district court in each county. District court information can be found at www.utcourts.gov. You may call the courthouse to find out what the trial date is. Misdemeanor charges may be filed with the city Justice Court. Justice Court contact information can be found online.

5. What if my family member is hospitalized in a locked psychiatric unit when he/she is supposed to go to court?

We recommend that you call the court and ask to be connected to the clerk for the judge who will be hearing the case. Explain that your family member is in the hospital. The court will most likely require documentation of the hospitalization upon your family member's release. Follow any instructions that the clerk gives you.

6. How do we find an attorney?

The first step is to determine whether you, or your family member, are able to afford a private attorney. If you plan on hiring a private attorney but don't know who to call, we recommend that you contact family, friends, or co-workers for recommendations. NAMI Utah is not able to make individual recommendations or referrals. Your family member should contact the attorney as soon as possible to discuss his/her case. If your family member cannot afford an attorney, he/she should notify the judge at the time of the first court hearing. Information about whether or not your family member qualifies for a public defender can be found online. Please note that since a public defender is appointed by the judge at your family member's first court hearing you will not know who the attorney is ahead of time. Furthermore, it can take a week or more for the court to forward the file to the public defender's office and the case assigned to a specific attorney. We realize this process can be anxiety producing because many individuals want to talk to an attorney before they ever go to court. However, since Utah state law requires that public defenders be assigned by a judge there is no way to circumvent this process unless you hire a private attorney.

7. Can the case be transferred to mental health court?

Please see the mental health court information on our website.