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JAY T. ARMBRISTER
SHERIFF

STACY SIMMONS
UNDERSHERIFF

To: Members of the Judiciary Committee
From: Sheriff Jay Armbrister
Date: February 16, 2022
Re: HB 2697 Competency Evaluation and Restoration

My name is Jay Armbrister and I am the Sheriff of Douglas County. I was born and raised in Lawrence and have been with this agency from the ground up for the last 23 years while serving as a newly minted Sheriff for the last year. I have worked every facet of this agency throughout my career and I have seen how not only the job has changed, but how the world around us has changed. I come before you today to bring a fresh perspective you may not have heard when it comes to the day-to-day struggle in our communities when it comes to some of the most severely mentally ill persons in our state.

Since taking office last year, I gained an entirely new perspective on several systems that have been in place for years and decades, but are now in need of an overhaul due if for no other reason than the human cost to those who are stuck in the system. On top of that, the actual cost is unbelievable too and the people paying those bills are not the ones who can affect ANY change! I will apologize up front for my tone in this letter, but I am passionate about this and I hope to convey the urgency I believe this issue deserves.

I wrote to my local Representatives, Senators, as well as agency heads at the state level to bring my perspective to the front of their minds (hopefully). In that letter, I addressed two of my biggest concerns and one of those was the broken system we are dealing with when it comes to folks who find themselves in our jail and found incompetent to assist in their criminal defense. These folks are charged with a wide variety of crimes, but many of them are of the most serious among our entire jail population. Yet, these folks once found incompetent, are dropped into a system that basically guarantees them an extra year or more in jail than those who are of sound mind. And this happens because of faults within the system to evaluate and regaining their competence. I'm sure you are all aware of how this works from a paper-pencil standpoint, but I want to bring you the human side of this!

As of today, we have 9 persons on the list awaiting a bed at Larned State Hospital (LSH). I believe this is the most for any county in the state. More than Johnson, more than Shawnee, more than Sedgewick. The person who has been on the list the longest has been there since 3/31/2021 (almost a year) and he is still #29 on the list. Our newest person on the list does not even have a wait number because it's so high.

And while I'm on the topic of the wait list, I fully understand the purpose of this bill before you, but I'd also like to point out the Douglas County has the most people on the waiting list, but a "pilot program" was started to go into local jails to begin the competency evaluation process instead of waiting for them to come to LSH. But Douglas County was not the county chosen to be a part of this new program.

We were at the head of the line, but those behind us were selected for some reason I do not know. Perhaps that can be explained, but I certainly haven't heard why we were not involved.

Now I would like to take this one step further and talk about an individual who is no longer in our custody, but his story exposes each and every flaw within this system and needs to be shared. I will simply refer to this person as "Isaac" since that was how our staff knew him during his years with us in our jail. I personally knew Isaac and dealt with him for much of the time I spent in our jail as a shift commander. He was not dangerous, nor was he problematic, but what he WAS was severely mentally ill.

Isaac was arrested in June of 2015 on the charge of Aggravated Battery for harming another person. In August of 2016 (over a year later) he was found incompetent and ordered to LSH for a competency eval. We transported him to LSH in December of 2016. In March of 2018, he was deemed to have regained competency and he was returned to our jail to stand trial. ONE MONTH LATER his attorney again requested a competency hearing and once again he was found incompetent and transported back to LSH in September of 2018. February found Isaac once again "competent" and returned to our jail to resume his court process. Then again in March of 2019, his attorney requested a third competency evaluation and in April, Isaac was once again found incompetent and ordered back to LSH which we for the third time transported him back out there in September of 2019. See how this is working?... In February of 2020 he was returned to our jail to once again take up his court case. Guess what happens one year later? Yep, he was once again back in front of the judge for a competency evaluation and this time he was found competent. So then in May of 2021, Isaac was able to accept a plea deal where he pleaded no contest to the charges as they were presented. Isaac was credited with 2,138 days in custody and took a plea to 16 months, or 480 days.

I say this with the most emphasis added I can muster... Isaac served nearly SIX YEARS for a charge he was eventually sentenced for a little over a year and 4 months for. And for six years, either us (DGCO) or LSH kept him safe and secure. And I'm sure you are asking HOW this happened, but I believe it is a perfect storm of a broken mental health system, an incredibly slow and back-logged court system, and one little secret nobody seems to understand... We at the county jail CAN NOT force medications like they can at LSH to restore competency and maintain competency. So someone may be doing good out the door and return to our jail and decide they do not need to take their meds and they quickly fall back out of competency thus starting the process all over. This clearly was part of the circumstances for Isaac and I know for a fact, he is not alone in this.

And you know who paid for every day Isaac was in my jail? Douglas County tax payers. He served one one day in the KDOC prison system unless you count LSH. And all those people waiting up to a year to go to LSH for evaluation and restoration... know who is paying for that? Yep, county tax payers. Our current daily rate for incarcerated persons is a little north of \$200 per day. That is \$73k per year to house these folks simply while their competency is sorted out. Not to mention these folks are some of the most resource-intensive and staff-intensive individuals in our facility, so that cost is much much higher! And since the state doesn't suffer any cost for this housing, what is the motivation to make any changes to fix it? My problem only receives your attention when it becomes your problem too, but that has not happened because there is no monetary cost to the State for this. And we can't quantify the 'human cost' of incarcerating these folks, so again, it's really easy to say, "it is what it is..." Well, what it is is UNFAIR AND INHUMANE! These people deserve justice and justice in a timely manner. That is not what they are getting now.

Perhaps you are asking why nobody was fighting for Isaac. It looks on it's face his attorney simply wanted his client kept in LSH, but that is simply not the case. And I do not know this for a fact in Isaac's case specifically, but many times family members of folks with these levels of severe mental illness (SMI) are quite often relieved when their loved one is in jail. For once in their lives, they know their loved one is being kept safe and secure while (hopefully) he/she receives the treatment they so desperately need. Many times these families have run out of options and feel the criminal justice system is the best option to get this person back on their feet. So, you end up with situations like this.

And I need to add two clarifying points here. I do not IN ANY WAY blame the staff at LSH for any of this. Those poor folks are buried with no hope of getting caught up. They are doing the Lord's work in an extremely difficult environment in an unbelievably thankless job.

What I am saying is that it's time the State of Kansas steps up and helps these poor folks with the work that has to get done! And second, I do not want to force medications in my jail. This is a huge responsibility and I would only entertain this possibility if judges and doctors are driving the bus on this. And I happen to be extremely fortunate that I have medical and mental health staff on duty every day who could help us with this if it became a reality, but you move just one county in several directions and they simply do not have the staff, resources, or ability to handle something so monumental as forced medications and competency evaluation and restoration. I am lucky...about 100 other counties are not as lucky as I am.

So, my suggestion? Put your money where your mouth is. Invest in systemic changes as well as brick and mortar changes. Build a new hospital that serves this half of the state and put it in the KC Metro area where there is a robust employment pool. Then, once you build it, pay these people what they deserve. Ain't nobody going to work every day all day cleaning up the worst human messes you can imagine (I can share stories), deal with people who are so mentally ill they are dangerous, while also doing a thankless job. You better start the pay at \$22 or \$24/hour or don't even bother with any of it.

I stand before you simply to present a perspective I feel has been lacking in all of these discussions and I also stand for any and all questions. I do not know everything, nor do I claim to, but what I do have is real world experience that deserves to be heard and considered.

Much Love,



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