

# Relationship between the criminal justice system and mental illness

[Law](#), [Criminal Justice](#)



With nearly 300, 000 mentally ill individuals housed within local, state, and federal prison systems, issues of mentalhealthcare within the criminal justice system are at the forefront of debate. While steps such as increasing medications and providing at least marginal support for the mentally ill within state institutions are improving the situation, recidivism rates, homelessness, andviolenceagainst ill prison inmates is still a major problem in today's society.

The product of deinstitutionalization, this problem of warehousing the ill within the criminal justice system must be attended to in order to create an atmosphere of care for the mentally ill. By altering legislation against involuntary assistance, increasing knowledge and awareness through the criminal justice system, and an increase in community care following release, the criminal justice system can create a cost effective solution to the problem of untreated mental illness within the system.

### The Relationship between the Criminal Justice System

The relationship between mental illness and the criminal justice system has been one of intense scrutiny over the past several decades. Issues such as treatment options within state and federal prison systems, behavioral consequences of mental illness, and length of stay issues have all been deliberated intently by the psychiatric and legal community. These studies have indicated that severe problems exist within the system in terms of the care mentally ill individuals receive while incarcerated. This paper will focus on the issues of the mentally ill prison inmate, and will review current literature which suggests that although steps are being taken to solve some

of these issues, more work must be undertaken to solve the problem of mental illness within the criminal justice system.

In the correctional system today, there are nearly 300, 000 mentally ill individuals, as compared to only 60, 000 currently residing in state psychiatric hospitals (Faust, 2003). While only five percent of the population within the United States suffers from some form of mental illness, sixteen percent of individuals within the U. S. prison system suffer mental illness, clearly showing an over representation of these individuals within the system (Ditton, 1999). Some studies even suggest that the rate of incarceration of the mentally ill is four times that of the general population for males, and nearly six times that of the general population for females (Cox, 2001).

The question, then, may be asked if the criminal justice system is ignoring the issues of mental illness, but studies suggest this is not the case. In the Los Angeles county jail system alone, over \$10 million a year is spent on psychiatric medications for inmates (Faust, 2003). Another study showed that nearly half of all U. S. states have, in the last four years, established commissions or task forces specifically designed to look into the connection between the mental health system and the criminal system. Further legislation has been introduced in five states calling for such commissions (Souweine, 2004). In some states, such as Ohio, serious efforts have been put into place to assist the mentally ill. Ohio state prisons have quintupled the number of mental health professionals on staff, developed better mental health screening, provided more beds for the criminally insane, improved

guard training, and improved funding for inmate mental health care (Kaufman, 1999).

With all of these efforts in place, it is difficult to see why the problem of untreated mental illness exists. In order to understand the problem, it is essential to first understand the origins of the situation. In the mid-1950's through the 1970's, attempts were in force to dismantle the warehouses of the mentally ill through a process known as "deinstitutionalization". At the time, mental institutions were simply holding areas for the insane, with sparse living conditions, harsh "treatment" procedures including electroshock therapy in unsafe conditions, and brutalization of patients (Treatment Advocacy Center, 1999).

Following concerns about civil rights issues, cost issues, and a desire to move to a more "outpatient" approach, numerous legislations were enacted to "deinstitutionalize" the population of mental health hospitals. First in 1965, the federal government passed legislation that specifically excluded Medicaid payments for inmates housed in state psychiatric hospitals. As a result, the states were now required to provide care, and, looking to lower costs, many discharged hundreds or thousands of patients into society (Treatment Advocacy Center, 1999). In addition, legal reforms in the 1970's were passed that required an individual to be a danger to himself or to others in order for him or her to be treated involuntarily for their illness (Faust, 2003). The result was another mass release of patients into society.

The results of deinstitutionalization are clear. Since 1960, nearly 90 percent of psychiatric beds in state hospitals have been removed. In 1955, nearly 600, 000 individuals resided in state psychiatric hospitals; the number today is less than 70, 000 individuals (Treatment Advocacy Center, 1999).

Unfortunately, however, these numbers are misleading, in that they suggest a reduction in the number of mentally ill individuals, which is not the case.

For many deinstitutionalized patients, the end result was simply a transinstitutionalization, or change of residence. While the Medicaid funds had been withdrawn for state psychiatric hospitals, those funds were still available for individuals with mental illness residing in nursing homes and general hospitals. As a result, many patients were simply transferred to these types of settings, where treatment options and care for the mentally insane were not nearly as advanced. By the mid 1980's, nearly 23 percent of nursing home residents had some form of mental illness (Treatment Advocacy Center, 1999).

For other deinstitutionalized patients, the results were far more disastrous. According to recent studies, nearly 200, 000 individuals with schizophrenia or manic-depression are homeless (Treatment Advocacy Center, 1999). Another 200, 000 of the homeless population suffer from other forms of mental illness. As homeless individuals, many of these patients are unable to maintain any form of treatment or medications, and thus are unable to receive the care they desperately need in order to function in society (Faust, 2003).

Unfortunately, for many of these individuals, criminal incarceration in the final result. In some cases, family members who are unable to force their relatives into treatment facilities due to the involuntary treatment laws have no choice but to wait until the illness causes harmful behaviors. At that junction, the police are contacted, and the individual is removed to a correctional facility (Faust, 2003). Since it is now common practice to give priority to mentally ill individuals awaiting court proceedings, many family members find this method the only option for obtaining assistance (Treatment Advocacy Center, 2000).

The result, according to a 1992 study, is that over 29 percent of jails in the U. S. criminal justice system report holding mentally ill individuals with no charges against them. Certain states, such as Montana, Wyoming, and New Mexico, allow such situations if the individual is being held awaiting psychiatric evaluation, a psychiatric bed in a state hospital, or transportation to that hospital (Treatment Advocacy Center, 2000).

Many of these individuals are held after arrest for misdemeanors, such as trespassing, disorderly conduct, or vagrancy (Treatment Advocacy Center, 2000). In fact, nearly half of the mentally ill inmates housed within the criminal justice system at any given time have been arrested for a non-violent crime (Ditton, 1999). Additionally, studies have shown that substance abuse is often involved with many mentally ill individuals (Teplin and Abram, 2000). As a result, these individuals are often arrested for alcohol and drug related offenses (Treatment Advocacy Center, 2000). In many of these arrests, police are attempting to protect these individuals from harm, such

as robbery, beatings, and rape, and therefore perform "mercy bookings" or unnecessary arrests in order to house the mentally ill (Treatment Advocacy Center, 2000).

While these methods certainly provide some form of housing for the mentally ill, the consequences of that housing are astronomical. First, the costs of mentally ill housing within the criminal justice system are staggering.

According to the Department of Justice in 2000, American taxpayers pay \$15 billion annually for individuals incarcerated in jails and prisons with mental illnesses (Bureau of Justice Statistics, 2001).

Additionally, while these inmates do receive some form of psychiatric care, the costs of such care are much higher than that of community care centers, while the outcomes of such treatment is often much lower. According to the Department of Justice in 2000, one in every eight state prisoners were receiving some form of mental health therapy, and of the 1,558 state correctional facilities in the nation, 1,394 provided some form of mental health care. Nearly 70 percent screen inmates at admission for mental health issues, 65 percent conduct regular psychological assessment, half provide 24-hour psychological services, nearly 75 percent distribute psychotropic medications, and 66 percent assist released individuals with obtaining community mental health services (Bureau of Justice Statistics, 2001).

However, even with the steps in place, the programs tend to not be as intensive nor as successful as those in a more clinical or community setting.

Drug therapy, used in nearly 60 percent of the mentally ill housed within the correctional system, has been shown to be less effective than drug therapy combined with other forms of therapy (Bureau of Justice Statistics, 2001). Since nearly two-thirds of the mentally ill inmates are housed within units not specializing in mental health services, many are not receiving forms of treatment shown to be effective (Treatment Advocacy Center, 1999).

In addition to the problems with mental health care in state institutions, local institutions fare even worse. A 1992 study of American jails functioning outside of the state or federal level showed that one in five systems had no access to mental health services whatsoever. Furthermore, 84 percent of these systems reported their staff to have received either no training or less than three hours of training in dealing with mentally ill inmates (Treatment Advocacy Center, 2000).

Clearly, simply housing the mentally ill within the state and local criminal justice system institutions is not cost effective, nor effective in terms of treatment given. However, there are even more drastic consequences of using the criminal justice system as a holding area for the mentally ill. First and foremost, mentally ill patients have special needs outside of simple medicinal requirements. Patterns of illogical thinking, delusions, hallucinations, severe mood swings, and other symptoms of mental illness tend to occur even in medicated mentally ill individuals.

In the prison system, these symptoms which lead to bizarre and unpredictable behavior are often misunderstood by personnel that have not

been trained in these types of illnesses. As a result, non-ill inmates and the personnel themselves may react with violence and punishment that is detrimental to the already fragile mental health of the individual (Treatment Advocacy Center, 2000). Still further, rape, a commonly known occurrence in prison systems, is more likely to occur in individuals who are unable to defend themselves due to confusion and disorientation as a result of their mental illness (Hiday, et al, 1998).

These patterns of behaviors also lead to longer prison sentences for mentally ill inmates. In one study, done in Riker's Island Prison, the average length of stay for an inmate was 42 days. In comparison, the average rate for a mentally ill inmate was 215 days, a length five times that of a non-ill inmate. In a similar study in Pennsylvania, only 16 percent of released prisoners had served their complete sentence. Of those, the mentally ill were three times as likely to serve their complete sentence as those who were not ill (Ditton, 1999).

Perhaps one of the largest problems facing the mentally ill who are incarcerated is finding community resources for equal or greater care following their release. A study completed in 1992 showed that nearly 30 percent of mentally ill inmates released commit another act within four months of release (Treatment Advocacy Center, 1999). For many, this recidivism rate is due to a lack of medications necessary to maintain a stable mental health condition. In addition, many of these individuals find themselves homeless following release, which further limits their ability to receive further treatment (Ditton, 1999).

It is clear that, although the current criminal justice system certainly attempts to care for the mentally ill, more needs to be done to ensure these individuals are continuously cared for. One such step, supported by the National Sheriff's Association, is to consider new laws altering the requirements for mental ill treatment. The NSA suggests laws which would allow treatment based on a "need for treatment", rather than simply a show of "dangerousness". The NSA also supports measures to allow a court order to assist in outpatient treatment of individuals in the community who need such treatment, but refuse it (Faust, 2003). Many studies have shown that mentally ill individuals often are not aware of their illness and thus, refuse treatment despite their clear need for such measures (Teplin and Abram, 2000). According to a long term study supported by the NSA, long term treatment combined with routine outpatient services reduced rearrest by nearly 74 percent (Faust, 2003).

Further, increasing the availability of community services following release has shown to be an effective measure in controlling the issue of mentally ill inmates upon their release. In Cook County, Illinois, case management for released inmates is provided by the Thresholds Jail Program. The individuals of Thresholds provide 7 day a week case management for as long as the member needs assistance, and even searches the streets for those individuals who are homeless at the time of release. This commitment has resulted in an 80 percent reduction in the need for hospitalization or incarceration of released inmates. Funded through the Illinois Office of

Mental Health, the program costs \$25 a day, in comparison to \$70 a day for incarceration, or \$500 a day for hospitalization (Thresholds, 2006).

Additionally, ensuring mental health screening measures, improving personnel training, and providing qualified mental health staff in all criminal justice systems, including local jails, would also help to decrease the issues related to the mentally ill within the system. In Ohio, where such measures have been implemented, there has been a dramatic increase in the care of the mentally ill. Reports show less mentally ill prisoner abuse, smaller punishments for rule infractions, and an overall increase in inmate mental health. Even further, recidivism rates of the mentally ill in Ohio have fallen nearly 80 percent (Kaufman, 1999).

Deinstitutionalization had drastic effects on the future of the mentally ill in America. Unfortunately, the criminal justice system has become a replacement warehouse for the mentally ill, providing basic housing and medication for these individuals only for the duration of confinement. Once released, and even in some smaller prison systems, the inmate is left without adequate mental health treatment or medication, resulting in an endless spiral of illness and incarceration that is costing billions of dollars a year, and the lives of many mentally ill individuals. By creating new laws which allow treatment based on need, utilizing existing community resources on release, and increasing the knowledge and awareness of such issues within the personnel of the criminal justice system, these individuals can become productive members of society at a far lower cost, creating a better situation for all involved.