First-Episode Incarceration

Creating a Recovery-Informed Framework for Integrated Mental Health and Criminal Justice Responses

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From the Director

While there have been significant shifts in the understanding of mental health over the past 50 years, many of the responses to people with mental illness have changed very little. In the mid-1950s more than half a million people were held in U.S. psychiatric institutions for long periods and often in deplorable conditions. Sixty years later, an equivalent number of people with mental illness are held in the nation’s prisons and jails on any given day.

During the 1960s and 1970s, endemic problems of involuntary confinement and abuse in psychiatric hospitals and a new generation of psychotropic medication that could be administered to people with mental health needs living in the community led to a dramatic shift away from residential, inpatient care. It was part of a movement that sought more compassionate care for patients in the context of their communities, based on a vision of people receiving the support they needed to lead stable, functional lives. However, the network of community-based mental health services that was necessary to realize this vision never materialized. In the absence of appropriate policies and practices to respond to people with mental illness, for many people the criminal justice system has become the provider of last resort.

Today there is a growing awareness that the justice system is no substitute for a well-functioning community mental health care system. Courts, public defender agencies, probation offices, and police departments around the country are increasingly adopting initiatives to connect people with mental health needs to treatment and other supportive services.

However, while initiatives to identify and divert people are desperately needed, their success depends on the existence of effective and accessible services. This report addresses fundamental questions about the effectiveness of services for people with mental illness who come into contact with the justice system. Drawing upon interviews with experts in the field, the authors address shortcomings in existing services and describe steps to reach people sooner with interventions that can help prevent future arrest and incarceration. Modeled on promising approaches in the mental health field to people experiencing a first psychotic episode, the report stresses early intervention, an understanding of the social determinants that underlie ill health and criminal justice involvement, and recovery-oriented treatment.

The United States has hundreds of thousands of people with mental illness languishing in the nation’s jails and prisons. This is a crisis that demands a fundamental rethinking of how to serve people struggling with mental health disorders. Developing new approaches that can convert an initial contact with the justice system into the first step along a path toward long-term mental health and desistance from crime should be part of that goal.

Jim Parsons
Vice President and Research Director
Introduction

There is growing public recognition that the number of people diagnosed with serious mental illness in the U.S. criminal justice system has reached unprecedented levels. In 2007, there were more than 2 million jail bookings of people with serious mental illness. Although prevalence estimates of serious mental illness in jails and prisons vary widely depending on methodology and setting (jail or prison), recent research estimates that approximately 15 percent of men and nearly one-third of women in jail settings have a serious mental illness and that rates of serious mental illness in state prison populations are at least two to four times higher than community populations. This reality places a significant strain on institutional and community resources, including increased expenditures on incarceration. And it sheds light on why so many formerly incarcerated people face daunting prospects for successfully reintegrating into society. Seeking to mitigate these corrosive outcomes, local and state governments have developed a range of programs over the past two decades to serve people with serious mental illness in contact with the criminal justice system.

The driving idea of interventions developed during the past 20 years is to keep people with serious mental illness out of jails and prisons when possible through prevention and diversion programs and to provide appropriate mental health services to those who need them during and after incarceration. Unfortunately, however well intentioned this first generation of interventions is, it has become increasingly clear that it has done little to reduce the number of incarcerated people with serious mental illness. Because of the human toll and the staggering expense of incarcerating people with mental illness, policymakers and practitioners in both mental health and justice fields have begun to reevaluate existing policy and practice and to think creatively about what it will take to make meaningful change in how to respond to people with mental illness.

This report outlines a new framework for designing and delivering integrated mental health and criminal justice interventions. It is predicated on creating mental health treatment programs that intervene consistently and productively at the outset of people's criminal justice involvement. After an evaluation of current practice and a discussion of the developing new generation of interventions, the report then draws upon interviews with 11 experts in the field to propose a “first-episode incarceration” framework (modeled on first-episode interventions in the treatment of psychosis) for people who have been diagnosed with mental illness and are in contact with the criminal justice system for the first time. Such a framework is rooted in prevention and early intervention, evidence-informed care, and recovery-oriented practice. The goal of the report is to seize the opportunity opened up by the current public debate about how to respond to the dearth of care for people with mental illness who come into the criminal justice system, thereby spurring creative thinking and cross-sector collaborations among mental health and justice system practitioners and policymakers.
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Methodology

The analysis, observations, and recommendations in this report are based on an extensive review of the literature in both the mental health and criminal justice fields, as well as on interviews with 11 national and local practitioners, policymakers, academics, and others involved in responses to people with mental illness who are at risk of running afoul of the criminal justice system. The authors examined peer-reviewed journals, white papers, and reports from government, professional organizations, and nonprofits. After compiling information on national practices, they interviewed 11 stakeholders chosen for their leadership capacity at a variety of organizations that serve people with behavioral health needs affected by the justice system. Although the interviewees' specialties differed, they all answered questions about:

- Emerging practices or programs that merit more evaluation and attention;
- Opportunities for applying mental health service models to clients in criminal justice settings;
- Promising programs using peer counseling;
- The potential application of mental health recovery frameworks to people in the criminal justice system; and
- The promise of interventions attuned to environment-based and place-based frameworks.

The authors guaranteed the interviewees anonymity in exchange for candid responses about current programs and interventions in their fields.

*a. While many of the examples in this report are based in New York, interviewees come from jurisdictions across the country*
The mental illness-criminal justice nexus: Evaluating practice and theory

People with mental health needs have staggeringly disproportionate involvement with the U.S. criminal justice system. This is not a new phenomenon; get-tough policies responding to people with serious mental illness who committed crimes prevailed for decades. Over the past 20 years, researchers and practitioners have developed a range of interventions to try to reduce the escalating levels of contact. The interventions, including criminal justice models such as crisis intervention teams, mental health courts, and specialty probation models, and mental health programs such as Forensic Assertive Community Treatment (FACT), were hailed as long overdue reforms to national practices and policies that have produced the world’s highest rate of incarceration, strained the social and economic fabric of many communities, and reinforced racial and class inequalities.8

However, recent research on these interventions demonstrates that they have not succeeded in reducing the number of people with mental illness involved in the criminal justice system. The efficacy of interventions is typically assessed by their impact on recidivism. Careful reviews of program effectiveness, however, have found only mixed or modest evidence that existing programs reduce recidivism.9 Little research on program effectiveness has collected mental health outcome data, and studies that have drawn on this data have been unable to show that improved psychiatric symptoms and mental health status lead to improved criminal justice outcomes.10

A growing body of scholarly literature argues that prevailing interventions—or “first-generation” interventions—have not achieved their goals because they are based on a faulty premise: that people with serious mental illness engage in criminal behavior primarily because of their mental illness.11 Much has been written about the criminalization of mentally disordered behavior in the wake of deinstitutionalization, a hypothesis suggesting that a decrease in the range of options for responding to people with mental illness led to an increase in the number of them in the criminal justice system.12 Many analysts cite the criminalization hypothesis to argue that mental health disorders are causal factors for involvement in the criminal justice system, and that mental health treatment would therefore be a remedy for that involvement.13 Although this hypothesis is a key driver of policy, it fails to account for evidence that untreated symptoms generally do not explain criminal justice involvement; nor does it square with evidence that connecting people to mental health treatment often fails to prevent further involvement.14
Planning for a new generation of interventions

In response to doubts about the effectiveness of current interventions and evidence of their limitations, researchers across several fields have proposed alternative models that take a more nuanced approach to thinking about the relationship between mental illness and crime. These new models are sensitive to social context and to the myriad factors that may overlap with mental illness, but are also closely linked to the characteristics of socially disadvantaged communities. They thus share the perspective of a social determinants model—a focus on the circumstances in which people are born, grow up, live, work, and
age, that is more focused on inequality than illness in affecting health.16

Indeed, scholars proposing next-generation interventions consistently turn attention to the fact that effective interventions cannot be limited to mental health services if the strongest predictors of recidivism (such as homelessness and criminal history) appear in people with and without mental illness. For example, one proposal calls for designing interventions guided by a person-place framework that accounts for individual factors including mental illness, addictions, trauma, and established risks for criminal behavior, including such traits as antisocial personality, as well as environmental factors such as social and environmental disadvantage.17 This framework suggests that person (individual) and place (environment) risk factors interact to create stress that becomes a catalyst for criminal justice entanglement.18 A second alternative describes the link between mental illness and criminal justice as one of “moderated mediation,” in which the effect of mental illness on criminal behavior is indirect and mediated by more general criminal behavior risk factors such as antisocial history and “poorly structured leisure and recreation time.”19 People diagnosed with mental illness may have more of these risk factors than people without diagnoses, but general risk factors predict recidivism regardless of mental illness.

Both of these proposed interventions suggest that the focus of evidence-based practices must be expanded beyond linkage with mental health treatment to target other risk factors including antisocial thinking, addiction, and stress. In “Envisioning the Next Generation of Behavioral Health and Criminal Justice Interventions,” the authors identified the Monroe County, New York-based Project Link, and Changing Lives and Changing Outcomes, a holistic, manual-based treatment program for people with mental illness who are involved in the criminal justice system, as two interventions showing promise in targeting multiple issues.20 An evaluation of Project Link—which comprises a mobile treatment team including a psychiatrist and nurse practitioner; a dual diagnosis treatment residence; and a team of case advocates (who engage clients and link them to mental health, primary care, residential and social services in the community)—demonstrated significant reductions in arrests, number of incarcerations and hospitalizations, and days spent in jail or the hospital.21 A preliminary evaluation of Changing Lives and Changing Outcomes, which includes nine therapeutic modules, showed significant reductions in mental health symptoms and distress as well as modest reductions in reactive criminal thinking among a group of incarcerated men.22

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Expanding the focus of intervention and the metrics of success

The approaches discussed above take an important step in rethinking the relationship between mental illness and crime—namely, they demonstrate that for most people with mental illness, criminal justice involvement is not explained simply by a lack of mental health treatment. In so doing, they broaden the types of risks that put a person with serious mental illness at greater likelihood of running afoul of the criminal justice system. They are also valuable for their practice recommendations. For example, the treatment plan described in Changing Lives and Changing Outcomes addresses key risk factors for both illness recurrence and recidivism such as addiction, medication adherence, stress, trauma, and housing, education, and employment needs.\textsuperscript{33}

So far, however, there has been little analysis of how to design interventions at the intersection of criminal justice and behavioral health systems that both decrease recidivism and expand life opportunities for participants. This area calls for greater focus from practitioners, researchers, and policymakers. The intense attention to reducing recidivism is understandable given the heavy social and economic costs of incarceration. But the fact that research on outcomes is rarely framed by an orientation to recovery—one that looks at opportunities for people with mental illness coming out of incarceration to renew possibilities, to regain competencies, or to reconnect socially—means that existing evaluation research tells us little about how an intervention succeeds in rebuilding lives.\textsuperscript{24}

What follows, then, is an attempt to think more broadly about the desirable outcomes of interventions for people involved in the mental health and criminal justice systems. The ultimate goals—desistance from crime and recovery from mental illness—can be slow processes. To show promise, emerging practices and programs must recognize this fact and help to change the life course of people seeking to stop criminal behavior and achieve mental health.\textsuperscript{25} The ideas introduced here can help to lay the groundwork for further inquiry into what kinds of intervention can halt the progression from the need for mental health services to involvement in the criminal justice system, and what it will take to effect this result.