



Treatment Advocacy Center Briefing Paper

Criminalization of individuals with severe psychiatric disorders

"We are literally drowning in patients, running around trying to put our fingers in the bursting dikes, while hundreds of men continue to deteriorate psychiatrically before our eyes into serious psychoses... The crisis stems from recent changes in the mental health laws allowing more mentally sick patients to be shifted away from the mental health department into the department of corrections..."

–California prison psychiatrist

Nowhere in our society is the debacle of deinstitutionalization felt more than in our criminal justice system. While well intentioned, reform efforts meant to protect the liberties of people with mental illnesses resulted in many of the most severely ill going without needed treatment. That, along with major cost-shifting by the states to the federal government following the advent of Medicare and Medicaid, has led to the largest component of today's health crisis: The criminalization of Americans with severe psychiatric illnesses. In fact, America's jails and prisons are now surrogate psychiatric hospitals for thousands of individuals with the severest brain diseases.

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Jails and prisons: The nation's largest psychiatric facilities

According to data collected by the U.S. Department of Justice, in mid-2005 there were 2,186,230 prisoners in local jails and state and federal prisons in the United States. Estimates of the percentage of prisoners who have severe psychiatric disorders have ranged from 7 percent to 16 percent; the latter figure comes from a widely cited but methodologically questionable federal study. The best studies suggest that **approximately 10 percent of prisoners have severe psychiatric disorders**. Thus, **approximately 218,000 individuals with severe psychiatric disorders are incarcerated in the nation's jails and prisons at any given time**. This number is equivalent to the population of such cities as Akron, Ohio; Madison, Wisconsin; Montgomery, Alabama; Richmond, Virginia; or Tacoma, Washington.

Thus, the nation's jail and prisons have become, *de facto*, the nation's largest psychiatric hospitals. There are now more severely mentally ill individuals in the Los Angeles County Jail, Chicago's Cook County Jail, or New York's Riker's Island Jail than there are in any single psychiatric hospital in the nation. Anecdotal examples show how staggering the numbers are.

- Fully 50 percent of the people in Maine's Hancock County Jail are on some form of psychotropic medication.

Hench, David. Maine called on to revamp handling of mentally ill inmates: More than \$7 million is needed to improve screening and treatment, a study finds. *Portland Press Herald* (January 13, 2002).

- Ohio's state prison population experienced a 43 percent increase in the general prison population between 1990 and 1996, but a 285 percent increase in mentally ill inmates in that same period.

Ludlow, R. From hospital to prison. *Cincinnati Post* (October 26, 1996).

It appears that there is not a single county, among the 3,139 counties in the United States, in which the psychiatric facility serving that county has as many individuals with severe psychiatric disorders as does the county jail. And the situation continues to get worse!

Enormous costs of incarcerating the mentally ill

The costs of such incarceration are enormous. According to the Department of Justice (1996 Source Book: Criminal Justice Statistics), it costs American taxpayers a staggering \$15 billion per year to house individuals with psychiatric disorders in jails and prisons (\$50,000 per person annually; 300,000 incarcerated individuals with mental illness). Anecdotally, estimated costs are staggering.

The anecdotal evidence of the cost to individual jail systems is overwhelming.

- The Los Angeles County Jail spends \$10 million per year on psychiatric medications.

Sheriff social worker: Helping people off the streets. *Los Angeles Times* (November 20, 2001).

- As of October 2005, Ohio was treating 8,371 mentally ill prisoners to the tune of about \$67 million a year.

Puente, Mark. Care of mentally ill prisoners costly for jails. *The Plain Dealer* (Jan. 20, 2006).

- From 1996 to 2001 in the Oklahoma prison system, the number of prescriptions for psychiatric medications increased from 22,000 to over 40,000.

Hinton, M., and T. Lindley. Options few for mentally ill. *The Daily Oklahoman* (November 5, 2001).

- It costs Broward County, Florida, taxpayers \$78 per day to house a general population inmate, but it costs \$125 per day to house an inmate with a mental illness.

Jenne, Ken and Donald F. Eslinger. Without reforms, problems mount. *South Florida Sun-Sentinel* (April 21, 2003).

- In 2000, the Cuyahoga County jail in Ohio spent \$175,000 for olanzapine (Zyprexa) alone.

Exner R. Sheriff runs own pharmacy unit in jail. *The Plain Dealer* (November 5, 2001).

Incarcerating individuals with severe psychiatric disorders costs twice as much as assertive community treatment programs – some of the most effective plans to treat the severely ill. While some jails and prisons provide adequate psychiatric services to ill inmates, many do not. And, many corrections officers receive very little training in the special problems of caring for psychiatrically ill inmates.

Conversely, Assertive Community Treatment teams provide patients with the same individualized 24-hours-a-day services that are furnished in psychiatric wards of hospitals. The difference is that the ACT team travels to the patient in his or her chosen environment, essentially serving as a 'hospital without walls.' On their own, continuous treatment teams such

as ACT must be complemented by the use of conservatorships or outpatient community treatment orders to ensure individuals actually get the medications they need for recovery.

Inadequate care

A 1992 study of American jails reported that a shocking 29 percent of the jails acknowledged holding ill individuals with *no charges* against them. These individuals were being held awaiting psychiatric evaluation, the availability of a hospital bed, or transportation to a psychiatric hospital. These jailings were done under state laws permitting emergency detentions of individuals suspected of being mentally ill and were especially common in rural states such as Kentucky, Mississippi, Alaska, Montana, Wyoming, and New Mexico.

This same study found that the vast majority of U.S. jails do not provide adequate psychiatric services to inmates with serious brain disorders. More than one in five jails have no access to mental health services of any kind. Corrections officers in 84 percent of jails receive either no training or less than three hours training in the special problems of people with severe mental illness.

National Alliance for the Mentally Ill, *Criminalizing the seriously mentally ill: The abuse of jails as mental hospitals* (1992).

Reasons for arrest

The vast majority of jail inmates with serious brain disorders who *do have charges* against them have been arrested for misdemeanors such as trespassing. Studies also have shown that these inmates are four times more likely to have been incarcerated for less serious charges such as disorderly conduct and threats than non-ill inmates. Police, in fact, frequently use disorderly conduct charges to arrest an ill person when no other charge is available. Alcohol and drug related charges also are common because alcohol and drug use among this population frequently occurs as a secondary problem among those with serious brain disorders.

In examining police arrest records, researchers often find a direct relationship between the person's brain disorder and the behavior that led to apprehension. For example, a woman with schizophrenia in New Mexico was arrested for assault when she entered a department store and began rearranging the shelves because she had a delusion that she worked there; when asked to leave, she struck a store manager and a police officer. People who suffer from paranoid schizophrenia are likely to be arrested for assault because they may mistakenly believe someone is following them or trying to hurt them and will strike out at that person.

"Mercy bookings" by police who are trying to protect people with the severest forms of psychiatric illnesses also are surprisingly common. This is especially true for women, who are easily victimized, even raped, on the streets.

Local businesses often exert pressure on the police to get rid of "undesirables," including those suffering from untreated psychosis. This is especially true in tourist towns such as New Orleans, where the police have a well-known reputation for "cleaning the streets" by arresting all vagrants and homeless persons.

Incarceration – Another route to much needed care

People with severe mental illnesses also are sometimes jailed because their families find it is the most expedient means of getting the person into needed treatment. As the public psychiatric system in the United States has progressively deteriorated, it has become common practice to give priority for psychiatric services to persons with criminal charges pending against them. Thus, for a family seeking treatment for an ill family member, having the person arrested may be

the most effective way to accomplish their goal. This is a very sad commentary on our treatment system.

Suicide

Suicide by inmates with schizophrenia or manic-depressive illness is relatively common. For example, data collected from New York State jails between 1977 and 1982 showed that half of all inmates who committed suicide had been previously hospitalized for treatment of a serious brain disorder.

For each successful suicide in jails, there are many others that are unsuccessful. According to a chief psychiatrist in the Los Angeles County Jail, the ratio of failed suicide attempts to deaths by people with untreated brain disorders is about 20 to 1.

Tobar, H. When jail is a mental institution. Los Angeles Times, August 25-26, 1991.

Incarcerated individuals with psychiatric illnesses more at risk

Illogical thinking, delusions, auditory hallucinations, and severe mood swings often lead to bizarre behavior by individuals with severe brain disorders who are in jails and prisons. Such bizarre behavior is disquieting to other non-ill inmates who frequently react with violence against those with brain disorders, thereby making life in jail a brutal experience for them.

A serious form of assault that sometimes occurs behind bars is attempted or actual rape. All inmates in jails or prisons are at risk for such attacks, but inmates who are confused by their illness and less able to defend themselves are more vulnerable.

Another major problem for those with severe mental illnesses in jails and prisons is exposure to infectious diseases and neglect of their medical problems. Tuberculosis, some varieties of which are resistant to medications, spreads rapidly among the incarcerated. AIDS and venereal diseases can be a consequence of rape. People who suffer from severe brain diseases frequently cannot describe their physical symptoms to officials, and if they are able to do so, they are often ignored. Either way, the results can be fatal.

Effects of imprisonment

For people with serious brain disorders, the effects of being in jail or prison are occasionally positive, but more often negative. Interestingly, many of those who claim that it was positive, do so because they found being incarcerated was the only way they could get psychiatric treatment.

Such cases are the exceptions, however jails and prisons usually exacerbate psychiatric symptoms, both because individuals with serious brain disorders are frequently placed in solitary confinement and because they often are not given the necessary medication to control their symptoms.