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The Mentally Ill in Jails: Challenges and Recommendations

by

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## The Mentally Ill in Jails: Challenges and Recommendations

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## Dedication

I am lucky to have several people in my life that deserve recognition. For my parents, whose continuous sacrifice, dedication, and love propel and sustain me. For my brother, whose affable humor keeps me smiling. For Johnny, who has patiently and supportively endured the past two years of stress and deadlines.

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# The Mentally Ill in Jails: Challenges and Recommendations

by

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The University of Texas at Austin, 2006

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The high prevalence of the severely mentally ill in jails poses a social dilemma and necessitates focused research and policy responses, particularly since jail diversion and appropriate treatment may reduce recidivism. This report describes four major issues: (1) previous deinstitutionalization policies, such as the reduction of state hospital capacity, and the restrictions in civil commitment laws; (2) various studies establishing the prevalence of mental illness among jail detainees; (3) challenges facing jail staff and mentally ill offenders; and (4) current guidance, including legal cases, and standards established by professional organizations like the National Commission on Correctional Healthcare. Recommendations for future research are offered to enhance previous studies and address conflicting data. In addition, the report offers recommendations for federal, state, and local policymakers seeking to reduce the number of mentally ill jail detainees and improve the care of those who remain.

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## Chapter 1. Introduction

The links between the mental health and criminal justice system have garnered increasing attention in the past few years. In October, 2002, the Council of State Governments created a 431-page document entitled *The Criminal Justice/Mental Health Consensus Project*.<sup>1</sup> The *Consensus Project* reviewed the existing literature, and interviewed mental health and criminal justice experts across the country in an attempt to define the scope of the problem and present practical recommendations for policy makers and criminal justice and mental health practitioners.

Perhaps the effort succeeded—in 2004, Congress passed the *Mentally Ill Offender Treatment and Crime Reduction Act of 2004*.<sup>2</sup> The act noted the prevalence of mentally ill offenders in the criminal justice system, their responsiveness to treatment, and the need for collaboration among criminal justice and mental health agencies.<sup>3</sup> The intent of the act is to divert nonviolent mentally ill offenders from incarceration, increase treatment for mental illness and co-occurring substance abuse, train corrections and mental health staff, and improve collaboration among criminal justice and mental health agencies.<sup>4</sup>

Nonetheless, the issue of mental illness and incarceration still presents serious challenges and opportunities for corrections officials, policy makers, and mental health experts. Although several studies have comprehensively examined mental health issues in a prison context, fewer have considered the issue in the specific context of urban jails<sup>5</sup> and short-term holding facilities.<sup>6</sup> Jails may have as many (if not more) mentally ill



inmates as prisons;<sup>7</sup> however, the nature of their short-term confinement presents obstacles to identifying and treating mentally ill offenders<sup>8</sup>—despite the possibility that earlier identification and treatment may reduce future incarceration and costs associated with processing such persons in the criminal justice system.<sup>9</sup> In addition, jails handle a variety of offenders, and since the typical jail sentence is one year or less, they process and release a very high volume of detainees on a daily basis.<sup>10</sup> Thus, shorter sentences, a diverse set of detainees, and continuous processing complicate jails’ processing of mentally ill offenders.

This report describes previous policies that may have contributed to an increase in the prevalence of mentally ill persons in jails, and the corresponding challenges facing jail staff members and mentally ill detainees. When referring to mental illness in a criminal justice setting, the report reflects the consulted sources’ general definition of a severe mental illness, including: schizophrenia, bipolar disorder or mania, and major depressive disorder (however, some studies included personality disorders and post-traumatic stress/anxiety and panic disorders).<sup>11</sup> It then offers recommendations for federal, state, and local officials to improve the identification and treatment of mentally ill inmates.

The importance of previous policies is evident when reviewing the literature on the prevalence of mentally ill persons in the criminal justice system. Many researchers argue that the post-WWII deinstitutionalization movement, restrictions in civil commitment laws, and a failure to create adequate community mental health centers have shifted more mentally ill into jails.<sup>12</sup> The impacts on the mental health system can be

seen in the dramatically reduced institutionalized population and the shortened lengths of stay for residents of state hospitals.<sup>13</sup>

In addition, criminal justice and mental health experts note that rates of serious mental illness among the ten million people annually booked into U.S. jails are three to four times that of the general population.<sup>14</sup> Researchers have attempted to document the link between the mental health and criminal justice system by either sampling for mental illness among jail detainees,<sup>15</sup> or identifying patients of mental health clinics who also spent time in jail.<sup>16</sup> Despite complicated results regarding the relationship between crime, arrests, and institutionalization rates,<sup>17</sup> past research offers convincing evidence of the high prevalence of mental illness in jails.

The challenges facing mentally ill inmates include disruptions in medications and services, increased suicide risk, abuse by other inmates, and punishment for symptomatic behavior. The extent to which such issues affect inmates may be impacted by the length of their stay. For example, inmates arrested for petty crimes may be released within hours or a few days. Although it is desirable that such inmates do not languish in jails, their arrest and detention disrupts any treatment and social services they were receiving outside of jail and places them in a disorienting and potentially disturbing situation. For example, previous research revealed that since jails may not have newer medications, they may make dangerous substitutions for a mentally ill detainee.<sup>18</sup> Also, several states have policies that terminate a detainee's Medicaid or Social Security benefits when they are incarcerated in jail.<sup>19</sup> These are just two examples of how even short periods of confinement can dangerously disrupt an inmate's life.

In addition, both short and longer-term inmates face the risk of suicide, a daunting problem in jails. The jail suicide rate of 43 per 100,000 far exceeds the prison rate of 16 per 100,000.<sup>20</sup> In addition, research revealed that both the prevalence of a mental illness and changes in prescribed medication were both factors in jail suicides.<sup>21</sup> Although previous jail suicide research focused on the first few hours of incarceration, recent research expanded the timeframe of risk to several months.<sup>22</sup>

Properly trained correctional officers are critical to preventing suicide and managing mentally ill inmates. Jail staff members may screen an inmate's physical and mental health, and attempt to identify special-needs offenders.<sup>23</sup> However, inmates may be unable or unwilling to self-identify their mental illness,<sup>24</sup> and jail administrators must carefully coordinate with local mental health agencies to protect confidentiality while obtaining useful mental health information.<sup>25</sup>

In addition, unless correctional officers are properly trained, they may perceive mentally ill inmates as malingering or simply suffering illicit drug or alcohol withdrawals, and may confuse symptomatic behavior with insubordination. For example, an inmate receiving psychotropic medication that delays their response time may be perceived as deliberately slow in following orders.<sup>26</sup> Also, staff should remain aware of mentally ill offenders' psychiatric vulnerability in deprivation settings such as administrative segregation, and their potential status as targets for abuse by other inmates.<sup>27</sup>

As described above, jails face significant obstacles in providing mental health services for offenders, particularly when an adequate public mental health system is lacking. With limited background knowledge, jail staff members handle a variety of offenders who vary in crimes committed and mental and physical health requirements. Moreover, municipalities that attempt to coordinate mental health services and jail facilities may face complications, such as patient confidentiality laws,<sup>28</sup> or a lack of responsiveness from mental health agencies for these “low-priority” patients.<sup>29</sup>

Finally, although some jail administrators are attempting to create discharge plans for offenders that link them to community services, certain problems, such as interagency miscommunication, transportation barriers, and service providers’ unwillingness to serve mentally ill offenders with co-occurring substance use disorders remain.<sup>30</sup>

Despite the predicament facing jails in serving mentally ill offenders, a legal requirement regarding medical care, including mental health services, is secured for pre- and post-trial detainees by the Constitution’s Fifth, Eighth, and Fourteenth Amendments, as well as several state, federal, and Supreme Court rulings.<sup>31</sup> In addition, recent litigation, such as the *Brad H. v. City of New York* case, extended the provision of care beyond the jail doors.<sup>32</sup> *Brad H. v. City of New York*, which stemmed from New York City’s practice of dropping off mentally ill inmates released from Rikers Island Jail at a deserted plaza in the middle of the night without medications, and with only \$1.50 cash and a \$3.00 MetroCard.<sup>33</sup> This lawsuit resulted in pre-release planning for mentally ill inmates and improved coordination and availability of the city’s social services.

Other avenues of change can include accreditation groups and innovative local and state corrections officials and policy makers who realize the importance of mental health care in jail facilities. Chapter 4 of this report compares the standards developed by the American Correctional Association, American Psychiatric Association, and National Commission on Correctional Healthcare, all of which provide guidance on housing and treating mentally ill offenders.

Treating mentally ill offenders, whether by diverting them to alternative services, improving treatment within jails, or creating comprehensive discharge plans, is a public health and public safety issue. Ironically, the mentally ill have a stronger legal entitlement to treatment while detained in jail than post-release. Nevertheless, a continuation of mental health services post-release is crucial to reducing recidivism. One survey of 261 mentally ill jail inmates found that 78 percent received case management services while in jail, but only 29 percent received services in the three years following their release.<sup>34</sup> Yet, the receipt of community services was significantly associated with reduced recidivism and longer stays in the community before re-arrest occurred.<sup>35</sup> It is important, however, to equally emphasize in-jail and post-release services, since studies have shown they serve distinct populations.<sup>36</sup>

While jail administrators, judges, accreditation groups, and some policy makers have recognized the importance of serving mentally ill offenders, significant obstacles remain. To better address these obstacles, additional research on arrest and crime data is needed to determine the types of services and treatment needed. In addition, federal,

state, and local policy makers should implement policies that contribute to jail diversion for mentally ill offenders, treatment and discharge planning jail services, and a continuation of community treatment.

## Notes

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<sup>1</sup> Council of State Governments, *Criminal Justice/Mental Health Consensus Project* (New York, 2002). Online. Available: [http://consensusproject.org/the\\_report/downloads](http://consensusproject.org/the_report/downloads). Accessed: March 1, 2006.

<sup>2</sup> *Mentally Ill Offender Treatment and Crime Reduction Act of 2004*, Public Law 108-414, 118 Stat. 2327 (October 30, 2004). Online. Available: <http://nicic.org/Library/020269>. Accessed: December 20, 2005.

<sup>3</sup> Ibid., “Findings.”

<sup>4</sup> Ibid., “Purpose.”

<sup>5</sup> This report will exclusively focus on urban jails, since rural facilities face different issues, including function, population, funding, capacity, and staffing.

<sup>6</sup> There are some comprehensive reports that address both mental health issues in prison and jail. For two examples, see: Council of State Governments, *Criminal Justice/Mental Health Consensus Project* (New York, 2002). Online. Available: [http://consensusproject.org/the\\_report/downloads](http://consensusproject.org/the_report/downloads). Accessed: March 1, 2006; and, Arthur J. Lurigio and James A. Swartz, “Changing the Contours of the Criminal Justice System to Meet the Needs of Persons with Serious Mental Illness,” *Policies, Processes, and Decisions of the Criminal Justice System*, vol. 3 (2000), pp. 45-108. Online. Available: [http://www.ncjrs.gov/criminal\\_justice2000/vol3\\_2000.html](http://www.ncjrs.gov/criminal_justice2000/vol3_2000.html). Accessed: April 5, 2006.

<sup>7</sup> U.S. Department of Justice, Bureau of Statistics, *Mental Health and Treatment of Inmates and Probationers*, by Paula M. Ditton (Washington, D.C., July 1999). Online. Available: <http://www.ojp.usdoj.gov/bjs/pub/pdf/mhtip.pdf>. Accessed: January 31, 2006; and Judith F. Cox, Steven Banks, and James L. Stone, “Counting the Mentally Ill in Jails and Prisons,” *Psychiatric Services*, vol. 51, no. 4 (April 2000), p. 533. Online. Available: <http://ps.psychiatryonline.org/cgi/content/full/51/4/533>. Accessed: April 16, 2006.

<sup>8</sup> Bonita M. Veysey et al., “In Search of the Missing Linkages: Continuity of Care in U.S. Jails,” *Behavioral Sciences and the Law*, vol. 15 (1997), pp. 384-385.

<sup>9</sup> Lois Ventura et. al, “Case Management and Recidivism of Mentally Ill Persons Released from Jail,” *Psychiatric Services*, vol. 49 (Oct 1998), pp. 1330-1337; and Robin E. Clark, Susan K. Ricketts, and Gregory J. McHugo, “Legal System Involvement and Costs for Persons in Treatment for Severe Mental Illness and Substance Use Disorders,” *Psychiatric Services*, vol. 50 (May 1999), pp. 641-647.

<sup>10</sup> U.S. Department of Justice, Bureau of Statistics, *Prison and Jail Inmates at Midyear 2004*, by Paige M. Harrison and Allen J. Beck (Washington, D.C., April 2005), p. 7. Online. Available: <http://www.ojp.usdoj.gov/bjs/pub/pdf/pjim04.pdf>; and Arthur Wallenstein, “Health Care as a Core Element

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in the Prisoner/Staff Safety Equation—Jails Play a Major Role that Needs Additional Consideration” (paper presented at the Commission on Safety and Abuse in America’s Prisons Public Hearing #2, at Newark, NJ, July 20, 2005), pp. 1-4. Online. Available: [http://www.prisoncommission.org/statements/wallenstein\\_arthur.pdf](http://www.prisoncommission.org/statements/wallenstein_arthur.pdf). Accessed: February 20, 2005.

<sup>11</sup> Linda A. Teplin, “The Prevalence of Severe Mental Disorder among Male Urban Jail Detainees: Comparison with the Epidemiologic Catchment Area Program,” *American Journal of Public Health*, vol. 80, no. 6 (June 1990), pp. 663-669; Matthew T. Theriot and Steven P. Segal, “Involvement with the Criminal Justice System among New Clients at Outpatient Mental Health Agencies,” *Psychiatric Services*, vol. 56, no. 2 (February 2005), pp. 179-185; and Fred Cohen and Joan B. Gerbasi, “Legal Issues Regarding the Provision of Mental Health Care in Correctional Settings,” in *Handbook of Correctional Mental Health*, ed. Charles L. Scott and Joan B. Gerbasi (Washington, D.C.: American Psychiatric Publishing, Inc., 2005), p. 265.

<sup>12</sup> H. Richard Lamb and Leona L. Bachrach, “Some Perspectives on Deinstitutionalization,” *Psychiatric Services*, vol. 52, no. 8 (August 2001), p. 1039; Gerald N. Grob, “Public Policy and Mental Illness: Jimmy Carter’s Presidential Commission on Mental Health,” *The Milbank Quarterly*, vol. 83, no. 3 (2005), p. 426; David Mechanic and David A. Rochefort, “Deinstitutionalization: An Appraisal of Reform,” *Annual Review of Sociology*, vol. 16 (1990), pp. 301-327; H. Richard Lamb and Linda E. Weinberger, “Persons with Severe Mental Illness in Jails and Prisons: A Review,” *Psychiatric Services*, vol. 49 (April 1998), pp. 483-492. Online. Available: <http://ps.psychiatryonline.org/cgi/content/full/49/4/483>. Accessed: March 15, 2006; Mark J. Mills, “Civil Commitment of the Mentally Ill: An Overview,” *Annals of the American Academy of Political and Social Science*, vol. 484 (March 1986), pp. 29-31; and H. Richard Lamb, Linda E. Weinberger, and Bruce H. Goss, “Mentally Ill Persons in the Criminal Justice System: Some Perspectives,” *Psychiatric Quarterly*, vol. 75, no. 2 (Summer 2004), pp. 110.

<sup>13</sup> H. Richard Lamb, Linda E. Weinberger, and Bruce H. Goss, “Mentally Ill Persons in the Criminal Justice System: Some Perspectives,” p. 109; and Fred E. Markowitz, “Psychiatric Hospital Capacity, Homelessness, and Crime and Arrest Rates,” *Criminology*, vol. 44, no. 1 (November 2006), p. 47.

<sup>14</sup> Council of State Governments, *Criminal Justice/Mental Health Consensus Project* (New York: Council of State Governments, 2002), p. xxi.

<sup>15</sup> Linda A. Teplin, “The Prevalence of Severe Mental Disorder among Male Urban Jail Detainees: Comparison with the Epidemiologic Catchment Area Program”; and U.S. Department of Justice, Bureau of Statistics, *Mental Health and Treatment of Inmates and Probationers, 1999*. Also, for a list of additional studies not covered in this report, see Jeffrey L. Metzner et al., “Treatment in Jails and Prisons,” in *Treatment of Offenders with Mental Disorders*, ed. Robert M. Wettstein (New York: The Guilford Press, 1998), pp. 232-233.

<sup>16</sup> Judith F. Cox et al., “A Five Year Population Study of Persons Involved in the Mental Health and Local Correctional Systems: Implications for Service Planning,” *The Journal of Behavioral and Health Services*



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and Research, vol. 28, no. 2 (May 2001), pp. 177-187; and Matthew T. Theriot and Steven P. Segal, "Involvement with the Criminal Justice System among New Clients at Outpatient Mental Health Agencies."

<sup>17</sup> George B. Palmero, Maurice B. Smith, and Frank J. Liska, "Jails Versus Mental Hospitals: A Social Dilemma," *International Journal of Offender Therapy and Comparative Criminology*, vol. 35, no. 2 (1991), pp. 97-106; L.S. Penrose, "Mental Disease and Crime: Outline of a Comparative Study of European Statistics," *British Journal of Medical Psychology*, vol. 18, no. 1 (1939), p. 3; Bernard Harcourt, "Should we Aggregate Mental Hospitalization and Prison Population Rates in Empirical Research on the Relationship Between Incarceration and Crime, Unemployment, Poverty, and other Social Indicators?" The Law School, University of Chicago, John M. Olin Law and Economics Working Paper no. 277 (2<sup>nd</sup> series), (Jan. 2006); Allen E. Liska et al., "Modeling the Relationship Between the Criminal Justice and Mental Health Systems," *American Journal of Sociology*, vol. 104, no. 6 (May 1999), pp. 1744-1775; and Fred E. Markowitz, "Psychiatric Hospital Capacity, Homelessness, and Crime and Arrest Rates."

<sup>18</sup> Council of State Governments, *Criminal Justice/Mental Health Consensus Project* (New York: Council of State Governments, 2002), pp. 107-108. Online. Available: [http://consensusproject.org/the\\_report/downloads](http://consensusproject.org/the_report/downloads). Accessed: March 1, 2006.

<sup>19</sup> Ibid; Liz Lipton, "Medicaid Eligibility Termination Plagues Former Inmates," *Psychiatric News*, vol. 36, no. 17 (September 7, 2001), p. 8. Online. Available: <http://pn.psychiatryonline.org/cgi/content/full/36/17/8>. Accessed: March 2, 2006; Judge David L. Bazelon Center for Mental Health Law, "Medicaid Rules on Jail Inmates," and "When Inmates Lose SSI," in *Finding the Key to Successful Transition from Jail to the Community* (Washington, D.C., March 2001). Online. Available: <http://www.bazelon.org/issues/criminalization/findingthekey.html>. Accessed: March 1, 2006.

<sup>20</sup> U.S. Department of Justice, Bureau of Statistics, *Key Facts at a Glance: Suicide and Homicide Rates in State Prisons and Jails*. Online. Available: <http://www.ojp.usdoj.gov/bjs/glance/tables/shipjtab.htm>. Accessed: February 21, 2006.

<sup>21</sup> Richard J. Goss et al., "Characteristics of Suicide Attempts in a Large Urban Jail System With an Established Suicide Prevention Program," *Psychiatric Services*, vol. 53, no. 5 (May 2002), p. 574; Lindsay Hayes, "Suicide Prevention in Correctional Facilities," in *Handbook of Correctional Mental Health*, ed. Charles L. Scott and Joan B. Gerbasi (Washington, D.C.: American Psychiatric Publishing, Inc., 2005), pp. 72-73; and Council of State Governments, *Criminal Justice/Mental Health Consensus Project*, p. 104.

<sup>22</sup> Lindsay Hayes, "Suicide Prevention in Correctional Facilities," pp. 72-73; Council of State Governments, *Criminal Justice/Mental Health Consensus Project*, p. 104; Ronald L. Bonner, "Isolation, Seclusion, and Psychosocial Vulnerability as Risk Factors for Suicide behind Bars," in *Assessment and Prediction of Suicide*, ed. Ronald W. Maris, Alan L. Berman, John T. Maltzberger, and Robert I. Yufit, (New York: The Guilford Press, 1992), p. 405; and Richard J. Goss et al., "Characteristics of Suicide Attempts in a Large Urban Jail System With an Established Suicide Prevention Program," pp. 577-578.

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- <sup>23</sup> Council of State Governments, *Criminal Justice/Mental Health Consensus Project*, pp. 102-103
- <sup>24</sup> Nahama Broner et al., “Arrested Adults Awaiting Arraignment: Mental Health, Substance Abuse, and Criminal Justice Characteristics and Needs,” *The Fordham Urban Law Journal*, vol. 30, no. 2 (Jan. 2003), p. 672; and Michael J. Vitacco and Richard Rogers, “Assessment of Malingering in Correctional Settings,” in *Handbook of Correctional Mental Health, Handbook of Correctional Mental Health*, ed. Charles L. Scott and Joan B. Gerbasi (Washington, D.C., American Psychiatric Publishing, Inc., 2005), p. 133.
- <sup>25</sup> Council of State Governments, *Criminal Justice/Mental Health Consensus Project*, pp. 105-106.
- <sup>26</sup> Joseph D. Bloom and William H. Wilson, “Offenders with Schizophrenia,” in *Violence, Crime, and Mentally Disordered Offenders: Concepts and Methods for Effective Treatment and Prevention*, ed. Sheilagh Hodgins and Rüdiger Müller-Isberner, (Chichester, England: John Wiley & Sons, Ltd, 2000), p. 120.
- <sup>27</sup> E. Fuller Torrey, *Out of the Shadows* (New York: John Wiley & Sons, 1997), pp. 32-33.
- <sup>28</sup> Council of State Governments, *Criminal Justice/Mental Health Consensus Project*, pp. 194-198.
- <sup>29</sup> Texas Commission on Jail Standards, *House Bill 1 Mental Health Study* (Austin). Online. Available: <http://www.tcjs.state.tx.us/index.php?linkID=320>. Accessed: March 1, 2006, p. 5.
- <sup>30</sup> R.L. Weisman, J.S. Lamberti, and N. Price, “Integrating Criminal Justice, Community Healthcare, and Support Services for Adults with Severe Mental Disorders,” *Psychiatric Quarterly*, vol. 75, no. 1 (Spring 2004), p. 73; and Marjorie Rock, “Emerging Issues with Mentally Ill Offenders: Causes and Social Consequences,” *Administration and Policy in Mental Health*, vol. 28, no. 3 (January 2001), pp. 168-169.
- <sup>31</sup> Fred Cohen and Joan B. Gerbasi, “Legal Issues Regarding the Provision of Mental Health Care in Correctional Settings,” in *Handbook of Correctional Mental Health*, ed. Charles L. Scott and Joan B. Gerbasi (Washington, D.C.: American Psychiatric Publishing, Inc., 2005).
- <sup>32</sup> *Ibid.*, p. 278.
- <sup>33</sup> Urban Justice Center, *Litigation: Mental Health*. Online. Available: <http://www.urbanjustice.org/ujc/litigation/mental.html>. Accessed: March 1, 2006
- <sup>34</sup> Lois Ventura et. al, “Case Management and Recidivism of Mentally Ill Persons Released from Jail,” p. 1332.
- <sup>35</sup> *Ibid.*, pp. 1334-1335
- <sup>36</sup> Jeffrey Draine et al., “Contrasting Jail Diversion and In-Jail Services for Mental Illness and Substance Abuse: Do they Serve the Same Clients?” *Behavioral Sciences and the Law*, vol. 23 (2005), pp. 171-181.

## Chapter 2. Deinstitutionalization

Many researchers examining the prevalence of mentally ill offenders in correctional institutions underscore the impacts of the deinstitutionalization movement that began after WWII and restrictions in civil commitment laws that occurred in the 1960s and 1970s. It is important to note, however, that both policy makers and legal experts initially supported the concept of deinstitutionalization. Lamb and Bachrach, researchers studying the deinstitutionalization movement, note that the definition of deinstitutionalization should include “the release of persons residing in psychiatric hospitals to alternative facilities in the community, the diversion of potential new admissions to alternative facilities, and the development of special services for the care of a non-institutionalized mentally ill population,” and laments that the third factor has not kept pace with the first two.<sup>1</sup> Thus, although persons were simultaneously released from psychiatric hospitals and others were refused admission, the development of adequate community health care centers to accommodate the “deinstitutionalized” was lacking. This in turn left the police with few options when determining where to send mentally ill offenders charged with petty offenses, and jails increasingly became the repository for mentally ill persons. As jails struggle to fulfill a variety of functions and maintain the safety of a diverse set of inmates with various backgrounds, particular attention must be paid to their mentally ill population.

The roots of deinstitutionalization are generally considered to belong in the post-WW II era, when soldiers received treatment for their psychological symptoms and then

returned to their unit during battle.<sup>2</sup> Also, the development of new branches of psychiatry (psychodynamic and psychoanalytic) stressed the importance of community intervention and treatment over institutionalization.<sup>3</sup> Finally, new medications and therapies proved effective in controlling more severe symptoms.<sup>4</sup> President John F. Kennedy's Community Mental Health Centers (CMHC) Act of 1963, tends to be seen as the policy manifestation of reform efforts, as it required a 50% or greater reduction in the number of persons institutionalized over a twenty-year period.<sup>5</sup> The intent was that these patients could be served in community-based centers in a less restrictive and more therapeutic environment. Researchers note, however, that while the policy may have been well-intentioned, it was plagued by several factors, including: the number of severely mentally ill patients without family or spouse support,<sup>6</sup> a lack of funding to create the centers,<sup>7</sup> a lack of coordination between centers and state hospitals,<sup>8</sup> a tendency to refuse treatment for severely mentally ill patients,<sup>9</sup> an unclear mission regarding social change versus public health,<sup>10</sup> and a diminished role for psychiatrists.<sup>11</sup>

Moreover, the reversal of the 1960s and 1970s welfare state policies and the 1980s budget cuts took a toll on services for the mentally ill as well. Besides restrictions in Medicaid and a contraction in public housing availability, the Social Security Administration (SSA) cut vast numbers of the mentally ill from their disability rolls, possibly as an economic strategy—since many of the recipients were young and posed a long-term financial obligation for the SSA (most were reinstated).<sup>12</sup> The community mental health centers failed to act as the new providers of treatment that Kennedy envisioned; in addition, psychiatric hospital capacity decreased, and legal changes made

it more difficult to civilly commit a person, thereby further restricting avenues of treatment for the mentally ill.

Regarding the legal roots of the deinstitutionalization debate, Douglas Marty and Rosemary Chapin note the three tenets are: “(1) the right of the individual to receive treatment, (2) the right to treatment in the least restrictive setting, and (3) the right to freedom from harm.”<sup>13</sup> Reflecting the spirit of these tenets, California initiated the first civil commitment reform laws, which were soon enacted by states across the country.<sup>14</sup> In the 1960s, California state mental hospitals, “had become crowded and dingy warehouses,” with sixty percent of their admission involuntary.”<sup>15</sup> In addition, the development of federal entitlement money such as Medicaid, Social Security Disability Insurance, food stamps, and public housing reduced the state’s financial burden as long as institutionalized patients received services in the community, which led state lawmakers to begin considering methods for reducing commitments to mental hospitals.<sup>16</sup>

In 1969, California enacted the Lanterman, Petris, Short Act,<sup>17</sup> which had narrowed who could commit a person, and the criteria for commitment (the person must have a mental disorder and be a danger to them self or others, or be incapable of caring for them self).<sup>18</sup> It also mandated a review to determine whether the person should remain in custody after the initial 72 hours.<sup>19</sup> The regulations specify certain situations in which the hold may continue, and how long the hold can be extended. It is important to note that the focus of the law shifted the purpose of commitment from providing needed treatment to preventing harm.<sup>20</sup> Several states enacted similar reforms over the next decade.<sup>21</sup> The restrictions on commitment, while understandable in a civil rights context,

thereby narrowed the mission of public psychiatric hospitals and reduced the institutionalized populations and the typical length of stay.<sup>22</sup>

## **The Impacts of Deinstitutionalization**

### **Reduced Populations and Shortened Lengths of Stay**

One would expect that an increase in releases and a restriction in admissions and length of stay for psychiatric hospitals would lower the institutionalized population of mentally ill persons. The quantitative impact of deinstitutionalization is measurable. Previous research reveals that in 1955, there were 559,000 people institutionalized in state mental hospitals out of a national population of 165 million, but in December 2000, there were only 55,000 institutionalized out of a population of over 275 million.<sup>23</sup> Compounding the reduced capacity are shortened lengths of stay: the average length of stay dropped from six months in the 1960s to a current average of 15 days.<sup>24</sup>

### **Prevalence of the Mentally Ill in Jails**

Researchers have speculated that this increase in the deinstitutionalized, when combined with a failure to adequately provide the community mental health center substitutes and an erosion of public social services, led to increased arrests and incarceration of the mentally ill. Torrey, a research psychiatrist that has written numerous books on mental illness in America,<sup>25</sup> calls this “transinstitutionalization—the exchange of one impersonal institution for another.”<sup>26</sup> Yet, the link between fewer

psychiatric hospitals and increased incarceration of the mentally ill is complex and debatable.

Authors typically mention L.S. Penrose as the first to document an inverse relationship between the number of persons in mental institutions and the number in prison.<sup>27</sup> Considering the stance of many advocates for mentally ill offenders, however, it is interesting to note that Penrose was particularly interested in the occurrence of “serious offences, particularly those of violence against the person...for those are among the most antisocial of crimes.”<sup>28</sup> In 1991, researchers conducted a statistical analysis that suggested an inverse relationship between prison/jail populations and psychiatric hospital populations.<sup>29</sup> More recently, researchers have expanded on this relationship, with a new paper that combines prison and mental health institutionalization rates. This paper reflects the relationship between the two rates, and their impact on the homicide rate.<sup>30</sup> Extending beyond a statistical examination of the correlation between psychiatric hospital and jail/prison populations, researchers then began to examine two major issues: (1) the number of diagnosed mentally ill offenders in jails, and (2) the amount of client overlap for jails and mental health clinics or the number of offenders who had also received services at a local mental health clinic.

The high percentage of offenders diagnosed with a mental illness is indeed startlingly disproportionate when compared to the general population. In 1990, Teplin conducted a random sample of male detainees in the Cook County jail and determined that the prevalence rates for major disorders (schizophrenia, mania, and major depression) were two to three times greater than the rates for the general population.<sup>31</sup> A

1999 Department of Justice survey of inmates estimated that 16.3 percent of jail inmates were mentally ill.<sup>32</sup> Current research tends to accept that the prevalence of mental illness in correctional facilities is higher than that of the general population (which is approximately 6 percent for serious mental illnesses),<sup>33</sup> but authors highlight impediments to effective analysis, such as lack of randomized studies, small sample sizes, and failure to compare rates with that of the general population.<sup>34</sup>

Other studies have attempted to identify mentally ill persons who received services from mental health clinics and interacted with the criminal justice system. One author of this type of study argued that the method creates a more representative picture of mentally ill offenders, since it captures persons who were arrested but not convicted.<sup>35</sup> A 2001 study compared data from New York's public mental health system and its local jails to identify persons who had received public mental health services and spent at least one night in jail from 1991 to 1995.<sup>36</sup> The results revealed that 14.5 percent of persons who received public mental health services were also incarcerated for at least one night in a jail.<sup>37</sup> Men who received public mental health services were incarcerated at a rate that was 2.9 to 7.7 times higher than men in the general population, while women who accessed such services were incarcerated at a rate that was 4 to 8.6 times higher than women in the general population.<sup>38</sup> It is important to note, however, that the methodology only identified individuals who received public mental health services and were incarcerated in the same county, and it did not specify which institution the person first had contact with.<sup>39</sup>



More recently, researchers sampled 673 new clients at community mental health and self-help agencies from 1996 to 2000 and accessed their criminal records to identify the level of their prior involvement with the criminal justice system.<sup>40</sup> They found that 45 percent had at least one criminal contact (defined as a criminal citation, arrest, or detention), with an average of eight contacts and four convictions prior to arriving at the mental health agency.<sup>41</sup> Clients with criminal backgrounds were more likely to be homeless, drug dependent, and have more severe psychological disabilities.<sup>42</sup>

Considering the mixed data on the seriousness of mentally ill offenders' crimes, the study's breakdown of charges and conviction data for individual crimes was particularly interesting. Forty-six percent of the participants were convicted of misdemeanors, 23 percent were convicted of felonies, and 44 percent were convicted of both.<sup>43</sup> Felony convictions were highest for theft, narcotics, burglary, and assault, while misdemeanor convictions were highest for petty theft, assault and battery, public order charges (disturbing the peace, trespassing, malicious mischief), and drug misdemeanors.<sup>44</sup> While this may cast doubt on the contention that most mentally ill offenders are criminalized for misdemeanors,<sup>45</sup> it also highlights the types of felonies and misdemeanors for which mentally ill offenders were convicted, and the degree to which public agencies are serving a variety of offenders.

Regarding the types of crimes mentally ill offenders commit, research remains conflicted. For example, the Department of Justice released statistics that revealed mentally ill offenders in jail were more likely to have committed a violent or property offense and less likely to have committed a drug offense than the general population.<sup>46</sup>

Their detention for public-order offenses was about equal to that of the general population.<sup>47</sup> In response, Cox, a frequent publisher and case manager at the New York State Office of Mental Health in Albany, claimed that the census-based method did not accurately reflect “the high volume of individuals who enter and exit local jails over a period of time.”<sup>48</sup> She also referenced her New York study discussed above, which further revealed that of the mentally ill offenders captured by her study who also spent at least one night in jail, less than 3.5 percent committed a serious enough crime to go to prison.<sup>49</sup> Thus, it may be possible that the statistics on violent crimes overlook mentally ill offenders who are released or referred to community centers without being charged for public-order offenses or minor misdemeanors, which could strengthen the theory that such centers are more attuned to providing minor offenders with care.

### **The Easy Scapegoat?**

Despite the general connection made between deinstitutionalization and the increased criminal detention of the mentally ill, other researchers have questioned the strength of this association. The Consensus Project’s website simultaneously admits that reduced institutional care and under-funded community centers are at the heart of the problem, but emphasizes that “there is little evidence that those formerly housed in institutions have been shifted to jails and prisons.”<sup>50</sup> Rather, other factors, such as “the lack of affordable housing, discrimination based on stereotypes associating mental illness with violence, crackdowns on “public nuisance” crimes, and tough prosecution of drug offenses,” had a significant effect.<sup>51</sup>

Significantly, researcher Fred Markowitz, a sociology professor, complicated the debate regarding the ability of community mental health centers to provide for the deinstitutionalized with an examination of the relationship between psychiatric hospital capacity and arrest and crime rates.<sup>52</sup> He found a significant inverse relationship between psychiatric hospital capacity and arrest and crime rates for violent offenses, but the relationship between capacity and property offenses was negative but not significant.<sup>53</sup> Markowitz linked this relationship to previous research that revealed mentally ill offenders in jails were more likely to have committed a violent or property offense than the general offender population (29.9 percent versus 25.6 percent for violent offenses, and 31.3 percent versus 26 percent for property crimes.)<sup>54</sup> Thus, the more psychiatric hospital beds available for the mentally ill, the lower their arrest and crime rates.

Yet, Markowitz could not isolate a correlation between neither total city-apportioned mental health expenditures and crime and arrest rates, nor between community-based expenditures<sup>55</sup> and crime and arrest rates.<sup>56</sup> Although he admits that community-based expenditures may not be an appropriate indicator for examining social-control impacts, Markowitz nonetheless concludes that, “community-based services for mental illness may not have that great of an impact on the number of persons arrested or in jail.”<sup>57</sup> An examination of his findings, and the research regarding the violent and property crime and arrest rates of mentally ill offenders offers several possibilities. If psychiatric hospital capacity has an inverse impact on crime and arrest rates but community-based services do not, this may be due to political unease regarding serving the severely mentally ill in the community, or local mental health centers’ reluctance to

serve violent or severely mentally ill offenders.<sup>58</sup> Nevertheless, recent research examined data for arrests, arrests for violent offenses, and violent acts for mentally ill offenders with co-occurring substance disorders that participated in jail diversion programs; and, the outcomes revealed offenders with violent charges did not significantly differ from non-violent offenders.<sup>59</sup>

The question of access to psychiatric hospitals among jail detainees was further examined in a 2002 study that compared self-reported lifetime psychiatric hospitalization histories between a sample of mentally ill jail detainees (pre-trial and sentenced) and a sample of non-incarcerated mentally ill.<sup>60</sup> The study revealed that approximately 52 percent of the jail detainees had some history of psychiatric hospitalization, a figure that was reinforced by examining the national sample for persons who have reported trouble with the law and previous psychiatric hospitalizations.<sup>61</sup> Since this finding seems to contradict previous assertions that access to psychiatric hospitals would impact the number of mentally ill persons incarcerated, it should be noted that the study did not evaluate the length of stay or quality of care for those who were previously hospitalized; also, nearly half of the mentally ill detainees reported no previous hospitalization.<sup>62</sup>

The deinstitutionalization movement, while rooted in notions of a patient's right to the least restrictive treatment option and inspired by inadequate psychiatric hospital conditions, may indeed have inadvertently reduced the availability of treatment options for the mentally ill. Whether this is directly correlated to the disproportionate number of the mentally ill in jails is a debatable assertion. Nevertheless, research that provides conflicting data on the public mental health service history of offenders does indicate a

considerable connection between the criminal justice and mental health systems, and the need to link the two systems together in handling mentally ill offenders. What is needed is more quantitative data on the types of offenders best served in community-based treatment options, and the accessibility of such treatment pre-offense.<sup>63</sup> In addition, while beyond the scope of this paper, the importance of a social welfare net cannot be understated, and the criminal justice and mental health system links should not overlook issues of housing, education, and employment.<sup>64</sup>

## Notes

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<sup>1</sup> H. Richard Lamb and Leona L. Bachrach, "Some Perspectives on Deinstitutionalization," *Psychiatric Services*, vol. 52, no. 8 (August 2001), p. 1039.

<sup>2</sup> Gerald N. Grob, "Public Policy and Mental Illness: Jimmy Carter's Presidential Commission on Mental Health," *The Milbank Quarterly*, vol. 83, no. 3 (2005), p. 426; and David Mechanic and David A. Rochefort, "Deinstitutionalization: An Appraisal of Reform," *Annual Review of Sociology*, vol. 16 (1990), pp. 301-327.

<sup>3</sup> Gerald N. Grob, "Public Policy and Mental Illness: Jimmy Carter's Presidential Commission on Mental Health," p. 426.

<sup>4</sup> *Ibid.*, and David Mechanic and David A. Rochefort, "Deinstitutionalization: An Appraisal of Reform," p. 302.

<sup>5</sup> David Mechanic and David A. Rochefort, "Deinstitutionalization: An Appraisal of Reform," p. 302.

<sup>6</sup> Grob, "Public Policy and Mental Illness," p. 427.

<sup>7</sup> Mechanic, "Deinstitutionalization: An Appraisal of Reform," p. 305.

<sup>8</sup> *Ibid.*

<sup>9</sup> Grob, "Public Policy and Mental Illness," p. 427.

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> Mechanic, "Deinstitutionalization: An Appraisal of Reform," pp. 316-317.

<sup>13</sup> Douglas A. Marty and Rosemary Chapin, "The Legislative Tenets of a Client's Right to Treatment in the Least Restrictive Environment and Freedom from Harm: Implications for Community Providers," *Community Mental Health Journal*, vol. 36, no. 6 (December 2000), p. 546.

<sup>14</sup> H. Richard Lamb and Linda E. Weinberger, "Persons with Severe Mental Illness in Jails and Prisons: A Review," *Psychiatric Services*, vol. 49 (April 1998), "More Restrictive Civil Commitment Criteria." Online. Available: <http://ps.psychiatryonline.org/cgi/content/full/49/4/483>. Accessed: March 15, 2006.

<sup>15</sup> Carla Jacobs, "History of LPS," *Reform of the Lanterman, Petris, Short Act*. Online. Available: <http://www.mirecc.org/news/lps-reform.shtml#history>. Accessed: March 1, 2006.

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<sup>16</sup> Grob, "Public Policy and Mental Illness," p. 428; and Carla Jacobs, "History of LPS."

<sup>17</sup> Carla Jacobs, "History of LPS."

<sup>18</sup> Ibid.

<sup>19</sup> Ibid.; Mark J. Mills, "Civil Commitment of the Mentally Ill: An Overview," *Annals of the American Academy of Political and Social Science*, vol. 484 (March 1986), pp. 29-31; and H. Richard Lamb, Linda E. Weinberger, and Bruce H. Goss, "Mentally Ill Persons in the Criminal Justice System," *Psychiatric Quarterly*, vol. 75, no. 2 (Summer 2004), p. 110.

<sup>20</sup> Lamb, Weinberger, and Goss, "Mentally Ill Persons in the Criminal Justice System," p. 110.

<sup>21</sup> Ibid.

<sup>22</sup> In regards to length of stay, see: Fred E. Markowitz, "Psychiatric Hospital Capacity, Homelessness, and Crime and Arrest Rates," *Criminology*, vol. 44, no. 1 (November 2006), p. 47.

<sup>23</sup> Lamb, Weinberger, and Goss, "Mentally Ill Persons in the Criminal Justice System," p. 109.

<sup>24</sup> Markowitz, "Psychiatric Hospital Capacity," p. 47.

<sup>25</sup> Treatment Advocacy Center, *President: E. Fuller Torrey*. Online. Available: <http://www.psychlaws.org/PressRoom/Bio1.htm>. Accessed: April 17, 2006.

<sup>26</sup> Markowitz, "Psychiatric Hospital Capacity," p. 47; and E. Fuller Torrey, *Out of the Shadows* (New York: John Wiley & Sons, 1997), p. 13.

<sup>27</sup> Nathaniel J. Pallone, *Mental Disorder Among Prisoners* (New Brunswick: Transaction Publishers, 1991), pp. 3-4; and Lamb, Weinberger, and Goss, "Mentally Ill Persons in the Criminal Justice System," p. 109.

<sup>28</sup> L.S. Penrose, "Mental Disease and Crime: Outline of a Comparative Study of European Statistics," *British Journal of Medical Psychology*, vol. 18 (1939), p. 3.

<sup>29</sup> George B. Palmero, Maurice B. Smith, and Frank J. Liska, "Jails Versus Mental Hospitals: A Social Dilemma," *International Journal of Offender Therapy and Comparative Criminology*, vol. 35, no. 2 (1991), pp. 97-106.

<sup>30</sup> Bernard Harcourt, "Should we Aggregate Mental Hospitalization and Prison Population Rates in Empirical Research on the Relationship Between Incarceration and Crime, Unemployment, Poverty, and other Social Indicators?" The Law School, University of Chicago, John M. Olin Law and Economics Working Paper no. 277 (2<sup>nd</sup> series), (Jan. 2006); Allen E. Liska et al., "Modeling the Relationship Between the Criminal Justice and Mental Health Systems," *American Journal of Sociology*, vol. 104, no. 6 (May

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1999), pp. 1744-1775; and Fred E. Markowitz, "Psychiatric Hospital Capacity, Homelessness, and Crime and Arrest Rates."

<sup>31</sup> Linda A. Teplin, "The Prevalence of Severe Mental Disorder among Male Urban Jail Detainees: Comparison with the Epidemiologic Catchment Area Program," *American Journal of Public Health*, vol. 80, no. 6 (June 1990), pp. 663-669.

<sup>32</sup> U.S. Department of Justice, Bureau of Statistics, *Mental Health and Treatment of Inmates and Probationers*, by Paula M. Ditton (Washington, D.C., July 1999) p. 1. Online. Available: <http://www.ojp.usdoj.gov/bjs/pub/pdf/mhtip.pdf>. Accessed: January 31, 2006.

<sup>33</sup> National Institute of Mental Health, "Mental Disorders in America," in *The Numbers Count: Mental Disorders in America*. Online. Available: <http://www.nimh.nih.gov/publicat/numbers.cfm#readNow>. Accessed: March 1, 2006.

<sup>34</sup> Jeffrey L. Metzner et al., "Treatment in Jails and Prisons," in *Treatment of Offenders with Mental Disorders* (New York: The Guilford Press, 1998), pp. 230-231.

<sup>35</sup> Matthew T. Theriot and Steven P. Segal, "Involvement with the Criminal Justice System among New Clients at Outpatient Mental Health Agencies," *Psychiatric Services*, vol. 56, no. 2 (February 2005), pp. 179-180.

<sup>36</sup> Judith F. Cox et al., "A Five Year Population Study of Persons Involved in the Mental Health and Local Correctional Systems: Implications for Service Planning," *The Journal of Behavioral and Health Services and Research*, vol. 28, no. 2 (May 2001), p. 179.

<sup>37</sup> *Ibid.*, p. 183.

<sup>38</sup> *Ibid.*, p. 182.

<sup>39</sup> *Ibid.*, p. 181

<sup>40</sup> Theriot, "Involvement with the Criminal Justice System Among New Clients at Outpatient Mental Health Agencies."

<sup>41</sup> *Ibid.*, pp. 181-183

<sup>42</sup> *Ibid.*, pp. 181-182

<sup>43</sup> Also interesting, but not discussed here, are the data for the charges. *Ibid.*, p. 183

<sup>44</sup> *Ibid.*, pp. 183-184



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<sup>45</sup> For another study re-examining previous assertions that mentally ill offenders were usually petty criminals, see Bruce G. Link, Howard Andrews, Francis T. Cullen, "The Violent and Illegal Behavior of Mental Patients Reconsidered," *American Sociological Review*, vol. 57, no. 3 (June 1992), pp. 275-292, and Mark R. Munetz, Thomas P. Grande, and Margaret R. Chambers, "The Incarceration of Individuals with Severe Mental Disorders," *Community Mental Health Journal*, vol. 37, no. 4 (August 2001), pp. 361-372.

<sup>46</sup> U.S. Department of Justice, Bureau of Statistics, *Mental Health and Treatment of Inmates and Probationers*, p. 4

<sup>47</sup> Ibid.

<sup>48</sup> Judith F. Cox, Steven Banks, and James L. Stone, "Counting the Mentally Ill in Jails and Prisons," *Psychiatric Services*, vol. 51 (April 2000), pp. 533-534. Online. Available: <http://ps.psychiatryonline.org/cgi/content/full/51/4/533>. Accessed: April 13, 2006.

<sup>49</sup> Cox, Five Year Population Study, p. 181.

<sup>50</sup> Council of State Governments, *The Advocacy Handbook*. Online. Available: [http://consensusproject.org/advocacy/step1\\_3#footnotes](http://consensusproject.org/advocacy/step1_3#footnotes). Accessed: March 10, 2006.

<sup>51</sup> Ibid.

<sup>52</sup> Markowitz, "Psychiatric Hospital Capacity."

<sup>53</sup> Ibid, p. 57

<sup>54</sup> U.S. Department of Justice, Bureau of Statistics, *Mental Health and Treatment of Inmates and Probationers*, p.4.

<sup>55</sup> Markowitz defines community-based expenditures as including, "programs and activities provided in community settings, including mental health centers, outpatient clinics, partial care organizations, assertive community treatment and support programs, consumer-run programs (such as club houses and drop-in centers), and services provided by state hospitals off hospital grounds." p. 61.

<sup>56</sup> Ibid.

<sup>57</sup> Ibid., pp. 61-62

<sup>58</sup> R.L. Weisman, J.S. Lamberti, and N. Price, "Integrating Criminal Justice, Community Healthcare, and Support Services for Adults with Severe Mental Disorders," *Psychiatric Quarterly*, vol. 75, no. 1 (Spring 2004), p. 73; and Marjorie Rock, "Emerging Issues with Mentally Ill Offenders: Causes and Social Consequences," *Administration and Policy in Mental Health*, vol. 28, no. 3 (January 2001), pp. 168-169.

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<sup>59</sup> Michelle Naples and Henry J. Steadman, “Can Persons with Co-occurring Disorders and Violent Charges Be Successfully Diverted?” *International Journal of Forensic Mental Health*, vol. 2, no. 2 (2003), pp. 137-143

<sup>60</sup> William H. Fisher, et. al., “Self-Reported Lifetime Psychiatric Hospitalization Histories of Jail Detainees with Mental Disorders: Comparison with a Non-Incarcerated National Sample,” *The Journal of Behavioral Health Services and Research*, vol. 29, no. 4 (November 2002), pp. 458-465

<sup>61</sup> *Ibid.*, pp. 461-462

<sup>62</sup> *Ibid.*, pp. 463-464

<sup>63</sup> Michelle Naples and Henry J. Steadman, in “Can Persons with Co-occurring Disorders and Violent Charges Be Successfully Diverted?” *International Journal of Forensic and Mental Health*, vol. 2, no. 2 (2003), pp. 137-143, note that there are, “seven published empirical outcome studies of jail diversion programs.” p. 137. In addition, a newer study compares the populations served by jail diversion and in-jail services for mental health and substance abuse disorders. Jeffrey Draine et al., “Contrasting Jail Diversion and In-Jail Services for Mental Illness and Substance Abuse: Do They Serve the Same Clients?” *Behavioral Sciences and the Law*, vol. 23 (2005), pp. 171-181.

<sup>64</sup> Council of State Governments, *Criminal Justice/Mental Health Consensus Project*, pp. 356-388.

## Chapter 3. Jails

### Functions

There are over 3,350 jails in the country “processing approximately 10 million people each year.”<sup>1</sup> Jails perform various correctional functions, and are often interlinked with prisons. Typically, local municipalities have jurisdiction over the jail, and the state runs a separate prison system.<sup>2</sup> Perhaps one of the unique challenges jail administrators and staff members face stem from a diverse detainee population that includes pre-trial detainees and convicted inmates held for a variety of offenses.

According to the Bureau of Justice, jails typically:

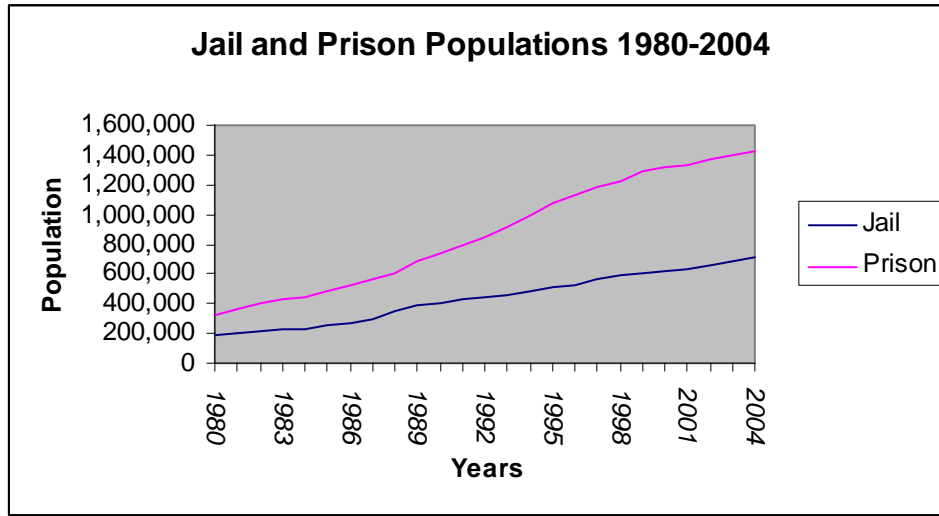
“receive individuals pending arraignment and hold them awaiting trial, conviction, or sentencing; readmit probation, parole, and bailbond violators and absconders; temporarily detain juveniles pending transfer to juvenile authorities; hold mentally ill persons pending their movement to appropriate health facilities; hold individuals for the military, for protective custody, for contempt, and for the courts as witnesses; release convicted inmates to the community upon completion of sentence; transfer inmates to Federal, State, or other authorities; house inmates for Federal, State, or other authorities because of crowding of their facilities; sometimes operate community-based programs as alternatives to incarceration; and hold inmates sentenced to short terms (generally under 1 year).”<sup>3</sup>

In performing these duties, jail administrators deal with an array of offenders; moreover, this strain is complicated anytime the prison system is overcrowded, as this tends to back up into jails. At midyear 2004, jails were estimated to be operating at 94% capacity.<sup>4</sup>

The United States’ average daily jail population rose from 183,988 in 1980 to 713,990 in 2004; which increased the jail incarceration rate from 81 per 100,000 in the population in 1980 to 243 in 2004.<sup>5</sup> However, despite this dramatic increase, one should

consider that methods for estimating the average daily jail population fails to capture the revolving, 24-hour nature of jail populations, and some jail administrators suggest a better data element would include admissions, discharges, and reentry to the community.<sup>6</sup>

Table 1: Jail and Prison Populations, 1980-2004.



Source: Author's analysis using U.S. Department of Justice, Bureau of Statistics Data.<sup>7</sup>

Jails are a particularly important setting for addressing mentally-ill offenders' issues. Specifically, the Department of Justice's 1999 report revealed that state prisons and jails tended to have a similar percentage of mentally ill inmates (about 16%);<sup>8</sup> however, other researchers and practitioners have argued that it is inappropriate to use census methods to compare prisons and jails at a particular point in time, as they do not capture mentally ill persons who cycle in and out of jail.<sup>9</sup> Also jail suicide rates far exceed those of prisons, making screening and observation of inmates a particular concern. In 2003, the jail suicide rate was 43 per 100,000, the state prison rate was 16, and the general population rate was 10.8.<sup>10</sup>

Jails face challenges in addressing suicide prevention and mental illness, due to a lack of resources and the revolving nature of jail inmates' stays. Yet, local jails are more community-based institutions than prisons (since they tend to house offenders from the surrounding community), and may be more able to develop links with local mental health clinics and treatment centers.

## Notes

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<sup>1</sup> American Psychiatric Association, *Psychiatric Services in Jails and Prisons*, 2<sup>nd</sup> ed. (Washington, D.C., 2000), p.31; and Arthur Wallenstein, “Health Care as a Core Element in the Prisoner/Staff Safety Equation—Jails Play a Major Role that Needs Additional Consideration” (paper presented at the Commission on Safety and Abuse in America’s Prisons Public Hearing #2, at Newark, NJ, July 20, 2005), pp. 1-4. Online. Available: [http://www.prisoncommission.org/statements/wallenstein\\_arthur.pdf](http://www.prisoncommission.org/statements/wallenstein_arthur.pdf). Accessed: February 20, 2005.

<sup>2</sup> The Gains EBP Center for Persons in the Justice System, *Integrating State MH-CJ Planning: A Time for New Initiatives* (November 12, 2004), p. 1. Online. Available: <http://www.nicic.org/Misc/URLShell.aspx?SRC=Catalog&REF=http://nicic.org/Library/020117&ID=020117&TYPE=PDF&URL=http://www.gainsctr.com/pdfs/notes/NTF1.pdf>. Accessed: March 14, 2006.

<sup>3</sup> U.S. Department of Justice, Bureau of Statistics, *Prison and Jail Inmates at Midyear 2004*, by Paige M. Harrison and Allen J. Beck (Washington, D.C., April 2005), p. 7. Online. Available: <http://www.ojp.usdoj.gov/bjs/pub/pdf/pjim04.pdf>. Accessed: March 14, 2006.

<sup>4</sup> Ibid.

<sup>5</sup> Author’s analysis using the following data: U.S. Department of Justice, Bureau of Statistics. *Key Facts at a Glance: Correctional Populations*. Online. Available: <http://www.ojp.usdoj.gov/bjs/glance/tables/corr2tab.htm>. Accessed: February 21, 2006; and U.S. Census Bureau, *Statistical Abstract of the United States: 2006*, Table 2, p. 8. Online. Available: <http://www.census.gov/prod/2005pubs/06statab/pop.pdf>. Accessed: March 2, 2006.

<sup>6</sup> Arthur Wallenstein, “Health Care as a Core Element in the Prisoner/Staff Safety Equation—Jails Play a Major Role that Needs Additional Consideration,” pp.2-3.

<sup>7</sup> U.S. Department of Justice, Bureau of Statistics. *Key Facts at a Glance: Correctional Populations*. Online. Available: <http://www.ojp.usdoj.gov/bjs/glance/tables/corr2tab.htm>. Accessed: February 21, 2006.

<sup>8</sup> U.S. Department of Justice, Bureau of Statistics, *Mental Health and Treatment of Inmates and Probationers*, by Paula M. Ditton (Washington, D.C., July 1999), p.1. Online. Available: <http://www.ojp.usdoj.gov/bjs/pub/pdf/mhtip.pdf>. Accessed: January 31, 2006

<sup>9</sup> Arthur Wallenstein, “Health Care as a Core Element in the Prisoner/Staff Safety Equation—Jails Play a Major Role that Needs Additional Consideration,”; and Judith F. Cox, Steven Banks, and James L. Stone, “Counting the Mentally Ill in Jails and Prisons,” *Psychiatric Services*, vol. 51, no. 4 (April 2000), p. 533. Online. Available: <http://ps.psychiatryonline.org/cgi/content/full/51/4/533>. Accessed: April 16, 2006.

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<sup>10</sup> Death rates are per 100,000 population. For jail and prison suicide rates: U.S. Department of Justice, Bureau of Statistics, *Key Facts at a Glance: Suicide and Homicide Rates in State Prisons and Jails*. Online. Available: <http://www.ojp.usdoj.gov/bjs/glance/tables/shipjtab.htm>. Accessed: February 21, 2006. For general population rates: see: Centers for Disease Control, National Center for Health Statistics, "Table 2: Percentage of total deaths, death rates, age-adjusted death rates for 2003, percentage change in age-adjusted death rates from 2002 to 2003 and ratio of age-adjusted death rates by race and sex for the 15 leading causes of death for the total population in 2003: United States," in *Deaths: Final Data for 2003*, by: Donna L. Hoyert, et al., Division of Vital Statistics. Online. Available: [http://www.cdc.gov/nchs/data/hestat/finaldeaths03\\_tables.pdf#2](http://www.cdc.gov/nchs/data/hestat/finaldeaths03_tables.pdf#2). Accessed: March 1, 2003.

## **Chapter 4. Challenges for Mentally Ill Offenders & Jails**

Jails handle a variety of offenders and act as an entry point to the criminal justice system and a return mechanism for non-convicted and released detainees reentering society. Thus, when considering the increased numbers of mentally ill offenders in jails, it is important to note the significant challenges that remain for both jail staff members and mentally ill offenders, particularly regarding issues of continuity of care, suicide prevention, and discipline and control. In addition, as more jails attempt to appropriately screen offenders for mental illness and either divert them to more appropriate community treatment providers, or assist in pre-release planning, concerns regarding coordination and linking with community providers, and the availability of services for certain groups remain an important challenge.

### **Disruptions in Continuity of Care**

Besides the general disruption in one's daily life that arrest and detention creates, mentally ill detainees may also face a disruption in their continuity of care, assuming they were receiving some kind of treatment or assistance. Not only may this disruption impact the offenders while incarcerated (in terms of a change or drop in medication), but it may also strain the offenders' ability to reintegrate into the community upon release.

Perhaps the most obvious example of a potentially dangerous disruption in an inmate's continuity of care is a change or drop in medication. First, an offender must self-identify as needing medication, which he may be unwilling to do if there is a



perception that verification of the need will delay arraignment.<sup>1</sup> Yet, even if offenders attempt to continue their medication, the *Consensus Project* notes that although inmates typically cannot bring their own prescribed medications into jail, jails may not have the same medication in their formulary, and may be unable to fill a doctor's prescription.<sup>2</sup> In addition, any new medications administered in the jail may not be as effective due to drug interactions between medications, and delayed impact time; moreover, the new drug may produce harmful side effects.<sup>3</sup> If a change in medication results in an offender becoming symptomatic, it could produce a dangerous situation for the offender, the jail staff, and the rest of the detainee population. Moreover, it is possible the offender may not receive any medication at all, particularly if she or the jail staff fails to identify her mental illness. A 1999 survey of jail inmates revealed that only 40.9 percent of mentally ill offenders reported that they received any treatment, of which 34.1 percent reported receiving medication.<sup>4</sup>

Although disruptions in treatment and medication may provoke immediate impacts for the offenders and the jail population, termination of key social services including Supplemental Security Income (SSI), Social Security Disability Income (SSDI), and Medicaid coverage threatens a released offender's ability to access treatment, medication, support services, and thus endangers her successful reintegration within the community.<sup>5</sup> For SSI, offenders' eligibility will be terminated and they will have to file a new application to receive benefits upon release if they are in jail for more than twelve consecutive calendar months.<sup>6</sup> The SSDI benefits, however, are more complicated. Although they can never be terminated, if a person is incarcerated for 30

full days, benefits are suspended regardless of whether the 30 days comprised a full calendar month.<sup>7</sup> An economically pragmatic, but socially short-sighted policy fuels the termination of offenders' benefits: jails receive financial awards for supplying information to the Social Security Administration that results in SSI or SSDI benefit suspension or termination, but do not have any incentive for notifying the agency when offenders will be released.<sup>8</sup>

The termination of SSI and SSDI may also impact an offender's eligibility for Medicaid, which is a crucial component of ensuring they can receive care for their mental illness upon release. In 32 states Medicaid eligibility is tied to SSI eligibility; in seven other states eligibility is also linked, but requires a separate application for Medicaid; and in the remaining 11 states, various rules apply, but persons eligible for SSI typically receive Medicaid.<sup>9</sup> Particularly troublesome are three basic issues: (1) offenders who lose their SSI benefits automatically lose Medicaid benefits; (2) despite federal regulations that allow for incarcerated Medicaid recipients to remain on the rolls (but without reimbursement), states generally pursue the option of terminating Medicaid for offenders who receive a *suspension* in SSI eligibility; and (3) states that do not automatically tie SSI and Medicaid eligibility together generally terminate Medicaid eligibility anytime a person is detained in jail.<sup>10</sup> In some cases, this happened even when offenders only spent a few days in jail, and were not convicted of a crime.<sup>11</sup> Unless the offender is able to begin the paperwork while still in jail, she may face a gap in mental health care between her release from jail and the reinstatement of her benefits. Termination of Medicaid benefits is a relatively common practice for Medicaid

administrators: a 2000 survey of administrators from 49 states and 4 territories found that 46 administrators terminated Medicaid after receiving information that the person is an offender.<sup>12</sup>

The impact of this termination adversely affects offenders, the community, and the judicial system.<sup>13</sup> Nevertheless, realizing the importance of such programs in providing treatment and reducing recidivism, some jurisdictions have created innovative policies to either prevent offenders from losing their Medicaid eligibility, or to help them enroll in the program prior to their release.

Disruptions in medication and social welfare programs are typical examples of incarceration's adverse impacts for mentally ill offenders. However, another perspective of this issue, implied but not explicitly discussed in much of the literature, are minor offenders that have never received public mental health services who cycle in and out of jail. If they are released before jail staff members have time to adequately assess and refer them to mental health services, they will continue without treatment.

## **Suicide**

Jail inmates, regardless of the length of their incarceration, commit suicide at a much higher rate than state prison inmates or the general population. In 2003, the jail suicide rate was 43 per 100,000, the state prison rate was 16, and the general population rate was 10.8.<sup>14</sup> Possible contributors to increased suicide risk include recent drug or alcohol use, a history of mental illness or suicide attempts, an upcoming court date, and a change in prescribed medications.<sup>15</sup> It is important to note that although previous

research describes the situation as one of young, non-violent offenders who are intoxicated at the time of arrest, and usually commit suicide within the first 24-48 hours of detention, recent research that focused specifically on urban jails found other variables associated with the risk of suicide, and expanded the timeframe for suicide attempts to several months.<sup>16</sup> The importance of mental illness as a risk factor is especially significant; one study found the rate of mental illness among urban jail inmates who attempted suicide was 77 percent,<sup>17</sup> and another noted that 52 percent of inmates who had committed suicide had a major psychiatric diagnosis.<sup>18</sup>

Besides suffering from symptoms of mental illness, offenders may have a difficult time adjusting to characteristics of a jail setting, particularly because of “fear of the unknown, distrust of authoritarian environment, lack of apparent control over the future, isolation from family and significant others, shame of incarceration, and the dehumanizing aspects of incarceration.”<sup>19</sup>

Although many jails have begun to screen incoming offenders for mental illness and suicide risk, and attempt to isolate and observe suicidal inmates, issues such as overcrowding and availability of staff compromise the effectiveness in preventing suicides.<sup>20</sup> In addition, in studies that revealed that most of the at-risk inmates who attempted suicide were successfully screened and identified as at-risk, concerns remain regarding the prevalence of mental illness in the jail population, and the most effective methods at preventing suicide.<sup>21</sup> Moreover, experts have stressed that corrections staff members and clinical workers should not simply accept an inmate’s assurances that they are not suicidal if they suspect otherwise, or if the inmate has a suicidal history.<sup>22</sup>

## **Disciplinary Issues and Administrative Segregation**

For longer-term inmates, a major factor affecting the nature of their jail detention is correction officers' understanding of mental illness, and their perception of offenders' symptoms. Training of correctional staff members to recognize and appropriately handle mentally ill inmates is an important component in their perception of the offender. This is particularly important when interviewing offenders at the booking and screening process, but also during daily interactions. Since psychiatric staff members are limited in their availability, corrections officers play a vital role in identifying the development of suicidal intentions in offenders not previously categorized as at-risk, and distinguishing whether an inmate's behavior is insubordinate or symptomatic.<sup>23</sup>

Urban jails may use corrections staff members to conduct the medical and mental health assessment of offenders during the receiving or booking process. Although some states have required a mental health assessment tool be used to identify mentally ill inmates, this is not true everywhere.<sup>24</sup> Since corrections staff members typically conduct the initial assessment, it is important they receive adequate mental health training, as some offenders may be unable (either because of intoxication, the severity of their illness, or an unidentified condition) or unwilling to self-identify their mental illness. One researcher noted that offenders and their lawyers may even fail to identify the mental illness for fear that public stigma will lead to an adverse bail decision.<sup>25</sup>

The amount of distrust offenders direct towards a correctional officer may impact his willingness to discuss his mental health history. Vitacco and Rogers describe

the four factors that lead to deception in clinician-inmate relations, and state that this is likely to occur when inmates believe: “clinicians are working more for the institution than for the patients (agency), patients’ disclosures can potentially be used against them (lack of confidentiality), clinicians can restrict patients’ freedoms and even [impose] sanctions (social control), and clinicians do not respect patients’ autonomy but seek to induce mainstream values (value imposition).”<sup>26</sup> Although these four factors were directed toward describing inmate-clinician relationships, they could certainly apply to an offender’s perception of a correctional officer evaluating the offender’s mental health status. Thus, in order to evaluate an offender’s self-reported condition, it is important that booking staff discuss the offender’s recent behavior with the arresting officer to identify warning signs of mental illness, and consider the impacts of drug or alcohol withdrawal, changes in medications, or acute psychological episodes on an offenders’ suicide risk.<sup>27</sup>

The harshness of jail life may be especially difficult for mentally ill offenders, and appropriate mental health training may help corrections staff members in recognizing whether a mentally ill offender is being intentionally difficult, or simply suffering from either untreated symptoms or a medication’s side effects. For example, schizophrenics can suffer from hallucination, delusions, and disorganized speech or behavior,<sup>28</sup> all of which may impair their adjustment to a jail environment. Moreover, some medications may slow an offender’s speech or impair their motor skills,<sup>29</sup> which could be interpreted as ignoring an officer’s order. Besides potentially angering officers, mentally ill inmates, when loud or disruptive, may frustrate the general population, which could generate

inmate-on-inmate abuse if the mentally ill offenders are not properly protected.<sup>30</sup> Since much of the research literature acknowledges the importance of understanding how much harder it may be for mentally ill offenders to cope in a jail setting,<sup>31</sup> training materials for corrections staff should explicitly address these issues. In addition, the use of administrative segregation (solitary confinement/ad seg/protective custody) to isolate suicidal or violently disturbed inmates, or to protect vulnerable offenders from attack, underscores the difficult balance that must be struck between protecting mentally ill offenders, avoiding any aggravation of their mental health problems, and protecting other prisoners.

Administrative segregation refers to isolating offenders in single-occupancy cells, typically for 23 hours per day.<sup>32</sup> While this practice is more common in prison, jails may also use administrative segregation to confine a person who presents a danger to other inmates or staff, to observe suicidal inmates, or to protect offenders vulnerable to inmate attacks. Jail stays in administrative segregation are likely to be much shorter than those in prison; however, such isolated, barren settings may have a more profound impact on mentally ill offenders, and further upset suicidal inmates. Indeed, previous jail suicide research noted that suicides tended to more frequently occur while an inmate was in isolation or protective custody,<sup>33</sup> and some researchers have suggested jail administrators modify the housing arrangements of suicidal inmates.<sup>34</sup>

## **Linking to Community Providers**

### **Identifying Mentally Ill Inmates**

Many researchers and advocates stress the importance of screening incoming offenders for mental illness as the first step to ensuring adequate conditions for such persons.<sup>35</sup> Yet, the effort to identify mentally ill offenders should extend beyond a booking questionnaire to include collaboration with local mental health agencies. The Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMI) offers an example of the possible issues in coordination between the criminal justice and the Texas Department of Mental Health Mental Retardation (MHMR).

TCOOMI is the state agency required to pursue such coordination and develop a continuity of care system for mentally ill offenders.<sup>36</sup> Nevertheless, a recent collaboration between TCOOMI and the Texas Commission on Jail Standards (TCJS) revealed disparities in the jails' and MHMR's identification of mental illness.<sup>37</sup> Specifically, 100 randomly selected inmate medical records submitted by the jails to TDCJ revealed that 44 of the 100 were former MHMR clients, but only 15 had a mental health diagnosis noted in their records (10 of which matched the MHMR diagnosis). Thus, 34 clients who were current or former clients of MHMR were not identified by the jail staff members as having a mental illness. In response, TCJS recommended requiring local jails and local MHMRs to establish a system to cross-reference the offender list and the MHMR database.<sup>38</sup> Other issues of concern were that MHMR hours of operation did



not correspond to the 24-hour nature of jail facilities, and some MHMR facilities were slow to respond to local jails' requests for offender assessments.<sup>39</sup>

### **Availability and Receipt of Services**

Some more progressive jail administrators are attempting to connect with community service providers in conducting pre-release planning for mentally ill offenders. Yet, issues remain as to the availability and accessibility of such services. As previously mentioned in the deinstitutionalization chapter, the reduction in public mental health hospitals and the paltry creation of community mental health centers adversely impacted the mentally ill, but it also has created challenges for progressive jail administrators who are attempting to divert mentally ill offenders to more appropriate avenues of treatment. Moreover, even when community mental health services are available, significant barriers remain. Issues such as transportation barriers, interagency miscommunication, and disruptions in the continuity of care interfere with an offender's ability to keep appointments that are arranged between jails and community mental health centers.<sup>40</sup> A previous study examining seven jails with four different models of linking jails and community mental health services revealed that regardless of the model used, only approximately 42.9 percent of released offenders actually received services.<sup>41</sup>

In addition, the suitability and willingness of certain community-based treatment providers to serve mentally ill offenders remains uncertain. This particularly applies to offenders with co-occurring substance use disorders (those with a mental illness and a chemical dependency). Previous research suggests that community mental health clinics

may be less willing to serve such offenders, with both mental health and substance abuse clinics claiming they are unable to address the offender's other problem.<sup>42</sup> Nevertheless, the importance of treatment should be emphasized, as a recent study comparing mentally ill offenders and dually diagnosed (mentally ill and substance abusers) offenders revealed that dually diagnosed offenders were more likely to be arrested for public order and drug charges, to be homeless on release, and to be re-hospitalized or to recidivate.<sup>43</sup> In addition, these offenders encounter wariness from general social services providers (such as housing), and need an integrated substance abuse, mental health, and general social services network.<sup>44</sup>

For offenders, jail administrators and staff members, and society in general, it is imperative that when appropriate, mentally ill offenders are diverted from jail and receive treatment elsewhere. Nevertheless, services should not end at the jail gates; for mentally ill offenders who remain in jail, whether due to the severity of their crime or a lack of alternatives, their punishment should not extend beyond their incarceration. Identifying and providing treatment, along with ensuring that correctional officers understand the nature and symptoms of mental illness will create a safer, more humane environment for everyone. Moreover, linking with the community is essential for jails to prepare offenders for release and reduce the possibility of recidivism. While this may seem beyond a jail's duty, there is an increasing recognition of the interconnections between municipal jails and their surrounding communities.

## Notes

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<sup>1</sup> Nahama Broner et. al., “Arrested Adults Awaiting Arraignment: Mental Health, Substance Abuse, and Criminal Justice Characteristics and Needs,” *The Fordham Urban Law Journal*, vol. 30, no. 2 (Jan. 2003), p. 672.

<sup>2</sup> Council of State Governments, *Criminal Justice/Mental Health Consensus Project* (New York: Council of State Governments, 2002), p. 107. Online. Available: [http://consensusproject.org/the\\_report/downloads](http://consensusproject.org/the_report/downloads). Accessed: March 1, 2006.

<sup>3</sup> *Ibid.*, pp. 107-108

<sup>4</sup> U.S. Department of Justice, Bureau of Statistics, *Mental Health and Treatment of Inmates and Probationers*, by Paula M. Ditton (Washington, D.C., July 1999) p. 1. Online. Available: <http://www.ojp.usdoj.gov/bjs/pub/pdf/mhtip.pdf>. Accessed: January 31, 2006.

<sup>5</sup> Council of State Governments, *Criminal Justice/Mental Health Consensus Project* (New York: Council of State Governments, 2002), pp. 108-109. Online. Available: [http://consensusproject.org/the\\_report/downloads](http://consensusproject.org/the_report/downloads). Accessed: March 1, 2006.

<sup>6</sup> Judge David L. Bazelon Center for Mental Health Law, *Finding the Key to Successful Transition from Jail to the Community*, (Washington, D.C., March 2001), “When Inmates Lose SSI.” Online. Available: <http://www.bazelon.org/issues/criminalization/findingthekey.html>. Accessed: March 1, 2006.

<sup>7</sup> *Ibid.*, “When Inmates Lose SSDI.”

<sup>8</sup> *Ibid.*, “Why Benefits are Lost and What Can be Done about It.”

<sup>9</sup> *Ibid.*, “Medicaid.”

<sup>10</sup> *Ibid.*, “Medicaid Rules on Jail Inmates.”; and Liz Lipton, “Medicaid Eligibility Termination Plagues Former Inmates.” *Psychiatric News*, vol. 36, no. 17 (September 7, 2001), p. 8. Online. Available: <http://pn.psychiatryonline.org/cgi/content/full/36/17/8>. Accessed: March 2, 2006.

<sup>11</sup> Liz Lipton, “Jail Programs Help Inmates Avoid Health Care Gap,” *Psychiatric News*, vol. 36, no. 16 (August 17, 2001), p. 9. Online. Available: <http://pn.psychiatryonline.org/cgi/content/full/36/16/9>. Accessed: March 2, 2006; and Liz Lipton, “Medicaid Eligibility Termination Plagues Former Inmates.”

<sup>12</sup> Liz Lipton, “Medicaid Eligibility Termination Plagues Former Inmates.”

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<sup>13</sup> Council of State Governments, Re-Entry Policy Council, *How and Why Medicaid Matters for People with Serious Mental Illness Released from Jail*. Online. Available: <http://www.reentrypolicy.org/rp/AGP.Net/Components/DocumentViewer/Download.aspxnz?DocumentID=1021>. Accessed: March 1, 2006.

<sup>14</sup> Death rates are per 100,000 population. For jail and prison suicide rates: U.S. Department of Justice, Bureau of Statistics, *Key Facts at a Glance: Suicide and Homicide Rates in State Prisons and Jails*. Online. Available: <http://www.ojp.usdoj.gov/bjs/glance/tables/shipjtab.htm>. Accessed: February 21, 2006. For general population rates: see: Centers for Disease Control, National Center for Health Statistics, "Table 2: Percentage of total deaths, death rates, age-adjusted death rates for 2003, percentage change in age-adjusted death rates from 2002 to 2003 and ratio of age-adjusted death rates by race and sex for the 15 leading causes of death for the total population in 2003: United States," in *Deaths: Final Data for 2003*, by: Donna L. Hoyert, et al., Division of Vital Statistics. Online. Available: [http://www.cdc.gov/nchs/data/hestat/finaldeaths03\\_tables.pdf#2](http://www.cdc.gov/nchs/data/hestat/finaldeaths03_tables.pdf#2). Accessed: March 1, 2003.

<sup>15</sup> Lindsay Hayes, "Suicide Prevention in Correctional Facilities," in *Handbook of Correctional Mental Health*, ed. Charles L. Scott and Joan B. Gerbasi (Washington, D.C.: American Psychiatric Publishing, Inc., 2005), p.72; and Paula Marcus and Philip Alcabes, "Characteristics of Suicides by Inmates in an Urban Jail," *Hospital and Community Psychiatry*, vol. 44, no. 3 (March 1993), pp. 256-261, as summarized in the PubMed database at: [www.ncbi.nlm.nih.gov](http://www.ncbi.nlm.nih.gov). Accessed: March 1, 2006.

<sup>16</sup> Ibid; Ronald L. Bonner, "Isolation, Seclusion, and Psychosocial Vulnerability as Risk Factors for Suicide behind Bars," in *Assessment and Prediction of Suicide*, ed. Ronald W. Maris, Alan L. Berman, John T. Maltsberger, and Robert. I. Yufit (New York: The Guilford Press, 1992), p. 405; Richard J. Goss et al., "Characteristics of Suicide Attempts in a Large Urban Jail System With an Established Suicide Prevention Program," *Psychiatric Services*, vol. 53, no. 5 (May 2002), pp. 577-578.

<sup>17</sup> Goss et al., "Characteristics of Suicide Attempts in a Large Urban Jail System," p. 574.

<sup>18</sup> Paula Marcus and Philip Alcabes, "Characteristics of Suicides by Inmates in an Urban Jail," *Hospital and Community Psychiatry*, vol. 44, no. 3 (March 1993), pp. 256-261, as summarized in the PubMed database at: [www.ncbi.nlm.nih.gov](http://www.ncbi.nlm.nih.gov). Accessed: March 1, 2006.

<sup>19</sup> Hayes, "Suicide Prevention in Correctional Facilities," p. 72.

<sup>20</sup> Terry Kupers, *Prison Madness: The Mental Health Crisis Behind Bars and what we must do about it* (San Francisco: Jossey-Bass, 1999), p. 71.

<sup>21</sup> Goss et al., "Characteristics of Suicide Attempts in a Large Urban Jail System," p. 578.

<sup>22</sup> Chris Barge, "Jail Suicide Watch; 10 Inmates Kill Themselves in Metro-Area Lockups in '05, an All-Time High that Raises Questions," Rocky Mountain News, P. 21A, December 31, 2005. Other recent stories on mentally ill inmates that committed suicide include, "One worker fired, two suspended over jail

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suicide,” Associated Press, State and Regional (Galveston), January 20, 2006; and Curtis Krueger, “Care for Mentally Ill Falls to Jails,” *St. Petersburg Times*, P. 1A, January 2, 2006.

<sup>23</sup> Lisa Callahan, “Correctional Officer Attitudes Toward Inmates with Mental Disorders,” *International Journal of Forensic Mental Health*, vol. 3, no. 1 (2004), pp. 36-54

<sup>24</sup> Council of State Governments, *Criminal Justice/Mental Health Consensus Project*, pp. 102-103.

<sup>25</sup> Nahama Broner et al., “Arrested Adults Awaiting Arraignment: Mental Health, Substance Abuse, and Criminal Justice Characteristics and Needs,” *The Fordham Urban Law Journal*, vol. 30, no. 2 (Jan. 2003), p. 672

<sup>26</sup> Michael J. Vitacco and Richard Rogers, “Assessment of Malingering in Correctional Settings,” in *Handbook of Correctional Mental Health*, ed. Charles L. Scott and Joan B. Gerbas (Washington, D.C., American Psychiatric Publishing, Inc., 2005), p. 133.

<sup>27</sup> American Psychiatric Association, *Psychiatric Services in Jails and Prisons*, 2<sup>nd</sup> ed. (Washington, D.C., 2000), pp. 33; and Council of State Governments, *Criminal Justice/Mental Health Consensus Project*, pp. 103-104.

<sup>28</sup> Joseph D. Bloom and William H. Wilson, “Offenders with Schizophrenia,” in *Violence, Crime, and Mentally Disordered Offenders: Concepts and Methods for Effective Treatment and Prevention*, ed. Sheilagh Hodgins and Rüdiger Müller-Isberner (Chichester, England: John Wiley & Sons, Ltd, 2000), p. 114.

<sup>29</sup> *Ibid.*, p. 120.

<sup>30</sup> E. Fuller Torrey, *Out of the Shadows* (New York: John Wiley & Sons, 1997), pp. 32-33.

<sup>31</sup> *Ibid.*, pp. 31-35. Rüdiger Müller-Isberner and Sheilagh Hodgins, “Evidence-Based Treatment for Mentally Disordered Offenders,” in *Violence, Crime, and Mentally Disordered Offenders: Concepts and Methods for Effective Treatment and Prevention*, ed. Sheilagh Hodgins and Rüdiger Müller-Isberner (Chichester, England: John Wiley & Sons, Ltd, 2000), p. 28.

<sup>32</sup> Heather Barr, “Social Workers as Advocates for Mentally Ill Criminal Defendants/Inmates,” in *Serving Mentally Ill Offenders: Challenges and Opportunities for Mental Health Professionals*, ed. Gerald Landsberg, Marjorie Rock, Lawrence K.W. Berg, and Amy Smiley (New York: Springer Publishing Company, 2002), p. 234.

<sup>33</sup> Lindsay M. Hayes, “From Chaos to Calm: One Jail System’s Struggle with Suicide Prevention.” *Behavioral Sciences and the Law*, vol. 15 (1997), pp. 399-413; Goss et al., “Characteristics of Suicide Attempts in a Large Urban Jail System,”; and Paula Marcus and Philip Alcabes, “Characteristics of Suicides by Inmates in an Urban Jail.”

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<sup>34</sup> Goss et al., “Characteristics of Suicide Attempts in a Large Urban Jail System,”; and Paula Marcus and Philip Alcabes, “Characteristics of Suicides by Inmates in an Urban Jail.”

<sup>35</sup> American Psychiatric Association, *Psychiatric Services in Jails and Prisons*, pp. 32-36; and Council of State Governments, *Criminal Justice/Mental Health Consensus Project*, pp. 102-104.

<sup>36</sup> Texas Commission on Jail Standards, *House Bill 1 Mental Health Study* (Austin), p. 4. Online. Available: <http://www.tcjs.state.tx.us/index.php?linkID=320>. Accessed: March 1, 2006.

<sup>37</sup> *Ibid.*, p. 3.

<sup>38</sup> *Ibid.*, p. 4.

<sup>39</sup> *Ibid.*, p.5.

<sup>40</sup> R.L.Weisman, J.S. Lamberti, and N. Price, “Integrating Criminal Justice, Community Healthcare, and Support Services for Adults with Severe Mental Disorders,” *Psychiatric Quarterly*, vol. 75, no. 1 (Spring 2004), p. 73.

<sup>41</sup> Bonita M. Veysey et al., “In Search of the Missing Linkages: Continuity of Care in U.S. Jails,” *Behavioral Sciences and the Law*, vol. 15 (1997), pp. 383-397.

<sup>42</sup> Marjorie Rock, “Emerging Issues with Mentally Ill Offenders: Causes and Social Consequences,” *Administration and Policy in Mental Health*, vol. 28, no. 3 (January 2001), pp. 168-169.

<sup>43</sup> Stephanie Hartwell, “Triple Stigma: Persons with Mental Illness and Substance Abuse Problems in the Criminal Justice System,” *Criminal Justice Policy Review*, vol. 15, no. 1 (March 2004), pp.91-94.

<sup>44</sup> *Ibid.*, p. 95-96.

## Chapter 5. Recommendations

### Prior Legal Cases

Policy makers, mental health advocates, and jail administrators have developed a variety of approaches to stem the influx of mentally ill offenders and ensure they receive appropriate treatment and services. Legal requirements, along with proposed standards by the American Corrections Association and the American Psychiatric Association, and National Commission on Correctional Health Care, offer a potential baseline for administrators interested in providing adequate screening and treatment of offenders.

An inmate's right to mental health treatment is based on the Eight Amendment, which forbids cruel and unusual punishment, and the corresponding Supreme Court cases that interpreted violations of this amendment.<sup>1</sup> In particular, the 1976 case of *Estelle v. Gamble* addressed this issue by stating that if prison officials were deliberately indifferent to a prisoner's serious medical needs, they were in violation of the Eight Amendment.<sup>2</sup> Two issues remained: the definition of a serious medical need and deliberate indifference.<sup>3</sup> *Estelle v. Gamble* was based on physical medical care, but the 1976 federal case *Bowring v. Godwin* extended the standard to psychiatric care.<sup>4</sup> Cohen discusses the varying interpretations of a serious medical need in regards to mental health treatment, and summarizes the important case law decisions.<sup>5</sup> In particular, he notes that:

- To successfully allege that an illness was not appropriately assessed and treated, the diagnostic test or evaluation not completed must have been

one of medical or psychiatric necessity. An inmate's report of minor aches, pains, or distress will not establish such necessity.

- A desire to achieve rehabilitation from alcohol or drug abuse, or to lose weight to simply look or feel better, will not suffice.
- A diagnosis based on professional judgment and resting on some acceptable diagnostic tool (e.g., DSM-IV-TR) is presumptively valid.
- A decision by a mental health professional that mental illness is not present is presumptively valid.
- While "mere depression" or behavioral and emotional problems alone do not qualify as serious mental illness, acute depression, paranoid schizophrenia, "nervous collapse," and suicidal tendencies do qualify.<sup>6</sup>

Although the case law provides guidance on serious mental medical needs, the interpretations remain somewhat malleable.<sup>7</sup> Similarly, the definition of deliberate indifference was not clarified until 1994, in the case of *Farmer v. Brennan*.<sup>8</sup> In the case, the Supreme Court held that a prison official is deliberately indifferent "only if he knows that inmates face a substantial risk of serious harm and disregards that risk by failing to take reasonable measures to abate it."<sup>9</sup> Deliberate indifference places a high burden of proof on prisoners with a medical complaint, but relief may also be available through the less stringent measures applied in some states' medical malpractice or negligence laws.<sup>10</sup> Nevertheless, although prisoners may face some obstacles in proving deliberate indifference, the Eighth Amendment remains the basis for constitutional cases involving prisoners' medical needs.

It is important to note, however, that although jails house both pre-trial (non-convicted) and convicted detainees, Eighth Amendment rights do not apply to pre-trial detainees.<sup>11</sup> Rather, pre-trial detainees' rights stem from the due process clauses of the



Fifth and Fourteenth amendments, which establish that persons shall not be deprived of “life, liberty, or property without due process of law.”<sup>12</sup> In the 1979 case *Bell v. Wolfish*, the Supreme Court somewhat narrowed previous lower court interpretations of such rights for pre-trial detainees.<sup>13</sup> In particular, the majority ruled that practices of a federal detention facility did not violate the Fifth Amendment’s due process clause because they held that the practices were not intended to punish the inmates, were a reasonable response to security concerns, and were of limited duration.<sup>14</sup> Thus, pre-trial detainees were protected from punishment, but detainees would have to prove that officials intended to punish them, and the practices were unreasonable in the context of a detention setting—a very challenging standard.<sup>15</sup> Thus, while in theory pre-trial detainees should have more rights than prisoners, the standard of medical care for both remains similar.<sup>16</sup>

Certain cases are particularly noteworthy for their influence in establishing the minimum criteria for a mental health treatment program. In *Ruiz v. Estelle*, Federal District Judge William Wayne Justice implemented major reforms for Texas prisons, some of which addressed inadequate mental health care for inmates. When addressing mental medical care, Judge Justice identified six main criteria for an adequate mental health care system:<sup>17</sup>

1. A systematic program for screening and evaluating inmates must be in place to identify those who require mental health treatment.
2. Treatment must entail more than segregation and close supervision of the inmate patients.

3. Treatment requires the participation of trained mental health professionals, who must be employed in sufficient numbers to identify and treat in an individualized manner those treatable inmates with serious mental disorders.
4. Accurate, complete, and confidential records of the mental health treatment process must be maintained.
5. Prescription and administration of behavior altering medications in dangerous amounts, by dangerous methods, or without appropriate supervision and periodic evaluations are unacceptable.
6. A basic program for the identification, treatment, and supervision of inmates with suicidal tendencies is a necessary component of any mental health treatment program.

Although Judge Justice did formulate these criteria for prisons, their spirit can certainly be applied to jails. In addition, although the case specifically concerned Texas, it impacted correctional facilities nationally, and sources describing the legal context of standards referred to the case.<sup>18</sup> In addition, other cases also addressed the issue of constitutionally-mandated mental health care (and even added requirements that extend beyond *Ruiz*), including *Langley v. Coughlin* (1989) and *Madrid v. Gomez* (1995).<sup>19</sup> In particular, the *Langley* case established criteria regarding the creation and maintenance of medical records, and declared that the failure to diagnose mental illnesses, prescribe medications, and provide non drug-based treatment constituted a violation of inmates' rights.<sup>20</sup> The *Madrid* case stressed the need for adequate and competent staffing, inmate access to services, and quality assurance.<sup>21</sup>

More recently, an interesting case broadly expanded mentally ill offenders' rights to discharge planning in New York. The settlement of the case *Brad H. v. City of New York* (2000) provides a detailed program for pre-release discharge planning, as mentioned

in the introduction.<sup>22</sup> Specifically, discharge planning includes providing links to continued mental health and substance abuse treatment and medications and prescriptions, applying or reactivating Medicaid benefits, public assistance, TANF, and SSA benefits, and assisting with housing and transportation.<sup>23</sup> The *Brad H.* settlement requires considerable coordination among city agencies, and encompasses many services in discharge planning. Moreover, Cohen suggests that the *Wakefield v. Thompson* (1999) case, which established the state's duty to provide access to doctors and medication following an inmate's release, may be indicative of a trend that will lead to an expansion of the government's duty to provide certain services to newly-released offenders.<sup>24</sup> Thus, a variety of cases at different levels of the judicial branch established a legal basis for the constitutionality of an inmate's right to mental health treatment, and newer cases may further extend the government's obligation.

## **Professional Standards**

In addition to policies established by legal cases, organizations like the American Psychiatric Association (APA), American Correctional Association (ACA), and National Commission on Correctional Health Care (NCCHC) have developed standards for providing mental health care and preventing suicide in jails. While all three groups address similar issues such as screening, treatment, and the prevention of suicide, their guidance varies in detail and audience.

### **American Correctional Association**

The ACA is a private, nonprofit organization that provides prisons and local detention facilities a voluntary accreditation program, and produces standards for

facilities seeking to gain or maintain ACA accreditation.<sup>25</sup> Thus, the standards examined below are directed toward jail administrators, and provide programmatic guidance. The ACA standards address mental health screening and referrals, the use of administrative segregation for special inmates, and the provision of counseling and substance abuse programs.<sup>26</sup> Mandatory requirements include a mental health screen conducted during intake, and a mental health appraisal by a qualified mental health staff within 14 days of admission.<sup>27</sup> The initial screen addresses issues such as suicidal tendencies, current medications and treatment, and substance abuse, but the appraisal includes more broad information, such as a review of available medical records, educational background, and past history of abuse victimization or predatory behavior.<sup>28</sup> Also, ACA recommends, but does not require, the creation of a treatment plan, and the placement of severely mentally ill inmates in non-correctional settings or institutions explicitly established to handle them.<sup>29</sup>

Although the ACA standards contain guidance specifically for mentally ill offenders, the counseling, substance abuse, and suicide prevention programs are directed toward the population in general.<sup>30</sup> However, the mental health program does require that staff members address acute episodes and prevent long-term degeneration as well.<sup>31</sup> Similarly, the suicide prevention guidelines are not specifically aimed at mentally ill offenders, but the general jail population. Specifically, the standards require that staff members are trained to identify warning signs, respond to at-risk inmates, and communicate with health care staff, in addition to conducting observations and follow-up monitoring.<sup>32</sup> Moreover, the group recommends that mentally disordered inmates in

administrative segregation receive more frequent observation than general offenders in ad/seg.<sup>33</sup>

### **American Psychiatric Association**

APA is a “medical specialty society” composed of psychiatrists, and the organization focuses on providing “humane care and effective treatment for all persons with mental disorders, including mental retardation and substance-related disorders.”<sup>34</sup> Their standards are directed toward psychiatrists and mental health professionals working in corrections settings, but also provide useful guidance for jail administrators as well. First, APA discusses the principles underlying the standards, then presents the actual standards for jails and prisons, and offers guidance for handling specific populations, such as women, geriatrics, and persons with co-occurring disorders.<sup>35</sup> Although all groups (ACA, APA, NCCHC) stress the importance of an initial screening at intake, a follow-up assessment by a qualified mental health professional, and a suicide prevention program,<sup>36</sup> APA provides considerably more direction than ACA regarding mental health treatment within the facility and discharge planning. For example, the APA specifies measures to ensure proper treatment, medication, and supervision of mentally ill offenders, including measures to prevent suicide.<sup>37</sup>

Regarding treatment, APA recognizes the short-term nature of jail confinement, and the standards stress the importance of ensuring inpatient resources and mental health coverage within the facility.<sup>38</sup> In regards to medication, the standards recommend a range of psychotropic medications are kept in stock, prescribed by a physician, and distributed by qualified medical staff.<sup>39</sup> Also, APA provides guidance on the use of

special restraints or seclusion methods, but also recommends the use of productive programming that emphasizes social skills and supportive intervention.<sup>40</sup>

Finally, APA standards provide some guidance for jail administrators in discharge planning, both for inmates being transferred to prisons, and those who need referrals to community services upon release from jail.<sup>41</sup> Noting that, “timely and effective discharge planning is essential to continuity of care and an integral part of adequate mental health treatment,” APA recommends jail staff contact either community mental health providers or prison staff (depending on whether the offender is released to the community or transferred to prison) to ensure continuity in treatment and medication.<sup>42</sup> While not specifically including this in the standards, APA also notes the importance of services like financial support, housing, and assertive community therapy in discharge planning.<sup>43</sup>

### **National Commission on Correctional Health Care**

The NCCHC, like the ACA, is a non-profit entity that provides accreditation of detention facilities (specifically in the area of medical care).<sup>44</sup> The organization includes representatives from health, law, and corrections representatives,<sup>45</sup> and their work reflects this multi-disciplinary composition. Specifically, the group creates standards that address the administration of a corrections-based medical care program, with an intended audience of jail administrators seeking accreditation of their facility.<sup>46</sup> Also, they provide considerable guidance for correctional medical staff through position statements and clinical guidelines.<sup>47</sup> The NCCHC focuses on similar issues as the APA, such as screening, mental health services, suicide prevention; in addition, NCCHC offer standards on discharge planning and issues regarding emergency medication. Moreover,

NCCHC provides considerable guidance for all their standards, and provides a discussion of the intent of the standard.

Similar to ACA and APA, NCCHC lists initial physical and mental health screening as an essential service,<sup>48</sup> and notes the importance of a follow-up mental health evaluation conducted by qualified personnel.<sup>49</sup> Reflecting the considerable provision of guidance, the mental health screening and evaluation standard (for the follow-up evaluation) lists a variety of factors that should be recorded in the interview, including: prior hospitalization and treatment, suicidal/violent behavior, victimization, special education placement, cerebral trauma or seizures, sex offenses, medications, drug/alcohol use, emotional response to incarceration, and intellectual functioning.<sup>50</sup>

In addition to screening, NCCHC lists standards for suicide prevention, mental health treatment, and discharge planning. The suicide prevention standard, besides establishing the need for staff training, identification, monitoring, and other typical components of jail suicide prevention programs, recommends that suicidal inmates be housed in the general population (in close proximity to staff) or a similar setting, rather than isolated.<sup>51</sup>

In addition, NCCHC extends mental health care beyond the administration of psychotropic drugs to include individual and group therapy, as well as coordination with substance abuse treatment.<sup>52</sup> Moreover, although APA discusses the importance of discharge planning but does not include it in its specific standards, the NCCHC includes a standard on discharge planning. Specifically, the standard requires jail health staff members to provide a supply of medication and referrals to community providers.<sup>53</sup> The

discussion following the standard places significant responsibility on health staff members to ensure that offenders with serious mental illnesses understand the importance of continuing their treatment, and providing referrals to specialized providers.<sup>54</sup> This responsibility remains even if health staff members do not receive adequate notification of an offender's pending release.<sup>55</sup>

## **Recommendations for Future Research**

This report revealed surprisingly conflicted literature on what types of crimes mentally ill offenders are committing and the relationship between available public mental health treatment and incarceration rates, which lent credibility to some researchers' suggestions that community mental health clinics may be more adept (or more willing) to serve minor offenders. Of course, the possible explanations for diverse outcomes could include a variety of factors, such as differing methodologies, the lack of research on arrests, rather than convictions, and the possibility that mental health advocates may be leery of recognizing the percentage of mentally ill offenders in jail for violent offenses. Thus, both academic and policy fields would benefit from more research isolating the following issues:

- Arrest data and conviction data for individual crimes committed by mentally ill offenders in urban areas to complement the variety of studies that sample convicted offenders. Such data would enable researchers to evaluate the number and demographics of mentally ill persons arrested on petty charges and then released, versus those detained and charged.



- Recent data on violent mentally ill offenders' prior access to public mental health services. While data on access will not necessarily reflect quality of services, this perspective would help determine the validity of some past assertions that public mental health services are not willing to serve severely disturbed and violent persons.<sup>56</sup>
- More in-depth research on the topic of dually-diagnosed mentally ill substance abusers, as this group seems to require more specific services, and differs from mentally ill offenders in social support and recidivism.<sup>57</sup>

Additional data on these three topics may help in focusing future policies regarding diversion to community mental health services, and the development of suitable post-release treatment programs for violent mentally ill offenders.

## **Recommendations for Federal Policy Makers**

The issue of mental illness and its impacts on the criminal justice system and society in general is unquestionably tied to the provision of public social services. While much of this report focused on the deinstitutionalization hypothesis and the availability of public mental health clinics, it is necessary to acknowledge the importance of housing, education, general health, and employment programs in supporting mentally ill citizens. Thus, although increased grant funding and technical support for community-based mental health programs are needed, such services should be tied to a general social welfare network.

In addition, considering the importance of programs like SSI, SSDI, and Medicaid for impoverished, at-risk offenders, and the variation among states and localities' policies, federal policy makers should adjust current Social Security Administration (SSA) policy to prohibit states from terminating Medicaid benefits for incarcerated or detained offenders. While the current federal policy allows for Medicaid recipients to remain on the rolls without reimbursement, many states terminate benefits instead, because this is their established process, or because Medicaid eligibility is tied to SSI benefits. This small step would maintain an offenders' eligibility status, but keep intact the policy of not paying benefits while a person is in jail. Moreover, it is possible that this practice could reduce costs for state benefit coordinators and the SSA by eliminating the multiple processing costs for detainees who lost their eligibility status while in jail, and therefore must re-apply for benefits.

In addition, although this report has repeatedly referred to the links between local community mental health providers, state psychiatric hospitals, and jails, federal policy makers should also consider the overlap in Veterans Affairs (VA) mental health patients and jails. One study that analyzed the overlap of patients receiving VA mental health services and surrounding counties' jail records found that “a total of 15.7 percent—39.6 percent of those age 18 to 39 years and 9.1 percent of those age 40 years and older—were incarcerated at some time during that period.”<sup>58</sup> Thus, VA policy administrators should encourage local VA hospitals and clinics to develop working relationships with jails.

Finally, the Attorney General should respond to the National Association of Counties' (NACo) request that he create a national commission to evaluate the issue of

jailing non-violent mentally ill offenders, and make recommendations to address the problem.<sup>59</sup> NACo representatives stressed the importance of including representatives from federal criminal justice and social welfare agencies, as well as national organizations representing local and state stakeholders.<sup>60</sup>

## **Recommendations for State and Local Policy Makers**

For policy makers and advocates searching for innovative programs that attempt to create links between the public mental health and criminal justice systems and ensure offenders receive the appropriate treatment, a variety of jurisdictions have initiated progressive programs, including police training, crisis intervention teams, mental health courts, jail diversion programs, and discharge planning.<sup>61</sup> Policy makers should evaluate other jurisdictions' programs, and adopt strategies appropriate for their situations and resources.

In addition, the impact of changes in the financing of community-based mental health services should be considered by policy-makers. A recent study of King County, Washington, evaluated indirect cost-shifting to jails after the state transferred the responsibility for paying for uninsured and Medicaid recipients' use of outpatient mental health services to the county.<sup>62</sup> After the county implemented a managed mental health care program, the authors found that expenditures decreased for the county mental health system, while the probability of jail use among Medicaid recipients significantly increased, which suggested that the managed mental health care system was shifting patients and costs to jails.<sup>63</sup> As noted by the authors, such policies are incredibly

worrisome, as they provide less efficient and more costly services to mentally ill patients by placing them in an inappropriate setting and subverting their needs to the care system's financial concerns.<sup>64</sup>

Finally, although not explicitly covered in this report, it is critical that when designing mental health programs (whether community or corrections-based), administrators remain aware of the needs of special needs populations, such as substance abusers, women, and minorities. Research has revealed racial and gender disparities in access to mental health services, and the need for specific programming, particularly since women and minority offender populations tend to have a higher prevalence of mental illness.<sup>65</sup>

## Notes

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<sup>1</sup> Fred Cohen and Joan B. Gerbasi, "Legal Issues Regarding the Provision of Mental Health Care in Correctional Settings," in *Handbook of Correctional Mental Health*, ed. Charles L. Scott and Joan B. Gerbasi (Washington, D.C.: American Psychiatric Publishing, Inc., 2005).

<sup>2</sup> *Ibid.*, p. 261

<sup>3</sup> *Ibid.*, pp. 262-264

<sup>4</sup> *Ibid.*, p. 264

<sup>5</sup> *Ibid.*, pp. 264-265

<sup>6</sup> *Ibid.*, p. 265 (This list is an exact quote.)

<sup>7</sup> *Ibid.*, p. 264-265

<sup>8</sup> *Ibid.*, p. 262

<sup>9</sup> *Farmer v. Brennan*, 511 U.S. 825 (1994), "Syllabus: Held (1)."

<sup>10</sup> Fred Cohen and Joan B. Gerbasi, "Legal Issues Regarding the Provision of Mental Health Care in Correctional Settings," pp. 262-263.

<sup>11</sup> *Ibid.*, pp. 259-266.

<sup>12</sup> *Ibid.*, p. 266; and Find Law, *U.S. Constitution, Fourteenth Amendment*. Online. <http://caselaw.lp.findlaw.com/data/constitution/amendment14/>, Available: April 1, 2006; and Find Law, *U.S. Constitution, Fifth Amendment*. Online. Available: <http://caselaw.lp.findlaw.com/data/constitution/amendment05/>. Accessed: April 1, 2006.

<sup>13</sup> Fred Cohen, "Pretrial Detainees," in *The Mentally Disordered Inmate and the Law* (Kingston, New Jersey: Civic Research Institute, 1998), pp. 15-1 to 15-2.

<sup>14</sup> *Bell v. Wolfish*, 441 U.S. 520 (1979), "Summary."

<sup>15</sup> Cohen, "Pretrial Detainees," pp. 15-1.

<sup>16</sup> *Ibid.*, pp. 15-2-15-3.

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- <sup>17</sup> Fred Cohen and Joan B. Gerbasi, “Legal Issues Regarding the Provision of Mental Health Care in Correctional Settings,” p. 267. (Exact quote).
- <sup>18</sup> American Psychiatric Association, *Psychiatric Services in Jails and Prisons*. 2<sup>nd</sup> ed. (Washington, D.C., 2000), pp. 2-3.
- <sup>19</sup> *Ibid.*, p. 3; and Fred Cohen and Joan B. Gerbasi, “Legal Issues Regarding the Provision of Mental Health Care in Correctional Settings,” pp. 267-268.
- <sup>20</sup> Fred Cohen and Joan B. Gerbasi, “Legal Issues Regarding the Provision of Mental Health Care in Correctional Settings,” p. 267-268.
- <sup>21</sup> American Psychiatric Association, *Psychiatric Services in Jails and Prisons*, p. 3.
- <sup>22</sup> Fred Cohen and Joan B. Gerbasi, “Legal Issues Regarding the Provision of Mental Health Care in Correctional Settings,” p. 278; and discussion with Michele Deitch, Adjunct Professor of Public Affairs, LBJ School of Public Affairs, Spring 2006.
- <sup>23</sup> *Brad H. v. City of New York*, 712 NYS. 2d 336 (Supreme Ct. 2000); 716 NYS. 2d 852 (N.Y. App. Div. 2000), p. 14. Online. Available: <http://www.urbanjustice.org/pdf/litigation/BradSettlementMHP.pdf>. Accessed: April 17, 2006.
- <sup>24</sup> Fred Cohen and Joan B. Gerbasi, “Legal Issues Regarding the Provision of Mental Health Care in Correctional Settings,” pp. 276-277.
- <sup>25</sup> American Correctional Association, *Performance-Based Standards for Adult Local Detention Facilities*, 4th ed. (Lanham, MD., 2004), p. xvi.
- <sup>26</sup> American Correctional Association, *Performance-Based Standards for Adult Local Detention Facilities*.
- <sup>27</sup> *Ibid.*, “Mental Health Screen,” 4-ALDF-4C-29; and “Mental Health Appraisals” 4-ALDF-4C-30, pp. 62-63.
- <sup>28</sup> *Ibid.*
- <sup>29</sup> *Ibid.*, “Mental Health Referrals,” 4-ALDF-4C-31, p. 63; and “Mental Illness and Developmental Disability,” 4-ALDF-4C-34, p. 64.
- <sup>30</sup> *Ibid.*, “Counseling,” 4-ALDF-5A-03; and “Substance Abuse Programs,” 4-ALDF-5A-05, pp. 84-85
- <sup>31</sup> *Ibid.*, “Mental Health Program,” 4-ALDF-4E-11, p. 61.
- <sup>32</sup> *Ibid.*, “Suicide Prevention and Intervention,” 4-ALDF-4C-32, p. 64.

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- <sup>33</sup> Ibid., “Special Management Inmates,” 4-ALDF-2A-52, pp. 28
- <sup>34</sup> American Psychiatric Association, About APA, (2005). Online. Available: [http://www.psych.org/about\\_apa/](http://www.psych.org/about_apa/). Accessed: April 11, 2006.
- <sup>35</sup> American Psychiatric Association, *Psychiatric Services in Jails and Prisons*, p. 1.
- <sup>36</sup> American Correctional Association, *Performance-Based Standards for Adult Local Detention Facilities*, pp. 61-64.
- <sup>37</sup> American Psychiatric Association, *Psychiatric Services in Jails and Prisons*, pp. 36-38.
- <sup>38</sup> Ibid., pp. 37-38.
- <sup>39</sup> Ibid., p. 38.
- <sup>40</sup> Ibid
- <sup>41</sup> Ibid, p. 39.
- <sup>42</sup> Ibid., pp. 18, 38-39.
- <sup>43</sup> Ibid., pp. 18-19.
- <sup>44</sup> National Commission on Correctional Health Care, *About NCCHC*. Online. Available: <http://www.ncchc.org/about/index.html>. Accessed: April 1, 2006.
- <sup>45</sup> Ibid.
- <sup>46</sup> National Commission on Correctional Health Care, *Standards for Health Services in Jails*, 2<sup>nd</sup> ed. (Chicago, 2003), pp. viii-ix.
- <sup>47</sup> National Commission on Correctional Health Care, *Homepage*. Online. Available: <http://www.ncchc.org/>. Accessed: April 1, 2006.
- <sup>48</sup> National Commission on Correctional Health Care, *Standards for Health Services in Jails*, J-E-02, “Receiving Screening,” pp. 58-59.
- <sup>49</sup> Ibid., J-E-05, “Mental Health Screening and Evaluation,” pp. 64-65.
- <sup>50</sup> Ibid., J-E-05, “Mental Health Screening and Evaluation,” p. 64.
- <sup>51</sup> Ibid., J-G-05, “Suicide Prevention Program,” pp. 100-102.

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<sup>52</sup> Ibid., J-G-04, "Mental Health Services," p. 99.

<sup>53</sup> Ibid., J-E-13, "Discharge Planning," p. 77.

<sup>54</sup> Ibid.

<sup>55</sup> Ibid.

<sup>56</sup> Marjorie Rock, "Emerging Issues with Mentally Ill Offenders: Causes and Social Consequences," *Administration and Policy in Mental Health*, vol. 28, no. 3 (January 2001), pp. 168-169.

<sup>57</sup> Stephanie Hartwell, "Triple Stigma: Persons with Mental Illness and Substance Abuse Problems in the Criminal Justice System," *Criminal Justice Policy Review*, vol. 15, no. 1 (March 2004), pp. 84-99; and "Comparison of Offenders with Mental Illness Only and Offenders with Dual Diagnoses," *Psychiatric Services*, vol. 55, no. 2 (February 2004), pp. 145-150.

<sup>58</sup> Robert A. Rosenheck et al., "Bed Closures and Incarceration Rates among Users of Veterans Affairs Mental Health Services," *Psychiatric Services*, vol. 51, no. 2 (October 2000), pp. 1282-1287.

<sup>59</sup> "Counties Call for National Commission to Study Mentally Ill in County Jails," National Association of Counties, April 6, 2006 (press release). Online. Available: [http://www.naco.org/Template.cfm?Section=Media\\_Center&template=/ContentManagement/ContentDisplay.cfm&ContentID=19700](http://www.naco.org/Template.cfm?Section=Media_Center&template=/ContentManagement/ContentDisplay.cfm&ContentID=19700). Accessed: May 2, 2006.

<sup>60</sup> Ibid.

<sup>61</sup> For examples of such programs, see: Gerald Landsberg et al., *Serving Mentally Ill Offenders: Challenges and Opportunities for Mental Health Professionals*, (New York: Springer Publishing Company, 2002); and Council of State Governments, Consensus Project, *Program Profiles*. Online. Available: <http://consensusproject.org/programs-overview/>. Accessed: April 1, 2006.

<sup>62</sup> Marisa Elena Domino et. al., "Cost-Shifting to Jails After a Change to Managed Mental Health Care," *Health Services Research*, vol. 39, no. 5, (October 2004), pp. 1379-1402.

<sup>63</sup> Ibid., p. 1397.

<sup>64</sup> Ibid.

<sup>65</sup> Annelle B. Primm, Fred C. Osher, Marisela B. Gomez, "Race and Ethnicity, Mental Health Services and Cultural Competence in the Criminal Justice System: Are We Ready to Change?" *Community Mental Health Journal*, vol. 41, no. 5 (October 2005), pp. 557-569; Catherine F. Lewis, "Female Offenders in Correctional Settings," in *Handbook of Correctional Mental Health*, ed. Charles L. Scott and Joan B. Gerbasi (Washington, D.C.: American Psychiatric Publishing, Inc., 2005); American Psychiatric



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Association, *Psychiatric Services in Jails and Prisons*, “Women”; and Linda A. Teplin, Karen M. Abram, and Gary M. McClelland, “Mentally Disordered Women in Jail: Who Receives Services?” *American Journal of Public Health*, vol. 87, no. 4 (April 1997), pp. 604-609.

## Bibliography

- American Correctional Association. *Performance-Based Standards for Adult Local Detention Facilities*. 4th ed. Lanham, MD., 2004.
- American Psychiatric Association. *About APA*. Online. Available: [http://www.psych.org/about\\_apa/](http://www.psych.org/about_apa/). Accessed: April 11, 2006.
- . *Psychiatric Services in Jails and Prisons*. 2<sup>nd</sup> ed. Washington, D.C., 2000.
- Associated Press, State and Regional (Galveston). “One worker fired, two suspended over jail suicide.” (January 20, 2006).
- Barge, Chris. “Jail Suicide Watch; 10 Inmates Kill Themselves in Metro-Area Lockups in '05, an All-Time High that Raises Questions.” *Rocky Mountain News* (December 31, 2005), p. 21A.
- Barr, Heather. “Social Workers as Advocates for Mentally Ill Criminal Defendants/Inmates.” In *Serving Mentally Ill Offenders: Challenges and Opportunities for Mental Health Professionals*, ed. Gerald Landsberg, Marjorie Rock, Lawrence K.W. Berg, and Amy Smiley. New York: Springer Publishing Company, 2002.
- Bell v. Wolfish*, 441 U.S. 520 (1979).
- Bloom, Joseph D., and William H. Wilson. “Offenders with Schizophrenia.” In *Violence, Crime, and Mentally Disordered Offenders: Concepts and Methods for Effective Treatment and Prevention*, ed. Sheilagh Hodgins and Rüdiger Müller-Isberner. Chichester, England: John Wiley & Sons, Ltd, 2000.
- Bonner, Ronald L. “Isolation, Seclusion, and Psychosocial Vulnerability as Risk Factors for Suicide behind Bars.” In *Assessment and Prediction of Suicide*, ed. Ronald W. Maris, Alan L. Berman, John T. Maltzberger, and Robert. I. Yufit. New York: The Guilford Press, 1992.
- Brad H. v. City of New York*, 712 NYS. 2d 336 (Supreme Ct. 2000); 716 NYS. 2d 852 (N.Y. App. Div. 2000). Online. Available: <http://www.urbanjustice.org/pdf/litigation/BradSettlementMHP.pdf>. Accessed: April 17, 2006.

Broner, Nahama, Stacy S. Lamon, Damon W. Mayrl, and Martin G. Karopkin. "Arrested Adults Awaiting Arraignment: Mental Health, Substance Abuse, and Criminal Justice Characteristics and Needs," *The Fordham Urban Law Journal*, vol. 30, no. 2 (Jan. 2003), pp. 663-721.

Callahan, Lisa. "Correctional Officer Attitudes Toward Inmates with Mental Disorders." *International Journal of Forensic Mental Health*, vol. 3, no. 1 (2004), pp. 36-54

Centers for Disease Control, National Center for Health Statistics. "Table 2: Percentage of total deaths, death rates, age-adjusted death rates for 2003, percentage change in age-adjusted death rates from 2002 to 2003 and ratio of age-adjusted death rates by race and sex for the 15 leading causes of death for the total population in 2003: United States." In *Deaths: Final Data for 2003*. By: Donna L. Hoyert, Melonie Heron, Sherry L. Murphy, and Hsiang-Ching Kung, Division of Vital Statistics. Online. Available: [http://www.cdc.gov/nchs/data/hestat/finaldeaths03\\_tables.pdf#2](http://www.cdc.gov/nchs/data/hestat/finaldeaths03_tables.pdf#2). Accessed: March 1, 2003.

Clark, Robin E., Susan K. Ricketts, and Gregory J. McHugo. "Legal System Involvement and Costs for Persons in Treatment for Severe Mental Illness and Substance Use Disorders." *Psychiatric Services*, vol. 50 (May 1999), pp. 641-647

Cohen, Fred, and Joan B. Gerbasi. "Legal Issues Regarding the Provision of Mental Health Care in Correctional Settings." In *Handbook of Correctional Mental Health*, ed. Charles L. Scott and Joan B. Gerbasi. Washington, D.C.: American Psychiatric Publishing, Inc., 2005.

Cohen, Fred. "Pretrial Detainees." In *The Mentally Disordered Inmate and the Law*. Kingston, New Jersey: Civic Research Institute, 1998.

Council of State Governments. *The Advocacy Handbook*. Online. Available: [http://consensusproject.org/advocacy/step1\\_3#footnotes](http://consensusproject.org/advocacy/step1_3#footnotes). Accessed: March 10, 2006.

———. *Criminal Justice/Mental Health Consensus Project*. New York, 2002. Online. Available: [http://consensusproject.org/the\\_report/downloads](http://consensusproject.org/the_report/downloads). Accessed: March 1, 2006.

———. *Program Profiles*. Online. Available: <http://consensusproject.org/programs-overview/>. Accessed: April 1, 2006.

———. Re-Entry Policy Council. *How and Why Medicaid Matters for People with Serious Mental Illness Released from Jail*. Online. Available:

- <http://www.reentrypolicy.org/rp/AGP.Net/Components/DocumentViewer/Download.aspxnz?DocumentID=1021>. Accessed: March 1, 2006.
- Cox, Judith F., Pamela C. Morschauser, Steven Banks, and James L. Stone. "A Five Year Population Study of Persons Involved in the Mental Health and Local Correctional Systems: Implications for Service Planning." *Journal of Behavioral Health Services and Research*, vol. 28, no. 2 (May 2001), pp. 177-187.
- Cox, Judith F., Steven Banks, and James L. Stone. "Counting the Mentally Ill in Jails and Prisons." *Psychiatric Services*, vol. 51, no. 4 (April 2000), p. 533. Online. Available: <http://ps.psychiatryonline.org/cgi/content/full/51/4/533>. Accessed: April 16, 2006.
- Domino, Marisa Elena, Edward C. Norton, Joseph P. Morrissey, and Neil Thakur. "Cost-Shifting to Jails after a Change to Managed Mental Health Care." *Health Services Research*, vol. 39, no. 5 (October 2004), pp. 1379-1402.
- Draine, Jeffrey, Amy Blank, Petra Kottsieper, and Phyllis Solomon. "Contrasting Jail Diversion and In-Jail Services for Mental Illness and Substance Abuse: Do they Serve the Same Clients?" *Behavioral Sciences and the Law*, vol. 23 (2005), pp. 171-181.
- Farmer v. Brennan*, 511 U.S. 825 (1994).
- Find Law. *U.S. Constitution, Fourteenth Amendment*. Online. <http://caselaw.lp.findlaw.com/data/constitution/amendment14/>, Available: April 1, 2006;
- . *U.S. Constitution, Fifth Amendment*. Online. Available: <http://caselaw.lp.findlaw.com/data/constitution/amendment05/>. Accessed: April 1, 2006.
- Fisher, William H., Ira K. Packer, Steven M. Banks, David Smith, Lorna J. Simon, and Kristen Roy-Bujnowski. "Self-Reported Lifetime Psychiatric Hospitalization Histories of Jail Detainees with Mental Disorders: Comparison with a Non-Incarcerated National Sample." *Journal of Behavioral Health Services and Research*, vol. 29, no. 4 (November 2002), pp. 458-465.
- GAINS EBP Center for Persons in the Justice System. *Integrating State MH-CJ Planning: A Time for New Initiatives*. Washington, D.C., November 12, 2004. Online. Available: <http://www.nicic.org/Misc/URLShell.aspx?SRC=Catalog&REFF=http://nicic.org/Library/020117&ID=020117&TYPE=PDF&URL=http://www.gainsctr.com/pdfs/notes/NTF1.pdf>. Accessed: March 14, 2006.

- Goss, J. Richard, Kari Peterson, Lawrence W. Smith, Kate Kalb, and Benjamin B. Brody. "Characteristics of Suicide Attempts in a Large Urban Jail System With an Established Suicide Prevention Program." *Psychiatric Services*, vol. 53, no. 5 (May 2002), pp. 574-579.
- Grob, Gerald N. "Public Policy and Mental Illnesses: Jimmy Carter's Presidential Commission on Mental Health." *The Milbank Quarterly*, vol. 83, no. 3 (2005), pp. 425-456.
- Harcourt, Bernard. "Should we Aggregate Mental Hospitalization and Prison Population Rates in Empirical Research on the Relationship Between Incarceration and Crime, Unemployment, Poverty, and other Social Indicators?" The Law School, University of Chicago, John M. Olin Law and Economics Working Paper no. 277 (2<sup>nd</sup> series), (Jan. 2006).
- Hartwell, Stephanie. "Comparison of Offenders with Mental Illness Only and Offenders with Dual Diagnoses." *Psychiatric Services*, vol. 55, no. 2 (February 2004), pp. 145-150.
- . "Triple Stigma: Persons with Mental Illness and Substance Abuse Problems in the Criminal Justice System." *Criminal Justice Policy Review*, vol. 15, no. 1 (March 2004), pp. 84-99.
- Hayes, Lindsay M. "From Chaos to Calm: One Jail System's Struggle with Suicide Prevention." *Behavioral Sciences and the Law*, vol. 15 (1997), pp. 399-413.
- . "Suicide Prevention in Correctional Facilities." In *Handbook of Correctional Mental Health*, ed. Charles L. Scott and Joan B. Gerbasi. Washington, D.C.: American Psychiatric Publishing, Inc., 2005.
- Jacobs, Carla. "History of LPS." *Reform of the Lanterman, Petris, Short Act*. Online. Available: <http://www.mirecc.org/news/lps-reform.shtml#history>. Accessed: March 1, 2006.
- Judge David L. Bazelon Center for Mental Health Law. *Finding the Key to Successful Transition from Jail to the Community*. Washington, D.C., March 2001. Online. Available: <http://www.bazelon.org/issues/criminalization/findingthekey.html>. Accessed: March 1, 2006.
- Krueger, Curtis. "Care for Mentally Ill Falls to Jails." *St. Petersburg Times* (January 2, 2006), p. 1A.
- Kupers, Terry. *Prison Madness: The Mental Health Crisis Behind Bars and what we must do about it*. San Francisco: Jossey-Bass, 1999.

- Landsberg, Gerald, Marjorie Rock, Lawrence K.W. Berg, and Amy Smiley. *Serving Mentally Ill Offenders: Challenges and Opportunities for Mental Health Professionals*. New York: Springer Publishing Company, 2002.
- Lamb, H. Richard, and Leona L. Bachrach. "Some Perspectives on Deinstitutionalization." *Psychiatric Services*, vol. 52, no. 8 (August 2001), pp. 1039-1045.
- Lamb, H. Richard, Linda E. Weinberger, and Bruce H. Goss. "Mentally Ill Persons in the Criminal Justice System: Some Perspectives." *Psychiatric Quarterly*, vol. 75, no. 2 (Summer 2004), p. 107-126.
- Lamb, H. Richard, and Linda E. Weinberger. "Persons with Severe Mental Illness in Jails and Prisons: A Review." *Psychiatric Services*, vol. 49 (April 1998), pp. 483-492. Online. Available: <http://ps.psychiatryonline.org/cgi/content/full/49/4/483>. Accessed: March 15, 2006.
- Lewis, Catherine F. "Female Offenders in Correctional Settings." In *Handbook of Correctional Mental Health*, ed. Charles L. Scott and Joan B. Gerbasi. Washington, D.C.: American Psychiatric Publishing, Inc., 2005.
- Link, Bruce G., Howard Andrews, and Francis T. Cullen. "The Violent and Illegal Behavior of Mental Patients Reconsidered." *American Sociological Review*, vol. 57, no. 3 (June 1992), pp. 275-292.
- Lipton, Liz. "Jail Programs Help Inmates Avoid Health Care Gap." *Psychiatric News*, vol. 36, no. 16 (August 17, 2001), p. 9. Online. Available: <http://pn.psychiatryonline.org/cgi/content/full/36/16/9>. Accessed: March 2, 2006.
- . "Medicaid Eligibility Termination Plagues Former Inmates." *Psychiatric News*, vol. 36, no. 17 (September 7, 2001), p. 8. Online. Available: <http://pn.psychiatryonline.org/cgi/content/full/36/17/8>. Accessed: March 2, 2006.
- Liska, Allen E., Fred E. Markowitz, Rachel Bridges Whaley, and Paul Bellair. "Modeling the Relationship Between the Criminal Justice and Mental Health Systems." *American Journal of Sociology*, vol. 104, no. 6 (May 1999), pp. 1744-1775.
- Lurigio, Arthur J. and James A. Swartz. "Changing the Contours of the Criminal Justice System to Meet the Needs of Persons with Serious Mental Illness." *Policies, Processes, and Decisions of the Criminal Justice System*, vol. 3 (2000), pp. 45-108. Online. Available: [http://www.ncjrs.gov/criminal\\_justice2000/vol3\\_2000.html](http://www.ncjrs.gov/criminal_justice2000/vol3_2000.html). Accessed: April 5, 2006.

- Marcus, Paula, and Philip Alcabes. "Characteristics of Suicides by Inmates in an Urban Jail." *Hospital and Community Psychiatry*, vol. 44, no. 3 (March 1993), pp. 256-261, as summarized in the PubMed database at: [www.ncbi.nlm.nih.gov](http://www.ncbi.nlm.nih.gov). Accessed: March 1, 2006.
- Markowitz, Fred E. "Psychiatric Hospital Capacity, Homelessness, and Crime and Arrest Rates," *Criminology*, vol. 44, no. 1 (November 2006), pp. 45-72.
- Marty, Douglas A., and Rosemary Chapin, "The Legislative Tenets of a Client's Right to Treatment in the Least Restrictive Environment and Freedom from Harm: Implications for Community Providers." *Community Mental Health Journal*, vol. 36, no. 6 (December 2000), pp. 545-556.
- Mechanic, David, and David A. Rochefort. "Deinstitutionalization: An Appraisal of Reform." *Annual Review of Sociology*, vol. 16 (1990), pp. 301-327.
- Mentally Ill Offender Treatment and Crime Reduction Act of 2004*, Public Law 108-414, 118 Stat. 2327 (October 30, 2004). Online. Available: <http://nicic.org/Library/020269>. Accessed: December 20, 2005.
- Metzner, Jeffrey L, Fred Cohen, Linda S. Grossman, and Robert M. Wettstein. "Treatment in Jails and Prisons." In *Treatment of Offenders with Mental Disorders*, ed. Robert M. Wettstein. New York: The Guilford Press, 1998.
- Mills, Mark J. "Civil Commitment of the Mentally Ill: An Overview." *Annals of the American Academy of Political and Social Science*, vol. 484 (March 1986), pp. 28-41.
- Müller-Isberner, Rüdiger, and Sheilagh Hodgins. "Evidence-Based Treatment for Mentally Disordered Offenders." In *Violence, Crime, and Mentally Disordered Offenders: Concepts and Methods for Effective Treatment and Prevention*, ed. Sheilagh Hodgins and Rüdiger Müller-Isberner. Chichester, England: John Wiley & Sons, Ltd, 2000.
- Munetz, Mark R., Thomas P. Grande, and Margaret R. Chambers. "The Incarceration of Individuals with Severe Mental Disorders." *Community Mental Health Journal*, vol. 37, no. 4 (August 2001), pp. 361-372.
- Naples, Michelle, and Henry J. Steadman. "Can Persons with Co-occurring Disorders and Violent Charges Be Successfully Diverted?" *International Journal of Forensic Mental Health*, vol. 2, no. 2 (2003), pp. 137-143.
- National Association of Counties. "Counties Call for National Commission to Study Mentally Ill in County Jails." April 6, 2006 (press release). Online. Available:

- [http://www.naco.org/Template.cfm?Section=Media\\_Center&template=/ContentManagement/ContentDisplay.cfm&ContentID=19700](http://www.naco.org/Template.cfm?Section=Media_Center&template=/ContentManagement/ContentDisplay.cfm&ContentID=19700). Accessed: May 2, 2006.
- National Commission on Correctional Health Care. *About NCCHC*. Online. Available: <http://www.ncchc.org/about/index.html>. Accessed: April 1, 2006.
- . *Homepage*. Online. Available: <http://www.ncchc.org/>. Accessed: April 1, 2006.
- . *Standards for Health Services in Jails*. 2<sup>nd</sup> ed. Chicago, 2003.
- National Institute of Mental Health. “Mental Disorders in America,” in *The Numbers Count: Mental Disorders in America*. No. 06-4584. Online. Available: <http://www.nimh.nih.gov/publicat/numbers.cfm#readNow>. Accessed: March 1, 2006.
- Palmero, George B., Maurice B. Smith, and Frank J. Liska. “Jails Versus Mental Hospitals: A Social Dilemma.” *International Journal of Offender Therapy and Comparative Criminology*, vol. 35, no. 2 (1991), pp. 97-106.
- Pallone, Nathaniel J. *Mental Disorder Among Prisoners*. New Brunswick: Transaction Publishers, 1991.
- Penrose, L.S. “Mental Disease and Crime: Outline of a Comparative Study of European Statistics.” *British Journal of Medical Psychology*, vol. 18 (1939), pp. 1-15.
- Primm, Annelle B., Fred C. Osher, and Marisela B. Gomez. “Race and Ethnicity, Mental Health Services and Cultural Competence in the Criminal Justice System: Are We Ready to Change?” *Community Mental Health Journal*, vol. 41, no. 5 (October 2005), pp. 557-569
- Rock, Marjorie. “Emerging Issues with Mentally Ill Offenders: Causes and Social Consequences.” *Administration and Policy in Mental Health*, vol. 28, no. 3 (January 2001), pp. 165-180.
- Rosenheck, Robert A., Steven Banks, John Pandiani, and Rani Hoff. “Bed Closures and Incarceration Rates among Users of Veterans Affairs Mental Health Services.” *Psychiatric Services*, vol. 51, no. 2 (October 2000), pp. 1282-1287.
- Teplin, Linda A. “The Prevalence of Severe Mental Disorder among Male Urban Jail Detainees: Comparison with the Epidemiologic Catchment Area Program.” *American Journal of Public Health*, vol. 80, no. 6 (June 1990), pp. 663-669.



- Teplin, Linda A., Karen M. Abram, and Gary M. McClelland. "Mentally Disordered Women in Jail: Who Receives Services?" *American Journal of Public Health*, vol. 87, no. 4 (April 1997), pp. 604-609.
- Texas Commission on Jail Standards. *House Bill 1 Mental Health Study*. Austin. Online. Available: <http://www.tcjs.state.tx.us/index.php?linkID=320>. Accessed: March 1, 2006.
- Theriot, Matthew T, and Steven P. Segal. "Involvement with the Criminal Justice System among New Clients at Outpatient Mental Health Agencies." *Psychiatric Services*, vol. 56, no. 2 (February 2005), pp. 179-185.
- Torrey, E. Fuller. *Out of the Shadows*. New York: John Wiley & Sons, 1997.
- Treatment Advocacy Center. *President: E. Fuller Torrey*. Online. Available: <http://www.psychlaws.org/PressRoom/Bio1.htm>. Accessed: April 17, 2006.
- Urban Justice Center. *Litigation: Mental Health*. Online. Available: <http://www.urbanjustice.org/ujc/litigation/mental.html>. Accessed: March 1, 2006
- U.S. Census Bureau. *Statistical Abstract of the United States: 2006*, Table 2, p. 8. Online. Available: <http://www.census.gov/prod/2005pubs/06statab/pop.pdf>. Accessed: March 2, 2006.
- U.S. Department of Justice, Bureau of Statistics. *Key Facts at a Glance: Correctional Populations*. Online. Available: <http://www.ojp.usdoj.gov/bjs/glance/tables/corr2tab.htm>. Accessed: February 21, 2006
- . *Key Facts at a Glance: Suicide and Homicide Rates in State Prisons and Jails*. Online. Available: <http://www.ojp.usdoj.gov/bjs/glance/tables/shipjtab.htm>. Accessed: February 21, 2006.
- . *Mental Health and Treatment of Inmates and Probationers*. By Paula M. Ditton. Washington, D.C., July 1999. Online. Available: <http://www.ojp.usdoj.gov/bjs/pub/pdf/mhtip.pdf>. Accessed: January 31, 2006.
- . *Prison and Jail Inmates at Midyear 2004*. By Paige M. Harrison and Allen J. Beck. Washington, D.C., April 2005. Online. Available: <http://www.ojp.usdoj.gov/bjs/pub/pdf/pjim04.pdf>. Accessed: March 14, 2006.
- Ventura, Lois, Charlene A. Cassel, Joseph E. Jacoby, and Bu Huang. "Case Management and Recidivism of Mentally Ill Persons Released from Jail." *Psychiatric Services*, vol. 49 (Oct 1998), pp. 1330-1337.

- Veysey, Bonita M., Henry J. Steadman, Joseph P. Morrissey, and Matthew Johnsen. "In Search of the Missing Linkages: Continuity of Care in U.S. Jails." *Behavioral Sciences and the Law*, vol. 15 (1997), pp. 383-397.
- Vitacco, Michael J., and Richard Rogers. "Assessment of Malingering in Correctional Settings." In *Handbook of Correctional Mental Health*. ed. Charles L. Scott and Joan B. Gerbasi. Washington, D.C., American Psychiatric Publishing, Inc., 2005.
- Wallenstein, Arthur. "Health Care as a Core Element in the Prisoner/Staff Safety Equation—Jails Play a Major Role that Needs Additional Consideration." Paper presented at the Commission on Safety and Abuse in America's Prisons Public Hearing #2, at Newark, NJ, July 20, 2005. Online. Available: [http://www.prisoncommission.org/statements/wallenstein\\_arthur.pdf](http://www.prisoncommission.org/statements/wallenstein_arthur.pdf). Accessed: February 20, 2005.
- Weisman, R.L., J.S. Lamberti, and N. Price. "Integrating Criminal Justice, Community Healthcare, and Support Services for Adults with Severe Mental Disorders." *Psychiatric Quarterly*, vol. 75, no. 1 (Spring 2004), pp. 71-85.

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