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The identification of mental disorders in the criminal justice system

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Although mental illness is widely recognised as a problem in modern society, it presents particular challenges for the criminal justice system. Research has shown that offenders have higher rates of mental illness than the general community. The Criminology Research Council commissioned a study to assess the level of screening and the instruments used across the jurisdictions by criminal justice agencies. Based on interviews and relevant documentation, the researchers found that, although assessment occurs in all jurisdictions and sectors, there is little consistency in the way offenders are assessed. As a result, the paper argues for a thorough, nationwide system of screening of all accused offenders taken into police custody, to identify those who require a comprehensive mental health assessment. Such assessments need to be repeated as an offender moves through the various stages of the criminal justice system. For there to be an effective and efficient response to mental illness, the authors recommend not only that assessments be shared between criminal justice agencies but also that there be ongoing dialogue between mental health and justice agencies. However, little will be achieved unless courts, police, and parole authorities are given training and resources to better meet the needs of the mentally ill. A more fundamental issue is why over-representation of the mentally ill in the criminal justice system occurs, and the authors call for further research on this key threshold issue.

Toni Makkai
Director

Prevalence rates of a wide variety of mental disorders are disproportionately high in the offender population within the criminal justice system. If the justice system provides an opportunity to identify individuals with serious mental illnesses, they may then be dealt with appropriately, either through the provision of effective treatment to them while in the justice system or by diverting them to the mental health system. Unfortunately, screening and assessment for mental illness in justice agencies across Australia is inconsistent. This report presents the findings from research, based on interviews and the examination of collateral documentation covering criminal justice agencies in each of the states and territories.

The prevalence of mental disorder in offender populations

Rates of the major mental illnesses, such as schizophrenia and depression, are between three and five times higher in offender populations than those expected in the general community. Mullen, Holmquist and Ogloff (2003) conducted an extensive review of existing Australian epidemiological data, collating datasets to arrive at composite prevalence data. They reported that 13.5 percent of male prisoners, and 20 percent of female prisoners, had reported having prior psychiatric

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admission(s). The same study found that 'up to 8% of male and 14% of females in… (Australian) prisons have a major mental disorder with psychotic features' (Mullen, Holmquist & Ogloff 2003: 17; see Table 1). In regard to schizophrenia itself, they estimated that the prevalence was between two and five percent for prisoners, and was likely to be similar for those on community orders. The Drug Use Monitoring in Australia program regularly finds high self-reported rates of mental health problems among police detainees (Mouzos, Smith & Hind 2006).

These results reinforce earlier studies of Australian custodial populations (Herrman et al. 1991) and studies in other countries such as New Zealand (Brinded et al. 2001), Canada (Ogloff 1996), Ireland (Duffy, Linehan & Kennedy 2006) and the United Kingdom (Howard & Christophersen 2003). The prevalence of mental illness is even higher in offenders remanded prior to trial.

These findings are astounding when compared with the general population, where less than one percent of adults are admitted to a hospital for mental health problems in any year (Australian Bureau of Statistics 1998), and lifetime prevalence rates for schizophrenia and psychotic disorders are 0.3 percent to one percent.

A number of contributing factors have been identified to help explain the high numbers of people with mental illnesses in the criminal justice system, including the deinstitutionalisation of mentally ill people, an increase in the use of drugs and alcohol by people with mental illnesses, and the limited capacity of community-based mental health services to address the needs of mentally ill offenders.

Of the roughly 15,000 people with major mental illnesses in Australian institutions during 2001, around one-third were in prisons (Figure 1). Thus, if there is to be an effective system of mental health care, it is critical that there is systematic assessment leading to appropriate treatment in the criminal justice system. The justice system also provides an opportunity to identify and deliver treatment to people who are otherwise likely to remain outside the reach of services. In particular, the justice system is a key avenue for delivering the specialised assessment and treatment services required by those with concurrent mental disorders and substance abuse (Ogloff, Lemphers & Dwyer 2004).

Unfortunately, research shows that a relatively poor job is done of adequately identifying the needs of mentally disordered offenders prior to the time they enter the criminal justice system. Studies in New Zealand and the United Kingdom (Brinded et al. 2001; Simpson et al. 1999) show alarming proportions of prisoners with psychotic illnesses who were not being treated prior to committing offences.

Table 1: Comparison of prevalence rates for schizophrenia and psychotic disorders in prisons (percent)

Country/study	Male	Female	Total
Worldwide[a]	4	4	4
Australia (schizophrenia)[b]	–	–	2–5
Australia (psychotic, including schizophrenia)[b]	8	14	–
New Zealand (in last month)[c]	2–3	4	–
Canada (pre-trial)[c]	–	–	5
General population (lifetime)[d]	–	–	0–1

Sources: a: Fazel & Danesh 2002; b: Mullen, Holmquist & Ogloff 2003; c: Roesch 1995; d: Ogloff 2002

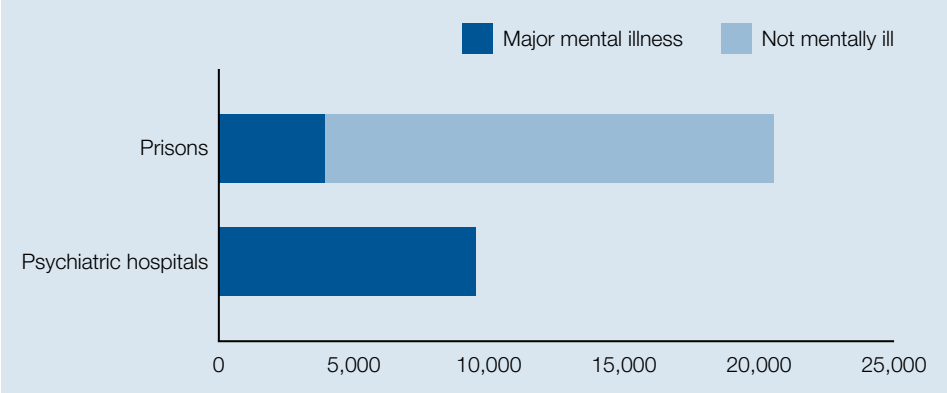
Assessment of mental disorder in the justice system

The increased prevalence of mental disorder in the criminal justice system indicates that identifying such disorders is of paramount importance. Nonetheless, it is not possible to conduct a comprehensive mental health assessment of every person who comes into contact with the police, the courts or the correctional system. Screening is thus vital to identify those who do require a comprehensive evaluation. The aims of screening are to identify mentally disordered offenders and provide necessary treatment, prevent violent and disruptive incidents in institutions, allocate resources to those with the greatest or most immediate need, and reduce the cycle of admissions to the criminal justice system. Screening processes should aim to minimise the number of false negatives (failing to identify an actually mentally disordered person), even at the expense of making false positives (those identified as possibly being mentally disordered who are not).

Formal, structured methods for screening are likely to be more accurate than those based upon unstructured opinion. Indeed, despite the reticence of decision makers to use formal instruments, there are over 50 years of research indicating their superiority across a wide range of predictive tasks. Several formal screening tools have been developed for identifying mentally disordered offenders. The best known include the Referral Decision Scale (Teplin & Swartz 1989), the Brief Jail Mental Health Screen (Steadman et al. 2005) and the Jail Screening Assessment Tool (Nicholls et al. 2005). Validation data for all three tools are promising.

In regard to the identification of mental disorder within the Australian criminal justice system, the experience of the research team conducting interviews

Figure 1: Comparison of mentally ill prisoners and patients in psychiatric hospitals in Australia



Source: Ogloff 2002

across the country was powerful. At virtually every meeting, many participants – drawn from police forces, corrections, courts, mental health services, and forensic mental health services – were meeting one another for the first time, indicating the general disconnect between the various services in many jurisdictions. Further, it was clear that substantial difficulty is experienced by services outside the capital cities in each jurisdiction.

Assessment and screening by police

Police services are generally the first point of contact with the criminal justice system for most people, and police officers have essentially four choices when they are faced with an individual who is behaving irrationally. They can attempt to informally resolve the issue, contact a crisis team, take the person to a hospital, or arrest them. The increased prevalence of mental disorder in gaols suggests that, at least in the past, arrest has been the predominant option. Furthermore, police have traditionally viewed their interactions with mentally ill people as a problematic and undesirable part of their duties. Accordingly, several models have been developed for policing those with mental health issues. These include various combinations of police officer training and the involvement of mental health clinicians, and each proposed model has its advantages and disadvantages. To date, there has been little testing or validation of such approaches in the Australian context, and the resource implications for police are not well understood (Australasian Centre for Policing Research 2006).

Despite mental illness being a health issue, Australian police agencies are left in the unenviable position of often being the first point of contact with mentally disordered individuals. This is particularly so after hours. There was considerable heterogeneity in screening practices across Australian police services. Each service acknowledged the increased need for training of officers in this area. No jurisdictions have structured screening devices for identifying individuals likely to have a mental disorder at the time of initial contact. Nonetheless, identification and screening for mental disorder generally takes place in the watchhouse. In some jurisdictions, nurses conduct the screening and in others this is performed by police officers. Generally, there is liaison with health staff where appropriate, especially in the major cities. Some jurisdictions have no formal screening process. Communication of mental disorder information between health and correctional services agencies appears to be frustrating, with more restrictions seemingly placed on police gaining information than providing it.

Assessment and screening at court

Formalised court liaison programs/services appear to exist in most Australian states – to a greater or lesser extent. Some services are particularly well developed and staffed. Such services appear to be an integral part of the court system with services expanding with the target groups they serve. These services are usually provided by forensic mental health agencies and are predominantly staffed by psychiatric nurses, though psychologists are sometimes employed. Such services show great promise for identifying individuals before the courts who are mentally ill or who require services.

Assessment and screening in corrections

Unsurprisingly, screening is most extensive within the incarcerated population in remand centres. In most jurisdictions, mental health screening forms part of a larger health screening and is usually completed by general nurses. There is considerable heterogeneity in approach. Systematic screening tools specifically developed for mental illness screening were employed in a minority of jurisdictions. Such tools take approximately 20 minutes to administer. No jurisdictions have any formal ongoing assessment or screening service that monitors prisoners' mental health status following admission to the correctional facility. Nonetheless, several jurisdictions conduct reassessments as required and suicide risk assessment is understandably a key focus.

Many Australian community corrections services employ the services of officers with post-secondary education who are expected to identify the mental health concerns of the offenders they are

supervising. Forensic mental health services are also utilised in virtually all of the states to work with community corrections, but to varying capacities.

Juvenile justice services appear to have a greater focus on detailed assessments of health in general, including mental health issues. Formal screening tools are not prevalent, although this appears to be due to the greater focus on clinical assessment.

Providing mental health screening and assessment in the criminal justice system

While the use of formal screening tools appears to be the exception rather than the rule in the Australian criminal justice system, the dominant view in the literature is that they provide the most appropriate approach to the task. The study examined the resource implications of applying on a national basis two of the screening and assessment approaches currently used in Victoria. These were the screening processes used within Victorian police lockups by custodial nurses (Model 1) and that used by psychiatric nurses from the Victorian Institute of Forensic Mental Health (Forensicare) for Corrections Victoria at the Melbourne Assessment Prison (Model 2). It should be noted that the Forensicare tool was based upon the gold standard identified in the literature review – the Jail Screening Assessment Tool (Ogloff et al. 2006). It takes roughly the same amount of time to complete (20 minutes on average). Thus, the fiscal analysis for the Forensicare tool would also apply to implementation of the JSAT. The measure used in Victorian police lockups includes both physical and mental health components. The mental health components are also very similar to the JSAT (although briefer and with no Brief Psychiatric Rating Scale which forms part of the JSAT). The time it takes to complete the mental health section is approximately 10 minutes in addition to a general health screening that takes place during the same process.

The analysis of the costs of rolling out Model 2 began by estimating the number of people admitted per day for mental health assessment in assessment prisons. Using the number of prisoner admissions per day in Victoria as a starting point, this was scaled up to take account of the differences in the total population and imprisonment rates in each state and territory (full details of this methodology can be found in the report to the Criminology Research Council). This yielded an estimate of 106 people per day being admitted to prison and requiring a mental health assessment (Table 2).

The costs of providing assessments to this number of prisoner admissions is calculated based on the average time required for screening assessments at the Melbourne Assessment Prison (approximately 20 minutes). This would mean that roughly 15 admissions could be processed per day by a registered psychiatric nurse (RPN-2). This calculation allows for time to attend meetings, wait for prisoners, etc. The annual cost of screening is calculated by applying a midrange hourly rate for this kind of position of $24.37 per hour. Note that the annual costs are given in thousands of dollars.

The same methodology can be used to estimate the demand for screening in police lockups (Table 3). In this case, the starting point is the demand estimate for Victoria (established through discussions with Victoria Police) of 7.8 persons admitted each day who require mental health screening. Again, this has been scaled up, allowing for differences between Victoria's population and imprisonment rate and the populations and imprisonment rates in other states and territories.

There are two assumptions that underpin both these cost models. The first is that rates of mental illness in arrestee populations are constant across jurisdictions. The calculations would need to vary should evidence suggest otherwise. The costs shown are scaled on the Victorian costs; however, in institutions with too few assessments to employ mental health screeners on a full time or casual basis, the individual costs of screening would be greater.

Table 2: State/territory and national estimates for mental health assessment demand and costs in assessment prisons

	NSW	Vic	SA	Qld	Tas	WA	NT	ACT	Australia
Daily number of prisoners requiring assessment	41	15	7	22	2	14	3	2	106
Nursing staff time required (hours per day)	14	5	2	7	1	5	1	1	36
Annual cost of screening ($'000)	103	38	17	55	5	35	8	6	267

Note: figures have been rounded, so totals may differ from those in the source

Source: Ogloff et al. 2006

Table 3: State/territory and national estimates for mental health assessment demand in police lockups

	NSW	Vic	SA	Qld	Tas	WA	NT	ACT	Australia
Daily number of admissions to police lock-ups requiring assessment	21	8	3	11	1	7	2	1	54

Note: figures have been rounded, so may differ from those in the source

Source: Ogloff et al. 2006

Recommendations Based on this research, 10 recommendations were made to improve the coverage and quality of screening for mental illnesses in the Australian criminal justice system.

1. Continued attention is required to be focused on understanding the reasons for the disproportionate prevalence of mentally ill people in the criminal justice system. The main report should be referred to the national conferences of the following relevant agency heads for consideration and action: Police Senior Officers' Group, Court Administrators and Corrections Administrators (including Juvenile Justice Administrators).
2. At present, screening for mental illness occurs at a number of points in the criminal justice system. However, information collected at one point in the system is not always made available to staff at a later stage. Systems should be developed within jurisdictions for routine data sharing between criminal justice agencies on individuals' suspected or diagnosed mental illnesses. This may require legislative reform as well as operational changes.
3. Police are often the first point of contact for mentally ill people entering the criminal justice system. Police require adequate training to assist them in determining, in the first instance, whether an individual may be mentally disordered.
4. All accused being taken into police custody following arrest should undergo a mental health screen. Where possible and feasible such screening should be conducted by a nurse or mental health professional using a structured and standardised approach, such as the Jail Screening Assessment Tool. Where it is not possible for practical reasons to routinely screen all people in these circumstances, alternative mechanisms should be put in place. Such mechanisms could include screening by police, using measures that do not require administration by a health professional, or it may be possible to have mental health staff from agencies such as forensic mental health services conduct screenings on an as-needs basis.
5. Court liaison programs have met with considerable success and support, and should be developed further. In these programs, mental health professionals (e.g. psychiatric nurses or psychologists) assist the courts by conducting assessments, obtaining information about prior contact with mental health services, and connecting those people with mental illnesses coming before the courts with mental health services.
6. When remanded into custody, or when sentenced, all accused and offenders (including adolescents) should be screened for mental illness by a mental health professional (e.g. psychiatric nurse). This is necessary given the prevalence of mentally ill people entering the prisons and the concomitant concerns they raise. Good practice suggests that systematic, standardised measures such as the Jail Screening Assessment Tool, rather than informal clinical judgment should be employed. As with admission to police lockups, where such screening cannot practicably be conducted by a mental health professional, alternative mechanisms should be put into place.
7. Following reception into custody, there should be ongoing assessment to monitor prisoners' mental health status. This should be done over time, based on self-referrals and referrals by those in the prison system (e.g. prison officers, health staff, chaplains). Prisoners also need to be re-screened and reassessed upon transfer between institutions and following major legal events (i.e. completion of trial, sentence).
8. Given that relapses in mental illnesses can ultimately contribute to reoffending, information about an offender's mental health needs should be shared with parole authorities so that appropriate conditions may be attached to parole to help ensure that offenders receive mental health services when released from custody.
9. Research is required in Australia to explore the validity of screening tools that are administered by justice staff rather than mental health professionals.
10. Given the significant concerns and difficulties that were identified nationwide regarding the prevalence of mentally ill people in the justice system, and the relative dearth of services available to them, ongoing dialogue would be beneficial between mental health and justice agencies to identify issues and develop solutions.

Acknowledgment

This research was conducted as a Criminology Research Council consultancy. The full report, *The identification of mental disorders in the criminal justice system: report to the Criminology Research Council* is available at http://www.aic.gov.au/crc/reports/2006-ogloff.html

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Further information about health issues in corrections is available on the AIC website at **http://www.aic.gov.au/research/corrections/health.html** and on the (US) National Criminal Justice Reference Service website topic page: **http://www.ncjrs.gov/App/Topics/Topic.aspx?topicid=15**

Government agencies providing mental health services in the justice system include

- Forensicare (Victoria): **http://www.forensicare.vic.gov.au/website.nsf/web/PrisonMentalHealthServices.html**
- State Forensic Mental Health Service (WA): **http://www.mental.health.wa.gov.au/one/sfmhs.asp**
- Forensic Mental Health (NSW): **http://www.mental.health.wa.gov.au/one/sfmhs.asp**
- In Tasmania: **http://www.dhhs.tas.gov.au/agency/pro/correctionalhealth/mentaloffenders/index.php**

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