



PERSONS WITH MENTAL ILLNESS IN THE CRIMINAL JUSTICE SYSTEM - THE CHALLENGE AND COLORADO'S RESPONSE

by Sara McPhee

Offenders with mental illness present today's greatest challenge to criminal justice and mental health professionals. Mental illness is an alteration of thought, mood, or behavior, or any combination thereof, that interferes with some aspect of social functioning. According to data from the Bureau of Justice Statistics, the rate of diagnosed mental illnesses in the nation's jails and prisons is about 35 percent. Additional findings from the data provide insight to some of the challenges to serving this population for correctional facilities.

- Inmates with a diagnosed mental illness are more likely to be incarcerated for violent crimes than those without a mental illness.
- Prisoners with mental illness, on average, are arrested more often than those without a mental illness.
- Prisoners with mental illness are more likely to have used drugs habitually than those without mental illness.¹

Colorado is not immune from the nationwide trend. According to the Department of Corrections, 23 percent of inmates have moderate to severe mental health needs and an additional 41 percent have mild

mental health needs. This leaves only 36 percent of inmates with no known mental health condition. These numbers also may be on the rise. The Division of Youth Corrections estimates that 46 percent of the youths in its custody have moderate to severe mental health needs.

This *Issue Brief* describes the impact of persons with mental illness on the justice system, and discusses Colorado's response to this challenge in recent years.

The Challenge

The emphasis of mental health systems has shifted over the last 35 years from institutionalizing people with mental illness to providing community-based services. While millions of people with mental illness have successfully integrated into their communities, many others have had difficulty accessing mental health services. Increasingly, these individuals are finding their way into the criminal justice system. In fact, a large number of individuals with mental illness in state prisons, and particularly those in county jails, are there because they displayed in public the symptoms of untreated mental illness. Criminal justice systems are ill-equipped to provide the comprehensive array of mental health services these individuals need. Consequently, their mental illness deteriorates further, they present behavior problems, and they incur disciplinary infractions which prolong their involvement in the criminal justice system.

¹Legislative Council Staff analysis of the Survey of Inmates in State and Federal Correctional Facilities, 2004.

Colorado's Legislative Response

For the past decade, the state legislature has been actively investigating the myriad needs of persons with mental illness in the criminal justice system through a legislative oversight committee and task force established to advise the committee. Created in 1999 by the General Assembly, the task force has 30 members, growing from an initial membership of 19, representing state and private mental health agencies, law enforcement, the defense bar, the courts, and consumers of mental health services who have been involved in the criminal justice system.

The task force has been charged by the legislature with discussing and proposing legislation, or fostering non-legislative solutions, regarding treatment and services for persons with mental illness, sentencing laws, and training for criminal justice professionals. The task force communicates its findings and recommendations to the oversight committee on an annual basis. Since its creation, the task force has looked at a range of issues and has had several successful legislative proposals, such as:

- developing a process to determine mental competency for juveniles and the procedures for raising the issue of competency at trial;
- requiring health benefit plans that cover mental health services to cover services that are mandated by the court;
- creating the Competency Evaluation Advisory Board, which recommends standards regarding the level of education and experience a psychiatrist or psychologist must have to perform competency evaluations; and
- creating family advocate demonstration programs to provide assistance to youths with mental illnesses.

For the 2009 legislative session, the task force is recommending, to the legislative oversight committee,

several legislative proposals focusing on providing grants for recidivism reduction programs and encouraging local governments to amend zoning laws to build transitional housing facilities. Additionally, the task force is recommending legislation to create a mobile ID unit for offenders in county jails to receive a state identification card upon release. For more detail about the work of the oversight committee and task force, visit the website.

http://www.state.co.us/gov_dir/leg_dir/lcsstaff/2008/comsched/08MICJSsched.htm

Promising Practices

In tandem with legislative initiatives, state and local government agencies have engaged in a variety of innovative and promising practices to help better serve those with mental illness who are involved in the criminal justice system. These programs employ a number of mechanisms, including intensive treatment programs, transition strategies, and alternative sentencing methods. Examples of innovative and promising programs to help individuals with mental illness who are involved in the criminal justice system are provided below.

Intensive treatment programs. Residential programs that combine treatment for mental health and substance abuse issues provide individuals with access to the services they need. In Denver, the Haven serves women with serious substance abuse problems and co-occurring disorders in lieu of incarceration. Women are referred to the program both from the criminal justice system and from the community. After completing a 21- to 24- month residential and outpatient program, 90 percent of graduates of the Haven program are substance free and have not re-offended after two additional years.

Transition strategies. A persistent problem for policy makers is the high recidivism rates for individuals with mental illness. Programs like the John Eachon Re-entry Program try to help individuals re-enter the community and decrease recidivism rates.

The program, operated in Jefferson County, provides offenders with access to community-based therapeutic services, medication, and collaborative case management. Since its inception, individuals who have participated in the program have been successfully reintegrated into the community by becoming employed, finding independent housing, and returning to school.

Alternative sentencing methods. Channeling non-violent offenders into alternative sentencing programs may help to reduce recidivism and provide individuals with mental health problems with access to the services they require. One mechanism for achieving this is a mental health court. The 18th judicial district is one of more than 150 jurisdictions across the nation creating a mental health court that would provide treatment options for individuals with mental health problems rather than incarceration. Established mental health courts have been found to improve the quality of life for individuals with mental illness who have been charged with crimes by increasing access to mental health treatment.