



Diverting the Mentally Ill from Jail

Pretrial Justice Institute

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July 2009 National Association of Counties Annual Conference

Pretrial Justice Institute

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- Started in 1977 as the nation's only non-profit dedicated to supporting pretrial justice
- Mission is to advocate for fair and effective pretrial practices that eliminate inappropriate detention, optimize diversion from prosecution, and maintain community safety



What is the problem?

- June 2009 study showed 14.5% of men and 31% of women admitted to jail have a serious mental illness.
 - <http://psychservices.psychiatryonline.org/cgi/content/abstract/60/6/761> (Steadman and colleagues)
 - Up from 8% in 2007
- Between 12 and 13 million annual bookings.
- Nearly three quarters of those with mental illness have co-occurring substance use disorders.
 - Abram & Teplin, American Psychologist, 46. 1991

Why it matters?



- People with mental illness are more likely:
 - To be arrested
 - To be detained because they cannot post even very low bail
 - To be charged with more serious crimes
 - To have stiffer penalties imposed
 - To spend 2-5x longer in jail (and require more health services)
 - To be involved in more fights, infractions and sanctions.
 - Massaro, J. 2005. Overview of the mental health service system for criminal justice professionals.

Fundamental Principle of Diversion



- The rights of the individuals must always be respected.
- Treatment as the least restrictive alternative .
- Goal is to reduce or eliminate the amount of time an individual is incarcerated *but also* to increase the level of community supervision to reduce crime.
- This is not about absolving people of their responsibility for criminal behavior.

Sequential Intercept Model

- Developed by Mark R. Munetz, MD and Patricia A. Griffin, PhD
- Framework to organize strategies
- Action for System-Level Change
- 5 Intercept points
 - ▣ Law Enforcement (pre-booking, instead of arrest/filing of charges; CIT Model -Memphis)
 - ▣ Pretrial
 - ▣ Jail/Courts
 - ▣ Reentry
 - ▣ Community Corrections
- Action Steps for Service-Level Change at Each Intercept

Definition of Jail Diversion



- Programs that divert individuals with serious mental illness (and often co-occurring substance use disorders) away from jail and provide linkages to community-based treatment and support services.
- Focus on avoiding incarceration, not avoiding punishment, if appropriate.
- Programs are meant to bridge a gap and provide coordination between the criminal justice system and community-based mental health services.
- It is **NOT** the provision of mental health services or transition services.

Post-Booking Diversion

- Opportunities include:
 - ▣ At or immediately after booking into jail, before the formal filing of charges by prosecutors
 - ▣ Release from pretrial detention, with the condition of participation in treatment
 - ▣ Prior to disposition, for example, upon the prosecutor's offer of deferred prosecution
 - ▣ At disposition or sentencing
- Mental Health Courts
 - ▣ Not necessary to *have* in order to *do*

Key Jail Diversion Program Activities



- Defining a target group for diversion
- Identifying individuals as early as possible in their processing by the justice system
- Negotiating community-based treatment alternatives to incarceration, and
- Implementing linkages to comprehensive systems of care and appropriate community supervision consistent with the disposition of the criminal justice contact.

Key Features for a Successful Jail Diversion Program (National GAINS Center)

- Interagency collaboration
 - ▣ Service integration at the community level, including involvement of social services, housing, mental health, health, local corrections (institutional and community), criminal justice and substance abuse agencies.
- Active involvement
 - ▣ Regular meetings for service coordination and information sharing and the establishment of written Memoranda of Understanding (MOUs).
- “Boundary-spanner”
 - ▣ Staff who bridge the mental health, criminal justice, and substance abuse systems and manage cross-system staff interactions.

Key Features for a Successful Jail Diversion Program (National GAINS Center)

□ Leadership

- ▣ A strong leader to network and coordinate.

□ Early identification

- ▣ Individuals should be screened, at the earliest point possible, for mental health treatment needs and to determine whether they meet the criteria for diversion.

□ Cross-trained case managers

- ▣ Case managers should have adequate knowledge and experience with mental health and criminal justice systems.

What is the role of Pretrial Services?

- Conduct screening at the front door
 - ▣ Identify those with potential mental health issues that would affect appearance in court and public safety
 - ▣ Brief Jail Mental Health Screen (“short form”)
 - ▣ Policy Research Associates, Inc., 2005
 - ▣ 8 questions; use results to determine if refer for an assessment
- Provide options to the court, at the bail setting hearing
 - ▣ Use outcome of “real” assessment + options for pretrial release
 - ▣ Reduce recidivism – serving time in any facility increases criminal offending in the future, and can make existing mental health issues worse

What is the role of Pretrial Services?



- Coordinate the availability of mental health resources (and housing, employment, etc.)
- Assistance in complying with imposed conditions

- Exercising patience and perseverance

Does jail diversion “work”? Yes.



- Reduces time spent in jail
- Does not increase public safety risk
 - ▣ Comparable rearrest rates to those processed traditionally
- Links those diverted to community-based services
 - ▣ Quality varies significantly
- Lower criminal justice costs but greater treatment costs in the short-term
 - ▣ Initial cost shifting, reductions within 3-5 years

Funding Options



- What are you trying to fund?
 - ▣ Typically labor
 - ▣ Maybe increasing community-based treatment services capacity
- Federal
 - ▣ Bureau of Justice Assistance (BJA)
 - Mental Health Courts, JAG/Pretrial Services, Justice and Mental Health Collaboration Program
 - ▣ Substance Abuse and Mental Health Services Administration/Center for Substance Abuse Treatment
 - Co-occurring/offender reentry

Funding Options



- State
 - Governors' Offices
 - State Administering Agencies
 - State Mental Health Commissioners
- County
 - Cobble together parts of an FTE from several stakeholder agencies to create a local coordinator
- Private Funding
 - The Foundation Center
 - Local Chamber of Commerce

What should you know before you ask for money (of others or yourself)?

- Percent of people in your jurisdiction with mental illness
- Percent of average jail population with mental illness
- Rate of recidivism of defendants with mental illness
- Average length of stay of mentally ill versus general defendants/inmates
- Average cost per day for mentally ill versus general defendants/inmates
- Number of people with mental illness killed during encounters with police or in jail (suicide)

Important & Useful Resources

- ❑ The CMHS National GAINS Center/SAMHSA
- ❑ The Council for State Governments
 - ❑ The Criminal Justice/Mental Health Consensus Project
 - ❑ Justice and Mental Health Collaboration Program
- ❑ Pretrial Justice Institute
 - ❑ <http://www.pretrial.org/SpecialTopics/Pages/MentalHealth.aspx/>
 - ❑ <http://www.pretrial.org/DiversionPrograms/Pages/default.aspx/>
- ❑ National Association of Pretrial Services Agencies
 - ❑ Diversion Standards, Diversion Program Checklist
 - ❑ Forthcoming
 - ❑ Monograph on Diversion Best Practices
 - ❑ Survey of Diversion Programs
- ❑ Jail Diversion Cost Simulation Model
 - ❑ Human Services Research Institute