



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

by Jennifer Moe

Persons with mental illness who are in the criminal justice system 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 the Criminal Justice/Mental Health Consensus Project, the rates of serious mental illness among the people booked into U.S. jails each year are at least three to four times higher than the rates of serious mental illness in the general population.¹ National and state statistics are consistent with the project's findings.

- The U.S. Department of Justice reported in 1999 that nearly 16 percent of the nation's prison and jail inmates were diagnosed with serious mental illness. About five percent of the U.S. population has a serious mental illness.
- In Colorado, the Department of Corrections (DOC) estimates that 16 percent of its population meets the diagnostic criteria for major mental illness.
- The Colorado Division of Youth Corrections estimates that 24 percent of juveniles in the juvenile justice system are diagnosed with serious mental illness.

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.²

Colorado's Challenge and Response

In November 1998, the DOC reported that ten percent of its correctional population had serious mental illness. That number was double the percentage identified in 1995 and was nearly six times the percentage reported in 1988. In response, the Joint Budget Committee asked the DOC to study the characteristics of inmates with serious mental illness and the factors explaining the increase, and to submit recommendations to address the problem.

¹ Mental illness manifests itself along a continuum of varying severity with each disorder. Nevertheless, "serious mental illness" commonly refers to various disorders with a low level of severity. "Severe mental illness" and "severe and persistent mental illness" refer to disorders that more profoundly impair a person's functioning.

² The information in this section is from the report *Criminal Justice/Mental Health Consensus Project*, published June 2002, coordinated by The Council of State Governments.

The resulting report was published in February 1999. The study found inconsistent diagnoses across systems that lead to inconsistent treatment, and a lack of interagency collaboration to address the problem of mental illness. It also found there were missed opportunities for mental health and criminal justice agencies to treat mental health issues prior to imprisonment. The report concluded that with changes to programs and policies, offenders with mental illness could be better served without being incarcerated or compromising public safety. The report further recommended cross-system collaboration and communication to decrease the number of offenses committed by people with serious mental illness.

Interim committee and task force. *House Joint Resolution 99-1042* created a Legislative Oversight Committee and Advisory Task Force to study the treatment of persons with mental illness in the criminal justice system. The Task Force was comprised of 19 members 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.

After their initial study during the summer of 1999, the Oversight Committee and Task Force discovered that the issues they were considering presented a greater challenge to the criminal justice and mental health systems than originally anticipated. They determined that a long-term study would be necessary to understand the depths of these issues and to adequately address them. In the meantime, they proposed legislation for intensive treatment management programs, standardized screening, and the resumption of benefits upon release from incarceration.

House Bill 00-1033 continued the Oversight Committee and Task Force through July 1, 2003. The bill also increased the Task Force membership from 19 to 27 members to take advantage of additional expertise and to foster interagency collaboration. The new Task Force discussed, proposed legislation, or fostered non-legislative solutions regarding:

- treatment, services, and supervision for persons with mental illness who come in contact with the justice system;
- sentencing law related to mental illness; and

- training to help criminal justice professionals work more effectively with persons with mental illness.

The General Assembly considered *House Bill 03-1030* to again reauthorize the Oversight Committee and the Task Force. The bill was lost in the House, and the Legislative Oversight Committee and Task Force were repealed. Before the repeal, the Oversight Committee met to determine the future of the groups' efforts. The committee directed the Task Force to continue its monthly meeting schedule in order to develop a five-year work plan and draft new legislation.

The resulting legislation, *Senate Bill 04-037*, reauthorizes the Legislative Oversight Committee and reestablishes a 29-member Task Force through July 1, 2010. The Task Force is charged with examining the identification, diagnosis, and treatment of persons with mental illness who are involved in the state criminal and juvenile justice systems. The Task Force is further charged with considering related issues of liability, safety, and cost. The bill outlines a five-year plan with specific issues to be addressed by the Task Force. The Task Force must communicate its findings and recommendations to the Oversight Committee on an annual basis. During the next year, the Task Force will focus its attention on juveniles in the justice system who have mental illness, studying the following before July 1, 2005:

- diagnosis, treatment, and housing of juveniles with mental illness who are involved in the criminal justice system or the juvenile justice system; and
- adoption of a common framework for effectively addressing the mental health issues of these juveniles, including competency and the co-occurring disorders of mental illness and substance abuse.

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/2004/comsched/04MICJSsched.htm