

The Criminal Justice System and Mental Health

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December 2014 (Updated March 2015)
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Executive Summary

The U.S. criminal justice system encompasses various processes such as apprehension, prosecution, sentencing, and corrections and strives to ensure the safety of all individuals in the community, including those with mental illness. The prevalence of individuals with mental illness who are currently held within jails, prisons, or other correctional facilities is increasing. Yet, despite the significant number of individuals with mental illness who interact with the criminal justice system, especially as inmates, there remains a lack of available mental health services for those in need across all relevant settings, from the community to jails and prisons.

This report examines many aspects of the criminal justice system in relation to mental health, with specific focus on mental health services in the criminal justice system in general and the criminal justice system in relation to mental health in Florida. Some of the major findings in this report include:

- Mental illness is a widespread issue in the U.S. According to the Substance Abuse and Mental Health Services Administration, approximately 18.5% of adults in the U.S. currently experience any mental illness and 4.2% experience serious mental illness. However, there remains a significant deficiency in mental health treatment.
- The prevalence of individuals with mental illness who are involved with the criminal justice system is also significant, with research indicating that over half of all jail and prison inmates have a mental health problem. The number of inmates with mental illness and the severity of these illnesses are on the rise. Yet, most individuals in the criminal justice system with mental health issues do not receive treatment.
- There are several complications surrounding the way the criminal justice system handles mental health issues, including: a critical lack of funding for mental health services in general; a shortage of available, appropriate mental health services due to the sustained closure of psychiatric hospitals in combination with the inadequate supply of community-based mental health services; a deficiency of accurate data on the existing conditions within the criminal justice system in relation to mental health needs and services; insufficient training for law enforcement personnel in regard to appropriately handling situations involving individuals with mental illness; inadequate screenings and data management systems for inmate mental health; medication discontinuity for inmates with mental illness who were treated prior to incarceration; a shortage of trained mental health staff and treatment options in correctional facilities; stressful conditions in correctional facilities (e.g., the presence of violent/dangerous offenders and tight and overcrowded quarters); the utilization of solitary confinement; increased risk of violence, brutality, and sexual abuse for inmates with mental health issues; increased lengths of stay for inmates with mental illness; lack of follow-up treatment once inmates are released from jail or prison, which contributes to repeated incarceration; substantial societal costs; fragmentation of mental health service delivery; and stigmatization of individuals with mental illness (e.g., increased arrests of individuals with mental illness perpetuates the harmful perception that those with mental illness are more prone to being dangerous; although untreated serious mental illness is associated with a higher rate of violence, mental illness more generally is not associated with a significantly greater risk of violence).

- The current state of the criminal justice system in relation to mental health stems from various historical movements/occurrences such as the deinstitutionalization movement and subsequent lack of investment in community-based mental health services, the criminalization of drug offenses, and the evolution of civil commitment laws.
- There have been several evidence-based changes in the services related to the criminal justice system and mental health, including: modified/increased mental health training for law enforcement personnel; continuous advancement of screening services upon intake into jails and prisons; and growth in community-based services to prevent/divert individuals from interacting frequently and intensively with the criminal justice system (e.g., crisis intervention teams, problem-solving courts, and re-entry services).
- Recent legislation that has supported improvements in the criminal justice system in relation to mental health include the Affordable Care Act of 2010, which expands coverage for populations prone to mental health issues, and various state laws that address law enforcement, the courts, incarceration, probation and parole, and juvenile justice. Such policy/legislative changes have been encouraged by the revelation of dangerous conditions for individuals with mental illness within the criminal justice system and the enormous costs of incarcerating individuals with mental illness.
- Florida has one of the largest populations of incarcerated individuals in the U.S., and many of these individuals have mental health issues, which the jails and prisons do not have the resources to meet. This state has also been burdened by an urgent need for more inpatient psychiatric and state forensic mental health beds. Essentially, Florida's criminal justice system has been forced to house and treat an expanding number of individuals who are unable to receive the necessary mental health care in the community, making it a safety net for the public mental health system.
- Florida is working to redirect dollars from the overburdened criminal justice system into mental health and substance abuse services to help divert individuals with mental health issues from the criminal justice system. The Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant program provides matching grants to counties for crisis intervention teams, mental health courts, and other programs to reduce the criminalization of people with mental illness.
- Analyses of other nations' criminal justice systems can provide helpful insights into potential improvements for the U.S.'s system, especially those nations that have protected public safety without high rates of incarceration. These evaluations have produced many suggestions for reform, including: shifting the philosophy of policing to being centered on the overall well-being of the community; using day fines instead of incarceration; providing more treatment of individuals outside of the criminal justice system; decreasing sentence lengths, especially for drug offenses; making parole about providing services and not just supervision; and including a mental health component to re-entry services.
- Changes in the criminal justice system in relation to mental health are critical to allow for a more successful and ethical system of services for persons with mental illness.

Section 1. Introduction

The U.S. criminal justice system has been established to maintain social standards, deter criminal activity, and enforce penalties on those who violate laws. This system thus encompasses various processes such as apprehension, prosecution, sentencing, and corrections. The criminal justice systems strives to ensure the safety of all individuals in the community, including those with mental illness. Individuals with mental illness who are in distress and/or are displaying criminal behavior typically initially interact with this system through the police, or law enforcement personnel. These individuals may then continue to engage with this system if subsequent arrests and convictions are made and punishments are assigned. The prevalence of individuals with mental illness who are currently held within jails, prisons, or other correctional facilities is increasing. This occurrence has major social and economic implications that range from the manner in which individuals with mental illness are treated in the criminal justice system to the mental health care policies and costs that are associated with managing these individuals.

Despite the significant number of individuals with mental illness who interact with the criminal justice system, especially as inmates, there remains a lack of available mental health services for those in need across all relevant settings, from the community to jails and prisons. Policy/practice reform to prevent the continuous incidence of the incarceration of individuals with mental illness and to improve the conditions in the already strained criminal justice system are also insufficient. Critical attention is needed to guarantee an ethical, safe, and efficient criminal justice system that is well-equipped to handle the needs and challenges of individuals with mental illness.

Section 2. A National Perspective on the Criminal Justice System and Mental Health

Mental illness is a widespread condition in the U.S. According to a recent report by the Substance Abuse and Mental Health Services Administration (SAMHSA) (2014),¹ in 2013, approximately 43.8 million adults aged 18 or older in the U.S., 18.5% of all adults in this country, had any mental illness (AMI) in the past year. The report also reveals that in this same year, approximately 10.0 million adults aged 18 or older in the U.S., 4.2% of all adults in this country, had serious mental illness (SMI).² Despite the prevalence of mental illness, there remains a significant deficiency in mental health treatment. Only 19.6 million, 44.7%, of the individuals with AMI and 6.9 million, 68.5%, of the individuals with SMI, in 2013, received mental health services in the past year.³ Furthermore, there were 11.0 million adults aged 18 or older, 4.6% of all adults, who perceived an unmet need for mental health care; 5.1 million of these adults did not receive any mental health services in the past year.⁴

Among the 5.1 million adults aged 18 or older in 2013 who had a perceived unmet need for mental health care and did not receive mental health services in the past year, several reasons were reported for not receiving mental health services. These

¹ Substance Abuse and Mental Health Services Administration. (2014). *Results from the 2013 National Survey on Drug Use and Health: Mental health findings*, NSDUH Series H-49, HHS Publication No. (SMA) 14-4887. Rockville, MD: Substance Abuse and Mental Health Services Administration.

² Ibid.

³ Ibid.

⁴ Ibid.

included an inability to afford the cost of care (48.3 percent), believing at the time that the problem could be handled without treatment (26.5 percent), not knowing where to go for services (24.6 percent), and not having the time to go for care (15.8 percent)... (Substance Abuse and Mental Health Services Administration, 2014, p. 24)⁵

The prevalence of individuals with mental illness who are involved with the criminal justice system is also significant. According to a report by Torrey et al. (2014),⁶ in 2012, there were approximately 356,268 inmates with SMI in jails and prisons. This number is shockingly 10 times greater than the number of individuals with SMI residing in state psychiatric hospitals.⁷

Depending upon the source, the overall prevalence of persons who have a mental illness in the criminal justice system varies. Some say it could be as low as 5% (Geraghty & Kraus, 1998; Maruschak, 2004) whereas others believe it to be as high as 25% (Lamberti, 2007). However, most can agree that 15%-16% is a good estimate (Adams & Ferrandino, 2008; Beck & Maruschak, 2001; Geraghty & Kraus, 1998; Lamberti, 2007; Soderstrom, 2007). (Brandt, 2012, p. 541)⁸

A report by James and Glaze (2006)⁹ found that over half of all jail and prison inmates had a mental health problem; 64% of jail inmates (479,900 individuals), 56% of state prisoners (705,600 individuals), and 45% of federal prisoners (78,800 individuals) were represented in this finding.

As previously mentioned, the number of inmates with mental illness is increasing. In the early 1980s, the percentage of inmates in jails and prisons with SMI was approximately 6.4%; this percentage is now around 16%, thus nearly tripling over the past three decades.¹⁰ The severity of inmates' mental illnesses is also on the rise.¹¹ Yet, the rate of treatment for mental illness within the criminal justice system remains inadequate. At the time of the James and Glaze (2006)¹² report, only about one in three state prisoners and one in six jail inmates with mental health problems were receiving treatment.

Section 3. Issues Surrounding the Criminal Justice System and Mental Health

There is a critical lack of government funding for mental health services in general.

⁵ Ibid.

⁶ Torrey, E. F., Zdanowicz, M. T., Kennard, A. D., Lamb, H. R., Eslinger, D. F., Biasotti, M. C., & Fuller, D. A. (2014). *The treatment of persons with mental illness in prison and jails: A state survey*. Treatment Advocacy Center.

⁷ Ibid.

⁸ Brandt, A. L. (2012). Treatment of persons with mental illness in the criminal justice system: A literature review. *Journal of Offender Rehabilitation*, 51(8), 541-558.

⁹ James, D. J., & Glaze, L. E. (2006). *Mental health problems of prison and jail inmates*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

¹⁰ Torrey, E. F., Kennard, A. D., Eslinger, D., Lamb, R., & Pavle, J. (2010). *More mentally ill persons are in jails and prisons than hospitals: A survey of the states*. Treatment Advocacy Center and National Sheriffs Association.

¹¹ Torrey et al., supra, note 6.

¹² James & Glaze, supra, note 9.

Although mental health expenditures have increased in the past two decades (from \$75 billion in 1990 to \$155 billion in 2009), they have fallen as a share of all health expenditures. (Substance Abuse and Mental Health Services Administration, 2013, p. xxiv)¹³

States have cut more than \$1.6 billion in general funds from their state mental health agency budgets for mental health services since FY2009, a period during which demand for such services increased significantly. These cuts translate into loss of vital services such as housing, Assertive Community Treatment, access to psychiatric medications and crisis services. (Honberg et al., 2011, p. 1)¹⁴

Improving economies should allow states to increase, restore, and/or maintain mental health budgets in the near future.¹⁵ Increased political pressure however, is needed to ensure that funding increases occur.

Budget cuts over the last several years have led to a critical lack of available mental health services, especially for those with a heightened need for such services. The sustained closure of psychiatric hospitals in combination with the inadequate supply of community-based mental health services (e.g., crisis stabilization centers, counseling and medication management, supported housing and employment programs, primary care medical services, community mental health centers, self-help groups for mental health, and Assertive Community Treatment (ACT)) have diminished access to sufficient mental health care. Lack of mental health treatment, particularly during times of crisis, can result in individuals with mental health problems engaging in behaviors that must be handled by the criminal justice system. Additionally, as a result of the lack of access to mental health hospital beds or appropriate forensic facilities, individuals with mental illness who are deemed not competent for court/trial and are supposed to receive treatment at such hospitals or facilities to restore competency end up in jails for prolonged periods of time, often without treatment. This can further damage such an individual's already fragile state of mental health.

There is a deficiency of accurate data on the existing conditions within the criminal justice system in relation to mental health needs and services. One of the only comprehensive evaluations that provides national, detailed information on offenders with mental health problems is the Bureau of Justice Statistics (BJS) survey report by James and Glaze (2006).¹⁶

There is also a deficiency of training for law enforcement personnel in regard to appropriately handling situations involving individuals with mental illness. Often times, such training classes are either entirely absent or inadequate.

¹³ Substance Abuse and Mental Health Services Administration. (2013). *Behavioral health, United States, 2012*. HHS Publication No. (SMA) 13-4797. Rockville, MD: Substance Abuse and Mental Health Services Administration.

¹⁴ Honberg, R., Kimball, A., Diehl, S., Usher, L., & Fitzpatrick, M. (2011). *State mental health cuts: The continuing crisis*. Arlington, VA: National Alliance on Mental Illness.

¹⁵ National Alliance on Mental Illness. (2013). *State legislation report, 2013: Trends, themes and best practices in state mental health legislation*. Arlington, VA: National Alliance on Mental Illness.

¹⁶ Sarteschi, C. M. (2013). Mentally ill offenders involved with the U.S. criminal justice system: A synthesis. *SAGE Open*, 3(3), 2158244013497029.

Within correctional facilities there are many issues related to mental health, including inadequate screening for inmates with mental illness. Initial screenings are usually carried out, but follow-up screenings are much rarer. Initial screenings are not always capable of accurately identifying all individuals with mental health problems. Even if an inmate is successfully screened for mental illness and the information is entered into the facility's data management system, access to mental health services is not guaranteed.

Mentally ill offenders are constitutionally guaranteed basic mental health treatment. A review of the literature indicates that this constitutional guarantee is not being adequately fulfilled. (Sarteschi, 2013)¹⁷

Lord et al. (2011)¹⁸ found that correctional facilities are typically not equipped to manage SMI and that the majority of inmates will not receive necessary treatment. Reingle Gonzalez and Connell (2014)¹⁹ assessed mental health treatment and screening and medication continuity in a nationally representative sample of U.S. prisoners and found that:

About 26% of the inmates were diagnosed with a mental health condition at some point during their lifetime, and a very small proportion (18%) were taking medication for their condition(s) on admission to prison. In prison, more than 50% of those who were medicated for mental health conditions at admission did not receive pharmacotherapy in prison. Inmates with schizophrenia were most likely to receive pharmacotherapy compared with those presenting with less overt conditions (e.g., depression). This lack of treatment continuity is partially attributable to screening procedures that do not result in treatment by a medical professional in prison. (Reingle Gonzalez and Connell, 2014, p. 2328)²⁰

Inmates with mental illness often face a lack of timely access to mental health staff and medication/treatment. Moreover, there is frequently a shortage of trained mental health staff and treatment options may be severely limited (e.g., pharmacological therapy may be offered as the sole method of treatment).

Jails, prisons, and other correctional facilities are characterized by stressful conditions (e.g., the presence of violent/dangerous offenders and tight and overcrowded quarters) that can lead to negative outcomes. Correctional officers can develop violent coping tendencies (as has been demonstrated in the Stanford prison experiment) and inmates can develop or experience worsened mental health problems. Such stressful conditions, along with demanding hours and low pay/compensation, contribute to the high turnover rate for correctional officers and can also affect the wellbeing of the mental health staff, who are often burdened by high caseloads.

¹⁷ Ibid.

¹⁸ Lord, V. B., Bjerregaard, B., Blevins, K. R., & Whisman, H. (2011). Factors influencing the responses of crisis intervention team-certified law enforcement officers. *Police Quarterly*, 14(4), 388-406.

¹⁹ Reingle Gonzalez, J. M., & Connell, N. M. (2014). Mental health of prisoners: Identifying barriers to mental health treatment and medication continuity. *American journal of public health*, 104(12), 2328-2333.

²⁰ Ibid.

Inmates with mental illness can experience unusually harsh circumstances. These inmates are much more likely to spend time in solitary confinement, the effect of which is particularly adverse for this population and can result in the exacerbation of the symptoms of mental illness.^{21;22} Ensuring inmate safety for those with mental illness is often very difficult for everyone involved, including inmates and staff. Suicide is one of the leading causes of death in U.S. jails and prisons and occurs disproportionately among inmates with mental illness.^{23;24}

... Studies confirm that the most significant risk factors of suicide among prisoners consist of mental illness—particularly depressive disorder, psychological states of depression and hopelessness, prior suicide attempts, a preincarceration history of psychiatric disorder and substance abuse, and a recent psychosocial stressor acting as a precipitant. (Daniel, 2006, p. 169)²⁵

Inmates with mental illness also face an increased risk of brutality and an increased risk of sexual abuse.^{26;27}

Inmates who had been told by a mental health professional that they had a mental disorder were more likely than other inmates to report being sexually victimized while in prison or jail. Among inmates who had been told they had a specific DSM-IV disorder—

- During 2011-12, an estimated 3.8% of prison inmates and 2.9% of jail inmates reported that they were sexually victimized by another inmate.
- Approximately 3.4% of prison inmates and 2.5% of jail inmates reported that they were sexually victimized by staff during 2011-12. (Beck et al., 2013, p. 25)²⁸

Inmates with mental illness frequently experience an increased length of stay.

Mentally ill prisoners remain in prison and jail longer than other prisoners because they are less likely to obtain bail and are more likely to break the rules, thus failing to get a reduction in their sentence for good behavior. (Torrey et al., 2014, p. 14)²⁹

²¹ Torrey et al., supra, note 6.

²² Arrigo, B. A., & Bullock, J. L. (2008). The psychological effects of solitary confinement on prisoners in supermax units: Reviewing what we know and recommending what should change. *International Journal of Offender Therapy and Comparative Criminology*, 52(6), 622-640.

²³ Daniel, A. E. (2006). Preventing suicide in prison: A collaborative responsibility of administrative, custodial, and clinical staff. *Journal of the American Academy of Psychiatry and the Law Online*, 34(2), 165-175.

²⁴ Torrey et al., supra, note 6.

²⁵ Daniel, supra, note 23.

²⁶ Human Rights Watch. (2003). *Ill-equipped: U.S. prisons and offenders with mental illness*. Human Rights Watch.

²⁷ Torrey et al., supra, note 6.

²⁸ Beck, A. J., Berzofsky, M., Caspar, R., & Krebs, C. (2013). *Sexual victimization in prisons and jails reported by inmates, 2011–12: National Inmate Survey, 2011–12*, (NCJ 241399). Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

²⁹ Torrey et al., supra, note 6.

Often times, the rules that are broken by these inmates are the result of behavioral outbursts stemming from untreated mental illness.

Once released from jails, prisons, and correctional facilities, mental health services/treatments are usually limited; most inmates with mental illness do not receive follow-up treatment when they leave jail or prison.³⁰ Probation officers and probation agencies regularly lack the partnerships with proper service providers to adequately meet the special needs of such inmates.³¹ Without appropriate treatment, many of these individuals end up back in the criminal justice system. Thus, individuals with mental illness in the criminal justice system tend to become “frequent flyers” (i.e., repeat offenders); SMI is a major risk factor for repeated incarceration.³² James and Glaze (2006) found that nearly a quarter of inmates who had a mental health problem, compared to a fifth of those without a mental health problem, had served three or more prior incarcerations.³³ This is a highly costly and inefficient cycle.

Among the many negative impacts of the current criminal justice system in relation to mental health is high costs. Inmates with mental illness cost the government and taxpayers much more than other inmates.³⁴

In Florida’s Broward County Jail in 2007, the difference was \$130 versus \$80 per day. In Texas prisons in 2003, mentally ill prisoners cost \$30,000 to \$50,000 per year, compared to \$22,000 for other prisoners. In Washington State prisons in 2009, the most seriously mentally ill prisoners cost \$101,653 each, compared to approximately \$30,000 per year for other prisoners. (Torrey et al., 2014, p. 17)³⁵

These higher costs can be attributed to longer periods of incarceration and the expenses of medications, security considerations, specialized housing, and suicide prevention measures.³⁶ It is important to note that this is not a cost-effective arrangement; it typically costs more to incarcerate individuals with mental illness than to manage mental illness with appropriate services in the community.^{37:38} Van Dorn et al. (2013)³⁹ examined the effect of medication and outpatient services on the likelihood of post-hospitalization arrest among individuals with SMI. This study found that:

³⁰ Ibid.

³¹ Castillo, E. D., & Alarid, L. F. (2011). Factors associated with recidivism among offenders with mental illness. *International journal of offender therapy and comparative criminology*, 55(1), 98-117.

³² Cloyes, K. G., Wong, B., Latimer, S., & Abarca, J. (2010). Time to prison return for offenders with serious mental illness released from prison: A survival analysis. *Criminal Justice and Behavior*, 37(2), 175-187.

³³ James & Glaze, supra, note 9.

³⁴ Torrey et al., supra, note 6.

³⁵ Ibid.

³⁶ Lord et al., supra, note 18.

³⁷ DeMatteo, D., LaDuke, C., Locklair, B. R., & Heilbrun, K. (2013). Community-based alternatives for justice-involved individuals with severe mental illness: Diversion, problem-solving courts, and reentry. *Journal of Criminal Justice*, 41(2), 64-71.

³⁸ Bazelon Center for Mental Health Law. (2011). *Asking why: Reasserting the role of community mental health: A report on the performance improvement project in five states*. Washington, DC: Bazelon Center for Mental Health Law.

³⁹ Van Dorn, R. A., Desmarais, S. L., Petrila, J., Haynes, D., & Singh, J. P. (2013). Effects of outpatient treatment on risk of arrest of adults with serious mental illness and associated costs. *Psychiatric Services*, 64(9), 856-862.

Routine outpatient treatment, including medications and outpatient services, may reduce the likelihood of arrest among adults with serious mental illness. Medication possession over a 90-day period after hospitalization appears to confer additional protection. Overall, costs were lower for those who were not arrested, even when they used more outpatient services. (Van Dorn et al., 2013, p. 856)⁴⁰

Another negative impact is the increased fragmentation of the mental health service delivery and fractured care.⁴¹

The current system also facilitates the stigmatization of individuals with mental illness. The increased arrests of individuals with mental illness perpetuates the harmful perception that those with mental illness are more prone to being dangerous; when untreated, SMI is associated with a higher rate of violence, however, generally mental illness is not associated with an increased risk of violence. There is debate over whether the current system results in the “criminalization” of mental illness (e.g., unjustly arresting individuals with mental illness who commit petty/minor crimes). The behavioral expression of certain symptoms of mental illness can be perceived as disrespectful or hostile, thus prompting arrest.⁴² Charette et al. (2014)⁴³ evaluated the characteristics of police interventions involving individuals with mental illness compared to those involving individuals without mental illness. This study found that:

Police interventions involving individuals with mental illness were less likely than those involving individuals without mental illness to be related to more severe offenses. However, interventions for minor offenses were more likely to lead to arrest when they involved citizens with mental illness. Interventions for reasons of equal severity were twice as likely to lead to arrest if the citizen involved had a mental illness. (Charette et al., 2014, p. 511)⁴⁴

Unnecessary interaction between the criminal justice system and those with mental illness can divert limited resources away from traditional public safety needs. The Charette et al. (2014) study further discovered that:

After controlling for the use of arrest and the severity of the situation, the analysis showed that police interventions involving individuals with mental illness used 87% more resources than interventions involving individuals without mental illness. (Charette et al., 2014, p. 511)⁴⁵

Jails and prisons tend to already be overcrowded, so continuing to further fill them with individuals who might have their needs best served in other settings only complicates this problem. The lack

⁴⁰ Ibid.

⁴¹ Pinals, D. A. (2014). Forensic services, public mental health policy, and financing: Charting the course ahead. *Journal of the American Academy of Psychiatry and the Law Online*, 42(1), 7-19.

⁴² Charette, Y., Crocker, A. G., & Billette, I. (2014). Police encounters involving citizens with mental illness: Use of resources and outcomes. *Psychiatric Services*, 65(4), 511-516.

⁴³ Ibid.

⁴⁴ Ibid.

⁴⁵ Ibid.

of mental health services for inmates because of overcrowding and deficient resources allows for deterioration in the conditions of the inmates with mental illness. This arguably unethical treatment is another negative impact of the current criminal justice system in relation to mental health.

Finally, the current system is often plagued with increased physical harm to a variety of individuals. There have been numerous shootings of individuals with mental illness during confrontations with law enforcement personnel; some of these shootings have been declared warranted, while others could have been avoided. Incarcerated individuals with mental illness face an increased risk of general medical problems. Cuddeback et al. (2010)⁴⁶ evaluated the general medical health of individuals with SMI with a history of incarceration and individuals with SMI and no such history. This study found that:

Consumers with a history of incarceration were more likely than those with no such history to have infectious, blood, and skin diseases and a history of injury. Furthermore, when analyses were controlled for gender, race, age, and substance use disorders, consumers with an incarceration history were 40% more likely to have any general medical problems and 30% more likely to have multiple medical problems. (Cuddeback, 2010, p. 45)⁴⁷

The increased risk of physical harm inside of jails, prisons, and other correctional facilities extends to correctional staff and the inmates without mental illness. Correctional officers and staff and inmates without mental illness can be physically attacked by inmates with mental illness, especially when the conditions of the mental illness are severe and no medication is being received/taken. However, it is important to note that inmates with mental illness are usually more likely, sometimes twice as likely, as inmates without mental illness to be injured in a fight inside of a correctional institution.⁴⁸

The current criminal justice system in relation to mental health is riddled with many serious issues and is in drastic need of transformation.

Section 4. Historical Analysis of the Criminal Justice System and Mental Health

The current state and problems of the criminal justice system in relation to mental health stem from various historical movements/occurrences.

In the U.S.'s earliest history, from the 1770s to the 1820s, individuals with mental illness were confined to jails and prisons.⁴⁹ This action received much criticism for being inhumane and unethical. Some of the prominent groups/individuals that pioneered support for change include the Boston Prison Discipline Society, Louis Dwight, and Dorothea Dix.⁵⁰ Dorothea Dix, one of the

⁴⁶ Cuddeback, G., Scheyett, A., Pettus-Davis, C., & Morrissey, J. (2010). General medical problems of incarcerated persons with severe and persistent mental illness: A population-based study. *Psychiatric Services*, *61*(1), 45-49.

⁴⁷ Ibid.

⁴⁸ James & Glaze, supra, note 9.

⁴⁹ Torrey et al., supra, note 6.

⁵⁰ Ibid.

most prominent figures of the early criminal justice system reform in relation to mental health, continued her efforts for change throughout the 1800s.

Dorothea Dix played an instrumental role in the founding or expansion of more than 30 hospitals for the treatment of the mentally ill. She was a leading figure in those national and international movements that challenged the idea that people with mental disturbances could not be cured or helped. She was also a staunch critic of cruel and neglectful practices toward the mentally ill, such as caging, incarceration without clothing, and painful physical restraint. (Parry, 2006, p. 624)⁵¹

Throughout this time period, the idea of moral treatment (i.e., approaching mental illness with humane psychosocial care or moral discipline) grew popular. By the 1870s, and continuing until the 1970s, individuals with mental illness were no longer to be incarcerated but rather were supposed to receive asylum and treatment in mental hospitals.⁵² This shift eventually prompted the deinstitutionalization movement that began around 50 years ago, starting with the Community Mental Health Act of 1963. The process of deinstitutionalization transitioned the principal setting of mental health services from the mental hospitals/psychiatric institutions to community-based programs. This process was initiated by advances in psychiatric medications that have allowed for better management of mental disorders and increased social and political concern regarding the treatment of individuals with mental illness. However, closing psychiatric hospitals without adequately investing in community-based services has been common practice throughout this transition, leaving many individuals with severe illnesses without sufficient care.⁵³ Accordingly, the relationship between deinstitutionalization and the increasing number of inmates with mental illness has been clearly recognized.^{54;55}

There is an on-going concern that reductions in psychiatric inpatient bed capacity beyond a critical threshold will further exacerbate the incarceration of persons with mental illness. (Yoon et al., 2013)⁵⁶

Other movements that have been cited as contributing to the increase in the number of individuals with mental illness interacting with the criminal justice system include the alteration of police tactics, the criminalization of drug offenses beginning in the 1970s, and the evolution of civil commitment laws.⁵⁷

Section 5. Recent Changes in Relevant Services and Policy/Legislation

⁵¹ Parry, M. S. (2006). Dorothea Dix (1802–1887). *American Journal of Public Health*, 96(4), 624-625.

⁵² Torrey et al., supra, note 6.

⁵³ Fakhoury, W., & Priebe, S. (2007). Deinstitutionalization and reinstitutionalization: Major changes in the provision of mental healthcare. *Psychiatry*, 6(8), 313-316.

⁵⁴ Brandt, supra, note 8.

⁵⁵ Yoon, J., Domino, M. E., Norton, E. C., Cuddeback, G. S., & Morrissey, J. P. (2013). The impact of changes in psychiatric bed supply on jail use by persons with severe mental illness. *The journal of mental health policy and economics*, 16(2), 81-92.

⁵⁶ Ibid.

⁵⁷ Pinals, supra, note 41.

There have been several recent changes in the services that are related to the criminal justice system and mental health. One of these changes includes modified and increased mental health training for law enforcement personnel. Another of these changes is the continuous advancement of screening services upon intake into jails, prisons, or other correctional facilities; most of these settings now have mental health screening services.⁵⁸ There has also been considerable growth in community-based services to prevent individuals from interacting frequently and intensively with the criminal justice system including: crisis intervention teams (CITs), problem-solving courts, and re-entry services. There is an emerging body of empirical research that supports the utilization of these community-based alternatives.⁵⁹

Diversion services, which have become more popular throughout the past decade, are services that are designed to reduce the arrest and incarceration of individuals with mental illness and to divert individuals engaging in problematic behavior or committing minor crimes into the appropriate treatment.⁶⁰ Police-based diversion practices, such as CITs, are typically pre-booking initiatives; problem-solving courts, or mental health courts, are examples of post-booking initiatives.

The CIT program was initiated in the Memphis Police Department by Major Sam Cochran and Dr. Randy DuPont and is now a national model.⁶¹ Several of the goals of CIT training include minimizing the response time of police units to crisis situations, providing better care to individuals experiencing a mental crisis, and increasing the safety of the law enforcement personnel who respond to such situations.⁶² The CIT program also helps to establish connections/partnerships between law enforcement agencies and mental health services, providers, and advocates. Research has shown that CITs are associated with various positive outcomes, including: lower arrest rates among individuals with mental illness; CIT officers reporting feeling better prepared to handle calls involving mental crises; CIT officers being more likely to endorse using less physical force in such situations and to perceive nonphysical actions as effective; greater diversion of individuals with mental illness into the mental health system; reduction of stigma; and cost savings for the criminal justice system.^{63;64;65;66}

The goal of problem-solving courts is to identify an offenders' underlying needs to prevent prolonged interaction with the criminal justice system.⁶⁷ Mental health courts are problem-solving courts that are available to individuals with mental health issues. There is a growing body of empirical research that supports the effectiveness of mental health courts.⁶⁸ Studies have shown that mental health courts are associated with the following positive outcomes: fewer subsequent arrests, lower subsequent arrest rates, less serious subsequent offenses, and longer time to re-

⁵⁸ DeMatteo et al., supra, note 37.

⁵⁹ Ibid.

⁶⁰ Franz, S., & Borum, R. (2011). Crisis intervention teams may prevent arrests of people with mental illnesses. *Police practice and research: an international journal*, 12(3), 265-272.

⁶¹ Ibid.

⁶² DeMatteo et al., supra, note 37.

⁶³ Franz & Borum, supra, note 60.

⁶⁴ DeMatteo et al., supra, note 37.

⁶⁵ Lord et al., supra, note 18.

⁶⁶ Cloud, D., & Davis, C. (2013). *Treatment alternatives to incarceration for people with mental health needs in the criminal justice system: The cost-savings implications*. Vera Institute of Justice.

⁶⁷ DeMatteo et al., supra, note 37.

⁶⁸ Ibid.

offense among mental health court participants; increased connections with appropriate mental health treatment; and reduced mental health symptoms and improved quality of life for mental health court participants.⁶⁹ Mental health court programs have also been associated with reduced mental health service costs and jail costs by avoiding jail and hospitalization for individuals with the most severe psychiatric needs.⁷⁰

Re-entry services for individuals with mental illness reentering the community following incarceration are of critical importance for success among this demographic. Re-entry services are widely varied and include ACT (or forensic assertive community treatment (FACT)) and intensive case management.⁷¹ Some of the positive outcomes associated with FACT include reduced re-arrests, convictions, and jail days, and improved clinical outcomes (e.g., substance use, hospitalizations, and psychiatric functioning).⁷² These positive outcomes have also been shown to be associated with potential cost savings; even if providing greater intensive outpatient services is more expensive at the outset, such costs are usually offset by reduced jail and hospital stays.⁷³ Intensive case management is moreover associated with reductions in re-arrests and jail days.⁷⁴

Specialized probation or parole for community corrections can also be employed for individuals with mental illness interacting with the criminal justice system.

Compared to traditional probation, specialty probation programs include reduced caseloads consisting solely of individuals with mental illness, sustained officer training, active integration of internal and external resources to meet probationers' needs, and an emphasis on collaborative problem solving (vs. punitive) strategies to address treatment noncompliance... (DeMatteo et al., 2013, p. 69)⁷⁵

An example of a relevant, comprehensive program is the Transition and Aftercare for Probationers and Parolees program in Georgia; this program provides probationers in the community and recently released inmates with a case manager to help with mental health, medical care, housing, and employment needs.⁷⁶ A related pilot program in Texas, involving integrated health services and patient-centered medical homes, has demonstrated that such programs can help to effectively divert individuals with mental illness from a cycle of recidivism.⁷⁷

Overall, in order for these community-based alternatives to be effective, the criminal justice system will have to be able to rely on and collaborate with a strong mental health system with adequate services.

⁶⁹ Ibid.

⁷⁰ Cloud & Davis, supra, note 66.

⁷¹ DeMatteo et al., supra, note 37.

⁷² Ibid.

⁷³ Cloud & Davis, supra, note 66.

⁷⁴ DeMatteo et al., supra, note 37.

⁷⁵ Ibid.

⁷⁶ Castillo & Allarid, supra, note 31.

⁷⁷ Held, M. L., Brown, C. A., Frost, L. E., Hickey, J. S., & Buck, D. S. (2012). Integrated primary and behavioral health care in patient-centered medical homes for jail releasees with mental illness. *Criminal Justice and Behavior*, 39(4), 533-551.

Recent changes have been made in policy/legislation that are related to the criminal justice system and mental health. One such change has been the enactment of the Affordable Care Act (ACA) in 2010. A main component within the ACA is the expansion of Medicaid eligibility. This expansion has the potential to increase access to mental health services for numerous individuals, perhaps helping them to avoid crises that could lead to interaction with the criminal justice system. The ACA further allows jail releasees to become eligible for government-subsidized health care coverage in 2014.⁷⁸

The widespread availability of integrated healthcare services for the released jail population is likely to reduce criminal behavior, which is often associated with psychiatric and substance use disorders and their co-occurrence. (McDonnell et al., 2014, p. 1)⁷⁹

The interface between the criminal justice system and individuals with mental issues has increasingly received political attention. Lawmakers have proposed bills to try to improve the current situation. Examples of such bills that have recently been introduced include H.R. 401, S. 162 – Justice and Mental Health Collaboration Act of 2013, S. 264, H.R. 1263 – Excellence in Mental Health Act, S. 153 – Mental Health First Aid Act of 2013, and H.R. 4754 – Strengthening Mental Health in Our Communities Act of 2014. These bills each introduce various practices/recommendations for improvement, respectively including: increasing resources and training in relation to mental illness for correctional facilities; expanding access to community mental health centers and improving the quality of mental health care for all Americans; authorizing grants for mental health first aid training programs; and maximizing the access of individuals with mental illness to community-based services and strengthening the impact of such services.

The National Alliance on Mental Illness (NAMI) compiled a report on state mental health legislation trends and practices in 2013.⁸⁰ This report found that:

Many legislatures in the 2013 session recognized the importance of stronger and more responsive public mental health service systems and the risk of allowing the system to erode. Mental health legislation was enacted in 2013 along the following themes: mental health system improvement; crisis and inpatient care; community mental health; criminal justice and mental health; and civil rights and stigma reduction. (National Alliance on Mental Illness, 2013, p. 6)⁸¹

NAMI has long worked to oppose unnecessary arrests and incarceration, advocating for diversionary strategies such as crisis intervention teams (CIT) and mental health courts. High profile violent acts by people living with mental illness make the task more difficult, and in 2013 lawmakers debated a variety of bills focused on the nexus between criminal justice and mental health. Legislation was

⁷⁸ McDonnell, M., Brookes, L., & Lurigio, A. J. (2014). The promise of healthcare reform in transforming services for jail releasees and other criminal justice populations. *Health & Justice*, 2(1), 1-9.

⁷⁹ Ibid.

⁸⁰ National Alliance on Mental Illness, *supra*, note 15.

⁸¹ Ibid.

enacted addressing law enforcement, the courts, incarceration, probation and parole and juvenile justice. (National Alliance on Mental Illness, 2013, p. 16)⁸²

Alaska, Ohio, and Texas passed bills regarding law enforcement and mental health.⁸³ Ohio (SB 7) requires courts to report to law enforcement agencies and subsequently the national crime information center if an individual convicted of an offense requires a mental health evaluation or treatment. Missouri and Tennessee passed bills regarding the mental health status of law enforcement personnel. Tennessee (SB 175) revised law enforcement officer qualifications to require certification that applicants are free from psychiatric impairment that would affect the ability to perform an essential function of the job. Arizona, Kentucky, Louisiana, Missouri, Montana, North Carolina, North Dakota, Oklahoma, Rhode Island, South Dakota, and Tennessee passed bills regarding criminal courts and defendants with mental illness. Arizona (HB 2310) developed standards to establish and implement mental health courts. Maine, North Carolina, Tennessee, and Washington passed bills regarding incarceration and mental illness. Maine (LD 1433/HP 1022) states that an individual who is in prison for an offense and is found not criminally responsible by reason of insanity for another offense must finish the first prison term before beginning the commitment ordered by the court for the second offense. Montana, Nevada, and Virginia passed bills regarding release, probation, and parole and mental health. Montana (SB 11) revised its probation and parole system to work more effectively with prisoners with SMI.

Several cities have recently modified their services and/or policy/legislation in relation to the criminal justice system and mental health. New York City contains Rikers Island, one of the largest jail complexes in the country. The *New York Times* has recently exposed the extensive use of brutality on Rikers Island, especially the disproportional amount of assaults on individuals with mental health issues, in a series of articles which includes “Rikers: Where Mental Illness Meets Brutality in Jail.”⁸⁴ In response to the rising violence and deplorable conditions on Rikers Island, jail officials, city criminal justice system leaders, and the mayor are working to bring about awareness and reform. Recent changes, according the *New York Times*, include a larger budget for mental health programs and more correctional officers, an appointed task force to identify methods to improve care for individuals with mental illness in the city’s criminal justice system, cessation of the use of solitary confinement for inmates with SMI, and increased training hours for mental health training for correctional officers.⁸⁵ The task force’s action report was just released and reveals that although New York City has successfully reduced its overall jail population over the past couple of decades, the number of people with behavioral health issues has remained constant.⁸⁶ The task force essentially identified five major points of contact between the criminal justice system and behavioral health (i.e., on the street, from arrest to disposition, in jail, during release and re-entry, and back in the community) and set out concrete and immediate steps to

⁸² Ibid.

⁸³ Ibid.

⁸⁴ Winerip, M., & Schwirtz, M. (2014, July 14). Rikers: Where mental illness meets brutality in jail. *New York Times*. Retrieved from <http://www.nytimes.com/2014/07/14/nyregion/rikers-study-finds-prisoners-injured-by-employees.html>

⁸⁵ Ibid.

⁸⁶ City of New York, Mayor Bill de Blasio. (2014). *Mayor’s task force on behavioral health and the criminal justice system: Action plan*. City of New York. Retrieved from <http://www1.nyc.gov/assets/criminaljustice/downloads/pdf/annual-report-complete.pdf>

address the issues. Follow-up analyses will allow for determination of the city's successes with this action plan.

Los Angeles also has a very large jailed population. According to a *Los Angeles Times* article, "Mental Illness Program Could Transform L.A. County Justice System," Los Angeles officials recently launched an alternative sentencing program to divert low-level offenders with mental illness from jail into treatment.⁸⁷ The \$756,000 initiative offers such individuals transitional housing, medical treatment, and job-hunting help.⁸⁸

San Antonio is another example of city that has created reform in regard to its criminal justice system and mental health. The San Antonio Restoration Center is an efficient jail diversion program that has resulted in major cost savings and is a model for similar improvements across the country.⁸⁹ The Restoration center is an integrated complex with 48-hour inpatient psychiatric care, sobering and detox centers, outpatient primary care and psychiatric services, a 90-day recovery program, housing for people with mental illnesses, job training, and a program to help individuals transition to supported housing.⁹⁰

More than 18,000 people pass through the Restoration Center each year and officials say the coordinated approach is saving the city more than \$10 million each year.

Every state in the country has sent delegates to San Antonio to see if they can model their own mental health systems after this one. (Gold, 2014)⁹¹

Close monitoring of the efficacy of the recent changes in services and policy/legislation in relation to the criminal justice system and mental health is needed. Subsequent evaluations can help to guide future developments.

Section 6. The Criminal Justice System and Mental Health in Florida

The two state departments in Florida that are primarily responsible for issues/services involving the criminal justice system and mental health are the Florida Department of Corrections (DC) and the Florida Department of Children and Families (DCF).

⁸⁷ Gerber, M. (2014, September 17). Mental illness program could transform L.A. county justice system. *Los Angeles Times*. Retrieved from <http://www.latimes.com/local/countygovernment/la-me-mental-health-courts-20140918-story.html>

⁸⁸ Ibid.

⁸⁹ Gold, J. (2014, August 20). Wrestling with a Texas county's mental health system. *Kaiser Health News*. Retrieved from <http://www.kaiserhealthnews.org/Stories/2014/August/20/San-Antonio-model-mental-health-system.aspx>

⁹⁰ Ibid.

⁹¹ Ibid.

Florida has a large population of individuals with mental illness. According to a recent report by SAMHSA (2014),⁹² the percentage of people with any mental illness in the past year (based on 2012 and 2013 National Surveys on Drug Use and Health [NSDUHs]) among persons aged 18 or older in the state of Florida was 16.91%. The percentage of people with serious mental illness in the past year (based on 2012 and 2013 NSDUHs) among persons aged 18 or older in the state of Florida was 3.96%.⁹³

Florida also has a very large population of incarcerated individuals. According to a recent report by the DC (2013):⁹⁴

The Florida Department of Corrections (DC) is the third largest state prison system in the country with an operating budget in FY 2012-13 of approximately \$2.1 billion – with just over 100,000 inmates in prisons and another 145,000 offenders on community supervision. (Florida Department of Corrections, 2013, p. 5)⁹⁵

Many of these incarcerated individuals have mental health issues. For instance, the Dade County Jail system in Miami has been referred to as the state’s largest “mental institution.”⁹⁶ Although there has recently been a slight overall decrease in the number of inmates in Florida with mental disorders from June 2012 (17.6%) to June 2013 (17.1%), the number of inmates in Florida with severe mental illness has increased by 1.7% during this same time period.⁹⁷ According to the DC’s 2012-2013 agency statistics, the number of inmates in Florida prisons with mental disorders, by severity of mental illness, on June 30th compared over five years are as follows:⁹⁸

Number of Inmates with Mental Disorders and Severity of Mental Illness			
	Mild	Moderate	Severe
FY 2009	4,132	12,834	991
FY 2010	4,699	12,708	924
FY 2011	4,673	12,868	940
FY 2012	4,709	11,925	986
FY 2013	4,621	11,544	1,003

Previous estimates indicate that as many as 125,000 individuals with mental illness requiring immediate treatment are arrested and booked into Florida jails, annually.⁹⁹ It is important to note

⁹² Substance Abuse and Mental Health Services Administration. (2014). *State estimates of substance abuse and mental disorders from the 2012 and 2013 National Surveys on Drug Use and Health*. Rockville, MD: Substance Abuse and Mental Health Services Administration.

⁹³ Ibid.

⁹⁴ Florida Department of Corrections. (2013). *Annual report: Fiscal year 2012-2013*. Tallahassee, FL: Department of Corrections.

⁹⁵ Ibid.

⁹⁶ Torrey et al., supra, note 6.

⁹⁷ Florida Department of Corrections. (2013). *Annual statistics for fiscal year 2012-2013*. Retrieved from http://www.dc.state.fl.us/pub/annual/1213/stats/ip_mental.html

⁹⁸ Ibid.

⁹⁹ Florida Supreme Court. (2007). *Transforming Florida’s mental health system*. Retrieved from http://www.floridasupremecourt.org/pub_info/documents/11-14-2007_Mental_Health_Report.pdf

that most of these individuals are charged with minor misdemeanor and low-level felony offenses that can be a direct result of behavior caused by their mental illness.

Section 7. Historical Analysis of the Criminal Justice System and Mental Health in Florida

Major developments in Florida's mental health system that have influenced the current state of the criminal justice system in relation to mental health began around 50 years ago. The Florida Supreme Court (2007)¹⁰⁰ released a report that gives a detailed timeline of such events/policy.

In 1968, the Florida Constitution was revised and health and social services were assigned to the Department of Health and Rehabilitative Services (DHRS).

In 1970, the Florida Legislature enacted the Community Mental Health Act to establish ways and means for the distribution of federal funds through the state to community mental health centers.

In 1971, the State Legislature passed the Florida Mental Health Act, which became better known as the Baker Act, to provide due process in involuntary civil commitment proceedings and to establish uniform criteria for people being admitted to state hospitals.

In 1984, the legislature made sweeping changes to the Florida Mental Health Act revising the Baker Act and eliminating the mental health boards, which were replaced with planning councils that had similar planning and evaluation duties but did not allocate funds.

In 1996 the Legislature reorganized DHRS, creating a separate Department of Health and creating the Department of Children & Families (DCF). (Florida Supreme Court, 2007, p. 17-19)¹⁰¹

The DCF contains the Substance Abuse and Mental Health Program (SAMH) that is recognized as the single state authority for substance abuse and mental health services.¹⁰² The DCF is thus responsible for developing standards for the quality of care across the mental health system and within other state agencies that also provide mental health services.¹⁰³

In 1997, Florida became one of the first states to implement mental health courts.¹⁰⁴

Another major improvement in relation to Florida's criminal justice system and mental health came nearly a decade later.

¹⁰⁰ Ibid.

¹⁰¹ Ibid.

¹⁰² Florida Department of Children and Families. (2013). *Substance abuse and mental health services plan: 2014-2016*. Tallahassee, FL: Department of Children and Families.

¹⁰³ Ibid.

¹⁰⁴ DeMatteo et al., supra, note 37.

Florida House Bill 1477 was approved by the Governor on June 19, 2007 and became effective July 1, 2007... This bill created the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Act and Grant Program within the Department of Children and Family Services... The purpose of the Reinvestment Grant Program is to provide funding to counties for programs that increase public safety by reducing recidivism, avoiding overspending on corrections by reducing the need for these services, and improving the success of treatment services. These programs focus on both juvenile and adult populations who have a mental illness, substance abuse disorder, or co-occurring mental health and substance abuse disorder. Individuals engaged in these initiatives are currently involved in the criminal justice system or are at risk of being so... (National Association of Counties, 2008, p. 4)¹⁰⁵

Around this time, the Department of Corrections also undertook efforts to improve the continuity of care and effective re-entry among inmates with mental illness released from the state prison system.¹⁰⁶

This has included creating an Interagency Agreement between the Department of Corrections and the Department of Children and Families, coordinating with the Social Security Administration to facilitate the application process for federal entitlement benefits, establishing community partnerships with key stakeholders, creating administrative processes and roles to oversee the coordination of re-entry and post-release services, and creation of additional staff positions solely dedicated to coordinating aftercare. (Florida Supreme Court, 2007, p. 28)¹⁰⁷

Throughout the development of Florida's mental health system, and its criminal justice system in relation to mental health, Florida's spending on mental health has been low.

In Florida, total state mental health appropriations increased from \$219 million to \$370 million between FY96-97 and FY06-07, an increase of \$151 million. When adjustments are made for inflation, total expenditures rose from \$219 million in FY96-97 to \$248 million in FY06-07, an increase of \$29 million. Trends in per capita state appropriations indicate an increase in funding between FY96-97 and FY06-07 from \$14.90 to \$20.10; however when adjusted for inflation, per capita state appropriations increased from \$14.90 to \$17.27 between FY96-97 and FY01-02 and then decreased to \$13.47 in FY06-07, a net loss of \$1.43 per capita across the prior decade. (Florida Supreme Court, 2007, p. 26)¹⁰⁸

The SMHA Mental Health Expenditures (actual expenditures rather than government appropriation values) have been reported for FY 2004 to 2010:¹⁰⁹

¹⁰⁵ National Association of Counties. (2008). *Issue brief: State and county collaboration: Mental health and the criminal justice system*. Community Services Division of the County Services Department.

¹⁰⁶ Florida Supreme Court, *supra*, note 99.

¹⁰⁷ *Ibid.*

¹⁰⁸ *Ibid.*

¹⁰⁹ Kaiser Family Foundation. *State Mental Health Agency (SMHA), mental health services expenditures*. Retrieved from: <http://kff.org/other/state-indicator/smha-expenditures/#graph>

- FY 2004 = \$623,000,000
- FY 2005 = \$647,200,000
- FY 2006 = \$686,600,000
- FY 2007 = \$722,700,000
- FY 2008 = \$768,900,000
- FY 2009 = \$755,300,000
- FY 2010 = \$742,200,000

Florida has had one of the lowest per capita spending on mental health levels of all of the states. In 2005, the SMHA expenditure per capita amount was \$36.56, giving Florida a per capita spending rank of 48th among the other states.¹¹⁰ In 2007, the SMHA expenditure per capita amount was \$39.87, giving Florida a state rank of 46th.¹¹¹ In 2009, the U.S. average for per capita mental health spending was \$122.90; the Florida average for per capita mental health spending was \$40.90, again making it one of the states with the lowest per capita mental health spending.¹¹²

According to the Florida Council for Community Mental Health (2013):¹¹³

Community mental health system funding has remained relatively flat with only a 3% increase in the past 5 years. During the same time period, adult mental health declined by 7.9%.

The FY 2012-2013 Appropriations reduced mental health and substance abuse funding by \$12 million. DCF has further reduced service funding by 3-5%, depending on the district, to secure administrative funds for the new managing entities. (The Florida Council for Community Mental Health, 2013, p. 2)¹¹⁴

In 2009, NAMI released a *Grading the States* report (to rank the state adult public mental health care systems), in which Florida received a grade of a D, matching the national grade of a D.¹¹⁵ The urgent need for more inpatient psychiatric beds was emphasized, and Florida was chided for trying to meet this need with additional prisons and jails. However, the state was commended for legislative efforts to redirect dollars from the criminal justice system into mental health and substance abuse services and steps taken by “Florida Partners in Crisis” (a non-profit collaboration between public health officials in the criminal justice system and mental health advocates) to

¹¹⁰ Lutterman, T., Berhane, A., Phelan, B., Shaw, R., & Rana, V. (2009). *Funding and characteristics of state mental health agencies, 2007*. HHS Pub. No. (SMA) 09-4424. Rockville, MD: Center for Mental Health Services, Substance Abuse and Mental Health Services Administration.

¹¹¹ Substance Abuse and Mental Health Services Administration. (2011). *Funding and characteristics of state mental health agencies, 2009*. HHS Publication No. (SMA) 11-4655. Rockville, MD: Substance Abuse and Mental Health Services Administration.

¹¹² Honberg et al., *supra*, note 14.

¹¹³ The Florida Council for Community Mental Health. (2013). *Strengthening Florida’s behavioral health system*. Retrieved from: <http://www.fccmh.org/legislative/docs/StrengtheningFloridasBHSystem1-24-13.pdf>

¹¹⁴ *Ibid.*

¹¹⁵ Aron, L., Honberg, R., Duckworth, K., et al. (2009). *Grading the states 2009: A report on America’s health care system for adults with serious mental illness*. Arlington, VA: National Alliance on Mental Illness.

address issues within the criminal justice system in relation to mental health.¹¹⁶ One of these steps was advocating for the Criminal Justice, Mental Health, and Substance Abuse Reinvestment Grant program (which provides state matching grants to counties for CITs, mental health courts, and other programs to reduce the criminalization of people with mental illness).¹¹⁷

Also throughout the development of Florida's mental health system, and its criminal justice system in relation to mental health, the number of inmates requiring mental health services has increased. Between 1995 and 2000, the percentage of inmates receiving ongoing mental health services in Florida prisons increased from 10.6% to 18.1% (an overall proportional increase of more than 70%).¹¹⁸ During this same time period, among the inmates with mental illness, the percentage with severe and persistent mental illness increased from 17.3% to 39.1% (an overall proportional increase of 126%).¹¹⁹ These are unfortunately trends that have been prominent across the nation.

Essentially, Florida's criminal justice system has been forced to house and treat an expanding number of individuals who are unable to receive the necessary mental health care in the community, making it a safety net for the public mental health system.¹²⁰ According to the Florida Supreme Court (2007) report,¹²¹ there are various consequences of the failures of the state mental health system design and implementation, including: substantial cost shifts from less expensive, front-end services in the mental health system to more expensive, back-end services in the criminal justice system; compromised public safety; increased arrest, incarceration, and criminalization of individuals with mental illness; increased police shootings of individuals with mental illness; increased police injuries; and increased rates of chronic homelessness.

Section 8. Recent Changes in Relevant Services and Policy/Legislation in Florida

Jail diversion services have recently become increasingly vital to helping alleviate some of the pressures of incarcerating such a large number of individuals with mental illness. In Florida, such diversion projects include CIT training for law enforcement personnel to prevent unnecessary arrests, mental health courts to divert individuals from incarceration into appropriate treatment, intensive case management, crisis stabilization or crisis support care, assistance in housing or employment attainment, and re-entry services.¹²² Specific examples of these types of programs include the Circuit 1 Forensic Mental Health Project, the Eleventh Judicial Circuit Criminal Mental Health Project (CMHP), Kiva – A Relationship-Based Care Model for Jail Diversion, Passport to Success, and the Alachua County Forensic Specialist Jail Diversion Team.¹²³ The structures and successes of each of these particular programs have been outlined by the Florida Substance Abuse and Mental Health Corporation and Florida Partners in Crisis (2009)¹²⁴ report.

¹¹⁶ Ibid.

¹¹⁷ Ibid.

¹¹⁸ Florida Supreme Court, *supra*, note 99.

¹¹⁹ Ibid.

¹²⁰ Ibid.

¹²¹ Ibid.

¹²² Florida Substance Abuse and Mental Health Corporation & Florida Partners in Crisis. (2009). *A brief overview of promising jail diversion programs in Florida*. Florida Substance Abuse and Mental Health Corporation & Florida Partners in Crisis.

¹²³ Ibid.

¹²⁴ Ibid.

- The Circuit 1 Forensic Mental Health Project: The project provided an array of services including intensive services by a Comprehensive Community Support Team based on the successful Florida Assertive Community Treatment team model, community competency restoration, case management in the jails, community mental health and substance abuse residential treatment services, psychiatric evaluation and medication management services, acute psychiatric crisis services, detoxification services, and traditional mental health and substance abuse outpatient services... This project has had tremendous impact upon the coordination of treatment for individuals with mental illness in Escambia and Santa Rosa Counties.
- CMHP: The project includes both pre-arrest and post-arrest diversion and a long-term housing component... Since the project's implementation in 2001, a post-booking jail diversion program has been initiated that now serves approximately 300 people a year through a variety of interventions. A pre-booking jail diversion program involving law enforcement officers specially trained in Crisis Intervention Team (CIT) policing has resulted in hundreds, if not thousands, of diversions each year, according to CMHP officials... People with mental illnesses who are charged with misdemeanors are diverted from the jail to community mental health facilities for appropriate treatment within 24-48 hours of their arrest. This diversion is handled through two courts that are not specifically mental health courts, but function similarly to such courts... The Mental Health Court Project appears to be effective in reducing program recidivism.
- Kiva – A Relationship-Based Care Model for Jail Diversion: ... The court project collaborated with the Dade Homeless Coalition and Citrus Health Network (CHN) to develop the Kiva Program, a post-booking jail diversion program for homeless people with mental illnesses who are involved in the criminal justice system... There were significantly fewer arrests during the year following admission for individuals who remained in the program or had been placed in permanent housing.
- Passport to Success: Passport to Success is a re-entry and community treatment program for ex-offenders with mental illnesses... Services include mental health treatment and medications, help in applying for disability benefits, assistance finding housing and employment, job training or completing a GED, funds to buy work clothes and tools, transportation, and other community services... Each ex-offender is assigned a life coach who sets up a case plan designed for the individual's needs.
- Alachua County Forensic Specialist Jail Diversion Team: The program serves as a "treatment home," providing team-based services and case management for difficult to treat individuals who have serious mental illnesses or substance use disorders or both, coupled with a history of recidivism. The program adopts features from the Assertive Community Treatment (ACT) team model that emphasize engagement, integrated team approach, and intensive service delivery, including on-call staff... Those participants receiving outreach services served an average of 14.65 fewer days in jail. Those who received case

management and other intervention services served 52.45 fewer days in jail. The project saved Alachua County from \$193,161 to \$360,375 (adjusted rate) in jail costs for the 130 clients. (Florida Substance Abuse and Mental Health Corporation and Florida Partners in Crisis, 2009, p. 2-13)¹²⁵

These initiatives show that Florida, like several other states, currently supports innovative CIT programs and, accordingly, collaborations between criminal justice leaders, mental health providers, policy makers, and mental health advocates.¹²⁶

Improvements in other sectors of the criminal justice and mental health systems are also being explored in Florida. Forensic facilities, which provide treatment/services for defendants who have been charged with a felony and who have been found to be incompetent to proceed because of mental illness, those who have been acquitted of a felony by reason of insanity, and those who are committed to the department, play a huge role within Florida's criminal justice and mental health systems. These forensic facilities are the fastest growing segment of Florida's public mental health system, costing the state a quarter-billion dollars annually; state forensic commitments have increased steadily throughout the past decade.¹²⁷ An alternative community-based forensic approach, the Forensic Alternative Center (MD-FAC) pilot program, was implemented by the DCF in August 2009 in Miami-Dade County.¹²⁸ So far, this community-based program has experienced many successes, including: reducing the average number of days to restore competency; reducing the burden on local jails since the individuals served by MD-FAC are not returned to jail upon restoration of competency; improving access to treatment; and increasing the amount of services received by the appropriate individuals (e.g., intensive services targeting competency restoration, community-living, and re-entry).¹²⁹

Furthermore, new legislature in Florida has encouraged greater attention to the criminal justice system and mental health, including HB 1355 – Purchase of Firearms by Mentally Ill Persons which passed in 2013. This bill requires data reporting of individuals who sought voluntary commitment for crisis stabilization services following a mental health episode in the purchase of firearms and it may prohibit such individuals from purchasing firearms.¹³⁰ An especially relevant proviso passed in the 2013 session is:

Reinvestment Grants – “Public Safety, Mental Health, and Substance Abuse Local Matching Grant Program”: Specific Appropriation 352A provides 43 million for Criminal Justice Reinvestment Grants. These Reinvestment Grants have served as a model for the state to partner with communities, and with their Public Safety Councils, to expand access to behavioral health services for individuals with mental

¹²⁵ Ibid.

¹²⁶ Aron et al., *supra*, note 115.

¹²⁷ Florida Council for Community Mental Health. (2010). *Forensic mental health: Fact sheet*. Retrieved from http://www.fccmh.org/resources/docs/forensic_mental_health.pdf

¹²⁸ Ibid.

¹²⁹ Ibid.

¹³⁰ Florida Department of Children and Families. (2013). *2014 substance abuse and mental health annual plan update: Compliance with annual reporting requirements per section 394.75, Florida Statutes*. Tallahassee, FL: Substance Abuse and Mental Health, Department of Children and Families.

illnesses and substance abuse disorders at risk of incarceration. (Florida Department of Children and Families, 2013, p. 8)¹³¹

The DC and the DCF have both outlined further goals to improve the criminal justice system and mental health care. One of the strategies in the DC's 2013-2016 strategic plan is to ensure that all inmates receive quality and cost-effective medical, dental, and mental health treatment.¹³² Some of the SAMH Program initiatives to meet several established priorities for services and funding over the next five years include to:

- Use the LBR process to seek funds to assist over 130 persons in the civil State Mental Health Treatment Facilities who have been determined ready for community placement for 60 days or longer to be successfully reintegrated back into the community with appropriate treatment and necessary services.
- Provide a system of care that supports and promotes competitive employment opportunities for adults with behavioral health needs.
- Continue to implement the use of National Outcome Measures (NOMs), evidence based practices and quality indicators as the standard for system performance measurement and accountability.
- Develop statewide and local community service frameworks that promote a “no wrong door” approach to care for individuals and families affected by co-occurring substance use and mental disorders, cross-training substance abuse and mental health professionals, and protocols/policies that are welcoming and engaging for these individuals/families.
- Advance a system of care that sustains stable housing for adults and children with behavioral health disorders.
- Increase the diversion of people with substance dependence and/or mental health illnesses who become involved with the criminal justice system through expanding cost-effective community-based treatment alternatives to incarceration and forensic hospitalization.
- Continue to implement Managing Entity contracts throughout the state to promote a more efficient, locally controlled, responsive system of care. (Florida Department of Children and Families, 2013, p. 35-37)¹³³

The DCF is also, as previously mentioned, exploring options to provide additional beds in the community to serve individuals with mental illness who have been charged with non-violent felonies so that forensic mental health treatment facility beds are available for those with the greatest need. Steps to be taken by the department to better manage the forensic system include:

¹³¹ Ibid.

¹³² Florida Department of Corrections. (2013). *2013-2016 Strategic plan*. Tallahassee, FL: Department of Corrections.

¹³³ Florida Department of Children and Families, *supra*, note 102.

- Where available, providing alternatives that include in-jail competency restoration, training for pre-admission incompetent individuals, and maintaining competency for individuals returned to jail pending their hearing;
- Placing individuals on conditional release so that they may participate in community-based programs, including community-based competency restoration programs;
- Working closely with community partners and the courts to divert those individuals who may not need to receive services in a secure forensic facility; and
- Evaluating legislative changes by reducing the timeframe for dismissing charges of individuals determined to be non-restorable from five years to three years for individuals charged with a crime other than a violent crime against persons. If the legislation passes as proposed, the timeframe would remain at five years for individuals charged with a violent crime against persons. Data for the past fourteen fiscal years (FY 1998-99 to FY 2011-12 and including a total of 14,481 individuals) shows that 99.6% of the individuals restored to competency in a state mental health treatment facility were restored in three years or less. (Florida Department of Children and Families, 2013, p. 33)¹³⁴

The Florida Council for Community Mental Health released a 2014 legislative priority list for budget issues regarding behavioral health care.¹³⁵ Some of the priorities/budget issues on this spreadsheet include:

- Restoration of nonrecurring funding for adult community mental health and CATs
- Expanding mental health residential capacity to address individuals waiting for discharge from state hospitals
- CAT expansion and adjustment
- Crisis Stabilization Unit (CSU) expansion
- Funding for public education about mental illness for Mental Health First Aid (MHFA)
- Additional Mental Health, Substance Abuse and Criminal Justice County Reinvestment Grants

All of these future initiatives, priorities, and improvements are imperative for the creation of a more efficient system of criminal justice and mental health in Florida. These changes also have important ethical implications. Florida's prison system has recently received national attention for brutality toward mentally impaired inmates. Desperately needed reforms were announced in early October 2014 by the DC Secretary, Michael Crews. According to an article in the *Miami Herald*, relevant reformatory actions include appointing a mental health ombudsman, expanding crisis

¹³⁴ Ibid.

¹³⁵ The Florida Council for Community Mental Health. (2014). *The Florida Council for Behavioral Healthcare top priorities budget comparisons and legislative issue spreadsheet*. Retrieved from: http://www.fccmh.org/legislative/docs/2014_session/Council_priority_list.pdf

intervention training for officers, and creating a specialized training for staff in the prison system's inpatient units.¹³⁶ These changes could improve the conditions for those with mental illness in Florida's prison system.

Section 9. Cross-Cultural Comparisons of Criminal Justice and Mental Health Systems

The U.S. contains the world's largest prison population; despite comprising only five percent of the world's population, it holds 25% of the world's prisoners.¹³⁷ This level of mass incarceration has led to serious consideration of alterations to the criminal justice system. Analyses of other nations' criminal justice systems can provide helpful insights into potential improvements for the U.S.'s system, especially those nations that have protected public safety without high rates of incarceration.

A report by the Justice Policy Institute (2011)¹³⁸ compared the U.S.'s criminal justice system to those of Australia, Canada, Finland, Germany, and England and Wales, all of which are democratic nations with stable infrastructures and governments and similar sociocultural backgrounds. However:

With its "tough on crime" politics and a belief in the deterrent effect of harsh sentences... the United States has implemented criminal justice policies based on retribution instead of rehabilitation... which have led the U.S. to rely on imprisonment as a way to address lawbreaking more than the comparison nations. (Justice Policy Institute, 2011, p. 14)¹³⁹

This report found that the U.S. uses prison in response to offenses more often than comparison nations, the U.S. sends individuals to prison longer for similar types of offenses, and drug use is viewed as a public health problem and not a criminal justice problem in comparison nations.¹⁴⁰

Significant proportions of incarcerated individuals with mental illness were found in all six nations; deinstitutionalization of the mental health sector was deemed a potential universal cause for this occurrence.¹⁴¹ One of the most prominent issues noted within the U.S. criminal justice system in relation to mental health was the lack of attention to mental or behavioral health in re-entry initiatives.¹⁴²

The United States also has a fundamentally different reentry philosophy. The reentry model is sociological... that is, concerned less with mental health and behavior and focused more on addressing environmental issues such as housing, education, and jobs. While comparison nations may address these issues, as well,

¹³⁶ Bernstein, J. Z. (2014, October 3). After grisly death, Florida prisons overhaul care for mentally ill. *Miami Herald*. Retrieved from <http://www.miamiherald.com/news/state/florida/article2496634.html>

¹³⁷ Justice Policy Institute. (2011). *Finding direction: Expanding criminal justice options by considering policies of other nations*. Washington, DC: Justice Policy Institute.

¹³⁸ Ibid.

¹³⁹ Ibid.

¹⁴⁰ Ibid.

¹⁴¹ Ibid.

¹⁴² Ibid.

their reentry practices are also influenced by psychological principles, addressing some of the individual issues that culminated in incarceration. The combined sociological approach to reentry includes social learning techniques, positive reinforcements, and individualized treatments such as behavior modification therapy... in addition to connecting people to services like housing or jobs... (Justice Policy Institute, 2011, p. 44)¹⁴³

Many conclusions and recommendations were made in the Justice Policy Institute (2011)¹⁴⁴ report, including: shifting the philosophy of policing to being centered on the overall well-being of the community; using day fines instead of incarceration; providing more treatment of individuals outside of the criminal justice system; decreasing sentence lengths, especially for drug offenses; making parole about providing services and not just supervision; and including a mental health component to re-entry services.

A recent report by Ward et al. (2013)¹⁴⁵ compared the functioning of the U.S. prison system to the Nordic prison systems. This report found that the Nordic prison systems were able to more efficiently reduce recidivism, provide educational services, and rehabilitate prisoners.¹⁴⁶ The Nordic prison systems offer mental health counseling to their inmates, and mental health care is viewed as a right for all individuals in countries such as the Netherlands.¹⁴⁷ Focusing more on rehabilitative efforts may help the U.S. reduce the costs and inefficiencies associated with high rates of recidivism.

Section 10. The Future of the Criminal Justice System and Mental Health

More rigorous survey/quantitative data is needed to adequately assess the current prevalence rates and conditions of mental illness within the criminal justice system. Many national surveys, including those that evaluate mental health, do not sample the population of individuals incarcerated in jails or prisons.¹⁴⁸

Given the very high costs of handling mental illness in the current criminal justice system, comparative cost-effectiveness research is also needed to assess the most efficient methods for managing mental illness in the community at large and, if necessary, in the criminal justice system as well. Studies comparing the cost of housing individuals in jails or prisons versus treating them in the community could give direction to potential criminal justice and mental health systems reforms. The cost-effectiveness of diversion strategies/services should also be explored.

Increased funding for mental health services is critical for the improvement of access to and quality of mental health services. Additional mental health services (e.g., pharmacological and psychosocial treatments, crisis stabilization centers, counseling and medication management,

¹⁴³ Ibid.

¹⁴⁴ Ibid.

¹⁴⁵ Ward, K., Longaker, A. J., Williams, J., Naylor, A., Rose, C. A., & Simpson, C. G. (2013). Incarceration within American and Nordic prisons: Comparison of national and international policies. *ENGAGE-The International Journal of Research and Practice in Student Engagement*, 1(1), 36-47.

¹⁴⁶ Ibid.

¹⁴⁷ Ibid.

¹⁴⁸ Substance Abuse and Mental Health Services Administration, *supra*, note 13.

supported housing and employment programs, community mental health centers, self-help groups for mental health, and ACT) are needed to allow for more individuals to receive necessary treatment. More psychiatric hospital beds/forensic psychiatric beds are also needed to provide appropriate care to individuals with greater mental health requirements and to prevent individuals from being held in jails for prolonged periods of time while competency is being restored.

Continued collaboration between the criminal justice system and the mental health system, relevant state departments, law enforcement agencies, emergency service providers, mental health providers, researchers, policy makers, and advocates is essential to design a more efficient overall system. Lack of coordination of services and resources between the criminal justice and mental health systems is one of the key contributors to the disproportionate involvement of individuals with mental illness in the criminal justice system. Public safety (including the safety of law enforcement personnel, correctional officers, individuals undergoing a mental health crisis) must be prioritized in addition to efficiency.

The development of effective services to manage individuals with mental illness who come into contact with the criminal justice system is critically important.

Research suggests that some community-based alternatives are an effective strategy for adults with severe mental illness, but more empirical research is needed before most community-based interventions can be described as empirically supported. (DeMatteo et al., 2013, p. 64)¹⁴⁹

More methodically rigorous research on diversion programs could reveal particularly important findings about the effects on arrest rates, recidivism, and public safety outcomes. Conducting this type of research will require specific considerations for each kind of program. For example, collecting empirical data on CIT programs has proved challenging because of the lack of official information concerning CIT calls, the difficulty of following an individual with mental illness throughout the system from contact to disposition, the lack of memorandums of understanding regarding data sharing, and a lack of information being properly recorded.¹⁵⁰ Thus, Blevins et al. (2014)¹⁵¹ recommends explicit guidelines regarding the CIT process, procedures, and responsibilities in each CIT program, consistency in what types of calls are potentially mental-health related, collection of important data regarding each incident that engages a CIT-certified officer, and training for CIT officers regarding completing the CIT data fields.

In relation to CITs, continued research regarding the best means/tactics for law enforcement personnel to employ when encountering individuals in mental health crises is important. Examples of such promising practices include not responding to taunts, minimizing the use of force, dispatching a supervisor and multiple officers to potentially high-risk calls, and holding officers accountable for policy and training.¹⁵² The de-escalation of tense and aggressive situations could

¹⁴⁹ DeMatteo et al., *supra*, note 37.

¹⁵⁰ Blevins, K. R., Lord, V., & Bjerregaard, B. (2014). Evaluating crisis intervention teams: Possible impediments and recommendations. *Policing: An International Journal of Police Strategies & Management*, 37(3), 484-500.

¹⁵¹ *Ibid.*

¹⁵² Police Executive Research Forum. (2012). *Critical issues in policing series: An integrated approach to de-escalation and minimizing use of force*. Washington, DC: Police Executive Research Forum.

minimize the risk that such an individual will harm himself/herself and/or others. Better understanding of the relationship between substance abuse and mental health issues in relation to criminal activity could also help in the design of prevention/diversion procedures.

Increased utilization of criminal justice system diversion strategies (e.g., CIT and mental health courts) and re-entry services, especially as more supportive findings emerge, will potentially help to alleviate many of the burdens on the current criminal justice system.

Better mental health screening procedures for inmates and data management systems are needed within jails, prisons, and other correctional facilities. Improved physical/psychological screening upon intake into a jail or prison to determine medication needs, suicide risk, and other requirements related to mental health and the subsequent and appropriate distribution of the information from these screenings could help protect correctional officers and afford inmates better access to care.

Mental health screenings for correctional officers, and law enforcement personnel in general, could also potentially protect both these individuals and the individuals they come into contact with by ensuring mental stability and the ability to adequately carry out one's job.

Changes in jails and prisons such as reducing crowding, reducing/ceasing the use of solitary confinement, decreasing the use of excessive force, and increasing the number of security cameras could help to ensure the safety of the correctional officers and staff and inmates. Additional changes could include implementing suicide prevention strategies. As previously discussed, suicide, especially among inmates with mental health issues, is a major problem in jails and prisons. Well-designed suicide prevention programs should include identification, assessment, evaluation, treatment, preventative intervention, and training components.¹⁵³ Daniel (2006)¹⁵⁴ recommends the following steps for creating such a program: developing key policies regarding suicide assessment, observation, and intervention, psychotropic medication use, involuntary/forced medication and treatment, and inpatient hospitalization; implementing a suicide risk rating program; not placing suicidal inmates in segregation units; designing protrusion-free cells or cells with reduced obvious anchors; frequently monitoring inmates in their cells; training correctional officers and staff; developing an effective information-management system; and continuously evaluating such programs. Another significant change could include implementing strict regulations (e.g., zero tolerance policies), with appropriate consequences, against inmate brutality and sexual victimization (both for inmates and for correctional officers/staff). Other recommendations to prevent physical and sexual violence in correctional facilities include improving supervision (especially around inmates' cells), installing more surveillance cameras, increasing officer training in crisis intervention, and preventing access to contraband.¹⁵⁵

Adequate mental health treatment within jails and prisons is crucial. Treatment during incarceration is not only ethically necessary, but it can also prevent inmates from engaging in dangerous behaviors or breaking rules and thus prolonging their sentences.

¹⁵³ Daniel, *supra*, note 23.

¹⁵⁴ *Ibid.*

¹⁵⁵ La Vigne, N. G., Debus-Sherrill, S., Brazzell, D., & Downey, P. M. (2011). *Preventing violence and sexual assault in jail: A situational crime prevention approach*. Washington, DC: Justice Policy Center, Urban Institute.

Sufficient resources and proper compensation/incentives for correctional officers and staff and mental health providers within jails, prisons, and other correctional facilities is necessary to improve job satisfaction and quality.

Better community transition efforts, or re-entry services, for individuals who have been released from incarceration are particularly important. Offenders with mental illness have an especially high risk of recidivism. Thus, rehabilitative approaches to re-entry (e.g., providing appropriate treatment, education, employment and housing assistance, and psychological care) could have a major positive impact within this demographic. Cross-cultural models appear to be especially effective as rehabilitative approaches to re-entry.

Overall regulating bodies for state criminal justice systems in regard to mental health could be beneficial. Coordination among state and/or non-governmental agencies to monitor and inspect the conditions of all relevant mental health services (e.g., preventative services in the community and treatment services in correctional facilities) could aid with efficiency and minimize the current systemic fragmentations. Such regulating agencies should strive for transparency, and correctional facilities that continuously fail to meet inspection standards (e.g., by violating inmates' civil rights and enacting brutality and misconduct against inmates) should be prosecuted by federal authorities/pressured by federal authorities to reform.

Improved relations/communications with unions for correctional officers is also needed. Often times, jail and prison officials are made to bear too great a responsibility for conditions in the criminal justice system related to mental health. Jails and prisons should not be held solely responsible for handling the consequences of a flawed public mental health system.

Reliance on outdated civil commitment laws is another key contributor to the disproportionate involvement of individuals with mental illness in the criminal justice system.¹⁵⁶

Legal restrictions, such as changes in mental health law, made it harder for involuntary commitment of people with mental illness into a psychiatric hospital... Laws regarding patients' rights were strengthened, which led to only the most severely mentally ill and the most dangerous being committed, leaving many others who may commit crimes in the community. Because of the changes in these laws, the mentally ill often have to exaggerate their illness in order to receive treatment... (Brandt, 2012, p. 546)¹⁵⁷

Treatment interventions should be based on the need for care rather than typical dangerousness. Dangerousness criteria may result in individuals with mental illness committing crimes before they can get the necessary help. Treatment laws inside of jails and prisons can also be problematic. Inmates that legally choose to refuse medication (or other forms of treatment) can pose a threat to

¹⁵⁶ Leifman, S. *Substance abuse and mental health issues in the courts: People with mental illnesses involved in the criminal justice system*. Retrieved from <http://democrats.energycommerce.house.gov/sites/default/files/documents/Testimony-Leifman-OI-Psychiatric-Patient-Beds-2014-3-26.pdf>

¹⁵⁷ Brandt, supra, note 8.

themselves and others (e.g., correctional officers and staff and other inmates). In 31 states, treatment over objection in prison can be accomplished through the use of a treatment review committee; however, this treatment mechanism tends to be underutilized.¹⁵⁸

Increased public and political awareness in regard to the criminal justice system and mental health and potential reform is essential to facilitate change. Problems within this system only seem to receive national attention after a tragedy has already occurred (e.g., a school shooting by an individual with SMI or a tragic death of an inmate with mental illness due to the use of excessive force). Proactive change is vital.

Overall, the prison population in the U.S. is finally beginning to decline, a trend that has been sustained for three years now.¹⁵⁹ Efforts are needed to continue this trend and to expand the decline to the prison population with mental illness by increasing resources for the community-based treatment of mental illness.

Section 11. Conclusion

The U.S.'s criminal justice system in relation to mental health is burdened by an array of serious challenges; urgent practice and policy reform is essential to ensure an ethical, safe, and efficient system. However, in order to improve this system, change within the public mental health system is also necessary. The U.S.'s mental health system remains critically underfunded and there is a growing need for increased access to better quality mental health services. Often times, as a result of not receiving proper care in the community, individuals with mental illness end up interacting with the criminal justice system. The shifting of costs from less expensive, front-end services in the mental health system to more expensive, back-end services in the criminal justice system is inefficient. There is currently an increasing number of inmates with mental illness and many of these individuals do not receive the appropriate treatment once incarcerated.

Recommendations for the improvement of the criminal justice system in relation to mental health, in the nation at large and in Florida, include expanding funding for state mental health services, increasing the availability of community-based mental health services, inpatient mental health hospital beds and forensic mental health treatment facility beds (for individuals with greater needs), and quality mental health services in jails and prisons, conducting more research on the effectiveness of diversion services/programs and implementing successful ones (e.g., CITs and mental health courts), raising the training requirements for law enforcement personnel and correctional officers (especially in regard to de-escalating confrontations with individuals with mental illness and minimizing the use of force), updating screening procedures and data management systems within jails and prisons, minimizing the crowding within jails and prisons, eliminating the utilization of solitary confinement for inmates with mental illness, implementing suicide, brutality, and sexual abuse preventative strategies within jails and prisons, increasing the availability of re-entry services and follow-up treatments that emphasize a rehabilitative approach, encouraging collaboration and coordination between state criminal justice and mental health

¹⁵⁸ Torrey et al., *supra*, note 6.

¹⁵⁹ Carson, E. A., & Golinelli, D. (2013). *Prisoners in 2012: Trends in admissions and releases, 1991-2012*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

departments, modifying civil commitment laws, and supporting promising bills that promote relevant reform.

Overall, diverting appropriate individuals with mental illness from jails and prisons into structured community placements/services and refining the quality of mental health treatment for individuals with mental illness already involved with the criminal justice system will allow for a more successful and ethical criminal justice system.