

INTRODUCTION

Introduction to this double issue: Jail diversion and collaboration across the justice continuum

In this double issue, 'Jail diversion and collaboration across the justice continuum', we advance further into a next, or second, generation of scholarship on strategies to shift individuals with mental illness from the criminal justice system into treatment. The background to all this is well grounded in essential facts. Persons with mental illness and substance use disorders (SUDs) are over-represented in the criminal and juvenile justice system, as compared with the general population (Osher, D'Amora, Plotkin, Jarrett, & Eggleston, 2012). In one study of a 10-year window examining a cohort of public mental health service recipients, approximately one-third (28%) had experienced at least one arrest, with emerging adults aged 18–25 years having had a 50% chance of one arrest during the study period (Fisher et al., 2006). In another study of state mental health system data, one-quarter of individuals with diagnoses of schizophrenia or bipolar disorder were found to have been involved with the justice system during a 2-year period (Swanson et al., 2013).

Risk factors for this over-representation of persons with mental illness in the justice system include many of the same risk factors for people without mental illness (e.g., the so-called "criminogenic" risk factors; Andrews, Bonta, & Hoge, 1990; Osher et al., 2012). Variables such as histories of trauma and concomitant SUDs at the front end contribute to this trajectory into the justice system (Fox, Perez, Cass, Baglivio, & Epps, 2015; Pinals, 2015; Robertson, Swanson, Frisman, Lin, & Swartz, 2014), along with other social determinants such as environment, education, and income. If the criminal justice population were small, the imperatives might not be as great. But in the United States, about 7 million offenders were under adult correctional system supervision at the end of 2012, which included those held in correctional facilities and those considered to be under other correctional supervision (of these statistics, 1 in 50 adults was supervised in the community on probation or parole, while about 1 in 108 adults was incarcerated in prison or jail) (Glaze & Herberman, 2013). Looking at incarceration as a matter of public health concern, health risks for individuals within these systems and gaps in their care, along with widely recognized racial and ethnic disparities, mean there are a myriad of issues that need to be addressed. Among these issues, the higher prevalence of persons with mental illness and SUDs among the criminal justice populations needs to be reduced. Their movement in and out of multiple systems demands close scrutiny and creative solutions.

With correctional populations also over-represented by persons living in poverty and from minority populations, the numerous and notorious other disparities compound the challenges to right-size targeted uses of criminal justice interventions that are compatible with public safety. Practices related to social policy in many instances disadvantage certain individuals, including those with mental illness who are in the criminal justice system. These individuals also often live in poverty, are homeless or unemployed, and have disrupted interpersonal relationships, especially with revolving institutionalization and hospitalization. These obstacles add to the difficulty of achieving an integrated life in society. This is seen in so many instances today that we are in crisis.

Every day in our nation's jails, persons with psychosis and other serious mental illness are locked in small cells, often in deplorable conditions, awaiting something all too often unknown to the individual – court hearings, transfer to prison, a jail sentence, release, or placement in a hospital. Litigation surrounding forensic waiting lists for persons incompetent to stand trial due to serious mental illness or developmental disabilities has been in the spotlight (Fuller, Sinclair, Lamb, Cayce, & Snook, 2017). Yet these individuals may be in fact awaiting evaluations or legal determinations related to competence to stand trial for more minor offenses, or for serious charges that resulted from minor acts. They may be further disadvantaged by being caught between protection of their legal rights and their significant treatment needs, waiting for

one system or the other to pull them out of a cycle of evaluation, restoration, waiting, relapse, and rearrest, when that redirection seems unattainable until something else occurs in their criminal case. The American Bar Association's (2016) newly revised standards reflect the importance of considering diversionary strategies when charges are minor. This is an important area for development.

Neither the articles in this special issue nor this introductory essay explore the causes of the influx of persons with serious mental illness into jails and prisons. The reasons for this are undoubtedly multifactorial (Pinals, 2014), but challenges accessing hospital level of care are only a part of this complex history, and solutions are not so simple. A robust system of care should not deny hospital care for those in need of this level of treatment (Felthous, 2015), but neither does the recognition of the need for this service for some gainsay the importance of ensuring access to a full continuum of care and supports to meet the serious other needs of those who encounter the criminal justice system (Pinals & Fuller, 2017).

Building the case for models and programs that work toward redirecting individuals with behavioral health needs out of the churn of the criminal justice system has been important. An array of stakeholders are taking deeper dives into conversations about what problem-solving strategies might help. Some bright spots have emerged to demonstrate positive change (Chang, 2016). Although efforts to reduce the numbers of people with mental illness and SUDs in the criminal justice system are rapidly growing, they are still not successful enough, or pervasive enough, to have reversed these dynamics on a large scale. In this arena, the urgency cannot be overstated for research on strategies to shift populations in need away from the criminal justice umbrella into treatment without compromising public safety.

To move ahead, community conversations often result in a clamor for more data to help drive programs and policy decisions that can truly impact the goals of redirecting populations of persons with mental illness and SUDs out of the criminal justice system. Such data are critical to help determine which particular interventions to replicate and foster for individual and community well-being. Funding for grants and local service pilot projects related to these issues has been highlighting the importance of targeting services and systemic policies that include strategies to address multiple issues simultaneously. Cross-collaborative interventions that attend to the legal nuances and clinical needs of individuals caught between systems is an important focus as part of the conversation. The research presented herein therefore comes at a critical time.

In 1992, Casey, Keilitz, & Hafemeister laid out an agenda to reform justice and mental health system interactions, calling for more data and improved communication and interaction across systems (Casey, Keilitz, & Hafemeister, 1992). That same year, the Center for Mental Health Services Substance Abuse and Mental Health Services Administration began supporting jail diversion efforts (Center for Mental Health Services Substance Abuse and Mental Health Services Administration GAINS Center, 2010). A survey of programs that sought to divert individuals with mental illness from the criminal justice system (Steadman, Barbera, & Dennis 1994) helped to define the term "jail diversion", describing efforts and programs designed to screen individuals in the justice system with mental disorders and to negotiate a means to establish a charge reduction or alternative disposition separate from the local jail. The survey found at that time only 52 programs for these purposes existed in jails across the United States housing 50 or more people.

Fast forward to 2013, when Wolff et al. (2013) described the need for "second generation" interventions that move beyond targeting symptom reduction and instead also focus on targeting complex mental health, substance use, and criminogenic needs of justice-involved individuals with mental illness. In 2014 one of the authors (DAP) issued a call to action to expand the horizon for forensic psychiatrists and other professionals at the interface of behavioral health and justice systems to continue to conduct excellent forensic evaluations of competence to stand trial and criminal responsibility, but also to look beyond this task and consider the broader needs of the countless individuals caught between the criminal justice and behavioral health systems (Pinals, 2014). Together, these two calls to the field asked for more understanding and more research along dimensions of interventions, policy, treatment, and system reform at many levels. Now, in 2017, federal legislation has also embraced these calls for reform. For example,

federal legislators in December 2016 signed the 21st Century Cures Act (An Act Public Law, 2016), pulling together many threads and specifically identifying and seeking strategies related to jail diversion.

Over time, leading to today's movement in this direction, we have come to understand more about the concept of jail diversion. In a seminal brief paper on this subject, Munetz and Griffin (2006) outlined a structured approach to think about diversion based on tracking the logic and flow of the criminal justice system, and calling upon the field to develop models that both identify individuals with mental illness and deter or deflect them from entering the criminal justice system altogether. This model, known as the Sequential Intercept Model, focuses on key intercept points, from arrest to court case-processing to re-entry. It follows the logic that once individuals with mental illness or SUDs are identified along this criminal justice continuum, diversion services can be developed around them.

At the field level, individuals who work in the criminal justice system and those working in behavioral health systems describe feeling overwhelmed, under-prepared and taxed in relation to their work with people with mental illness and criminal justice histories, respectively. Community mapping workshops that walk through the Sequential Intercept Model are routinely taking place, to help communities and providers be more prepared, and to develop the priorities and action steps needed to build further diversion strategies that uniquely match the needs in communities (e.g. through the SAMHSA GAINS Center). The systems examining these priorities rely upon stories of successful programs, as well as studies that yield data to help drive further improvements in diversion approaches.

In this issue, we proudly present another chapter in the collective knowledge being gained through these many efforts. We highlight original research reports and scholarly papers related to aspects of pre-trial diversion and other alternatives to detention or incarceration or re-entry services for individuals with mental illness and/or SUDs. Contributions include the first formalized peer-reviewed description of "Intercept 0", an intercept recently added in 2017 to the Sequential Intercept Model conceptualization (Abreu, Parker, Noether, Steadman, & Case, 2017, pp. 380–395). Innovative approaches to police–community contacts are included in this series, as described in Compton, Halpern, et al., 2017 (pp. 480–491) and Compton, Anderson, et al., 2017 (pp. 492–500) who study specialized procedures offered to police for consultation and tracking individuals with mental illness to effect tighter linkages and coordination. We also include a paper on the "evidence" of Crisis Intervention Team efforts (Watson, Compton & Draine, 2017, pp. 431–441) and examine best practices with regard to whether voluntary participation or mandated training of officers within a police force leads to better outcomes (Compton, Bakeman, Broussard, D'Orio & Watson, 2017, pp. 470–479). The issue moves further into the criminal justice system by looking at mental health courts (Landess & Holoyda, 2017, pp. 501–511), and we provide an international perspective on community courts in Israel (Gal & Dancig-Rosenberg, 2017, pp. 523–539). Trojano, Christopher, Pinals, Harnish, & Smelson, 2017 (pp. 408–417) look at perceived coercion among veterans participating in a specialty court. Johnston, 2017 (pp. 396–407) provides a scholarly review that takes a step back to look at the legal doctrinal rationale for alternative sanctions and punishments for persons with mental illness that might justify diversion strategies in the first place. Other highlighted works include studies of novel models of working with offenders (Heilbrun, Pietruszka, Thornewell, Phillips, & Schiedel, 2017, pp. 562–572), and an exploration of a program providing services for female offenders who are waiting for competence to stand trial restoration (Coffman, Shivale, Egan, Roberts, & Ash, 2017, pp. 540–549), and others.

Some of the papers represent pilot models that will need replication and validation. Some papers include studies that are methodologically the most advanced available for the type of behavioral health and justice services research being presented. And some represent reviews and thoughtful analyses of these diversion and alternative case processing models. The contributions presented in this issue provide building blocks of knowledge that will hopefully spark further research. In this era in which there is a recognized need for reform, which has gained the attention not only of the research community but also of the wider world, this special issue of Behavioral Sciences and the Law could not be more timely. It is our hope that each of these articles will provoke reflection and consideration, and will inspire researchers to keep trying and to keep learning in the attempt to bring about system change

and reduce the prevalence of individuals in the justice system who are in need of treatment rather than incarceration.

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How to cite this article: Pinals DA, Felthous AR. Introduction to this double issue: Jail diversion and collaboration across the justice continuum. *Behav Sci Law*. 2017;35:375–379. <https://doi.org/10.1002/bsl.2322>