

Executive Summary

I THE PROBLEM

Impact on People and Systems

People with mental illness are falling through the cracks of this country's social safety net and are landing in the criminal justice system at an alarming rate. Each year, ten million people are booked into U.S. jails; studies indicate that rates of serious mental illness among these individuals are at least three to four times higher than the rates of serious mental illness in the general population.

Because of sensational headlines and high-profile incidents, many members of the public and some policymakers assume, incorrectly, that the vast majority of people who are in prison or jail and have a mental illness have committed serious, violent crimes. In fact, a large number of people with mental illness in prison (and especially in jail) have been incarcerated because they displayed in public the symptoms of untreated mental illness. Experiencing delusions, immobilized by depression, or suffering other consequences of inadequate treatment, many of these individuals have struggled, at times heroically, to fend off symptoms of mental illness. Providers in the mental health system have been either too overwhelmed or too frustrated to help some of these individuals, who typically have a history of being denied treatment or refusing it altogether.

Whereas some of these individuals have no family, others have exhausted the resources or the patience (and often both) of their loved ones. Often, family members, fearful for their safety or because they are simply out of options, ask the police to intervene. In other cases, concerned members of the community alert law enforcement about situations such as these: a woman shouting obscenities at shoppers on Main Street; an unkempt man in the park making threatening gestures and urinating in public. Many times, police officers on their patrols encounter individuals with mental illness in various states of public intoxication. These are individuals who have attempted to self-medicate using alcohol or any illegal substance they could obtain.

There are also cases in which a person with a mental illness commits a serious, violent crime, making his or her incarceration necessary and appropriate. Still, almost all of these individuals will reenter the community, and the justice system has the legal obligation (and the obligation to the public) to prepare these individuals for a safe and successful transition to the community.

Given the dimensions and complexity of this issue, the demands upon the criminal justice system to respond to this problem are overwhelming. Police departments dedicate thousands of hours each year transporting people with mental illness to hospitals and community mental health centers where staff often have to turn away the individual or quickly return him or her to the streets. Jails and prisons are swollen with people suffering some form of mental illness; on any given day, the Los Angeles County Jail holds more people with mental illness than any state hospital or mental health institution in the United States.

Most troubling about the criminal justice system's response in many communities to people with mental illness is the toll it exacts on people's lives. Law enforcement officers' encounters with people with mental illness sometimes end in violence, including the use of lethal force. Although rare, police shootings do more than end the life of one individual. Such incidents also have a profound impact on the consumer's family, the police officer, and the general community. When they are incarcerated, people with untreated mental illness are especially vulnerable to assault or other forms of intimidation by predatory inmates. In prisons and jails, which tend to be environments that exacerbate the symptoms of mental illness, inmates with mental illness are at especial risk of harming themselves or others. Once they return to the community, people with mental illness learn that providers already overwhelmed with clientele are sometimes reluctant to treat someone with a criminal record.

Origins of the Problem

The origins of the problem are complex and largely beyond the scope of this report. During the last 35 years, the mental health system has undergone tremendous change. Once based exclusively on institutional care and isolation, the system has shifted its emphasis almost entirely to the provision of community-based support for individuals with mental illness. This public policy shift has benefited millions of people, effecting the successful integration of many people with active or past diagnoses of mental illness into the community. Many clients of the mental health system, however, have difficulty obtaining access to mental health services. Overlooked, turned away, or intimidated by the mental health system, many individuals with mental illness end up disconnected from community supports. The absence of affordable housing and the crisis in public housing exacerbates the problem; most studies estimate that at least 20 to 25 percent of the single, adult homeless population have a serious mental illness.

Not surprisingly, officials in the criminal justice system have encountered people with mental illness with increasing frequency. Calls for crackdowns on quality-of-life crimes and offenses such as the possession of illegal substances have netted many people with mental illness, especially those with co-occurring substance abuse disorders. Ill equipped to provide the comprehensive ar-

ray of services that these individuals need, corrections administrators often watch the health of people with mental illness deteriorate further, prompting behavior and disciplinary infractions that only prolong their involvement in the criminal justice system.

II ABOUT THE CRIMINAL JUSTICE / MENTAL HEALTH CONSENSUS PROJECT

The *Criminal Justice / Mental Health Consensus Project* is a unique effort to define the measures that state legislators, law enforcement officials, prosecutors, defense attorneys, judges, corrections administrators, community corrections officials, and victim advocates, mental health advocates, consumers, state mental health directors, and community-based providers agree will improve the response to people with mental illness who are in contact (or at high risk of involvement) with the criminal justice system.

The target audience of the *Consensus Project Report* is those individuals who can be characterized as agents of change: state policymakers who can have a broad systemic impact on the problem and an array of practitioners and advocates who can shape a community's response to the problem. Legislators, policymakers, practitioners, and advocates can champion the detailed recommendations in the report knowing that each has been developed and approved by experts from an extraordinarily diverse range of perspectives who work in and administer the department, agencies, and organizations trying every day to address the needs of people with mental illness involved (or at risk of involvement with) the criminal justice system.

The *Consensus Project Report* addresses the entire criminal justice continuum, and it recognizes that actions taken by law enforcement, the courts, or corrections have ramifications for the entire criminal justice system. The report also recognizes that people with mental illness who are involved with the criminal justice system live in or return to communities, each of which has distinct issues, challenges, assets, and potential solutions to enable people with mental illness to avoid or minimize involvement with the criminal justice system.

The report provides 46 policy statements that can serve as a guide or prompt an initiative to improve the criminal justice system's response to people with mental illness. Following each policy statement is a series of more specific recommendations that highlight the practical steps that should be taken to implement the policy. Woven into the discussion of each recommendation are examples of programs, policies, or elements of state statutes that illustrate one or more jurisdiction's attempt to implement a particular policy statement. While

promising, many of these initiatives are so new that they have yet to be evaluated to certify their impact on individuals and systems. Still, they demonstrate how partnerships and resourcefulness can be successfully replicated or tailored to the unique needs of a variety of communities. These examples should also help communities to build on the achievements without duplicating the failures or inefficiencies of others.

State and local government officials and community leaders can use these policy statements, recommendations, and examples to get beyond *discussing* the issue and to begin developing initiatives that will *address* the problem.

III. CONSENSUS PROJECT POLICY STATEMENTS

The policy statements in the *Consensus Project Report* reflect that—from a person’s first involvement with the mental health system to initial contact with law enforcement, to pretrial issues, adjudication, and sentencing, to incarceration and re-entry—there are numerous opportunities for an agent of change to focus his or her efforts to improve the response to people with mental illness who come in contact with criminal justice system. These policy statements are summarized in the chart below.

The first half of this chart corresponds to Part One of the report. These policy statements explain the opportunities available to practitioners in the criminal justice and mental health systems to identify a person who has a mental illness and to react in way that both recognizes the individual’s needs and civil liberties and promotes public safety and accountability. In addition, these policy statements summarize elements of programs and policies that would enable law enforcement, court officials, corrections administrators, and mental health providers to provide access to effective treatment and services and to maintain the individual on a path toward recovery.

Policy statements describing the overarching themes (Part Two) of the report appear in the second half of the chart below. They reflect that the recipes for implementing each of the policy statements in part one of the report call for many of the same ingredients: collaboration, training, evaluations, and an effective mental health system.

The policy statements concerning collaboration recognize that neither the criminal justice system nor the mental health system can, on its own, implement many of the recommendations in the report. For example, law enforcement officials need information about and access to mental health resources to respond effectively to individuals with mental illness in the community. To make informed decisions at pretrial hearings, adjudication, and sentencing, court officials need some information about an individual’s mental illness. Cor-

rections and community corrections administrators should be able to tap a clinician's expertise when evaluating whether a person eligible for parole meets the criteria for release.

The chapter regarding training calls for criminal justice practitioners to become familiar with the signs and symptoms of mental illness, the appropriateness of various responses, and the resources and organization of their local mental health system. Similarly, the implementation of many of the recommendations throughout the report depends on mental health clinicians and service providers who understand the criminal justice system and are willing to look beyond the stigma associated with a criminal record.

Successful implementation of the policy statements throughout the report requires the delivery of mental health services to individuals who have complex needs and a long history of unsuccessful engagement in the community-based mental health system. The chapter concerning an effective mental health system discusses the need for mental health services that are accessible, easy to navigate, culturally competent, and integrated; treatment provided should adhere to an evidence base. A community mental health system that does not meet these criteria is unlikely to maintain an individual with mental illness engaged in treatment, and thus will quickly cause criminal justice officials to lose confidence in the community's capacity to support people with mental illness.

The last set of policy statement in the following chart recognize that measuring the outcomes of programs designed to improve the response to people with mental illness involved in the criminal justice system is also of paramount importance. Program administrators must monitor the impact of a new initiative. Such information is essential to determine whether a program or policy is successful and how it can be improved. It also facilitates continued support for promising initiatives.

| Report Chapter | EVENT/ISSUE | POLICY STATEMENT Number | POLICY STATEMENT |
|------------------------------------------------------------|------------------------------------------------|---------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Involvement with the Mental Health System | Involvement with the Mental Health System | 1 | Improve availability of and access to comprehensive, individualized services when and where they are most needed to enable people with mental illness to maintain meaningful community membership and avoid inappropriate criminal justice involvement. |
| Contact with Law Enforcement | Request for Police Service | 2 | Provide dispatchers with tools to determine whether mental illness may be a factor in a call for service and to use that information to dispatch the call to the appropriate responder. |
| | On-Scene Assessment | 3 | Develop procedures that require officers to determine whether mental illness is a factor in the incident and whether a serious crime has been committed—while ensuring the safety of all involved parties. |
| | On-Scene Response | 4 | Establish written protocols that enable officers to implement an appropriate response based on the nature of the incident, the behavior of the person with mental illness, and available resources. |
| | Incident Documentation | 5 | Document accurately police contacts with people whose mental illness was a factor in an incident to promote accountability and to enhance service delivery. |
| | Police Response Evaluation | 6 | Collaborate with mental health partners to reduce the need for subsequent contacts between people with mental illness and law enforcement. |
| Pretrial Issues, Adjudication, and Sentencing | Appointment of Counsel | 7 | Make defense attorneys aware of the following: (a) the mental health condition, history and needs of their clients as early as possible in the court process; (b) the current availability of quality mental health resources in the community; and (c) current legislation and case law that might affect the use of mental health information in the resolution of their client's case. |
| | Consultation with Victim | 8 | Educate individuals who have been victimized by a defendant with a mental illness, or their survivors, about mental illness and how the criminal justice system deals with defendants with mental illness. |
| | Prosecutorial Review of Charges | 9 | Maximize the use of alternatives to prosecution through pretrial diversion in appropriate cases involving people with a mental illness. |
| | Modification of Pretrial Diversion Conditions | 10 | Assist defendants with mental illness in complying with conditions of pretrial diversion. |
| | Pretrial Release/ Detention Hearing | 11 | Maximize the use of pretrial release options in appropriate cases of defendants with mental illness so that no person is detained pretrial solely for the lack of information or options to address the person's mental illness. |
| | Modification of Pretrial Release Conditions | 12 | Assist defendants with mental illness who are released pretrial in complying with conditions of pretrial release. |
| | Intake at County/ Municipal Detention Facility | 13 | Ensure that the mechanisms are in place to provide for screening and identification of mental illness, crisis intervention and short-term treatment, and discharge planning for defendants with mental illness who are held in jail pending the adjudication of their cases. |
| | Adjudication | 14 | Maximize the availability and use of dispositional alternatives in appropriate cases of people with mental illness. |
| | Sentencing | 15 | Maximize the use of sentencing options in appropriate cases for offenders with mental illness. |
| Modification of Conditions of Probation/Supervised Release | 16 | Assist offenders with mental illness in complying with conditions of probation. | |

| Report Chapter | EVENT/ISSUE | POLICY STATEMENT Number | POLICY STATEMENT |
|----------------------------------------------------------------------------|------------------------------------------------------------------------------------------------|-------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Incarceration and Reentry | Receiving and Intake of Sentenced Inmates | 17 | Develop a consistent approach to screen sentenced inmates for mental illness upon admission to state prison or jail facilities and make referrals, as appropriate, for follow-up assessment and/or evaluations. |
| | Development of Treatment Plans, Assignment to Programs, and Classification / Housing Decisions | 18 | Use the results of the mental health assessment and evaluation to develop an individualized treatment, housing, and programming plan, and ensure that this information follows the inmate whenever he or she is transferred to another facility. |
| | Subsequent Referral for Screening and Mental Health Evaluation | 19 | Identify individuals who—despite not raising any flags during the screening and assessment process—show symptoms of mental illness after their intake into the facility, and ensure that appropriate action is taken. |
| | Release Decision | 20 | Ensure that clinical expertise and familiarity with community-based mental health resources inform release decisions and determination of conditions of release. |
| | Development of Transition Plan | 21 | Facilitate collaboration among corrections, community corrections, and mental health officials to effect the safe and seamless transition of people with mental illness from prison to the community. |
| | Modification of Conditions of Supervised Release | 22 | Monitor and facilitate compliance with conditions of release and respond swiftly and appropriately to violations of conditions of release. |
| | Maintaining Contact Between Individual and Mental Health System | 23 | Ensure that people with mental illness who are no longer under supervision of the criminal justice system maintain contact with mental health services and supports for as long as is necessary. |
| Improving Collaboration | Obtaining and Sharing Resources | 24 | Determine how the partners will make resources available to respond jointly to the problem identified. |
| | Sharing Information | 25 | Develop protocols to ensure that criminal justice and mental health partners share mental health information without infringing on individuals' civil liberties. |
| | Institutionalizing the Partnership | 26 | Institutionalize the partnership to ensure it can sustain changes in leadership or personnel. |
| Training Practitioners and Policymakers and Educating the Community | Determining Training Goals and Objectives | 27 | Determine training goals and objectives and tap expertise in both the criminal justice and mental health systems to inform these decisions. |
| | Training for Law Enforcement Personnel | 28 | Establish new skills, recruit, in-service, and advanced skills training requirements for law enforcement personnel about responding to individuals with mental illness, and develop curricula accordingly. |
| | Training for Court Personnel | 29 | Provide adequate training for court officials (including prosecutors and defense attorneys) about appropriate responses to criminal defendants who have a mental illness. |

| Report Chapter | EVENT/ISSUE | POLICY STATEMENT Number | POLICY STATEMENT |
|-----------------------------------------------------------------------------------------|----------------------------------------------------------|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Training Practitioners and Policymakers and Educating the Community <i>continued</i> | Training for Corrections Personnel | 30 | Train corrections staff to recognize symptoms of mental illness and to respond appropriately to people with mental illness. |
| | Training for Mental Health Professionals | 31 | Develop training programs for mental health professionals who work with the criminal justice system. |
| | Educating the community and Building Community Awareness | 32 | Educate the community about mental illness, the value of mental health services, and appropriate responses when people with mental illness who come into contact with the criminal justice system. |
| | Identifying Trainers | 33 | Identify qualified professionals to conduct training. |
| | Evaluating Trainers | 34 | Evaluate the quality of training content and delivery; update training topics and curricula annually to ensure they reflect both the best practices in the field as well as the salient issues identified as problematic during the past year. |
| Elements of an Effective Mental Health System | Evidence-Based Practices | 35 | Promote the use of evidence-based practices and promising approaches in mental health treatment, services, administration, and funding. |
| | Integration of Services | 36 | Initiate and maintain partnerships between mental health and other relevant systems to promote access to the full range of services and supports, to ensure continuity of care, and to reduce duplication of services. |
| | Co-Occurring Disorders | 37 | Promote system and services integration for co-occurring mental health and substance abuse disorders. |
| | Housing | 38 | Develop and enhance housing resources that are linked to appropriate levels of mental health supports and services. |
| | Consumer and Family Member Involvement | 39 | Involve consumers and families in mental health planning and service delivery. |
| | Cultural Competency | 40 | Ensure that racial, cultural, and ethnic minorities receive mental health services that are appropriate for their needs. |
| | Workforce | 41 | Determine the adequacy of the current mental health workforce to meet the needs of the system's clients. |
| | Accountability | 42 | Establish and utilize performance measures to promote accountability among systems administrators, funders, and providers. |
| | Advocacy | 43 | Build awareness of the need for high quality, comprehensive services and of the impact of stigma and discriminatory policies on access to them. |
| Measuring and Evaluating Outcomes | Identifying Outcome Measures | 44 | Identify outcome measures that will enable policymakers to assess the value and efficacy of the initiative. |
| | Collecting Data | 45 | Ensure mechanisms are in place to capture data consistent with the process and outcome measures identified. |
| | Disseminating Findings | 46 | Publicize program successes as appropriate to the media, public, and appropriators. |

IV. USING THE REPORT AND NEXT STEPS

The *Consensus Project Report* should be used as a compendium of ideas that will help individuals identify and frame practices and programs that will improve the response to people with mental illness who are in contact with—or at risk of becoming involved with—the criminal justice system.

Deciding where to start—especially when familiar with the existing obstacles to improving the systems—is difficult. In more than one community, reform efforts have been derailed before getting underway because those involved could not decide where to begin. Similarly, attempting to implement many, if not all, of the policy statements in this report could overwhelm a community.

The single most significant common denominator shared among communities that have successfully improved the criminal justice and mental health systems' response to people with mental illness is that each started with some degree of cooperation between at least two key stakeholders—one from the criminal justice system and the other from the mental health system.

Indeed, the *Consensus Project* report reflects, on a national level, the value of substantive, bipartisan, cross-system dialogue regarding mental health issues as they relate to the criminal justice system. At a minimum, such discussions should be replicated in communities across the country. Where those discussions have already begun, agents of change should capitalize on the window of opportunity that now exists. The lives of people with mental illness, their loved ones, and the health and safety of communities in general depend on it.