



FACT SHEET #5

A BETTER WAY

Programs Offering Alternatives to Incarceration

PRE-BOOKING DIVERSION PROGRAMS

People with serious mental disorders often come to the attention of law enforcement officers as a result of circumstances related to their illness. These arrests are frequently for nuisance offenses or minor infractions of the law. In a number of jurisdictions these individuals can be redirected at the outset, away from incarceration and into community-based mental health treatment.

Pre-booking diversion occurs before a person is arrested or formal charges have been filed. Law enforcement pre-booking diversion occurs at the time of contact with law enforcement and relies heavily on effective interactions between police and community mental health. There are several models of pre-booking programs, including special police officer response teams, police-based mental health workers and mobile crisis teams of mental health professionals.

POST-BOOKING DIVERSION PROGRAMS

Post-booking jail diversion programs provide access to appropriate mental health treatment outside of jail soon after arrest. Typically, these programs incorporate:

- ◆ screening of detainees for presence of mental illness;
- ◆ evaluation by qualified mental health professional of those identified through screening;
- ◆ negotiation between diversion personnel or defense attorney and the court or prosecutor to establish a mental health disposition either in lieu of prosecution or as a condition of reduction in charges or community supervision;
- ◆ linking of clients to community-based mental health services.

ADJUDICATION OR POST-ADJUDICATION DIVERSION

Mental health and criminal justice entities collaborate in various ways to move defendants with mental illnesses into treatment as a condition for reduction in charges or community supervision. This collaboration involves:

- ◆ mental health programs,
- ◆ jails,
- ◆ courts,
- ◆ pre-trial services programs,
- ◆ prosecutors,
- ◆ the defense bar, and/or
- ◆ probation.

Courts are often willing to refer individuals to mental health services when a judge has confidence that the program will be effective and will ensure adequate follow-up for the person referred. In many jurisdictions, mental health programs work with various courts to refer offenders with misdemeanor and/or felony charges.

Some jurisdictions have established specialized mental health courts to handle cases when a defendant has a mental illness. Mental health courts are controversial. Some claim they are unnecessary for diversion and detrimental to the individual if they result in a criminal record or encourage use of the criminal justice system as a door into mental health treatment. The courts in various parts of the country differ greatly, even as to basic issues, such as the degree to which participation is voluntary, whether the individual must plead guilty in order to participate, whether community mental health services are expanded to accommodate the needs of those diverted by the courts, the length of time individuals are under the court's supervision, the defendants' criminal offenses and whether there are sanctions for non-compliance with treatment goals.

Evaluations of mental health courts are now underway, but to date few data have been compiled regarding their effectiveness. A specific "mental health court" is not essential for court-based diversion, however.

COMPREHENSIVE MENTAL HEALTH-CRIMINAL JUSTICE COLLABORATIONS

In a number of communities, linkages between the mental health and criminal justice systems have been forged at several points along the criminal justice continuum. In these communities, a comprehensive program of services and supports is offered through the mental health system and individuals are referred from various sources, including law enforcement officers, mobile mental health treatment teams, jail staff, defense attorneys, prosecutors, pretrial services, judges, and probation and parole officers. Individuals being released from jail and prison may also be eligible.

These communities have discovered that programs of services and support can be equally effective with offenders who have misdemeanor or felony charges or who are at different stages in the criminal justice system.

PROGRAMS FOR SUCCESSFUL TRANSITION BACK TO THE COMMUNITY

More than half a million people a year leave prison or jail, but the transition to the community is complex. Sixty-two percent of those released are re-arrested at least once within three years and 41% are re-incarcerated.¹ For people with mental illnesses, this transition is particularly hard because they need access to mental health and other services and supports (such as housing) in the community. Re-entry programs seek to ease this transition by providing linkages with mental health programs and addressing the full range of the individual's needs.

Such programs address inmates' mental health needs and help them make the transition from incarceration to a job, re-establish family ties, develop a social network and avoid further criminal activity.

Some re-entry initiatives are specialized, assisting inmates in accessing benefit programs, such as Medicaid, or providing them identification to use in civilian life. Others, like New York City's Project LINK, are more comprehensive.

1. Allen J. Beck, "State and Federal Prisoners Returning to the Community: Findings from the Bureau of Justice Statistics (Washington DC: Bureau of Justice Statistics, April 13, 2000).