Incentives and Sanctions and Mental Health: Issues to Consider

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Largest mental hospital in U.S.?

Los Angeles County Jail with 3,000 MI inmates every day

Earley, Pete, Crazy: A Father's Search Through America's Mental Health Madness (Putnam, 2006)
SMI prevalence in jail/prison

- 40% of individuals with serious mental illnesses have been in jail or prison at some time in their lives
- 16% of inmates in jails and prisons have a serious mental illness
- 1983 it was 6.4%
- In less than three decades, the percentage of seriously mentally ill prisoners has almost tripled

Prevalence of other Dx in Jail

• Mania, schizophrenia and major depression were significantly more prevalent in jails than the general population
• Women have 3 xs rate of depression as men in custody
• Over half of women have substance use disorder
72% have co-occurring disorder
Only 1/3 men & ¼ women receive needed services for severe mental disorders

National GAINS Center for People with Co-Occurring Disorders in the Justice System (2002)
Co-Occurring Disorder Center
Severe Mental Disorders Among General Population & Jail Admissions

- General Population - Males:
  - Mania: 0.1
  - Schizophrenia: 0.9
  - Major Depression: 1.0
  - Any Severe Disorder: 1.8

- Jail - Males:
  - Mania: 1.4
  - Schizophrenia: 2.7
  - Major Depression: 3.9
  - Any Severe Disorder: 6.4

- Jail - Females:
  - Mania: 1.4
  - Schizophrenia: 2.0
  - Major Depression: 10.5
  - Any Severe Disorder: 12.2
SMI in jail/prison, not hospital

- More than three times more seriously mentally ill persons in jails and prisons than in hospitals
- North Dakota has equal number
- Arizona and Nevada have almost ten times more mentally ill persons in jails and prisons than in hospitals
Going backwards

- Early 19th C. reformers fought for more humane treatment for mentally ill
- We’ve gone back to the 1840’s by jailing the mentally ill again

Dorthea Dix

One model of a co-occurring drug treatment court

- Eligibility determined by jail MH staff and negotiated with DA/PD
- Integrated MH/SA tx
- Sanctions sensitive to MH problems
- MH specialist both case manager and liaison to judge
- Separate court docket

Lane Co. (Eugene OR) SAMHSA Jail Diversion Knowledge Dissemination Application Initiative rebecc.mcalexander@co.lane.or.us
Judicial monitoring

- Vital role
- Role more subtle and nuanced than other P-S courts
- Informed listening
- Engagement is key

Difference?

- How may depression affect participation in DTC?
- Agoraphobia?
- PTSD?
- Auditory hallucinations?
- Medications?
Incentives & Sanctions: The Real Issues

- What behavior do we want to change?
- What steps will THIS participant need to go through to get to the desired behavior?
- What will motivate THIS participant to change his/her behavior?
- What’s really important?
  - Law-abiding behavior!
Mental Illness & Courts:
Assumptions about Changing Behavior

- Mental illness ↑ criminal behavior
- Treatment ↓ criminal behavior
- Criminal justice involvement = opportunity to connect to appropriate treatment
- Judicial supervision ↑ treatment retention & outcomes
- Treatment and judicial supervision ↑ public safety

PUBLIC SAFETY GOALS

INDIVIDUAL TREATMENT GOALS
Typical MHC Client Goals

• Achieve/maintain psychiatric stability
  ◦ Personal recovery: meaningful life in the community while striving to achieve full potential

• Achieve/maintain sobriety

• No new offenses

!!! Highly individualized standards for graduation, termination, and progress along the way !!!
Mental Health Court Model & Assumptions

- ID, referral & assessment
- MHC participation
- Linkage to comprehensive & appropriate community services
- Info-sharing
- Judicial monitoring (tx compliance)
- Improved MH outcomes
- Improved public safety
Does Research Support the MHC Model?

Important question: what about MHCs works, why, and for whom?

To date: a few single-site studies, one multi-site study; promising results

- Recidivism: lower for MHC participants than defendants in traditional courts (even post-graduation)
  - Biggest predictors of recidivism: # of arrests & # of days incarcerated in 18 months before MHC entry; no MH treatment in 6 months preceding MHC entry
  - NOT associated with improved CJ outcomes: current charges, most serious prior offense, symptoms, insight, self-reported treatment compliance
  - Connections to treatment: MHCs do a better job than traditional courts or jails
Emerging Research on Jail Diversion and Probation

- Recidivism and days of incarceration for people with and without mental illness is associated with “criminogenic” factors
  - Criminal history, antisocial behavior, antisocial cognition, antisocial peers, family or marital discord, poor school or work performance, few leisure activities, substance abuse

- Diagnosis, symptoms and treatment compliance are not associated with criminal justice outcomes

How Can We Get Improved Criminal Justice Outcomes?

- ID, referral & assessment
- Court process
- Linkage to comprehensive & appropriate community services
- Info-sharing
- Judicial monitoring (tx compliance)
- Improved MH outcomes
- Improved public safety

?
Questions We Need to Ask and New Theories

Before we get to incentives and sanctions:

1. Are people getting the right treatment and services?
2. Do we have the right MHC design, policies & procedures?
3. How important is treatment engagement? What else should participants engage in?
Evidence-Based Services for MHC Participants

- Housing
- Integrated co-occurring disorder treatment
- Case management (incl. ICM, FICM, FACT)
- Supported employment
- Trauma interventions
- Illness management & recovery
- Cognitive behavioral therapies (esp. for high criminal justice risk)
- Medications
Treating a Disease vs. Developing a Life in a Social World

- **Medical model:** Mental illnesses are biologically based brain disorders
  - Treatment is fundamentally medical
  - Mental illnesses are chronic conditions, requiring symptom management
  - Focus of MHC is treatment adherence

- **Recovery:** Development of a person’s full life potential living as independently as possible and in harmony with the community
Mental health:
The ability to pursue a dynamic equilibrium between the individual’s needs and desires – within the frame of society’s rules – to fulfill a meaningful life.

Mental illness:
A person’s temporary inability to pursue a meaningful life due to the presence of psychiatric problems severe enough to interfere with his performance in any one or more of the following spheres: social, labor, and academic
“Treatment” for Criminal Thinking and Behavior

- Criminogenic risks and needs
  - Assessment
  - Cognitive-behavioral interventions (T4C, MRT, R&R)
  - Accidental cognitive-behavioral treatment?
    - Court requirements, judicial monitoring, case management

- “Criminal-justice informed treatment”
Court Design & Process

- Procedural justice
  - Quality of interpersonal treatment (respect, dignity, empathy)
  - Accountability (participants & providers)
  - Transparency of court process & decisions
  - Engagement in civic society, social norms
- Similar factors: treatment engagement
Courts, Mental Illness and Engagement in Society

- Old MHC language: incentives & sanctions, compliance
- New MHC language: alliance, motivation & engagement
  - Ongoing judicial monitoring/relationship to motivate engagement in treatment, prosocial activities and civil society
Motivating Engagement

- MHC participants often have impoverished lives and few successes to celebrate
  - Celebrate accomplishments; avoid more failure
- Lots more carrots than sticks
- Coordinate judicial & clinical responses
- Your reward = my punishment!
- Don’t confuse treatment & services with rewards & punishment
- Engagement strategies will reflect the style of the judge and the court team
Court Team Responses to Engagement & Progress

- Recognition: praise, honor roll, applause, showcase talent (show art work, sing)
- Less frequent appts. with MHC/monitoring staff
- Status hearings: voice re frequency, priority in order or appearance or seating
- Presents, gift certificates (usually donated)

- Certificates for phase completion: not rigidly defined!
- Participation in court-sponsored events
- Less restrictive pretrial release conditions
- Less frequent urine testing
- Granting of privileges (such as travel, later curfew)
- Charge reduction/dismissal
Court Team Responses to Non-Adherence & Non-Engagement

- Reprimand, disapproval
- More frequent appts with MHC/monitoring staff
- Unannounced visits
- More frequent status hearings
- Penalty box
- Writing assignments (journal, letter to judge)
- Workbook assignments
- More restrictive pretrial release status (contact supervision, electronic monitoring, etc.)
- Loss of privileges (such as travel, curfew)
- Community service
- Bench warrant
- Jail remand (short stays)
- Termination/sentencing
Clinical Responses

• NA/AA/Double Trouble
• Clubhouse, other peer support
• Treatment engagement groups (remand intervention)
• Hospitalization
  ◦ Voluntary
  ◦ Involuntary

• Detox/drug rehab
• Transfer to different provider, but same type of service (improve “fit”)
• Transfer to more or less restrictive housing or treatment program
• Other groups (money mgmt, anger mgmt, family relations, etc.)
the Essential Elements of a Mental Health Court

(THIRD EDITION, DRAFT)

Bureau of Justice Assistance
Essential Element #4

- Terms of participation
  1. Promote public safety
  2. Are clear, individualized and least restrictive to ensure tx engagement
  3. Minimize impact of charges on participants’ criminal record
  4. Support a positive legal outcome
#4, cont.

- Length should not extend beyond max period of incarceration or probation participant could have received
- Completion tied to compliance and strength of connection to community tx
- Withdrawal/dismissal should not reflect negatively on current case
Essential Element #9

- Individualized graduated incentives /sanctions and tx modifications to promote public safety and participants’ recovery
- Imposed “with great care” and w/ input from MH professionals
- Develop specific protocols for jail as a sanction
#9, cont.

- Ad hoc praise and rewards helpful and important incentives
- Phases should reflect participants’ progress
- Public recognition of progress
- Number of available incentives should be as broad as sanctions
Some Strategies to Consider

- Use jail sparingly so medication regimes are not compromised
- Loss of SSI or other benefits
- Look for creative alternative to incarceration like set up chairs for group
- Link volunteer work with something defendant likes to do (work outdoors, work with animals, etc.)
12 Step, MH, Co-Occurring

- “A drug is a drug is a drug”
- People can say anything they want in a meeting
- Dual Diagnosis and Dual Recovery 17 Step meetings
Case Study

- What expectations are appropriate?
- What behavior are we trying to change?

Joe:
- Lied to the court about employment
- Lost his supported housing after staying out all night; won’t acknowledge responsibility (says another resident ratted him out to his PO)
- Clean and sober for a year
- No new arrests
Jail Protocols

• Turn to the person next to you and together develop jail protocols for people with mental health issues or co-occurring disorders

  ➢ Length of time?
  Medications?
  Strip search?
  Segregation?
  ➢ Other issues?
Resources

- GAINS Center
- Consensus Project
- Judicial Leadership Initiative
- Evidence-Based Practices, Drake, et al.,

“Implementing Evidence-Based Practices in Routine Mental Health Service Settings,” Psychiatric Services 52 (2001)
Resources, cont.

- Bazelon Center for Mental Health Law
- NJC Co-Occurring Substance and Mental Health Disorders (9-11-06) and Managing Cases with Mental Disabilities (10-18-06) courses
- Second Generation of Mental Health Courts
  
  Redlich, et al., The Second Generation of Mental Health Courts,
Resources, cont.

- MH webliography/AOD listserv
- peggyhora@sbcglobal.net