

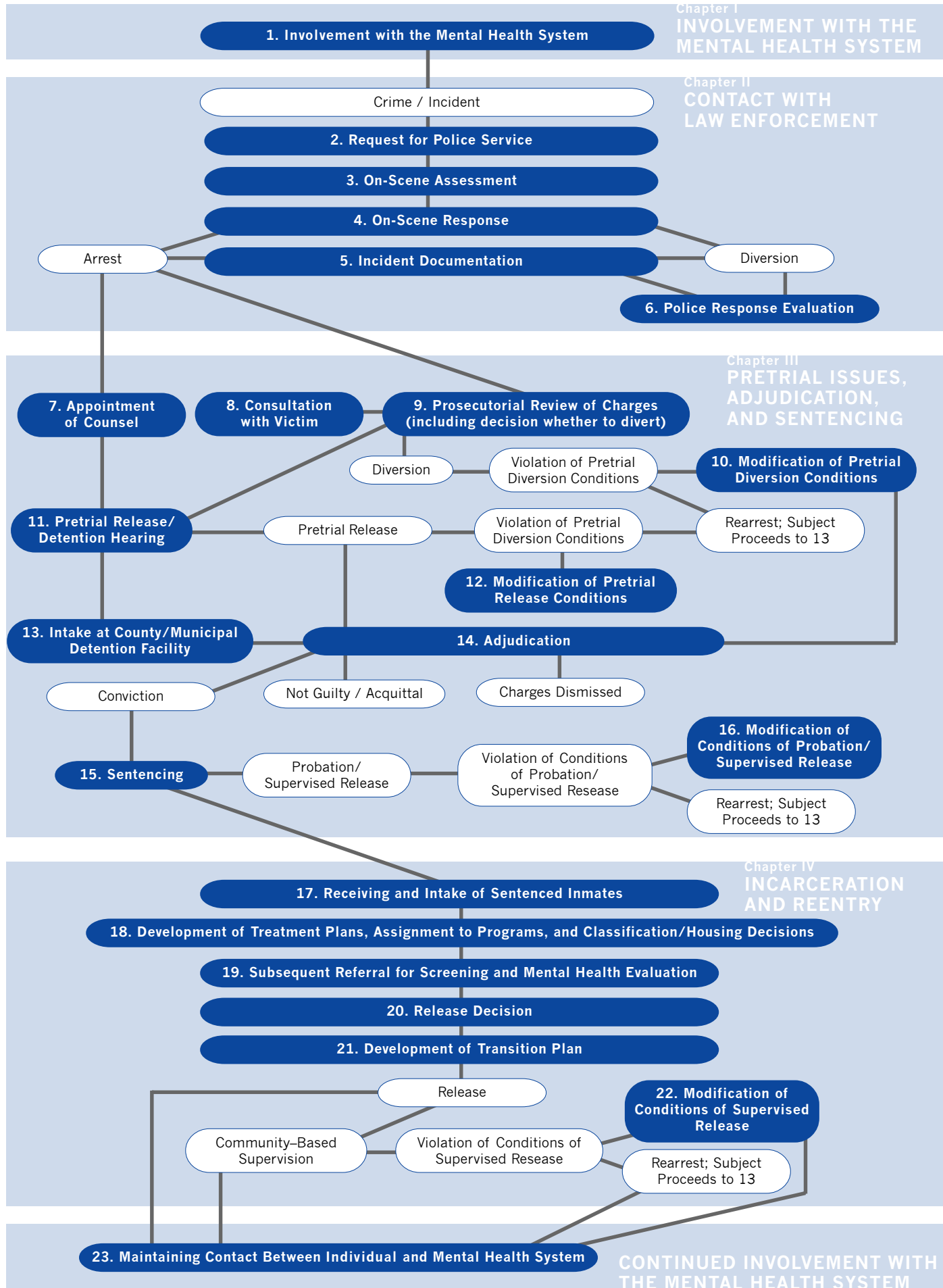
Part ONE:

Select Events on the Criminal Justice Continuum

The following section of the report presents policy statements corresponding to various events on the criminal justice continuum. The report does not address every possible event on the continuum. Instead, particular events were selected because of the opportunity each presents to improve the response to people with mental illness who are in contact with (or at risk of coming in contact with) the criminal justice system.

The flowchart on the next page serves as a useful guide when reading part one. Each event addressed in the report appears on the flowchart in a blue bubble and is preceded by an Arabic numeral. Events that appear in clear bubbles are not specifically addressed in the report (e.g., acquittal). They are included in the flowchart to help the reader follow the course of an individual's progress through the criminal justice system.

A Person with Mental Illness in the Criminal Justice System: A Flowchart of Select Events



Involvement with the Mental Health System

Law enforcement officers, prosecutors, defenders, and judges—people on the front lines every day—believe too many people with mental illness become involved in the criminal justice system because the mental health system has somehow failed. They believe that if many of the people with mental illness received the services they needed, they would not end up under arrest, in jail, or facing charges in court. Mental health advocates, service providers, and administrators do not necessarily disagree. Like their counterparts in the criminal justice system, they believe that the ideal mechanism to prevent people with mental illness from entering the criminal justice system is the mental health system itself—if it can be counted on to function effectively. They also know that in most places the current system is overwhelmed and performing this preventive function poorly.

Policy Statement 1 and the recommendations that follow describe the role that should be played

by the mental health system *should* play in helping people with mental illness avoid inappropriate contact with the criminal justice system. For the most part, they reflect general principles and do not delve into areas of detail similar to those found elsewhere in the report. Readers may know whether the services described in this section are available in their communities; if large numbers of people with mental illness are in contact with the criminal justice system, it is likely that necessary services are lacking.

Chapter VII contains a comprehensive examination of the elements of an effective mental health system, upon which implementation of many of the policy statements throughout the report depend.

1

Involvement with the Mental Health System

POLICY STATEMENT #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.

There are communities across the country where appropriate and necessary mental health services were never developed, have closed down, or for some other reason are not available. In large cities, the wait for an appointment with a mental health professional may be measured in months, while in small rural communities the responsible agency may be based in a town many miles across the county. In either case, it cannot be said that mental health services are available when or where they are most needed.

To be effective, services must meet the immediate needs of those who seek them. They must be comprehensive, meaning they must be prepared to

address the full range of issues presented by an individual with mental illness. They must also be flexible enough to be tailored to each person who enters the system. In highlighting the need for improved access to mental health services, advocates, providers, and others in the mental health field frequently use these two phrases. On first glance, these terms may appear to be contradictory, but the two concepts can be entirely complementary. A wrong-door policy addresses the critical need to engage people in care while a single point of entry is a mechanism for integrating services in response to an individual's complex needs. (See sidebars on the following pages for more on the concepts.)

RECOMMENDATIONS FOR IMPLEMENTATION

a Provide user-friendly entry to the mental health system for those who need services.

It is sometimes said that the mental health system has many doors and all of them are closed. To address this problem of access, some systems have found it most effective to designate a single agency as the gatekeeper or controller of entry to the system. Depending on such variables as geography and governmental structure, gatekeepers can take many forms. In some states, for

example, a county-based system may be structured so that a single multiservice agency is responsible for all mental health services. By virtue of its franchise, it becomes responsible for gatekeeping as well as for providing services. In other states, multiple agencies may provide services, but one may be designated as the point of entry, with responsibility for linking each client to those services appropriate to his or her needs. There are many manifestations of this concept, but the organizing idea is to make entrance into the system as user-friendly as possible.

This kind of arrangement encourages service integration, cuts down on conflicts and redundancies, and promotes more efficient use of resources. Most of all, it works to create a pathway through the system that, ideally, delivers to each client the mix of services that best meets his or her needs.

Example: New York State Office of Mental Health

The New York State Office of Mental Health has asked local governments in the state to establish a single point of entry (SPOE) system covering case management and housing services. Intended to coordinate services for individuals with multiple needs, the SPOE system is intended to allow communities to build on the strengths of their existing systems. In addition to the primary purpose of coordinating and integrating services, SPOE provides a platform from which improved data collection can take place, leading to identification of performance indicators for evaluating system outcomes.

“Without better mental health care, better partnerships and an improved focus in criminal justice, we can expect unacceptable outcomes to continue...inappropriate police encounters; unnecessary arrests and incarcerations; delayed release from jails and prisons; increased recidivism of persons with mental illnesses to the criminal justice system; and delayed or lack of needed mental health treatment.”

MIKE HOGAN

Director, Ohio Department of Mental Health and Chair, New Freedom Commission on Mental Health

Source: U.S. House Committee on the Judiciary, *The Impact of the Mentally Ill on the Criminal Justice System*. September 21 2001

b

Expand priority service definitions to include more people with mental illness who are at risk of criminal justice involvement or who have histories of criminal justice involvement.

One way many states have limited the potential cost of mental health services is by identifying and defining a priority population for those services and then targeting resources to that population. Only by meeting the priority population definition can one access mental health services in most states. Usually, the priority population has been defined by such characteristics as diagnosis and functional limitation, which in theory translate easily to a hierarchy of need. Sometimes, however, focusing services on a priority population has a perverse ancillary effect. The complicated diagnostic picture of many of those who are homeless and/or coming into contact with the criminal justice system at times pushes the boundaries of existing priority population definitions. Where financial or capacity pressures are straining the system, people with complex problems are sometimes screened out in favor of those who only have a mental illness that clearly fits within the priority definition.

Policymakers and providers need to address the questions of who falls within the priority service population and what to do for those people with serious problems who do not fit established priority categories. It is important that policymakers recognize not just the growing potential of science, medicine, and rehabilitative services, but also their limits. A thorough understanding of these dynamics is difficult for policymakers to achieve, not the least because this is an area in which change is occurring very rapidly. As science and mental

health practices advance, policymakers will need to keep pace so that our systems are not—as they are in so many states today—artifacts of a time when far less was known about mental illness and the treatments available for it.

One way to ensure that resources are available to serve people with complex problems who have typically been overlooked by the mental health system and thus are at risk of involvement with the criminal justice system is simply to identify them as a priority population and place them first in line for services instead of last. To do this would mean targeting resources that do not now go to this population. It is a very complicated task to find funding from a variety of federal and state sources for the comprehensive treatment this population is likely to need. Because practice in many places has been to ignore this population and therefore to avoid grappling with the difficulties involved with treating them, expansion of the priority service definition will need to be closely monitored for effectiveness as well as such unintended consequences as the deprioritizing of other needy groups.

Indeed, the possible consequence of expanding the priority population that most alarms advocates, consumers, and many others with a stake in the system is that services for people with mental illness who are law-abiding, adherent to treatment, and in many ways less obvious to those outside the system will fall in priority or even be supplanted by those for the criminal justice population. With mandates to serve more difficult patients and no increase in overall mental health system resources, this is one very possible outcome. It is an outcome to be avoided because this law-abiding population, easier to serve though they may be, has been less apparent precisely because the system has worked effectively for them.

Example: Maryland Mental Hygiene Administration

In developing services for people with mental illness who have been in county jails, Maryland's Mental Hygiene Administration, the state's public mental health authority, arrived at the assumption that one population was being served, regardless of an individual's history of incarceration. Such issues as treatment for mental illness or substance abuse as well as the need for housing were substantially the same for those who had been jailed as they were for others in the mental health system. By automatically including people with mental illness and histories of jail time in the priority population, Mental Hygiene Administration officials found they were able to deliver services more effectively, while at the same time reducing recidivism to local jails.

No Wrong Door

No wrong door refers to a service system that welcomes people in need wherever they try to gain access. Persons with mental illness often have a broad array of associated health, social service, and support needs. Not knowing the mission of an agency or the relationship between agencies, they may present different providers with any one of a number of concerns. "No wrong door" policies commit all service agencies to respond to the individual's stated and assessed needs through either direct service or linkage to appropriate programs, as opposed to sending the person from one agency to another until he is able to establish a connection with the system. Many people with mental illness lack the capacity to navigate the complicated array of services or they may feel rejected in their efforts to obtain help. Discouraged, they simply drop out of the system and join the ranks of untreated, homeless people with mental illness who come into frequent contact with the criminal justice system. A no wrong door policy accepts that the first step toward successful mental health care is engaging the individual.¹

C

Improve access to appropriate services by people with mental illness who are at risk of criminal justice involvement.

People with mental illness do not always seek treatment in the same way someone suffering from acute physical pain might. Sometimes they don't know where to turn for help, or perhaps they don't realize they need it. In fact, some-

1. See National GAINS Center, *Courage to Change: A Guide for Communities to Create Integrated Services for People with Co-Occurring Disorders in the Justice System*, December, 1999, p. 12

Single Point of Entry

A single point of entry is a mechanism for ensuring an individual gets the appropriate range of services. The "single point of entry" system accepts the burden of integrating services rather than placing that burden on the individual. It places responsibility with a designated agency to oversee each client's movements through the different services and programs available in a given community. The care that person needs can then be coordinated, even when more than one agency is involved in providing it. An individual with multiple needs who seeks care in a community with a "no wrong door" policy may be referred to a "single point of entry."

times they actively avoid it. For this reason, providers of mental health services must be creative and opportunistic in their approach to some who are in need of treatment.

For many, the mental health system is invisible and unknown. A person who shows signs of a mental illness may have no idea where to call for information or treatment. More shockingly, family doctors and other professionals in the community may be unfamiliar with local mental health agencies. Mental health providers need to maintain and improve community contacts so that finding help is an easily navigated process. Referrals from other agencies, housing and homeless assistance agencies or substance abuse treatment and detox centers, for example, should be welcomed by mental health providers. Rather than apply rigorous screening so that all but a few are excluded from the system, mental health providers should actively seek out cases. To serve a community effectively, public mental health agencies should be as visible and active as any health care resource.

When the affected individual doesn't realize help is needed, a family member or someone else in the community may reach out to a provider agency. In such instances, the agency should be responsive. If the individual will not go to the agency's intake facility, outreach staff from the agency should visit the person wherever he or she is and, if appropriate, they should be able to access acute care hospital beds or crisis intervention services. Similarly, if the person is homeless or without apparent social support, agency staff should make efforts, repeated, if necessary, to engage him or her in a setting where that individual is most comfortable.

For outreach to be effective, it must be done in a culturally appropriate manner. Certainly, an outreach specialist must be able to use the individual's primary language. Yet, as has been increasingly understood throughout the mental health system, cultural competency involves the ability to listen to each individual and pick up cues that are culturally based. By meeting an individual's needs in a culturally sensitive manner, providers significantly increase the likelihood that that person will accept and continue services.

d Identify specific needs of individuals with mental illness who are at risk of criminal justice involvement or who have histories of criminal justice involvement and match services to those needs.

Each individual has needs that are particular to him or her. While the central need may be treatment for serious mental illness, other needs are frequently associated with it, including treatment for alcohol or substance abuse; treatment for HIV/AIDS or other illnesses or disorders; affordable housing; income assistance; and/or employment services. Not all needs are immediately evident, so a full assessment should be undertaken. This may certainly be focused on the need for mental health treatment and services, but it should by no means be limited exclusively to that arena. The use of illicit substances by a

person with mental illness markedly increases his or her risk of contact with the criminal justice system and must be assessed. The presence or absence of various supports in a person's life should always be thoroughly understood by treatment providers who are designing treatment plans. Similarly, as much as possible should be learned about the individual's history of treatment and incarceration. Not only will knowledge of this history be helpful in gaining a broad understanding of a person's condition and status, it could help in forging links with past or even current providers who can offer further insight useful in treatment. In building a person's history, mental health professionals should also try to learn whether or not the subject has been the victim of physical or sexual abuse. Understanding this part of a person's history can help immeasurably in designing effective services for that person.

Mental health treatment interventions are most effective when they are tailored to an individual's particular needs. It is clear that provider agencies must be staffed and organized to provide multiple interrelated services to the individuals they serve. For example, mental health agencies in many places have added staff expertise in the social supports needed by many clients with serious mental illness precisely so that services tailored to meet those needs can be offered. Substance abuse expertise is needed to address the large percentage of persons with co-occurring mental illness and substance abuse disorders. By providing an array of services that can be tailored to each individual's needs, agencies are more likely to keep clients engaged, enabling many to develop the skills or contacts necessary for them to live successfully in the community.

Ideally, the public mental health system should function as part of a broader public health system that identifies problems in their early stages and takes steps to prevent their exacerbation. To do this effectively, the system must include a full array of services, including linkage with community resources traditionally seen as residing outside the mental health system. A community in which a full range of services is not available will find itself facing preventable problems, evident in the numbers of encounters between people with mental illness and components of the criminal justice system.

When clients find the services they receive to be helpful and meaningful, they are far more likely to continue them. For many people with mental illness, developing this sense of connection is extremely important. Because individually tailored services lead to more sustained engagement in mental health treatment, they are a critical link in preventing inappropriate criminal justice involvement.

A person with mental illness needs to gain access to appropriate services repeatedly. Services are successful only if they are sustained over time. A provider agency's role, therefore, does not end with identifying services and providing referrals. Success of an intervention often rests on the level of support provided to a person with mental illness who is striving to follow his or her treatment plan. For the difficult-to-engage person who is most at risk for criminal justice involvement, this kind of support can often be quite intensive. Frequently, it

means repeated outreach to the individual, often through such treatment models as Assertive Community Treatment (ACT) or intensive case management. For very ill individuals, it can mean access to acute care and inpatient services when needed. And it cannot be emphasized enough that such support must go well beyond purely treatment-related needs to supports such as housing, employment or education assistance, and transportation supports that will enhance the likelihood of a person living successfully in the community.

e

Draw funding for mental health services from a variety of public sources.

Delivery of comprehensive mental health services at the community level requires a significant investment of public resources. Effective community mental health service providers have learned that they must draw from a variety of sources if they are to offer a full spectrum of services. As discussed later in this document, funding for mental health treatment and associated supports in a typical community may come from several different federal agencies, state general fund allocations, and local tax levies.

Resourceful administrators have learned how to use scant state and local funds to leverage money from other sources and to maximize revenues from federal programs such as Medicaid. They look to the U.S. Department of Housing and Urban Development for funds to provide housing for their clients, and they try to join federal block grant funds for mental health and substance abuse treatment with other sources in order to provide integrated services for co-occurring substance abuse and mental disorders. Even the most artful administrators at the provider, county, or state system levels have difficulty matching resources to need. While agencies and systems survive by identifying and tapping a range of sources, the inescapable conclusion is that funding limitations in many communities prevent the public mental health system from making a full range of effective services available.

Broad implementation of the kinds of comprehensive, individualized services briefly described in this section services that have been successfully implemented in some communities around the country will result in fewer people with mental illness coming into contact with the criminal justice system. Provision of necessary treatments and supports is the most effective precontact diversion from the criminal justice system for people with mental illness.