

Criminalization of Mental Illness Reader

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Kelly Frailing
Risdon N. Slate

CAROLINA ACADEMIC PRESS
Durham, North Carolina

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See catalog.loc.gov for Library of Congress Cataloging-in-Publication Data

ISBN: 978-1-5310-0430-9
eISBN: 978-1-53100-431-6

CAROLINA ACADEMIC PRESS, LLC
700 Kent Street
Durham, North Carolina 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America

I (Kelly) would like to thank my husband Jay and my daughter Matilda for their enduring love and support. You are the lights of my life. I would also like to thank Jessica Hawkins, without whom this project never would have reached completion. Finally, I would like to thank our incredible contributors for sharing their expertise with us.

I (Ris) am indebted to Kelly Frailing for her tireless leadership and work on this project, to Art Lurigio for his expert synthesis of the chapters contained within, and to each of our contributors for their focus on pertinent issues, with a cumulative aim of preventing persons with mental illnesses from ending up in the abyss of the criminal justice system.

Together, we would like to thank Carolina Academic Press for their support of this project from the beginning.

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Kelly Frailing, Ph.D. is an assistant professor of criminology and justice at Loyola University New Orleans. She has published on crime and disaster in the *Natural Hazards Observer*, *The American Journal of Economics and Sociology*, *The CIP Report*, and *American Behavioral Scientist*. She is also the co-editor of and author or co-author of several chapters in all three editions of the book *Crime and Criminal Justice in Disaster* and co-author of *Toward a Criminology of Disaster*. She has also published on specialty (problem solving) courts in the *International Journal of Law and Psychiatry*, the *International Journal of Forensic Mental Health*, *Criminal Justice Policy Review*, and *Applied Psychology and Criminal Justice*.

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Li-Wen Grace Lee, M.D. is a board-certified forensic psychiatrist and a clinical assistant professor at Columbia University College of Physicians and Surgeons. She previously worked as an attending psychiatrist and unit chief, providing inpatient mental health treatment and forensic evaluations for pre-trial detainees and individuals in jail custody. She is currently employed as medical director and assistant commissioner for the New York State Office of Mental Health, Division of Forensic Services. The scope of her work there includes services to restore competency to stand trial, management of insanity acquittees, correctional psychiatry, and sex offender treatment programs.

Arthur Lurigio, Ph.D. is a psychologist, Senior Associate Dean for Faculty in the College of Arts and Sciences, and a professor of criminal justice and criminology and of psychology at Loyola University Chicago. In 2003, Dr. Lurigio was named a Faculty Scholar, the highest honor bestowed on senior faculty at Loyola. In 2013, he was named a Master Researcher by the College of Arts and Sciences at Loyola in recognition of continued scholarly productivity. In praise of the overall outstanding contributions of his research to practices in the fields of psychology and criminal justice, Dr. Lurigio has earned many prestigious awards, including the University of Cincinnati Award, the Hans W. Mattick Award, the Champion for Recovery: Excellence in Research Award, the University of Illinois Distinguished Contributions to Criminal Justice Research and Practice Award, and the American Psychological Association Distinguished Career Award in 2010. He is the immediate past president of the Illinois Academy of Criminology.

Philip R. Magaletta, Ph.D. specializes in the evaluation and treatment of forensic and correctional populations and the recruitment and retention of the mental health professionals that work with them. He earned his undergraduate degree from the University of Scranton, his M.A. from Loyola College in Maryland and his Ph.D. in clinical psychology from St. Louis University. His current research interests include correctional mental health service delivery and workforce development, addictions counseling, spirituality, and telehealth.

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Binoy B. Shah, M.A. is a doctoral student in clinical psychology at Illinois Institute of Technology. His interest in the stigma of mental illnesses initially began while interning in the psychiatry department at Nair, one of the biggest public hospitals in India. Thereafter, he went to New York to pursue further studies, and earned an M.A. in clinical psychology at Teachers College, Columbia University. During his time in New York, he worked on various projects surrounding global mental health and stigma under the mentorship of Dr. Lawrence Yang. Currently, he is working with Dr. Patrick Corrigan on research concerning mental health stigma and health disparities.

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Karyn Sporer, Ph.D. is an assistant professor of sociology at the University of Maine. Her primary research interests are in the areas of family violence and victimization, mental illness and violence, and violent extremism and ter-

rorism. She is the author of several articles on families of violent children with mental illness. Her interest in the intersection of the family, violence, and mental illness stems from her work with adults with mental illness. She saw firsthand how a broken mental health system negatively impacted both persons with mental illness and their families. She is hopeful that her work as an academic will inform social policy in such a way that the lives of persons with mental illness and their family caregivers are improved.

Anastasia C. Tooley is a doctoral student in the clinical psychology program at the Illinois Institute of Technology. She attended Purdue University, where she first gained research experience in child development and family physiology labs. Later, she discovered her passion for mental health stigma while developing an undergraduate research honors thesis on personality disorders. After graduating from Purdue, Tooley worked in the field as an applied behavior analysis therapist with children on the autism spectrum. Presently, she is a member of Dr. Patrick Corrigan's research team, focusing on stigma and mental health.

Introduction

Kelly Frailing & Risdon Slate

When we started to plan the *Criminalization of Mental Illness Reader*, we envisioned it as exactly that, a reader that would (indispensably) accompany the second and future editions of the *Criminalization of Mental Illness* text. We asked our contributors to start with the central concept of each chapter in the text and expand on that concept so that a thorough, multifaceted understanding of issues facing people with mental illness who are justice involved was possible. Happily, our contributors delivered in a major way and here, we briefly describe how each chapter in the text connects with that in this reader.

Chapter 1 of the text discusses what mental illness is, the prevalence of people with mental illness in the criminal justice system and the challenges this group poses to the system and vice versa, touching briefly on how cultural differences play a role. Chapter 1 in this reader, “**Cultural Factors and Mental Illness**” by **Deborah Eckberg and Katrinna Dexter**, does a superb job of illuminating the cultural differences in treatment and processing of racial and ethnic minorities with mental illness historically and up to the present within the mental health and criminal justice systems. Eckberg and Dexter discuss the prevalence of mental illness among culturally disparate groups, then stress the importance of both verbal and non-verbal communication cues to prevent criminal justice practitioners from misidentifying cultural norms as mental illness. They conclude by emphasizing that there is a need for cultural competence training across the criminal justice system.

Chapter 2 of the text discusses the history of criminalization of people with mental illness, with an emphasis on the factors that have fueled criminalization in the United States since the mid-twentieth century. Chapter 2 in this reader,

“Criminogenic Factors and Mental Illness” by **Natalie Bonfine**, adds a crucial dimension to this discussion with its coverage of criminogenic factors among people with mental illness. Bonfine identifies and elaborates on the risk-need-responsivity (RNR) model. She focuses on the challenges of and opportunities for assessing and addressing the criminogenic needs of persons with mental illnesses and calls for an integrated approach for linking justice-involved people with mental illness to appropriate supervision and treatment.

Chapter 3 in the text examines the many effects of stigma on people with mental illness, including how it can serve as an impediment to treatment seeking among this group. Chapter 3 in this reader, **“Stigma and Mental Illness”** by **Binoy Biren Shah, Anastasia Cherise Tooley and Patrick W. Corrigan**, augments this examination by first providing a matrix for understanding how the four types of stigma manifest for people with mental illness. They discuss the inclination to label this group as dangerous and violent and the propensity to push aberrant behavior into categories of sickness or sinfulness. They also examine the stigma that surrounds persons with substance abuse issues and compare and contrast that with the stigma experienced by people with mental illness, a particularly important addition considering the high rate of co-occurrence of mental health and substance abuse issues.

Chapter 4 of the text is focused on inpatient civil commitment, including reforms, controversies and the overhaul of the system in Virginia as a cautionary case study. Chapter 4 in this reader, **“Sexual Offending and Mental Illness”** by **Li-Wen Grace Lee**, covers the related and weighty issue of the relationship between sexual offending and mental illness and the civil commitment of sex offenders once their criminal sentence has been served. She discusses the laws that permit civil confinement of sex offenders, assessment tools and diagnostic considerations for this population and the sometimes grave ethical considerations of balancing treatment on the one hand and public safety on the other.

Chapter 5 in the text discusses outpatient commitment, with a focus on the controversies surrounding involuntary outpatient commitment. Typically omitted from such discussions, though, are families’ experiences in getting mental health treatment for a loved one. Chapter 5 in this reader, **“Family Violence and Mental Illness”** by **Karyn Sporer**, tackles this essential topic. Sporer covers the research on the potential for violence against caregivers by people with mental illness. Then, relying on in-depth interviews with parents and siblings of people with mental illness, she discusses the difficult determination to seek hospitalization for a loved one and the problems with finding a hospital bed and paying for it if such a decision is made.

Chapter 6 in the text examines the law enforcement response to people with mental illness, focusing in particular on the empirically validated Crisis Inter-

vention Team (CIT) approach. Chapter 6 in this reader, **“Discovering CIT across the CJS”** by Ken Kerle, describes his unusual introduction to criminal justice academia and his journey through the nation’s jails as an auditor and magazine editor. In these capacities, he strongly advocated for jail standards that included guidelines for the recognition and treatment of people with mental illness. Utilizing his experience in Kansas, Kerle describes learning about CIT and his thoughts on its applicability to other criminal justice system elements, especially jails, while recognizing impediments to doing so.

Chapter 7 in the text focuses on the experience of people with mental illness in jails, including prevalence, screening, treatment and discharge planning. The chapter touches on training for jail officers in dealing with inmates with mental illness. Chapter 7 in this reader, **“Practicing in Corrections”** by Maria “Maite” Silva, Philip Magaletta and Alix McLearn, does an excellent job of describing the flip side of this coin, namely, what it is like to provide clinical treatment to people with mental illness in institutional corrections. They delineate five key competencies for clinicians in corrections that run the gamut from screening to interdisciplinary communication and conclude by balancing the challenges of providing clinical care to people with mental illness in institutional corrections with the personal and professional value of doing so.

Chapters 8 and 9 in the text examine laws and practices around competency to stand trial and the use of the insanity defense. These detailed discussions focus on landmark court decisions, the evaluation process, and the short and longer-term outcomes of both competency hearings and cases that involve the insanity defense. Chapter 8 in this reader, **“Media Coverage of People with Mental Illness”** by Katti Gray, uses the concepts of competency and insanity as jumping off points to investigate the way that mental illness and persons with mental illness are covered by the media. Relying on interviews with researchers, journalists and advocates, she expertly reveals the ways in which reporting on persons with mental illness who are justice involved has changed and improved. However, the concluding section clearly shows that there is still plenty of work to be done and implies that journalists can continue to chip away at the stigma against mental illness and people with mental illness through more responsible reporting.

Chapter 10 in the text begins by explaining why and how the first mental health court emerged in the U.S., then describes the development and effectiveness of mental health courts and concludes by touching on some lingering controversies. Chapter 9 in this reader, **“Mental Health Courts: Therapeutic Jurisprudence for Offenders with Mental Illness”** by Arthur J. Lurigio, takes a close and detailed look at therapeutic jurisprudence, the principle that underlies these and other specialty courts, and explains how it manifests in the

structure and function of mental health courts. He deftly connects the manifestation of therapeutic jurisprudence to the generally positive outcomes observed in studies of mental health courts. However, Lurigio takes care to present thorough critiques of mental health court research and of the courts themselves that may cast something of a shadow on otherwise desirable findings.

Chapter 11 in the text examines the experience of people with mental illness in prison. It includes many of the serious challenges that people with mental illness face while incarcerated for long periods, as well as the ways prison administrators have tried to manage this group for better or worse. Chapter 10 in this reader, “**The Plight of Long-Term Prisoners with Mental Illness**” by Craig Haney, Sarah Camille Conrey and Roxy Davis, focuses largely on one such management method, solitary confinement. They convincingly describe the deleterious effects of solitary confinement on people with mental illness, including an increase in stress and psychological and emotional trauma, as well as decompensation and deterioration that can serve to worsen or even produce mental illness. The authors conclude with a call for reentry planning that includes opportunities for socialization for those who have experienced solitary confinement.

Chapter 12 in the text describes the discharge and reentry processes for people with mental illness returning to the community from incarceration, emphasizing their usually ineffective nature. Chapter 11 in this reader, “**Psychiatric Comorbidity and Reentry**” by Arthur J. Lurigio, begins by expertly connecting the criminalization of substance use to the criminalization of people with mental illness, contending that the War on Drugs is a key factor in the increase of people with mental illness going to prison. Co-occurring mental health and substance use disorders are distressingly common among the prison population, and he examines the challenges that co-occurring mental health and substance use disorders constitute for successful reentry from incarceration, including lack of the specific services required to successfully address co-occurring disorders, difficulty obtaining employment and housing, and the absence of social supports. Lurigio concludes with a call for integrated co-occurring disorder treatment while incarcerated and then in the community upon release to help stem the tide of recidivism.

Chapter 13 in the text describes the ways in which crises involving a person with mental illness drive policy toward all people with mental illness. Recognizing this post hoc policymaking as insufficient at best and dangerous at worst, the chapter and the text as a whole conclude with important actions for informed policy. Chapter 12 in this reader, “**Past and Current Perspectives on Offenders with Mental Illness**” by Arthur J. Lurigio, starts by describing the causes and correlates of serious mental illness, then examines the factors re-

sponsible for the criminalization of people with mental illness, focusing on police interactions, the lack of effective mental health and related services and the War on Drugs. The chapter concludes with a stark comparison of the care that people with mental illness who are justice involved receive at each point in the criminal justice system with what this care should look like in an ideal world.

We are confident that each of the chapters in this reader are informative and thought provoking. Our hope is that they also inspire readers to take the action they can to change the status quo for people with mental illness.