

The Criminalization of Mental Illness

The Criminalization of Mental Illness

*Crisis and Opportunity for the
Justice System*

THIRD EDITION

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To Claudia and Virginia Slate for your love and support, to Dean Shoe for helping me find my voice, and to Ron Vogel for assisting me in finding the confidence to use it. Martin Luther King, Jr. (1963) said in his book Strength to Love: “The ultimate measure of a man is not where he stands in moments of comfort and convenience but where he stands at times of challenge and controversy. The true neighbor will risk his position, his prestige and even his life for the welfare of others. In dangerous valleys and hazardous pathways, he will lift some bruised and beaten brother to a higher and more noble life” (p. 35). I, Risdon Slate, am that brother, and Ron Hudson is that neighbor. Without Ron’s courageous, selfless, and innovative actions this book would likely never have been written. — RNS

To Jay and Matilda Reese for their love, to my colleagues at Loyola University New Orleans for their encouragement and for their enthusiastic embrace of the criminalization of mental illness as a topic worthy of inclusion in our curriculum, and to the women and men who work tirelessly, often with little respite or recognition, to support people with mental illness. — KF

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Contents

Foreword	xv
Acknowledgments	xvii
Chapter 1 · Introduction	3
Defining Serious Mental Illness	4
Prevalence of Mental Illness in the Criminal Justice System	6
Mental Illness and the Criminal Justice System: Defining the Issues	8
Addressing Persons with Mental Illness in the Criminal Justice System: Successes and Goals for the Future	12
References	17
Chapter 2 · The History of Criminalization of Persons with Mental Illnesses	23
Early World History of Mental Illness	24
Pre-Civilization	24
The Ancient Civilizations	24
The Middle Ages	25
The Renaissance	26
The Age of Enlightenment	27
American History of Mental Illness Prior to Deinstitutionalization	28
Pre-Civil War	28
Biological Determinism	30
Advances in Understanding the Brain	31
The World Wars	33
State Hospital Censuses Increased, Support Decreased	34
Negative Publicity	35
Discovery of Thorazine	37
Anti-Psychiatry Movement	37
The Civil Rights Movement and Right to Treatment Litigation	40
A Federal Call for Community Mental Health Care	44
The Beginning of Deinstitutionalization	44
Restricting Civil Commitment	46
Governmental Cost Shifting	48
Greater Visibility, Fear, and Punitiveness toward Persons with Mental Illness	49
Criminalization of Persons with Mental Illness	50

Conclusion	53
References	54
Chapter 3 · Challenges and Needs of Persons with Mental Illness in the Criminal Justice System	65
Stigma	66
Components of Mental Illness Stigma	67
Labeling Differences	67
Linking Differences with Stereotypes	67
Separating “Us” from “Them”	69
Status Loss	69
Types of Mental Illness Stigma	70
Structural Stigma and Its Challenges	70
Limited Civil Rights	71
Socio-Economics of Mental Health Care: A Lesson in Cost Shifting	72
A Fragmented and Underfunded Mental Health Care System	72
Lack of Access to Long-Term Care	74
The Shift to Managed Care	75
Medicaid and Medicaid Reform	76
Preferred Drug Lists/Restricted Formularies	78
Admissions to Emergency Rooms	83
Public Stigma and Its Challenges	86
The Dangerousness Stereotype	86
Media Effects	87
Empirical Evidence about Mental Illness and Violence	89
Victimization of Persons with Mental Illness	92
Unemployment and Underemployment	92
Poverty	93
Substandard Housing	94
Homelessness	95
Veterans, Mental Illness, and Homelessness	98
Self-Stigma and Its Challenges	100
Co-Occurring Substance Abuse	101
Medical Issues	103
Obesity	104
Smoking	105
Infectious Diseases	105
Inadequate Medical Care	105
Label Avoidance and Its Challenges	105
Failure to Seek Treatment	106
Anosognosia	106
Negative Side Effects of Medications	107
Conclusion	108
References	111

Chapter 4 · Civil Commitment	135
What Is Civil Commitment?	137
Similarities and Differences between Civil and Criminal Commitment	137
Inpatient Civil Commitment: History and Reform	140
History of Inpatient Civil Commitment	140
Civil Commitment Reform	141
Post-Reform Involuntary Commitment Criteria	141
Mental Illness	141
Dangerousness to Self or Others	142
Grave Disability	143
Need for and/or Incompetency to Consent to Treatment	143
Least Restrictive Alternative	143
Post-Reform Civil Commitment Procedures	144
Post-Reform Due Process	144
Effects of Civil Commitment Reform	145
Controversies Surrounding Inpatient Civil Commitment	147
Inpatient Civil Commitment Is Coercive	147
Inpatient Civil Commitment Is Anti-Therapeutic	148
Inpatient Civil Commitment Is Stigmatizing	149
Inpatient Civil Commitment Is Discriminatory	149
Inpatient Civil Commitment Is Driven by Money	150
Dwindling Hospital Beds	151
Statutory Changes to Inpatient Civil Commitment Laws	153
Inpatient Civil Commitment Has Become Too Permissive	153
Inpatient Civil Commitment Has Become Too Restrictive	154
Outpatient Commitment	154
Types of Outpatient Commitment	155
Controversies Surrounding Outpatient Commitment	157
The “Facts” about Outpatient Commitment: Critique of the Research	158
Opponents’ Opinions about Outpatient Commitment	160
Tragedy Drives Policy	161
Outpatient Commitment Statutes Are Unconstitutional	162
Outpatient Commitment Is Coercive	164
Deception and Coercion	165
Enforcement	166
Coercion Is Anti-Therapeutic and Disempowering	166
Its Coerciveness Is Not Balanced by Its Benefits	167
Supporters’ Responses to Outpatient Commitment Being Coercive	167
Coerced Treatment Is Better Than No Treatment	167
Outpatient Commitment Increases Treatment Exposure	168
Treatment, Even By Outpatient Commitment, Leads to Better	
Quality of Life	169
Outpatient Commitment Is Better Than Inpatient	
Commitment or Criminal Justice Confinement	170

Outpatient Commitment Results in Less Inpatient Commitment or Criminal Justice Confinement	171
Outpatient Commitment Reduces Violence	172
Outpatient Commitment Is Stigmatizing	172
Outpatient Commitment Is Discriminatory	173
Outpatient Commitment Depends on the Availability of Services	174
Conclusion	179
Inpatient Commitment	179
Outpatient Commitment	180
References	183
Chapter 5 · The Law Enforcement Response to Persons with Mental Illnesses in Crises	195
Police Encounters with and Perceptions of Persons with Mental Illnesses	197
Police Training and Preparedness for Dealing with Persons with Mental Illnesses in Crises	199
Communication	200
Police Options	200
Specialized Police/Mental Health Responses to Persons with Mental Illnesses in Crises	204
Mobile Crisis Team — Mental Health-Based Specialized Mental Health Response	205
Police-Based Specialized Mental Health Responses: PERT, MET, SMART, CIRT, HOT, & CSOs	205
CIT — A Police-Based Specialized Police Response	207
Comparisons of the Law Enforcement Response Models	208
Understanding CIT	210
CIT Training	212
Types of CIT Encounters	216
The Procedural Fairness of CIT	221
Confidentiality	222
Liability	226
Agency Costs and Community Benefits	227
Need for Outcome Data	229
The Number and Types of CIT Programs	229
Results of CIT	230
Conclusion	232
References	233
Chapter 6 · Jail Processing of Persons with Mental Illnesses	247
Overrepresentation of People with Mental Illness in Jails	249
Estimating the Prevalence of Serious Mental Illness in Jails	250
Structured Diagnostic Interviews of Jail Inmates	251
Self-Reports of Jail Inmates	252

Indirect Measures of Mental Illness in Jails	254
Characteristics of a Jail Inmate with Mental Illness	255
Reasons for the Overrepresentation of the Mentally Ill in Jails	257
More People with Mental Illness Are Arrested and Jailed	257
People with Mental Illness Stay in Jail Longer	259
Conditions of Confinement	259
Victimization and Trauma	260
Rule Violations	260
Use of Isolation	260
Limited Jail Mental Health Services	261
People with Mental Illness Have Higher Rates of Recidivism	262
Jail Inmates' Right to Treatment	262
U.S. Supreme Court Cases	262
<i>Estelle v. Gamble</i> (1976)	262
Serious Medical Need	263
Deliberate Indifference	263
Minimally Adequate Treatment	263
<i>Ruiz v. Estelle</i> (1980)	263
The Right to Refuse Treatment	264
Discharge Planning	265
Professional Associations' Guidelines	266
Council of State Government's Recommendations	266
Jail Mental Health Services	267
Mental Health Screening	268
Jail-Specific Mental Health Screens	269
Evidence-Based Jail Mental Health Screens	269
Referral Decision Scale (RDS)	271
Brief Jail Mental Health Screen (BJMHS)	271
Suicide Screening	271
Characteristics of Jail Suicides and Suicide Victims	272
Screens for Suicide Risk	274
Substance Abuse Screening	276
Administering Jail Screenings	276
Follow-Up Mental Health Assessments	277
Crisis Intervention and Short-Term Mental Health Treatment	277
Crisis Intervention	279
Crisis Intervention "Steps"	279
Crisis Intervention for Suicidal Inmates	281
Management of Inmates in Crisis	281
Isolation	281
Physical Adjustments to the Facility	282
Staff Observation/Monitoring	283
Social Contact and Support	283
Short-Term Mental Health Treatment	284

Psychotropic Medications	284
Drug Formularies and Other Cost-Cutting Measures	285
Delays in Receiving Medication	285
Telepsychiatry	286
Psychotherapeutic Treatment	286
Therapeutic Communities	287
Models of Mental Health Care Delivery in Jails	287
Mental Health Services in the Jail	288
Informal Reliance on the Community Mental Health System	288
Privatized Correctional Mental Health Care	288
Community-Oriented Correctional Mental Health Care	289
Future Directions in Jail Mental Health Care	289
Inpatient Mental Health Services	289
Mental Health Records	291
Jail Officers	292
Training of Jail Officers	295
Jail-Based Crisis Intervention Teams	296
Jail (Correctional) Officer Mental Health	297
Jail Diversion	298
Conclusion	300
References	301
Chapter 7 · Competency & Criminal Responsibility of Criminal Defendants	317
Introduction	317
Competency to Stand Trial	318
Key Supreme Court Decisions	319
Defendants' Competence	320
Defense Counsel's Competence	323
Plea Agreements	326
Court-Ordered Evaluations of Competency	328
Forensic Interviewing	331
Outcomes of CST Evaluations	333
Criminal Responsibility	334
Written Reports & Testimony on Issues of CST and/or CR	337
Defense Counsel's Competence	338
Americans with Disabilities Act	339
Moving beyond Competency and Insanity Considerations	341
References	341
Chapter 8 · Mental Health Courts	347
Why Mental Health Courts?	347
The Emergence of the Nation's First Mental Health Court	349

What Are Mental Health Courts?	355
Mental Health Court Dynamics: A Different Approach with Altered Roles	357
Case Examples in Mental Health Courts	364
Mental Health Court Models	369
Results from Mental Health Court Programs	372
Areas of Concern	376
Need for Adequate Services in the Community	376
Inadequate Funding and Sparse Data	378
Patients' Rights and Competency	380
Stigmatization and Criminalization	382
Conclusion	383
References	384
Chapter 9 · Mental Illness in the Prison Population: Secure and Treat?	395
Prisoners with Serious Mental Illness	396
Challenges Posed by Prisoners with Serious Mental Illness	397
Disciplinary Infractions	398
Victimization	399
Suicide	400
Self-Injurious Behavior	401
Management of Prisoners with Serious Mental Illness	402
Prison Design and Operational Procedures	402
Segregation/Supermax Confinement	403
Current State of Supermax Confinement	405
Correctional Officers	407
Training	409
Correctional Crisis Intervention Teams	411
Treating Prisoners with Mental Illness	411
Prisoners' Right to Mental Health Treatment	411
Current Status of Mental Health Services in Prisons	412
Challenges of Treating Prisoners with Mental Illness	413
Costs of Incarcerating Prisoners with Mental Illness	415
Privatization of Prison Health Care	415
Conclusion	417
References	418
Chapter 10 · Diversion and Reentry: Strategies for Discharging Offenders Living with Mental Illness	425
Discharge Planning, Diversion and Reentry	430
Discharge Planning	432
Diversion	437
Examples of Diversion Programs	439

Reentry	440
Assertive Community Treatment (ACT): An Approach to Diversion, Discharge, and Reentry	441
Probation and Parole	446
Probation	446
Parole	449
Reintegration: Reentry Courts and Programs	450
Conclusion	451
References	452
Chapter 11 · Conclusion: Striving for Informed Policies	463
Crisis Drives Policy	466
Virginia Tech University	467
Sandy Hook Elementary School	469
Who Wants to Take Responsibility for Ending the Needless Recycling of Persons with Mental Illnesses In and Out of the Criminal Justice System?	473
Multi-System Collaboration Is the Answer	475
Influencing Policy	477
Influencing Policy through Testimony and Legislation	477
Influencing Policy through Accountability	483
Influencing Policy through Knowledge	485
Conclusion	486
References	487
Epilogue	497
Appendix: Videos	499
Case Index	503
Name Index	505
Subject Index	525

Foreword

*H. Richard Lamb, MD**

The enormously increased presence of persons with serious mental illness in the criminal justice system is one of the great problems of our time. Estimates place the number at 360,000 or more incarcerated in the U.S. at any given time. As a result, mental health professionals and society generally have become much more concerned about the number of persons with serious mental illness in jails and prisons, as well as the treatment provided to these persons, both while incarcerated and after release. These issues are relatively recent. Reports of large numbers of persons with mental illness in U.S. jails and prisons began appearing in the 1970s, a phenomenon that had not been reported since the nineteenth century.

Criminalization of persons with serious mental illness is a subject of enormous complexity in terms of understanding how it came about, the problems that these mentally ill persons face in our jails and prisons and how to confront these problems, how to reverse criminalization and how to treat these persons in the community, either after release or, if possible, before they have been criminalized. Drs. Slate, Buffington-Vollum, and Johnson have chosen to present a comprehensive summary of these issues so that our understanding is deepened and our knowledge of what needs to be done is clarified.

One of the major concerns in present-day psychiatry is that placement in the criminal justice system poses a number of important problems and obstacles for the treatment and rehabilitation of persons with serious mental illness. Even when quality psychiatric care is provided in jails and prisons, the inmate/patient still has been doubly stigmatized as both a mentally ill person and a criminal. Furthermore, jails and prisons have been established to mete out punishment and to protect society, their primary mission and goals are not to provide treatment. The correctional facility's overriding need to maintain order and security, as well as its mandate to implement

* Dr. Lamb was Professor Emeritus of Psychiatry, Keck School of Medicine, University of Southern California, and authored the foreword for the second edition of *The Criminalization of Mental Illness: Crisis and Opportunity for the Justice System*. Since the publication of the second edition, Dr. Lamb passed away. He was a pioneer in terms of research regarding the criminalization of mental illness. Though some things have changed (e.g., estimates place the number of those incarcerated with a mental illness higher now, near 500,000, and Dr. Kelly Frailing has stepped in as second author of this book and Dr. Johnson as third), Dr. Lamb's words still ring true and are arguably even more consequential today, and we have included them again.

society's priorities of punishment and social control, greatly restrict the facility's ability to establish a therapeutic milieu and provide all the necessary interventions to treat mental illness successfully.

After giving an exceptionally clear picture of how we have reached the sorry state of the present-day criminalization of persons with serious mental illness, the authors of this book present a detailed description of what needs to be done by law enforcement, by custody staff in jails and prisons, by the courts, by probation and parole, by mental health professionals, by families, and by society generally. Important subjects in the efforts to decrease criminalization, such as the police as first responders and police Crisis Intervention Teams, Mental Health Courts, Assertive Community Treatment, Assisted Outpatient Treatment, the role of substance abuse and how to deal with it, and reentry strategies for persons with serious mental illness are described with clarity and in detail.

This book is a very important contribution to the literature and to the understanding of a problem which should never have been allowed to happen in a Country like ours. The authors are to be highly commended for the immense amount of work that went into writing it.

Acknowledgments

We offer a special thank you to Dick Lamb, posthumously, for writing the foreword that we are including to this edition of the book. Hank Steadman wrote the foreword to the first edition, and he is now retired. Between these two gentlemen, we cannot think of any more admirable contributors to the study of the criminalization of mental illness. These men have devoted their professional lives to researching and seeking reasoned solutions to the intractable problems surrounding the interface of the mental health and criminal justice systems. We applaud their efforts.

We would like to thank our friends and colleagues who have provided understanding and/or levity during this project. On the home front, Claudia Slate provided comfort and expert editing skills. Jay and Matilda Reese provided delightfully random breaks from the work, mostly in the form of humor, but alas also in the form of emergent homeschool issues that were less fun, to put it mildly. Also, we are indebted to the Carolina Academic Press team, especially Beth Hall, Steve Oliva, and TJ Smithers for expert handling and guidance during this process.

We appreciate Paul Gormley's contribution to the chapter on competency and insanity. In addition, various professionals submitted significant input regarding their personal experiences with the interface of the mental health and criminal justice systems. We are pleased to include these offerings from Scott Anders, Steven Bacallao, Sam Cochran, Lee Cohen, Angela Cowden, Doug Dretke, Steve Feinstein, Howard Finkelstein, Susan Flood, Brian Garrett, Brian Haas, Mark Heath, Marcia Hirsch, Stephen Hudak, Chris Jordan, Ginger Lerner-Wren, Barbara Lewis, Jose Lopez, Janeice Martin, Paul Michaud, Joseph Mucenski, Stephanie Rhoades, Jack Richards, Jim Rice, Tony Rolón, Denise Spratt, Jon Stanley, Arlene Stoltz, Mike Thompson, L. Wall, George Welch, Anne Marie Wendel, Joyce Wilde, Kendall Wiley, Michael Zabarsky, and Derek Zimmerman.

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Last but not least, we appreciate the efforts of all of our students who have assisted in editing this book. Elia Mattke did a superb job of conducting research to update this edition of the book. Kaitlyn Manning and Whitney McBay did a superlative job of double and in many cases triple checking citation and references for accuracy and for appropriateness for inclusion.