Written statement of the American Psychological Association

Hearing before the United States Senate Committee on the Judiciary

Breaking the Cycle: Mental Health and the Justice System

February 10, 2016
On behalf of the 122,000 members and affiliates of the American Psychological Association (APA), we thank you for your commitment to the safety and well-being of our communities and for holding this important hearing on the issues of mental health and criminal justice.

APA is the largest scientific and professional organization representing psychology in the United States and is the world’s largest association of psychologists. Comprising researchers, educators, clinicians, consultants, and students, APA works to advance psychology as a science, a profession, and as a means of promoting health, education, and human welfare.

APA shares the Committee’s concern that individuals with mental health and substance use problems are left untreated on our nation’s streets and in our jails and prisons. We are committed to working with Congress to ensure all individuals have access to evidence-based, culturally and linguistically competent, and high quality mental health and substance abuse services. In addition to treating individuals with mental health and substance abuse needs, our members are committed to supporting law enforcement, family members, and others who encounter people in crisis.

Background Issues

At the 2013 White House National Conference on Mental Health, President Obama stated that “too many Americans who struggle with mental illnesses are still suffering in silence rather than seeking help.” While mental illness is not a strong predictor of criminal or violent behavior, America’s jails and prisons have become de facto mental health care providers. A 2013 investigation found that the nation’s three largest jails—Cook County, Los Angeles County, and New York City—treated 11,000 prisoners on any given day. At the time of publication, this total was comparable to 28 percent of beds in America’s psychiatric hospitals, and the three largest State-run mental hospitals maintained only 4,000 beds. The most recent federal report on the issue showed that 705,600 state prison inmates, 479,000 local jail inmates, and 70,200 federal prison inmates reported impairment due to a mental health problem over the course of a year—56.2, 64.2, and 44.8 percent of the total inmate population, respectively.

The juvenile justice system also currently bears the burden of an overwhelmed behavioral health system and has become a de facto treatment setting for many individuals under 18 who lack access to standard systems of care. Nearly half of children and adolescents in the child

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welfare system have a mental health disorder\(^4\), and 70% of youth detained in the juvenile justice system have diagnosable symptoms of a mental health disorder, three and a half times higher than the rate among all individuals under the age of 18.\(^5\)

Fortunately, growing attention on these issues has resulted in the adoption of evidence-based programs and practices that help keep individuals with mental health and substance abuse needs out of jail, prison, and juvenile detention and corrections and, when incarceration is necessary, supports successful rehabilitation. These include:

- **Diversion practices**: Diversion from formal processing in the criminal and juvenile court takes a number of forms, including diversion pre-detention and behavioral health courts. These activities require strong interagency coordination between justice and mental health but saves on overall resources by keeping individuals out of correctional facilities.
- **Crisis Intervention Teams (CIT)**: CIT creates law enforcement-mental health-community partnerships to help support first responders and individuals in mental health crisis and their families. Under CIT, officers with crisis intervention training respond to mental health crises and work to de-escalate the situation and secure mental health services. Law enforcement takes the lead on immediate response, allowing for reduced response times and better outcomes.
- **Evidence-based practice (EBP) and culturally and linguistically competent services**: Whether in correctional settings or the community, the use of evidence-based screening, assessment, and treatment supports the best outcomes for individuals, communities, and taxpayers. EBP may take the form of manualized interventions delivered in the community (e.g., Multi-Systemic Therapy and Functional Family Therapy) or well-established clinical practice (e.g., cognitive behavioral therapy).

At the same time, APA remains extraordinarily concerned about the availability of services to individuals with mental health and substance abuse needs under correctional control, whether incarcerated or in the community, as evidenced by the figures cited above. Effective collaboration between justice and behavioral health agencies can produce better results for individuals and communities, while also alleviating strains on public budgets. APA encourages stronger federal leadership to help realize these outcomes.

**Recommendations for federal policy**

- Support efforts that protect public safety, while keeping individuals with mental health and substance use needs out of correctional facilities whenever possible.

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Congressional criminal justice reform efforts afford an opportunity to make a number of improvements related to mental health and substance use:

- Federal mental health and substance use courts: Create effective behavioral health courts at the federal level that reflect the lessons learned from efforts under the successful Justice and Mental Health Collaboration Program (JMHCP).
- Safety Valve relief: Include additional safety valve relief for offenses that related to an individual's mental health, addiction, trauma history, or victimization by another. Judges should be given discretion to consider alternatives to mandatory minimum sentences for these reasons, in addition to criminal history.
- Automatic revocation elimination: Eliminate mandatory revocation of supervised release and probation for minor drug violations. Drug abuse and addiction frequently co-occur with mental illness. Eliminating mandatory revocation for drug violations would give probation officers and courts the discretion to make decisions based on whether they believe incarceration would be constructive in individual cases.

Provide those individuals with mental health and substance use problems who must be in correctional custody with treatment and other services adequate to ensure they can successfully transition back into the community:

- Evidence-based psychosocial interventions, including cognitive-behavioral therapy.
- Trauma-informed corrections, especially for female offenders.
- Start reentry planning early: ensure access to, not just availability of, housing and physical and mental health care on the date of release.

Improve the research base:

- Update the 2006 BJS research report, NCJ 213600, on mental health in the nation's jails and prisons, which uses data from 2004 and 2002.
- Request a timely report from the Government Accountability Office that evaluates the program and financial outcomes of mental health diversion in the criminal and juvenile court and other collaborations between criminal justice and mental health agencies.

Strong interagency coordination: Continue and build on interagency coordination, such as the efforts of the Federal Interagency Reentry Council, Behavioral Health Coordinating Council, Coordinating Council on Juvenile Justice and Delinquency Prevention, and DOJ’s collaboration with the Substance Abuse and Mental Health Services Administration on JMHCP activities.

Mental health promotion, prevention, and early intervention: Nearly half of all lifetime
cases of mental illness begin by age 14, and mental health promotion, prevention, and early intervention should play a central role in overall efforts to reduce the burden of mental illness on justice system resources.6 Poverty and other preventable factors place children and youth at an increased risk for mental health disorders and present barriers to services and care.7

Finally, APA also notes the importance of many of these recommendations for all incarcerated individuals. The overwhelming majority of offenders return to American communities whether or not they receive adequate rehabilitative services; our nation needs to make sure that they can achieve a stable lifestyle without again breaking the law as easily as they can by re-engaging illegal activities. Such recidivism reduction efforts put productive, taxpaying citizens back onto the streets and keep our communities safer.

APA applauds your commitment to ensuring the mental health and substance abuse needs of individuals are met through appropriate interventions and mental health and substance abuse treatment, and we look forward to working with you on criminal justice and mental health reform.

Please contact Micah Haskell-Hoehl, Senior Policy Associate, at (202) 336-5935 or mhaskell-hoehl@apa.org or Amalia Corby-Edwards, MS, Senior Legislative and Federal Affairs Officer, Public Interest Directorate, at (202) 336-6068 or acorby-edwards@apa.org if we can be of further assistance.

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