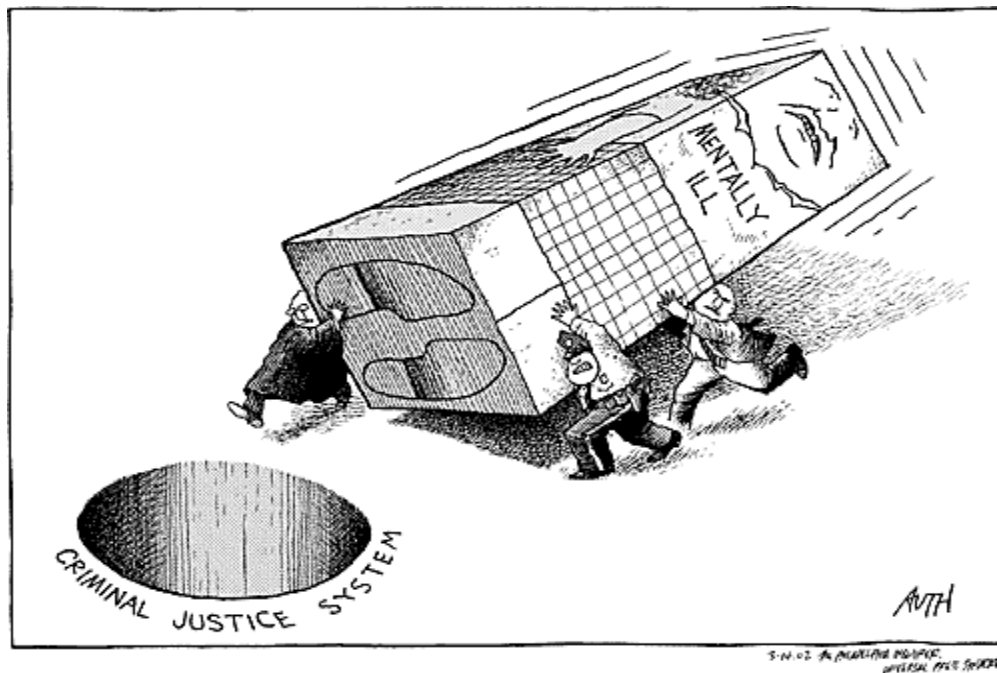


Criminal Justice Diversion of the Mentally Ill



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Serious mental illness (SMI) includes schizophrenia, major affective disorder, psychotic disorder, and borderline personality disorder. These conditions are chronic and disabling. Acute symptoms may involve distorted perceptions, disorganized thinking, impaired judgment, and bizarre behavior.

About 20 to 40 percent of individuals with SMI are arrested during their adult lives, principally for minor non-violent offenses related to their illness. All of those with serious mental illness are at risk because of their disease. Many other psychiatric disorders also involve periodic crises that may involve behaviors ranging from unusual to potentially dangerous. Arrest, detention, or even imprisonment may result from police contact as a result of this behavior.

The criminal justice system is not designed to arrange treatment for individuals suffering from SMI. Consequently the needs of such individuals cannot be met within that

system and those affected are criminalized and stigmatized in the process. Methodologies have been developed to avert such outcomes.

For almost 30 years, MCES has pioneered diverting mentally ill individuals from the criminal justice system, when appropriate, minimizing the imprisonment of SMI offenders, and increasing their access to treatment. MCES acts as a boundary-spanner between the community mental health system and the criminal justice system.

This issue explains jail diversion and shows how it works in Montgomery County, PA, with the support and cooperation of the police, courts, corrections, parole and probation, Montgomery County Mental Health/Mental Retardation & Drug and Alcohol Office, and the community mental health system.



MCES Supporters

We have received much help in building our diversion services over the years. Our major supporters include:

- Commonwealth of Pennsylvania – General Service Administration
- County of Montgomery
- Montgomery County Medical Society (Mobile Crisis)
- Montgomery County Foundation (Mobile Crisis)
- Montgomery County Mental Health/Mental Retardation/Drug and Alcohol Office
- U.S. Department of Justice
- The Pew Charitable Trusts
- The Claneil Foundation
- The Barra Foundation
- Pennsylvania Commission on Crime and Delinquency
- Substance Abuse and Mental Health Services Administration (SAMSHA)

We also thank all of the municipalities in Montgomery County that help support our criminal justice operations through annual allocations.

The Rationale for Diversion

Deinstitutionalization, the advent of psychotropic medications and other factors have reduced the availability of inpatient care for individuals who are seriously mentally ill. According to the Southeast Pennsylvania Regional Forensic Task Force, upward to 400 seriously mentally ill individuals are in county prisons in the five-county area.

Many vulnerable individuals go without care or are under-treated. Some have psychotic disorders, such as schizophrenia, that are chronic and progressively disabling, but manageable with medications and other therapies. Without care to compensate for a worsening of the disease, such individuals may be affected by severe distortions of perception and may manifest dangerous behaviors. Many are affected by dual diagnoses and have both mental illness and problems involving alcohol and street drugs.

Individuals who are severely mentally ill are at high risk of involvement with the criminal justice system. The police are in charge of public safety and protecting those unable to care for themselves. This brings the police into any situation that may involve a mentally ill individual. If they do not recognize the individual's affliction, or deal with the individual in the appropriate manner, there is a high likelihood of arrest.

The criminal justice system is not designed to provide behavioral health care or offer settings conducive to the well being of mentally ill individuals. Few linkages exist between the criminal justice and behavioral health systems. Consequently, mentally ill individuals caught up in the system may find themselves in circumstances that can intensify their problems.

Crimes by mentally ill individuals fall into three categories: (1) illegal behaviors secondary to the mental illness, i.e. disorderly conduct, trespassing, etc.; (2) "economic crimes" to obtain food and money to survive in the community; and (3) more serious crimes such as burglary, simple and aggravated assault, and robbery.

The first two types are "quality of life crimes" that could be reduced with better community-based treatment, supports and entitlements. For individuals who fall into the third category, services and treatment need to be provided regardless of the crime and the location of the mentally ill individual, including those who are incarcerated. MCES delivers services wherever those in need are located.

Double Jeopardy: Persons with Mental Illness in the Criminal Justice System (Substance Abuse and Mental Health Services Administration, 1995) cites four obstacles to providing mental health services in the criminal justice system:

- (1) The lack of knowledge by law enforcement and correctional staff on mental health programs and how to access them,
- (2) The lack of understanding of the criminal justice system by mental health providers,
- (3) The lack of cross training between the criminal justice system and mental health providers, and
- (4) The lack of coordination between the criminal justice system and mental health providers.

These also represent gaps to effective diversion of individuals with mental illness from the criminal justice system. MCES has met each of these gaps in Montgomery County.

Surveys by mental health advocates and law enforcement research organizations indicate that as many as one of every ten police calls in the US – and one in ten arrests – now involves an individual afflicted with a mental disorder.

An Overview of Diversion

Criminal justice diversion is the redirecting of an individual who has become involved with the criminal justice system as a result of her/his illness, away from arrest or imprisonment to treatment. Its goals are to avert criminalization of mentally ill individuals who have committed a non-serious offense and facilitate treatment for mentally ill individuals in the criminal justice system.

A typical scenario for diversion is a disturbance involving an individual who is behaving abnormally, threateningly, or violently, possibly because he/she has experienced a worsening of their illness, stopped their medication, or misused alcohol or drugs. Without diversion the police would have no choice but to arrest and detain individuals who cannot safely remain in the community.

Diversion may occur at any point in the criminal justice system. It “happens” when something different is done.

Pre-Booking Diversion

The optimal place to divert an individual with mental illness from the criminal justice system is at the first point of contact with the police. This is where MCES concentrates its efforts. Pre-booking diversion is accomplished when the police and mental health staff arrange a psychiatric evaluation and treatment instead of arrest. Key principles that ensure an effective police response to psychiatric emergencies are:

1. Central Drop Off (i.e. MCES) – Access to emergency treatment 24 hours a day, mobile crisis services, psychiatric and substance abuse services, a single point of entry into the system, and a centralized location for law enforcement to take individuals in psychiatric crisis.
2. Police-Friendly Policies: A key element is collaboration between law enforcement and the mental and behavioral health systems. Two main features include:
 - a. A “no refusal policy” for law enforcement referrals and treatment regardless of ability to pay or legal status (i.e. prisoner, voluntary, involuntary admission).
 - b. Streamlined intake procedures for quick turnaround so that police officers can return to their respective communities.

3. Legal Basics – Psychiatric commitment or civil statutes to ensure voluntary or involuntary treatment.
4. Cross-Training – Joint education to enhance mutual understanding for all agencies involved.
5. Community Service Linkages – Transition Specialists and Community Liaisons who advocate for mentally ill individuals by establishing and maintaining communication between community service agencies.

Pre-booking diversion may take place on the street, at a mall, outside of a diner after a “dine and dash,” in the home, at a hospital ER, or anywhere else that police may be called to respond to a behavioral health emergency. It requires that those called to the scene be able to recognize the mental health dimensions of the case, even when chargeable behavior has taken place. It happens when assistance is sought from a crisis intervention provider or the individual is transported to a crisis center instead of to jail.

Pre-booking diversion includes MCES crisis intervention. This helps minimize the likelihood of charges for resisting arrest or



The Benefits of Diversion

When used appropriately, criminal justice diversion is a “win/win” proposition for the community, for consumers, for their families, for the criminal justice system, and for providers. Some of the benefits include:

- Connecting individuals with mental illness to sources of evaluation and treatment.
- Breaking the cycle of repeated police contacts related to mental illness.
- Reducing congestion at the district and county court levels.
- Avoiding mis-utilization of jails and prisons by placing appropriate individuals in care rather than in custody.
- Minimizing the incarceration of possibly disruptive and potentially high-risk inmates.
- Maximizing police availability for other public safety needs.
- Lessening the risk of jail suicides by vulnerable individuals.



MCES Diversion Milestones

1970: The police, mental health, and government sectors in Montgomery County recognize the need for a centralized psychiatric emergency service.

1971: “Montgomery County MH-MR Emergency Service” is formed and planning is begun.

1974: MCES opens in Building 16 at Norristown State Hospital (NSH), with 20 beds. The Montgomery County Mental Health Delegate is based on-site.

1975: MCES ambulance service begun. MCES begins training police officers in crisis intervention and the use of MCES services. MCES Criminal Justice Liaison created and the MCES “Cop Card,” a wallet-sized summary of emergency services is issued.

1981: MCES is the first psychiatric ambulance to meet state EMS standards.

1988: MCES relocates to Building 50 at NSH with 40 beds.

1992: MCES Mobile Crisis Intervention Service and the Montgomery County Forensic Task Force begun.

Overview of Diversion

Continued from pg. 3

assaulting an officer. MCES provides liaison services and on-scene assessments via liaison mobile crisis services on a 24-hour basis. When charges are present and when it's appropriate to do so, MCES works to have them dropped, reduced, or coordinates the release on the condition of treatment.

Pre-booking diversion helps the police serve as enablers who direct individuals with severe mental illness towards the community mental health system. They serve as a conduit rather than as a custodian for those at risk.

“Coterminous Diversion”

Coterminous diversion occurs when a mentally ill offender in police custody is taken directly to MCES while charges are being filed. The person is evaluated and treated while MCES staff work to avoid possible incarceration. The aim is to have the charges dropped or held in abeyance conditional to the individual's agreement to mental health treatment. This type of diversion is basically unique to MCES.

As a secure facility, MCES offers police a reasonable alternative to a local jail or holding facility. At the same time the police officer retains the option to file either the original charges or the reduced charges that may be worked out by the MCES staff.

Post-Booking Diversion

Sometimes an individual's mental illness may not be apparent or their actions may be too serious to avoid arrest. The opportunity for diversion remains with screening and seeking dispositions other than detention.

Post-booking diversion involves screening for mental illness at detention, arraignment, trial, sentencing, and imprisonment. It also involves advocacy on behalf of those known to be mentally ill who become involved in the criminal justice system as a consequence of their illness.

Candidates for diversion are identified by an evaluation of their mental health and the behavior that led to the police contact. For those suitable for diversion the next phase is consultation and negotiation with prosecutors, district justices, judges, defense attorneys, and others to develop a disposition that favors treatment instead of prosecution.

MCES responds to any request involving a mentally ill individual. On a case-by-case basis, as appropriate, MCES works to direct and coordinate services, have charges dropped or reduced, or looks for alternative sentencing with treatment as the goal.

Post-booking diversion also involves a working relationship with the county prison. Inmates with mental illness may be known to MCES from earlier contacts or identified by routine screening or trained correctional officers. MCES staff based at the prison facilitate this process. MCES psychiatrists assess inmates and arrange treatment on-site or at MCES.

When warranted, dispositions may include a conditional release coupled with mental health services. Charges may also be dropped or held in abeyance for individuals who may more likely benefit from mental health treatment than imprisonment. MCES staff go to court with inmates, recommend treatment options to prosecutors and judges, and help access community services.

Diversion Points

1. *Initial Police Contact*
2. *Initial District Court Hearings/ Local Detention*
3. *Subsequent Hearings, Trials, Sentencing, Incarceration*
4. *Release from Local Jail or County Prison to Re-entry to the Community*
5. *Community-based Support and Treatment*

The “MCES Model”

The “MCES Model” is a coordinated system of hospital-based crisis intervention avenues and criminal justice supports. Its “DNA” is evident in the founding goals. MCES was established to assure the availability on a 24 hour a day/7 day a week basis of (i) emergency psychiatric services to all in need irrespective of ability to pay and (ii) to give local police access to psychiatric evaluations for those felt to be experiencing a behavioral health crisis.

The contributions of MCES have been nationally recognized, documented by research, and widely replicated. Police acceptance and the presence of few SMI inmates in the Montgomery County Correctional Facility (MCCF) demonstrate its effectiveness. A recent study found that only 1.9% of the MCCF inmates had serious mental illness. National statistics have found that 16% of inmates at similar facilities have SMI.

Education is the foundation of the MCES model. Training is offered to all local criminal justice agencies and is tailored to the needs of each department. There is a three-day police school, the oldest in the United States, that trains officers to be Crisis Intervention Specialists. The course covers crisis intervention, mental health law, competency, mental health disorders, mental retardation, substance abuse, suicide, medications and terminology. The first two days are in the classroom, the third day is in the hospital or in the community with mental health professionals. The officers learn first hand how to identify and relate to individuals who suffer from a severe mental health disorder. Similar training is also offered to correctional, probation and parole officers.

MCES is a single point of entry into the behavioral health system. MCES can also handle substance abuse as well as psychiatric emergencies. This defers the need for police to have to distinguish the exact nature of any behavioral health crisis that they encounter.

Police officers spend between fifteen and twenty minutes during the referral/drop off of a consumer at MCES for evaluation and

treatment. (In a 2002 study, law enforcement referrals averaged 14.4 minutes per referral.) This is accomplished by “police friendly” MCES policies and practices.

MCES also provides an ambulance service so that police officers can remain on-scene and in the community. Police can give statements at the scene, which are used to make informed decisions about involuntary inpatient commitment.

MCES began providing psychiatric services to the Montgomery County Correctional Facility (MCCF) in the 1990s. This consisted of weekly sessions to do psychiatric evaluations and manage psychotropic medications. MCES has added a Forensic Social Worker, Forensic Transition Case Manager and Psychologist. This team enables MCES to identify candidates for diversion at arraignment, preliminary hearings, pre-trial conferences in prison, and at release.

The MCES Forensic Team provides early identification, assessment, and treatment of consumers during incarceration. It works with the correctional, medical and psychiatric staff to ensure appropriate treatment.

The team also works with the criminal justice and law enforcement communities to divert consumers back into the community. Once in the community the Forensic Transition Case Manager provides intensive follow-up until the consumer is reintegrated into the traditional mental health/substance abuse system.

The psychiatric services and the psychologist are supplied through contracts with MCCF. The other positions are funded by the Montgomery County Mental Health/Mental Retardation/Drug & Alcohol Office. “County Office” support is an important attribute of our model. It directly contributes to its visibility and effectiveness.



MCES Diversion Milestones

1994: MCES begins psychiatric services at the Montgomery County Correctional Facility (MCCF).

1996: MCES psychiatric ambulance services become available on a 24-hour basis.

1999: MCES forensic diversion team adds a case manager and nurse and joins in a national longitudinal study of jail diversion is begun.

2000: MCES placed a Forensic Social Worker at MCCF.

2001: MCES Forensic Transitional Case Manager added to facilitate community re-entry of inmates with mental illness. MCES Mental Health Resource Manual issued for judges and district justices.

2002: MCES extends clinical services at MCCF to include psychology. Inpatient beds expand to 73.



MCES Highlights

- “24/7” Availability of Services Including Psychiatric (MD) Evaluation
- Mobile Crisis Intervention
- Psychiatric Ambulance
- Central Location
- Secure Facility
- Need-based Eligibility
- Streamlined Intake/Procedures
- Police Training
- Criminal Justice & Liaison Services
- County MH Delegate On-site
- Sole Provider of Involuntary Hospitalization
- Continuum of Services Across the Criminal Justice System
- Forensic Task Force Made Up of All Key Agencies

Info Available

Readers interested in the nature of the local criminal justice system and how it functions in relation to individuals with mental illness are referred to our August 2002 issue, “Understanding the Criminal Justice System in Montgomery County.” Copies are available free of charge by calling 610-279-6100, Ext. 227, or mail@mces.org.

Partnering for Diversion

MCES is the product of a cooperative countywide effort. MCES has built this collaborative spirit in its work. Criminal justice diversion cannot be done unilaterally or in a vacuum. MCES has formed working relationships with every police agency in its service area.

MCES works closely with the District Attorney’s Office, the Court of Common Pleas, District Justices, Adult Probation and Parole Office, the Montgomery County Correctional Facility, and the Public Defender’s Office.

The “County Office” has been our strongest single partner over the years in our diversion efforts. It has given funding, helped in planning, and facilitated the integration of the diversion program with the community mental health system.

MCES is positioned within the criminal justice system. Police officers can rely on MCES to assume responsibility for their “mental health cases.” MCF can turn to MCES to provide a secure and therapeutic respite for mentally ill inmates. Parole and probation officers know that MCES can be a resource for clients who have incurred violations because of relapse or other behavioral health issues.

MCES established the Montgomery County Forensic Task Force, which is made up of representatives of all criminal justice agencies in the county and county mental health officials. Its mission is to improve inter-system communication and recommend measures to improve the treatment of mentally ill individuals with criminal justice contacts.

MCES participates in the Southeastern Pennsylvania Regional Forensic Task Force, which is seeking to identify best practices for meeting the needs of mentally ill individuals involved with the criminal justice system. MCES is also involved in similar groups at the state-level.

In 2001, Rocio Nell, MD, CPE, the CEO and Medical Director of MCES and Donald F. Kline, PhD, the MCES Criminal Justice Director issued the *Mental Health Resource Manual* to be a resource for the local judiciary. It covers diversion, services available at MCES and from other providers, the procedures for involuntary hospitalization, basic concepts of psychiatry, landmark cases involving the insanity defense, and dealing with individuals experiencing a mental health crisis. (Copies are available at cost from MCES.)

Sentencing mandate changes have negatively affected the mentally ill. These include “getting tough on crime,” “three strikes and you’re out,” the “war on drugs,” “zero tolerance,” and “mandatory sentences”. Sentencing guidelines and presumptive sentencing were developed because of sentencing variances and take the discretionary power away from the judge for certain crimes. In Pennsylvania, the Common Pleas Court uses sentencing guidelines which are based on the severity of the crime and the individual’s criminal history and scored accordingly. The higher the score, the greater the length of incarceration. The sentencing guidelines give a mandatory minimum for a particular crime, but do not consider mental illness.

MCES Forensic Services

Criminal Justice Departmental Duties (Brief Outline):

Forensic Services:

- Provide liaison between Montgomery County Correctional Facility (MCCF) and MCES
- On site evaluations at MCCF
- Maintain contact with consumers with criminal charges who are at MCES

Mobile Crisis Intervention Services:

- Community-based intervention to promote stability and avert hospitalization
- County-wide “24/7” crisis intervention
- Consumer advocacy, follow-up, resolution and referral

Short-Term Intensive Case Management:

- Intensive follow-up of consumers outside the MH/MR system
- Promote community-based treatment of consumers
- Work to assure consumers get into the MH/MR system

Long-Term Forensic Case Management:

- Management of consumers involved with the criminal justice system
- Provide case management and direct services

Forensic Social Worker (On-site at MCCF):

- Early identification and follow-up of inmates with mental health needs
- Diversion of inmates with mental health needs to treatment

Forensic Transition Case Manager (On-site at MCCF):

- Intensive follow-up of consumers released from MCCF not covered by the MH/MR system
- Provide case management and direct services

Clinical Psychologist (On-site at MCCF):

- Early identification
- Assessment and History

Transition Specialist

- Assessment and intervention with nontraditional consumers
- Consumer advocacy and referral services

“MCES is the direct result of a ‘cry for help’ from the police, court, and correctional systems in Montgomery County, PA after two tragic suicides involving individuals detained for reasons associated with mental illness. MCES continually evaluates and develops new and innovative programs to assist law enforcement and the criminal justice system in dealing with consumers in crisis. Law enforcement accounts for 50% of inpatient admissions to MCES in any given year.”

Donald F. Kline, PhD
Criminal Justice Director, MCES



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Helping Mentally Ill Offenders

Under no circumstances should a person with a mental illness be incarcerated as an alternative for treatment. In an ideal world, there will be support and services available in the community that will promote dignity and prevent acting out behavior that may lead to criminal charges. When the nature of the crime requires incarceration, then there is a need for an accurate assessment, appropriate treatment and timely legal procedures that will lead to successful reintegration into the community.

People who are diagnosed with a mental illness may act out as a consequence of character pathology or choice at one moment in their life when they may not have been at their best. If that is the case, it is crucial that as they face consequences, consideration is taken to their needs and psychiatric condition. Appropriate sentencing may lead to better treatment outcomes and healthy integration in the community.

Special attention needs to be given to people who are developmentally disabled, who can become very frightened over the legal process or while incarcerated and be easily victimized by others.

There are those who are mentally ill and are not at the point in their treatment where they assume responsibility for the treatment of their mental illness. These individuals will tend to refuse treatment and further decompensate while incarcerated. When people think diversion is not possible, every effort should be done to provide appropriate treatment and post-booking diversion when appropriate.

Rocio Nell, MD, CPE
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