

**A CALL TO ACTION: REMOVING THE STIGMA
OF MENTAL HEALTH IN THE CRIMINAL
JUSTICE SYSTEM**

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Abstract

When an individual sees someone in a mental health crisis, they are extremely likely to call the police. Meaning, most people going through a mental health crisis will encounter police rather than mental health professionals. However, it is not common that law enforcement who encounter these troubled individuals will get them the proper help they need. Those going through a mental health crisis require experienced individuals that can offer assistance that is an alternative to an arrest. While people with mental illness are not more likely to commit violent acts, they are more likely to be victims of violent crimes, therefore, it is extremely likely that they will encounter law enforcement at some point. This article will delve into the topic of how mental health is handled within the criminal justice system and what changes need to take place to create a safer space for those to reach out when they need help.

Suppose someone is walking down the street and they see a person clearly going through a psychological episode resulting in clear and present danger. They are at

a loss for what to do. Call the police? Call an emergent psychological service? There is pressure knowing someone's future is in their hands depending on the outcome and how they choose to proceed. This is exactly what happened to Rulennis Muñoz on September 13, 2020. Muñoz remembers the phone ringing with her mother, Miguelina Peña, on the other end of the call. Peña told her daughter that her brother, Ricardo (diagnosed with paranoid schizophrenia five years before this incident), would not take his medication and could be heard yelling in the background. Muñoz hung up with her mother and called a county crisis intervention line to get Ricardo help within an inpatient care facility. Peña was in her neighborhood by this point with her other daughter, Deborah, a couple of doors down. Deborah called 911 to get immediate help for Ricardo unaware that Muñoz was calling the non-emergency line. When Ricardo saw the officer approaching from where he was standing inside the house, he ran to his bedroom and came back down with a hunting knife in his hand. Ricardo ran toward the officer while the officer retreats running away from Ricardo. After a few steps of Ricardo chasing him, the officer turns back with his gun in hand and shoots Ricardo multiple times. Minutes later Ricardo is dead. A couple of hours after the incident took place, police made the bodycam footage public to dissipate any rumors about what happened. The county's district attorney has said the shooting was justified and the

officer's name was never made public.¹

Mental health issues are not only important for adults like Ricardo, but can affect people in many different ways. Researchers have shown that at least twenty percent of police calls are for mental health crises. On top of that, it has been calculated that people with mental illness are sixteen times more likely to be killed during a police encounter.² As seen in this case, early intervention would have been extremely beneficial to all parties involved. Even if Ricardo had not been shot, legal action would have taken place through a Baker Act, which can include hospitalization for up to sixty days of treatment, or being sent to prison. The Baker Act allows a loved one or friend to call for services that will help those struggling with their mental health. This requires the person to be brought into a psychiatric facility where they will then be checked to make sure they are not a danger to themselves or others. If they do not pass they will not be released. This all must take place within 72

¹ *During a Mental Health Crisis, a Family's Call to 911 Turns Tragic*, NPR.org, October 29, 2020, <https://www.npr.org/sections/health-shots/2020/10/29/928239761/during-a-mental-health-crisis-a-familys-call-to-911-turns-tragic>, (last visited March 31, 2022).

² Abramson, Ashley, *Building Mental Health into Emergency Responses*, 2021, <https://www.apa.org/monitor/2021/07/emergency-responses>, (last visited March 31, 2022).

hours of the initial placement of the patient in the facility. Through this, doctors will be able to determine if further treatment is needed. Even though these systems are in place, there is an excessive number of mentally ill prisoners being held for longer than they should be because they are awaiting a bed in a psychiatric hospital. While mentally ill prisoners need a place to stay, they pose a risk to not only other inmates and themselves, but to the people who work for the prison as well. Since these prisoners' minds work differently, often having impaired thinking, and/or a lower mental capacity to handle these situations, they pose a management risk for everyone involved.³

Two million mentally ill individuals are booked into jails each year. Approximately 15 percent of them are men and 30 percent are females, all of whom have a serious mental health condition.⁴ “Any mental illness (AMI) is defined as a mental, behavioral, or emotional disorder. AMI can vary in impact, ranging from no impairment to mild, moderate, and even severe impairment. Serious

³ *How Many Individuals with Serious Mental Illness Are in Jails and Prisons?*

<https://www.treatmentadvocacycenter.org/storage/documents/backgrounders/how%20many%20individuals%20with%20serious%20mental%20illness%20are%20in%20jails%20and%20prisons%20final.pdf>, (last visited March 31, 2022).

⁴ *Peer Wellness & Recovery Support Group*, NAMI Bucks County PA: National Alliance on Mental Illness. June 20, 2019. <https://namibuckspa.org/about-nami-bucks-county/public-policy/jailing-people-with-mental-illness/>, (last visited April 15, 2022).

mental illness (SMI) is defined as a mental, behavioral, or emotional disorder resulting in serious functional impairment, which substantially interferes with or limits one or more major life activities.”⁵ However, this does not account for those who have yet to be diagnosed or do not realize they are suffering.⁶ Not to mention, the individuals that are not Baker Acted, but are sent straight to prison are not getting any kind of mental help they need before entering prison. According to the Prison Policy Directive over 66 percent of inmates reported not getting any mental health care while incarcerated and another one in four or more inmates report psychological distress.⁷ “Addressing the mental health needs of prisoners can decrease incidents of re-offending, reduce the number of people who return to prison, help divert people with mental disorders away from prison into treatment and rehabilitation and ultimately reduce the high costs of prisons.”⁸

⁵ *Mental Illness*, National Institute of Mental Health (NIMH), 2020, [https://www.nimh.nih.gov/health/statistics/mental-illness#:~:text=Serious%20mental%20illness%20\(SMI\)%20is,or%20more%20major%20life%20activities,\(last%20visited%20April%204,%202022\).](https://www.nimh.nih.gov/health/statistics/mental-illness#:~:text=Serious%20mental%20illness%20(SMI)%20is,or%20more%20major%20life%20activities,(last%20visited%20April%204,%202022).)

⁶ Id.

⁷ *Mental Health*, Prison Policy Initiative, 2015, Prisonpolicy.org. [https://www.prisonpolicy.org/research/mental_health/#:~:text=Number%20of%20people%20experiencing%20%22serious,care%20while%20incarcerated%3A%2066%25%20%2B,\(last%20visited%20March%2031,%202022\).](https://www.prisonpolicy.org/research/mental_health/#:~:text=Number%20of%20people%20experiencing%20%22serious,care%20while%20incarcerated%3A%2066%25%20%2B,(last%20visited%20March%2031,%202022).)

⁸ *Information Sheet 2005*, World Health Organization. 2005, [https://www.who.int/healthinfo/statistics/whostat2005en1.pdf?ua=1,\(last%20visited%20April%204,%202022\).](https://www.who.int/healthinfo/statistics/whostat2005en1.pdf?ua=1,(last%20visited%20April%204,%202022).)

Once the person is put through a psychiatric evaluation, if at all, they are then put through a taxing process at the police station where they will be searched again, then what is commonly known as “booking” will take place. This consists of the accused being fingerprinted and having a police photograph or “mugshot” taken. The accused will meet with a lawyer if they have asked for one after being read their Miranda Rights. In addition to this, juveniles may be told that if the juvenile court waives jurisdiction the statements they make during or outside of the interview can be against them, and will be tried as an adult. The “booking process” will take no more than 48 hours or two days and the person cannot be held beyond that time without an initial, first appearance, or arraignment before a judge or magistrate.⁹ For a mentally ill individual, emotions are heightened and feelings of anger, sadness, and confusion may take over. Even after their first appearance is over, it does not mean they get to go home or relax. While a lawyer is there to defend and help, they may not be familiar with aiding a person with mental illness. This can become a challenge and cause tension and/or lack of understanding in the individual being charged. While a mentally ill person can be considered unfit to be tried, this does not happen often as the accused either must be unable to assist in their defense in a rational manner or cannot fully comprehend the proceedings against them. In addition, they will be committed until they are found fit to stand

⁹ *How Courts Work*, Americanbar.org. 2020, https://www.americanbar.org/groups/public_education/resources/law_related_education_network/how_courts_work/casediagram/, (last visited March 31, 2022).

trial. Either way, they will go through the court system at some point.¹⁰ If they are found guilty, once in prison their mental health in most cases will drastically decline further than it was before detainment.¹¹

Crisis intervention training is being instilled in numerous states one of them being Miami-Dade County, Florida. This training includes psychologists, and other mental health professionals, training police officers on how to properly assess a situation. After this training ceases police are ready to handle disturbances involving mentally ill individuals. This prevents premature arrests and incarcerations as well as creates a safe space for both the officer and the mentally ill to safely deescalate the situation. The program in Miami-Dade County includes a 40-hour program taught by mental health professionals and representatives from the National Autism Association. These individuals come together to train the officers on how to speak to and interact with neurodivergent individuals (people with mental illness). These professionals also teach the officers how to

¹⁰ *What Happens If I Am Found Incompetent to Stand Trial?*, Blanchard Law, 2018, <https://blanchard.law/incompetent-stand-trial/#:~:text=In%20order%20to%20be%20found,proceedings%20against%20him%20or%20her.&text=The%20defendant%20is%20unable%20to,defense%20in%20a%20rational%20manner>, (last visited March 31, 2022).

¹¹ Heather Carroll, *Serious Mental Illness Prevalence in Jails and Prisons*, 2016, Treatment Advocacy Center, <https://www.treatmentadvocacycenter.org/evidence-and-research/learn-more-about/3695>, (last visited April 4, 2022).

differentiate between certain mental illnesses such as schizophrenia and bipolar disorder. In Miami-Dade County, liaison officers frequently meet with local clinicians to improve care for these individuals, after seeing that they may not be getting the care they need to prosper in daily life. So far, 7,600 officers have been trained with positive results. Additionally, as the officers learned ways to extend empathy to those with mental illnesses, there has been a negative correlation between unnecessary arrests and shootings.¹²

Other changes that have been made to aid in the transition to more helpful practices have been triaging mental health calls during dispatch. In Long Island, New York, there has been an initiative for emergency dispatch. This initiative gives the dispatchers a choice on whether they want to assign a team of “clinical professionals” to mental health emergencies or the police.¹³ In February 2021, 911 callers in Austin, Texas, can choose to have mental health services provided when they call in for an emergency.¹⁴ Now they can ask for police, firefighters, medical responders, or mental health support. However, not all callers realize that they need mental health services. Therefore, the people fielding these calls must be trained and understand how to properly dispatch calls. For example, in the Austin

¹² Ashley Abramson, *Building Mental Health into Emergency Responses*, 2021, <https://www.apa.org/monitor/2021/07/emergency-responses>, (last visited April 4, 2022).

¹³ *Id.*

¹⁴ *Id.*

Police Department, the operators are trained in mental health first aid training. This allows them to recognize those that need mental health first aid and recognize mental health emergencies. The operators learn useful skills such as how to recognize signs of suicidal or homicidal ideation, self-harming behavior, mood disorders, psychotic disorders, and substance misuse.¹⁵ The knowledge that these operators gain through this training is directly related to decreasing the number of mentally ill individuals who end up incarcerated or institutionalized. This type of early intervention can allow those that are struggling to find help that precludes their only option being death or prison time. Based on the above, knowing that prison time can worsen someone's mental health drastically, this has been statically proven to help save such individuals.

Florida, Texas, and New York are not the first states to join the bandwagon of delegating calls to mental health professionals. Other police departments have assigned specific law enforcement officers to mental health calls and they regularly involve mental health professionals as needed. The Crisis Assistance Helping Out On The Streets (CAHOOTS) established in 1989 in Eugene, Oregon, is a model that many police departments look to for guidance in their own programs. This program is a public safety initiative that works through callers phoning the department in reference to a mental health crisis, and the CAHOOTS non-emergency line sends a medic and a trained mental health care worker. If the

¹⁵ Id.

operator deems it necessary and it involves violent or medical emergencies, law enforcement will respond as well. It is reported that in 2019, 24,000 CAHOOT calls were made, and only 150 of the mobile teams requested law enforcement for backup.¹⁶

While these initiatives can be formulated to work well in their particular settings, it is most cities and states have yet to adopt these programs.¹⁷ In these cities, police are the first to respond to the calls for help that occur during a mental health crisis. However, not many are properly trained to handle such instances. As per David Black, Ph.D., a clinical psychologist and the president and founder of Cordico, a wellness app for high-stress professionals including law enforcement officers, “On average, over the course of their career, police officers encounter 188 critical incidents that overwhelm their normal coping skills. Over time, they encounter an enormous amount of stress, pressure, and trauma.”¹⁸ This may include serious bodily injuries or sometimes,

¹⁶ *What Is CAHOOTS*, 2020, White Bird Clinic, <https://whitebirdclinic.org/what-is-cahoots/>, (last visited April 4, 2022).

¹⁷ Ben Adam Climer, and Brenton Gicker, *CAHOOTS: A Model for Prehospital Mental Health Crisis Intervention*, *Psychiatric Times* 38 (01), Jan. 29, 2021, <https://www.psychiatrictimes.com/view/cahoots-model-prehospital-mental-health-crisis-intervention>, (last visited April 4, 2022).

¹⁸ Ashley Abramson, *Building Mental Health into Emergency Responses*, 2021, <https://www.apa.org>. 2021. <https://www.apa.org/monitor/2021/07/emergency-responses>, (last visited April 4, 2022).

near-death experiences. The internal stressors that come along with being a law enforcement officer and a lack of knowledge about mental health crises could exacerbate an already dangerous situation.

Since 2015, a quarter of the people killed by law enforcement in the United States had a known mental illness.¹⁹ As of November 2016, the American Journal of Preventive Medicine approximated 20 to 50 percent of law enforcement casualties took place around an individual with a mental illness.²⁰ Since these officers do not know how to properly help in these situations, they cannot advocate for mental health treatment which leads to a cycle of arrests that could have been prevented if an intervention was used prior to an arrest. Officer Fay is quoted as saying, “There’d be many times I’d want to take someone to a hospital due to mental illness, only to have that person released. Then, if they cause trouble in the community, I have no choice but to arrest that person to solve the problem because I’m responsible for community safety.”²¹ Officers are more confident, assured, and calm when they have the proper training and know-how to handle the situations they walk into. Officer Leifman commented, “We wouldn’t put someone in jail who has dementia or cancer because they acted out in an inappropriate way. We’d work to get them treated, and we should take the same attitude with

¹⁹ Id.

²⁰ Id.

²¹ Id.

mentally ill people instead of using tax money to jail them.”²²

It is also important that adolescents and young adults get the support they need as well. Many universities have adopted health clinics and police departments on campus for all the students’ emergent needs. College campuses such as The University of Utah, for example, have partnered with the Huntsman Mental Health Institute. This team is comprised of Mental Health First Responders who include master’s-level crisis workers guided by a psychologist. These professionals can respond to mental health calls during the day and evening.²³ “Our housing and residential education team noticed students can make it through the day because they’re preoccupied and have support in place, but when they’re back in their residence hall, overwhelming feelings of isolation can kick in,” said Rachel Lucynski of the Huntsman’s Community Crisis intervention and Support Services.²⁴

The University of Colorado Boulder’s Police Department has partnered with the counseling center to prevent surges and/or hospitalization for students with mental illness that could have been avoided. It is not a matter of ‘if’ a crisis will occur, but a matter of ‘when’. The fact that a licensed mental health professional is there to help a student in need when they can feel

²² Id.

²³ Id.

²⁴ Id.

isolated and alone, can prevent serious injuries and death. The student is also more likely to talk to a mental health professional about their mental illness, or declining mental health, rather than a police officer. In the event of an after-hours emergency, the police department contacts the clinicians through iPads via a secure connection and the team will then work together to determine the best plan to help the student.²⁵ The fact that the police department is on college campuses and partnered with trained mental health professionals lowers the risk of a mental health crisis that cannot be solved. The partnership allows for the best care for the student's safety as well as those around the student at the time of the crisis.

Our country is currently in a mental health crisis. Right before COVID-19 took over the world, 19.86 percent of adults experienced a mental illness which is the equivalent of about fifty million Americans.²⁶ This has only worsened throughout the pandemic, as many people suffered feelings of isolation and monotony. Students being isolated, adults working from home, and both groups grieving the loss of loved ones from afar, has hindered mental health and still have not returned to

²⁵ Id.

²⁶ *The State of Mental Health in America*, Mental Health America, 2022, [http://www.mhanational.org/research-reports/2022-state-mental-health-america-report#:~:text=The%202022%20State%20of%20Mental%20Health%20in%20America,to%20get%20worse%20leading%20into%20the%20COVID-19%20pandemic,\(last visited April 4, 2022\)](http://www.mhanational.org/research-reports/2022-state-mental-health-america-report#:~:text=The%202022%20State%20of%20Mental%20Health%20in%20America,to%20get%20worse%20leading%20into%20the%20COVID-19%20pandemic,(last%20visited%20April%204,%202022).).

where life was before the pandemic two years later.²⁷ However, while it was thought that the suicide rates would increase during the pandemic, they have decreased. While some do feel more comfortable staying home in their own environment, not everyone has a safe place that they call “home.” Studies have shown that while suicide rates dropped, anxiety and depression rates increased.²⁸ To keep the suicide rates low there need to be proper channels for people with depression and anxiety to turn to before they feel out of control. Law enforcement teaming up with licensed mental health professionals can bring those who are suffering the help they need while showing those suffering, that they have the support of those that protect their community. It is not only the mental health professionals that can assist in these situations. Sometimes, a friendly conversation from a suffering citizen to an empathetic police officer, is enough to talk someone through a crisis. Even though the mental health professional is on the scene to help, so is law enforcement. Saving lives is a group effort that over time can decrease the number of deaths and increase the number of safe calls that helped citizens

²⁷ Id.

²⁸ *Global Suicide Trends during the COVID-19 Pandemic*, Suicide Prevention Resource Center,” 2021, <https://www.sprc.org/news/global-suicide-trends-during-covid-19-pandemic>, (last visited April 4, 2022).

regain a sense of calm and/or recommended them help for the future as well.

These partnerships should not only be utilized on college campuses but for everyday life as well outside of campus. Studies have shown that it helps college students and there is no reason it would not work with off-campus related incidents with non-students. While some may see it as a waste of resources because there are not mental health crises every day, it has been proven to save lives. Most of the time it would be saving more than one life because the person being helped could have hurt themselves and those around them as well. Further training will not only help law enforcement effectively and safely do their jobs but help the citizens within a community as well. Mental health crisis training is not something to put off for the future because the nation is in dire need of it now. The more officers trained; the more lives will be saved.