FROM INCARCERATION TO COMMUNITY

Criminal Justice Reform for People Affected by Mental Illness in Minnesota

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Investing in Health, Hope, Safety, Justice.

Issue Statement

Minnesota needs a new pathway approach in supporting people affected by mental illness. It is time we stop the practice of criminalizing mental illness, reform the probation and supervision systems, expand Medicaid and MinnesotaCare access, and fully invest in supports for people reintegrating back to their families and communities. Let's take the millions of dollars spent annually on incarceration and invest in supportive services for people affected by mental illness. This approach invests in the health, hope, safety, and justice for all Minnesotans.

Mass Incarceration Nation

The United States has less than 5% of the world's population, but 20% of the incarcerated population is in the U.S. — about 1 in 5. Mass incarceration costs at least $182 billion a year, with an estimated $80 billion on jails, prisons, probation and parole. Despite an 11-year downward trend, the U.S. remains an incarceration nation.

What should we do with a person who has a long history of mental illness and drug addiction AND a significant criminal history? We have overwhelmingly opted for an incarceration approach.

Mental Health Investment: A Participant's Story

One person affected by mental illness, a 35 year old white woman who has long-struggled with drug addiction, has made multiple suicide attempts, and has been assigned multiple diagnoses, including Posttraumatic Stress Disorder (PTSD), Depression, Borderline Personality Disorder, and Polysubstance Dependence. She also has a long history cycling in and out of the criminal justice system. Ideally, she would have gotten diverted from the criminal justice system to receive treatment for her mental illness and addiction. This never happened.

Fast forward to her approaching release date. This time a new approach was taken. In order to stop the cycle, pre-release assessment, planning, identification, and coordination was provided. She was assigned a pre-release case manager, she participated in mental health and chemical health evaluations, and was connected with her community corrections officer. For the first time, post-release, she had the resources she needed to participate in her own recovery, stabilize her mental health, and comply with the conditions or her release.

> "Since her release, she obtained parttime employment, has no supervision violations, has made no suicide attempts, and remains alcohol and drug free – all of which is a remarkable contrast to her former life. Program staff strongly believe she benefited significantly from the relationships that were established and the work that was done during the pre-release stage".

Mass Incarceration in Minnesota

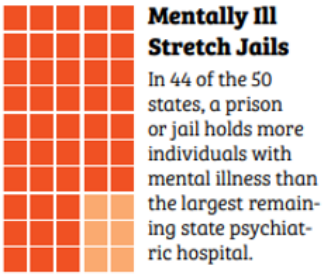
Minnesota incarcerates more of its residents than many wealthy democracies at a rate of 364 per 100,000, with Black, Indigenous, & Latinx communities incarcerated at alarmingly high rates (Figure 1). **Blue Print for Smart Justice Minnesota** profiles our incarceration problem. Between 2000 and 2018, Minnesota's prison population increased by 57%. Minnesota spent $267 million from its general fund on corrections in 2017 – a 191% growth since 1985.

Figure 1

Incarceration of People Affected by Mental Illness

"U.S. prisons and jails are filled with people who have a current or past mental health problem, and facilities are still not meeting the demand for treatment."

Figure 2



Deinstitutionalization in the 1960s and 70s, without investing in community-based mental health, contributed to the mass incarceration of people affected by mental illness (Figure 2). Bureau of Justice Statistics estimates 37% of prisoners and 44% of jailed inmates have a mental health disorder, with 1 in 7 prisoners and 1 in 4 jailed inmates experiencing serious psychological distress (SPD). Women are more likely to have a history of mental illness and experience more SPD while incarcerated. Despite the fact that mental illness and serious psychological distress is a known problem, only about 1/3 were receiving mental health treatment. Lack of mental health treatment produces poorer outcomes during incarceration and upon release.

Barriers to Successful Transition. Formerly incarcerated people deal with nearly 50,000 federal, state, and local restrictions that make it hard to get a job, find housing, return to school, and otherwise reintegrate back into society. Successful reentry typically focuses on the individual's success or failure, independent of "the individual's social environment of peers, family, community, and state-level policies". Barriers are worse for people affected by mental illness, both those with pre-existing illness and those developing serious psychological distress while incarcerated.

- Poor post-incarceration outcomes are associated with a lack of continuity of care between prison and community-based health and mental health services and inadequate care that meets complex health and mental health care needs.
- People affected by mental illness on probation face particular challenges complying with release requirements related to their condition & struggle even more with meeting basic needs.
- Inadequate transition planning is associated with "compromised public safety, increased disability secondary to health and behavioral health symptoms, hospitalization, suicide, homelessness, new criminal offenses, and re-arrest".

Minnesota's Transition Approach

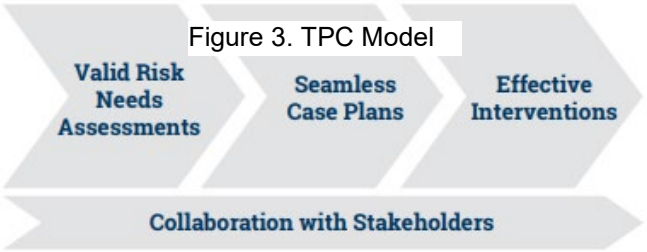


Figure 3. TPC Model

The Minnesota Department of Corrections (MNDOC) oversees reentry. In FY20, there were 7,238 total releases from prison, work release, and supervised release. Minnesota's reentry approach is the **Transition from Prison to Community (TPC) Model** (Figure 3). This approach aims to "increase public safety, reduce recidivism and new victimization, and make better use of scarce resources", but fails to address systemic community and policy barriers.

- **Reentry County and Regional Jails.** Minnesota Statute Chapter 641 establishes the policies overseeing county and regional jails, including § 641.155 requiring the commissioner of MNDOC to create a model discharge planning process for inmates with serious and persistent mental illness (SPMI) convicted and sentenced to three or more months. The process includes making a referral for case management. The Office of the Legislative Auditor's Mental Health Services in County Jails Report reported: "There is limited compliance with a state law that requires discharge planning for sentenced jail inmates [affected by] mental illness".
- **Reentry State Prisons**. Minn. Stat. Chapter 243 establishes policies governing adult corrections. Chapter 244 addresses criminal sentence release. A range of transitional programming is offered to inmates during confinement and after release, organized through the DOC Reentry Services Unit, implemented by transition coordinators at all correctional facilities, in partnership with transition coalitions throughout the state. Each DOC facility has a transition center linking inmates to information and resources, including pre-release classes, resource fairs, and access to a 250-page Adult Pre-Release Handbook.
- **Reentry Adults with SPMI from State Prisons.** Minn. Stat. § 224.054 Discharge plans for mentally ill offenders requires the Department of Human Services, with MNDOC, to "offer to develop a discharge plan for community-based serves for every offender with SPMI (as defined in § 245.462) who is released from a correctional facility". If an offender ***chooses*** to have a discharge plan developed, the process must be initiated at least 90 days before the person is due to be discharged. Nowhere is there mention of Assertive Community Treatment (ACT) or Forensic ACT—an emerging model of service delivery specifically designed to support formerly incarcerated adults affected by SPMI assessed to have medium to high re-offending risk.

Holistic Approaches: Criminal Justice System, Diversion, Transition

Ending Mass Incarceration. The ACLU Smart Justice Initiative aims to "transform our nation's criminal justice system and building a new vision of safety and justice". A new pathway forward is outlined in **Blue Print for Justice Minnesota**, with a goal to have 5,484 fewer people in Minnesota's prisons (a 50.19% decrease), and an estimated saving of more than $400 million that could be diverted to schools, housing, health care, and economic development by 2025. New pathway approaches include: 1) Moving away from the culture of criminalization by halting more criminal codes and offenses, 2) Reforming the probation and supervised release systems, and 3) Expanding Medicaid and MinnesotaCare so people have greater access to treatment and mental health services while on probation and parole.

Front End Justice. This approach will "divert appropriate people [affected by] mental illness away from the criminal justice system entirely". The **Sequential Intercept Model** is a framework to evaluate systems and existing resources "that can help policymakers determine available resources, identify gaps in services, and develop policy and services changes".

Cross System Strategies. The **Guidelines for the Successful Transition of People with Behavioral Health Disorders from Jail and Prison** is a cross system approach based on the idea that "transition planning can only work if justice, mental health, and substance use systems have a capacity and a commitment to work together" in partnership with other essential systems.

Policy Position Statement

Minnesota must no longer criminalize mental illness. Minnesota needs a new pathway approach for supporting people affected by mental illness and diverting them away from the criminal justice system. Systems changes are needed to ensure people affected by mental illness have access to services and resources that stop the cycle of incarceration and support successful transition and reintegration back to their families and their communities.

For these reasons we recommend the following:

- Adopt the ACLU **Blue Print for Justice Minnesota** as a pathway to reform.
- Invest in **Front End Justice** with the aim of diverting people affected by mental illness away from the criminal justice system.
- Use **cross-system strategies** outlined in the Guidelines for Successful Transition of People with Behavioral Health Disorders from Jails and Prisons.
- Adopt the **Mentally Ill Offender Community Transition Program** to screen and evaluate mental health at intake in jails and prisons. Begin with individual mental health support plans and integrated public and private collaboration to ensure humane mental health services while incarcerated. Provide coordinated mental health services, involving case workers, health insurers, psychiatrists, psychologists and social workers, at all jails and prisons in the state.
- Pre-release **Assess, Plan, Identify, Coordinate**. Ensure that every person affected by SPMI has a discharge plan for community-based services *prior* to release from jail and prison. Connect individuals with community-based mental health services *prior* to discharge to facilitate a seamless transition back to their families and communities.
- Invest in long-term community-based wraparound services specifically designed for people affected by SPMI involved with the criminal justice system (e.g., permanent housing, health insurance, transportation, health and mental health care, employment).

References

Full text online sources were used to create this policy advocacy brief and are linked throughout the document. To access this and other policy advocacy briefs go to: http://link.mnsu.edu/mswbriefs