

The Intersection of Criminal Justice and Mental Health in the US

Background Brief *as of October 2021*

Crises in both mental health and criminal justice have risen in tandem over the last half-century and intersected in toxic ways throughout the last three decades in particular.

The decision to begin closing public psychiatric institutions in the 1950s was accelerated under the Kennedy Administration in the early 1960s. Kennedy critiqued [overcrowding and understaffing in state hospitals](#) and offered hope for different therapy and community care models for people living with mental illness.

The end of abusive and inhumane institutions was a crucial development in the fight for better care, but the transformative moment was not met with investment in essential services and alternative care models, creating a new horizon of difficulties. In other words, there was significantly more focus on the “negative rights” framework - of freedom from institutionalization - and not enough effort was awarded to the necessary accompanying “positive rights,” such as the [right to proper medical care, income, employment, housing, and more](#). In the United States, private care is prohibitively expensive for most people, and even more often for those living with serious mental illness. Far too many people with mental illness are swept into the criminal legal system, which triggers a far more exorbitantly expensive problem, as it [costs the federal government](#) \$81 billion and states \$71 billion per year to incarcerate people with mental illnesses.

The ongoing criminalization of addiction and poverty also contribute to the intersection of criminal justice and mental illness. Moreover, a [2019 National Survey on Drug Use and Health](#) by Substance Abuse and Mental Health Services Administration (SAMHSA) found that of the 19.3 million adults who had a substance use disorder, roughly half (9.5 million) experienced both SUD and mental illness concurrently. Around [1 in 4 people](#) living with a serious mental illness also have a co-occurring substance use disorder, which can lead to economic distress, unemployment, and further encounters with law enforcement. Without proper programs to guide and provide for people after their arrest or incarceration, a tragic cycle of recidivism is likely to ensue.

The modern system of mass incarceration and criminalization in the United States began with the shift towards “law and order” politics under Nixon. This in turn inspired subsequent presidential administrations, resulting in the massive explosion of incarceration rates principally by Reagan’s War on Drugs and provisions introduced by Clinton’s 1994 Crime Bill. Today, [nearly one in every 100 Americans](#) is incarcerated at any given time, with people of color representing a disproportionate percentage of those caught in the criminal justice system.

The criminal justice system has also become a de facto response system for those experiencing mental health emergencies and correctional facilities are now the single [largest provider of mental health services in the country](#). More specifically, the country's three biggest jails, which are overwhelmingly pre-trial detention holding areas, are considered the largest mental health centers.

In 2014, studies showed that 20% of people in jails and 15% in state prisons have a serious mental illness. In 2017, the [US Bureau of Justice Statistics revealed](#) that 14% of state and federal prisoners and 26% of jail inmates reported "experiences that met the threshold for serious psychological distress". In some of the bigger facilities, the percentage of people with mental illnesses is even higher, [including a full third of people held](#) in Cook County Jail in Illinois.

While some prisons have set up mental health facilities, the last half-decade has seen a [precipitous decline](#) in the number of incarcerated people being treated for mental illness. According to the National Alliance on Mental Illness, [up to 83% of incarcerated people](#) with mental health issues do not receive needed care. Often, they are further penalized for behavior related to their mental illnesses that is viewed as disruptive or difficult to control. Imprisonment itself [causes](#) or exacerbates mental health problems, especially extreme measures [such as solitary confinement](#). And, people with serious mental illness are [imprisoned for four to eight times longer](#) than those without such challenges.

Local police and other law enforcement agencies are often people's first contact point with the criminal legal system. Tragically, at least one in four people killed by police are experiencing a mental health crisis at the time, according to [an analysis done by the Washington Post](#). The [National Alliance on Mental Illness](#) found that people experiencing mental health emergencies are two times more likely to be met by police officers than to receive appropriate care and resources. As a result, two million people with mental illness are booked into jails each year.

Law enforcement officers are simply not trained or equipped to handle mental health crises, but [10% of their encounters](#) each year are with people who have a serious mental illness.

Thanks to the efforts of activists, community groups, and forward-looking politicians, both the federal government and state and local governments have begun to take steps toward a more fair criminal justice system, which can, in turn, produce better outcomes for those living with mental illness. A growing movement over the past decade took on national public urgency amid the Black Lives Matter protest movement, which called for seismic changes in the way communities are policed and the programs that are prioritized by the government funding.

A crucial shift expedited by this protest movement is rethinking the way 911 calls are handled and who responds to most emergencies, including the introduction of a dedicated three-digit crisis line, 988. The push for this "988" number originally revolved around the idea of a national suicide prevention hotline but has since expanded in the realm of a non-police response line for different kinds of mental health crises. Replacing, or in some cases supplementing, law enforcement with mental healthcare professionals

as the first responders to mental health emergencies can vastly improve outcomes by de-escalating violence, reducing arrests, and rerouting people to resources and programs that provide much-needed assistance. This also lowers the risk of people needing medical support or facing jail time instead - along with the added trauma that comes with incarceration, and the financial and social consequences that come upon release.

These programs are already beginning to roll out. In November 2020, New York City [started a new pilot program](#) to make health professionals the default first responders to 911 calls involving mental health emergencies. In the [first month of the pilot](#), “dispatchers flagged 138 mental health emergency calls in three police precincts as eligible for the new teams” and “of those eligible calls, the teams responded to 107, or just under 80%.” The data from this preliminary report shows promise, pointing toward the need to expand on the pilot’s successes into larger scale and permanent programming for non-police crisis response teams.

Other cities have implemented versions of this approach; in Phoenix, where a pilot program that rerouted 911 calls centered on mental health crises to an organization called the Crisis Response Network, which sends a mobile crisis team to address the call if deemed necessary. Phoenix is [now expanding the program](#) based on its success. In Denver, since June 2020, 911 operators had the option of dispatching a team consisting of a mental health clinician and a paramedic. According to city data, over the first six months, these teams responded to 748 calls without a single use of physical force or call for armed backup.

Fountain House and a network of affiliated clubhouses across the country representing 60,000 people living with serious mental illness are advocating for public-health-first solutions to mental health crisis through our multi-site [Care Responders Campaign](#) in six states, and our policy and research report, [From Harm to Health: Centering Racial Equity and Lived Experience in Mental Health Crisis Response](#).

Tragic, unnecessary deaths and traumatic police encounters will continue until these programs become the standard. The killings of Daniel Prude, a man who was asphyxiated to death during a mental health emergency by police in Rochester, and Deborah Danner, a Fountain House member [shot and killed by police in her own home](#) in the Bronx during a crisis, underline the urgent need for changes to crisis intervention teams and newer, public health approaches to situational de-escalation and person-centered mental health care.

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