

## The need for reform in the care of mentally ill persons caught up in the judicial system



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Each year, an estimated twenty percent of the 60,000 criminal defendants in the United States are deemed Incompetent to Proceed (ICP) to trial after a psychiatric evaluation. For a variety of reasons, these mentally ill persons often remain in prison indefinitely, unable to be released into the community or to receive care. Unfortunately, the symptoms of mentally ill persons are often worsened by incarceration, leaving them less able to function in the community. This inability to deal with ICP defendants has led to a crisis in the relationship between state judicial and mental health systems, and a legal limbo for thousands of mentally ill persons.

### A History of Deinstitutionalization in the Mental Health System

Half a century ago, the U.S. had nearly 600,000 state hospital beds for people suffering from mental illnesses. Today, due to federal and state funding cuts and due to significant changes in treatment patterns during the last several decades, the number of such beds has dwindled to only about 40,000. This leaves a substantial number of people with severe mental illnesses trying to function in the community. Without proper treatment and care, their erratic and sometimes violent behavior often results in arrest. As of 2000, researchers Lamb and Weinberger estimate 310,000 persons with severe mental illness were incarcerated in the United States. According to Wortzel et al. in the Journal of American Academic Psychiatry Law, nearly two-thirds of state psychiatric hospital beds are already dedicated to ICP patients, with no extra room for the many more that remain incarcerated. Unfortunately, when ICP patients are released from prison without treatment, there is a high death-rate immediately after release and a very high probability of re-entry into the criminal justice system.

### Challenges at Many Levels of Government

The blame for this crisis cannot be placed on one party. The court system is not adequately prepared for or aware

of the needs of ICP defendants. The staffs of state psychiatric hospitals are often bound by funding and laws that dictate patient to staff ratios, making them unable to accept more patients. At a state level, funding can often be diverted away from the mental health system due to lack of understanding in the population at large. Despite good intentions at all levels, the structure and funding does not exist to address the problem.

### Quality Initiatives Result in a Better Outcome for All

With proper attention, initiatives are being introduced in some states that are both cost saving and allow more ICP defendants to access the behavioral healthcare they need. We are currently completing a thirty year bed need projection for a new state psychiatric center by looking at the demographic growth in the populations most at risk for mental illnesses, assessing their need for care, and analyzing other potential delivery system changes to improve outcomes. In addition to extra psychiatric hospital beds, assertive community treatment programs provide a controlled environment for persons with mental illness. It has been shown that these programs ultimately save the state or county money by way of reduced time in hospitals and the criminal justice system.

Assuming continued fiscal constraints, communication between courts, prisons, and mental health services will be essential. Proper analysis and well thought out solutions can provide these mentally ill persons with the care they need. Such interventions will ultimately benefit the economic health of states and the safety of the community.

The Behavioral Health Advisor is a monthly publication by Steve Melek, designed to bring interesting and informative behavioral health topics to the forefront. Melek is a leading professional in combining actuarial expertise with behavioral health knowledge. He consults on effective integration of medical and behavioral healthcare, efficiency in delivery and successful health outcomes, predictive modeling, and collaborative research with other disciplines.

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