Published in final edited form as:
Adm Policy Ment Health. 2006 September ; 33(5): 544–557. doi:10.1007/s10488-006-0072-0.

Beyond Criminalization: Toward a Criminologically Informed Framework for Mental Health Policy and Services Research

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Abstract

The problems posed by persons with mental illness involved with the criminal justice system are vexing ones that have received attention at the local, state and national levels. The conceptual model currently guiding research and social action around these problems is shaped by the "criminalization" perspective and the associated belief that reconnecting individuals with mental health services will by itself reduce risk for arrest. This paper argues that such efforts are necessary but possibly not sufficient to achieve that reduction. Arguing for the need to develop a services research framework that identifies a broader range of risk factors for arrest, we describe three potentially useful criminological frameworks—the "life course," "local life circumstances" and "routine activities" perspectives. Their utility as platforms for research in a population of persons with mental illness is discussed and suggestions are provided with regard to how services research guided by these perspectives might inform the development of community-based services aimed at reducing risk of arrest.

Keywords

Mental health services; Criminal justice; Offenders with mental illness

Overview: Persons with Mental Illness and the Criminal Justice System

Recently congress passed and the president signed into law the *Mentally Disordered Offender Treatment and Crime Reduction Act* (S.1194). While at the time of this manuscript was completed no funds had actually been appropriated, the bills' intent was to support collaborative efforts between local mental health, criminal justice and juvenile justice agencies to develop jail diversion, mental health court and other entities that would deflect non-violent offenders with mental health problems from the criminal justice to the mental health system. This legislation is but the most recent public policy intervention designed to deal with the problem posed by persons with severe mental illness involved in the justice system. Indeed, over the

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past three decades this issue has been a source of growing concern among actors from both the mental health and criminal justice systems (Human Rights Watch, 2003; Lamb & Weinberger, 1998).

Data on the presence of persons with mental illness, derived from a number of sources, point to an alarmingly disproportionate presence of individuals with mental disorders in various sectors of the criminal justice system. A Department of Justice (DOJ) survey found, for example, that roughly 16% of prison and jail inmates have some form of mental illness (Ditton, 1999). A rigorous epidemiologic study of jail detainees in Cook County, Illinois found prevalence rates that, while less than half that of the DOJ study, were nonetheless still nearly five times higher than those of the general population, even after adjusting for the detainees' sociodemographic characteristics (Teplin, 1990). By the mid-1990s these trends, coupled with the downsizing of the public mental health system, had so altered the landscape of mental health service delivery in the US that the Los Angeles County jail had become the nation's largest provider of institutionally-based psychiatric services (Torrey, 1995).

Not surprisingly, the critical public policy dilemmas raised by these observations, as well as the intriguing sociological issues of deviance and social control they raise has spawned a substantial body of research. Many who have pursued work in this area are part of a community of investigators whose main research focus is the delivery of mental health services. It is therefore not surprising that the search for causes underlying this trend has most often focused on problems within the organization and financing of these services. Clearly, the mental health system is a logical and important vantage point for exploring this issue; it is not clear however, that a mental health services or policy research perspective can by itself provide an adequate framework for research on offending among person with mental illness. This paper examines the contemporary thinking regarding such offenders, grounded in the services research and policy perspective. We then explore the potential utility of a new, complementary perspective, drawn from the rich vein of theory and data residing in the field of criminology, as a conceptual guide for the study of offending among persons with mental illness. The goals of marrying the mental health services research and criminologic perspectives are first to create a new framework for thinking about and conducting research on the issue of risk for offending among people with serious mental illness and, ultimately to contribute to the development of more effective interventions for addressing the issues raised by offenders with mental illness.

The “Criminalization of Mental Illness”

Research on offenders with mental illness and the link between mental health and criminal offending has a longstanding tradition that has periodically shifted its focus in response to the changing professional, institutional and policy climates in which such offenders are encountered and managed. One of the principal forces shaping these changes was what many regarded as a long overdue reform of the legal mechanisms by which persons with mental illness were involuntarily hospitalized. During the 1970s every state in the US revised its statutes governing involuntary psychiatric hospitalization in a way that would bring this practice into conformity with constitutionally guaranteed principles of due process. These statutory reforms narrowed and made much more specific the substantive grounds for commitment, limiting them to “danger to self and others” and “grave disability.” In addition, new legal strictures were imposed to ensure that due process be protected in commitment proceedings. These procedural safeguards required that persons considered for involuntary hospitalization be shown in a formal judicial proceeding to meet the new, more stringent substantive criteria at the time of admission and again within specified time periods for those persons hospital officials sought to retain. In short, these reforms made commitment more difficult and release less difficult (Appelbaum, 1994).

The new commitment laws immediately and dramatically altered the way in which agents of social control could address deviant behavior exhibited in the community by persons with mental illness by, in some states, effectively removing the commitment option from the range of available management alternatives (Durham & Pierce, 1982; Durham, Fisher, & Pierce, 1986; Hiday, 1992; Pierce, Durham, & Fisher, 1986). Generally welcomed by some groups of former state hospital patients and by many civil libertarians, other parties (Warren, 1981), including family members and particularly psychiatrists, saw the limitations these reforms imposed on commitment as too extreme (Appelbaum, 1994; Durham & LaFond, 1985; Durham & Pierce, 1982). Early to be identified as a "side effect" of these reforms was an increase in the number of persons with mental illness seen in the criminal justice system, a trend that one California psychiatrist termed "the 'criminalization' of mentally disordered behavior (Abramson, 1972)."

In general parlance, the term "criminalization" refers to a process by which behaviors once considered legal become illegal, rendering their practitioners subject to criminal sanctions for which they were previously not at risk. As it has come to be used in general mental health policy discourse, the term "criminalization" refers to a process whereby behaviors that in one era had been managed by involuntary transport and psychiatric hospitalization became less easily managed in that way as a result of the new restrictions placed on civil commitment. With the mental health disposition less available, but still faced with a need to manage situations involving undesirable behaviors, agents of social control—police and judges, would impose a criminal, rather than psychiatric, definition on an individual's deviant behavior. The individual would then be arrested, often on a trivial charge such as trespassing or disorderly conduct, rather than civilly committed, and in some cases detained in jail. Viewed more generically, what observers of the criminalization process describe is essentially a "re-labeling" phenomenon, whereby certain forms of deviant behavior came to be defined within a legal, rather than a psychiatric framework, and the social control apparatus used to manage that behavior became that of the criminal justice system rather than the mental health system.

Re-conceptualizing the Criminal Justice Involvement of Persons with Mental Illness

The perceived increase in criminal justice involvement among persons with mental illness in the criminal justice system and more generally, in offending behavior following the deinstitutionalization process has prompted new approaches to conceptualizing the genesis of this offending and of categorizing social deviance. This new construction has important implications; as we will argue, how the "problem" of offenders with mental illness is framed plays a major role in the interventions proposed to address it.

Focusing on the individuals who have been involved in the criminalization process, this construction of the "mentally ill offender" has shifted the offending behavior's theorized etiology from individual psychopathology to the socio-legal/system context in which deviant behavior is exhibited. In this re-conceptualization it is not offenders' mental illness that is seen as the primary cause of their offending, but rather the alternative, externally-imposed systemic and policy-driven changes and deficiencies in the management of mental illness that are chiefly responsible for their criminal justice involvement. Moreover, a review of the literature in this area suggests that the scope of these external causative factors has evolved over time, shifting from the restrictiveness of commitment laws and the closing of state hospitals (or "deinstitutionalization" as it came to be called) cited by Abramson (1972) and his contemporaries, to inadequate community-based mental health services (Soros Foundation, 1996; Torrey, 1995; Torrey et al., 1992). A succinct articulation of the belief system that has evolved from the early criminalization argument can be found in the following statement in a 1996 *Research Brief* issued by the Soros Foundation:

> Mentally ill offenders are often arrested because jails lack adequate procedures to divert them into community-based treatment programs…Mentally ill offenders are often jailed because community-based treatment programs are either nonexistent, filled to capacity, or inconveniently located. Police report that they often arrest the mentally ill when treatment alternatives are unavailable (1996, p. 2).

As this statement suggests, the criminalization concept appears to have been incorporated into a belief system that views the preponderance of arrests and episodes of detention of persons with mental illness as unnecessary and as a problem that would be better addressed by expanding community mental health systems in a way that would mediate the effects of deinstitutionalization. Emphasizing gaps in services, the causal structure advanced in these newer arguments places responsibility for cause, effect and remedy squarely within the domain of public mental health agencies. It is not surprising, then, that criminalization has become one of the major concerns of many mental health advocates and policy makers, and that the term itself has come to have significant emotional and policy valence. From its initial use by Abramson in his 1972 publication, the term, the concept and the underlying belief that persons with severe and persistent mental illness become inappropriately entangled with the criminal justice system because of failed mental health policy and service delivery have come to be major themes in the crusade to improve mental health services (e.g., Human Rights Watch, 2003; Torrey et al., 1992). The connection between inadequate mental health services, resulting unmet needs for treatment and the criminalization of mentally disordered behavior has been cited by policymakers in their arguments for better funding of mental health services—arguments that have now reached the highest levels of government. Testifying in support of the recently passed *Mentally Disordered Offender Treatment and Crime Reduction Act* cited at the outset of this paper, one of the bill's principal sponsors, Senator Mike DeWine (R-Ohio) argued that "…the root cause of our current situation is found in the mental health system and its failures to provide sufficient community-based treatment solutions."

Testing the Criminalization Construct

Any theoretical or conceptual model must withstand empirical scrutiny if it is to remain a viable platform for research or social action. How does the belief structure embodied in the criminalization perspective hold up under empirical scrutiny? We begin our assessment with the "facts" upon which the belief system rests. One such "fact" is the presence of persons with mental illness in various sectors of the criminal justice system. As we noted earlier, data from a variety of sources do indeed point to quite substantial numbers of individuals with "mental health problems" detained in US prisons and jails (Ditton, 1999; Teplin, 1990; Teplin, Abram, & McLelland, 1996). And it is true that many of these inmates, particularly those in jails, have been arrested for relatively minor crimes (which, it might be pointed out, is also the case for arrests in the general population). But for the criminalization perspective to be supported, there needs to be empirical demonstration that "criminalization/deinstitutionalization/inadequate mental health resources" dynamic as constructed by the advocacy community is its sole or even chief causal agent.

What evidence can be marshaled in support of this model? Clearly, it is difficult to validate a causal framework such as this solely on the basis of the disproportionate presence of a particular group in the criminal justice system. Evidence fitting an "inappropriate incarceration related to inadequate services" model can be found in the case studies presented by Torrey et al. (1992), which describe, for example, locales where individuals with mental illness are detained in local jails, in some cases with no charges filed against them. The scenario they describe may well reflect practice in some locales, particularly rural areas where the nearest psychiatric inpatient facility able or willing to admit an individual who represents a danger to him/herself may be some distance away. In an emergency, law enforcement officials in such locales may be forced to arrest individuals or at least take them into protective custody until psychiatric

assistance can be obtained. In the total absence of mental health resources, the social control "safety net" for all kinds of problem becomes, by default, the local jail.

Persons may well experience different outcomes in locales with no mental health resources than in areas that have mental health resources. But the mere presence of services may not be enough. For example, a review of the records of a sample of persons with mental illness who had been arrested for "nuisance crimes" and diverted to the forensic evaluation unit of a Massachusetts state hospital found that many likely would have meet criteria for involuntary hospitalization if police had taken them to the psychiatric emergency service instead of arresting them. This practice, which the authors termed "backdoor commitment," was taken as evidence either of lack of knowledge about or dissatisfaction with the local mental health system and its practices with regard to police-referred persons with mental illness (Appelbaum, Fisher, Nestelbaum, & Bateman, 1992). These data would appear to point more to the need for better training and improved linkages between police and mental health services than to the inadequacy of the mental health system itself.

These findings coexist with other data that raise significant questions about this model. Recent studies of policing lend no support to the premise that officers systematically use arrest as a means of managing the behavior of persons with mental illness. For example, Engel and Silver (2001), analyzing data from two large-scale, multi-site studies of police behavior, found that police were in fact not more likely to arrest mentally disordered suspects. Another line of inquiry has examined the movement of persons with mental illness between settings operated by the mental health and criminal justice systems, one of the factors that led to Abramson's (1972) original raising of the criminalization issue. Several studies conducted at both the system (e.g., Fisher, Packer, Simon, & Smith, 2000; Steadman, Monahan, Duffee, Hartstone, & Ribbins, 1984) and person levels (e.g., Teplin, 1991) have failed to detect significant crossovers between the mental health and criminal justice systems that could be attributed either to changes in mental health law or to the general reduction in state hospital census.

Regardless of the empirical validity of the criminalization hypothesis, the question of whether increased availability of mental health services by itself reduces the "criminalization" problem, remains unanswered This question can be addressed by comparing the prevalence of mental illness among jail detainees from systems with differing levels of community based services. Fisher et al. (2000) conducted such a test, comparing lifetime prevalence rates of severe mental illness, including schizophrenia, major depression and bipolar disorder, in two county jails in Massachusetts, one of which operates in a county served by the one of the best-funded community mental health systems in the nation, while the other is funded at slightly below the average for catchment areas in the nation (Geller, Fisher, Wirth-Cachon, et al., 1990). If expanded community services do indeed reduce individuals' risk of incarceration, one would hypothesize that the jail operating in the better-funded area would house fewer individuals with severe mental illnesses. But in fact no difference was observed in rates of severe mental illness among individuals received by the two jails over the same six-month period. Nor, for that matter, was there any difference in the pattern of charges lodged against inmates with and without severe mental illness at either jail, challenging the belief that persons with mental illness are more likely to be detained for "nuisance" crimes in the absence of adequate mental health services.

Moreover, the persons in this group found to have mental illness did not appear to be a psychiatrically disenfranchised population. When their self-reported lifetime psychiatric hospitalization patterns were compared with sociodemographically and diagnostically similar persons captured in the National Comorbidity Study (NCS) (Kessler et al., 1994) they were found to have higher lifetime rates of hospitalization than the NCS comparison group (Fisher et al. 2002). And, while no appropriate local group was available for comparison, these

individuals also reported having received what would appear to be substantial levels of community-based services from a variety of social and mental health agencies.

Taken together, the body of research evidence on criminalization could be read as at best equivocal in its support of the "criminalization due to inadequate mental health services" model. There is evidence that a total absence of services is likely to lead to criminal justice agencies becoming the principal means of social control. Systems with mental health services that are not "in synch" with local police practice may also contribute to some of their clientele being arrested rather than hospitalized. However, there appears to be little in the way of a "dose response" relationship between a locale's level of mental health services and the criminal justice involvement of its mental health system's clientele. Nor, in fact, do any of these data directly support the notion that the deinstitutionalization process has led to increased involvement of person with mental illness in the criminal justice system. To make such a case, one would have to show that the prevalence of mental illness in the correctional system is significantly higher today than in 1970 (and do using the same measurement approach). Similarly, it would have to be shown that police manage encounters with persons with mental illness differently today than 35 years ago, again using the same measurement approach. Obviously, no such data exist on either point. This fact, together with the failure to find criminalization effects in either cross-sectional comparisons of differently-resourced mental health systems or in "cross-over" studies of mental health and criminal justice institutions suggests that empirical support for the "standard" criminalization argument as a base from which to construct policy or research agendas appears weak at best.

Weak empirical support notwithstanding, locating the solution to the so-called "criminalization" problem within mechanisms that will reconnect individuals with mental health services is an idea that enjoys broad subscription and that has significant societal impact. It has spawned funding initiatives at the state and federal level (Council for State Governments, 2002; Steadman et al., 1999) and has led to the development of a range of new mechanisms operating at the interface of the mental health and criminal justice systems, including various forms of jail diversion mechanisms (Steadman & Naples, 2005; Steadman, Morris & Deane, 1995; Steadman, Barbera, & Dennis, 1994) and, more recently, mental health courts (Griffin, Steadman, & Petrila, 2002; McGaha, Boothroyd, Poythress, Petrila, & Ort, 2002; Steadman, Davidson & Brown 2001; Steadman, Redlich, Griffin, Petrila, & Monahan, 2005; Wolff, 2003). A preliminary reading of the federal legislation discussed at the beginning of this paper suggests that this perspective continues to serve as a foundation upon which to craft federal policy in this area.

Diverting persons with mental illness from the criminal justice system, particularly its correctional settings, is on numerous counts a worthy endeavor. As was well summarized in the Soros Foundation's *Policy Brief* (1996), individuals with severe psychiatric disorders in correctional facilities face a range of potentially serious clinical and public safety risks, and correctional settings themselves are, by and large, not well equipped to treat or even manage such individuals. Most would agree, therefore, that mechanisms that divert persons with mental illness from these setting is of benefit to all concerned. Less clear, however, is the related belief that establishing, re-establishing or strengthening these individuals' linkages with the mental health treatment system is the panacea for their offending. Claiming that the mental health service delivery system is both the cause of and remedy for the involvement of persons with mental illness in the criminal justice system is an appealing approach to this problem in part because it fits with the contemporary tendency to define behavior in ways that suggest the need for a technological intervention and, in part, because it implies a quick and easy fix. Yet targeting mental health treatment services as "the" problem and "the" solution is parochial from a scientific perspective and likely ineffective as a means of effectively addressing this issue. And, ironically, in an era when the mental health advocacy community has struggled to

decouple individuals with psychiatric disorders from their status as “person with mental illness,” the current discourse on how to approach the problem of offenders in this population focuses almost exclusively on mental health problems and solutions and on these offenders' statuses as “persons with psychiatric diagnoses” and “consumers of mental health services.” In so doing, this practice reinforces the label of “person with mental illness” as a “master status”—that status which above all others defines the individual's position within the mental health system, the criminal justice system and society in general.

Beyond Criminalization: The Search for Explanations Outside the Mental Health System

The exclusive and persistent emphasis on therapeutic intervention and service system inadequacy comes at the cost of deflecting the attention of researchers and policy makers away from other potentially useful perspectives, one of which—criminology, includes the approaches that have most often been drawn upon to explain criminal offending. Any scientific effort to study offending among persons with mental illness could likely benefit from engaging the disciplines of criminology and criminal justice; indeed, failure to consider the potential utility of these perspectives carries with it the risk that the research and policy community will persist in working within a less optimal paradigm as they address the individual and systemic problems posed by offenders with mental illness. A broader, more multi-disciplinary investigation would consider existing criminologic theory and empirical research to determine whether criminal justice policy and practice might inform our collective understanding about the factors contributing to offending among people with serious mental illness. From this potentially more balanced and informed position, researchers could test whether the effect of these disorders is so powerful and so profound that none of the risk factors identified by criminologic research is applicable to the offenders who have these disorders or, conversely, whether some offending behavior in this population has its etiology in the same factors that propel offending in the general population.

As we begin this discussion, we hasten to point out that it is not the purpose of this paper to suggest that the problem of offending by persons with severe mental illness be regarded as “not a mental health systems issue” or to suggest that it be addressed solely within the criminal justice system. Instead, our goal is to suggest that mental health policy and practice in this area might be strengthened by what criminology has learned about offending and its precursors, and to identify some potentially productive directions such a “criminologically informed” discourse might pursue.

Offenders with Mental Illness: Defining the Population of Interest

An important first step in this discussion is the identification of the population of interest. While always necessary in any such discussion, this delineation is particularly critical here, because the existing discourse in the area, as we have discussed, has to some degree been what we might call professionally parochial. Professional groups, it has been argued, construct or promulgate definitions of problems that they are experts in treating (Becker, 1963; Friedson, 1970). This observation seems germane to the present discussion. Indeed, the work of advocates for diversion and other mental health services interventions builds heavily on a social construction of the “mentally ill offender” that emphasizes the low-level misdemeanant whose offending or involvement with the criminal justice system can be attributed, as the Soros (1996) statement suggests, principally to the inadequate treatment of severe mental illness and/or to inaccessible or inadequate mental health services.

No one would debate the existence or social import of such a group. Yet the extent to which this group represents the full population of “mentally ill offenders,” or how big it is relative to

that population, is unclear. Nor is it clear, even for this subgroup, whether mental illness is the leading or direct cause of their criminal behavior. But whether is or not, generalizing from this select group to the full population and stereotyping their behavior as principally the product of inadequate services and "untreated" mental illness is not empirically supportable with currently available data. Worse still, the centrality of this group in mental health policy discourse may divert attention from other subpopulations of offenders with mental illness, their needs, their social significance, and the causal factors that give rise to their forms of offending. For this reason, we take a fresh look at these issues, considering more broadly and less restrictively what offending among persons with severe mental illness really "looks like."

In this regard, Hiday (1999) has identified three categories of offenders that together subsume a broad range of offenders with mental illness. One category includes persons who may be homeless, have co-occurring mental illness and substance abuse, and commit so-called "survival crimes" such as shoplifting or trespassing as a means of meeting their needs for food, clothing and shelter. This is the population, which we discussed earlier, that has received the lion's share of attention from policy makers, largely because its members' plight is perhaps the most easily linked (at least in theory) to the failure of mental health services, and also the most likely to be addressed by diversion services.

Hiday's second category includes persons who have serious mental illness but whose propensity to offend may have more to do with underlying antisocial tendencies that co-occur with but are independent of serious mental disorders but which are independent of them. This group has received relatively little attention from the mental health research community, but is particularly interesting in the context of this discussion, because criminologic theories may provide more reasonable explanatory frameworks for their pattern of offending than those grounded in psychological or mental health services perspectives. Not surprisingly, perhaps, the question of what, if any, role their serious mental illness might play in their pattern of criminal justice contact has not been explored. Hiday's third category includes individuals who commit acts of violence as a direct result of their psychiatric symptoms.

Choosing Criminological Theories

Over the past century the field of criminology has attempted to explain a wide range of offending behaviors. In so doing, various interest groups and theoretical subspecialties within the field have focused on specific populations (e.g., juveniles, corporate executives, violent gangs, sex offenders, etc.) or specific types of crime (e.g. violence, property crime, drug offenses, etc.) In looking to this wellspring of theory for perspectives on offending among persons with mental illness we need to be mindful of the kinds of criminal behavior that population exhibits and, importantly, what features of the lifestyles of persons in that population can be examined within a given theoretical framework. In addition, at this preliminary stage of our inquiry, we choose to be relatively agnostic as to the etiology of offending in this population; we therefore need to draw on frameworks that highlight the potential roles of events and situations experienced at various points in the lifespan, and that can also guide investigation of the potential effects of individuals' social situations and any changes occurring within them. Finally, any perspective we choose needs to be flexible enough to accommodate the effects of mental illness, including its onset, its symptomatology and its effects on circumstances that might predispose persons to offend. With these factors in mind, we focus on the applicability of three distinct but highly compatible frameworks: (1) the life course/developmental perspective; (2) the local life circumstances perspective, and (3) the routine activities perspective. Below, we describe how each might contribute to an understanding of offending among persons with mental illness.

The Life Course Perspective

The life course perspective has a long and rich theoretical foundation in criminology and a well-established basis in empirical research (cf Glueck & Glueck, 1950, 1968; Sampson & Laub, 1993, 2003). Its principal strength is its ability to array events and situational factors over the life course. For example, distal factors, such as early childhood experiences and socialization processes, as well as social-structural factors related to the changing location of individuals relative to institutions and societal opportunity structures, although temporally far apart, may nonetheless influence current behavior. This theory incorporates empirical findings from diverse disciplines, including developmental psychology, sociology, and economics, and marks an individual's life course by particular events that promote or inhibit his or her capacity to offend. For example, Gottfredson and Hirschi (1990), major contributors to this line of thought, argue that an individual's basic propensity to commit crime is established early in life as a result of inadequate parental discipline. In this model, children reared in families with little or in some cases very harsh discipline are viewed as destined to experience “low self control” throughout life, a trait which they view as having only limited potential for remediation. These parenting styles, which are seen as more prevalent among families with low socioeconomic status, may be systematically more limited and punitive. Children raised in these deprived settings thus tend to acquire lower levels of self-control, which become more or less permanent aspects of their personalities. As a result, these individuals are at greater risk for offending, both in childhood and in later life. The notion embodied in this perspective that sees an individual's propensity to offend as strongly determined early in life suggests that criminal behavior is largely pre-determined and immutable. That is, if an individual experiences poor parenting, the probability that he or she will engage in criminal offending is increased.

This model of criminal behavior contrasts sharply, however, with the perspectives advanced by researchers working from other sociological/criminological frameworks in the Life Course Perspective. Nagin and colleagues, for example, have developed causal models that link involvement in criminal activities with lack of access to various normative systems and institutions. Individuals denied access to families and communities that perpetuate prosocial behavioral patterns and norms accrue the cumulative effects of exposure to the juvenile justice system, resulting in the compilation of a criminal record. These life experiences may serve to limit later educational and occupational opportunities and in turn limit an individual's ability to assume ordinary adult social roles (Nagin & Farrington, 1992; Nagin & Paternoster, 1991).

In addition, recent contributions to the “developmental criminology” perspective by Sampson and Laub (1993, 2003) describe a broader set of life transitions that may affect offending patterns either positively or negatively. These transitions include marriage, occupational opportunities, military service, and other major life course events. Their research suggests that these transitions directly affect the degree of informal social control one experiences, thereby affecting individuals' propensities to offend by altering the perceived costs and benefits of engaging (or not engaging) in criminal behavior (Laub, Nagin & Sampson, 1998).

Severe Mental Illness and the Life Course—Virtually ignored in these criminological theories is the role of serious mental illness. The potential effects of severe and persistent mental illness could be viewed in two complementary ways. One, focusing on its onset, would frame it as a major “life event” or “turning point” in an individual's life. This approach would emphasize the effect of the onset of mental illness (including any prodromal symptomatology) on an individual's propensity to begin, persist in, or desist from offending. The second major effect of such an illness viewed in a life-course context would stem from its chronicity and the resulting long-term inhibition of economic productivity and social efficacy. Whether these

factors increase or decrease the risk of engaging in certain types of illegal activity has not been examined.

Among the stigmatizing and sometimes socially disabling effects of severe mental illness is its association with unemployment or under-employment; indeed, unemployment rates for persons with schizophrenia as high as 80% were cited in the report of President's New Freedom Commission (2003). Whether “turning points” and social engagements such as marriage and employment, which are seen by researchers such as Laub, Sampson and Nagin as critical for individuals in the general population, are equally powerful sources of informal social control for persons with mental illness is questionable. However, even if individuals with severe mental illness are unlikely to be married or competitively employed, presumably as a consequence of the inhibitions on economic and social efficacy brought about by severe mental illness (Robins & Regier, 1991), other desirable circumstances might exert considerable informal social control. Maintaining a supported employment position or keeping one's own apartment or other favored residential arrangement, or even staying out of the hospital—could be placed at risk by engaging in certain kinds of deviant or unlawful behavior. Whether such factors induce the kind of cost-benefit calculus of informal social control described by Sampson and Laub is an interesting but unexamined question. We discuss this point at greater length in our later discussion of “local life circumstances.”

The “Local Life Circumstances” Perspective

“Local life circumstances” have typically been conceptualized by criminologists as month-to-month life changes occurring during the one-to-three-year period preceding an episode of offending (Horney, Osgood, & Marshall, 1995). Implicit in this perspective is the view that, while an individual's propensity toward offending might be viewed as consistent across at least a substantial portion of the life span, that propensity can undergo significant and frequent alteration as a result of changes in life circumstances, such as the major life transitions described earlier, or of any other factor that might trigger either formal or informal social control mechanisms. There may, for example, be the dramatic or “deep” changes described by Caspi and Moffitt (1994), in which a high-rate offender desists from offending entirely, or the “modified” shift described by Sampson and Laub (1993), when a person's offending attenuates but not to the point of full desistence, perhaps as the result of employment or marriage. The main point, however, is that change in offending patterns can occur rather frequently during a period of several years as the circumstances of one's life change. This phenomenon has been demonstrated empirically in longitudinal models of offending. Nagin and Land (1983), using so-called “trajectory analysis,” show improved prediction of future offending patterns when an “intermittency parameter,” which takes into account changes in more immediate circumstances, is included in the model.

Horney and colleagues interpret these intermittency effects as illustrative of the variation in life experiences that result in changes in the potency of formal and informal social control factors. This view is consistent with that of Sampson and Laub (1993), who recognize that these factors may be in a constant state of flux within the several years preceding a criminal justice encounter. Horney and colleagues advance the notion that individuals may have innate levels of self control that can adjust their propensities to offend in an effort to adhere to the requirements of marriage, employment, etc. But these social circumstances are highly labile —persons may become or cease to be married, find a job or lose a job, acquire social capital of various kinds, and so forth.

Severe Mental Illness and Local Life Circumstances—Many adults with severe mental illness experience frequent changes in their personal life circumstances. Such changes can be brought about for a variety of reasons—as a result of remission and exacerbation of a

psychiatric disorder, changes in hospitalization patterns and/or place of residence, degree of social integration, service availability, treatment and treatment compliance, and a host of other factors. As such, the forces of formal and informal social control impinging on them may be both quantitatively and qualitatively different from those experienced by individuals without such disorders. Indeed, formal social control interventions, including hospitalization, supervised living situations, and coercive forms of community treatment may be aggressively applied to persons with severe mental illness. As described in the literature, many of these interventions are decidedly more stringent than those likely to be experienced by adults not treated for mental illness (Dennis & Monahan, 1996).

The increased level of formal social control to which persons with mental illness are sometimes subjected may carry with it an elevated level of scrutiny and visibility by social control agents, and this may in turn affect their propensity to become involved (or re-involved) with the criminal justice system. Indeed, there is some evidence that parolees and probationers with severe mental illness may be more likely to be found in violation when assigned to the intense scrutiny of Assertive Community Treatment case management teams (Draine & Solomon, 1994). Research such as that conducted by Horney and colleagues, which examined the local life circumstances experienced by Nebraska state prison inmates in the three years prior to committing the offenses leading to their incarceration, would be useful in understanding how local life circumstances and associated fluctuations in formal and informal social control affect the likelihood of criminal involvement and criminal justice encounters among persons with mental illness.

As we noted in the previous section, severe mental illness is a significant life event in two ways —via its disruptive onset and through its continuing effects on the individual's opportunities and activities. In the context of shifting dynamics of formal and informal social control and the individual's innate level of self control, the onset of mental illness would likely be a life circumstance that could affect a person's ability to self regulate and which the individual might rebel against. The one to three years around the time of onset may, in fact, be very unstable personally, socially, and economically, and might increase the individual's propensity for engaging in deviant behavior—constructed either as perceived social irregularities or legal violations.

Declining economic status has been an important and longstanding theme in research on the social consequences of mental disorder. As long ago as the 1930s, Faris and Dunham (1939) described the “downward drift” of persons with schizophrenia, a process that leads them to ever poorer socioeconomic circumstances and ultimately to the slums of inner cities. This relationship observed 70 years ago arguably persists (Silver, Mulvey, & Swanson, 2002). As a consequence, persons with major psychiatric illness drift into and concentrate in disadvantaged environments. Subsidized housing, to which some persons with psychiatric disabilities may have access, tends often to be in low income areas, and residential programs, the sitting of which in middle class neighborhoods is often difficult, may cluster in areas occupied by other low-income individuals. Importantly, individuals with severe mental illness residing in such neighborhoods share them with persons who may not have serious mental illness but who are nonetheless subject to the same environmental risk factors (Rose & Clear, 1998). These may include social networks in which illicit drugs are used but whose members, like others in their social environment, lack the economic means to acquire them and thus engage in unlawful conduct, including larceny, drug trafficking and prostitution, to support their drug use.

Poverty may also contribute to homelessness and the commission of so-called “survival crimes.” Persons whose “local life circumstances” include spells of homelessness may encounter other individuals, on the streets and in shelters, who also lack economic and social

capital, are socially marginal, and who may introduce or model substance abuse and criminal activities (Fischer, 1988). The precursors to offending here include the distal features of mental illness, the poverty experienced by persons with mental illness as a consequence of their psychiatric disorder or as an independent feature of their backgrounds, increased opportunities for engaging in substance abuse, and the general physical/social environment that accompanies that poverty. As Draine, Solomon, Salzer, Culhane, and Hadley (2003) have observed, persons with mental illness sometimes engage in offending and other forms of deviant behavior not because they have a mental disorder but because they are poor. Their poverty situates them socially and geographically, and places them at risk of engaging in many of the same behaviors displayed by persons without mental illness who are similarly situated. These relationships are explored in greater detail within the framework of the "routine activities" perspective.

The Routine Activities/Lifestyles Perspective

Features of social and physical environments influence their inhabitants' behaviors in complex ways. These environments, in interaction with inhabitants' characteristics, may isolate their residents, blocking access to legitimate means of acquiring useful and appropriate social capital and material goods. They may also socially encapsulate a group of individuals who come to share norms and values that diverge from socially approved and legally sanctioned forms of behavior (Rose & Clear, 1998). As such, "environments," the context of local life circumstances, dictate how individuals spend their time. The focus of this perspective is not on broad circumstances and environmental features per se, but instead on what individuals do, where, when and with whom.

Routine activities theory was originally advanced by Cohen and Felson (1979) as a macro-level theory of criminal victimization and subsequently adapted by Osgood, Wilson, O'Malley, Bachman, and Johnston (1996) to explain individual offending. This theory locates the causes of offending within the opportunity structures of an individual's immediate surroundings, and suggests that individuals' likelihood of offending may change quite rapidly as their daily routine changes. Viewed in a broader causal framework, routine activities can be seen as determined in part by distal aspects of one's life course transitions. An example would be the individual who as a result of limited educational and employment opportunities sinks deeper into poverty over time, or later, becomes disabled and impoverished by mental illness. More "localized" life circumstances also play a role, as exemplified by the person who becomes unemployed, gets married, is discharged from a psychiatric hospital, or loses his or her housing. Each of these experiences is likely to affect how and with whom one spends time.

Lifestyle/Routine Activities and Severe Mental Illness—The routine activities perspective provides both a useful conceptual structure and a powerful analytic framework for examining patterns of offending among persons with severe mental illness. The question of how individuals with severe mental illness structure and spend time is one that has been addressed not with regard to its relationship to criminal justice involvement, but instead in the area of employment training and rehabilitation. Here, interventions attempt to structure what has been termed the "work-ordered day," which, from a routine activities perspective, uses the temporal structure of the standard American work day as a "normalizing" template for determining what individuals do, when, and with whom (Fountain House, 1999; Jackson, 2001; Macias, Barriera, Alden, & Boyd, 2001; Waters, 1992).

Rehabilitative efforts notwithstanding, inactivity would seem to be endemic among persons with severe mental illness. In a survey of members of the National Alliance for the Mentally Ill nearly half of all respondents (45.6%) described their ill relative's main level of activity as "not much," while 25% of respondents with mental illness reported having no productive activities at all (Skinner, Steinwachs, & Kasper, 1992). The criminogenic features of this

inactivity are threefold. One is poverty and its effects on life circumstances. Another is unstructured time and the opportunity it presents for offending. For example, hanging out with friends outside a bar presents more opportunities for criminal involvement than hanging out with those same friends at work. In general, the less structured the activity, the less social control that is brought to bear in the situation, the greater are the opportunities for engaging in criminal behavior and precipitating encounters with the criminal justice system (Osgood et al., 1996). Finally, employment arguably exposes individuals to prosocial networks comprised of individuals who may be less likely to engage in criminal activity. Deprived of such contact, individuals likely encounter others with unstructured time and lower levels of informal social control who may be more prone to engage in offending behavior. This factor leads us to consider another key factor in the routine activities framework—"with whom" a person typically interacts.

The "with whom" aspect of routine activities theory is an important consideration for offenders with and without serious mental illness, but the answer to "with whom" questions may be different and have different implications for the two groups. As has recently been suggested, social networks and social capital may be key determinants of the likelihood of offending (Wolff & Draine, 2004). Similarly, Akers (1998), Warr (2002) and other differential association theorists see social networks and peer groups as playing significant roles in affecting how an individual spends time. Viewed as "social capital," acquaintances and social networks can serve a "sponsoring" function, providing entrée into groups from which an individual can derive economic or social benefits, such as employment or friendship. But if one's principal social network consists mainly of gang members, drug dealers, or persons who facilitate substance abuse, the outcome of this involvement may be decidedly less beneficial. Individuals who have been incarcerated and are re-entering the community can be adversely affected or greatly benefited by their access to social capital of various kinds. Agencies seeking to help such individuals avoid offending or re-offending therefore often seek to steer them toward networks and environments that will militate against their future offending; the behaviors mandated in conditions of parole and probation, for example, often proscribe association with "known felons" or former inmates.

Toward a Criminologically Informed Mental Health Services and Policy Perspective

In this paper we have identified some shortcomings of the prevailing "criminalization resulting from service failure model" of offending among persons with mental illness and suggested that this perspective alone may be insufficient as the basis for developing an adequate understanding of the full range of that offending. In advancing this case we are not suggesting that service system inadequacies have no influence on offending; clearly, adequate mental health services are necessary, if perhaps not sufficient to enable individuals with mental illness to achieve stable lives in their communities without risk of criminal justice involvement. In advancing our notion of a "criminologically-informed" mental health services research and policy framework, we seek to foster identification of a set of risk factors and intervention points that might be used by mental health system agents in planning services and tailoring individual service plans that reduce the probability of offending and re-offending.

Opportunities for implementing a criminologically informed research agenda clearly abound. The constantly proliferating array of diversion, case management and re-entry programs engage thousands of individuals nationally. Each person has a mental health history and clinical profile, as well as basic community needs for housing, treatment and income maintenance that are must be met if their re-entry is to be successful. Each individual also has a set of pre-arrest routine activities and local life circumstances that could be captured as well. If data on these factors were jointly examined with measures of mental health system engagement and

treatment compliance, better data about the interaction of these factors might result. Such data would be a boon for both mental health services researches and criminologists.

If research guided by this perspective were indeed found to yield useful data on risk factors, how might that information be incorporated into the design and delivery of mental health services? One answer to that question can be found in mental health system design practices that have evolved in the context of planned state hospital census reductions occurring over the past 30 years. In pursuing the goal of shifting persons with mental illness from state hospitals to community residential programs, state mental health agencies have often employed careful assessments of individuals' problematic behaviors, medical issues, physical disabilities, need for supervision, social skill deficits and other attributes and needs and incorporated data from these assessments into the design of residential programs that would target these concerns. Persons leaving the hospital thus could be placed in settings where their identified constellation of needs might best be met (Geller, Fisher, Wirth-Cachon, et al., 1991; Geller & Fisher, 1993). It was typically felt that efforts invested in such placement design would realize returns in residential stability and reduced need for rehospitalization (see for example, *Northampton Consent Decree*, 1978). The perspective advanced here argues for identification and incorporation of another range of issues—risk factors related to offending. If the variables associated with risk for offending among persons with severe mental illness were well understood and could be made part of individuals' risk profiles, arguably better placements, offering reduced exposure to such risks could be created. Applying a full “life span” perspective to the assessment of individuals being considered for residential placement might reveal, for example, that individuals are at risk for involvement in certain kinds of offending, or for offending in general, and might be most successfully placed in a setting in which factors such as criminogenic social networks, and opportunities for engaging in criminal behaviors were minimized.

Similarly, new approaches to case management for offenders reentering the community, as exemplified by Massachusetts's “Forensic Transition Team” effort (Hartwell & Orr, 1999), might also benefit from increased availability of information about risks for recidivism that are not aspects of individuals' mental health treatment needs but instead arise from their return to pre-incarceration routine activities or local life circumstances. As we describe them, these patterns reflect the interaction of psychological tendencies and social environments. Case managers, and other who work with individuals with criminal histories need to understand these dynamics as part individuals' profiles. As we discussed above, such information could be factored into decisions about housing, employment, and other aspects of community re-integration. This approach could help break the patterns of recidivism exhibited by some clients of these programs who, despite receiving mental health services, are repeatedly rearrested (Hartwell, 2003). Whether and to what extent these criminologic factors are the “missing variables” in the “equation” predicting the outcomes of such efforts should become an important focus of research for investigators working in this area.

Increased familiarity on the part of mental health services researchers and policy makers with the conceptual environment in which the criminal justice system operates carries an additional benefit. As we noted earlier, mental health service systems whose agents are not familiar with law enforcement, and who do not take into account the exigencies of policing, probation and other criminal justice work may see more of their clientele involved with the criminal justice system. In arguing for the new legislation highlighted at the start of this paper, Senator DeWine noted that the solution to the problem of the “mentally ill offender” rested in part with increased collaboration between the mental health and criminal justice systems, an endeavor that the bill's proposed funding would help to support. Such collaboration will require the development by both systems of a shared conceptual vocabulary and viewpoint. As actors in the criminal justice system learn more about the needs of individuals with mental illness, it is important

that their counterparts in the mental health system also develop a perspective informed by some of the perspectives discussed here.

The problems posed by so-called “mentally ill offenders” are complex. They result from a confluence of social, legal, political and clinical issues. It is not our goal in this paper to introduce new levels of complexity; however, it *is* our goal to highlight factors that arguably deserve consideration as we seek to reduce offending among persons with mental illness to the greatest extent possible. This is a worthy goal, the pursuit of which will, it is hoped, benefit persons with mental illness, their families, and the systems charged with their care.

Acknowledgments

Development of this paper was supported by The Center for Mental Health Services Research, funded by National Institute of Mental Health grant PO1-MH66170. The authors wish to thank two anonymous reviewers of an earlier version of this paper for their most helpful suggestions.

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