Nevada Mental Health Plan Implementation Commission (S.B. 301)

Mental Illness and the Criminal Justice System

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National Association of State Mental Health Program Directors

The President's New Freedom Commission on Mental Health (2003)

- **"The Commission recommends widely adopting adult criminal justice and juvenile justice diversion and re-entry strategies to avoid the unnecessary criminalization and extended incarceration of non-violent adult and juvenile offenders with mental illness."**

Overview of Presentation

I. Defining the Problem

II. Efforts to Address the Problem

- A. Jail Diversion
- B. Court-based options
- C. Re-entry
- D. Juvenile Justice

III. Legislative Responses

IV. Resources

What is the Problem?

- **Overrepresentation of People with Mental Illness in the Criminal Justice System**
- **Lack of Adequate Treatment in Overcrowded Prisons and Jails**
- **Longer Jail Stays**
- **Lesser Likelihood of Parole**
- **Inadequate discharge planning**
- **Higher recidivism rates**

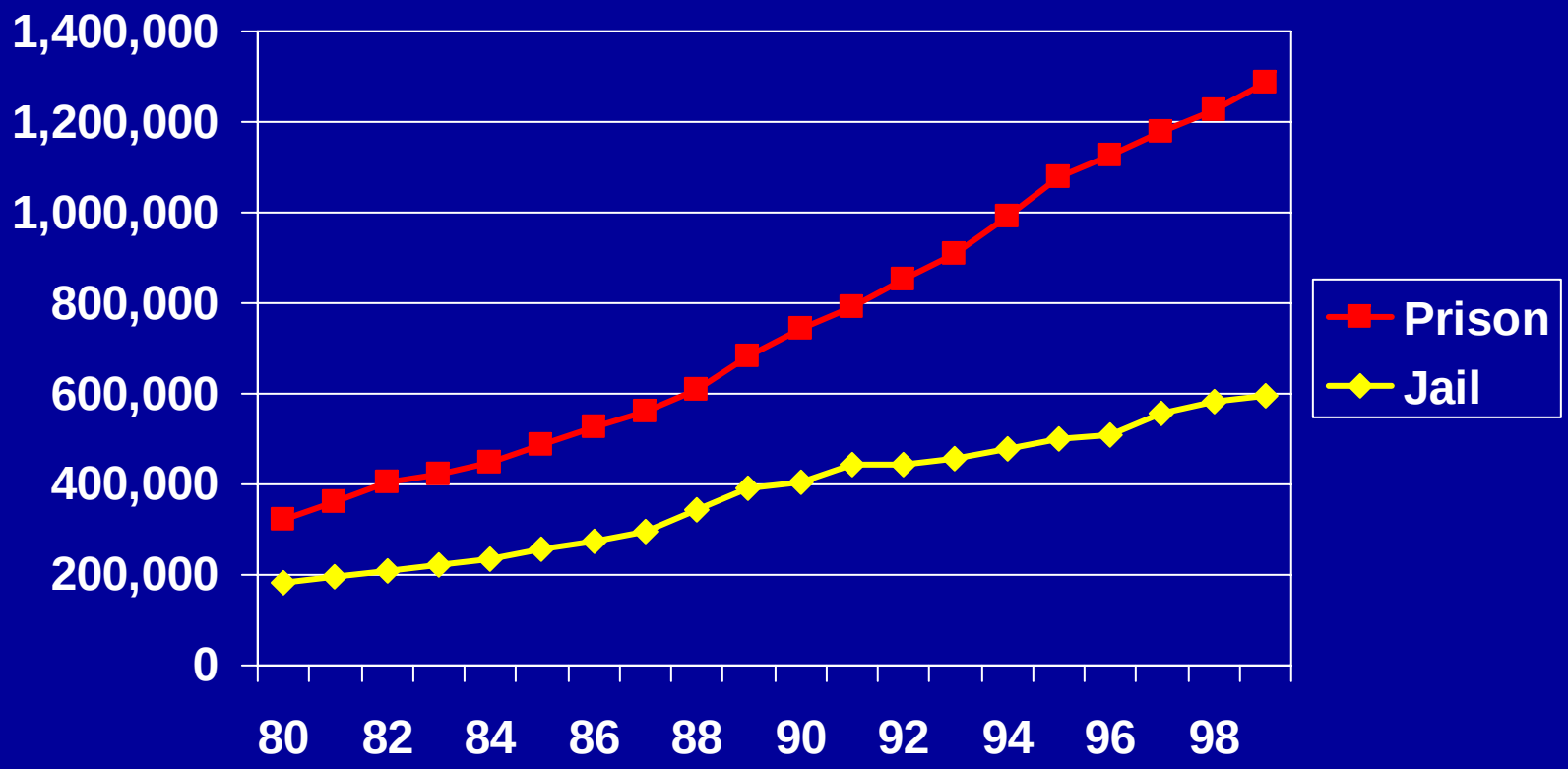
Skyrocketing Incarceration Rates

- In 1990 - 1 in every 218 residents
- In 2000 – 1 in every 142 residents

- Now over 2 million people incarcerated
- Nearly 4 million people on parole or probation

- Nearly 3% of our population under some form of correctional supervision

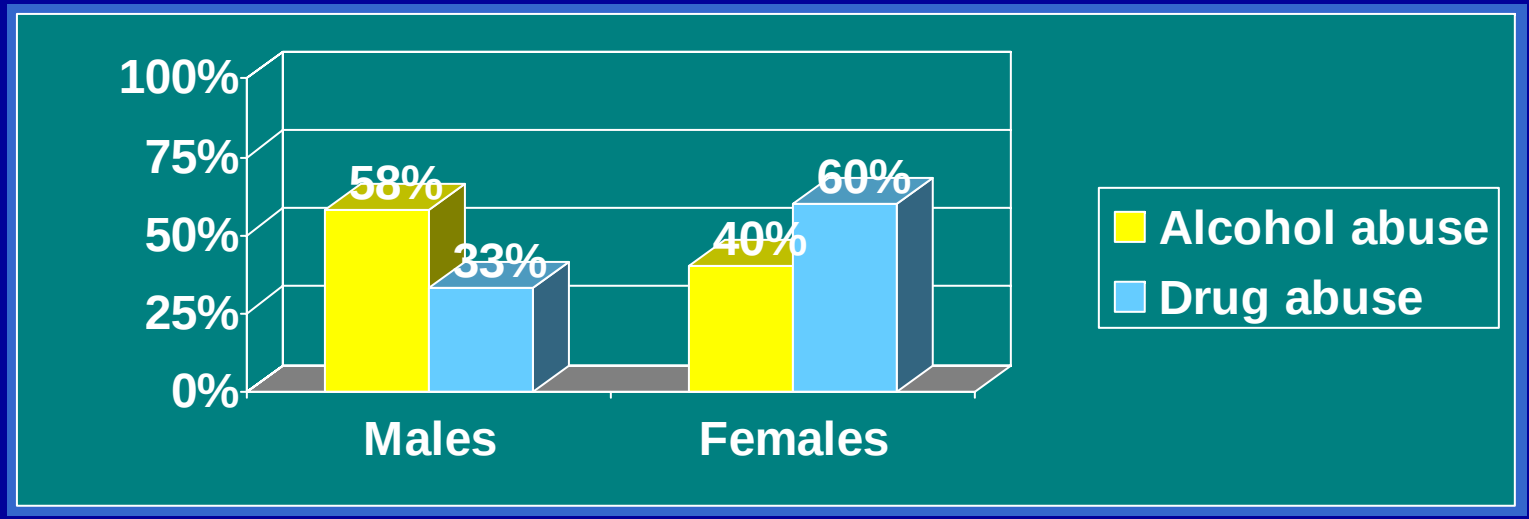
Persons in US Prisons and Jails 1980-1999



Six- Month Prevalence of Severe Mental Disorder Among the General Population and Jail Detainees

	Major Depression	Schizo-phrenia	Bipolar Disorder	Any Serious Mental Illness
U.S. General Population	1.1%	0.9%	0.1%	1.8%
Male Jail Detainees	3.9%	2.7%	1.4%	6.4%
Female Jail Detainees	13.7%	1.8%	2.2%	15.0%

Prevalence of current substance abuse among jail detainees with serious mental disorders



Incarcerated Women

- 11% of the U.S. incarcerated population (BJA, 2001)
- 33% of women in jail are diagnosed with post-traumatic stress disorder (Teplin et al, 1996)
- 48% of women in jail and 57% of women in prison reported a history of physical or sexual abuse (BJA, 1999)
- More than 100,000 minor children have a mother in jail (Bloom & Owen, 2002)

Example of Problem

- **In a 2000 study of one state's prisons, inmates with serious mental illness were found three times as likely to serve their maximum sentence as other inmates**
- **That state's Department of Corrections estimates that a person with serious mental illness costs $140 per day to incarcerate as opposed to $80 per day for an average inmate**

Factors Contributing to High Incarceration Rates of Persons with Serious Mental Illnesses

- Arrested at disproportionately higher rates
  - Co-occurrence of substance related disorders
  - Mental illness and violence
  - Jails and prisons as housing of last resort

Factors Contributing to High Incarceration Rates of Persons with Serious Mental Illnesses

- Longer periods of time incarcerated
- Pathogenic nature of incarcerated environments
- High recidivism rates on re-entry
- Inadequate mental health services

All of which tells us….

- We arrest them more often.
- We stress them while they're incarcerated.
- We keep them incarcerated longer.
- We discharge them without adequate planning.
- They don't get access to adequate mental health care.
- We re-arrest them at higher rates …

  – we have an issue that raises both health and public safety concerns.

The Challenge

- What can criminal justice do differently?
- What can the mental health / substance abuse treatment system do differently?
- How can they work together differently?

NASMHPD Efforts to address problem

- NASMHPD President's Task Force on Criminal Justice & Juvenile Justice
- Statement on Juvenile Justice
- Juvenile Justice meeting and white paper
- Collaboration with major national efforts

Efforts to address the problem

- Criminal Justice / Mental Health Consensus Project (Council of State Governments)
- GAINS Center
- TAPA Center
- National Center for Mental Health and Juvenile Justice
- Re-entry Policy Council (CSG)

What is the Consensus Project?

A national initiative to define measures that all stakeholders in the criminal justice and mental health systems agree would improve the response to people with mental illness who are involved in the criminal justice system.

Why the Consensus Project?

- Prevent tragedies from driving policy
- Preempt the possibility of federal mandates
- Establish a forum to consult stakeholder groups, which appear to have conflicting views on the issue
- Provide a resource to practitioners in the criminal justice and mental health systems
- Respond to current state budget crises

Central Features

- **Bipartisan**: Republican and Democrat co-chairs
- **Cross-system**: Includes key stakeholders from mental health, law enforcement, courts, corrections
- **Consensus**: Focuses on areas where agreement can be reached

Advisory Boards and Coordinators

Mental Health

NASMHPD

National Association of State Mental Health Program Directors

Law Enforcement

PERF Police Executive Research Forum

Courts

PSRC Pretrial Services Resource Center

Corrections

Association of State Correctional Administrators

Target Population

- Adults
- Severe or serious mental illness
- Co-occurring disorders
- At risk of involvement with, or involved with, the criminal justice system
- From before arrest to after re-entry

Not included:

- People who are found not competent to stand trial, not guilty by reason of insanity, not criminally responsible, etc.
- People voluntarily or involuntarily committed to inpatient or outpatient psychiatric treatment
- Juveniles

Report

- 46 Policy Statements
- Over 150 Recommendations
- Over 100 Examples
- Reflecting extensive input from the Law Enforcement, Courts, Corrections and Mental Health Advisory Boards, totaling over 100 practitioners.

Outcomes

U.S. Senate Judiciary Committee Hearing, June 2002

Outcomes

Press Coverage

The Washington Post

abc NEWS.com

npr

MENTAL HEALTH Weekly

The Oregonian

Outcomes

Federal Legislation: Mentally Ill Offender Treatment and Crime Reduction Act (S1194)

- Bipartisan legislation introduced by Sen. Mike DeWine (R-OH) on June 5, 2003
- Senate Judiciary Committee hearing on July 30, 2003
- Co-sponsored by Senate Judiciary Committee Chair Orrin Hatch (R-UT)
- Companion House bill introduced by Rep. Ted Strickland (D-OH)
- Passed the U.S. Senate by unanimous consent on October 27, 2003

Outcomes

- **Legislation in various states**
- **Important guide for establishment of federal grant programs** (e.g., mental health courts program)
- **Significant activity at the local level**
- **Presentations around the country from Alabama to Alaska**

Report Themes

- **Collaboration**
- **Training**
- **Effective Mental Health System**
- **Evaluations**
- **Local Solutions**

Sample: Law Enforcement Policy Statement

4.

POLICY STATEMENT #4

Establish written protocols that enable officers to implement an appropriate response based on the nature of the incident, the behavior of the person with mental illness, and available resources.

b

Designate area hospitals or mental health facilities as drop-off centers that facilitate intake for people with mental illnesses who require emergency psychiatric evaluation.

Example: Baltimore Crisis Response, Inc., Baltimore (MD)

Baltimore Crisis response Inc. (BCRI) manages mental health crisis beds within Baltimore City that are available to individuals who do not meet the criteria for involuntary admission to a hospital. BCRI works closely with the Baltimore City Police Department and local emergency rooms and makes available the mental health crisis beds as a form of pre-booking diversion.

Sample: Courts Policy Statement

11.

POLICY STATEMENT #11

Maximize the use of pretrial release options in appropriate cases of defendants with mental illness so that no person is detained pretrial solely for the lack of information or options to address the person's mental illness.

a Facilitate the release of mental health information where appropriate for use at the pretrial release hearing.

Example: Connecticut Mental Health Center

In Connecticut, mental health staff from the Connecticut Mental Health Center receive a list from the court each day of all persons just arrested that they cross-reference with their database to see who is currently in their system. Staff then interview the defendant and, in coordination with the public defender's and pretrial services officers, develop a plan for release. This plan is then submitted to the court.

Sample: Corrections Policy Statement

17.

POLICY STATEMENT #17

Develop a consistent approach to screen sentenced inmates for mental illness upon admission to state prison or jail facilities and make referrals, as appropriate, for follow-up assessment and/or evaluation.

a Ensure consistency of screening protocols within correctional system by using the same screening instrument at all facilities statewide and training facility staff in their use.

Example: Screening Instrument, New York State Office of Mental Health

In 1985, the New York State Office of Mental Health (OMH) developed and field-tested a suicide screening protocol for use in the jails. The New York State Commission of Correction, which accredits and oversees the development of new technology for jails and prisons in the state, adopted the suicide screening protocol and now requires all county jails and penitentiaries and state prisons to employ it.

Sample: Mental Health Policy Statement

40.

POLICY STATEMENT #40

Ensure that racial, cultural, and ethnic minorities receive mental health services that are appropriate for their needs.

b

Provide training in cultural issues to all staff members in contact with clients.

Example: Pacific Clinics (CA)

Pacific Clinics, a provider of behavioral health care services in Los Angeles, Orange, Riverside, and San Bernardino counties in California, has made a priority of establishing services to meet the needs of different cultural groups. Many of their 50 sites include staff from Spanish-speaking cultures who can provide culturally sensitive services to Latino clients. Pacific Clinics also addresses the needs of the multiple Asian populations living in that part of California. In addition, services at the clinics include links to culture-specific family and consumer groups.

Fiscal Implications: General Findings

- It is significantly more expensive to provide mental health and substance abuse treatment in the criminal justice system than in the community.
- Many of the individuals with mental illness in the justice system are ‘revolving door’ clients.
- Coordinated efforts between criminal justice and mental health systems can ensure a more effective use of resources.

People with Mental Illness are More Expensive to Incarcerate

- **Length of Stay:** In Cheshire County, NH, jail inmates with mental illness stay, on average, three times as long as other inmates.
- **Staffing:** The Monroe County, New York Jail spends approximately $315,000 per year on overtime for deputies who are conducting twenty-four hour suicide watch.
- **Medications:** In 2001, Jefferson County, Kentucky, spent $242,553 on psychotropic medications for jail increase, nearly twice as much as the year before.
- **Overall:** The Pennsylvania Department of Corrections estimates that a person with serious mental illness costs $140 per day to incarcerate, as opposed to $80 per day for an average inmate.

What is Jail Diversion?

- **Organized, interagency community effort**
  - Specific program with dedicated staff
  - Not the usual emergency mental health crisis response
- **Specified target group**
  - Mental health criteria – e.g., psychiatric diagnosis, co-occurring substance use disorder
  - Criminal justice criteria – e.g., misdemeanors/felonies, violent/non-violent

What is Jail Diversion?

- **Diversion out of the criminal justice system to community-based mental health, substance abuse and other services**
  - On current charge(s)
  - Non-sentence serving target group

    (not discharge planning/reentry)
  - Instead of jail or radically reduced time spent in jail
  - Linkage to community-based services

What is Jail Diversion?

What community-based services are necessary?

- Mental health services – residential and outpatient
- Substance abuse services – residential/OP
- Housing
- Vocational/employment/education services
- Intensive case management
- Peer support and self-help services
- Health services
- Access to entitlements

Mental Health Diversion Options

- **Pre-Booking**
  - Police divert to services instead of arrest
    - Police-based specialized police response
    - Police-based specialized mental health response
- **Post-Booking**
  - Identify detainee in jail
  - Identify detainee in court
- **More than one diversion option preferable**

Intensive Treatment Programs Can Reduce Jail and Hospital Days for Program Clientele

	Cook County, IL (Thresholds Jail Program, N = 30)		Monroe County, NY (Project Link, N = 46)		California (AB 34/2034 Programs, N = 4,720)	
Time period	12 mths. before	12 mths. After	12 mths. before	12 mths. after	12 mths. before	12 mths. after
Jail days	2,741	489	5,023	1,159	206,087	38,014
Hospital days	2,153	321	4,581	1,656	34,184	11,765

The Nathaniel Project (NYC)

Outcome Measures (N=53)

	Prior Year	Current Year
Number of Arrests	**101**	**7**
• **Misdemeanors**	**35**	**5**
• **Felonies**	**66**	**2**

	Intake	One Year
Housed	**10%**	**79%**

Retention at 6 months – 88%; 2 years- 80%

Measuring Dollars Saved

	Jail/Hosp. Prior to Diversion	Jail/Hosp. PLUS Diversion	Cost savings per person
Cook County (IL)	$53,897	$35,024	**$18,873**
Monroe County (NY)	$73,878	$34,360	**$39,518**

Opportunities to Further Assess the Fiscal Impact

- Length of stay
- Staffing
- Medications
- Averted corrections expenditures (construction)

Fiscal Implications: General Findings

- It is significantly more expensive to provide mental health and substance abuse treatment in the criminal justice system than in the community.
- Many of the individuals with mental illness in the justice system are ‘revolving door’ clients.
- Coordinated efforts between criminal justice and mental health systems can ensure a more effective use of resources.

Jail Diversion = Costs Savings?

In general, jail diversion results in lower criminal justice costs and greater treatment costs, as diverted subjects receive more treatment than those not diverted. This additional treatment cost is often higher than the criminal justice savings in the short-run.

Pre-Booking / Police-Based Specialized Police Response

Example: Memphis Crisis Intervention Team

- Diversion before arrest / charge
- Specialized training of a cadre of officers
- Centralized, police-friendly drop-off / psychiatric triage
- Referral to available, appropriate community-based services

Pre-Booking/Police-Based Specialized Mental Health Response

- **Example: San Diego County PERT**
- 21 PERT Teams: Specially trained officers/deputies & mental health professionals co-respond on scene
- Partnered through duration of shift
- Training: 4 hrs, then 40, 7 hrs monthly
- Funded primarily through county mental health funds

Post-Booking Programs

- People with mental illness are identified through screening in the jail or in court and are further evaluated by mental health professionals
- Program has dedicated jail diversion staff who negotiate with the criminal justice and mental health / substance abuse systems
- Linkage to community-based services

  (some programs provide services)

Post-Booking Programs

Example: State of Connecticut

- Clinical team employed by local mental health center
- Crosscheck arraignment list against statewide info system
- Other referrals from sheriff, court personnel, bail commissioners, public defenders
- Conducts brief assessment at court

Post-Booking Programs

Example: State of Connecticut (cont.)

- Promise to Appear with conditions—prosecution subsequently dropped
- Makes arrangements for care
- Monitoring and reporting on treatment progress
- Report to legislature (Feb. 2000) resulted in funding jail diversion in all 22 of lower-level courts in the state

Post-Booking Diversion Options

- First appearance / arraignment in traditional criminal court
- Diversion at a later stage and disposition of charges in traditional criminal court
- First appearance Mental Health Court
- Disposition Mental Health Court

Mental Health Courts

- **Separate court docket / specially-assigned judge**
- **Usually misdemeanors**
  - Felony charges are more often considered than in other jail diversion programs
- **Problem-solving**
  - Expanded scope for non-legal issues
  - Hope for outcomes beyond application of law
  - Foster collaboration; new roles for judge, attorneys, treatment
- **Varying levels of continuing judicial supervision**

Mental Health Courts

Example: San Bernadino, CA

- Eligibility: History of SPMI; previous diagnosis; misdemeanor or non-violent felony
- Supervision by probation officer and case manager
- Status hearings every 2-4 weeks

Mental Health Courts

Example: San Bernadino, CA

- Treatment plan: 2 years for misdemeanors, 3 years for felonies
- Guilty plea required for program entry; conviction with probation with treatment as a condition, but charges dismissed upon successful completion

Possible Disposition of Charges: Post-Booking Programs

- Released from jail on conditions of bail/bond – charges may or may not be affected
- Charges dropped – person enters community-based treatment
- Charges continued - prosecution deferred with terms and conditions – charges dismissed

Possible Disposition of Charges: Post-Booking Programs

Continued...

- Plead guilty - Probation with terms and conditions
- Plead guilty - Sentence deferred with terms and conditions

Re-Entry

- 600,000 people to be released from prison in 2004
- 10,000,000 people released from jails in2003
- 16% have mental illness
- 3 of 4 released from prison have histories of substance abuse

Re-Entry

Needs of Re-entering prisoners and detainees with mental health and substance abuse disorders:

- Reinstatement of benefits
- Housing
- Linkage with appropriate services and supports
  - Continuing care
  - Medication
  - Peer support

Re-Entry

CSG Re-Entry Policy Council

- 3 advisory groups
  - Supportive Health & Housing
  - Public Safety & Restorative Activities
  - Workforce Development & Employment Opportunities
- Multiple funders and partners
- Spring 2004 release
- Federal legislation?

Juvenile Justice

- 50 – 75% of youth in JJ system have diagnosable mental disorder
- 25 – 50% (up to 69%) have substance abuse disorder
- In addition to learning disabilities, mental retardation, and histories of abuse
- Disproportionate incarceration of minority youth
  - African American youth 6X more likely to be incarcerated
  - Latino youth 3X more likely to be incarcerated

Juvenile Justice

Focus on:

- Prevention & early intervention
- Assessments & evaluations
- Treatment & rehabilitation

Juvenile Justice

- Principles
  - Community-based approaches
  - Family involvement where appropriate
  - Attention to cultural issues
  - Prioritize education and job skills

Juvenile Justice

- Programs and treatment models with proven or promising effectiveness:
  - Wraparound Milwaukee
  - Functional Family Therapy (FFT)
  - Multisystemic Therapy (MST)
  - Oregon Treatment Foster Care (OTFC)

Juvenile Justice

- Washington State Institute of Public Policy (2001)
  - Research to identify ways to lower crime and lower total costs to taxpayers and crime victims
  - Detailed evaluations of 14 programs/program types:

Program	Rank	Net taxpayer savings
• MST	1	$31,661 to $131,918 / youth
• OTFC	2	$21,836 to $87,622 / youth
• FFT	3	$14,149 to $59,067 / youth
• “Scared Straight”	14	-$6,572 to -$24,531

Juvenile Justice

We know what works, but we fail to deliver:

- Only 2% of eligible juvenile offenders nationwide are receiving evidence-based treatments such as FFT, MST, or OTFC.

Lesson:

- Emphasize accountability and outcomes.

Issues for Legislators to Consider

Concerns of county executives and other local elected officials

- The numbers of offenders with mental Illness are believed to be higher in jail than in prison.
- Significant impact of budget crisis on county budgets.

Issues for Legislators to Consider

- The cost of doing business the "wrong way"
  - **STAFFING** – The Monroe County, New York jail, spends approximately $315,000 a year on overtime for deputies on 24 hour suicide watch.
  - **MEDICATIONS** –The Oklahoma County Detention Center spends 66 percent of their pharmacy budget on psychiatric medications, a total of $288,000 a month.
- Changes that do not require significant investment of new resources
  - **SCREENING** – Identifying an offender's illness accurately and early and providing treatment minimizes the risk of harm to self and others.
  - **INFORMATION SHARING** – Establishing information sharing protocols ensures that law enforcement and mental health officials will operate on the same facts to protect public safety and respond to the offender.

State Legislative Responses

Many states have passed legislation that tackles the issues discussed in the Consensus Project Report. Some of the most popular issues addressed include:

- **Training**
- **Interagency Collaboration (State Task Forces), and**
- **Screening**

Legislative Response: One Example

- **Pennsylvania House Resolution 338**
  - Requests information about the fiscal impact of programs around the state
  - No funding required
  - Passed house unanimously, 2003

Resources

The National Institute of Corrections (NIC) of the U.S. Department of Justice (DOJ) and CSG provide technical assistance to corrections and mental health agencies

- Combines NIC and CSG expertise to help jurisdictions overcome obstacles to collaboration
- Helps jurisdictions assess their needs, establish realistic goals, develop strategic plans, devise evaluation strategies, and implement effective, sustainable responses to achieve their objectives

Resources

The Bureau of Justice Assistance (BJA) engages CSG to provide technical assistance to their Mental Health Court Program grantees.

- Organize a grantee conference in Cincinnati, OH
- Set up an interactive web site for grantees to exchange information and share resources.
- Provide on-site technical assistance with experts in the field
- Offer other off-site technical assistance

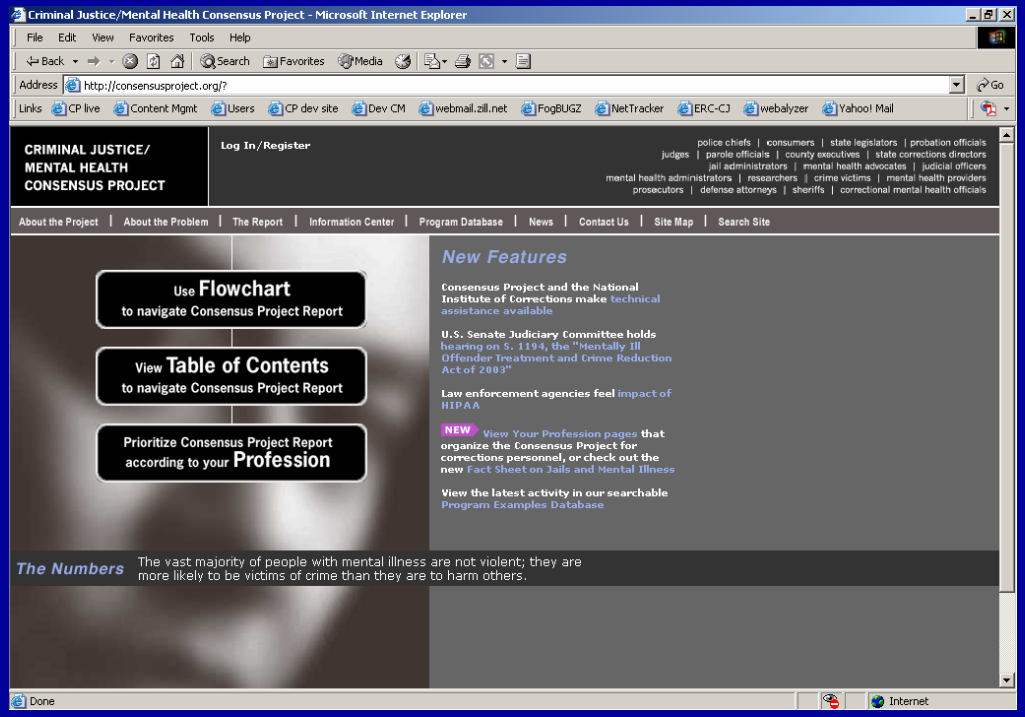
Resources

SAMHSA's Center for Mental Health Services (CMHS) engages the TAPA Center to provide technical assistance to its jails diversion grantees.

- Coordinating Center for the CMHS TCE Jail Diversion grantees
- Provides array of technical assistance techniques and technology to enhance the capacity of CMHS TCE grantees and potential grantees to address problems that they encounter, to enrich their resources, and to plan for future growth and sustainability

Resources

www.consensusproject.org



- Read updates on activities and accomplishments throughout the field
- Search database of programs and policies from across the U.S.
- Communicate with colleagues from around the country

Resources

The TAPA Center for Jail Diversion: www.tapacenter.org

A branch of the National GAINS Center for People with Co-Occurring Disorders in the Justice System

Resources

National Center for Mental Health and Juvenile Justice
http://www.ncmhjj.com/

Contact

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