

Corrections, Criminal Justice, and the Mentally Ill:

Some Observations About Costs in California

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By Lance T. Izumi, J.D., Mark Schiller, M.D. and Steven Hayward, Ph.D.

EXECUTIVE SUMMARY

It is generally agreed upon by both criminal justice officials and academic researchers that there are growing numbers of seriously mentally ill individuals entering the criminal justice system. Up until now, however, there have been few estimates of the fiscal impact of this increase. While acknowledging the data limitations, this report makes estimations of the costs of the seriously mentally ill on corrections, law enforcement, and the courts. These estimates are based on the latest available state and local budget figures, and on existing academic research regarding the prevalence of mental illness among offenders in the criminal justice system. Some alternative strategies of allocating government resources are also analyzed.

The following are the major findings of the report (figures for component costs are for 1993-94 unless otherwise noted):

- Total impact of the mentally ill on the criminal justice and corrections system: adding up all the low estimates would result in an overall cost of about \$1.2 billion, while adding up the high estimates would give an overall total of about \$1.8 billion.
- Research has shown that 8 to 20 percent of state prison inmates are seriously mentally ill. Adding up the prison and parole costs under an 8 percent scenario would result in a total state corrections cost of \$245 million for handling the seriously mentally ill in 1995-96. Under the 20-percent scenario, the total cost would be \$619 million.
- The percentage of county jail inmates who are seriously mentally ill has been estimated to be between 7.2 and 15 percent. The jail and probation costs under the 7.2 percent scenario would be \$58.4 million. Under the 15 percent scenario, the cost would be \$118 million.
- It is conservatively estimated that 10 percent of all arrestees are seriously mentally ill. This would imply that city police departments in California spent \$445 million on handling mentally ill offenders. For county sheriffs, the total would be \$160 million.
- The corrections and criminal justice costs associated with seriously mentally ill offenders may represent a possible misallocation of scarce space and resources. If some of these offenders could be dealt with in some alternative way, e.g. certain more cost-effective treatment programs, it could make room in correctional facilities for other convicted criminals who are not being incarcerated because of lack of space.

- The existing empirical data is very mixed regarding alternative treatment programs such as outpatient programs. Some studies show the potential and promise of such programs while others offer pessimistic numbers on important factors such as recidivism rates. More study is needed in this area.

INTRODUCTION

In the recent Pacific Research Institute (PRI) Briefing Paper "Crime and Punishment in California: Are We Too Tough or Not Tough Enough?," the authors pointed out that prisons are a cost-effective way of reducing the social costs of crime. Even under the most conservative estimates of the average number of crimes per criminal and the average cost per crime, keeping a criminal behind bars for just one year would save \$27,600 in social costs.*1*

As a corollary to demonstrating that incarceration was a good deal for taxpayers, the authors also warned that more prison space will have to be built to implement California's new "three strikes" policy and other truth-in-sentencing reforms. Failure to devote adequate resources for correctional facilities will leave the state vulnerable to court challenges regarding overcrowding.

Unfortunately, the 1990s have been a time of serious fiscal uncertainty in the state. With budget deficits a regular part of the state landscape, lawmakers must decide how they are going to get the extra prison space (and jail space at the local level) needed to handle the expected wave of criminals that demographers predict will materialize by the end of the decade.

Building more prisons and jails, certainly, is a must. However, in addition to prison construction, there are other areas that require the attention of lawmakers.

Of interest in the present paper is the growing subset population of seriously mentally ill individuals who enter the criminal justice and corrections systems. This group of mentally ill persons should be of concern to policymakers not only because the numbers in this group and the resultant costs have increased markedly over the past years, but also because it causes one to ask whether there may be more cost-effective ways of dealing with at least some members of this group.

However, in order to make informed decisions regarding policy changes, lawmakers must have answers to some basic questions. For example, how much money are we spending to house the mentally ill in state prisons and local jails? How large a slice of police resources is being spent on the mentally ill? How much are we spending on courts, district attorneys, public defenders, and other components of the judicial system in order to deal with the mentally ill who commit crimes? Are possible alternative programs more cost effective?

Although existing data is limited, enough is available to make at least some observations about the costs involved.

BACKGROUND

In 1968, California began the national movement to deinstitutionalize the mentally ill by making it more difficult to hospitalize them involuntarily. It was expected that the mentally ill not treated in state mental hospitals would instead be treated in community settings that would, supposedly, be more humane.

Unfortunately, reality did not live up to the plans of advocates and policymakers, and the mentally ill who previously would have been sent to state hospitals were instead often asked to fend for themselves, either on the streets or in the nominal care of relatives. Placed in this situation, the poor judgement, lack of control, and deteriorating living conditions of the mentally ill resulted, not surprisingly, in increased arrest rates. For instance, after Agnews State Hospital was closed in Santa Clara County, the county jail population increased 300 percent.*2* In an eight-year study following the change in commitment laws, a five-fold increase in the arrest rate of the mentally ill was discovered.*3*

With more mentally ill individuals being arrested and being sent to jails and prisons, this has increased the pressure on law enforcement, court, and corrections budgets. This pressure has been felt at both the state and local levels.

THE MENTALLY ILL AND THE STATE CORRECTIONS SYSTEM

To determine the impact of the mentally ill on the state correctional system, it is first necessary to estimate the percentage of the state prison population that is afflicted with mental illness. One study which reviewed the literature on state prison inmates with mental illness came to the conclusion that 10 to 15 percent of the state prison population suffered from a major thought or mood disorder.*4* The Department of Corrections estimates that 7.9 percent of the total state prison population (7.8 percent of males and 12.3 percent of females) can be described as seriously mentally ill.*5* This number does not include those patients who are receiving care in state mental hospitals. Patients housed in those facilities total approximately 2,500 and the per capita cost is \$80,000 to \$120,000 per year,*6* however many are there as a result of a not guilty by reason of insanity plea.

Studies also show that there are large numbers of prisoners who are not categorized as seriously mentally ill, but suffer from a mental disorder. A 1993 report contracted by the California Department of Corrections estimated that 20 percent of male inmates and 24 percent of female inmates in California state prisons are functionally impaired in day to day prison living as a result of mental disorder.*7* The Prison Law Office, a prisoner advocacy group, although it has sued the Department on behalf of mentally ill inmates, estimates only a slightly higher percentage.

The State of California projected that by June 30, 1996, the state inmate population would be 143,170. The 1995-96 inmate per capita cost is estimated to be \$21,631 per year. If 7.9 percent of prison inmates have a serious mental illness, this means that 11,310

state prison inmates are afflicted with such a condition. Multiplied by the per capita cost, this yields a figure of \$245 million as the amount the state is spending on housing seriously mentally ill prisoners in state prisons. Looking at the Department of Corrections figure of 20 percent of inmates impaired as a result of a mental disorder (since there are far more male inmates than female), that would mean that there were 28,634 inmates who had a mental illness, which in turn would indicate a total of \$619 million spent by the state to house inmates with a mental disorder in state prison.

In addition, the state prison system runs two outpatient programs for the 7.9 percent of its inmates who are seriously mentally ill. Correctional Clinical Case Management is a program which allows those with a fairly good level of functioning when medicated to be integrated with the general population. They receive medication and meet with a case worker every 1-6 months. The Department estimates that in 1996-97, this program will cost an additional \$880 per capita per year with a total of 10,595 inmates being served (6.67 percent of the total population). This totals an additional \$9.3 million. The second program is the Enhanced Outpatient Program. This program is designed for patients with a lower level of functioning. The inmates are housed separately from the general population. They have special recreational and work activities and remain in constant custody. The Department estimates that in 1996-97, this program will cost an additional \$9,600 per capita per year with a total of 1,896 inmates receiving this care (1.3 percent of the total population). This means that in addition to the cost of housing, the state is spending \$18.2 million to care for these more seriously mentally ill patients in the prison system.

All of this means that the total amount spent to house and care for the seriously mentally ill in the prisons is \$272.5 million. When one adds in those inmates which are categorized as having a mental disorder, the cost is estimated at \$646.5 million.

Being housed in prison, however, is not the only cost incurred by the state and state taxpayers. Supervising released inmates on parole also adds a significant cost. According to the Department of Corrections, by the end of the 1995-96 fiscal year, the state parole population will reach 97,590.*8* The per capita cost incurred by the Department will be \$2,100 per year. Again, for those categorized as seriously mentally ill, the cost of parole would be \$16.2 million. The cost of parole for those suffering from a mental disorder would be \$41 million.

Adding up the prison and parole costs for the 7.9 percent of seriously mentally ill prisoners, one gets a total cost of \$288.7 million. Under the 20 percent figure for those suffering from a mental disorder, the total cost is estimated to be \$687.5 million.

THE MENTALLY ILL AND COUNTY JAILS

The mentally ill in state prisons, however, represents only one part of the cost to the correctional system. One must also look at the inmates who populate the county jails in California.

According to the latest estimate by the California Department of Justice, there were 72,094 inmates in the state's county jails in 1994.*9* And according to the State Controller's Office, the state's 58 counties spent \$1.2 billion on their jails in that year.*10*

As in the case of the state prison system, the question is what percentage of the county jail population is suffering from serious mental illness. One national survey found that on average, 7.2 percent of county jail inmates are seriously mentally ill.*11* That same survey, however, also made state-by-state estimates of mentally ill jail populations. California had the fourth highest percentage, with 9.8 percent of county jail inmates estimated to be seriously mentally ill.*12* Both these estimates were deemed to be conservative because the questionnaires were overwhelmingly answered by non-healthcare workers (87 percent) who, presumably, did not recognize many mental illnesses that would have been recognized by healthcare professionals (and indeed, the latter reported higher percentages of mentally ill inmates in their jails than their non-professionally-trained counterparts).*13*

Dividing the amount spent on county jails by the number of jail inmates gives one a per capita expenditure of \$16,660 per year. If one then uses the conservative 7.2 percent figure to estimate the number of California county jail inmates with serious mental illness, the total number of such inmates would come to 5,190. Multiplied by the per capita cost would give one a cost total of \$86.5 million for mentally ill jail inmates in 1993-94. Using the higher 9.8 percent estimate (the California figure), would result in 7,100 inmates for a cost total of \$118 million for mentally ill jail inmates during that year.

Even the latter figure is conservative since another study shows that in 1990 the Los Angeles County jail alone has over 4,000 severely mentally ill inmates (15 percent of the jail's 24,000 inmates were judged severely mentally ill.)*14* A 15 percent statewide average would represent 10,800 mentally ill inmates for a cost of \$180 million.

As at the state level, the cost of inmates to counties is not limited to jail housing. Supervising them on probation is also a significant cost burden. In 1994, there were 285,105 former jail inmates being supervised by county probation departments and the cost of probation in 1993-94 was \$811 million.*15* That works out to an annual per capita cost of \$2,845. Under the 7.2 percent scenario, the cost of supervising mentally ill probationers would have been \$58.4 million. Under the 9.8 percent estimate, the cost would have been \$79.5 million. At 15 percent the cost would be \$122 million.

Adding up the jail and probation costs for the mentally ill inmates, under the 7.2 percent scenario, the total cost would be \$144.9 million. Under the 9.8 percent scenario, the total cost would come to \$197.5 million and under the 15 percent estimate costs would be \$302 million.

THE MENTALLY ILL AND LAW ENFORCEMENT

It is not only the corrections system, however, that must expend funds in order to deal with mentally ill criminals. There are also costs for law enforcement personnel.

In California in 1993-94, \$4.45 billion was spent on city police departments, while \$1.6 billion was spent on county sheriffs' departments.

Unfortunately, deciding what portion of these totals was spent dealing with criminals who were mentally ill is not an easy proposition. In a study of how California law enforcement agencies deal with the mentally ill, researchers June Husted and Richard Charter of the Long Beach VA Medical Center and Sgt. Barry Perrou of the Los Angeles County Sheriff's Department surveyed 158 law enforcement agencies in the state. They found, however, that, "Many departments reported that they did not maintain the statistical data that was requested in the survey, which included such important information as the number of detainees who appeared to suffer from mental illness, the frequency of mental illness crises for which officers are called, the training of staff to deal with these events, etc."*16* The consequence of this lack of data-keeping is obvious:

*The difficulty, of course, is that if the individual is not accurately identified as mentally ill by the arresting officer, the statistics will be inaccurate. With limited assessment skills for most officers, only those [mentally ill offenders] who are most blatantly psychotic may be identified. Even if mental health professionals are consulted, confidentiality laws may prevent their giving feedback to the law enforcement officer on the accuracy of his assessments, thus limiting the officer's ability to improve his diagnostic ability.*17**

Thus, the problem in making an accurate estimate as to the portion of law enforcement budgets spent on mentally ill offenders is readily apparent.

Nevertheless, Husted, Charter and Perrou's study did find that of those relatively few agencies that did keep statistics, the majority of city police departments (56 percent) estimated that less than 5 percent of the suspects arrested by their officers were mentally ill. A significant percentage of sheriff departments (36 percent), however, estimated that more than 10 percent of the suspects arrested by their deputies suffered from mental illness. The trio of researchers explained the discrepancy saying, "since research indicates 7 percent to 10 percent of detainees suffer from mental illness, the lower police estimates suggest that city police may be less likely to recognize the presence of mental illness in those they arrest, therefore underestimate its presence."*18*

These numbers, though, do not tell the whole story of law enforcement time devoted to the mentally ill offender. As another study noted, individuals brought by law enforcement officers to psychiatric emergency rooms "were much more seriously mentally ill than those arriving by other means and required restraints and immediate hospitalization much more often." The study went on to point out:

*Unfortunately, however, most psychiatric emergency services have full waiting rooms and/or are understaffed. In many jurisdictions, police officers bringing mentally ill people to such facilities are required by law to wait with the patients until they have been evaluated and a decision has been made whether to admit or release them. It is not uncommon for this wait to last two to four hours, thereby tying up the officers so that they are not available for other law enforcement duties."*19**

The authors cited the specific case of a Santa Monica police officer who sat in the lobby of an outpatient mental health clinic for four hours as clinic counselors phoned around to facilities all across Los Angeles County in order to find a psychiatric bed for a homeless and psychotic man who had harassed the staff of a senior center. After the search proved futile, the man was released back to the streets only to be arrested 20 minutes later for harassing the senior center staff again (this time he was taken to the police station and booked).*20*

The point is that handling mentally ill offenders may require law enforcement resources out of proportion to their arrest rate. As the authors of the above study note, "Nobody has yet computed the financial cost of using police to care for the mentally ill individuals in the community but it must be enormous."*21*

Thus, basing police costs on the arrest percentage of mentally ill offenders would be extremely conservative. Using a 10-percent scenario, this would mean that in 1994 city police departments spent \$445 million on handling mentally ill offenders. For county sheriffs, the total would be \$160 million for that year.

THE MENTALLY ILL AND THE COURTS

Once law enforcement takes a mentally ill offender into custody, the judicial system starts to take over. Court costs are significant, when one considers the cost of prosecution, defense, and other court-related services.

Take, for instance, prosecution and public defense costs. In 1994, \$792 million was spent in California on prosecution services, while \$348 million was spent on public defense.*22* Given that 10 percent or more of arrestees are seriously mentally ill, and that at least 10 to 15 percent of jail and prison inmates are seriously mentally ill, it would be safe to use these percentages in figuring out the percentage of prosecution and defense services devoted to handling cases involving the seriously mentally ill. Under a 10 percent scenario, \$79.2 million would have been spent in 1994 to prosecute criminals with serious mental illness, while \$34.8 million would have been spent to defend them. Under a 15 percent scenario, \$118.8 million would have been spent to prosecute, and \$52.2 million would have been spent to defend.

What about court costs? Criminal-related court costs in California in 1994 totalled \$1.4 billion. These costs included the cost for judges, court personnel, administration, etc. Assuming that 10 to 15 percent of defendants passing through the criminal judicial system are seriously mentally ill, this means that under a 10 percent scenario, \$140

million is spent by the judicial system to handle mentally ill defendants. Under a 15 percent scenario, \$210 million would have been spent.

Adding up the prosecution, public defense, and court costs, under the 10 percent assumption, gives a total of \$254 million. The sum under a 15 percent assumption would be \$381 million.

TOTAL COSTS

What then is the total cost to the entire criminal justice system (corrections, law enforcement, prosecution, public defense, and courts) of handling seriously mentally ill individuals? Adding up the low estimates in all the preceding sections would result in an overall total cost of about \$1.2 billion. Adding up the high estimates would give a total of \$1.8 billion.

TREATED VERSUS UNTREATED MENTALLY ILL OFFENDERS

Would there be an appreciable difference in cost if one were to separate mentally ill offenders who were being treated for their illness at the time they came in contact with the criminal justice system from those who were not being treated at the time of contact? The academic research indicates that the answer is probably "no."

John Monahan, a professor of law and psychology at the University of Virginia, in his study of the violently mentally ill found that if psychiatric patients who were under treatment for their illness were looked at separately, there was no association with violent behavior. According to Monahan, the association between mental illness and violence appeared to have been caused exclusively by a subgroup of seriously mentally ill individuals who were not receiving treatment.*23*

In another widely cited study, researchers Richard Lamb and Robert Grant examined 85 seriously mentally ill persons in the Los Angeles County Jail. Lamb and Grant found that out of the 85, only three had been under conservatorship at the time of their arrest. Almost all had been resistant to medications and mental health treatment in general. And only two had ever received intensive treatment in the past. In other words, virtually all of the 85 had not been under medical treatment at the time of arrest.*24*

The Lamb and Grant study supported earlier findings showing little on-going medical treatment among mentally ill arrestees. One study of 500 mentally ill individuals charged with crimes in San Francisco found that 94 percent of these individuals were not being treated at the time they committed the crimes.²⁵ Los Angeles County 1994-95 records showed that 86 percent were not receiving treatment at the time of arrest. These records also show that 90 percent had previously been hospitalized at least once for a psychiatric emergency, but did not necessarily receive follow up treatment.²⁶ These studies do not show the cost, extent, adequacy or effectiveness of the treatment that individuals were receiving.

ALTERNATIVE COSTS OF TREATMENT

Given the high costs associated with the mentally ill in the criminal justice system, it is useful to note that according to a 1993 study by the state's mental health directors, the average cost of providing comprehensive mental health services to a severely mentally ill person was \$7,000 per year. Since most of these individuals are also eligible for federal Medicaid matching funds, the actual state and county cost is about \$4,000 per case.

Even for those mentally ill persons who are most difficult to treat, many counties have created programs with total annual costs averaging between \$15,000 to \$20,000 per person. However, with approximately 40 percent of these costs being met with federal funds, annual state and local costs are between \$9,000 and \$12,000 per person.

These treatment costs give some clue as to what the costs may be like to treat the severely mentally ill who are now being handled within the criminal justice system. However, in order to determine accurately the cost of treating this population, several questions still must be answered:

- Are these individuals more resistant to treatment than similar individuals not in the criminal justice system?
- Have these individuals had adverse reactions to older mental health medications, and could they be treated more successfully if given the opportunity to receive some of the newer medications that have fewer side effects?
- How can we develop a system that avoids placing the mentally ill in jails and prisons, while taking into account the civil rights of the mentally ill and problems with recidivism?

These and other comparative cost questions need to be addressed in further research. In answering these questions, it will also be possible to get a better idea of public safety implications for the state's communities.

CONCLUSION

Even under conservative estimates there seems to be little question that governments in California are spending a great deal of money on dealing with the seriously mentally ill in the corrections and criminal justice system. The cost figures in this paper should allow policymakers to decide if alternative strategies might be more cost effective. However, as the discussion of the available data on alternative treatment indicates, more research will have to be done to decide which strategies meet cost-effective criteria. The authors hope that this paper will serve as a catalyst for further discussion and study.

Endnotes

1. Steven Hayward and Lance T. Izumi. *Crime and Punishment in California: Are We Too Tough or Not Tough Enough?*,² (San Francisco: Pacific Research Institute for Public Policy, May 1996), p.15. Social costs are defined, according to the state Legislative Analyst's Office, as costs to government to operate the criminal justice system; medical costs to individuals and governments for crime-related injuries; property loss and damage; loss of productivity; loss of work time by victims and their families; loss of property value in high crime areas; and pain and suffering of crime victims.
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3. L. Sosowsky, "Crime and Violence Among Mental Patients Reconsidered in View of the Legal Relationship between State and Mentally Ill," *American Journal of Psychiatry* 135, pp.33-42,1978.
4. R. Jemelka, et al, "The Mentally Ill in Prisons: A Review," *Hospital and Community Psychiatry* 40:5, 1989, pp. 481-90.
5. Internal California Department of Corrections figures.
6. The State Department of Mental Health currently charges counties and corrections \$120,000 per year for each bed. In recent conversations, hospital staff have indicated to corrections that they may be able to reduce this cost to \$80,000 per bed per year.
7. *Mental Health Service Delivery System* (Sacramento: California Department of Corrections, The Western Consortium for Public Health, in association with Scarlett Carp and Associates, Inc.)
8. Governor's Budget Summary, 1996-97, May Revision.
9. *Crime and Delinquency in California*, 1994 (Sacramento: California Department of Justice), p. 160.
10. *Financial Transactions Concerning Counties of California, Annual Report, 1993-94 Fiscal year* (Sacramento: State Controller's Office), p. 7.
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13. *Ibid.*, p. 16.
14. E. Fuller Torrey, *Care of the Seriously Mentally Ill*. 1990. Joint Publication of Public Citizen Health Research Group and National Alliance for the Mentally Ill.
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17. *Ibid.*
18. *Ibid.*
19. E. Fuller Torrey, et.al., op. cit., p. 85.
20. *Ibid.*, p. 54.
21. *Ibid.*, p.84.
22. *Crime and Delinquency in California*, 1994, op. cit., p. 167.
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Pacific Research Institute

755 Sansome Street, #450 San Francisco, CA 94111

Phone: (415) 989-0833 Fax: (415) 989-2411

E-mail: PRIPP@pacificresearch.org; <http://www.pacificresearch.org>