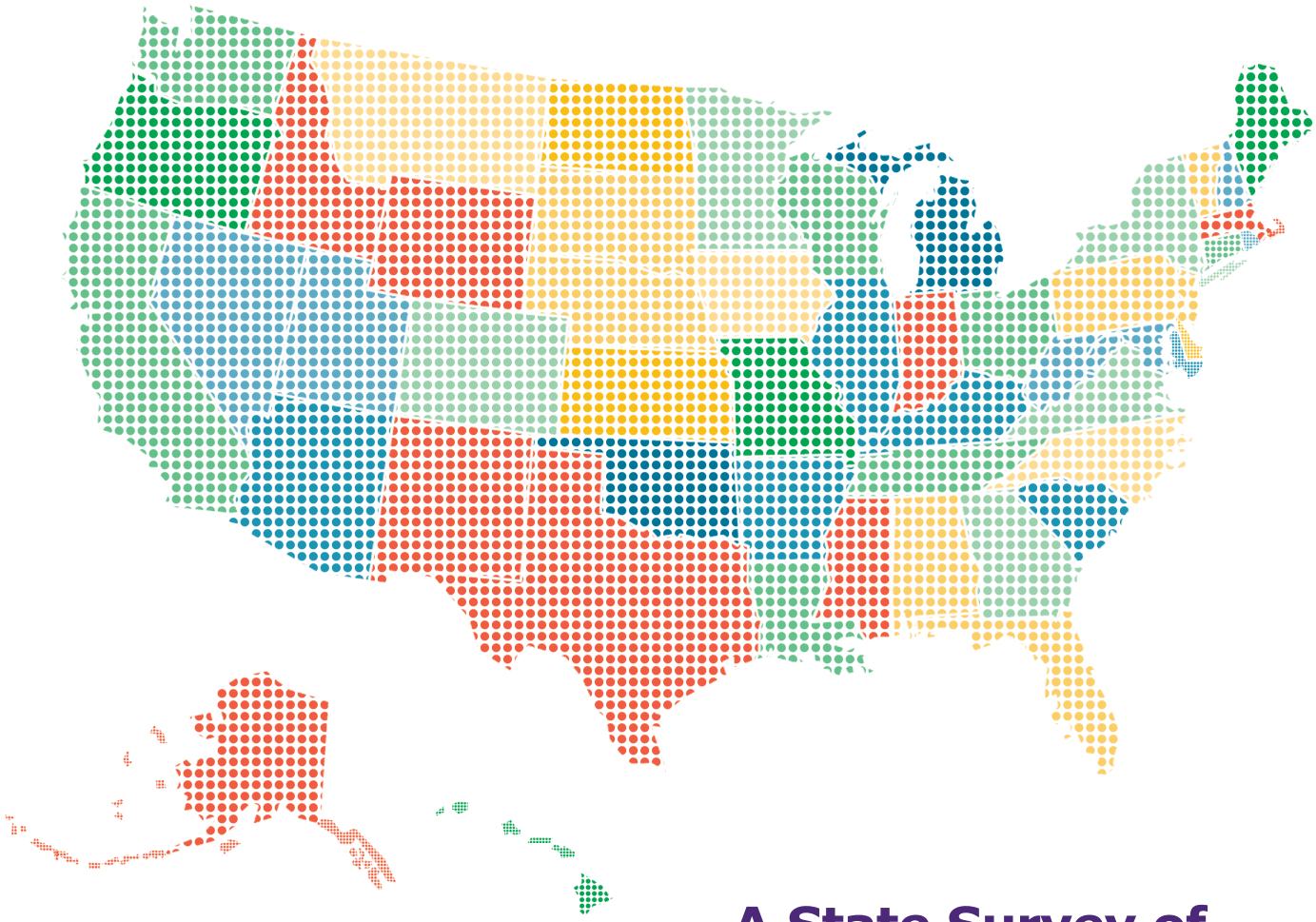
Treat or Repeat



A State Survey of Serious Mental Illness, Major Crimes and Community Treatment

Executive Summary

September 2017

TREATMENT ADVOCACY CENTER

A REPORT FROM THE
OFFICE OF RESEARCH & PUBLIC AFFAIRS

TreatmentAdvocacyCenter.org/treat-or-repeat

The gatekeepers of the chronically mentally ill must recognize that a failure to assess not just the rights of the mentally ill persons, but also their ability to achieve a minimum standard of acceptable behavior in the community will further erode public confidence in the professionals who govern patient care. … When the personal freedom of the mentally ill is given priority over all other considerations, the tyranny of some will jeopardize the autonomy of all.

— Gary Maier, M.D., 1989
"The Tyranny of Irresponsible Freedom"
Hospital and Community Psychiatry, 40, 453

Treat or Repeat

A STATE SURVEY OF SERIOUS MENTAL ILLNESS, MAJOR CRIMES AND COMMUNITY TREATMENT

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In Maine, Chuck Petrucelly, diagnosed with schizophrenia, killed his brother during an episode of acute psychosis. He was found not criminally responsible and was hospitalized for more than four years. He was then moved into the community with ongoing treatment and intensive supervision and also slowly given increasing levels of autonomy. Nine years after the homicide, Petrucelly lives in a supervised apartment, takes medication and holds a job.

In West Virginia, Jeanette Harper, diagnosed with schizophrenia, killed a stranger. She was found not guilty by reason of insanity (NGRI) and hospitalized for less than three years. Upon discharge, she was monitored by a community mental health center for one more year, after which she was released from the program with no follow-up. Three years later, while living in Virginia, she killed a woman who had sheltered and tried to help her. Today, Harper lives in a woman's prison, where she is likely to spend the rest of her life.

Treat or Repeat: A State Survey of Serious Mental Illness, Major Crimes and Community Treatment details potential reasons for the different outcomes experienced by Chuck Petrucelly and Jeanette Harper and how much of the difference between their paths can be attributed to the state where each lived at the time symptoms developed. This survey found Maine, where Petrucelly lived, to be one of the few states making a significant effort to prevent reoffending of individuals with serious mental illness who have committed major crimes. Harper, by contrast, lived in West Virginia, a state with a weaker treatment system in place for those reentering the community after committing a major crime. The question remains, would her outcome have been different in a different state?

The present study was undertaken to ascertain each state's structure and programming to assist individuals with serious mental illness who have committed major crimes succeed after community reentry. Although these individuals make up only 2% of all individuals with serious mental illness, high-profile incidents such as these generate much of the stigma that accrues to all individuals with mental illness. To this end, the Treatment Advocacy Center first conducted a literature review of past research on individuals with serious mental illness who have committed major crimes living in the community. The results are as follows:

- **The reoffending rate for individuals with serious mental illness is high.** Although the reoffending rate is high among all individuals with criminal histories, the rate for those with serious mental illness is higher than for those without serious mental illness.[1]
- **The reoffending rates in the United States are high compared with other countries.** For individuals who have committed major crimes and have a psychotic disorder, the rate of reoffending is twice as high in the United States compared with the rate in nine other countries with comparable data.[2]
- **The reoffending rate for individuals with serious mental illness who are involved in the criminal justice system is high, regardless of whether they are discharged from psychiatric hospitals or released from jails or prisons.** In studies carried out in the United States between 1956 and 1998 on individuals with serious mental illness who had committed major crimes, the average five-year re-arrest rate for individuals released from psychiatric hospitals was approximately 40%; for those released from jails and prisons, it was approximately 60%. For both groups, approximately 20% of the crimes leading to re-arrest were violent crimes. (See Chapter 1, Table 1.1 and Table 1.2.)

- **Past studies have shown that many individuals with serious mental illness who have committed major crimes had been arrested and/or psychiatrically hospitalized multiple times prior to their crime.** This group of repeat offenders makes up only 2% of all individuals with serious mental illness; however, this group causes a grossly disproportionate share of the problems and consumes a large amount of public resources.[3]
- **Evidence-based programs for individuals with serious mental illness reduce reoffending rates.** For individuals with serious mental illness who have committed major crimes, the use of programs such as extended conditional release, psychiatric security review boards (PSRBs), and forensic assertive community treatment (FACT) teams reduce re-arrest rates from 40%–60% to 10% or less.[4]

Because the successful treatment of individuals with the most severe mental illnesses is the focus of its mission, the Treatment Advocacy Center conducted a survey of states to determine what systems and structures are in place for individuals with serious mental illness who have committed major crimes and who are living in the community. The result is the first published effort to systematically collect and analyze each state's policies and practices for community supervision and support for individuals with serious mental illness who have committed major crimes. This benchmark study examines state practices for treating at-risk individuals whose histories suggest a need for intensive services and who are at high risk for re-arrest, regardless of whether they are released from a psychiatric care hospital or from a corrections setting. The states were graded from A to F based on these practices.

Major Findings

We identify three major findings from the survey of the states:

1. **The majority of states do not provide adequate support in the community for individuals with serious mental illness who have committed major crimes, resulting in higher re-arrest rates and all the attendant human and economic costs of re-incarceration.** No state received a grade of A. Only 16 states received a grade of B, indicating that they either use or have the ability to enact most of the evidence-based practices associated with lower re-arrest rates for criminal justice–involved individuals with serious mental illness. An additional 13 states were graded C and use some of the practices. The remaining 21 states were graded D or F, indicating little or no evidence-based practices for reintroducing this population to the community with the follow-up and supports that have been demonstrated to reduce the risk of re-arrest. (See the table that follows and Chapter 6, Table 6.1, for a list of the states by grade.)
2. **States vary greatly in how they address reentry from hospitals, jails and prisons into the community for individuals with serious mental illness who have committed major crimes.** Although some states have similar programs, no two states implement these programs in the same way, nor do states allocate resources to these programs uniformly. There are also major differences in the way states organize their forensic services. In most states, such services are the responsibility of the state department of mental health, but the process can vary. In Vermont, for example, the Office of the Attorney General plays a major role, whereas in South Dakota, much of the responsibility is vested in the courts' United Judicial System. These variations can lead to broad differences in the treatment process. Whereas in one state, all incompetent to stand trial (IST) examinations are carried out in a state forensic inpatient facility, another state may authorize such examinations in a community mental health center as an outpatient. A third state may do the majority of IST examinations in county jails. One consequence of this diversity is that it is difficult to obtain comparable numbers from state to state.

3. **Data indicate the magnitude of the problem is getting worse.** Many state respondents noted significant increases in the number of individuals with serious mental illness involved in the criminal justice system in recent years. For example, Colorado reported that the number of court orders to restore competency for mentally ill individuals who have been found IST has been increasing overall annually. Los Angeles County reported a 350% increase in the number of IST cases referred for evaluation between 2010 and 2015; although this increase primarily involved misdemeanor offenses, the stress on the system for all forensic and civil patients has been extreme.[5]

Grading of states on efforts to create a system to decrease re-arrest by individuals with serious mental illness who have committed major crimes

A	State is making an excellent effort and has most components of a model program.	**A**	No state received an A grade.
B	State is making a commendable effort and has many components of a model program.	**B+**	Hawaii, Maine, Missouri, Oregon
		B	California, Connecticut, Louisiana, Ohio, Tennessee, Washington, Wisconsin
		B–	Colorado, Georgia, Minnesota, New York, Virginia
C	State is making a modest effort and has some components of a model program.	**C+**	Michigan, Oklahoma
		C	Arizona, Arkansas, Illinois, Kentucky, Maryland, South Carolina
		C–	Nevada, New Hampshire, Rhode Island, Utah, West Virginia
D	State is making a small effort and has few components of a model program.	**D+**	Delaware, Kansas, North Dakota
		D	Alabama, Florida, Nebraska, New Jersey, Pennsylvania, South Dakota, Vermont
		D–	Iowa, Montana, North Carolina
F	State is making almost no effort.	**F**	Alaska, Idaho, Indiana, Massachusetts, Mississippi, New Mexico, Texas, Wyoming

Note: The grade refers specifically to the state's forensic services and corrections programs for individuals with serious mental illness. Other aspects of the state's mental health services program may be rated higher or lower than this grade.

The four states that received the best grades under this study—Hawaii, Maine, Missouri and Oregon—are all models other states should look to for various aspects of their successful programming. Apart from these states, we found a number of laws, programs and practices in individual states that we recommend as models for other states to consider to improve outcomes for individuals with severe mental illness who have committed major crimes. These exemplar state programs and practices can be found in Chapter 6, Table 6.2. Specific information on named programs is available in the state narratives of Chapter 5.

Recommendations

Based on these findings, the Treatment Advocacy Center recommends the following steps:

- **Federal, state and local governments must create policies to stop the criminalization of individuals with serious mental illness.**

  Failing to treat mental illness in a timely fashion can give rise to conduct that entangles individuals with serious mental illness in the criminal justice system. *Treat or Repeat* found that all states with good grades on their forensic treatment systems displayed weaknesses or gaps in their civil systems. As admirable and necessary as a strong forensic system may be, to reverse trends of criminalization, policymakers need to eliminate treatment barriers for individuals with serious mental illness before they enter the criminal justice system. A system that requires violence or criminal conduct before the initiation of treatment fails both the individual and the public, at high cost to both. The 21st Century Cures Act, passed by Congress and signed into law by President Barack Obama in December 2016, is a first step in this process.

- **Federal, state and local governments must prioritize treatment for individuals with serious mental illness who are involved in the criminal justice system.**

  Government agencies, including the federal Substance Abuse and Mental Health Services Administration (SAMHSA) and the US Department of Justice (DOJ), should work together to create programs that function across budgets and across the public mental health and criminal justice systems to help prioritize the provision of treatment for individuals with serious mental illness who have committed major crimes. Prioritization and treatment for these individuals, who make up only 2% of individuals with serious mental illness, is necessary to reduce reoffending, a concern for the safety of the public and of the individuals and their families.

- **State and local governments must implement evidence-based treatment programs for individuals with serious mental illness who have committed major crimes.**

  Programs such as FACT teams, PSRBs and evidence-based corrections programs, as well as civil programs such as assisted outpatient treatment, have been shown to reduce the risk of reoffending among individuals with serious mental illness. State and local governments should implement programs such as these to treat individuals living in the community who are at risk for reoffending and to provide every opportunity for success.

- **Researchers and government agencies must conduct research and evaluate programs to inform best practices for individuals with serious mental illness who have committed major crimes.**

  Research and analysis of data are necessary to inform decisions on which programs to expand and which to eliminate. It is also necessary to expand the evidence base on effective programs for individuals with serious mental illness to inform these policy decisions. The federal government, through the DOJ and SAMHSA, should conduct research and fund projects to systematically collect data to analyze and share best practices that are effective in reducing the criminalization of individuals with serious mental illness, including individuals with severe psychiatric disorders who have committed major crimes.

- **Data collection, treatment and supervision must be individualized and based on outcomes.**

  State-collected data do not currently track the sequence of events and outcomes for individuals as they move through the corrections and forensic mental health systems. Instead, data are disconnected from the individual and are collected at each point of interaction with the system: at entry into the criminal justice system, receipt of forensic or corrections services, and reentry into the community. The resulting data cannot be compared across systems to measure the effectiveness of or outcomes associated with different practices along the entire continuum. For example, the data do not show how many individuals initially found IST continue through the system and are ultimately found NGRI or how many are instead convicted of crimes and incarcerated. Evaluation of efforts to prevent reoffending requires the ability to assess an individual's journey through the system and the resulting outcomes. A best practice is to follow the individual through the criminal justice and mental health care systems into the community following release. Such data could be used to determine longitudinal outcomes and patterns including competency restoration, criminal behaviors, treatment and recidivism in order to assess the effectiveness of different interventions and to identify individuals cycling in and out of systems. Understanding how individuals interact with the systems would enable services to be individualized, care to be better coordinated across civil and criminal systems, and success in the community to be promoted.

- **State and local governments should incorporate mandatory, detailed population-level data collection and reporting for programs serving individuals with serious mental illness who are involved in the criminal justice system.**

  Many questions remain on the efficacy of programs adopted by states; this is largely due to lack of data upon which to evaluate them. Statutes and policies can and should include requirements for data collection and analysis. Such data should include specifics on outcomes, such as reductions in psychiatric symptoms, re-arrest rates, rehospitalization rates and costs throughout the system. This would allow for evaluations of these programs and would help determine state-specific solutions. What works best in Rhode Island may be quite different from what works best in Texas or Wyoming.

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The Treatment Advocacy Center is a national nonprofit organization dedicated exclusively to eliminating barriers to the timely and effective treatment of severe mental illness. The organization promotes laws, policies and practices for the delivery of psychiatric care and supports the development of innovative treatments for and research into the causes of severe and persistent psychiatric illnesses, such as schizophrenia and bipolar disorder.