



Expanding The Role of Mental Health Professionals in the Criminal Justice System

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Abstract

This commentary article discusses the need for an increased and permanent presence of mental health professionals in the criminal justice system. Individuals with serious mental illness (SMI) and substance use disorders (SUD) are overrepresented at every stage of the justice system. This includes an overrepresentation in contact with law enforcement, in the judiciary, and in the carceral system. While efforts should be made to prevent individuals with SMI and SUD from coming into contact with the justice system, mental health professionals should also be employed throughout the system. In particular, professionals such as peer support specialists, social workers, and case managers provide unique value when working in various parts of the system.

Keywords: Mental health Professionals, Social Workers, Peer Support Specialists, Case Managers

Introduction

Individuals with serious mental illness (SMI) are overrepresented in the criminal justice system. They appear at every stage of the criminal justice process ranging from arrest to incarceration and reentry [1-4]. They are overrepresented in carceral facilities but rarely receive adequate treatment while behind bars [5-9]. In fact, jails and prisons are often described as de facto mental health institutions [10]. Some researchers have found that individuals with mental health problems receive longer sentences than those without [8, 11]. Justice-impacted individuals also face long-term challenges as they are often unhoused before the arrest [8]. All of this must be housed within the reality that criminal justice involvement typically increases and exacerbates mental health issues [12].

Justice-impacted individuals with SMI also frequently face challenges related to substance use disorders (SUD). Individuals with co-occurring SMI and SUD diagnoses can be arrested for issues related to their drug use, such as possession of illegal substances,

and/or issues related to their SMI, such as disorderly conduct charges incurred while in a state of crisis [13]. The majority of individuals incarcerated in state prisons and local jails that have a mental health problem also deal with substance dependence or abuse [8]. A study of males detained in Cook County Jail found that approximately 28% of the individuals studied had a co-occurring SMI and SUD [10]. These rates of individuals with co-occurring SMI and SUD within the carceral system are significantly higher than the rate of individuals with co-occurring disorders in the general population [14]. This complicates the work of practitioners as they are increasingly caring for individuals with complex and challenging mental health and substance use issues.

The reality that the criminal justice system is increasingly serving individuals with SMI and SUD has led to a number of adaptations. These adaptations include initiatives that attempt to divert individuals away from the system into appropriate systems of care. For example, co-responder and mobile response teams aim to improve responses to individuals in mental health crises. Mental health courts aim to divert individuals away from the judiciary into community-based treatment programs that are monitored by court officials [15-17]. Some carceral facilities have implemented therapeutic diversion units that focus on the treatment needs of individuals with high levels of mental health needs [18]. In addition to diversionary initiatives, another adaptation involves the increased hiring and staffing of non-traditional justice professionals that are experts in managing mental health and substance use challenges.

These professionals can work in both the diversionary initiatives and in the traditional sectors of the justice system. For example, mental health professionals are members of co-responder teams where they work alongside law enforcement [19]. They are also members of mental health court teams [20]. In the traditional sectors, it is not uncommon for mental health professionals to work in prisons and jails [21]. While the increased presence of these professionals

in the justice system seems straightforward, there is not universal agreement upon each of these unique specialists operating in these sectors. For example, All Rise is a national organization that provides training and resources regarding justice system responses to mental health and substance use challenges. In their best practices for adult treatment courts, they recommend against peer recovery support specialists receiving or sharing confidential information about treatment court participants [22]. This would remove them from the core mental health court team and make their role ancillary.

When considering that recommendations such as this could reduce the role of non-traditional professionals in the justice system, we argue that these specialists should have expanded presence and roles in the system. SMI and SUD experts are essential in a system that disproportionately impacts individuals with one or both of these diagnoses. In the remainder of the article, we first describe examples of specialists that work in the justice system and research that has been conducted on their impact. We then explain the value that these specialists can bring to the system. The article concludes with a discussion of the limitations when taking this approach to address the high rate of SMI and SUD in the justice system.

Peer Recovery Specialists

Peer recovery specialists are among the most unique mental health and substance use professionals that work in the criminal justice system. These are individuals that have lived experience with mental illness, substance use, and justice system involvement. They can share their unique perspective that has been directly informed by their own personal history [23]. They can act as an advocate for clients as they explain to traditional justice system actors why an individual may be acting a certain way and how their challenges connect to SMI and SUD. They can also help explain to clients the operations of the justice system, why officials are making certain decisions, and the demands being made of them by system actors. It is important to note that states typically require individuals to complete training in order to be certified officially as a peer recovery specialist. For example, individuals in Virginia must complete a 72 hour training curriculum, have 500 hours of experience, have 25 hours of on-the-job supervision, and pass an exam to become a certified peer recovery specialist [24]. The mix of training, on-the-job experience, and lived experiences make them an extremely valuable member of multidisciplinary teams addressing substance use and mental illness.

Research has helped illuminate the impact of peer recovery specialists. The results indicate they can increase participation in treatment, foster recovery-oriented relationships, reduce recidivism risks, and empower clients through their own personal recovery stories [25]. They can also improve client satisfaction and lessen the demand for involuntary hospitalizations [26, 27]. While peer support specialists actively work against prison-related stigma, they often face many formal and informal limitations [28, 29]. For example, they often face stigmas due to their criminal records, especially from professionals that work in corrections [28]. Despite their qualifications and lived experience, their histories can sometimes prevent them from working in certain settings or with specific populations [26]. The philosophical divide between the rehabilitative approach of peer support specialists and the punitive nature of the criminal justice system also presents a significant challenge for many in this profession [28]. Despite these limitations, peer recovery specialists can provide major value to justice-impacted clients.

Social Workers

Social workers have also become integral members of the criminal justice system. Originally, they were brought into the system in response to criticism over the inhumane treatment of incarcerated individuals and the system's failure to support their rehabilitation. Social workers are known for exercising 'caring power' in prisons [30]. They are particularly effective in drug courts, as their restorative

approach aligns with the goals of recovery courts [31]. Their expertise helps them advocate for the rights of drug court participants and connect them with appropriate community resources [32]. Social workers can also play a part in stigma reduction. They can facilitate access to resources to help the individuals post-incarceration [33]. They can also reframe the way both court personnel and society view individuals in active recovery and within the criminal justice system. Research results indicate that social workers in jails and prisons can reduce recidivism risks, promote successful reintegration, and aid in client recovery [34]. These outcomes ultimately reduce financial burdens on the criminal justice system as well as increase public safety [34].

Despite their value, there are limitations to social workers in the justice system. Similar to peer support specialists, working alongside a punitive system whose primary mission does not align with the philosophies of social work service is a challenge [32]. Social workers also face barriers and stigma in court settings that are not recovery-based, often due to perceptions of inadequate qualifications [35]. In probation and parole services, social workers often grapple with the dual perception of their role, as some are viewed as supportive allies, while others are criticized and seen as strict enforcers or punishers [30]. These limitations are not impossible to overcome, but they must be considered.

Case Managers

Case managers are another group of unique professionals that can be essential actors in the justice system. They are used in an array of places within the justice system, such as by probation and parole, mental health courts, and reentry planning [36]. Case managers help justice-impacted individuals access and engage with disjointed, but essential, community resources, especially for individuals with SMI and SUD [37]. Case managers assess client needs, develop a treatment plan, connect the individual to necessary services and resources, monitor their progress, and advocate for the client [36]. Research results indicate that case managers can help clients in a multitude of ways. They can link clients to services, monitor them, advocate for them, assure they appear at mandated drug tests and appointments, and help them address structural issues like housing, employment, and transportation [10]. Individuals with SMI that receive intensive clinical case management are more likely to be satisfied with their care [37]. Case managers can also help reduce recidivism risks [10]. While case management is especially useful when systems of care are fragmented, it can be helpful even in localities with well-coordinated resources [38].

Similar to peer recovery specialists and social workers, there are limitations with case management in the system. These limitations include programs that use too aggressive and rigid sanctions, as well as the reality that transitioning from the criminal justice system back into the community can create gaps and barriers to services and resources [36]. It is also difficult to do case management effectively in localities with a lack of, or gaps in the infrastructure of local mental health and substance use resources [10]. All of these unique specialist positions provide value in the justice system despite their limitations.

The Value of Non-Traditional Justice Professionals

The high rate of individuals with SMI and SUD in the criminal justice system remains a persistent problem. Localities are often searching for ways to divert these individuals away from the justice system and into appropriate places of care. When diversion is not an option, the focus shifts toward treating these individuals better while they are in the system. For example, an individual convicted of a violent crime is less likely to be eligible for diversion but the time behind bars is likely to worsen their mental health. Whether in diversion initiatives or in the traditional justice system sectors, professionals that are properly educated and trained on mental health

and substance use issues can provide better care than traditional justice system actors.

Given the inadequate treatment for both SMI and SUD in the justice system, mental health and substance use professionals should become essential parts of the system. Peer support specialists can utilize their own lived experiences and training to help individuals navigate the system. They can also advocate for those individuals amongst criminal justice professionals that may not fully understand the way that SMI and SUD are impacting their behavior. Social workers can work in all elements of the system, ranging from improving responses to individuals in crisis to ensuring better treatment in the judiciary and carceral system. They can also help improve reentry pathways for individuals leaving the system. Case managers can help individuals navigate disjointed and fragmented community-based resources. They also work to ensure that individuals engage in a plan that will help them manage their illnesses while reducing recidivism risks. These are just three examples of an array of professionals that can improve the treatment of individuals impacted by the justice system.

These nontraditional roles within the criminal justice system are essential to ensuring individuals receive appropriate care, whether inside correctional facilities or through community-based services. The punitive environment of prisons often worsens mental health symptoms, and correctional officers are typically not trained to address these psychological challenges. The presence of trained professionals specializing in mental health and substance use treatment is critical for promoting recovery and fostering a safer environment for both incarcerated individuals and staff. To improve the efficacy of mental health professional's work and strengthen the impact of their services, mental health professionals need greater community support and increased financial resources. The research supports the effectiveness of these programs and professionals working in the system.

There are legitimate concerns with expanding the use and reach of these non-traditional justice professionals in the system. For example, All Rise recommended against peer support specialists receiving or sharing confidential information about participants in treatment courts, such as mental health, recovery, or veterans' courts. While we understand the concerns regarding ethics and power dynamics, we think that peer support specialists should be full members of diversion teams in treatment courts. They have both the lived experience and official training necessary to make them effective and trusted members of these court teams. Restricting access for them will lessen their role and could lead to less jurisdictions allocating the funding for these types of positions. This could also reinforce many of the stigmas these individuals already face as a result of their prior criminal record. We think that the clear benefits they provide to justice impacted individuals with SMI and SUD far outweigh the concerns.

While these positions and services provide clear value to the system, they are not without limitations. The biggest limitation is the reality that this does little preventive work. When working with justice-impacted individuals with SMI, they have already come into contact with the system. Efforts should be made to build an infrastructure that prevents these individuals from making contact with justice systems as opposed to their system involvement being necessary to initiate mental health services. Another limitation is the reality that many places that could hire these unique positions, such as mental health courts, are operating on limited budgets. Federal, state, and local entities should prioritize funding to hire for these positions. On that same note, it may be difficult to recruit qualified individuals to work in the justice system when they have trained to work in a helping field. They clearly have the potential to help individuals in this space, but it may be hard to work for a punitive justice system. The last major limitation that should be considered is that these individuals

and services can make a positive impact. However, they are not perfect, and they cannot fix the myriads of issues that brought their clients into the justice system. Expectations for the measurable impact of their work should be reasonable.

Conclusion

Despite these limitations, we feel strongly that the criminal justice system should be open to unique specialists and professionals to address the persistently high rate of individuals with SMI and SUD in the system. Peer support specialists, social workers, case managers, and others are experts in dealing with mental illness and substance use and may have relevant lived experiences. They can provide essential support to clients navigating the system and can be helpful in successfully implementing and operating diversion initiatives. For example, peer support specialists can help mental health court participants navigate the myriads of requirements they must complete on the diversion docket. They can also explain to court officials what participants are going through and when certain behaviors and issues may be related to a SMI and/or SUD challenge. This provides incredible value to the participants and the court. The criminal justice system should be open and willing to hire and retain non-traditional justice professionals. While this does not prevent individuals with SMI from coming into contact with the system, it can help address the root causes of what brought them into the system and possibly improve their quality of life and reduce recidivism risks.

Competing Interests: The authors declare that they have no competing interests.

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