TEXAS STATE of MIND

THE MEADOWS MENTAL HEALTH POLICY INSTITUTE

W.W. CARUTH, JR. FOUNDATION

at Communities Foundation of Texas

April 2016

THE DALLAS COUNTY SMART JUSTICE PLANNING PROJECT: An Overview of Phase One System Assessment Findings

Problem

The toll of mental illness is staggering across the nation and in Texas. About 20 percent of people in local jails across the country are estimated to have a "recent history" of a mental health condition,[1] almost three-quarters of whom also have substance use disorders. Once incarcerated, people with mental illnesses tend to stay longer in jail and upon release are at a higher risk of returning to incarceration than those without these illnesses.[2]

Counties in Texas report that 20 to 25 percent of their average daily jail populations have a diagnosed mental illness.[3] On any given day, between 12,000 and 16,000 people with mental illnesses are in jail in Texas, at a cost of over $450 million dollars a year to incarcerate them.[4] In Dallas County alone, estimated housing and booking costs for people with mental illnesses were approximately $40 million in 2013. Medication and other treatment services provided to people with mental illnesses while incarcerated cost an additional $7 million.[5]

National and State Momentum to Address This Problem

Whether in Dallas County, at the state level in Texas, or in counties across the United States, there is near universal agreement that counties and states need to work in partnership to effectively reduce the number of people with mental illnesses in jail. The Meadows Mental Health Policy Institute (MMHPI) is a nonprofit organization established in 2013 to provide nonpartisan policy research and development to improve mental health services in Texas. MMHPI analyzes and evaluates public policy through evidence-based research and data-driven assessment. Through its Smart Justice division, the Institute is working with counties across Texas to devise strategies to reduce the number of people with mental illnesses in Texas jails.[6]

Nationally, The Council of State Governments (CSG) Justice Center, the American Psychiatric Association Foundation, and the National Association of Counties established the Stepping Up Initiative to work with state and local governments to reduce the number of people with mental illnesses in jail. In response to a national call to action issued in 2015, more than 250 counties, including Dallas County, have passed resolutions committing themselves to a series of steps to reduce the number of people with mental illnesses in jail.[7] MMHPI has partnered with the CSG Justice Center and its Austin, TX-based research team to provide data analysis and expert guidance to Texas counties participating in its Smart Justice work.[8]

W.W. Caruth, Jr. Foundation Smart Justice Planning Grant

With support from the W.W. Caruth, Jr. Foundation at the Communities Foundation of Texas, in 2015, MMHPI launched a county-wide planning project to identify strategies to improve outcomes for people with mental illnesses within the Dallas County justice system. The goal of this planning effort was to develop a comprehensive plan to eventually eliminate the use of the county jail to house people with mental illnesses who do not otherwise need to be incarcerated by engaging local partners in a rapid and results-oriented planning process. Central to that process was data-driven planning to develop specific implementation strategies for transforming the Dallas criminal justice system to better identify, assess, and divert people with mental illness from the justice system. The project also included an evaluation of law enforcement responses to people with mental illnesses and the identification of gaps that need to be addressed in community-based mental health services to prevent

entry into the system. The primary objective of the project is to improve public safety by developing a comprehensive multi-year plan to reduce and eventually eliminate the use of the Dallas County Jail for treating people who primarily have psychiatric needs. The project has two phases: Phase One assembled facts to inform the plan. In Phase Two, project partners the CSG Justice Center, Dallas County, the Caruth Police Institute, Parkland Health & Hospital System (Parkland), and the Parkland Center for Clinical Innovation will work together with stakeholders from across the country to draft the plan.

The Caruth Smart Justice Planning Grant calls for pulling together key stakeholders to produce a business and sustainability plan based on the assessment findings. Dallas County commissioners, along with other key county leaders, including judges, the sheriff, the district attorney, and the public defender, as well as the leadership of Parkland Health & Hospital System, have made improved outcomes for people with mental illness in the county and in the justice system a top priority. On July 7, 2015, Dallas County Commissioners unanimously passed a resolution in support of the Stepping Up Initiative. County leadership committed to developing a plan, with measurable outcomes, to reduce the number of people with mental illnesses in jail and improve community-based treatment options. The Caruth Smart Justice Planning Grant has supported key Stepping Up activities, allowing Dallas to benefit from a complete justice system assessment.

Phase One: Methodology

The research team conducted an in-depth analysis of case-level criminal justice data of the more than 100,000 people booked into the Dallas County Jail between 2011 and 2014. These records were matched with the Texas Department of Public Safety (DPS) Computerized Criminal History (CCH) system, which provides criminal history information (e.g., including information about prior arrests and sentencing) for people booked into jail.

Through this match, researchers calculated recidivism rates for people released from the jail.[9] Researchers drew on this and other data that correlate with risk of rearrest (e.g., age at first arrest, current age, type of offense) to develop a "risk proxy" that estimated the risk of re-arrest that each person booked into the jail presented. This risk proxy made it possible to present like comparisons among different sub-populations.

The research team also matched those individuals booked into the county jail with the database maintained by NorthSTAR, which manages the publicly funded mental health and substance abuse services for people living in its service area. The data did not have specific mental health diagnoses or treatment information, making it possible only to "flag" people booked into jail who had a prior contact with the publicly funded behavioral health care system, but not differentiating them from people who had received services for substance abuse only. As a result, the findings below that draw on the

The Project Team

The project team is led by Dr. Andy Keller, MMHPI President and Chief Executive Officer, working with Project Manager, Brittany Lash. Criminal justice and mental health system expertise were provided B.J. Wagner, Director of Smart Justice, and Dr. Jacqualene Stephens, Director of System Transformation. Dr. Michele Guzmán, Senior Director of Evaluation, and Dr. Jim Zahniser, Director of Evaluation Design, led the evaluation team, which included Kendal Tolle, Evaluation Project Manager, and Jesse Sieger-Walls, Analyst and Consultant. The Caruth Police Institute, under the leadership of Executive Director Dr. Melinda Schlager, provided expertise in involving law enforcement agencies across the county as part of the MMHPI team. John Petrila, JD, provided critical guidance regarding cross-systems information sharing.

The research team is led by Dr. Tony Fabelo, CSG Justice Center Director of Research and Senior Fellow at MMHPI. The research team includes Jessica Tyler, Research Manager, and Dr. Becky Cohen, Senior Research Associate, from the CSG Justice Center's Austin, TX office; and Lila Oshatz, LMSW-AP, Justice Transformational Services Facilitator.

The Dallas County team is led by Ron Stretcher, Director of the Dallas County Criminal Justice Department, working with Deputy Director Leah Gamble, Smart Justice Jail Diversion Project Manager Michael Laughlin, Pretrial Manager Duane Steele, and Jail Population Coordinator Etho Pugh.

NorthSTAR data do not describe these individuals as people with mental illnesses but instead as people with prior contact with the publicly funded behavioral health care system or people with the "NorthSTAR flag."

In addition to the quantitative analyses described above, the project team conducted numerous in-person meetings over a six-month period. MMHPI conducted 58 focus groups with over 400 law enforcement officers from the county, representing all participating municipalities in the county, and shifts (including day, night and overnight shifts), and met with mental health care providers, to determine system process and capacity gaps. The CSG Justice Center and MMHPI teams conducted justice system process reviews involving dozens of jail, judicial, and county officials to determine opportunities to improve the ability to screen, assess, and divert people with mental illnesses once they enter the justice system.

This report summarizes the results of the analyses conducted pursuant to Phase One of this project.

Phase One: Findings

I. Super-utilizers

A small subset of adults with behavioral health needs in Dallas are "super-utilizers" of mental health services; due to their extreme and inadequately managed treatment needs, they are repeatedly incarcerated and frequently use local emergency rooms, hospitals, homeless services, and other intensive supports.

- Based on a rigorous application of epidemiological estimates to the Dallas population and analysis of mental health and jail utilization data, more than 6,000 people in Dallas (nearly 4,000 of whom live in poverty) are "super-utilizers" of services.
- Approximately three out of four people released from the jail who have had prior contact with the publicly funded behavioral health care system who have also been assessed as being at a high risk of offending are reincarcerated in the jail within three years of their release.
- On a typical day at the Dallas County Jail, half of the people incarcerated who have had prior contact with the county's publicly funded behavioral health care system have experienced four or more bookings in the jail during the preceding four years.

II. Demand for and availability of community-based and inpatient behavioral health care services

A. There is a large number of people with serious mental illnesses and/or substance use disorders in Dallas County, and many of these people live below the poverty level.

- Epidemiological data adjusted for Dallas County demographics suggest that there are approximately 155,000 people who have serious behavioral health needs living in Dallas, inclusive of people with severe cases of addiction and substance use. Most of these people also live in poverty.[10]
- Among this group, there are more than 88,000 adults with serious mental illness (SMI) and an overlapping group of 81,000 people with substance use disorders who meet the state's definition of the "priority population" eligible for substance use treatment services.[11]

B. Dallas has some critical service gaps in the community that should be addressed to improve services, particularly for people with serious mental illnesses.

- There is community-based behavioral health care service capacity, but a number of gaps and barriers were identified, most notably, intensive community-based programs for "super-utilizers." There is also insufficient mobile crisis support, gaps in the availability of various evidence-based programs, such as supported housing and employment services, and the cultural competence and geographic coverage of community-based programs are also insufficient.
- Dallas County does have notable community-based programs, including several Assertive Community Treatment (ACT) teams and two intensive teams for people with SMI who are involved with the criminal justice system. Relative to the large numbers of "super-utilizers" who need ACT or Forensic ACT level of care, the availability of intensive programs is insufficient to

meet the need. Fewer than one in five "super-utilizers" with low to moderate forensic needs and fewer than one in ten "super-utilizers" with high forensic needs have access to adequately intensive supports. Permanent supported housing gaps compound this lack of treatment capacity.

- Specialty inpatient beds at state hospital facilities are at times in short supply compared with demand, but acute psychiatric inpatient beds are generally available. Inpatient stays are used only for brief stabilization, so when a number of stakeholders cited a "lack of beds" as a system criticism, they were primarily referring to a lack of longer-term, intensive treatment capacity and housing options post-discharge.
- People charged with a misdemeanor who were subsequently ordered to a state hospital for competency restoration waited in Dallas County Jail from 39 to 60 days (average of 45 days) before being transferred to the hospital. People charged with a felony waited between 50 and 87 (average of 64 days) before being transferred to the state hospital.

III. Contact with local law enforcement

A. A significant number of people with serious behavioral health needs come into contact with the justice system, straining law enforcement resources.

- Law enforcement officers are the primary first responders for people experiencing a mental health crisis and they are the primary providers of emergent detentions of people who are experiencing a mental health crisis.
- Texas is one of just a few states that do not empower physicians or other health care providers to emergently detain people who pose an imminent risk to themselves and others.
- From 2012 through 2015, the number of mental health calls for service (also known as "46 calls") increased by 18 percent, from 10,319 to 12,141; those same calls with a request for an ambulance (a "46A call") increased by 59 percent, from 2,176 to 3,452 during the same period.[12]
- The Dallas Police Department policies currently require that four officers and a supervisor respond to all 46 calls.

B. Law enforcement officers who attempt to connect people with mental illnesses to behavioral health care services report numerous challenges.

- The most common and significant concern that law enforcement officers raised was time spent driving someone with a mental illness to a treatment facility and the time spent waiting at the treatment facility (typically an emergency room) before the person is admitted for treatment.
- A second barrier was frustration with the treatment system, based on the perception that after law enforcement officers left someone in the care of the emergency room, those people were subsequently discharged to the community within hours or days, so that law enforcement found themselves responding to more calls involving the same individual.
- There are more than 20 municipal police departments spread across Dallas County. Law enforcement officers and treatment providers explained that many of these departments have policies and procedures for responding to people with mental illnesses that are distinct from the policies and procedures that police officers working for the City of Dallas use.
- Law enforcement officers expressed concern about the liability they incur when they respond to a mental health call for service and the officer is unable to connect that person to a treatment provider. Transporting that person to jail is perceived to be the option that creates the least liability for these officers.
- Law enforcement officers also described the need for more training and improved approaches to information sharing. For example, when dispatched on a mental health call for service, officers do not have access to the person's call history during the call response.
- Mental health care providers also described an interest in receiving training on approaches to treatment that address criminogenic risk factors that contribute to the likelihood someone will reoffend. These providers were also apprehensive about sharing any information about a person's prior involvement in the behavioral health care system because of confidentiality laws.

C. Law enforcement officers find it easier to take a person in need of acute psychiatric care to a municipal jail than to transport the person to a psychiatric facility.

- There are 25 detention sites spread across Dallas County that offer ready access to the jail. In contrast, there are only three hospitals designated as primary psychiatric diversion drop-off sites for law enforcement.
- Just one of the three psychiatric diversion drop-off sites is located in the southern section of Dallas County, and it serves youth only.

IV. Jail

A. The Dallas County Jail acts as the main treatment provider for people with mental illnesses who are involved with the criminal justice system.

- Parkland, which provides health care services to people booked into the Dallas County Jail, reported that more than 26,000 unduplicated people received psychiatric medications at the jail in 2015. In the same year, approximately 21 percent of the jail population—or 1,221 of the 5,685 people housed in the jail on any given day—received mental health treatment from Parkland.
- Approximately 25 percent of all people booked into jail in 2015 (16,986 of the 69,185 bookings) had prior contact with the behavioral health system managed by NorthSTAR.

B. Following their arrest, people who have had prior contact with the publicly funded behavioral health care system stay in jail longer than people who have not had contact with the system.

- Although the average monthly population in the Dallas County Jail was considerably lower in 2014 (6,086) than it was in 1994 (8,884), the number of people in jail awaiting trial nearly doubled, from 2,307 in 1994 to 4,182 in 2014. [See Figure 1]
- Of the large urban counties in Texas, Dallas has the highest rate of pretrial detention.
- People released from jail while still awaiting trial had a comparable risk of recidivism regardless of whether they had prior contact with the behavioral health care system. But it typically took longer for someone who had prior contact with the system to be released from jail than someone who had not had prior contact with the system. For example, 59 percent of people with no prior contact with the system were released from jail

Figure 1. Average Monthly Jail Population by Status, 1992–2014

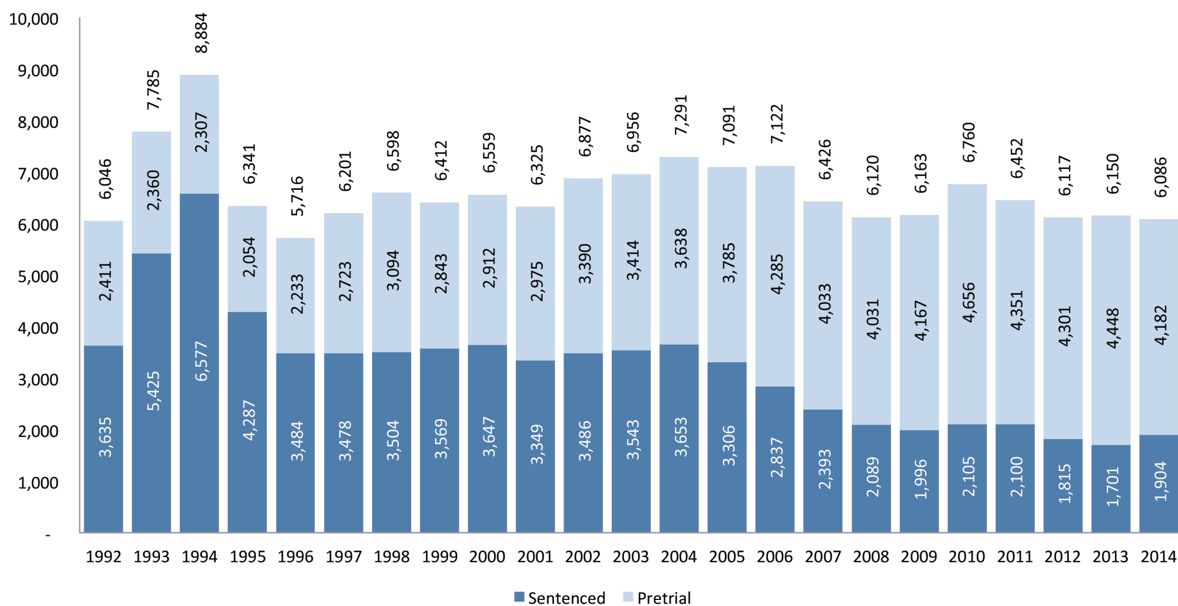
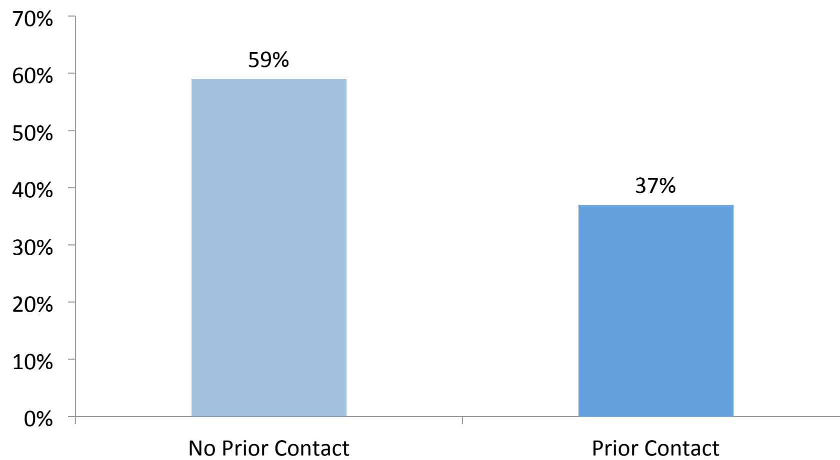


Figure 2. Percentage of Pretrial Releases within 24 hours, by Contact with the Behavioral Health System



within 24 hours of being booked into jail, as opposed to 37 percent of people who had prior contact with the system; 21 percent of those with prior contact stayed in jail longer than a week compared to 13 percent without prior contact.[13] [See Figure 2]

- State law enacted in 1993 requires that when someone booked into jail screens positive for mental illness, that person must also receive a mental health assessment. This law also requires the results of that assessment be presented in a timely way to the magistrate, who, upon determining that the person does not present a risk to public safety, should facilitate the release of that person from jail to community-based treatment. In Dallas County, however, as is the case in many other counties across the state, mental health assessment information collected at the jail by medical staff is generally not shared with the magistrate.

C. Dallas County does not have a method to supervise people with mental illnesses on pretrial release to monitor their compliance with treatment requirements.

- People with behavioral health needs released from the jail while awaiting trial are typically required to call in twice a month to confirm their compliance with conditions of their release. There is no process in place to supervise these defendants in the community or to ensure their connection to treatment.

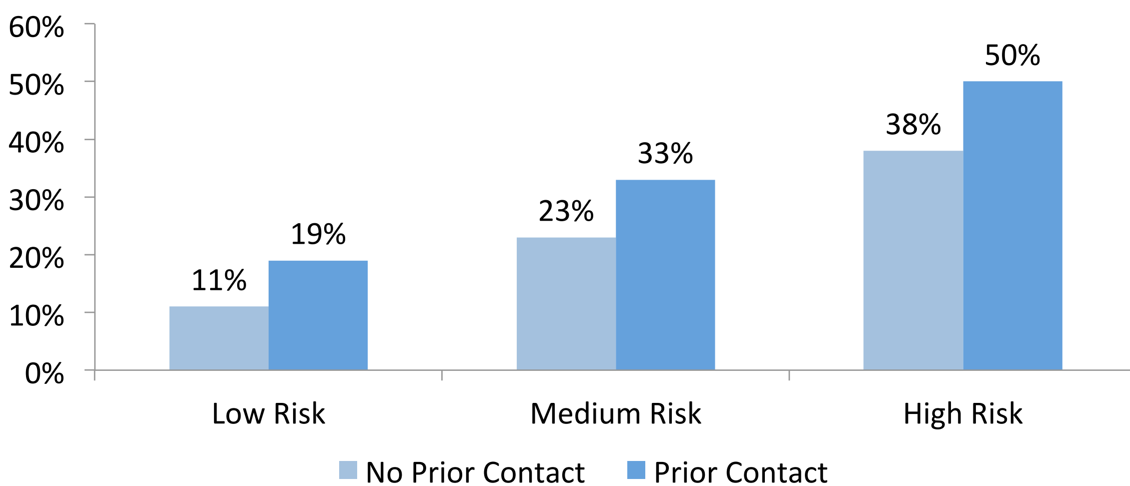
D. Recidivism rates for people released from jail who have had contact with the publicly funded behavioral health care system are considerably higher than people who have not had contact with this system.

- The three-year rearrest rate for people without prior contact with the behavioral health system was 43 percent, compared to 58 percent for those who had contact with the system.
- Among adults who were at low risk of reoffending, 11 percent who had not had a prior contact with the behavioral health care system were rearrested within one year of release, compared to 19 percent of those who did have prior contact with that system. [See Figure 3]
- Of people classified as medium risk of reoffending who had not had contact with the behavioral health care system, 23 percent were rearrested within one year of release, compared to 33 percent for who did have prior contact with that system; and of people classified as high risk of reoffending, 38 percent who had not had contact with the behavioral health care system were rearrested versus 50 percent who did have prior contact with that system.[14] [See Figure 3]

E. Dallas County leadership has taken steps to connect more people booked into jail to community-based treatment, but the impact of these efforts on recidivism has not yet been measured.

- Dallas County has taken various steps, including assigning dedicated prosecutors and defense attorneys, establishing specialty courts, using federal funds to improve linkages between the jail and community programs, and a launching a countywide reentry initiative.
- Dallas County has leveraged federal funds through the 1115 Medicaid Transformation waiver to establish the Crisis Services Project. This project utilizes innovative data systems and a network of service providers to: identify people with a history of receiving behavioral health services upon jail admission, provide clinical assessments, develop individual treatment plans, and coordinate release to the community with a warm hand-off to a community-based service provider. The Crisis Services Project also provides transitional housing, intensive community-based services, and extended substance use treatment. The project served 5,529 defendants in FY2015.
- A key component of the Crisis Services Project is a Post Acute Transition Services program operated by Transicare. This transition program begins with the engagement of people with mental health needs while they are still in jail, facilitates connection with community-based treatment, and follows them until stable in the community. Numbers served are small, however, with Transicare serving 349 people in FY2015, including 62 people discharged from the state hospital system directly into the community (instead of returning to jail).
- Dallas has funded prosecutors in the District Attorney's office and defense attorneys and case managers in the Public Defender's office who are dedicated to defendants with behavioral health needs. There is not enough dedicated staff to serve this population, and improved processes are needed to identify defendants who require a specialized attorney and to involve those attorneys from the start of the case.

Figure 3. One-Year Rearrest Rate for Jail Releases, by Risk Proxy and Contact with the Behavioral Health System



Phase Two: Next Steps

The next steps of the W.W. Caruth, Jr. Smart Justice Planning Grant project are in progress. MMHPI is working in coordination with the Caruth Police Institute (CPI), Dallas Police Department's mental health response leadership team, the Dallas Fire-Rescue Department, and the North Texas Behavioral Health Authority and its providers to address the law enforcement findings and develop policy and training recommendations, integrated with current CPI and Dallas Police Department efforts to address officers' call times, public safety, core training, and ongoing policy development.

In addition, Dallas County leaders have established three work groups, each chaired by a judge and each assigned a staff lead to support and assist the judge. These workgroups are already designing improvements in screening, assessment, and pretrial supervision protocols that respond to findings resulting from the analyses described in this report.

MMHPI is also engaging community behavioral health care providers through the North Texas Behavioral Health Authority to develop detailed implementation plans to address each gap that the analyses highlighted in this report as part of Phase Two of the planning grant. These plans include recommendations for increased intensive service capacity to serve "super-utilizers" and strategies to finance additional services to improve the diversion of people with behavioral health needs before they are arrested and connection to services after someone is released from jail.

By state mandate, the present public mental health managed care carve-out is to be replaced by a new model by January 1, 2017. The new model provides a unique opportunity to not only assist Dallas in the design of a more effective service-delivery system but also to provide the momentum to improve jail diversion efforts for people with mental illnesses.

A comprehensive system improvement plan should be ready for review by early summer of 2016. This action plan will incorporate input from key stakeholders and be presented to the W.W. Caruth, Jr. Foundation at the Communities Foundation of Texas for their review.

Endnotes

1. Lauren E. Glaze and Doris J. James, *Bureau of Justice Statistics Special Report: Mental Health Problems of Prison and Jail Inmates* (Washington, DC: U.S. Department of Justice, Office of Justice Programs, 2006). Accessed March 5, 2013, bjs.ojp.usdoj.gov/content/pub/pdf/mhppji.pdf. See more at: nami.org/Learn-More/Mental-Health-By-the-Numbers#sthash.alwE9l0D.dpuf.
2. "The Stepping Up Initiative: The Problem," The Council of State Governments Justice Center, accessed March 8, 2016, stepuptogether.org/the-problem.
3. *Analysis of Mental Health Services for Persons Released from Jail in 2013 and 2014* (Bexar County) (New York: The Council of State Governments Justice Center, 2015); *Quantitative Review of Jail Population Dynamics and Mental Health Population Trends (Dallas)* (New York: The Council of State Governments Justice Center, 2015).
4. The Meadows Mental Health Policy Institute and Texas Conference of Urban Counties, *Texas Mental Health Landscape* (Dallas, TX: Texas State of Mind, 2014). Accessed March 8, 2016, legis.state.tx.us/tlodocs/84R/handouts/C2102015031210301/c24567b7-a36c-4ab8-b8d4-70defc116a2a.PDF.
5. The Meadows Mental Health Policy Institute, "Texas Mental Health Index Project, Interim Report on County Data" (unpublished report, 2015).
6. Meadows Mental Health Policy Institute, "Focus: Smart Justice," accessed March 8, 2016, texasstateofmind.org/focus/smart-justice/.
7. "Stepping Up Initiative," The Council of State Governments Justice Center, accessed March 8, 2016, csgjusticecenter.org/mental-health/county-improvement-project/stepping-up/.
8. "About the Justice Center," The Council of State Governments Justice Center, accessed March 8, 2016, csgjusticecenter.org/about-jc/.
9. In calculating recidivism rates for this population, researchers used a uniform recidivism measure that has been used to study recidivism in Texas since the early 1990s and is presently used in the Uniform Five-County Recidivism Measure Project that the CSG Justice Center is leading in Texas.
10. C. Holzer, H. Nguyen, and J. Holzer, *Texas County-Level Estimates of the Prevalence of Severe Mental Health Need in 2012*, (Dallas, TX: Meadows Mental Health Policy Institute, 2015).
11. *Ibid.*
12. H. Cotner, Dallas Police Department, personal communication with author, January 14, 2016.
13. People released on personal recognizance or commercial bond who had prior contact with the behavioral health care system were at notably higher risk of recidivism than people without contact with that system. Council of State Government Justice Center, *Quantitative Review of Jail Population Dynamics and Mental Health Population Trends* (Dallas), November 23, 2015. Note that recidivism is calculated out of first jail releases for the year, which is the establish methodology for the project.
14. *Quantitative Review of Jail Population Dynamics and Mental Health Population Trends (Dallas)* (New York: The Council of State Governments Justice Center, 2015). Note that recidivism is calculated out of first jail releases for the year, which is the established methodology for the project.

Stepping Up: A National Initiative to Reduce the Number of People with Mental Illnesses in Jails, which is sponsored by the National Association of Counties, the American Psychiatric Association Foundation, and The Council of State Governments Justice Center, calls on counties across the country to reduce the prevalence of people with mental illnesses being held in county jails.

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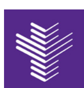

Parkland

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