



Getting Inside the Black Box: Understanding How Jail Diversion Works

August 2010

Over the past 20 years, jail diversion for persons with mental illness and co-occurring substance use disorders has become a widely accepted part of the criminal justice system. The frequent contact with police by people with unmet mental health needs and the high rates of mental and substance abuse disorders among correctional populations have created broad support for diversion across criminal justice, health, and advocacy lines. Jail diversion programs provide a way to redirect high-risk individuals from justice settings into community-based services and supports, often with judicial supervision.

The CMHS TCE Jail Diversion Program

The Center for Mental Health Services (CMHS) of the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration has supported the development and expansion of jail diversion programming nationwide since 1992. After the initial 1997 Jail Diversion Knowledge Development Application (KDA) demonstration project, expansion efforts included authorizations for the 2001 Targeted Capacity Expansion (TCE) initiative and 2002-2007 TCE for Jail Diversion Programs, followed by the 2008 13-state Jail Diversion and Trauma-Recovery: Priority to Veterans initiative.

The New Freedom Commission on Mental Health (2004) recommended jail diversion as a public health and public safety strategy. By connecting justice-involved people with a serious mental illness to comprehensive and effective mental health treatment in the community, individuals would be stabilized and communities could expect

a reduction in arrests, fewer jail days, and lower charge levels for subsequent arrests.

Over 18 years, there has been dramatic program growth, from 52 programs identified in the initial 1992 national survey (Steadman, Barbera & Dennis, 1994) to now some 560 programs operating across 47 states based on current GAINS Center estimates.

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Convening the Experts

In January 2010, a small, diverse group of researchers, policymakers, and jail diversion practitioners convened in Bethesda, MD, to assess what conclusions could be derived from the TCE Jail Diversion cross-site evaluation project data. Present were representatives from Policy Research Associates, Inc., the Council of State Governments (CSG), and Westat; Federal representatives from CMHS; program evaluators; psychiatrists; peer specialists; and criminal justice professionals from the bench, prosecution and defense. The group was charged with the task of critiquing findings, using data from 14 post-booking TCE I programs.

Major Findings

The TCE data showed the clearest impact of jail diversion in the areas of drug and alcohol use, functionality in daily living, re-arrest history and jail days, and timely service linkage. Across each of these categories, data showed improved outcomes for clients involved in a diversion program.

Drug and alcohol use dropped dramatically during the first 6 months. Self-report of any alcohol use dropped by more than 50 percent, while use of alcohol to intoxication and illegal drug use both

decreased 70 percent from baseline, with the decrease mostly sustained at 12 months.

Assessment of individual improvement and capacity for independent living showed equal improvement: the daily living/role functioning scale demonstrated improvements in functioning with baseline reductions of -0.7 and -0.78 at 6 and 12 months from a mean 2.02 baseline (scale of 1-4). The Colorado Symptom Index (CSI) demonstrated an average 30 percent improvement in symptom reduction and well-being ratings.

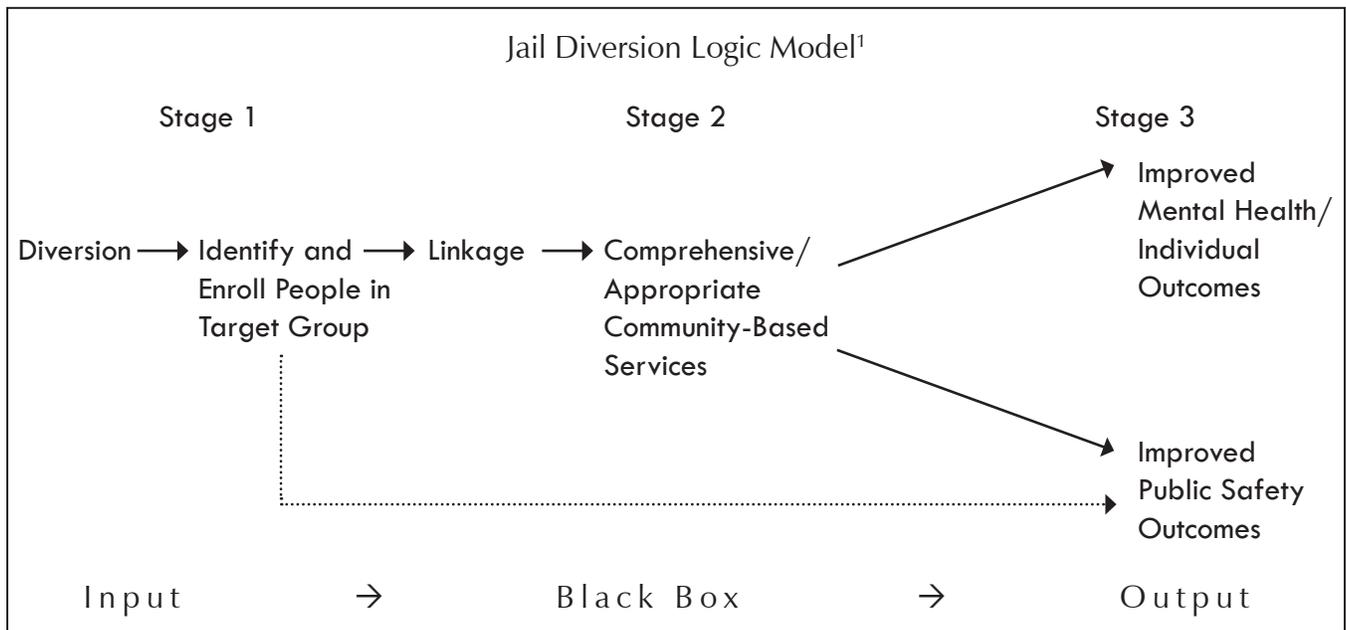
Public safety improvements were observed in 12-month data, with a 53 percent decrease in arrests post-enrollment and a corresponding reduction in jail days from 52 days pre-enrollment to 35 days at 1 year post-enrollment. Across charge history, 46 percent of clients diverted on misdemeanor charges and 49 percent of those diverted on felony charges experienced no further arrests during the following year, so that charge severity itself made no difference to the likelihood of future arrest or charge severity. Overall, diverted clients had 44 percent fewer arrests and 33 percent fewer jail days (Case et al., 2009).

Data analysis identified 3 outcome predictors for future criminal activity: lengthier prior arrest history; gender (with women less likely to reoffend); and more illegal drug use.

Overall, the data demonstrated improvement in mental health outcomes, with reduced symptoms and improved well-being, and improvement in public safety outcomes, with reduced re-arrest rates, lower charges, and fewer jail days. These data also suggest the predominant factor related to public safety outcomes is past criminal behavior. However, prior arrest history is, by itself, an insufficient determinant of future risk. Other compounding risk factors must be considered and the treatment and supports occurring within the black box of the jail diversion process must be examined.

Beyond Data: The Black Box of Jail Diversion

In science, the “black box” is an entity or system that can be viewed solely in terms of its input, output, and transfer characteristics, without any knowledge of its internal workings.



1. From Case, B., Steadman, H. J., Dupuis, S., & Morris, L. (2009). Who succeeds in jail diversion programs for persons with mental illness? A multi-site study. *Behavioral Sciences and the Law*, 27(5).

In the context of jail diversion, much is known about the demographics, charge level, and treatment needs of people going in, and study data reveal a fair amount about service retention and re-arrest history among people coming out. The black box represents variables or “change components”—from evidence-based services to the perceived role of coercion in criminal justice supervision—that may provide clues as to what works and why. Despite efforts to evaluate diversion programs and those diverted to them as homogenous groups, there remains an extraordinary level of heterogeneity among programs, dispositional practices, treatment services provided, and individual performance.

Ultimately, in analyzing the findings, the 2010 expert group concluded the data *provide enough evidence to define the key ingredients within Stage 1 and 2 of the Jail Diversion Logic Model necessary to create a competent system capable of meeting the Stage 3 public health and public safety goals.*

In concept, the jail diversion logic model hypothesizes a causal relationship that symptom control would *result* in reduced recidivism for justice-involved individuals with a mental illness. However, research has shown mental illness is not the dominant cause of arrest. In one meta-analysis, only 4 percent of arrests in a sample of

jail divertees with mental illness were the direct effect of mental illness although 14.3 percent were indirectly related. Substance abuse was the direct cause of arrest in 22.5 percent of cases, with only 8.6 percent indirectly related (Bonta, Law, & Hanson, 1998). Additional research suggests mental illness may be only a modest factor for recidivism and reveals justice-involved people with mental illnesses meet many of the “central eight” leading risk factors for future criminal behavior (Andrews et al., 2006).

“Central Eight” Risk Factors

It is important to note high “central eight” risk scores are shared both by offenders with a mental illness and those without, suggesting an alternative view of the root of the problem for frequent criminal justice contact. Some people with serious mental illnesses may:

...engage in offending and other forms of deviant behavior not because they have a mental disorder, but because they are poor. Their poverty situates them socially and geographically, and places them at risk of engaging in many of the same behaviors displayed by persons without mental illness who are similarly situated (Fisher et al., 2006, pg. 553).

“Central Eight” Risk Factors²

Risk Factor	Need
History of criminal behavior	Build alternative behavior
Antisocial personality disorder	Problem-solving skills, anger management
Antisocial cognition	Develop less risky thinking
Antisocial peers	Reduce association with criminal others
Family and/or marital discord	Reduce conflict, build positive relationships
Poor school and/or work performance	Enhance performance, rewards
Few leisure or recreation activities	Enhance outside involvement
Substance abuse	Reduce use

2. From Andrews, D. A., Bonta, J., & Wormith, J. (2006). The recent past and near future of risk and/or need assessment. *Crime and Delinquency*, 52(1).

What Is In the Black Box of Jail Diversion?

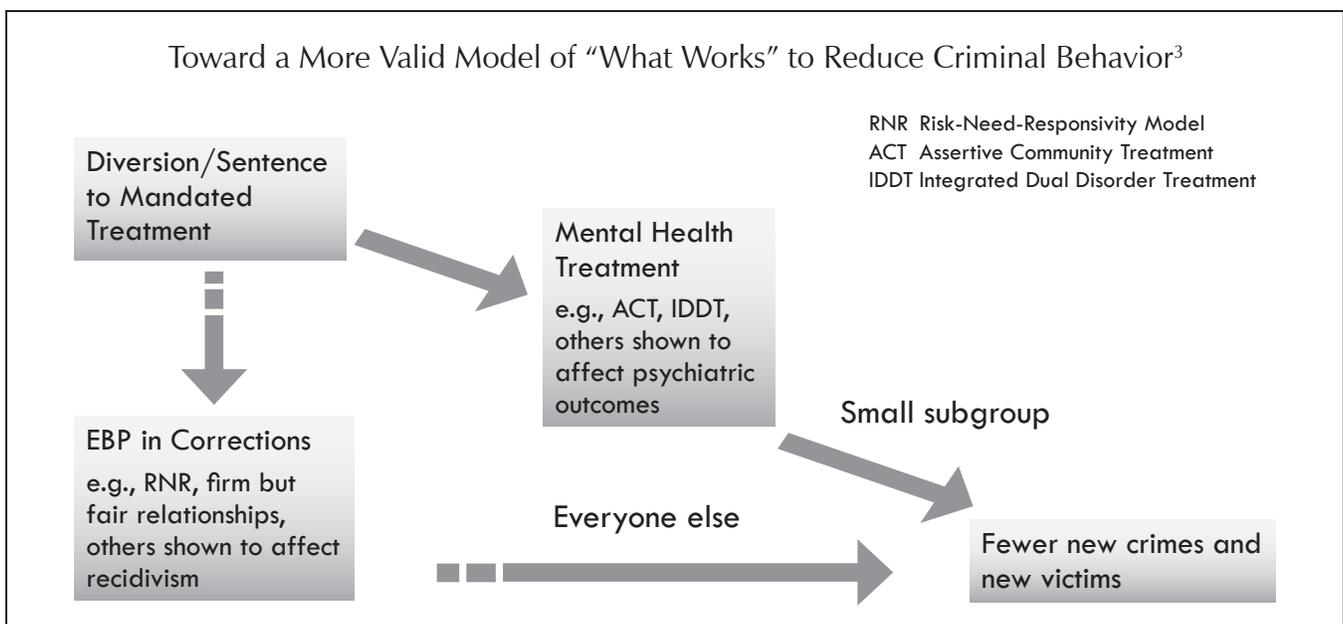
Input	What may occur in the black box	Output
Inclusionary criteria	Judicial supervision + mandated treatment	Mental health symptom control or reduction
Voluntary admission	Comprehensive needs assessment, including “central eight” risk factors	Lower costs
Men/Women	Service linkage & ancillary supports	Fewer arrests
Misdemeanor/felony charges	Person-centered, individualized planning, choice	Reduction in charge severity
Prior arrest histories	Tailored treatment & service intensity	Fewer jail days
Mental health diagnosis	Trauma-informed care	Improved quality of life
PTSD/trauma history	“Change agent” providing “firm but fair” community supervision	

Understanding the Black Box and Fine-Tuning a Model

Viewing the logic model stages as opportunity for cause and effect, jail diversion data have a fairly robust effect in meeting public health and public safety goals via engagement, treatment, and supervisory strategies in Stage 1 and 2, including: assessment, admission decisions, individualized planning, intervention choices, community-based supervision, and peer support. Despite this, people still cycle back into contact

with the justice system, which suggests the issue is not only a lack of access to services but a need for (1) access to evidence-based “competent care” and (2) outreach that could significantly reduce noncompliance and technical revocations.

TCE data tell us little about effective service ingredients: range of services, evidence-based practices, and the level of intensity at which they need to be provided. Researchers believe service answers would help define the process and changes that occur in the black box and provide



3. From Skeem, J., Peterson, J., & Silver, E. (in press). Toward research-informed policy for high risk offenders with serious mental illness. In B. McSherry & P. Keiser (Eds.), *Managing High Risk Offenders: Policy & Practice*.

a standardized model for replication. However, it may be a moot question since the evidence suggests individualized plans and the dynamics of the supervisor-client relationship are, in fact, the keys to success (Skeem et al., 2007; Skeem et al. in press).

Next Steps and Opportunities

Collectively, the data provide a framework for future directions in policy and practice. The data support the establishment of jail diversion programs on the grounds of public health, public safety, and individual success. It shows we can be reasonably accurate in distinguishing people more or less likely to re-offend and the range and intensity of their service needs. However, prior arrest history alone should not be interpreted as a preclusion to diversion but instead as a helpful indicator of greater risk factors.

Drawing on this and what we know from risk assessment and violence studies, the TCE data strongly suggest we are moving toward a *more valid model of “what works” to reduce criminal behavior*. By introducing criminogenic factors to the discussion, we see the similarities in risk factors for recidivism across offenders with and without mental illnesses. This finding indicates a successful jail diversion model, in symmetry with re-entry planning, hinges on integrated, client-oriented community services and supports the argument for the use of evidence-based practices throughout mental health and correctional settings.

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