

## Managing the Mentally ill in the Criminal Justice System.

### How is it that these people ended up with us?

Looking about us at the people we see in the street, it is difficult to determine who will become involved in wrongdoing, and who won't. Criminals don't wear flashing lights on their heads. If they did, perhaps we could anticipate what they will do, and take steps to prevent it. Sometimes, people do the wrong thing, knowing it's the wrong thing to do. They commit knowing misdeeds. They then generally try to conceal their offences. Those who come to the attention of our Service have generally been sought out and apprehended. They rarely hand themselves in.

These are the people for whom the criminal justice system is intended, and resources are provided to deal with them accordingly. The services provided to deal with the perpetrators of wrongdoing are generally punitive in nature, or designed to monitor compliance, whether in custody or in the community.

The mentally ill, however, and the developmentally delayed, generally get involved in the criminal justice system for very different reasons. They are predisposed to wrongdoing, not because they are bad people, or because they make informed decisions about breaking the law, but because they lack the emotional intelligence to respond appropriately to the world about them. Depressed people sometimes shoplift to reduce emotional pain, not because they need the things they steal. A developmentally delayed person I am familiar with murdered his roommate, because the TV was too loud. He put a pillow over his face and suffocated him. The criminal justice system is replete with examples of those who, were they not in custody, would be indigent, wholly because they lack the personal resources to manage their money or avoid being preyed upon due to mental illness or intellectual disabilities. We're prepared to feed, house and protect them in gaol, but not in the community. How does that happen? Are we a benevolent community or not? The evidence is that, despite how we like to think of ourselves, we are not.

Unlike the former group, who knowingly choose criminality, a person who lacks the personal resources to cope in everyday life might as well have a flashing light on their head. We know in advance that, by virtue of their condition, they will likely become involved in harming themselves, whereby they may be scheduled and be put into a medical facility, or others, in which case they will be charged with an offence and come to us. They are thereby brought to account for something for which they cannot realistically be held accountable. If they do not receive the support they need to cope in the community, they will more than likely finish up in the criminal justice system, being supervised by either prison officers or probation and parole officers.

We need to ask ourselves some serious questions if we're prepared to defend this situation. Is it reasonable to deny people with special needs the support they require to cope out in the community? And when they stumble, as they often do, is it reasonable to punish them, when we knew beforehand who these people were, and did little to assist them?

It is inevitable that a large proportion of mentally ill or intellectually disabled people will, without support, enter the criminal justice system. When we decline to provide the support they require to avoid this personal disaster, we are making a choice. We are choosing between providing them with proper care and support in the community, and denying them their liberty.

Those of us who are blessed with the faculties to avoid criminality if we so choose expect our freedom as a human right. How is it that those less able are not viewed as worthy of the support they require to lay claim to their freedom? If they are entitled to their freedom, they are entitled to the support they require to avoid offending.

The Supreme Court coined a phrase to describe those who avoid certain information so that they can deny knowledge of an offence. I believe it was about a person who refused to open or read his/her bank statements so that s/he could deny knowledge of the payment of Centrelink money to which s/he wasn't entitled. The Supreme Court defined this behaviour as "Intentional Blindness".

Those who dismantled the mental health infrastructure and left those affected to the criminal justice system can no longer claim ignorance. Intentional Blindness isn't an option. The record is in the book.

My experience is that when a mentally ill offender is added to my caseload, it becomes my responsibility to locate and access proper support for them, but these are the very resources that were deliberately dismantled years ago.

When these clients self-harm or wear out their welcome with their families due to their aberrant behaviour, it is next to impossible to find suitable accommodation or treatment for them. The psych wards of hospitals are stretched to breaking point, and if they accept them, it is only ever for the bare minimum time they can manage. They're like a M.A.S.H unit. Patch 'em up and send them on their way.

As I see it, there are two options that might go some way to remedying the current situation: Provide resources so that these people can be treated and supported adequately to avoiding the criminal justice system, or train and resource us so that we can provide them with the support they need.

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