



**Markkula Center**  
for Applied Ethics  
*at Santa Clara University*

**The Criminalization of Mental Illness:  
An Ethical Analysis of the Need for  
Disentanglement of Mental Illness and  
Criminal Justice**

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## Section I. Introduction

In 2008, social worker Heath Hodge arrived at a residence in San Francisco owned by the nonprofit that he worked for, Conrad House, which owns and operates various homes for adults struggling with mental illness. He was there to check on Teresa Sheehan, a 56 year old woman diagnosed with schizoaffective disorder. Sheehan was struggling, and had exhibited worrisome behavior such as declining meals and failing to attend house meetings. Hodge was called there to check in on Sheehan and to help her access care, as she was clearly in need of real support. The day ended with Sheehan being transferred to the emergency room with 14 bullet holes in her body, including in her head, after police officers arrived.<sup>2</sup> How did this interaction go so horribly wrong? How did this woman, in dire need of medical care and attention, become the victim of police violence? The answers to these questions are quite complex and deeply rooted in the unjust treatment that people struggling with mental illness are subjected to in the United States.

Although the circumstances surrounding Teresa Sheehan's tragic experience that day in San Francisco are complicated and unique, the story is all too familiar. The criminalization of mental illness in the United States is a pervasive and tragic problem that is both a symptom and a cause of broken criminal justice and health care systems. Nationally, an estimated two million arrests, or 16.9% of the total number of arrests, per year involve people with serious mental health conditions.<sup>3</sup> As the nation's largest mental health facility, the sheer number of incarcerated people who are enduring mental illness shows an epidemic that permeates throughout every corner of our communities. This paper will serve to dissect the dynamics of both the criminal

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<sup>2</sup> Allen, S. (2015, July 9). *The Trials of Teresa Sheehan*. Center for Law, Brain & Behavior. Retrieved May 10, 2022, from <https://clbb.mgh.harvard.edu/the-trials-of-teresa-sheehan/>

<sup>3</sup> Bailey, M. (2020, June 29). *Mental Illness: A Condition, Not a Crime*. Becker's Hospital Review. Retrieved May 10, 2022, from <https://www.beckershospitalreview.com/care-coordination/mental-illness-a-condition-not-a-crime.html>

justice and health care systems within the United States, and understand the ethical implications behind these fundamental structures that are currently failing thousands of members of our communities every day.

## **Section II. The Problem**

The need for reform of both the health care and criminal justice systems in the United States is critically urgent and necessary in order to reduce the criminalization of mental illness. As previously stated, the prison system is the largest mental health facility that exists nationally, and the overlap between health care and justice undermines the effectiveness of each system while harming human lives in the process. The mental health crisis facing the United States is a tragic and pervasive problem that will take creative, sympathetic, and effective solutions to help. In order to do so, understanding the nature of mental illness is vitally important.

Mental illnesses are physical ailments, just as other health disorders are, and must be handled with the understanding that these health concerns are just as uncontrollable as other illnesses.<sup>4</sup> People experiencing mental health crises are oftentimes not aware of their surroundings, and unable to control their actions. For example, in the case of schizophrenia, two of the most common symptoms are delusions and hallucinations.<sup>5</sup> These false beliefs are not based in reality, and involve experiences that are nonexistent, but feel extremely real to those enduring them. These unmanageable thoughts and experiences can be quite terrifying, especially when paired with an unsympathetic reaction from a first responder. It is critically important to

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<sup>4</sup> Mental Health Literacy. (2022, March 5). *Mental Disorders*. Retrieved May 10, 2022, from <https://mentalhealthliteracy.org/mental-disorders/#:%7E:text=IMPACT%20OF%20MENTAL%20ILLNESS,a%20choice%20or%20moral%20failing>

<sup>5</sup> Mayo Clinic Staff. (2020, January 7). *Schizophrenia - Symptoms and causes*. Mayo Clinic. Retrieved May 10, 2022, from <https://www.mayoclinic.org/diseases-conditions/schizophrenia/symptoms-causes/syc-20354443#:%7E:text=Hallucinations, is%20the%20most%20common%20hallucination>

establish the uncontrollable nature of mental illness before discussing care for these health concerns.

As is reported by the Substance Abuse and Mental Health Association (SAMHSA), only 46.2% of adults in the United States are receiving treatment of any kind.<sup>6</sup> Given that as estimated 52.9 million adults are experiencing mental illness of any kind (AMI), the low number of services being offered is leaving 24.3 million people without any care at all.<sup>7</sup> These numbers also do not account for the fact that much of the care being provided is not effective, so the likelihood that many more people are in need of better resources is quite high. If individuals experiencing behavioral health problems/mental illness do not have adequate access to treatment, then it is impossible to get help, and conditions continue to worsen. The lack of access to care is an incredibly large barrier that millions of people are facing, and the health care system has a responsibility to resolve this challenge. When the health care system fails to do so, as continuously is the case, the justice system are the ones that pick up the slack. The justice system, however, is not equipped to take on this burden in an effective manner, which leads to adverse outcomes for those in need of care.

As it has been established that oftentimes people experiencing a mental health crisis of the sort that first responders are typically called for, such as a disruptive or unsafe outburst, are unaware of what they are doing, it is then imperative to assess the need for effective first responders. It has been shown that the health care system does not provide adequate care, which then calls for an assessment of the justice system that is taking its place. The uncontrollable nature of a mental illness combined with police who are unable to accurately assess and

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<sup>6</sup>National Institute of Mental Health. (2022, January 1). *Mental Illness*. National Institute of Mental Health (NIMH). Retrieved April 30, 2022, from <https://www.nimh.nih.gov/health/statistics/mental-illness>

<sup>7</sup>National Institute of Mental Health. (2022, January 1). *Mental Illness*. National Institute of Mental Health (NIMH). Retrieved April 30, 2022, from <https://www.nimh.nih.gov/health/statistics/mental-illness>

de-escalate a situation is what creates harmful interactions. The justice system has proven to be an incredibly ineffective and harmful replacement, with the rate of being killed during a police encounter being 16 times higher than others.<sup>8</sup> This shocking number tells a tragic truth; the failure of the health care system to properly provide care to those experiencing mental health crises, combined with the inability of police officers to safely control these interactions leads to unwarranted and unjust violence.

It is at this intersection between health care and justice where reform is needed in order to both effectively care for those in need of help, as well as removing police officers from situations in which they are not trained to handle. Changing who are the first responders to arrive at a mental health call to be medical professionals, as well as providing sufficient training for police officers in the case that they are called are essential measures that must be taken in order to reverse this tragic and violent criminalization of mental illness. It is important to note that without a shift in cultural stigmas and perspectives about mental health, however, these changes will be insufficient. Cultural attitudes regarding mental illness and the lack of useful resources are both causes and effects of each other, and a change on both sides of the spectrum must co-occur in order to truly be effective.

### **Section III. Ethical Discussion**

As has been outlined in Sections I and II, there is a very clear crisis facing a large population of individuals in the United States. Disentangling mental health and substance issues from the criminal justice system and redistributing resources to better equip the health care system to take on these public health crises is vital to the good of individuals and the community.

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<sup>8</sup> Fuller, D., Lamb, H. R., Biasotti, M., & Snook, J. (2015). Overlooked in the Undercounted: The Role of Mental Illness in Fatal Law Enforcement Encounters. *Treatment Advocacy Center*. <https://www.treatmentadvocacycenter.org/storage/documents/overlooked-in-the-undercounted.pdf>

In order to fully understand the breadth of this issue, it is critical to focus on the ethical implications of continuing to turn a blind eye to these health crises. To do so, this paper will use the Framework for Ethical Decision Making put forth by the Markkula Center for Applied Ethics to outline the harmful effects of the criminal justice system as related to mental health and substance use disorders.<sup>9</sup>

The first step in applying the Markkula Center's Framework is to identify the ethical issue at hand.<sup>10</sup> Asking questions about the potential damage being done to an individual or group, as well as understanding the deeper implications beyond the surface level facts, such as legal definitions, opens the door for an ethical evaluation to take place. For the purposes of this paper, there is clear evidence that by imprisoning people experiencing mental health crises, we are damaging individuals, the criminal justice and health care systems, and the community as a whole.

### **Stakeholder Analysis**

After establishing that there is an ethical issue at hand, it is critical to understand the facts of the case, such as who the major players are, and how decisions are made. In this circumstance, there are a plethora of stakeholders, all coming to a situation from varying perspectives. The combination of these unique opinions leads to final outcomes, and certain stakeholders positions hold more weight than others due to societal hierarchies that are embedded in our country.

Although it varies from case to case, a few key stakeholders are worth mentioning: the

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<sup>9</sup> Markkula Center for Applied Ethics. (2021, November 8). *A Framework for Ethical Decision Making*. Markkula Center for Applied Ethics at Santa Clara University. Retrieved April 7, 2022, from <https://www.scu.edu/ethics/ethics-resources/a-framework-for-ethical-decision-making/>

<sup>10</sup> Markkula Center for Applied Ethics. (2021, November 8). *A Framework for Ethical Decision Making*. Markkula Center for Applied Ethics at Santa Clara University. Retrieved April 7, 2022, from <https://www.scu.edu/ethics/ethics-resources/a-framework-for-ethical-decision-making/>

individuals experiencing mental health crises, the first responders (police officers, EMTs, etc.), the family members and friends of those experiencing mental health crises, the state, and the public. Each of these groups has a unique stake in an emergency situation, and by understanding whose voices are being prioritized helps to gain insight into why this issue continues to occur.

The first of these stakeholders that should be considered is the individual that is actually experiencing a mental health crisis in some form or another. This person, focused on their personal safety and health, is focused on receiving care. If care is not received, or given in a non-compassionate way, then the individual's rights and dignity have been violated.<sup>11</sup> Due to the potential for their own rights to be violated, this individual holds a large stake in ensuring that proper care is provided.

Another important stakeholder is the first responders that are actually providing the initial care for the individuals that are experiencing the crisis. As it varies case by case, these first responders can include members of both the criminal justice system and the health care system. Depending on the first responder's specific job and industry, the stakes can look different. Regardless of what the first responder's personal investment in the case is, however, they are a critical stakeholder in determining the outcome of an encounter with a person experiencing a mental health crisis.

Another group of notable stakeholders in these circumstances is the family members and friends of the person experiencing a mental health or substance use crisis. These people are likely first and foremost concerned with the wellbeing of their loved one, and want to be guaranteed that proper care will be given. The level to which these stakeholders are involved depends on the

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<sup>11</sup> Velasquez, M., Andre, C., Shanks, T., J, S., & Meyer, M. J. (2014, August 8). *Rights*. Markkula Center for Applied Ethics at Santa Clara University. Retrieved May 15, 2022, from <https://www.scu.edu/ethics/ethics-resources/ethical-decision-making/rights/>



specifics of each unique circumstance, however, any friends and family members that are involved will want to ensure that the safety and health of the individual is being prioritized. This group may act as a voice for the person experiencing a crisis, as the individual may be incapable of advocating for themselves. This group, then, plays a critical role in situations where help is needed for someone experiencing a mental health emergency. As previously mentioned, the influence that loved ones may have on the outcome of an interaction depends on individual circumstances, such as differences in the availability of resources.

Another key stakeholder in these situations is the state. The government has a duty and mission to take care of its citizens, including by providing them with the proper care and resources necessary to their wellbeing. For those experiencing a mental health emergency, the state has a stake in both providing care, while also using their resources in the most efficient way. For the best interest of the state, this stakeholder seeks to strike a balance between taking care of individuals while also protecting their own assets and being careful with how and where they distribute resources.

For the purposes of this paper, the final stakeholder is the public. The society in which these problems are occurring is directly affected by the way in which issues are addressed, and therefore hold stake in the outcome of conflict. The public also holds a monetary stake in this issue, as it is their tax dollars that fund much of the criminal justice and health care systems that are taking action in these crises.

Now that the facts of interactions between criminal justice, health care, and mental health issues have been established, the next step in the Markkula Center's Framework would be to review the options for taking action.<sup>12</sup> Before this paper offers an analysis of solutions that

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<sup>12</sup> Markkula Center for Applied Ethics. (2021, November 8). *A Framework for Ethical Decision Making*. Markkula Center for Applied Ethics at Santa Clara University. Retrieved April 7, 2022, from <https://www.scu.edu/ethics/ethics-resources/a-framework-for-ethical-decision-making/>

currently exist, it is important to understand this issue in the context of the ethical lenses provided by the Markkula Center.

The Framework has provided a comprehensive group of six lenses through which ethical issues can be analyzed, for the purpose of “determining what standards of behavior and character traits can be considered right and good”.<sup>13</sup> These lenses are the culmination of thinking from many various philosophers, ethicists, and theologians. The six lenses that the Markkula Center highlights are: Rights, Justice, Utilitarian, Common Good, Virtue, and Care. For the purposes of this paper, the Justice Lens and the Care Lens will be used for analysis. Both of these ethical analyses provide a clear imperative for action to be taken in order to disentangle mental illness from the criminal justice system.

### **Justice Lens**

At the root of the Justice Lens is the concept of providing each person with what they deserve. Bad or good, justice emphasizes the need for everyone to receive their due.<sup>14</sup> Under this general definition of *justice*, a distinction is made to include a more specific understanding of *fairness*. Fairness can be used to “refer to the ability to make judgements that are not overly general but that are concrete and specific to a particular case”.<sup>15</sup> For the purposes of this paper, fairness and justice emphasize the necessity to ensure that each person is receiving treatment that is both just and fair when experiencing a mental health crisis. This includes recognizing the unique circumstances of each case, such as mental health disorders that may be influencing

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<sup>13</sup> Markkula Center for Applied Ethics. (2021, November 8). *A Framework for Ethical Decision Making*. Markkula Center for Applied Ethics at Santa Clara University. Retrieved April 7, 2022, from <https://www.scu.edu/ethics/ethics-resources/a-framework-for-ethical-decision-making/>

<sup>14</sup> Velasquez, M., Andre, C., Shanks, T., J, S., & Meyer, M. J. (2014a, August 1). *Justice and Fairness*. Markkula Center for Applied Ethics at Santa Clara University. Retrieved April 19, 2022, from <https://www.scu.edu/ethics/ethics-resources/ethical-decision-making/justice-and-fairness/>

<sup>15</sup> Velasquez, M., Andre, C., Shanks, T., J, S., & Meyer, M. J. (2014a, August 1). *Justice and Fairness*. Markkula Center for Applied Ethics at Santa Clara University. Retrieved April 19, 2022, from <https://www.scu.edu/ethics/ethics-resources/ethical-decision-making/justice-and-fairness/>

behavior, and adjusting reactive treatment accordingly. This lens breaks down justice into three distinct forms: distributive, retributive/corrective, and compensatory justice. This analysis will focus on distributive justice.

Distributive justice describes the justice and fairness of a society's institutions. The extent that burdens and benefits are distributed properly according to the concepts of justice and fairness is critical to a healthy society, and when these institutions fail, then action must be taken to correct this disparity.<sup>16</sup> Although institutions themselves are inanimate and therefore may be questioned as to how they interact with ethics, there is a very direct link between these structures and human lives. As stated by Dr. Linda L. Emanuel, "structures are about relationships, and as soon as the structures are implemented, they become animated (...) organizations, systems and institutions are composed of individuals and groups of people with moral obligations".<sup>17</sup> The health care and criminal justice systems are fundamental institutions that make up our society, and both of these structures are continuously failing a large population of individuals they are supposed to protect. The stability of our society rests on the justness of our institutions, as John Rawls argued, and when members of a community are not being treated fairly the door opens for "social unrest, disturbances, and strife".<sup>18</sup>

The emphasis that distributive justice places on social dependence between institutions and individuals calls for a change within our own societies regarding how we treat those experiencing mental health crises. In the journey towards fair and just treatment, it is morally wrong to imprison people with mental illness, especially without delivering them opportunity for

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<sup>16</sup> Velasquez, M., Andre, C., Shanks, T., J, S., & Meyer, M. J. (2014a, August 1). *Justice and Fairness*. Markkula Center for Applied Ethics at Santa Clara University. Retrieved April 19, 2022, from <https://www.scu.edu/ethics/ethics-resources/ethical-decision-making/justice-and-fairness/>

<sup>17</sup> Emanuel, L. L. (2000). Ethics and the Structures of Healthcare. *Cambridge Quarterly of Healthcare Ethics*, 9(2), 151–168. <https://doi.org/10.1017/s0963180100902032>

<sup>18</sup> Velasquez, M., Andre, C., Shanks, T., J, S., & Meyer, M. J. (2014a, August 1). *Justice and Fairness*. Markkula Center for Applied Ethics at Santa Clara University. Retrieved April 19, 2022, from <https://www.scu.edu/ethics/ethics-resources/ethical-decision-making/justice-and-fairness/>

proper care. By turning a blind eye to individual circumstances and health factors that people are unable to control, unjust treatment by fundamental institutions of our society is harming thousands of people each day. The concepts outlined by the Justice Lens of the Markkula Center's Framework for Ethical Decision Making show a clear ethical imperative to take action to correct this blatant failure of our society.

### Care Ethics Lens

The next ethical lens that will be applied to the disentanglement of mental illness and criminal justice is that of Care Ethics. Care Ethics, as explained by the Markkula Center's Framework, is focused on relationships and "holds that options for resolutions must account for the relationships, concerns, and feelings of all stakeholders".<sup>19</sup> The emphasis that Care Ethics places on the interdependence that exists both between individuals as well as between institutions and individuals calls for reform of society's fundamental systems. The ethical responsibility that these structures hold in our society must be acknowledged and upheld in order to ensure they are benefiting the community that they serve.

The combination of ways that structures hold ethical responsibility combined with the relationship-focused lens of Care Ethics create a compelling need to address the failures of the healthcare and criminal justice systems in our society. A few ways in which institutions can be understood to hold ethical duty are that these systems produce outcomes for individuals, that structures are created for intentional purposes (and therefore hold responsibility to those purposes), and that institutions are composed of individual people with moral obligations.<sup>20</sup>

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<sup>19</sup> Markkula Center for Applied Ethics. (2021, November 8). *A Framework for Ethical Decision Making*. Markkula Center for Applied Ethics at Santa Clara University. Retrieved April 7, 2022, from <https://www.scu.edu/ethics/ethics-resources/a-framework-for-ethical-decision-making/>

<sup>20</sup> Emanuel, L. L. (2000). Ethics and the Structures of Healthcare. *Cambridge Quarterly of Healthcare Ethics*, 9(2), 151–168. <https://doi.org/10.1017/s0963180100902032>

As explained by Dr. Linda L. Emanuel, organizations inevitably produce outcomes and hold influence over the sector they exist in. The duty to perform their responsibilities and generate the best possible outcomes is an ethical attribute.<sup>21</sup> When there is “a causal relationship between a party and an outcome, with rare exception responsibility is incurred”.<sup>22</sup> For the purposes of this paper, the systems of healthcare and criminal justice both have a direct effect on the outcome of a person experiencing a mental health crisis, and therefore it follows that these institutions must act in ethical ways in order to be morally sound and effective structures.

The second reason that structures can be considered ethical beings is due to the intent behind their creation. All institutions are created for a purpose, or else they would not exist, and it is this purpose from which ethical duty arises. In order to act in an ethical manner, these institutions must act in a way which serves their unique purposes, and does so in a non-harmful way; organizations can be “designed for their justified purposes, evaluated by their ability to complete those purposes, and held accountable for doing so”.<sup>23</sup> In this sense, if an institution is failing to effectively serve its purpose, then it should be held morally responsible for this failure. In the case of mental illness, the healthcare system is failing to meet its purpose to provide quality medical care as it is neglecting this group of individuals, so it is not being ethically responsible, and must be held accountable to resolve this wrongdoing. Each institution is designed to serve an unique set of purposes, and no system should be expected to bear the burden of another structures responsibility, as this detracts from its’ own effectiveness:

For instance, it is a general principle that healthcare is good and its values are a necessary part of civilization. It is also a general principle that justice is good and that the legal system should implement just order in a society. However, the medical profession will

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<sup>21</sup> Emanuel, L. L. (2000). Ethics and the Structures of Healthcare. *Cambridge Quarterly of Healthcare Ethics*, 9(2), 151–168. <https://doi.org/10.1017/s0963180100902032>

<sup>22</sup> Emanuel, L. L. (2000). Ethics and the Structures of Healthcare. *Cambridge Quarterly of Healthcare Ethics*, 9(2), 151–168. <https://doi.org/10.1017/s0963180100902032>

<sup>23</sup> Emanuel, L. L. (2000). Ethics and the Structures of Healthcare. *Cambridge Quarterly of Healthcare Ethics*, 9(2), 151–168. <https://doi.org/10.1017/s0963180100902032>

balance its priorities differently from the legal profession because of its purposes. The legal profession should not be much accountable for medical care and the medical profession should not be much accountable for just order in society.<sup>24</sup>

This need for each institution to uphold their individual set of purposes creates a moral imperative for the healthcare system to be well-equipped to take on behavioral health crises, and the justice system should be trained with the tools to assist an individual in accessing these resources, when inevitably the two structures overlap.

The third reason that institutions hold moral responsibility is due to the fact that they are created and run by individual people who have their own ethical obligations. The relationships that compose organizations create animation, and therefore establish collective moral responsibilities.<sup>25</sup> As all of the distinct pieces of an institution are composed of individuals who determine the way in which it functions, which then determines the outcome, a causal relationship can be shown between the people and the results. As the individuals hold innate moral obligations, these ethical standards are transferred to the structure in which they are a part of. As such, the interdependence of human relationships and organizations emphasizes the need for the fundamental structures that make up our society, including the health care and criminal justice systems, to be held accountable for their actions from an ethical standpoint. When there is a failure to meet moral obligations, as is outlined by the unfair and unjust nature of the criminalization of mental illness, there is a moral obligation to resolve the deficiency.

As is outlined by the Justice Lens and Care Lens of ethical reasoning put forth in the Markkula Center's Framework for Ethical Decision Making, there is an ethical imperative to disentangle behavioral health from criminal justice in the United States. Reducing the

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<sup>24</sup> Emanuel, L. L. (2000). Ethics and the Structures of Healthcare. *Cambridge Quarterly of Healthcare Ethics*, 9(2), 151–168. <https://doi.org/10.1017/s0963180100902032>

<sup>25</sup> Emanuel, L. L. (2000). Ethics and the Structures of Healthcare. *Cambridge Quarterly of Healthcare Ethics*, 9(2), 151–168. <https://doi.org/10.1017/s0963180100902032>

criminalization of mental illness is a moral issue that, when left unattended, produces harmful consequences for a vast population. In order to begin to sufficiently address these complicated issues, a number of solutions have been developed across the country. After establishing the need for these programs, an outline of specific solutions is outlined below.

## **Section IV. Solutions**

There are a number of ways in which this issue can be addressed, within both the healthcare and criminal justice systems, many of which have been implemented throughout the country. Regardless of what solutions look like, however, it is clear that “EDs (Emergency Departments), which provide screening and triage for acute medical conditions, are not the best treatment option for individuals whose crisis state is driven by mental illness and or substance use that could be more effectively addressed in a specialized setting”.<sup>26</sup> In order to affect real change, a much more widespread and comprehensive plan must be implemented at both national and local levels. In order to do so, this paper will provide an analysis of different programs that are being actively run throughout the country. Examples of solutions which will be evaluated include *crisis diversion facilities*, *mental health first responder teams*, and *mental health/problem-solving courts*.

It is important to note that while all of these solutions hold great potential to disrupt the harmful effects of the criminalization of mental illness, the need for a shift in policing attitudes and training is critical to the success of any program. While the “Defund the Police” movement will not provide necessary results, it can be a helpful way to understand reallocating certain

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<sup>26</sup> Manaugh, B. (2020). Behavioral Health Crisis and Diversion from the Criminal Justice System: A Model for Effective Community Response. *Health Management Associates*.  
[https://www.healthmanagement.com/wp-content/uploads/AVCrisisFacilityReport\\_v7.pdf](https://www.healthmanagement.com/wp-content/uploads/AVCrisisFacilityReport_v7.pdf)

responsibilities that police officers are not necessarily trained for, in order to both take pressure off of police forces and allow resources to be utilized more effectively elsewhere.<sup>27</sup>

### *Crisis Diversion Facilities*

Crisis diversion facilities are one way in which health care, law enforcement, and first responder services can be coordinated into one facility.<sup>28</sup> These centers focus on comprehensive care, as they provide a number of different services in order to diminish interaction of individuals struggling with a mental health or substance use crisis with both the justice system and hospitals that are already overwhelmed, and may not have the resources to appropriately address these specific needs. This model presents various services under the umbrella of coordinated behavioral health care, which include: 24-hour crisis lines, walk-in crisis services, mobile crisis teams, and Crisis Stabilization Units (CSUs). The model of crisis diversion facilities is built with the goal of “building upon community assets to improve the health and wellbeing of individuals with behavioral health and other challenges, with the goal of better outcomes and cost reductions for communities”.<sup>29</sup> When communities come together and support these services, the stigma surrounding mental health can be reduced, and an increase in both accessibility and acceptability of care will occur.

Crisis Diversion Facilities have been implemented in a number of states, including Arizona and Texas. In Pima County, AZ, the Crisis Response Center (CRC) has been operating

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<sup>27</sup> Atchity, V. (2022, February 11). *'Care Not Cuffs': Redefining Mental Health Outreach*. Police1. Retrieved May 13, 2022, from

<https://www.police1.com/policing-matters/articles/care-not-cuffs-redefining-mental-health-outreach-ZKXwTAKosgKqY6di/?fbclid=IwAR2dWrcUF5mCiaPsaWXV39MFPi1FmjXaPkzG2pYTr11UaAKJx9NLvUuzVKE>

<sup>28</sup> Manaugh, B. (2020). Behavioral Health Crisis and Diversion from the Criminal Justice System: A Model for Effective Community Response. *Health Management Associates*.

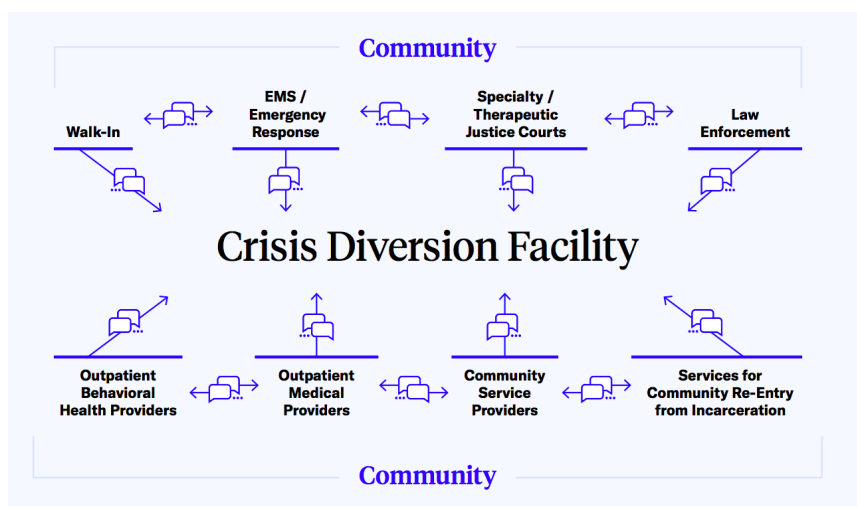
[https://www.healthmanagement.com/wp-content/uploads/AVCrisisFacilityReport\\_v7.pdf](https://www.healthmanagement.com/wp-content/uploads/AVCrisisFacilityReport_v7.pdf)

<sup>29</sup> Manaugh, B. (2020). Behavioral Health Crisis and Diversion from the Criminal Justice System: A Model for Effective Community Response. *Health Management Associates*.

[https://www.healthmanagement.com/wp-content/uploads/AVCrisisFacilityReport\\_v7.pdf](https://www.healthmanagement.com/wp-content/uploads/AVCrisisFacilityReport_v7.pdf)



since 2011, and was originally established to support existing behavioral health services at the Banner University Medical Center. Thought of as a “one-stop hub for comprehensive, coordinated care for people experiencing crisis”, Pima County is a leader among mental health care reform, as they have integrated behavioral health care as a priority in their community.<sup>30</sup> The efforts made among community leaders in Pima County offered not only a plan for this physical establishment of the CRC, but have also partnered with law enforcement in order to “develop vision, design, and plan that would ultimately create “no wrong door” for people in behavioral health crisis”.<sup>31</sup>



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This culture of care that is being prioritized in Pima County is a model of how mental health care should be treated. Leaders are focused on reducing the unmet mental health care needs to prison pipeline, and by finding ways to say yes to anyone who walks in the door,

<sup>30</sup> Schmidt, C. (2022, March 3). *Tucson Crisis Center Expanding Services for Faster Mental Health Care*. Arizona Daily Star. Retrieved April 12, 2022, from [https://tucson.com/news/local/tucson-crisis-response-center-expanding-urgent-care-adding-services-to-meet-demand/article\\_e2600b2a-890b-11ec-b977-cb2171b74488.html](https://tucson.com/news/local/tucson-crisis-response-center-expanding-urgent-care-adding-services-to-meet-demand/article_e2600b2a-890b-11ec-b977-cb2171b74488.html)

<sup>31</sup> Manaugh, B. (2020). Behavioral Health Crisis and Diversion from the Criminal Justice System: A Model for Effective Community Response. *Health Management Associates*. [https://www.healthmanagement.com/wp-content/uploads/AVCrisisFacilityReport\\_v7.pdf](https://www.healthmanagement.com/wp-content/uploads/AVCrisisFacilityReport_v7.pdf)

<sup>32</sup> Manaugh, B. (2020). Behavioral Health Crisis and Diversion from the Criminal Justice System: A Model for Effective Community Response. *Health Management Associates*. [https://www.healthmanagement.com/wp-content/uploads/AVCrisisFacilityReport\\_v7.pdf](https://www.healthmanagement.com/wp-content/uploads/AVCrisisFacilityReport_v7.pdf)

high-risk individuals are given the proper care and attention, while law enforcement officers are relieved of a responsibility that they may be unequipped to properly handle.<sup>33</sup> A large benefit of the CRC model is that it benefits both those in need of care as well as officers. By expanding services and creating a separate entrance for law enforcement to drop off individuals, it reduces the time that officers spend with each call. The idea was to make it faster and easier than checking someone into jail. This practical benefit is important, and paves the way for the more complex issues of ensuring proper care. By protecting both individuals experiencing crisis and providing them with a safe and effective environment to be brought to, as well as easing the burden that police officers and other first responders face, the CRC is an excellent example of coordinated community efforts to aid the problem of mental health services.

Another place that stands out as a leader in this field is Bexar County, Texas. The Restoration Center began as part of a much broader initiative to address the failures of the healthcare and criminal justice systems that were leaving countless people struggling with mental health and substance use issues with no effective options. The Bexar County Jail Diversion Program was started in 2002 as a part of the Jail Diversion Planning and Advisory Committee (PAC).<sup>34</sup>

The diversion model implemented in Bexar County focuses on three main components: diverting individuals experiencing mental illness or substance use disorders from the criminal justice system, assisting incarcerated individuals with re-entry into the community, and providing behavioral health crisis disposition for law enforcement.<sup>35</sup> Under each of these categories, there

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<sup>33</sup> Richmond, L. M. (2022). Tucson Shares Blueprint for Crisis System Success. *Psychiatric News: American Psychiatric Association*, 57(02). <https://doi.org/10.1176/appi.pn.2022.1.7>

<sup>34</sup> Manaugh, B. (2020). Behavioral Health Crisis and Diversion from the Criminal Justice System: A Model for Effective Community Response. *Health Management Associates*. [https://www.healthmanagement.com/wp-content/uploads/AVCrisisFacilityReport\\_v7.pdf](https://www.healthmanagement.com/wp-content/uploads/AVCrisisFacilityReport_v7.pdf)

<sup>35</sup> Manaugh, B. (2020). Behavioral Health Crisis and Diversion from the Criminal Justice System: A Model for Effective Community Response. *Health Management Associates*. [https://www.healthmanagement.com/wp-content/uploads/AVCrisisFacilityReport\\_v7.pdf](https://www.healthmanagement.com/wp-content/uploads/AVCrisisFacilityReport_v7.pdf)

are specific guidelines and programs in place to help The Restoration Center meet these goals. One such element is the screening tools that law enforcement officers use to understand a behavioral health crisis. These guidelines, known as the LE4, consist of four questions for law enforcement officers to understand whether an individual should be diverted from the criminal justice system to a behavioral health response. All law enforcement agencies in Bexar County have put requirements in place for officers to use this questionnaire before submitting a booking slip. This questionnaire is then reviewed, and if deemed appropriate, then the individual will be assessed further by a qualified mental health professional.<sup>36</sup>

The Integrated Treatment Program implemented at the Restoration Center and across Bexar County shows a system in which individuals with mental health, substance use, and other co-occurring disorders can receive care through “braided” funding.<sup>37</sup> This model utilizes funds from a combination of sources, such as state contracted physicians and Mobile Crisis Outreach Teams that are funded by the state. This financial approach allows the crisis diversion facilities to be feasible and effective, as multiple institutions are sharing the burden of cost.

The crisis diversion model as a solution to redirecting mental health care away from the criminal justice system is a comprehensive, effective, and creative way to mitigate this issue. This model has been replicated multiple times throughout the country, and there are resources available to assist communities that are interested in implementing these kinds of models. Although there are hoops to jump through in terms of funding and infrastructure that must be put in place before a facility can be successful, the results of this model are promising and offer an effective solution to increasing mental health care in the United States.

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<sup>36</sup> Manaugh, B. (2020). Behavioral Health Crisis and Diversion from the Criminal Justice System: A Model for Effective Community Response. *Health Management Associates*.  
[https://www.healthmanagement.com/wp-content/uploads/AVCrisisFacilityReport\\_v7.pdf](https://www.healthmanagement.com/wp-content/uploads/AVCrisisFacilityReport_v7.pdf)

<sup>37</sup> Manaugh, B. (2020). Behavioral Health Crisis and Diversion from the Criminal Justice System: A Model for Effective Community Response. *Health Management Associates*.  
[https://www.healthmanagement.com/wp-content/uploads/AVCrisisFacilityReport\\_v7.pdf](https://www.healthmanagement.com/wp-content/uploads/AVCrisisFacilityReport_v7.pdf)

## Mental Health First Responder Teams

Creating mental health units within existing first responder programs is another approach to disentangling mental health issues from the prison system. These programs involve “specially-trained and equipped paramedics, police officers, and mental health professionals who will respond as a single coordinated team to safely and effectively manage patients experiencing behavioral health emergencies”.<sup>38</sup> The combination of these various first responders creates an effective approach to de-escalate mental health crisis situations, while having police officers present in case of a potentially dangerous situation. These solutions are an innovative way to combine currently existing resources and create a new, more specialized team of emergency responders.<sup>39</sup>

Nationally, there have been a number of programs implemented that use this model as a solution to mental health care challenges. The application of these teams varies from place to place, however, the general goal and plan remains consistent. In order to understand the potential of these programs as a remedy to existing behavioral health care shortages, this paper will look at a few specific case studies: the RIGHT Care program in Dallas, Texas, and the CAHOOTS program in Eugene, Oregon.

In 2018, the Dallas Police Department, Dallas Fire-Rescue Department, Meadows Mental Health Policy Institute, and Parkland Health & Hospital System announced a new program to “provide a comprehensive emergency response to calls involving behavioral health

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<sup>38</sup> *Dallas Launches Coordinated Response Program for Behavioral Health Calls*. (2018, January 22). Meadows Mental Health Policy Institute. Retrieved February 24, 2022, from [https://mmhpi.org/wp-content/uploads/2018/04/01.22-RIGHTCareTeam\\_PressRelease\\_FMT\\_FINAL2.pdf](https://mmhpi.org/wp-content/uploads/2018/04/01.22-RIGHTCareTeam_PressRelease_FMT_FINAL2.pdf)

<sup>39</sup> Butler, S., & Sheriff, N. (2020, November 23). *Innovative Solutions to Address the Mental Health Crisis: Shifting Away from Police as First Responders*. Brookings Institute. Retrieved May 11, 2022, from <https://www.brookings.edu/research/innovative-solutions-to-address-the-mental-health-crisis-shifting-away-from-police-as-first-responders/>

emergencies”.<sup>40</sup> Labeled the “Rapid Integrated Group Healthcare Team”, or “RIGHT”, this program combines resources from multiple first responder service teams in order to provide specialized care for behavioral health crises.

This program was conceptualized due to a growing concern in mental health crises within Dallas, and Texas as a whole. The number of mental health related emergency calls to Dallas 911 centers increased 18% on average between 2012 and 2015, with some regions experiencing up to an 85% increase.<sup>41</sup> This dramatic rise in emergency mental health calls, coupled with approximately 17,000 people booked into Dallas County jails annually, pushed the city to do something about this obvious problem. As summed up by Andy Keller, the President and CEO of Meadows Mental Health Policy Unit, “individuals living with mental illness should only be involved in the criminal justice system when they have committed an offense warranting that involvement, and about half of those in the Dallas County Jail each day are only there because of an unrelated mental illness”.<sup>42</sup>

The RIGHT program was developed with the intention of using first responder resources in the most efficient way possible, while effectively addressing the specific needs of individuals experiencing behavioral health emergencies.<sup>43</sup> Designed to have three RIGHT Care team members responding to each call (one specially-trained police officer, one paramedic, and one behavioral health specialist from Parkland Hospital), this program increases effectiveness of

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<sup>40</sup> *Dallas Launches Coordinated Response Program for Behavioral Health Calls*. (2018, January 22). Meadows Mental Health Policy Institute. Retrieved February 24, 2022, from [https://mmhpi.org/wp-content/uploads/2018/04/01.22-RIGHTCareTeam\\_PressRelease\\_FMT\\_FINAL2.pdf](https://mmhpi.org/wp-content/uploads/2018/04/01.22-RIGHTCareTeam_PressRelease_FMT_FINAL2.pdf)

<sup>41</sup> *Dallas Launches Coordinated Response Program for Behavioral Health Calls*. (2018, January 22). Meadows Mental Health Policy Institute. Retrieved February 24, 2022, from [https://mmhpi.org/wp-content/uploads/2018/04/01.22-RIGHTCareTeam\\_PressRelease\\_FMT\\_FINAL2.pdf](https://mmhpi.org/wp-content/uploads/2018/04/01.22-RIGHTCareTeam_PressRelease_FMT_FINAL2.pdf)

<sup>42</sup> *Dallas Launches Coordinated Response Program for Behavioral Health Calls*. (2018, January 22). Meadows Mental Health Policy Institute. Retrieved February 24, 2022, from [https://mmhpi.org/wp-content/uploads/2018/04/01.22-RIGHTCareTeam\\_PressRelease\\_FMT\\_FINAL2.pdf](https://mmhpi.org/wp-content/uploads/2018/04/01.22-RIGHTCareTeam_PressRelease_FMT_FINAL2.pdf)

<sup>43</sup> *Dallas Launches Coordinated Response Program for Behavioral Health Calls*. (2018, January 22). Meadows Mental Health Policy Institute. Retrieved February 24, 2022, from [https://mmhpi.org/wp-content/uploads/2018/04/01.22-RIGHTCareTeam\\_PressRelease\\_FMT\\_FINAL2.pdf](https://mmhpi.org/wp-content/uploads/2018/04/01.22-RIGHTCareTeam_PressRelease_FMT_FINAL2.pdf)

response while freeing up ambulances and other resources to be available for non-mental health related emergencies.

Another city that has implemented a specialized team to act as first responders to mental health and substance use calls is Eugene, Oregon. The city of Eugene is home to a mobile crisis intervention program that has been in place since its founding in 1989, that is designed to be an effective initial contact point and safe transport option for individuals in need of emergency care due to mental illness, intoxication, or disorientation.<sup>44</sup> Nicknamed CAHOOTS, the Crisis Assistance Helping Out On The Streets team provides a number of services for non-criminal situations, such as crisis counseling, suicide prevention efforts, conflict resolution/mediation, resource connection and referrals, as well as many more.<sup>45</sup> If necessary or requested, anyone who reports criminal activity, violence, or a life-threatening emergency may receive police or EMS care, in addition to CAHOOTS.<sup>46</sup>

The CAHOOTS model is specifically designed as an “alternative to police response for non-violent cases”.<sup>47</sup> While the availability of any mental health resources are critical to addressing the over-representation of behavioral health crises within the criminal justice system, the CAHOOTS program has some shortcomings in terms of their ability to replace police officers or other first responders. A CAHOOTS intervention is effective in that it can divert people who may be at risk for unjustifiably falling into the criminal justice system, and help them to access care and resources specific to their individual needs. The fact that they are only an alternative to police response for “non-violent” instances, however, can lead to some

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<sup>44</sup> Eugene Police Department. (2019). *CAHOOTS*. Retrieved May 11, 2022, from <https://www.eugene-or.gov/4508/CAHOOTS>

<sup>45</sup>*CAHOOTS*. (2022, February 1). White Bird Clinic. Retrieved May 11, 2022, from <https://whitebirdclinic.org/cahoots/>

<sup>46</sup>*CAHOOTS*. (2022, February 1). White Bird Clinic. Retrieved May 11, 2022, from <https://whitebirdclinic.org/cahoots/>

<sup>47</sup>*CAHOOTS*. (2022, February 1). White Bird Clinic. Retrieved May 11, 2022, from <https://whitebirdclinic.org/cahoots/>

shortcomings. Many instances of someone experiencing a behavioral health episode can appear violent, and while this violence can be dangerous, if no trained mental health professional is available to aid police officers, then the problem is perpetuated. While CAHOOTS offers an effective and admirable solution to some mental health calls, there must be additional changes made to include behavioral health crises that may include violent outbreaks, but do not include criminal activity and are the result of a mental illness, not of malicious intent. This gap in the ability of CAHOOTS to comprehensively address all mental health calls makes it a slightly less ideal solution in the disentanglement of mental illness from criminal justice.

### **Mental Health/Problem-Solving Courts**

Another approach to addressing the challenges of mental health care and criminal justice is through the use of mental health courts (MHCs). These are “a form of collaborative court that provides specific services and treatment to defendants dealing with mental illness. Mental health courts provide an alternative to the traditional court system by emphasizing a problem-solving model and connecting defendants to a variety of rehabilitative services and support networks”.<sup>48</sup> These courts are a fairly recent addition to the criminal justice system, however, over 150 MHCs have been established, and more continue to be added.<sup>49</sup>

Serving as an alternative to traditional court systems, an individual can be referred to a mental health court, where participation is voluntary. Defendants are then able to engage with judges, prosecutors, defense attorneys, and other court personnel who are specialized in handling behavioral health situations.<sup>50</sup> These courts typically deal with nonviolent offenders, who have

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<sup>48</sup>Judicial Branch of California. (2022). *Mental Health Courts - Collaborative Justice Courts*. California Courts: The Judicial Branch of California. Retrieved May 11, 2022, from <https://www.courts.ca.gov/5982.htm>

<sup>49</sup>Bureau of Justice Assistance. (2012, February 19). *Mental Health Courts Program*. U.S. Department of Justice. Retrieved May 11, 2022, from <https://bja.ojp.gov/program/mental-health-courts-program/overview>

<sup>50</sup> Bureau of Justice Assistance. (2012, February 19). *Mental Health Courts Program*. U.S. Department of Justice. Retrieved May 11, 2022, from <https://bja.ojp.gov/program/mental-health-courts-program/overview>

been screened for or diagnosed with mental health, substance use, or co-occurring disorders. This intervention effort has been created with the intention of preventing unnecessary contact between individuals experiencing mental health crises and incarceration. By establishing mental health courts, a more specific and fair experience is provided as defendants engage with the justice system.

The goals of mental health courts are to improve public safety through reducing criminal recidivism rates, improve the quality of life for people with mental illnesses, increase participation of people with mental illnesses in effective treatment programs, and reduce court/corrections-related costs by offering an alternative to incarceration.<sup>51</sup> These goals clearly outline that it is in the best interest of both individuals, the community, and the state to redirect individuals experiencing mental illness away from the justice system and toward effective treatment.

Although there is limited research due to the novelty of these programs, the Council of State Governments Justice Center in New York was able to put together an initial review, with very promising results. This report shows how MHCs can be effective in achieving their enumerated goals (listed above), and clearly states that “existing research supports the idea that mental health courts may provide positive outcomes for their participants and the public”.<sup>52</sup> These courts are a creative and promising solution to the overpopulation of incarcerated individuals experiencing mental illnesses, and provide a path toward fair and effective treatment. One important flaw in this solution, however, is that these courts do not have an effect on the initial contact between first responders and individuals experiencing a mental health crisis. This

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<sup>51</sup>Almquist, L., & Dodd, E. (2009). *Mental Health Courts: a Guide to Research-Informed Policy and Practice*. Council of State Governments Justice Center. [https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/CSG\\_MHC\\_Research.pdf](https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/CSG_MHC_Research.pdf)

<sup>52</sup>Almquist, L., & Dodd, E. (2009). *Mental Health Courts: a Guide to Research-Informed Policy and Practice*. Council of State Governments Justice Center. [https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/CSG\\_MHC\\_Research.pdf](https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/CSG_MHC_Research.pdf)



shortcoming is important, as this initial contact is when many challenges occur, such as violent efforts made by police officers who are not aware of how to de-escalate a mental health emergency. Due to this delay in when MHCs fall in the timeline of a mental health-related call, they must be combined with other programs in order to sufficiently address the problem. As previously stated, there is promising evidence that these courts are effective, and including mental health courts as a part of a broader solution provides a critical piece in the puzzle.

## **Section V. Comprehensive Framework**

The solutions outlined above all exemplify creative and unique ways to tackle the vast criminalization of mental illness occurring nationally. Each has been proven to produce effective results, attacking the issue from different angles and times in the process. As this problem is so deeply embedded within the broken systems of both criminal justice and health care in the United States, there is no universal program that can fix every broken part. Following this, it is then critical to formulate comprehensive programs that can affect change at each step of an interaction. This must include better general mental health resources/accessibility to prevent entanglement of mental health care and criminal justice from ever occurring, facilities and programs that divert people away from the justice system and redirect them towards real health care, and police reform efforts to decrease interactions between individuals experiencing a mental health crisis and officers from escalating to violent measures, for both the safety of the individual and the police officers.

There are a vast number of organizations working tirelessly to create these solutions, and it is these experts that can truly speak to what tools are needed and in what ways we as a country need to step up to the challenge. Attached is an appendix with a list of some of these organizations, where more information can be found regarding the actions currently being taken

to address the criminalization of mental illness and what specific tools are needed to continue breaking down this issue.

The goal of this paper is to compile research and various actions that have been implemented to mitigate the harmful effects of this issue, and create a comprehensive framework of what the most effective solutions may be. Inspired by pre-existing programs, such as the ones that have been laid out in Section V, a structured idea for the most efficient and effective way to tackle this problem is unlocked. It is critical to reiterate that without a proper shift in police culture and training programs, no solution will be able to operate as effectively as possible. The need for more sympathetic and holistic policing practices is the bedrock of disentangling mental illness from the criminal justice system.

Each of the programs analyzed in this paper has something incredibly creative and effective to offer as a remedy to the criminalization of mental illness. The comprehensive framework outlined in this section will focus on the incorporation of select elements from each solution. This framework is intended to serve as a model for how to design effective and efficient solutions. For the purposes of this holistic framework, the most critical aspects that will be focused on are: *the establishment of a physical location* where individuals experiencing mental health crises can be taken where they can receive proper care, *first responders who are specifically trained in behavioral health practices* that can be contacted immediately, *an option for mental health rationale to be used in a courtroom* (specifically with the inclusion of a diversion docket), and a *general spread of cultural awareness*.

### **Establishment of Physical Location**

First, a physical place where people who are in need of immediate mental health care can be taken is a necessary step towards resolving this issue. This establishment must be specific to

behavioral health needs, rather than emergency rooms or police departments. Currently, due to the lack of anywhere else to go, individuals are most often brought to an emergency room, where they are placed on a 72-hour hold (5150 code).<sup>53</sup> During this hold, the care they are receiving is typically extremely limited, and is only in place to remove an immediate threat. Oftentimes, these brief stays at hospitals are not enough to change one's experience, and the "revolving-door" theory holds that as many as 30% of these patients will be readmitted within the next year.<sup>54</sup> The 72-hour hold at emergency rooms is a band-aid solution that leaves patients in a continuously high-risk situation after treatment. The other option in most places is to a police department, which reinforces the crossover that has been shown between criminal justice and mental health.

The establishment of a unique facility that individuals experiencing this specific kind of health crisis can be taken to is necessary in order to truly disentangle mental health from criminal justice, as well as have the resources available to provide effective care while people are there. As outlined above, crisis diversion facilities such as the Crisis Response Center in Pima County, Arizona, are effective examples of ways that this establishment can be set up.

### **First Responder Behavioral Health Training**

The second necessary element is a team of first responders trained in behavioral health, who can be the initial point of contact for someone experiencing a mental health crisis. There are various ways in which this can be incorporated, however, regardless of the way that it looks, it is a necessary addition to a proper mental health crisis solution. When the first professional to

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<sup>53</sup>Family Education and Resource Center. (2022). *Crisis and 5150 Process*. Retrieved May 11, 2022, from <https://ferc.org/crisis/>

<sup>54</sup>Loch, A. (2014). Discharged from a Mental Health Admission Ward: Is It Safe To Go Home? A Review on the Negative Outcomes of Psychiatric Hospitalization. *Psychology Research and Behavior Management*, 137. <https://doi.org/10.2147/prbm.s35061>

arrive on a crisis scene is someone without proper training, there is no option for a safe and effective response to be made. This places both the first responder and the individual in need of assistance at risk, and is counterproductive to care. As can be seen in the case of Teresa Sheehan, if the police officers that arrived at the scene had been trained in behavioral health crisis care and de-escalation strategies, then that interaction may have ended in productive assistance rather than tragedy.<sup>55</sup>

First responder teams consisting of mental health professionals are an essential way to divert people away from the criminal justice system and critical to an effective holistic solution. While programs such as the CAHOOTS program in Oregon are creative starts, these must be rehailed to be true first responders. Since CAHOOTS is only able to be called in non-violent cases, this makes it less likely that in high-stress situations, the team will be utilized.<sup>56</sup> As part of a broader framework, trained behavioral health teams that can be the first point of contact in crisis situations is essential.

### **Mental Health Courts**

The third critical item in this framework is the option for mental health courts to be available. As discussed in Section V of this paper, mental health courts serve as a chance for individuals to be redirected away from criminal justice systems and towards rehabilitative services. Specifically, however, these mental health/problem-solving courts must be “pre-plea” or include a diversion docket.<sup>57</sup> Many of these kinds of courts currently in operation only give the option for a mental health alternative post-plea, meaning that you are only eligible if you

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<sup>55</sup>Allen, S. (2015, July 9). *The Trials of Teresa Sheehan*. Center for Law, Brain & Behavior. Retrieved May 10, 2022, from <https://clbb.mgh.harvard.edu/the-trials-of-teresa-sheehan/>

<sup>56</sup>CAHOOTS. (2022, February 1). White Bird Clinic. Retrieved May 11, 2022, from <https://whitebirdclinic.org/cahoots/>

<sup>57</sup>Disability Rights California. (2017, May 24). *Principles: Mental Health Courts*. Retrieved May 11, 2022, from <https://www.disabilityrightsca.org/legislation/principles-mental-health-courts>

plead guilty. After this plea, you are then entitled to voluntarily work with the court to redirect criminal charges toward mental health care. The additional requirement for this option to be pre-plea through the use of a diversion docket would more effectively divert the individual towards health care, without putting them through a plea bargain. Additionally, depending on the unique circumstances of each individual case, a post-plea option for a mental health court alternative would create institutional injustices against those who do not have the mental capacity or resources to wait longer, engage in a plea bargain, or utilize legal assistance such as lawyers. Establishing a diversion docket would more fairly and efficiently direct individuals towards health care.<sup>58</sup>

### **Cultural Spread of Awareness**

The final element of this framework is the spread of awareness about resources that are available. While all of the solutions outlined have the potential to be immensely beneficial, none of them can work without people being aware of their existence. The spread of information regarding mental health care in general coupled with public knowledge of what resources exist for those in need of them is critical to the success of any solution. Marketing the behavioral health crisis centers, first responder teams, and mental health courts (and others) is a crucial element of this framework. Gatekeeping these resources for the lucky few who are aware of them undermines their ability to reverse the tragic entanglement of criminal justice and mental illness.

## **Section VI. Conclusion**

In conclusion, this paper argued that the need to disentangle mental illness and criminal justice is a critical issue facing the United States. The failure of the health care system to provide

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<sup>58</sup> Disability Rights California. (2017, May 24). *Principles: Mental Health Courts*. Retrieved May 11, 2022, from <https://www.disabilityrightsca.org/legislation/principles-mental-health-courts>

behavioral health care that is both effective and accessible has led to a disproportionately large number of individuals being directed towards the justice system, when what they need is truly medical attention. This overrepresentation of mental illness in the justice system places an unfair burden on a justice system that is ill-equipped to provide care, and ends up contributing to the unjust treatment of individuals with mental illness. There is an undeniable ethical imperative to modify the nature of mental health care, and the consequences for the tragic treatment of millions of people in the United States alone are drastic.

To make this argument, Sections I and II offered background information regarding the reality of this issue, as they outline the statistics, key actors, and real-world applications of individual experiences regarding this issue. In Section III, an ethical analysis of this issue was offered, first establishing the facts and identifying stakeholders, and then utilizing the Framework for Ethical Decision Making put forth by the Markkula Center for Applied Ethics to understand the moral standards at play.<sup>59</sup> By applying the Justice Lens and Care Ethics Lens, an ethical imperative to disentangle behavioral health from criminal justice in the United States was established. In Section IV, a list and evaluation of various programs that have been implemented as possible solutions was given. Such solutions include: *crisis diversion facilities*, *mental health first responder teams*, and *mental health/problem-solving courts*. Following this summary of existing solutions, a comprehensive framework was established in Section V with the intention of creating a holistic model regarding this issue.

As a society that relies on the function of our institutions to protect and take care of our community members, we have a duty to uphold and honor this responsibility. When there are gaps or broken pieces, it is imperative that these failures are addressed. The broken systems of

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<sup>59</sup>Markkula Center for Applied Ethics. (2021, November 8). *A Framework for Ethical Decision Making*. Markkula Center for Applied Ethics at Santa Clara University. Retrieved April 7, 2022, from <https://www.scu.edu/ethics/ethics-resources/a-framework-for-ethical-decision-making/>

health care and criminal justice in the United States are actively harming millions of people, and must be held accountable for the ethical duty that they hold. There is an undeniable need for mental illness and substance use issues to be disentangled from the criminal justice system, and in order to effectively do so, the health care system must step up and meet their responsibilities. The cost to our societies in the form of human lives is striking and unnecessary. Were these resources available, might the interaction with Teresa Sheehan not have ended with a bullet through her head, but rather sympathetic and effective treatment of her illness? On our journey to creating a more humane and just society, it is imperative that we begin providing care and put an end to criminalizing behavioral health needs.

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