

Can Persons with Co-occurring Disorders and Violent Charges Be Successfully Diverted?

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This study investigates how persons with co-occurring serious mental illness and substance use disorders with violent charges fare on key outcome measures at 12 months as compared to persons with non-violent charges participating in the same jail diversion programs. Among 650 diverted individuals interviewed at 12 months at seven sites of a multi-site jail diversion research study, 113 had violent intake charges. Self-reported outcome measures include arrests, arrests for violent offenses, violent acts, hospitalization and emergency room use. There were no significant differences on any outcome measures at 12 months. These findings suggest that excluding individuals with violent intake charges from eligibility for diversion programs is unnecessary on empirical grounds.

A 1992 national survey of jail diversion programs estimated that only about 52 jails in the U.S. had diversion programs for persons with mental illness (Steadman, Barbera, & Dennis, 1994). Currently, the federally funded Substance Abuse Mental Health Services Administration (SAMHSA) Technical Assistance and Policy Analysis Center for Jail Diversion lists a total of 253 operating jail diversion programs nationally (TAPA Center, 2003). In recent years, there has been a surge in federal investment in all types of jail diversion programs for people with mental illness, including police-based pre-booking, and court-based and jail-based post-booking programs (Steadman, Morris, & Dennis, 1995). SAMHSA's Center for Mental Health Services funded 17 jail diversion programs in 2002 and 2003 under its Targeted Capacity Expansion (TCE) Jail Diversion Congressional authorization, in addition to 10 other programs funded in 2001 under its generic TCE authorization. In addition, the Bureau of Justice Assistance funded 23 Mental Health Courts in early 2003 (Bureau of Justice Assistance, 2002).

There are but seven published empirical outcome studies of jail diversion programs. These studies have differing methodologies and examine a variety of outcomes. Two of the seven studies examined

avoiding arrest as an outcome in police-based, pre-booking diversion programs. Lamb et al. (1995) studied how many of 101 consecutive referrals to the Los Angeles SMART emergency outreach teams resulted in the individual being arrested and taken to jail. Of the 101 referrals, 80 were transported to a hospital setting, 69 were held on a 72-hour mental health hold in an inpatient setting and only two were jailed. Similar findings came from a study comparing two police-based programs, the Memphis Crisis Intervention Team (CIT) and the Birmingham Community Service Officers (CSO) program, and a traditional mobile mental health crisis team in Knoxville (Steadman, Williams Deane, Borum, & Morrissey, 2000). The two police-based programs resulted in substantially fewer people being arrested than the comparable figure found in Chicago for routine police contacts of 16% (Sheridan & Teplin, 1981). In Memphis 2% of the CIT contacts were arrested and 13% of the CSO cases in Birmingham.

Of the five post-booking programs with published outcome data, three were court-based. All three showed similar or better outcomes for diverted individuals than regularly processed persons with mental illness. In a randomized study of outcomes of clients assigned to a mental health court versus those assigned to usual mental health services and

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criminal processing, the mental health court clients demonstrated greater gains in developing independent living skills and reducing their problems with drugs than the treatment as usual group during the one year follow-up period. Both groups reported improvements over time in quality of life and psychological distress, with no differences between the groups (Cosden, Ellens, Schnell, Yamina-Douf, & Wolfe, 2003). In a Los Angeles study with a one year follow-up, judicially monitored individuals with mental illness were significantly more successful than those not monitored by the court, as measured by lower proportions with re-arrest, violence, homelessness and psychiatric hospitalizations (Lamb, Weinberger, & Reston-Parham, 1996). In a mid-size midwestern city, diverted individuals had substantially less jail time during a two-month follow-up than non-diverted individuals, with similar proportions of the two groups rearrested (Steadman, Cocozza, & Veysey, 1999).

In a study of jail-based diversion in a mid-size New England city, diverted individuals spent less time in jail over a one-year follow-up period, with an average of 41 days in jail compared to 173 days for non-diverted individuals. The biggest reduction was in class D felons (Hoff, Baronsky, Buchanan, Zonana, & Rosenheck, 1999).

The fifth post-booking program studied was Project Link in Rochester, New York. All program participants in this institution-based program have passed through the Monroe County Jail, but the point of contact for the program may be the jail, a state prison or even state mental hospitals. The program appears to engage in discharge planning as well as diversion. Its research on 41 participants admitted between October 1, 1997 and February 28, 2000 and completing one year showed a drop in the mean number of jail days in the follow-up year as compared to the prior year from 107.7 per month to 46.4 per month. The mean number of hospital days per month dropped from 115.9 to 7.4. Significant reductions were also noted in average number of arrests per participant. In addition, client functioning improved significantly during the follow-up year (Lamberti et al., 2001).

An eighth set of data comes from an in-house report of a New York City program to divert felony defendants (The National GAINS Center, 2002). The Nathaniel Project had 53 participants in its first year.

The report compared the participants' last 12 months pre-diversion with the first 12 months post-diversion in the Nathaniel Project, and noted the number of arrests was reduced from 101 (35 misdemeanors and 66 felonies) to 7 (5 misdemeanors and 2 felonies). The percent housed at intake was 8% and at one year was 79%. Program retention was 88% at 6 months and 80% at two years.

One of the general findings from this set of studies is that jail diversion does not appear to pose an added public safety risk to the community. These studies do not address the type of charge that led the person to the jail diversion program. Diversion programs are typically reserved for persons with non-violent misdemeanors and only occasionally for those with violent misdemeanors or any felony charges, as the public perception of persons with non-violent misdemeanor charges is that they are less risky and more deserving of alternate time in the community rather than incarceration.

The decision about what charges are eligible for diversion reflects the political buy-in necessary to get prosecutors and elected officials to back diversion programs. This police decision does not reflect any empirical evidence showing more negative outcomes of persons with violent charges who are diverted from jail to treatment in the community.

Luskin (2001) studied the characteristics of those diverted to court-monitored mental health treatment and found that a history of felony convictions and being charged with a crime against a person decrease a defendant's chances of being diverted. Munetz et al. (2001) studied a sample of individuals with serious mental illness in one county's mental health system who were incarcerated in the local jail. Investigators reviewed records and made judgments as to whether each individual might have been appropriate for diversion from the criminal justice system to a mental health or substance abuse treatment setting. Those selected as appropriate for diversion generally were those with non-violent charges.

The question we wish to address here with a multi-site dataset is how individuals with violent charges fare on key outcome measures as compared with those with non-violent charges processed through the same diversion programs. The outcome measures of interest are those that generally drive the public policy debates, i.e. arrest, arrest on charges

involving violence, and hospitalization. This study addresses whether there was any added public safety risk when individuals with violent charges were diverted. This question is different than that addressed by many of the outcome studies reviewed above that compared community behaviors of diverted and non-diverted groups or diverted groups to themselves over time. Here we focus on how two diverted groups, who often are assumed to have different public safety risk, actually fared.

METHOD

The data for this study come from seven of the nine sites participating in the SAMHSA Jail Diversion Knowledge Development & Application initiative coordinated by Research Triangle Institute (Steadman et al., 1999). Included in this analysis are three pre-booking programs (Memphis, Tennessee; Multnomah County, Oregon; Montgomery County, Pennsylvania) and four post-booking programs (Maricopa & Pima Counties, Arizona; Connecticut—7 cities; Lane County, Oregon; Oahu, Hawaii). The New York City and Maryland sites were excluded due to program factors that made them incomparable to the other seven sites.

From September 1998 to May 2000, sites identified participants for diverted and non-diverted groups meeting study intake eligibility criteria of co-occurring serious mental illness and substance use disorders. Only participants in the diverted group are included in this analysis. Trained research staff at all of the study sites followed informed consent procedures and interviewed participants using cross-site questionnaires at intake, three months and 12 months. The questionnaires took approximately 90 minutes to administer at each of the three time points and had major sections on demographics, criminal justice involvement, substance use, treatment services received, measures of mental and physical health, victimization, and satisfaction with finances, health and life in general. Interview data were submitted electronically every month to the coordinating center for cleaning and analysis.

It should be noted that the sites were unable to access official agency records on arrests in standardized formats that allowed comparisons across sites. Accordingly, the recidivism data

reported here rely on self-reports. Research on self-report of arrest among individuals in psychiatric inpatient settings shows there is less discrepancy with official records than might be expected (Convit, O'Donnell, & Volavka, 1990). For our purposes here, this limitation is not critical because the same methods were used for all participants and the research questions relate to how one group compares to the other. Since we have no reason to expect that one group is likely to be more biased than the other, the comparisons would be valid.

Dependent Variables

The 12-month outcome measures examined include arrests, arrests for violent offenses, violent acts, hospitalization and use of the emergency room. Study participants were asked whether they had been arrested or picked up for any offense in the 12 months since intake. They were also asked about arrests for any violent crimes, including physical or sexual assault, rape, robbery by force, manslaughter, attempted murder or murder. Whether the participant engaged in any violent acts was derived from a measure used in the Macarthur Violence Risk Assessment study (Monahan et al., 2001). This measure comprises reporting of behaviors such as battery resulting in injury, use of a weapon or threat with a weapon in hand or sexual assault in the past three months. Additionally, participant reports of spending the night in a hospital for emotions, nerves or mental health and visiting an emergency room for mental health problems or problems with drugs and alcohol during the 12 months since intake were included as outcome measures.

Independent Variables

The main variable of interest here was type of intake charges that led the individual to the jail diversion program (violent or non-violent charges). Research staff identified charges from available records. For participants from pre-booking sites for whom charges were not issued, police estimated the type of charges that would have been filed. Violent charges included any charges related to attempting or using force against another person. Among 751 diverted participants interviewed at intake, 17% ($N = 131$) had charges categorized as violent. From these

751 divertees, this study includes only those 650 who also completed 12-month follow-up interviews, 17% ($N = 113$) of whom had violent charges. Violent charges among these 113 diverted participants included: assault (59.3%), domestic violence (19.5%), threatening or attempted assault (7.1%), unspecified violent (8.8%), and other violent (5.3%).¹ Non-violent charges included public disorder offenses, minor violations, procedural violations, property offenses, other crimes against persons, and drug offenses.

We included a number of demographic and background variables to control for possible intake differences. Continuous variables were: age; arrests in the 12 months prior to intake; Drug Abuse Screening Test (DAST) (Skinner, 1982); Michigan Alcohol Screening Test (MAST) (Storgaard, Nielsen, & Gluud, 1994); and Social Functioning-12 (physical and mental health scales) (Ware, Kosinski, & Keller, 1996). Categorical variables were: gender; race/ethnicity; receipt of diploma or GED; whether living with spouse or partner at intake; ever employed for a month or more; diagnosis of schizophrenia or mood disorder with psychotic features; medications, counseling, and/or hospitalization in three months prior to intake; receipt of Supplemental Security Income (SSI) or Social Security Disability Income (SSDI) in 12 months prior to intake; and whether the person was diverted pre- or post-booking.

RESULTS

Table 1 presents a breakdown of the numbers of diverted participants with violent and non-violent charges by site and type of diversion program. Among post-booking sites, the percentage of participants with violent charges ranged from 3.0% to 31.0%. The range was narrower among pre-booking sites (13.3% to 20.0%).

Table 2 presents a comparison of diverted participants with violent ($N = 113$) and with non-violent intake charges ($N = 537$) at intake. There were no statistically significant differences between those

who did and did not complete 12-month interviews for either the violent or non-violent charges groups. As is evident in Table 2, the two groups were similar on most of these dimensions, including demographics, drug use, social functioning, and receipt of previous treatment. The two groups differed only on the mean number arrests in the prior 12 months and whether they reported receiving SSI or SSDI.

There were no significant differences between the violent charges group and non-violent charges group on any of the 12-month outcomes. At 12 months, 36.3% of the violent charges group and 43.9% of the non-violent charges group reported an arrest, a difference which is not statistically significant. Few study participants in either group reported any arrests for violent offenses in the follow-up period (8.9% of the violent group and 6.3% for the non-violent group; again this difference was not statistically different). The occurrence of violent acts (8.0% vs. 8.3%) among the violent and non-violent intake charges group were equivalent.

The two groups utilized roughly similar amounts of inpatient and emergency services. About a third of both groups reported any hospitalization (34.5% of the violent charges group vs. 30.6% of the non-violent charges group) or trips to the emergency room for mental health or substance abuse problems (32.7% of the violent charges group vs. 30.9% of the non-violent charges group).

To control for possible differences in the two groups, we examined the same outcomes using multivariate logistic regression models. Only intake measures were included because those were potentially knowable at the time the decision to divert was made. Our aim was to determine whether type of intake charge, i.e. violent charges vs. non-violent charges, matters when accounting for these other factors. The intake measures included: intake charge, gender, age, race/ethnicity, education, employment, living with spouse or partner, number of arrests, alcohol and drug abuse screening tests, drug use, SSI/SSDI, mental and physical health functioning scores, treatment, and type of program.

The multivariate analyses confirmed the findings at the bivariate level. Table 3 presents the coefficient, significance and odds ratio for the type of intake charges “violent” variable (violent vs. non-violent).

¹ It should be noted that there is heterogeneity within categories (e.g. assault includes simple and aggravated assaults) and consistent data on charge level (e.g. felony, misdemeanor, violation) were not available.

Table 1
Type of Charges by Site and Type of Program

Type of Charge	Pre-Booking 1	Pre-Booking 2	Pre-Booking 3	Post-Booking 1	Post-Booking 2	Post-Booking 3	Post-Booking 4
	N %	N %	N %	N %	N %	N %	N %
Violent	30 (13.3)	11 (19.6)	10 (20.0)	1 (3.0)	8 (11.3)	14 (15.9)	39 (31.0)
Non-Violent	196 (86.7)	45 (80.4)	40 (80.0)	32 (97.0)	63 (88.7)	74 (84.1)	87 (69.0)

Table 2
Comparison of Intake Characteristics of Diverted Persons with Violent and Non-Violent Charges

Variable Description	Violent Diverted (N = 113)	Non-Violent Diverted (N = 537)
Male (%)	65.5	69.0
Age		
M	37.0	36.2
SD	9.9	10.0
White (%)	51.3	44.9
Diploma or GED (%)	72.6	64.0
Ever had job (%)	76.8	74.8
Psychotic (%)	52.2	46.2
Previous arrests*		
M	.77	1.35
SD	1.57	2.22
DAST		
M	7.72	7.80
SD	5.51	5.48
MAST		
M	26.10	25.32
SD	23.30	21.37
Physical health scale (SF-12)		
M	47.99	46.86
SD	12.38	11.43
Mental health scale (SF-12)		
M	38.93	37.65
SD	14.07	12.63
Previous treatment (%)	77.9	69.8
SSI/SSDI (%)**	72.6	57.5
Pre-booking (%)	45.1	52.3

* $p < .05$, ** $p < .01$

Table 3

Type of intake charges as a predictor of 12-month outcomes in multivariate logistic regression models

	B Coefficient Type of Intake Charges ¹	Odds Ratio	Sig.	Overall Model Statistics
Any arrests	-.218	.804	.381	$\chi^2=99.44$ (17, N = 596), p = .000
Violent arrests	.328	1.388	.457	$\chi^2=24.48$ (17, N = 595), p = .107
Violent acts	-.254	.775	.596	$\chi^2= 29.74$ (17, N = 593), p = .028
Hospital	.196	1.217	.430	$\chi^2=73.53$ (17, N = 577), p = .000
Emergency room	.097	1.102	.691	$\chi^2=43.02$ (17, N = 596), p = .000

Violent charges are coded "1" and non-violent charges are coded "0".

As is evident in Table 3, type of intake charges is not a predictor of any of the 12-month outcomes, including arrests, arrests for violent offenses, violent acts, hospitalization and use of the emergency room.

DISCUSSION AND CONCLUSION

In general, diverted individuals with violent and non-violent charges had similar outcomes. There were no significant differences on any of our 12-month outcome measures between the two diverted groups, suggesting that excluding individuals with violent intake charges from jail diversion programs is unnecessary on empirical grounds. It is instructive to consider these findings in relation to outcomes as reported in the literature for jail detainees with mental illness who were not diverted. Re-arrest rates one year post-release from jail among detainees with mental illness as reported in five studies were between 38-68% (Draine, Solomon, & Meyerson, 1994; Harris & Koepsell, 1996; Munetz et al., 2001; Solomon, Draine, & Meyerson, 1994; Ventura, Cassel, Jacoby, & Huang, 1998). These percentages

are comparable or lower for diverted groups in this study (36% of those with violent charges and 44% for non-violent charges). Taken together, these findings suggest that there is no added public safety risk of jail diversion in general, or jail diversion for individuals with violent charges in particular.

Despite the lack of evidence supporting limiting diversion eligibility to those with non-violent offenses, program administrators may decide it is still politically expedient to exclude persons on the basis of type of charge. Some diversion programs have made strategic decisions to initially accept only those with non-violent misdemeanor charges. Eligibility may then be expanded to individuals with violent offenses or felonies after the program establishes a good track record and develops good working relationships with diversion decision-makers (e.g., judges, prosecutors). Nonetheless, it is important for planning purposes to realize such decisions are not supported by any empirical data that persons with co-occurring disorders charged with violent charges will not fare as well as their peers with non-violent charges.

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