



**Congressional
Research Service**

Informing the legislative debate since 1914

Justice and Mental Health Collaboration Program: Fact Sheet

Nathan James

Analyst in Crime Policy

May 20, 2014

Congressional Research Service

7-5700

www.crs.gov

R43556

People with mental illness comprise a significant proportion of the population involved with the criminal justice system. The Bureau of Justice Statistics reports that at midyear 2005, over half of state prison and local jail inmates had a mental health problem.¹ Mental health courts were developed to respond to the large number of people in the criminal justice systems with mental illness.²

The federal government provides funding to support mental health courts across the country through the Justice and Mental Health Collaboration program. The purpose of the program is to increase public safety by facilitating collaboration among the criminal justice, juvenile justice, mental health treatment, and substance abuse systems to increase access to treatment for offenders with mental illness.³ Authorized funding for this program is set to expire at the end of FY2014. Congress is considering legislation that would both expand the scope of the program and reauthorize appropriations through FY2019.

What are Mental Health Courts?

Despite the expansion of mental health court programs across the country, there is not yet an accepted criteria for what constitutes a “mental health court.”⁵ The Council of State Governments (Council) reports that the degree of diversity among programs has made agreement on a core definition difficult.⁶ Mental health courts vary widely on several aspects including target population, charge accepted (e.g., misdemeanor versus felony), plea arrangement, intensity of supervision, program duration, and type of treatment available. The Council worked with leaders in the field to distill the common characteristics of mental health courts into a working definition.

A working definition of “mental health court”

A mental health court is a specialized court docket for certain defendants with mental illnesses. This court substitutes a problem-solving model for traditional criminal court processing. Participants are identified through mental health screening and assessments and voluntarily participate in a judicially supervised treatment plan developed jointly by a team of court staff and mental health professionals. Incentives reward adherence to the treatment plan or other court conditions. Non-adherence may be sanctioned, and success or graduation is defined according to predetermined criteria.⁴

The Justice and Mental Health Collaboration Program

Grants under the Justice and Mental Health Collaboration program have been awarded since FY2006. They can be used by state, local, and tribal governments to provide mental health and other treatment services for mentally ill adults or juvenile offenders that are overseen

¹ Lauren E. Glaze and Doris J. James, *Mental Health Problems of Prison and Jail Inmates*, U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, Washington, September 6, 2006, p. 3, <http://www.bjs.gov/content/pub/pdf/mhppji.pdf>. These are the most recent data available.

² The Council of State Governments Justice Center, *Mental Health Courts: A Primer for Policymakers and Practitioners*, p. 2, https://www.bja.gov/publications/mhc_primer.pdf.

³ U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, *Justice and Mental Health Collaboration Program (JMHC)*, https://www.bja.gov/ProgramDetails.aspx?Program_ID=66.

⁴ The Council of State Governments Justice Center, *Mental Health Courts: A Primer for Policymakers and Practitioners*, p. 4, https://www.bja.gov/publications/mhc_primer.pdf.

⁵ Ibid.

⁶ Ibid.

collaboratively by a criminal or juvenile justice agency or a mental health court and a mental health agency. Specifically, grants under the program can be used to create or expand

- mental health courts or other court-based programs for preliminarily qualified offenders;⁷
- programs that offer specialized training to criminal and juvenile justice and mental health professionals on how to identify the symptoms of people who might benefit from participating in a mental health courts program;
- programs that support cooperative efforts between criminal and juvenile justice agencies and mental health agencies to provide mental health services and, where appropriate, substance abuse treatment, to individuals with a need for such treatment when they are involved with the criminal justice system; and
- programs that support state and local cooperation with respect to mentally ill offenders.⁸

The Attorney General can also award grants under the program to state, local, and tribal governments for

- programs that offer law enforcement or campus security personnel training in procedures to identify and respond to incidents in which individuals with mental illnesses are involved;
- development of specialized receiving centers to assess individuals in the custody of law enforcement personnel for suicide risk and mental health and substance abuse treatment needs;
- computerized information systems to improve the response to mentally ill offenders; and
- establishment and expansion of cooperative efforts to promote public safety through the use of effective intervention with mentally ill offenders.⁹

Authorizations and Appropriations

The Justice and Mental Health Collaboration program was first authorized by the Mentally Ill Offender Treatment and Crime Reduction Act of 2004 (P.L. 108-414).¹⁰ The act authorized \$50.0 million for FY2005 and such sums as necessary each fiscal year for FY2006-FY2009. The program was reauthorized by the Mentally Ill Offender Treatment and Crime Reduction

⁷ “Preliminarily qualified offenders” means an adult or a juvenile accused of a non-violent offense who (1) previously or currently has been diagnosed by a qualified mental health professional as having a mental illness or co-occurring mental illness and substance abuse disorder or manifests obvious signs of mental illness or co-occurring mental illness and substance abuse disorders during arrest, confinement, or before any court, and (2) has faced, is facing, or could face criminal charges for a misdemeanor or non-violent offense and is deemed eligible by a diversion process, designated pretrial screening process, or by a magistrate or judge, on the ground that the commission of the offense is the product of the person’s mental illness. 42 U.S.C. §3797aa(a)(9).

⁸ 42 U.S.C. §3797aa(b)(2).

⁹ 42 U.S.C. §3797aa(h).

¹⁰ The authorizing legislation for the program is codified at 42 U.S.C. §3797aa.

Reauthorization and Improvement Act of 2008 (P.L. 110-416). The act reauthorized appropriations for the program at \$50.0 million each fiscal year for FY2009-FY2014.

Congress has appropriated funding for the program since FY2006. Since FY2006, Congress has appropriated an average of \$8 million per fiscal year for the program.

Table I. Authorizations and Appropriations for the Justice and Mental Health Collaboration Program

Authorizations and appropriations in thousands of dollars

Fiscal Year	Authorization	Appropriation
2005	\$50,000	—
2006	SSAN	4,936
2007	SSAN	4,936
2008	SSAN	6,500
2009	50,000	10,000
2010	50,000	12,000
2011	50,000	9,940
2012	50,000	9,000
2013	50,000	8,369
2014	50,000	8,250

Source: The FY2005-FY2011 appropriations were taken from the congressional budget submissions for the Office of Justice Programs for FY2006-FY2012. The FY2012 appropriation was taken from H.Rept. 112-284. The FY2013 appropriation was provided by the Department of Justice. The FY2014 appropriations were taken from the explanatory statement to accompany P.L. 113-76, printed in the January 15, 2014, *Congressional Record* (pp. H507-H532). Authorized amounts were taken from P.L. 108-414 and P.L. 110-416.

Notes: “SSAN” means “such sums as necessary.” Appropriations acts have cited two authorizations for the appropriation amounts presented in **Table I**. The first is the mental health courts program authorized by the America’s Law Enforcement and Mental Health Project (P.L. 106-515), the second is the program authorized by the Mentally Ill Offender Treatment and Crime Reduction Act of 2004 (P.L. 108-414)

Current Legislation

The Justice and Mental Health Collaboration Act of 2013 (S. 162) would expand the scope of the Justice and Mental Health Collaboration program and reauthorize the program at \$40 million per fiscal year for FY2015-FY2019. The bill was reported by the Senate Judiciary Committee on June 20, 2013.¹¹

The bill would expand the Justice and Mental Health Collaboration program to allow grants to be used to establish or expand, among other things, veterans treatment court programs and peer-to-peer services or programs for qualified veterans.¹²

¹¹ A companion bill, H.R. 401, would make many of the same changes to the Justice and Mental Health Collaboration Grant program.

¹² “Peer-to-peer services or programs” would be defined as “services or programs that connect qualified veterans with other veterans for the purpose of providing support and mentorship to assist qualified veterans in obtaining treatment, (continued...)”

The bill would allow grants to be made to state, local, and tribal governments to screen inmates held in correctional facilities for mental illness; provide mental health and substance abuse treatment for inmates with an identified need; develop, implement, and enhance post-release plans for eligible inmates that coordinate health, housing, medical, employment, and other appropriate services; increase the availability of mental health and substance abuse treatment; and develop alternatives to solitary confinement and segregated housing and provide mental health treatment to inmates who are placed in solitary confinement or segregated housing.

The bill would authorize a demonstration grant program that would allow the Attorney General to award up to six grants per fiscal year for the purpose of reducing the use of public services by “high utilizers.”¹³ Grants under the proposed demonstration program could be used for

- developing or supporting multidisciplinary teams that coordinate, implement, and administer community-based crisis responses and long-term plans for high utilizers;
- providing training on how to respond appropriately to the unique issues involving high utilizers;
- developing or supporting treatment alternatives to hospital and jail admissions for high utilizers; or
- developing protocols and systems to provide coordinated assistance to high utilizers.

The bill would also put in place a series of accountability requirements for grant recipients under the program, including requiring the Department of Justice Office of the Inspector General to conduct audits of grant recipients, preventing grant recipients from receiving grants under the program for two fiscal years after having an unresolved audit finding,¹⁴ giving preference to grant applicants who do not have an unresolved audit finding during the three fiscal years before submitting an application, and prohibiting grants from being awarded to nonprofit organizations that hold money in offshore accounts for the purposes of avoiding certain taxes.

Author Contact Information

Nathan James
Analyst in Crime Policy
njames@crs.loc.gov, 7-0264

(...continued)

recovery, stabilization, or rehabilitation.”

¹³ A “high utilizer” would be defined as an individual who “manifests obvious signs of mental illness or has been diagnosed by a qualified mental health professional as having a mental illness” and “consumes a significantly disproportionate quantity of public resources, such as emergency, housing, judicial, corrections, and law enforcement services.”

¹⁴ An “unresolved audit finding” would be defined as “a finding in the final audit report of the Inspector General of the Department of Justice that the audited grantee has utilized grant funds for an unauthorized expenditure or otherwise unallowable cost that is not closed or resolved within 12 months from the date when the final audit report is issued.” The two year prohibition on receiving grants would begin on the fiscal year after the 12-month period in which grantees have to close or resolve issues with unallowable costs identified in an Inspector General audit.