

Position Statement Decriminalize Schizophrenia

The incarceration of people with schizophrenia in the United States reflects a stark and discriminatory preference for punishment over treatment.

It is estimated that *10 times* as many people with schizophrenia and other severe brain disorders are in jails and prisons instead of state psychiatric facilities.¹ While incarcerated, they receive minimal care and are at risk for abuse.²⁻⁵ They are especially vulnerable to assault by other inmates, jail and prison staff and the police³⁻⁵ and are nearly twice as likely to be placed in solitary confinement.⁶ Compounding the harm of incarceration, half of those with schizophrenia are imprisoned more than once.⁷

Discrimination and misconceptions about schizophrenia pervade our criminal justice system.

Although there is ample evidence that schizophrenia is a neurodevelopmental disorder that often involves significant brain damage,⁸ legal protections for this vulnerable population are frequently misapplied or ignored. While the justice system is required to consider schizophrenia as a possible mitigating factor in sentencing, the illness instead frequently leads to harsher sentences.⁹ The insanity defense, which can absolve individuals of responsibility in specific cases, is used in only 1% of cases and is successful only 26% of the time.¹⁰ **It is estimated that 10%-20% of death-row inmates in the United States have a serious mental illness such as schizophrenia¹¹** – yet people with schizophrenia may not even understand the nature of their crime. This discrimination is especially high against those from marginalized communities. For example, Black people with schizophrenia in the United States are about three times more likely to be imprisoned than their white counterparts.¹² Our justice system is in urgent need of reform to address its deep-rooted – and in some cases, lethal – biases and misconceptions.

Programs designed to divert people with schizophrenia to treatment instead of prison are rarely implemented.

Diversion strategies should be employed at every touchpoint within the criminal justice system – from the first moment of interaction with law enforcement to probation and parole^{13,14} – yet only four U.S. states use comprehensive diversion programs.¹ The most effective components of diversion, such as crisis intervention teams and mental health courts, are unavailable to most of those with schizophrenia and other severe brain diseases.^{1,13} When diversion fails or is not an appropriate fit, jails and prisons should provide mental health treatment to inmates with schizophrenia. Unfortunately, schizophrenia is underdiagnosed and inadequately treated in criminal justice settings,¹⁵ and continuity of care during the transition back to community living is severely lacking.¹⁶

Call to Action

People with schizophrenia should receive effective treatment that prevents their involvement in the criminal justice system in the first place. Beyond this, S&PAA supports funding from the relevant federal, state and/or local resources to accomplish the following aims:

- 1. Increase resources for effective diversion programs.** Crisis intervention teams and mental health courts are currently the most evidence-based programs for reducing the risk of involvement in the criminal justice system of people with schizophrenia.^{1,13} These programs should be funded so that they are available to 100% of those with schizophrenia in each U.S. state, per guidelines by the Treatment Advocacy Center.¹ We also support interventions that promote continuity of care as individuals transition from jails and prisons to the community.¹⁶
- 2. Increase diagnosis and proper treatment of schizophrenia in jails and prisons, including services to support transition back to the community.** Many known factors that fuel repeated criminal justice system involvement are preventable, including untreated symptoms, substance abuse and homelessness,¹⁷⁻¹⁹ highlighting the importance of mental healthcare in breaking this cycle. Treatment should include medication management, therapy and supportive services, including those that divert people with schizophrenia from solitary confinement into more therapeutic settings. Beyond diversion, a comprehensive approach is warranted, including integration of social services, substance abuse treatment, stable housing solutions and education and employment opportunities.
- 3. Develop and enforce uniform legal guidelines for addressing the impact of schizophrenia in judicial contexts.** Given evidence that schizophrenia is deeply and devastatingly misinterpreted in the judicial process, there is a pressing need to educate police, jail/prison staff, lawyers and judges to ensure the rights of people with schizophrenia are protected from the moment they come in contact with law enforcement and throughout legal proceedings.
- 4. Oppose the death penalty for people with schizophrenia.** We support the American Psychiatric Association, the American Bar Association, Mental Health America and the National Alliance on Mental Illness in their opposition to the death penalty for people with severe brain diseases such as schizophrenia.^{9,20-22} This position is not a broad stance on capital punishment. Rather, it is specifically informed by the recognition that certain populations, such as juveniles and those with intellectual disabilities, are constitutionally exempt from execution due to their developmental or cognitive limitations that can affect their understanding of their actions, their ability to engage in their defense and their vulnerability to wrongful convictions. This standard also should apply to people with schizophrenia, as the disease often causes pervasive brain damage and can block people's awareness that they even have a disease.
- 5. Enhance data collection practices on schizophrenia in U.S. jails and prisons.** It is essential to quantify the number of people with schizophrenia at every juncture of the criminal justice system, yet no current data collection systems do this.²³ Such information is critical to inform tailored interventions and diversion programs, reveal disparities, guide resource allocation and policy making and monitor outcomes – with the long-term goal of reducing criminal justice system involvement for those with schizophrenia.

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