The ‘criminalisation’ of mental illness?

It is widely accepted that the US mental health system is in crisis, with some arguing that jails and prisons have replaced the mental health hospitals and asylums of old. *International Innovation* explores the fragmented landscape of US mental healthcare, and asks what is being done to improve it.
from his office in Arlington, Virginia. "If you have a mental illness you are much more likely to receive 'care' in a facility when you are incarcerated than you are in a hospital. But the way a jail or prison is designed is not conducive to providing adequate or effective care to a person with a mental illness – in fact, it’s the worst possible place to try to get care."

### THE DEINSTITUTIONALISATION DRIVE

To understand the reasons behind the 'criminalisation' of mental illness in the US, it is important to take a look at the political and legal backdrop. "The United States does not have a national mental health system, nor has it ever had one," wrote journalist Matt Ford in an article in *The Atlantic*. "Caring for the severely mentally ill has long been the responsibility of the states, starting with the first asylums and mental health hospitals established in the mid-19th Century."

As in many other parts of the world, terrible abuses took place in these asylums and mental health hospitals. This led to a mass movement for deinstitutionalisation, which came to the forefront of public debate in the mid-20th Century. The Mental Health Study Act 1955 established a joint commission on mental health, which evaluated the nation’s mental health policy and proposed reforms that did away with state-run mental hospitals. Eight years later, the passage of the Community Mental Health Act sped up the process of deinstitutionalisation; while nearly 559,000 mentally ill patients were housed in state mental hospitals in 1959, this had dropped to approximately 70,000 by the late 1990s. According to a 2014 Energy and Commerce Committee report on its investigation of federal programmes addressing serious mental illness, ‘the number of public psychiatric beds due to deinstitutionalisation has been accompanied by an increase in mentally ill persons who are homeless or confined to jails or prisons’.

"The idea of these laws was that people would be given care in the community," Snook explains. "So today if you are hospitalised for a heart attack or stroke, the Federal Government will pay. But if you are hospitalised because of a mental illness they won’t pay – the idea is that money has been provided in the community. But the reality is the money never arrived."

State budget cuts as a result of the Great Recession have made a bad situation even worse, raising new barriers to treatment for
those with severe mental illness. “Between 2009 and 2012, America’s 50 state legislatures cut a total of nearly US $4.5 billion in services for the mentally ill, even as patient intakes increased by nearly 10 per cent during the height of the economic crisis,” wrote Ford in The Atlantic.

A FRAGMENTED SYSTEM
As a result, large numbers of mentally ill people are unable to access the treatment they need. Indeed, the Treatment Advocacy Centre reports that approximately 40 per cent of individuals with schizophrenia and 51 per cent of those with bipolar disorder are untreated in any given year.

Another major reason for this is that America’s mental healthcare system is voluntary. Again, this has historical roots; a number of anti-involuntary commitment advocacy groups sprang up in the 1970s – and in 1978 the US Supreme Court restricted states from confining anyone involuntarily for mental illness.

In practice, this means that if a person becomes very sick and yet denies that they are sick – a common impact of mental illness – they will be unable to access care until they get to the point where they are deemed dangerous to themselves and/or other people. Unsurprisingly, in these situations it is very difficult to call the doctor at the right time – that is, just as they are starting to get dangerous but before they hurt someone. “What tends to happen is that the mentally ill person either ends up being arrested or becomes homeless,” says Snook.

It is difficult to imagine a situation with any other illness in which people only qualify for treatment once they are arrested and are as sick as they could possibly be. “We find that because of the failure of our mental health system, people get much sicker than they need to,” Snook points out. “As they deteriorate, they lose out on relationships, career and other opportunities. If they are arrested, the impact of those charges will follow them for the rest of their lives.”

THE CASE FOR AOT
It is for these reasons that Representative Tim Murphy, Republican of Pennsylvania, is making a second attempt to pass a comprehensive federal mental health reform bill (HR2661). “As chairman of the House Oversight and Investigations Subcommittee, I led a congressional investigation into our failed mental health system after the 2012 Sandy Hook Elementary School shooting,” Murphy wrote in a Wall Street Journal article in October 2015. “What we found was shocking and disgraceful: a wasted federal bureaucracy that is anti-patient, anti-family and anti-medical care.”

The bill supports the channelling of more money into early intervention initiatives, as well as more research and the expansion of access to mental healthcare providers. The bill also calls for the greater use of Assisted Outpatient Treatment (AOT) – something that the Treatment Advocacy Centre has been campaigning hard for over the past 15 years.

Permitted in all but five states (Connecticut, Maryland, Massachusetts, New Mexico and Tennessee), AOT laws provide court-ordered treatment for individuals with a history of medication non-compliance, enabling them to remain in the community and reducing the incidence of hospitalisation, arrests and incarceration.

Critics of AOT question the morality of involuntary treatment, arguing that it is an infringement of civil liberties and that patients should be free to make decisions for themselves about their treatment. Yet a large body of research conducted over the past two decades shows that AOT improves treatment outcomes for its target population and drastically reduces the strain placed on caregivers.

As stated in the 2014 Energy and Commerce Committee report on serious mental illness, Dr Thomas Insel – Director of the National Institute for Mental Health (NIMH) – said that treatment can “reduce the risk of violent behaviour by 15-fold in persons with serious mental illness’. The report also referenced a May 2014 study in The Lancet, which examined over 80,000 subjects prescribed antipsychotics and mood stabilisers over three years. The study found that “[c]ompared with periods when participants were not on medication, violent crime fell by 25 per cent in patients receiving antipsychotics and by 24 per cent in patients prescribed mood stabilisers’.

Indeed, since the Treatment Advocacy Centre was formed in 1998, seven states have passed AOT laws and nearly half of all US states have modified their civil commitment standards to ensure that more individuals are able to receive timely intervention for severe mental illness. As a result, thousands of mentally ill persons have received treatment that they would not otherwise have been able to access.

A BRIGHTER FUTURE?
Encouragingly, there is a greater dialogue around mental health issues today and a widespread awareness that the US mental health system needs to be overhauled. The Affordable Care Act identified mental health and substance abuse as one of the 10 ‘essential health benefits’ for all health insurance plans, marking the very first time that federal law has mandated mental health and substance use treatment coverage. Moreover, in August 2015, Senator John Cornyn, Republican of Texas, introduced legislation to prevent the incarceration of people with mental illness and to enhance treatment services for people in correctional facilities and following their release.

This combination of policy and advocacy endeavours signals a more hopeful future for mental healthcare in America. Hopefully, the wider implementation of better treatment standards will lead to a more robust mental healthcare system in the States – and to the avoidance of tragedies like the Jamycheal Mitchell case.