



A JOINT THEMATIC INSPECTION OF THE CRIMINAL JUSTICE JOURNEY FOR INDIVIDUALS WITH MENTAL HEALTH NEEDS AND DISORDERS

26 NOVEMBER 2021

About this report

This inspection was the first on this topic to be conducted by all the Criminal Justice Inspectorates since 2009.

- HM Inspectorate of Constabulary and Fire & Rescue Services
- HM Crown Prosecution Service Inspectorate
- HM Inspectorate of Prisons
- HM Inspectorate of Probation
- Care Quality Commission
- Health Inspectorate Wales.

The inspection examined mental health facilities at every stage of the criminal justice system, including post-sentence supervision, as well as the period leading up to attendance at court.



Methodology

- **6 regions**
- **300 cases** reviewed, of which 45 cases were jointly inspected by all criminal justice inspectorates and 270 cases reviewed by single inspectorates.
- **550 professionals** interviewed
- **67 interviews** with people with mental health issues who had been through the criminal justice system. Of which, 9 were women and 12 identified as black, Asian and minority ethnic.



Key findings for all criminal justice inspectorates



Broken system for sharing information between agencies, with confusion over data protection and incomplete records – means the needs of thousands of people are being missed



Even where needs are identified, treatment provision is inadequate with a 73 per cent reduction in mental health beds over the last thirty years and long waiting times for community treatment.



Improvements to police handling of mental health since 2009. National coverage of liaison and diversion schemes. Better availability of section 136 beds as an alternative to police custody.



Cross system management and leadership needs to be better, to improve joint work and mental health outcomes. CSTR programme showing promising early results but prisons still being used to hold seriously ill people while they await psychiatric reports or transfer.



Black, Asian and minority ethnic people are both overrepresented and at comparatively higher risk of mental illness. We found a lack of specialist services for these individuals.

But why does this matter?

People with mental illness in the criminal justice system are an underserved population and don't get the services they need.

The criminal justice process itself can make people's mental health worse – high rates of suicide and self-harm in CJ populations.

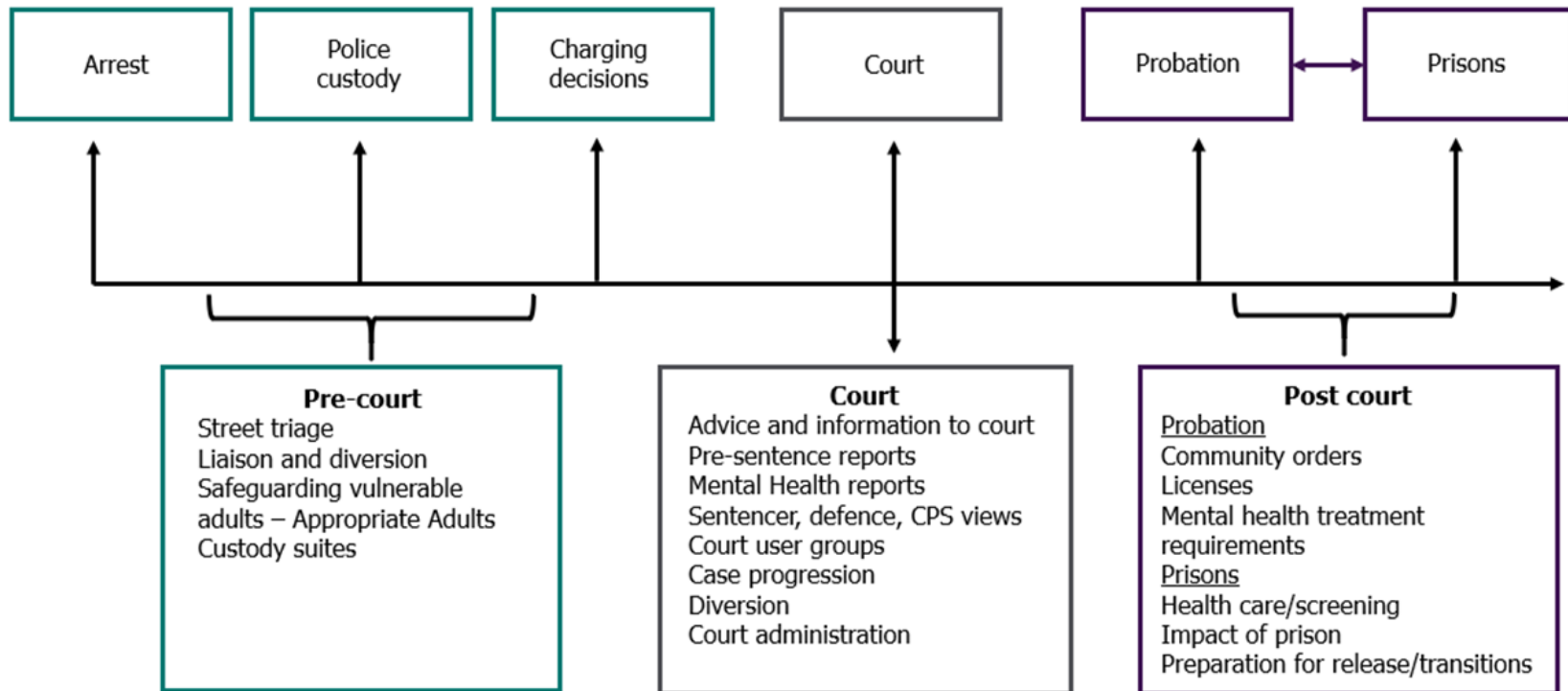
Mental illness can affect an individual's ability to understand and participate in the criminal justice process.

The symptoms associated with mental illness can trigger criminal behaviours leading to contact with the CJS – particularly at times of crisis.

Opportunities to help at every stage

At every stage of the criminal justice journey, there are a number of opportunities where accurate mental health identification, good decision-making, and interventions can make a significant difference to identifying and meeting the needs of people with a mental illness.

Offender journey (CJS)



Focus and leadership

- Significant focus on vulnerability and mental health at a National Level through NPCC and CoP.
- National guidance within APP and NPCC national strategy.
- Force MH focus is also strong with, leadership structures and governance to heighten awareness, drive improvements, and reach all relevant areas of policing.
- Forces provide additional local policy, specific guidance and training.
- In all the above areas, focus upon how MH effects offending and how to deal with such offending is much lower than for other higher risk areas.

Service and capacity

- Services related to MH are provided and funded by a range of partners including: NHS commissioned & non-commissioned services, Local Authorities, Police forces, PCC offices and third sector.
- Targeted services include: Liaison & Diversion, custody healthcare, incident triage, and provision of Appropriate Adults.
- We found further force specific initiatives – veteran support and working with DA offenders being common examples.
- Quite a lot of local variation (even within forces) re extent of coverage. Concerning variation in referrals to professionals between forces and where VA was used.
- Improved position on space for assessments and MH detentions, but barriers remain to accessing these and other MH services.

Decision making and diversion

- Good awareness from officers to balance MH vs offending and prioritise care where appropriate.
- Good screening of detainees in custody and focus on vulnerability.
- We found one example of a mentally vulnerable offender panel, and two examples of deferred charge and caution schemes. Insufficient oversight of broader investigator decisions to discontinue though.
- Decisions for many offences sit with CPS and there are serious shortfalls in how MH information is passed from police to CPS decision makers.
- Diversion from offending is different to diversion from prosecution. There are varied and extensive pathways for offender diversion that include MH services.

Our recommendations:



Training for dedicated investigators re MH and offending.



Sample cases discontinued due to MH to identify future training, briefing and oversight needs.



Review MH flagging to enhance this and make better use of data.



Assure that risks and vulnerabilities are identified in all cases (including VA) and then appropriately managed.



Review case paper (MG) forms to include prompts and dedicated space for suspect vulnerabilities.

Liaison and diversion services (England) and criminal justice liaison services (Wales)

CQC and HIW inspectors visited **six areas**, reviewed **33 patient records** and interviewed approximately **58 staff**.

- L&D was consistent with national expectations but often provided core services only.
- Stretched resources – see people with all vulnerabilities not just mental health.
- Passionate staff, who have access to good training resources.
- Need better information-sharing amongst different providers and partners.



Local criminal justice boards should:

ensure that L&D mental health assessments undertaken in police custody are provided to the CPS and defence lawyers to help inform charging decisions, representations for diversion and sentencing decisions.



Her Majesty's Courts and Tribunals Service should:

ensure that L&D teams are included in local liaison arrangements to improve understanding of the provision and joint working relationships.

HMCPSP inspector reviewed **30 CPS case files in the six areas inspected**, supported by a business manager from Her Majesty's Courts and Tribunal Service (HMCTS), who reviewed the court files for the same individuals. HMCPSP interviewed approximately **63 staff**.

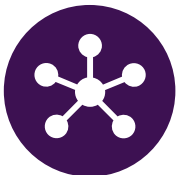
- Need full picture to provide charging advice – CPS lawyers not always received all the relevant information.
- Quality of information CPS receive from police is variable.
- Every CPS area has at least one mental health single point of contact.
- Information sharing and understanding of GDPR must improve.
- Number of unrepresented defendants with mental health problems is concerning.



The Probation Service should: develop a multi-agency Memorandum of Understanding on information-sharing in order to promote better joint working and better outcomes for people with mental health problems.



Her Majesty's Courts and Tribunals Service should: improve the arrangements for the commissioning and monitoring of psychiatric reports in order to ensure that delays in sentencing are minimised.



Ministry of Justice and Home Office should work with the Department of Health and Social Care and Welsh Government to: develop a multi-agency Memorandum of Understanding on information-sharing in order to promote better joint working and better outcomes for people with mental health problems.



Prisons and resettlement Findings

During this inspection HM Inspectorate of Prisons inspectors visited **six prisons**, **reviewed 31 prisoner files** and interviewed **approximately 95 staff**, including prison governors, prison custody officers, mental health nurses, psychiatrists and psychologists.

- Mental health assessments were undertaken with new and transferring prisoners in line with national standards. In the vast majority of cases a prompt referral was made to mental health services. Good-quality clinical notes and all clinical staff reported that they received regular supervision and training.
- Inconsistent information sharing and GDPR requirements not understood.
- Prisons being used inappropriately as a place of safety – especially concerning for women.
- Covid-19 had a massive impact on mental health services available in prisons and face-to-face appointments ceased.
- Inconsistent work to support prisoners who are preparing for resettlement in the community.
- Extremely unwell prisoners who need urgent transfer to a secure mental health inpatient hospital for treatment continue to experience unacceptable waiting times.
- Shortage of mental health beds.



Prisons and resettlement Recommendations

Recommendations:

The Ministry of Justice should work with NHS England and Improvement and Welsh Government to:



Immediately ensure that acutely unwell prisoners who require secure mental health inpatient hospital treatment are transferred within 28 days, in line with NHS guidelines.



End the inappropriate use of prison as a place of safety, and ensure that alternatives to prison are available for sentencers in line with the Mental Health Act white paper.

Her Majesty's prison service should work with NHS England and Improvement and Welsh Government to:



Tackle the long waiting lists caused by the Covid-19 pandemic including for mental health assessments, psychological treatment, counselling and therapeutic group work.

Reviewed **60 probation cases**. Interviewed around **170 staff**, including strategic mental health leads, learning and development managers, probation practitioners, staff delivering mental health programmes and psychologists.

Key findings:

- National commitments and priorities for improving work with people with mental health issues. However, this does not always translate to effective local policies.
- There were gaps in the knowledge of practitioners and they need to be better equipped for conversations regarding mental health.
- Shortage of high quality services, which was worsened by Covid-19.
- Relationships between probation services and providers also varied widely.
- Found a mixed picture in individual cases. There was good evidence of practitioners taking into account personal circumstances. However, a comprehensive analysis of mental health needs was found in only just under half of the inspected cases.
- The unification of probation services presents an opportunity for senior leaders to review national strategies and policies, and to ensure they translate into effective practice.

Probation service findings strengths and areas for improvement

Strengths:

- The introduction and development of the enhanced Intensive Intervention and Risk Management Service, offering casework by a psychologist.
- The establishment of a number of Community Sentence Treatment Requirement sites has led to an increase in the number of Mental Health Treatment Requirement orders.
- The use of clinical supervision being provided by psychologists to support practitioners.

Areas for improvement:

- Accurate identification of mental health.
- Learning and development.
- GDPR assumptions.
- Services and interventions for black, Asian and minority ethnic people.



Karim was coming to the end of his custodial sentence. While in prison, his probation officer had maintained regular contact through video conferencing, letters and a face-to-face visit.

The communication between the probation officer, resettlement and other custodial staff was regular and effective. Karim had struggled emotionally in prison due to the loss of his father while serving his sentence. This had resulted in him accessing support from a prison chaplain and the mental health team. It became apparent that Karim's mental health needs were far greater than had initially been identified and there was a risk of further offending and self-harm.

Having been notified that Karim would be placed on a waiting list for counselling, his probation officer contacted the local mosque, at Karim's request, to secure some continuity in his mental health care. On release, Karim was met by a worshipper from the mosque and offered a hot meal. His probation officer joined the meeting to ensure that Karim was happy with the support that was being offered. In the meantime, Karim was provided with information about online mental health support. These two measures were used creatively to improve his mental health.



Our recommendations:



Review the mental health flagging guidance to help probation practitioners to identify and accurately record a person's mental health needs (within six months).



Work with the Welsh Government, NHS Wales, NHS England and Improvement and HMCTS to increase the use of Mental Health Treatment Requirements across England and Wales.

SERVICE USER REPORT

Penal Reform Solutions

www.penalreformsolutions.com

Dr Sarah Lewis

EXPLORING THE JOURNEY THROUGH THE CRIMINAL JUSTICE SYSTEM AND ITS IMPACT ON MENTAL HEALTH: A SERVICE USER PERSPECTIVE

June 2021

PREPARED FOR HER MAJESTY'S
INSPECTORATE OF PROBATION

Written by

PENAL REFORM SOLUTIONS

Research Team:

Dr Sarah Lewis

David Haze

Justine Best

Mark Borg

SERVICE USER REPORT

AIMS

To capture the voices of service users, exploring the impact of the criminal justice system on their mental health through their journey.

SAMPLE

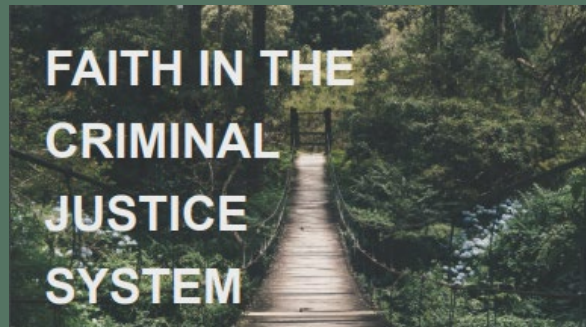
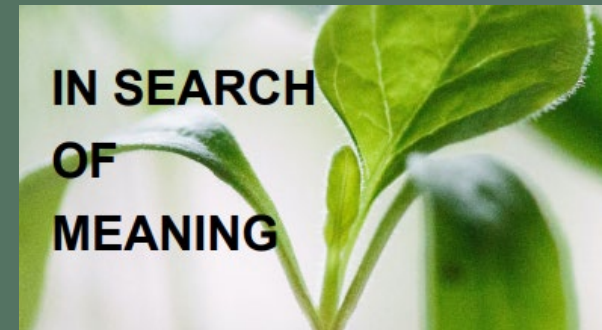
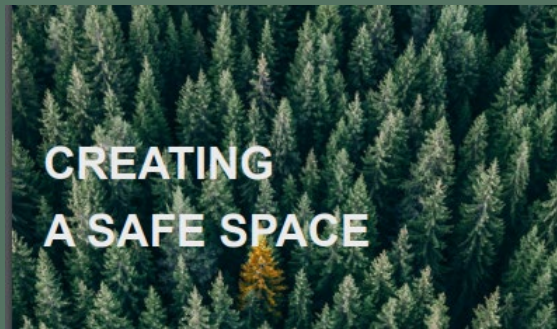
- 67 participants- 58 identified as male, nine as female.
- 16 in prison, 22 on community orders, 22 on licence and eight off licence.
- Nine per cent of the participants disclosed that they are autistic or on the Autistic Spectrum.
- With respect to ethnicity, 70 per cent of the participants were White British, though there was some variation across ethnic backgrounds in the remaining 30 per cent.
- 25 participated in the Creative Project.

METHODOLOGY

Structured Interviews Letter/Correspondence Creative Project.



Penal Reform Solutions



SOLUTIONS

- **General**
- Specific to police
- Specific to prison
- Specific to probation.

Access the full service user report, creative project, podcast and creative PowerPoint at: www.penalreformsolutions.com/mental-health/

Get in touch:
info@penalreformsolutions.com





Her Majesty's
Inspectorate of
Probation

Next steps

The full report is available on the HM Inspectorate of Probation website.

The report will be followed by an effective practice guide.

www.justiceinspectorates.gov.uk/hmiprobation

