Characterizing Arrests and Charges among Individuals with Serious Mental Illnesses in Public-Sector Treatment Settings

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Abstract

Objective: Individuals with serious mental illnesses are over-represented in all facets of the legal system. State-level criminal histories of patients with serious mental illnesses were analyzed to determine the proportion having been arrested and number of lifetime arrests and charges; associations of six sociodemographic and clinical variables with number of arrests; and the most common charges from individuals' first two arrests and most recent two arrests.

Methods: 240 patients were recruited at three inpatient psychiatric facilities and gave consent to access their criminal history. Information was extracted from their Record of Arrest and Prosecution (RAP) sheet for lifetime arrests in Georgia.

Results: 171 (71%) had been arrested. Among them, mean lifetime number of arrests was 8.6±10.1, and mean lifetime charges was 12.6±14.6. In a Poisson regression, number of arrests was associated with lower educational attainment, Black/African American race, the presence of a substance use disorder, the presence of a mood disorder, and female gender. Common early charges included marijuana possession, driving under the influence of alcohol, and burglary/shoplifting. Common recent charges included probation violations, failure to appear to court, officer obstruction-related charges, and disorderly conduct.

Conclusions: Findings point to a need for policy and program development within the criminal legal system (e.g., pertaining to charges like willful obstruction of an officer), the mental health

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community (e.g., to ensure mental health professionals know about clients' legal involvement and can partner in strategies to reduce arrests), and social services sectors (which could impact charges often related to material disadvantage such as shoplifting and criminal trespass).

Keywords

Arrest; Criminal justice; Law enforcement; Misdemeanors; Police; Serious mental illnesses

Approximately one million jail bookings in the United States every year involve persons with serious mental illnesses (1), and such individuals are over-represented in all stages of the criminal legal system. Those with serious mental illnesses are more likely to get arrested (1), more likely to receive a jail sentence for misdemeanors (2), spend longer time in jail, and experience greater recidivism after release (1,3). The most recent national data estimates that 26% of people incarcerated in jail and 14% of people incarcerated in prison meet the criteria for serious psychological distress (4). Further, 44% and 37% of people in jail and prison, respectively, have been told in the past by a mental health professional that they had a mental health disorder (4). The over-representation of individuals with serious mental illnesses in the criminal legal system has been linked to myriad factors including deinstitutionalization, inadequate funding of community-based mental health services, police officers' limited options for resolving situations, and a broad array of social determinants of mental health that both people with serious mental illnesses and people committing crimes are more likely to experience (e.g., poverty, unemployment, housing instability) (3,5).

The nature of criminal legal system entanglement is complex. One study of legal involvement among more than 600 individuals with schizophrenia found that being a victim of crime was the most common type of involvement (67%), followed by being on parole or probation (26%), being arrested for assault (13%), having other miscellaneous encounters not resulting in arrest (13%), being cited for a major driving violation but without arrest (11%), being arrested for parole or probation violation (10%), and being charged with disorderly conduct (9%) (6). A study of 13,851 persons with serious mental illnesses found that 27% were arrested in a 10-year period, almost exclusively for minor crimes like property offenses, crimes against public order (e.g., disturbing the peace), public indecency, and motor and drug offenses (7). Property offenses, including trespass, have been reported as the most common charges among individuals with serious mental illnesses, followed closely by alcohol or drug possession, and disorderly conduct (7–10). Among 99 mental health court participants in North Carolina, 90% of offenses in the two-year period before court entry were misdemeanors; the remaining 10% were felonies, 83% of which pertained to theft. Among 133 individuals with serious mental illnesses and a history of incarceration being treated in a community mental health center in Atlanta, common self-reported misdemeanor offenses included property crimes (36, 16%) and crimes against public order (23, 10%) (11). Taken together, available research suggests that the majority of arrests in this population are for minor charges that may be appropriate for pre-arrest diversion programs that focus on connecting people to behavioral health and other social services. At the same time, the handful of available studies rely on data that are at least 15 years old and several lack detailed charging information. In order for upstream interventions to be best informed and

most effective, we need a clearer, current understanding of what individuals with serious mental illnesses are being charged with and which sociodemographic or clinical risk factors increase individuals' risk of arrest.

This analysis used Record of Arrest and Prosecution (RAP) sheets from a sample of patients with serious mental illnesses in southeast Georgia to characterize the nature of lifetime arrests and charges. First, for descriptive purposes, we determined the proportion of patients having ever been arrested, and among those who had, number of lifetime arrests and number of lifetime charges. Second, we examined associations of number of arrests with: sex, race, educational attainment, current homelessness, psychiatric diagnostic category, and presence of a co-occurring substance use disorder. We hypothesized, based on prior literature in both the general population and among persons with serious mental illnesses, that the number of arrests would be predicted by male sex and African American race (12,13), lower educational attainment (11,14), homelessness (15,16), having a psychotic (as opposed to a mood) disorder (17), and having a co-occurring substance use disorder (15,16,18). Third, we examined the most common specific charges for the earliest two arrests and the most recent two arrests to determine whether or not the types of charges differed. Such exploratory work is necessary to better understand how "accumulation of criminal justice involvement" (19) impacts criminal legal, social, health, and mental health outcomes among individuals with serious mental illnesses.

METHODS

Setting and Sample

Data for this secondary analysis came from 240 participants recruited as part of a parent project evaluating a new model of recovery-oriented community navigation. Recruitment for the parent study took place at three inpatient psychiatric facilities in southeast Georgia —a state psychiatric hospital and two crisis stabilization units. The majority (198, 83%) were recruited from two settings in Savanah, and 42 (18%) were recruited from a unit in Brunswick. The Savannah metropolitan statistical area has a population of 389,494 (55% White, 32% Black or African American, 7% Hispanic or Latino), with a median age of 36.1, a median household income of $58,178, and a poverty rate of 16% (20). The Brunswick metropolitan statistical area has a population of 115,939 (68% White, 23% Black or African American, 5% Hispanic or Latino), with a median age of 41.9, a median household income of $44,887, and a poverty rate of 20% (20).

Eligibility criteria for this analysis was the same as for the parent study and included the following: 18–65 years of age; diagnosis of a psychotic or mood disorder; having had two inpatient psychiatric admissions within the past 12 months; inability to complete activities of daily living or social role functioning in at least two areas (e.g., navigating services, caring for personal business affairs, obtaining/maintaining employment); absence of known or suspected intellectual disability or dementia; and having capacity to give informed consent.

Procedures and Materials

Participants were referred to the parent study from clinicians at the three recruitment sites. After obtaining written informed consent following Institutional Review Board (IRB)-approved processes, a 2–4-hour assessment was conducted in the inpatient setting in the several days prior to discharge for the parent project. Clinical research diagnoses for psychotic and mood disorders and substance use disorders were made using the *Structured Clinical Interview for DSM-5 Disorders* (21).

The Georgia Bureau of Investigation's Georgia Crime Information Center (GCIC) provided participants' RAP sheets, with their consent. GCIC receives monthly crime and arrest reports from >600 state and local law enforcement agencies. Information on arrests and charges are stored in the GCIC's crime database and is summarized in the RAP sheet. We extracted select information from each participant's RAP sheet: number of lifetime arrests, number of lifetime charges, and whether any charge within an arrest was a felony (else, the arrest was classified as a misdemeanor). Additional data were extracted for each individual's earliest two arrests and most recent two arrests, including all charges within the arrest event.

Data Analysis

Descriptive statistics were examined. Poisson regression—a generalized linear model form of regression analysis used to model count data—was conducted to determine associations between number of arrests and sex, race, educational attainment, current homelessness, psychiatric diagnostic category, and presence of a co-occurring substance use disorder, while controlling for age (given that older patients would have had more time across the lifespan to be arrested). All analyses were conducted using IBM SPSS 25.

RESULTS

Sociodemographic and Clinical Characteristics of the Study Sample

Sample characteristics are shown in Table 1. The mean age was 35.9±11.6, and 155 (65%) were male. The vast majority were non-Hispanic (228, 95%), with roughly half being White (116, 48%) and half being Black or African American (114, 48%). The mean years of education was 11.0±2.7, the majority were single and never married (148, 62%), and most were unemployed (208, 87%). Roughly two-thirds were diagnosed with a psychotic disorder (155, 65%), and the remainder had a mood disorder (85, 35%). 147 participants (61%) had a co-occurring substance use disorder.

Charges and Arrests in the Study Sample

Among the 240 participants, 171 (71%) had been arrested in Georgia at least once, and among those, the average number of lifetime arrests was 8.6±10.1 (median=6) and the average number of lifetime charges was 12.6±14.6 (median=7). 98 participants (41% of the overall sample, and 57% of those who had ever been arrested) had a felony charge in their history.

Associations between Number of Arrests and Six Variables

In the Poisson regression on number of arrests, age was included as a covariate in the model. As shown in Table 2, of the six variables of interest included in the model (in addition to age), only experiencing homelessness was not an independently significant predictor when controlling for the effects of the other variables. Educational attainment was the strongest predictor with an odds ratio (OR) of 2.96 (95% confidence interval (CI)=2.60, 3.38). African American race (OR=1.54; CI=1.37, 1.73), the presence of a substance use disorder (OR=.83; CI=.74, .93), and the presence of a mood disorder (OR=1.36; CI=1.21, 1.53) were also meaningful predictors. Contrary to our expectations, female sex was associated with more arrests (OR=1.40; CI=1.25, 1.57) when controlling for the other variables.

The Most Common Charges

To examine specific charges, we extracted specific charge codes for each individual's first two arrests and most recent two arrests. For those with 4 arrests, all of their charges were included. A ranking of the 15 most common charges from this extraction is given in Table 3. Charges with a frequency of >5% included criminal trespass (the most common charge, at 7% of all charges), willful obstruction of law enforcement officers (7% of all charges), disorderly conduct (6%), and shoplifting (6%). Table 4 gives rankings of the charges with a prevalence greater than 2% within the first and second arrests (which occurred at mean ages of 19.6±4.2 and 21.3±4.8) and within the most recent two arrests (which occurred at mean ages of 33.4±10.3 and 34.9±10.6). The earliest arrests included charges for marijuana possession and driving under the influence (15% of all charges), followed by shoplifting and burglary (12% of all charges), whereas the most recent charges included probation violations (11% of all charges), failure to appear to a court appointment (5%), and officer obstruction- and giving false information-related charges (14%). Driving under the influence became much less frequent between the earliest and most recent arrests (7% of charges compared to 1%), and the same was true of marijuana-related charges (13% of charges compared to 2%). On the other hand, disorderly conduct became much more common in the most recent arrests (9% compared to 3%), as did officer obstruction- and giving false information-related charges (14% compared to 6%).

DISCUSSION

At least five findings are noteworthy. First, some 71% of patients had been previously arrested in Georgia, which means that the actual percentage having been arrested is likely higher if the analysis could have included data from other states. This high rate is consistent with prior literature on individuals with serious mental illnesses (1,15). Second, among those having been arrested, the average number of lifetime arrests in Georgia was 8.6, and the average number of lifetime charges was 12.6. Third, among those ever arrested in Georgia, almost half (43%) had never been charged with a felony, and the majority of charges were for misdemeanor or unclassified offenses. As policy change pertaining to criminal legal system reform (such as bail reform for misdemeanors) proceeds, the special needs of those with serious mental illnesses—who are at high risk for persistent inequities—must be intentionally and strategically addressed so they can share equitably in the benefits of

reform. Furthermore, racial inequities must be at the forefront of reform, not only with regard to the general population, but also among those with serious mental illnesses.

Fourth, having a lower educational attainment (<12 years), being female, being Black/ African American, the presence of a co-occurring substance use disorder, and the presence of a mood disorder were associated with a greater number of arrests. More arrests among Black/African American participants is likely a reflection of the impact of structural racism across multiple systems (e.g., housing, employment, criminal justice (22), health care), which contributes to the disproportionate arrests and incarceration of people of color, perhaps especially among those with serious mental illnesses. The lack of association between arrests and homelessness could be due to the fact that the sample was economically disadvantaged and many participants who did not identify as homeless were still unstably housed (i.e., living with different friends or family members).

Fifth, the ranking of the most common charges varied substantially over time, from the earliest arrests that occurred at an average age of 20–21 years, to the most recent arrests that occurred at an average age of 33–35 years. The earliest arrests commonly involved marijuana possession, driving under the influence, and shoplifting/burglary charges, whereas recent arrests more often included probation violations, officer obstruction-related charges, disorderly conduct, and failure to appear to court. (According to Georgia code, misdemeanor obstruction of an officer is defined as occurring when a person "knowingly and willfully obstructs or hinders any law enforcement officer in the lawful discharge of his official duties." This, along with the misdemeanor "giving false name, address, or birthdate to an officer," is, in essence, being uncooperative and getting in the way of the officer doing his or her job.) Some of this variation over 42 years (the arrest dates ranged from 1976 to 2018) is undoubtedly related to changes in policing and processing practices (e.g., less enforcement of marijuana possession). At the same time, future research should explore the extent to which the evolution of an individual's criminal legal system history is related to the changes in the severity of their illness and to the psychosocial consequences of having long-term serious mental illnesses. Just as Lorvick and colleagues (19) describe how the "accumulation of criminal justice involvement" leads to a higher prevalence of unmet mental and physical healthcare needs, so too might the accumulation of adverse psychosocial consequences related to long-term serious mental illnesses lead to a change in the nature of arrest charges. That is, as more arrests and more charges accrue, the likelihood of failure to appear and probation violation increases, and such violations are also likely driven partly by the manifestations of long-term serious mental illnesses, including neurocognitive impairments and other symptoms, as well as lack of transportation and other social adversities. Having a long-term serious mental illness also appears to be associated with a higher likelihood of potentially illness-related charges (e.g., disorderly conduct). Much more research is needed to understand the dynamic relationships between behavioral health illness severity, socioeconomic disadvantage including housing insecurity, and events leading to arrests (23).

Diverse policies, practices, and programs have been and continue to be developed to reduce criminal legal system entanglement among individuals with serious mental illnesses (24– 27). Interventions benefit from targeting different points of the Sequential Intercept Model

(28): Intercepts 1 (emergency services and law enforcement), 2 (booking, arraignment, detention), 3 (jails/courts), 4 (re-entry from jails/prisons to community), and 5 (probation and parole). Our findings may be informative. First, community-based mental health services ("Intercept 0") have a key role to play in reducing arrests and providing police with alternatives to arrest. New interventions and service models are needed that ensure appropriate interventions are available at the right time to mitigate the conditions or risk factors associated with police contacts and arrests (29). The present data suggest that a potentially high-impact approach toward this goal would be for mental health professionals to ask regularly about clients' legal involvement, and work with clients on adherence to court mandates so that they don't experience the negative collateral consequences of failure to appear (30) and probation violations that can so easily result in additional arrests.

Second, we hypothesize that charges such as willful obstruction of officers and giving false name/address/birthdate to an officer (i.e., charges related to suboptimal interactions with the officer) may stem from prior negative experiences with the criminal legal system, which includes low perceived procedural justice (which concerns perceptions of neutrality/ impartiality/fairness, respect and dignity, having a voice, and trustworthy and transparent processes). Several North American studies examining experiences in police encounters (both crisis- and non-crisis-related) indicate that individuals with serious mental illnesses feel very vulnerable when interacting with police officers and that how the officer treats them influences their feelings toward the encounter and their level of cooperation with the police (31–33). This is consistent with research originating in social psychology on policing and procedural justice: how people are treated by an authority in terms of fairness, dignity, and voice has implications for cooperation, perceptions of police legitimacy (34), and motivation to comply with the law (35). As such, new approaches need to be developed (for criminal legal system personnel) to improve empathy, fairness, dignity, and voice, which would improve perceived procedural justice and thus respect toward officers (potentially ultimately reducing the likelihood of charges such as willful obstruction).

Third, because some charges (e.g., shoplifting, theft by taking) could stem in part from socioeconomic disadvantage and poverty—as opposed to the serious mental illness itself— progress in this area will remain limited so long as those with serious mental illnesses are disenfranchised. Many jurisdictions have been experimenting with public health informed responses to people who engage in relatively minor criminal activities that may be a result of extremely adverse social conditions, recognizing that police may not be necessary at all in many of these situations and that other types of professionals may be better equipped to interact with vulnerable members of the community (36). Fourth, because some charges (e.g., disorderly conduct and "terroristic threats," the latter including threatening "to commit any crime of violence")—especially later in the course of serious mental illness—likely stem from illness manifestations, officers need more tools at their disposal to directly link symptomatic or behaviorally disturbed individuals to a receptive and accessible mental health system.

At least two methodological limitations must be acknowledged. First, although the study had the unique advantage of having highly objective data on lifetime arrests and charges, the RAP sheets only captured arrests occurring in the state of Georgia. As such, the figures

presented here are undoubtedly under-estimates of actual arrests. Furthermore, the RAP sheets we obtained only had highly reliable information on arrest history; conviction and sentencing history could not be relied upon to be complete. Other research documents inequities at later points in the criminal justice system; e.g., Hall et al. (2) reported that a major mental illness diagnosis was associated with more than a 50% increase in the odds of a jail sentence for misdemeanor arrestees. Second, although internal validity is high given the relatively homogeneous nature of the sample, generalizability might be limited given the particular sociodemographic and clinical characteristics of the study sample (e.g., all participants were enrolled from public-sector inpatient settings, indicating a high level of socioeconomic disadvantage and clinical severity). Multi-site studies, with larger and more representative samples, are warranted.

Conclusions

Given substantial reforms that are underway, such as in those in many police departments, as well as in behavioral health crisis response systems across the U.S., more fine-grained research on the exact charges experienced by people with serious mental illnesses over the life-course is merited, as is more insight into the nature of the situations in which these charges are proffered. Such findings, including those herein, might point to both policy and programmatic solutions—within the criminal legal and mental health sectors—to reduce arrests and incarcerations in this population.

Funding:

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HIGHLIGHTS

- The majority of patients with serious mental illnesses in our public mental health system sample (71%) had been arrested, and their average number of lifetime arrests was 8.6 (with an average number of charges of 12.6).

- In this sample, the number of arrests was predicted by lower educational attainment, Black/African American race, the presence of a substance use disorder, the presence of a mood disorder, and female sex.

- Charges early in their criminal legal system history were typically marijuana possession, driving under the influence, and shoplifting; more recent charges tended to be probation violations, failure to appear, officer obstruction-related charges, and disorderly conduct.

Table 1.

Sociodemographic and Clinical Characteristics of the Study Sample (n=240)

	M	*SD*
Age, years	35.9	11.6
Years of School Completed (n=238)	11.0	2.7
	n	%
Sex, male	155	65
Ethnicity, Non-Hispanic	228	95
Race		
White	116	48
African American or Black	114	48
Other (e.g., biracial)	10	4
Marital Status		
Single and never married	148	62
Divorced, separated, or widowed	78	33
Married or living with a partner	14	6
Currently Unemployed (n=239)	208	87
Currently Experiencing Homelessness	69	29
DSM-5 SCID Psychotic and Mood Disorder Diagnosis		
Psychotic disorder	155	65
Mood disorder	85	35
DSM-5 SCID Substance Use Disorder Diagnosis		
Present	147	61
Absent	93	39

Table 2.

Poisson Regression Results: Dependent Variable, Number of Arrests

	Wald χ^2	p	Odds Ratio	95% Confidence Interval for Odds Ratio	
Age	110.78	<.001	1.03	1.02	1.03
Sex, Female	33.02	<.001	1.40	1.25	1.57
Race, African American	54.13	<.001	1.54	1.37	1.73
Educational Attainment, <12 years	265.19	<.001	2.96	2.60	3.38
Currently Experiencing Homelessness	.017	.90	1.01	.90	1.13
Diagnostic Category, Mood Disorder	25.62	<.001	1.36	1.21	1.53
Co-occurring Substance Use Disorder	10.05	.002	1.20	1.07	1.35

Table 3.

Ranking of the 15 Most Common Charges among Individuals with Serious Mental Illnesses Who Had Ever Been Arrested in Georgia, *n*=171

	Charges (n=708)	n	%
1	Criminal trespass (M)	52	7
2	Willful obstruction of law enforcement officers (M)	48	7
3	Disorderly conduct (M)	42	6
4	Theft by shoplifting (1 F, 23 M, 15 X)	39	6
5	Probation violation for fingerprintable charge (20 F, 14 M)	34	5
6	Driving under the influence of alcohol (M)	34	5
7	Marijuana – possession of less than 1 oz. (M)	33	5
8	Driving while license suspended or revoked (M)	29	4
9	Simple battery (M)	27	4
10	Failure to appear for fingerprintable charge (7 F, 15 M)	22	3
11	Theft by taking (5 F, 5 M, 11 X)	21	3
12	Burglary (F)	19	3
13	Purchase, possession, manufacture, distribution, or sale of marijuana (14 F, 1 M)	15	2
14	Aggravated assault (F)	13	2
15	Terroristic threats and acts (11 F, 1 M)	12	2

M = misdemeanor, F = felony, X = unclassified

Table 4.

Ranking of the 15 Most Common Charges from the Earliest Two Arrests and the Most Recent Two Arrests among Individuals with Serious Mental Illnesses Who Had Been Arrested at Least Four Times in Georgia, *n*=99

	Earliest Two Arrests (n=266 charges)	n	%	Most Recent Two Arrests (n=294 charges)	n	%
1	Marijuana – possession of less than 1 oz. (M)	22	8	Probation violation for fingerprintable charge (18 F, 9 M)	27	9
2	Driving under the influence of alcohol (M)	19	7	Disorderly conduct (M)	26	9
3	Theft by shoplifting (4 M, 12 X)	16	6	Willful obstruction of law enforcement officers (M)	23	8
4	Burglary (F)	16	6	Criminal trespass (M)	20	7
5	Criminal trespass (M)	15	6	Failure to appear for fingerprintable charge (4 F, 12 M)	16	5
6	Willful obstruction of law enforcement officers (M)	15	6	Theft by shoplifting (1 F, 11 M, 2 X)	14	5
7	Theft by taking (1 F, 2 M, 11 X)	14	5	Driving while license suspended or revoked (M)	13	4
8	Purchase, possession, manufacture, distribution, or sale of marijuana (12 F, 1 M)	13	5	Giving false name, address, or birthdate to an officer (M)	9	3
9	Simple battery (M)	10	4	Willful obstruction of officers by use of threats/violence (F)	8	3
10	Driving while license suspended or revoked (M)	10	4	Marijuana – possession of less than 1 oz. (M)	7	2
11	Disorderly conduct (M)	8	3	Simple battery (M)	6	2
12	Aggravated assault (F)	6	2	Probation violation (prob terms altered) (X)	6	2

M = misdemeanor, F = felony, X = unclassified