Chapter 11
What Works and What's Promising

It's been a long time coming. But I know, a change is gonna come.—Sam Cooke

This book came about through the collective experience of both authors. Jada and Dave independently and together on various projects have seen a need to bring crime and mental health to the forefront of many conversations not only in the professional realm but also in working with students. As it stands today, students graduating in criminal justice will more than likely encounter justice-involved individuals with mental health concerns. It is important that those students turned professional understand the obstacles and cracks in the system that individuals face. This book is just a starting point for many conversations to come on these topics. The hope is that beginning the discussion can also begin the solution.

11.1   Looking Forward

People are slowly beginning to raise awareness on criminal justice system reform, mental health stigma, and substance abuse needs. Hopefully, these positive strides continue and bring more access to care, programming, and treatment needed for those involved in the justice system as well as preventative measures.

Prevention for mental health, substance abuse, and crime all has common ground. Programs exist at the federal, state, and local levels to implement prevention framework for behavioral health and public health topics. Integration with these programs is essential for individuals in need, specifically within substance abuse and criminal justice.

Prevention thought processes can be important for changing stigma and being proactive about concerns within society. For example, proactive preventative measures can inform the public about risks and potential problems a person can experience. Even further, being part of a certain group can increase those risks. Whether it be a specific racial or ethnic group, gender, socioeconomic status, or even just a

specific neighborhood can affect the risk of someone's potential to experience negative impact. Education and awareness about crime risks, drug addiction risks, and mental health symptoms can help to create an informed individual. Additionally, this also lessens the stigma associated with each and creates an open dialogue to begin discussing these topics in a healthy manner.

Continuing to have conversations regarding mental health and overall behavioral health is important to keep the topic relevant. These conversations allow for education and information to be exchanged. As with any important topic, positive message creates positive outlooks.

11.1.1 Legislative Progress

State legislatures often address bills related to both mental health and criminal justice, especially when there is a change in administration. These bills can themselves be solely about addressing issues within either of these areas, or there may be amendments hidden within another bill related to a completely different topic.

Each year, NAMI provides a report titled State Mental Health Legislation: Trends, Themes and Effective Practices. This report helps to shed light on both positive approaches states are taking in mental health, as well as those that are lacking in improvements. Additionally, the report breaks down information by subjects including criminal justice, suicide prevention, and inpatient and crisis care. Each section provides a summary of the bill as well as links to the state-related bills within that area of focus. This report serves as a yearly guide to how mental health legislation is changing in each state.

In Utah, the state legislature introduced a bill to work toward positive criminal justice reform, including mental health initiatives. The 2015 bill HB 348 entitled Criminal Justice Programs "amends Utah Code provisions regarding corrections, sentencing, probation and parole, controlled substance offenses, substance abuse and mental health treatment, vehicle offenses, and related provisions to modify penalties and sentencing guidelines, treatment programs for persons in the criminal justice system, and probation and parole compliance and violations to address recidivism."

Highlights of Utah's HB 348 incorporate the state's Division of Mental Health and Department of Corrections to work together to establish performance goals and outcome measures for treatment programs. Then, these departments are to collect data and evaluate those performance goals and outcome measures and supply the results to the public. These policies are to not only increase awareness for the populous of Utah but also begin the process of working toward treating those in need and reducing recidivism. Further, HB 348 requires the Department of Corrections of Utah to establish and implement standards for treatment programs in county jails as well.

This bill is one of many in the steps toward positive change for both persons with a mental illness in the criminal justice system. Other positive notes in the 2015 NAMI State Mental Health Legislation report surround topics previously discussed in this book. For example, CIT or Crisis Intervention Training for Law Enforcement

Table 11.1 Summary of findings from the NAMI State Mental Health Legislation Report

State	2013	2014	2015	State	2013	2014	2015
Alabama	*Maintain*	**Increase**	*Maintain*	Montana	**Increase**	*Maintain*	**Increase**
Alaska	*Decrease*	*Decrease*	*Decrease*	Nebraska	*Decrease*	*Decrease*	**Increase**
Arizona	**Increase**	**Increase**	**Increase**	Nevada	**Increase**	*Maintain*	*Decrease*
Arkansas	**Increase**	*Decrease*	*Decrease*	New Hampshire	**Increase**	**Increase**	**Increase**
California	**Increase**	**Increase**	*Maintain*	New Jersey	**Increase**	**Increase**	**Increase**
Colorado	**Increase**	**Increase**	**Increase**	New Mexico	*Maintain*	**Increase**	**Increase**
Connecticut	**Increase**	**Increase**	**Increase**	New York	*Maintain*	**Increase**	**Increase**
Delaware	**Increase**	**Increase**	**Increase**	North Carolina	*Decrease*	*Decrease*	*Decrease*
District of Columbia	**Increase**	**Increase**	*Decrease*	North Dakota	*Maintain*	*Maintain*	*Decrease*
Florida	*Maintain*	**Increase**	**Increase**	Ohio	**Increase**	**Increase**	*Decrease*
Georgia	**Increase**	*Maintain*	**Increase**	Oklahoma	**Increase**	**Increase**	*Maintain*
Hawaii	**Increase**	*Decrease*	*Maintain*	Oregon	**Increase**	*Maintain*	**Increase**
Idaho	**Increase**	**Increase**	**Increase**	Pennsylvania	*Maintain*	**Increase**	Pending
Illinois	**Increase**	*Maintain*	Pending	Rhode Island	**Increase**	*Decrease*	*Maintain*
Indiana	*Maintain*	*Maintain*	**Increase**	South Carolina	**Increase**	**Increase**	**Increase**
Iowa	**Increase**	**Increase**	*Decrease*	South Dakota	**Increase**	**Increase**	**Increase**
Kansas	**Increase**	**Increase**	*Decrease*	Tennessee	**Increase**	*Maintain*	*Maintain*
Kentucky	**Increase**	*Decrease*	*Decrease*	Texas	**Increase**	*Maintain*	**Increase**
Louisiana	*Decrease*	*Decrease*	*Maintain*	Utah	**Increase**	**Increase**	*Maintain*
Maine	*Decrease*	**Increase**	**Increase**	Vermont	**Increase**	**Increase**	*Maintain*
Maryland	**Increase**	**Increase**	*Maintain*	Virginia	**Increase**	**Increase**	**Increase**
Massachusetts	**Increase**	*Maintain*	**Increase**	Washington	**Increase**	**Increase**	**Increase**
Michigan	**Increase**	*Decrease*	*Maintain*	West Virginia	*Maintain*	**Increase**	**Increase**
Minnesota	**Increase**	**Increase**	**Increase**	Wisconsin	**Increase**	**Increase**	*Maintain*
Mississippi	**Increase**	*Maintain*	*Maintain*	Wyoming	*Decrease*	*Decrease*	*Decrease*
Missouri	**Increase**	**Increase**	*Maintain*				

has been added in different ways to Indiana, Illinois, and Maryland. Illinois is requiring a standard certified training program, while similarly, Maryland is mandating a program for Baltimore City and county police officers. Additionally, Indiana is creating a CIT Technical Assistance Center (TAC) to create an advisory committee to oversee all CIT-related activities within the state.

States are also looking into creating other specialty courts as well. South Carolina and Arizona have put bills in place to create mental health courts. These are just the changes within 2015 and not inclusive of the past successes of other states (Table 11.1).

As a society, working together, change can be done to better the health of everyone. Using history and current data, there appears to be hope in small organizations or movements to work toward positive, health change.

11.2   Change Is Taking Place Slowly

Often, when changes are attempted in states and local communities, mental health is shot down because of misinformation, lack of education, and stigma. Health departments are making cuts due to losses in federal funding. Those cuts often come from mental health programming since other areas are viewed as more urgent needs as it relates to health.

A quick Google search of any combination of the words "mental illness," "jail" or "prison," and "death" will bring forth some truly eye-opening results. Change can begin with a conversation, continued awareness campaigns, and increasing collaborations where they previously did not exist. It appears that some of the most successful changes are occurring at the local level with partnerships that span from the courts to professionals to persons of faith to laypersons.

11.3   Change Agents

A positive resource for many partnerships and the organization they represent can be grant writing. Grants can range from thousands of dollars to millions and cover varying aspects of topics related to both crime and mental health. These grants can be offered from both private organizations and the federal government. For example, in some instances, the specialty courts mentioned in previous chapters were initially funded by a federal grant.

Organizations like SAMHSA and BJA offer grants on a yearly cycle. State and local governments and nonprofit organizations can submit an application to receive the funding. These grant opportunities allow communities that would not otherwise have the funding available to show proof of concept for their ideas, implement them, evaluate their results, and refine their knowledge of the problems they are attempting to solve. If these awards can provide proof of success with evidence and support, the hope would be continued funding to allow for the sustainability of these programs to continue positive change (and to replicate these models elsewhere throughout the country).

As highlighted throughout this book, the change agents involve partnerships among mental health and criminal justice professionals, lawyers, faith leaders, congregants, employers, researchers, legislators and policymakers, nonprofits, and community resource liaisons, among many others. Many of these grant opportunities force the issue of having these key stakeholders come together to be eligible for funding. It matters less on what brings these players together rather than the outcomes they can create when they get on the same page. These changes are occurring throughout the country thanks to federal leadership on mental health and criminal justice reinvestment and reform over the two decades (Table 11.2).

Table 11.2 Recent grant programs targeting mental health, substance use disorder, and reentry issues (2017)

Grant program	Program description
Adult Drug Court Discretionary Grant Program (BJA)	Supports specialty courts and their key partnerships; current categories include implementation (e.g., startup capital), expansion (e.g., offer broader treatment modalities, expand to target special populations, etc.), and statewide enhancement
Second Chance Act Reentry Program for Adults with Co-Occurring Substance Use and Mental Disorders (BJA)	Targets adults with co-occurring disorders as they return to communities after a period of incarceration; supports units of government or tribal government
Justice and Mental Health Collaboration Program (BJA)	Supports broad collaboration to improve outcomes for individuals with mental illness and co-occurring disorders; geared for county and parish governmental units to take lead on collaborative partnerships with its key stakeholders in the community *or* law enforcement agencies to serve as lead partner in this type of project
Grants to Expand Substance Abuse Treatment Capacity in Adult Treatment Drug Courts and Adult Tribal Healing to Wellness Courts	Supports specialty courts needing to beef up their evidence-based treatment provisioning, particularly medication-assisted treatment

11.4   Theoretical Considerations

Many theorists have opined on the critical nature of theory to structure our understanding of human behavior. As such, pouring over theory and testing their hypotheses and practicality in the real world can give us insight on how to intervene on behalf of those who are suffering from mental illness and/or substance use disorder. For example, if we know that selecting and prioritizing social relationships with individuals who like to use drugs and get themselves into criminal trouble increase the risk one engages in the same behavior, we can act to disconnect those ties as best as we can. Perhaps, more likely, if we assist in helping someone connect with pro-social ties and assist in making these relationships a priority for this same individual, the risk of getting into trouble is greatly diminished even if bad influences remain in the background (Akers, 1990). Theory can help vet practical solutions, test these ideas, refine them, and provide a scientific process on solving the problems facing us.

11.4.1   Restorative Justice and Relevant Theory

According to classic labeling theory, societies are hardwired to use social control to regulate behavior—particularly to correct behavior that breaks social norms (Klein, 1986; Schur, 1969). An easy example of this process can be found in the concept of

the "outlaw" in the American Old West. Outlaws were the worst of men, formally casted off from good society with a complete loss of legal rights. Labels exist in many forms: criminal, bad, bandit, robber, druggie, and so on; these also serve to reify those on the normative side and reinforce good behavior ("don't be like 'them'"). According to theory, these efforts of social control routinely backfire. In other words, efforts to punish bad or wrong behavior may drive vulnerable people, particularly the young and impressionable, toward a criminal lifestyle or deeper into mental illness.

This idea originated with Frank Tannenbaum (1938) who observed that official reactions to social behavior (e.g., by the criminal justice system or its parts or by the mental health-care system) can change a person's self-concept (e.g., their identity) in two ways. First, when a label such as "criminal," "convict," "delinquent," "incorrigible," "insane," or "mentally ill" is applied to a person by the system, these individuals are often subsequently immersed into an environment (jails/prisons) rich with learning opportunities from others who have been similarly labeled. Second, labeled individuals are frequently subjected to social admonishment by everyday people ("informal" sources, such as family, school, potential employers, etc.), which erects barriers to any hope of getting on the "right" path—a crime-free or healthy life. This second effect of a label is called secondary deviance (Lemert, 1951, 1972). At some point in the lives of labeled people, the labels are gradually accepted until they "stick." Over time, these individuals align their lifestyles and their behaviors to suit their altered "primary status"—a concept called "the self-fulfilling prophesy."

These twentieth-century concepts witnessed a renaissance in criminology and criminal justice when the restorative justice movement came about, yet have remained relevant in circles of mental health researchers for their obvious ties to the effects of stigma on individuals (Center for Justice and Reconciliation, 2012; Tyler, 2006). For newcomer theorists in the restorative justice movement, there was a missing element in older renditions of labeling when applying it to crime. In some cases, these theorists saw shame as *good*, and healthy, for offenders and victims alike. When done in a certain way, shame can bring reconciliation and healing. John Braithwaite calls this reintegrative shaming; the theory of reintegrative shaming focuses on *the manner* by which the formal system applies shame by punishment and admonishment. Namely, if the system can correct behavior holistically, it can be rehabilitative—shame must be accompanied by general forgiveness, acceptance, and reintegration to be transformative (Ahmed & Braithwait, 2012; Ahmed, Harris, Braithwaite, & Braithwaite, 2001; Braithwaite, 2002; Braithwaite, Ahmed, & Braithwaite, 2008).

Shame is normal and natural. It is a reaction to social behaviors that fall outside of social and/or legal norms. For example, a disapproving mother may react to a son's bad attitude and signs of disrespect. This condemnation could be reinforced by others close by, for example, neighbors, family members, or church members, depending on localized cultural values. Shame works primarily to elicit feelings of remorse and drive recompense. A kid caught stealing an expensive graphing calculator at school may be admonished by a teacher and disciplined by the principal. Quickly thereafter, the principal may call the child's family, starting this cycle of

shaming at home. According to reintegrative shaming, the goal would be to make sure the student quickly reconnects with pro-social ties at school, at home, and even in the community through apology, forgiveness, and acceptance. The calculator goes back to the victim, the victim makes peace with the offender, and surrounding players help to heal everyone accordingly. Braithwaite (1989) warns that shaming can be stigmatizing, and this can possibly amplify deviance—as seen with traditional labeling theory. If this calculator-stealing kid was sent to detention with all the other bad kids, kicked out of Advanced Placement Calculus, and left to pick up the pieces, his shame may put him on a darker future path.

Each modern society seems to have its own brand of shaming. For example, Japanese culture has promulgated a pure type of reintegrative shaming in each generation for many centuries. In fact, Japanese offenders are expected to enter a ritual that begins with an apology to which the victim is compelled to help bring the offender back into the fold. If either offender or victim violates these cultural mores, it can bring shame and scrutiny. Any observer of American culture can note the departure this Japanese ritual has with similar interactions in the United States. Thus, reintegrative shaming can be considered a paradigm shift—much like what is going on with criminal justice reform at this time.

11.4.2 Reintegrative Shaming in Action

According to a stream of new literature, the concept of reintegrative shaming can easily guide the practices of a model mental health court for optimal results—at least theoretically. In fact, sociologists Ray, Dollar, and Thames (2011) picked up on this notion and attempted to determine whether observed court proceedings of model mental health courts promulgated feelings of respect and forgiveness while tamping down feelings of disapproval when compared to traditional court proceedings. To scientifically accomplish this task, Ray, Dollar, and Thames used an observation instrument that was designed to measure these constructs in action, called the Global Observational Ratings Instrument. Specifically, this instrument taps into the following:

- How much reintegrative shaming was expressed?
- How much stigmatizing shaming was expressed?
- How much support was the offender given during the court proceedings?
- How much approval of the offender as a person was expressed?
- How much respect for the offender was expressed?
- How much disappointment in the offender was expressed?
- To what extent was the offender treated as a criminal?
- How often were stigmatizing names and labels used to describe the offender?
- How much disapproval of the offender as a person was expressed?
- How clearly was it communicated to the offender that they could put their actions behind them?
- How much forgiveness of the offender was expressed?

To ensure to minimize any bias in applying a score to each of the items to be observed above, the study uses three observers to ensure interrater reliability. If mental health courts operate as intended, the researchers should find substantial differences between the mental health court process and the traditional court process in these domains—and this research supports this hypothesis (Hiday & Ray, 2010). Yet, while these findings are hopeful (pun intended), they did not seem to translate into reductions in recidivism. In this vein, the researchers did not holistically observe the fidelity of the observed mental health courts to other important components required for the optimal success of these programs (Miller & Khey, 2017). In other words, while court proceedings could elicit feelings of reintegrative shaming and forgiveness, adequate treatment protocols may have not been followed or, if followed, may not have employed evidence-based practices proven to work within this target population. In a recent follow-up study, Dollar and Ray (2015) strengthen their original work by continuing to follow the court for 3 years. In all, the conclusions remain the same—client's disapproval by the judge and mental health court personnel was done in a way that was respectful, relationships among participants and court personnel showed evidence of respect and caring, disapproval tended to focus on the behavior and not on any individual, everyone on the mental health court team avoided stigmatizing words and labels, and so on.

By now, it should be easy to see how theory can inform practice; yet, in this case, and for this target population, reintegrative shaming does not offer a complete solution. It certainly optimizes the chances for success and eliminates significant barriers (if not *the* most significant barrier—stigma) that prevent ultimate success. Importantly, the fundamentals of evidence-based mental health treatment are paramount. These findings certainly inform future research and evaluations of the mental health court model. In particular, it underscores the importance of process evaluations. In other words, it is important to not only ensure that the mental health court process is working as intended, and as guided by the principles of reintegrative shaming, evaluations also need to probe the treatment protocols to determine if these are modeled after practices are already proven to work in the field (Miller & Khey, 2017).

11.4.3   The Future of Reintegrative Shaming in Research

The interest in the practicality of reintegrative shaming in the United States has waned since a peak of interest in the late 1990s and early 2000s (as determined by federal funding specifically to explore reintegrative shaming in theory as well as in practice). Mental health courts seem to be the exception. In fact, funding for these programs continues to grow as well as the interest in establishing new courts across the country. Further, interest in the topic remains strong in academia and in research organizations—the online library of the Centre for Justice and Reconciliation holds over 12,800 citations and abstracts for scholarly work and technical "white papers" on restorative justice. In fact, the Centre continues to add about 1000 entries in each

year (Khey, 2014). Even with all of this positive activity, some of these entries warn proponents of the impediments that exist to stymie future development of programming based on restorative justice principles (e.g., Dollar & Ray, 2015). Reintegrative shaming may not be *the* solution, but certainly holds promise of optimizing the results of evidence-based programming discussed throughout this book.

One of the missing pieces of current research seems to align with one of the greatest barriers to justice reinvestment—being able to specify a target population known to respond to particular treatment to result in crime reduction. Over the years, researchers have found success in changing offenders' perceptions after being exposed to reintegrative shaming processes. As a whole, research shows that these differences translate into reductions in recidivism for only some individuals, not a majority or all (e.g., Hipple, Gruenewald, & McGarrell, 2012; Sherman, Strang, & Woods, 2000; Strang, Sherman, Woods, & Barnes, 2011). Future research will need to give better clarity as to why this is occurring. This research should also consider blending in the literature of the reentry and criminal justice reform movements—again, reintegrative shaming may help optimize the power of programming that has come about. Programs that offer aftercare to help people returning back to their communities that connect them to employment, mental health and substance abuse treatment, counseling, housing, transportation, education, and vocational training may need to seek out opportunities to apply reintegrative shaming techniques. This appears to be the advantage of reentry court relative to other programs of the sort; just like we have seen with mental health court in providing the structure for reintegrative shaming to occur, reentry court offers the same potential. Future research will need to explore whether this reintegrative shaming is complete in reentry courts in that it can translate into tangible things like gainful employment, family reunification, and pro-social relationships.

With the growth spurt of both mental health and reentry courts, it appears that the reintegrative shaming principles will continue to flourish and guide continued success of criminal justice reform programming. Much more research needs to be done—for example, at what point must reintegrative shaming principles be applied to work properly in the reentry process? Is it possible to start this process before release? If so, does it help? In the community, what is the earliest point criminal justice professionals can apply these principles in the sequential intercept model? Essentially, all of these questions seem to ask, at what point in time is it reasonable to start the healing process and welcome offenders back into the fold.

11.5   Concluding Remarks

Treatment for mental illness can help in many ways, particularly with reducing the chances of individuals to not become justice-involved or—more likely—reduce the chances of not returning to the criminal justice system. Data suggests that there is, on average, an 8-year delay from the onset of mental health symptomatology to first indications of treatment. This delay is due to a complex array of barriers to

treatment, of which stigma tends to be the most potent. All too often, the criminal justice system becomes an entry point to mental health services. This is not to say that jails and prisons are illegitimate entry points; yet, these institutions have long been beleaguered with the lack of resources to engage this target population with the care they need. Likely, jail and prison administrators and their staff are unaware of specific mental health diagnoses among their inmates as there are far too many gaps in even the detection of these issues in incarcerated populations.

The aging data on mental health—and, generally speaking, the lack of data in many areas—inhibits progress, particularly among justice-involved populations. It is also important to invest in broader epidemiological surveillance systems as we do with other diseases and conditions. Doing so will allow for professionals to better monitor progress, change incidence of new and emerging issues, and so on. As the Twenty-First Century Cures Act begins to shape the infrastructure of change, it is important for professionals to understand their role in mental health awareness and how the organizations they belong can fill a gap of information that is all too common in this domain.

This book is not meant to be negative in nature, but rather bring to light the issues surrounding crime and mental health—particularly on how crime and mental health intersect all too often. The first steps to change involved acknowledging and understanding the issues at hand. As a society and community, the cracks in the system need to be viewed, reviewed, assessed, and reassessed in order to move forward with solutions. This will take some time and effort, but it can be done.

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