

Michael Dougherty: Improving the justice system's response to mental health issues

By Michael Dougherty
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Throughout my years as a prosecutor and advocate for criminal justice reform, I have seen countless examples of low-level offenders who are arrested and cycle through the justice system, only to go on to commit more offenses, and be repeatedly arrested and prosecuted. This pattern is costly, failing the offender and the community. It costs all of us taxpayer dollars. It costs our law enforcement agencies, prosecutors, and public defenders precious time, effort and resources. And it costs individual offenders, a number of whom are committing low-level offenses because of ongoing mental health issues. Short periods of time spent in jail, followed by an abrupt release to the community, does nothing to improve the mental health of these individuals.

No one is immune from mental health struggles. From 2006 through 2016, our state had 10,256 die by suicide. Currently, Colorado is among the top six states in the nation for suicides. Unfortunately, we often lack community resources to provide treatment and support. In the criminal justice system, far too many defendants enter the system due to a mental health crisis. For them, and for the welfare of our community, our justice system must more effectively respond to mental health issues.

On any given day, approximately 40 percent of the offenders in the Boulder County Jail have a diagnosed mental health disorder. Last year, roughly 2.2 million admissions to local jails in the United States involved people with a mental health disorder. On average, there are 750,000 people with mental illnesses incarcerated in jails and prisons across the United States every day.

As Boulder County's District Attorney, I will continue to pursue innovative answers to these persistent, no-win patterns. I am excited about launching our new Mental Health Diversion Program, a partnership between my office, Sheriff Pelle and the Public Defender. It is a pre-file diversion program for individuals arrested on low-level charges who will benefit from mental health treatment. By providing needed mental health services, we are confident that this program will ultimately lower the rate of re-offense and enhance community safety.

When a person is arrested for a designated low-level offense, he or she will receive a mental health assessment. If the offender is eligible for treatment, he or she will be diverted out of the jail, and I have agreed the DA's Office will defer the filing of charges in order to connect these individuals to a treatment provider as soon as possible.

Since March, we have been working to develop an effective screening and referral process to ensure the Mental Health Diversion Program is designed to support professional treatment of mental health disorders that are driving an offender's criminal behavior. We are committed to this program achieving the combined goal of reducing recidivism and supporting positive life outcomes.

Boulder is one of four sites in the state selected to pilot a Mental Health Diversion Program. Through this new law, the state will provide funding for our project. I am very proud that Boulder is the first site to get its pilot project underway, highlighting the collaboration we have in place between the different members of the criminal justice system in Boulder.

Another goal is the creation of a Mental Health Treatment Court to provide treatment and re-entry options for individuals with mental health challenges who are not eligible for diversion. As assistant district attorney of the Jefferson/Gilpin County DA's Office, we established a highly successful mental health court.

Back as a young prosecutor, there were few alternatives to the cycle of crime. Our system's answer to crime was the street or jail. What we now know is that jail alone does not stop the cycle. In fact, nearly fifty percent of offenders who are sentenced to state prison in Colorado are back in state prison within three years of release.

Enhancing public safety requires innovative approaches like the Mental Health Diversion Program, restorative Justice, and other similar programs. I am excited to work with our partners in law enforcement, the courts, mental health providers, and the Public Defender's office to improve the criminal justice system.

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