

CRIMINAL OFFENDING AND MENTAL DISABILITY IN HARRIS COUNTY

AN ONE-YEAR COMPARISON OF REGULAR OFFENDERS WITH OFFENDERS WITH MENTAL ILLNESS AND/OR MENTAL DISABILITY

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BACKGROUND

Between January and December 2004, 80,036 different persons were charged with a criminal offense in Harris County. Subsequently in this report, these 80,036 offenders are viewed as constituting the 2004 cohort. A two-stage record-linking procedure was developed by the author to match records from the criminal justice system (JIMS) with the MHMRA clinical practice database (ANASAZI) ². The first stage used social security numbers (SSNs) to link records. The second stage used a combination of last name, first name, sex, ethnicity, and birth year to link records that have not been cross-matched. The first-stage linking method led 11,135 matches (14%), and the second linking method led to 7,994 (10%) more matches. Together, the two linking methods identified 19,129 offenders as registered consumers in the MHMRA database. In other words, almost one in four offenders charged with a crime in 2004 have mental illness or disability (24%).

This report, using findings based on this 2004 cohort, attempts to address the following questions:

1. Are there differences in the nature and severity of offenses for which the two groups of offenders are charged?
2. Are there differences in the number of jail days that each group incurred on the average, both per offense and per person during the year 2004?
3. Are there differences in the rates of repeated offending and booking when consumer offenders are compared to non-consumer offenders after release from jail?
4. In what way do mental illness and disability relate to

¹ *The opinions expressed in this report are solely those of the author and do not reflect the view of MHMRA's Board of Trustees or its staff. The author thanks Ms. Karen Welborn of Harris County Office of Court Management for her critical role in extracting and making available JIMS data; Shelley Wall, MHMRA IT Operations Director for facilitating the data transfer; and Dr. Scott Hickey of MHMRA and Ms. Emilie Farenthold for their methodological input and assistance. Any inaccuracy in the use of the data or the methodologies or error in interpreting the findings remain the author's sole responsibility.*

² *The results of the record linking procedure used for this report are preliminary. Time has not permitted verification of its accuracy in terms of under- or over-estimation of record matches, as assessed against actual paper record trails, clinical notes, documentation of service histories etc. Because of missing or inaccurate SSNs in the JIMS data set and to a lesser extent in the MHMRA database, the level of record matching can be assumed to be conservative, i.e. below what would be obtained using ideal record matching procedures. The author welcomes all input and suggestions to improve and ensure the accuracy of this methodology. The author can be contacted at 713-970-7161 or tuan.nguyen@mhmhraharris.org.*

- a) the nature and severity of the offense,
- b) the frequency of offending,
- c) the likelihood of being booked into jail, and
- d) the length of jail time?

It should be noted that being registered with MHMRA indicates that the person belongs to the Texas' priority population group of persons with mental illness and mental retardation³. Subsequently in this report, these persons will be referred to as consumer-offenders or consumer-inmates (if jailed) in contrast with regular offenders or regular inmates respectively.

1. FINDINGS BASED ON FULL CRIMINAL HISTORY OF 2004 OFFENDERS

When a person was charged with an offense during 2004, all offenses with which he/she is charged from the first ever offense through December 15, 2004 were extracted. In other words, the data set contained the cohort's entire criminal career (as recorded in the JIMS). The oldest offense for this cohort dated back to October 21, 1969.

Table 1 shows that the cohort accumulated a lifetime's total of 228,901 charges, of which 136,119 (59%) are for a misdemeanor offense and 92,782 (41%) are for a felony.

Consumer-offenders received 81,825 charges, i.e. 36% of all charges for the cohort. Consumer-offender charges were distributed 46% felony and 54% misdemeanors, while regular offenders received 147,076 charges for a 37% felony vs. 63% misdemeanor charges. In other words, consumer-offenders were more likely than regular offenders to get a felony charge, although the majority of charges in both groups were for a misdemeanor. The relative ratio comparing consumer-offender rate of felony charges with regular offender rate of felony charges were 123%. That is a consumer-offender had a 23% greater odd of being charged with a felony, when compared to a regular offender.

Table 1: Distribution of Life time Charges by Offense Type and Consumer Status

	REGULAR OFFENDER	CONSUMER-OFFENDER	TOTAL
FELONY	55,017	37,765	92,782
MISDEMEANOR	92,059	44,060	136,119
TOTAL	147,076	81,825	228,901
FELONY	37%	46%	41%
MISDEMEANOR	63%	54%	59%
TOTAL	100%	100%	100%

Table 2 shows the rates of charges that were filed against consumer-offenders. Over their criminal career through December 2004, consumer-offenders accumulated 36% of all charges. However, this

³ The State of Texas defined the mental health priority population to include only persons with schizophrenia, major depression and/or bipolar disorders. Persons with mental retardation and pervasive developmental delay conditions are defined to be the mental retardation priority population.

rate was not constant over time. Prior to 2004, the rates were around 41%. In 2004, the consumer-offender's share amounted to only 25% of the charges. The reasons for this large reduction in the share of charges during 2004 cannot be ascertained from the current data set.

Table 2: Rates of Charges against Consumer-Offenders over Time

YEAR CHARGES FILED	% CHARGES AGAINST CONSUMERS
prior to 1990	44%
1990-1999	41%
2000	41%
2001	42%
2002	42%
2003	40%
2004	25%
Total	36%

Table 3 shows the number of offenders who were booked into jail, based on their “continuous” jail stays ⁴. The 228,901 charges brought against our 2004 offender cohort resulted in 246,526 unduplicated and continuous jail episodes during the criminal career of the cohort through December 2004. ⁵ Consumer-offenders, who made up 24% of the cohort, shared 38% of these episodes. Their share of the jail episodes due to felony offending was 42% while their share of jail episodes due to misdemeanors were 35%. In both situations, consumer-offenders had a larger share of jail bookings than their proportion in the cohort.

Table 3: Number and Rate of Offenders Jailed, by Status and Offense Type

	REGULAR INMATES	CONSUMER -INMATES	TOTAL	% CONSUMER-INMATES
FELONY	64,632	45,886	110,518	42%
MISDEMEANOR	88,595	47,413	136,008	35%
BOTH TYPES	153,227	93,299	246,526	38%

⁴ A methodological explanation should be noted regarding the identification of jail episodes. The data set is basically a collection of records of charges filed, with booking and release dates if they occur. Normally, a charge happens while the offender is in the community, following arrest. Many however could be filed while the offender is already jailed, either for offenses committed while in jail, or for additional charges associated with the pre-jail offending incident. In the JIMS system the booking date field is also used to record the start of a sentence to be served, even if the offender is already in jail serving another sentence. In this study, booking dates and discharge dates were used to “unduplicate” jail stays into unique non-overlapping jail episodes. Thus, all jail day statistics reported in this study refer only to the time during which the offender was removed from society. These jail days are not a measure of the severity of the sentences, although there is some (as yet unascertained) relationship between the two.

⁵ An offender may be booked more than once for an offense. Thus, it is possible for the number of jail episodes to be greater than the number of offenses charged.

Table 4 presents statistics on days spent in jail. Our cohort accumulated a total of 8,205,393 jail days. The overwhelming majority of those days (6,406,735 or 78%) were for felony offenses. Consumer-inmates, who made up 38% of the jailed offenders in the cohort, shared almost half (46%) of the cohort's jail days ⁶. This share was similar for both felonies and misdemeanors.

Table 4: Number Jail Days by Status and Offense Type

	REGULAR OFFENDER	CONSUMER -OFFENDER	TOTAL	% BELONGING TO CONSUMER- OFFENDERS
FELONY	3,454,204	2,952,531	6,406,735	46%
MISDEMEANOR	950,803	847,855	1,798,658	47%
BOTH TYPES	4,405,007	3,800,386	8,205,393	46%

Table 5 presents the average length of jail time per jail episode ⁷. A jail episode for our cohort lasted 33.28 days overall, but differed by offense type (57.97 days for felony and 13.22 days for misdemeanor). Jail episodes belonging to consumer-inmate were, however, much longer: 40.73 days overall, 64.34 days for felony, and 17.88 days for misdemeanor. Compared to a regular inmate's episode, a consumer-inmate's jail episode was on the average 42% longer overall, 67% longer for felonies, and 21% longer for misdemeanors.

Table 5: Average Jail Days per Jail Episode by Status and Offense Type

	REGULAR OFFENDER	CONSUMER -OFFENDER	TOTAL	RELATIVE RATE
FELONY	53.44	64.34	57.97	120%
MISDEMEANOR	10.73	17.88	13.22	167%
BOTH TYPES	28.75	40.73	33.28	142%

A similar pattern is observable in terms of jail days per offender ⁸ (Table 6). Each offender in our cohort experienced 102.52 days overall, 80.05 days for a felony, and 22.47 days for a misdemeanor. Jail stays for consumer-offender were, however, consistently higher than the cohort's average, with 198.67 days overall, 154.35 days for a felony, and 44.32 days for a misdemeanor. Relative to the regular inmates, the consumer-inmates experienced 175% more jail days overall, 172% more felony-related jail days, and 184% more misdemeanor-related jail days.

⁶ Note that we refer here to inmates, i.e., offenders who are in jail. As easily noted, while consumers represent 24% of offenders, they represent 32% of inmates.

⁷ See footnote 4 concerning the operational definition of a jail episode for this study.

⁸ Data in Table 6 was obtained by summing all jail days for a jailed offender across his/her jail episodes, then dividing the total by the unduplicated number of jailed offenders.

Table 6: Average Jail Days per Jailed Offender by Status and Offense Type

	REGULAR INMATES	CONSUMER -INMATES	TOTAL	RELATIVE RATE
FELONY	56.71	154.35	80.05	272%
MISDEMEANOR	15.61	44.32	22.47	284%
BOTH TYPES	72.32	198.67	102.52	275%

2. FINDINGS BASED ON CALENDAR YEAR 2004 DATA

As shown in Table 7, our cohort of 2004 received a total of 83,103 charges during 2004, 65% of which were for misdemeanors. Consumer-offenders received 20,878 of all charges (i.e., 25%), but a larger share of felony charges (32%) and a smaller share of misdemeanor charges (22%). Consequently, the felony vs. misdemeanor distribution among consumer-offenders was 44% vs. 56% while it was 33% vs. 68% among regular offenders. In other words, about one-third of charges against regular offenders were for a felony while almost half (44%) of charges against consumer-offenders were for a felony. View differently, a consumer-offender ran a 34% greater risk of being charged with a felony in 2004.

Table 7: Distribution of CY2004 Charges by Status and Offense Type

	REGULAR OFFENDER	CONSUMER -OFFENDER	TOTAL
FELONY	20,132	9,268	29,400
MISDEMEANOR	42,093	11,610	53,703
TOTAL	62,225	20,878	83,103
FELONY	32%	44%	35%
MISDEMEANOR	68%	56%	65%
TOTAL	100%	100%	100%

Monthly consumer-offenders' share of all charges remained rather stable during 2004, ranging from a low of 25% in February to a high of 29% in April (Table 8).

Table 8: Distribution of CY2004 Charges by Status and Offense Type

	% CHARGES BROUGHT AGAINST CONSUMER- OFFENDER		% CHARGES BROUGHT AGAINST CONSUMER- OFFENDER
JANUARY	26%	JULY	27%
FEBRUARY	25%	AUGUST	27%
MARCH	26%	SEPTEMBER	28%
APRIL	29%	OCTOBER	27%
MAY	27%	NOVEMBER	26%
JUNE	28%	DECEMBER	26%
		TOTAL	27%

Table 9 shows that the monthly proportions of consumer-offenders in the cohort also remained constant during 2004. These proportions range from a low of 24% in February to a high of 27% in April, for an annual average of 23.87%.

Table 9: Distribution of Offenders (unduplicated) by Status and Month during 2004

	REGULAR OFFENDER	CONSUMER-OFFENDER	TOTAL
JANUARY	74%	26%	100%
FEBRUARY	76%	24%	100%
MARCH	76%	24%	100%
APRIL	73%	27%	100%
MAY	75%	25%	100%
JUNE	73%	27%	100%
JULY	74%	26%	100%
AUGUST	74%	26%	100%
SEPTEMBER	73%	27%	100%
OCTOBER	74%	26%	100%
NOVEMBER	75%	25%	100%
DECEMBER	75%	25%	100%
ANNUAL UNDUPLICATED COUNT	76%	24%	100%

Table 10 shows the rate of jail bookings during 2004 that resulted from the charges filed. Overall, 85% of charges led to a jail booking. However, among consumer-offenders this rate is 98% while among regular offenders it was 81%. Viewed differently, one in five regular offenders were not booked, a consumer-offender had practically no chance of being released to community living, as opposed to being booked into jail.

Table 10: Calendar Year 2004 Booking by Status and Offense Type

	REGULAR OFFENDER	CONSUMER-OFFENDER	TOTAL
NOT-BOOKED	11,857	426	12,283
BOOKED	50,368	20,452	70,820
TOTAL	62,225	20,878	83,103
NOT-BOOKED	19%	2%	15%
BOOKED	81%	98%	85%
TOTAL	100%	100%	100%

During 2004, an offender received on the average 1.12 charges, with a consumer-offender receiving slightly 10% more charges than did regular offenders (Table 11).

Table 11: Average Number of Charges per Offender by Status and Offense Type during 2004

	REGULAR OFFENDER	CONSUMER- OFFENDER	TOTAL	RELATIVE RATE (Consumer vs. Regular)
FELONY	0.36	0.54	0.40	151%
MISDEMEANOR	0.74	0.67	0.73	90%
TOTAL	1.10	1.21	1.12	110%

For ease of presentation, this rate of charges will be expressed in terms of charges per 100 offenders, as shown in Table 12. There were 112 charges per 100 offenders, 73 of which were for misdemeanors and the remainder (40) were for felony offenses. Among consumer-offenders, the rates of charges per 100 offenders during 2004 were 121 overall, 54 for felony offenses, and 67 for misdemeanors. Compared to regular offenders, consumer-offenders received 51% more felony charges and 17% more charges overall.

Table 12: Numbers of 2004 Charges Per 100 Offenders by Status and Offense Type

	REGULAR OFFENDER	CONSUMER- OFFENDER	TOTAL	RELATIVE RATE
FELONY	36	54	40	151%
MISDEMEANOR	74	67	73	90%
TOTAL	110	121	112	110%

The 83,103 charges led to 70,820 different jail episodes ⁹, of which 40% were for felony offending and 60% were for misdemeanors (see Table 13). Among the consumer-offenders, however, the proportion of felony-related jail episodes accounted for 47% of all jail episodes, i.e., 26% more than the proportion found among regular offenders.

Table 13: Numbers of 2004 Jail Episodes (Duplicated Count) by Status and Offense Type

	REGULAR OFFENDER	CONSUMER- OFFENDER	TOTAL	% JAIL EPISODES SERVED BY CONSUMER- OFFENDERS
FELONY	18,781	9,620	28,401	34%
MISDEMEANOR	31,587	10,832	42,419	26%
TOTAL	50,368	20,452	70,820	29%
FELONY	37%	47%	40%	
MISDEMEANOR	63%	53%	60%	
TOTAL	100%	100%	100%	

⁹ See footnote 4 concerning the operational definition of a jail episode for this study.

The cohort accumulated a total of 1,507,536 jail days ¹⁰ during calendar year 2004, of which 73% were for felony offending and 27% for misdemeanors. As seen in Table 14, this distribution of jail days by offense type remains fairly similar for both offender groups, although the consumer offender group received a disproportionate share of jail days (39%) in comparison to their number in the cohort (24%).

Table 14: Total 2004 Jail Days by Status and Offense Type

	REGULAR OFFENDER	CONSUMER- OFFENDER	TOTAL	% JAIL DAYS SERVED BY CONSUMER- OFFENDERS
FELONY	670,654	435,084	1,105,738	39%
MISDEMEANOR	246,448	155,350	401,798	39%
TOTAL	917,101	590,434	1,507,536	39%
FELONY	73%	74%	73%	
MISDEMEANOR	27%	26%	27%	
TOTAL	100%	100%	100%	

The rate of jail episodes was 96 per 100 offenders overall, 57 per 100 for misdemeanors, and 38 per 100 for felony. Among consumer-offenders, the rates were 118 per 100 overall, 56 per 100 for felony, and 63 per 100 for misdemeanors. In comparison with regular offenders (see Table 15), the consumer-offender group experienced 23% more overall jail episodes, 68% more felony-related jail episodes, and 12% more misdemeanor-related jail episodes.

Table 15: Average Number of Jail Episodes per 100 Offenders during 2004 by Status and Offense Type

	REGULAR OFFENDER	CONSUMER- OFFENDER	TOTAL	RELATIVE RATE
FELONY	33	56	38	168%
MISDEMEANOR	56	63	57	112%
TOTAL	89	118	96	133%

For the whole cohort, a typical jail episode during 2004 lasted 21.29 days overall, 38.93 days for a felony offense and 9.47 days for a misdemeanor (see Table 16). The typical jail episode for the consumer-offender group, however, lasted longer than the cohort average: 28.87 overall, 45.23 days for a felony and 14.34 for a misdemeanor. When compared with the regular offender group, the consumer-offenders had jail episodes that were 59% longer overall, 27% longer for a felony, and 84% longer for a misdemeanor.

¹⁰ Jail days are computed on the basis of unduplicated jail episodes, as explained in footnote 4 concerning the operational definition of a jail episode for this study. For jail episodes that had not ended, the end-date was set to December 15, 2004 for the purpose of computing the number of days.

Table 16: Average Length of Jail Episodes during 2004 by Status and Offense Type

	REGULAR OFFENDER	CONSUMER- OFFENDER	TOTAL	RELATIVE RATE
FELONY	35.71	45.23	38.93	127%
MISDEMEANOR	7.80	14.34	9.47	184%
TOTAL	18.21	28.87	21.29	159%

During 2004, an offender averaged 20.40 jail days overall, 14.96 jail days for felony, and 5.44 jail days for misdemeanor (see Table 17). However, the consumer offender group experienced relative more jail days per offender. Their per-offender jail days, which were 34.20 overall, 25.20 for a felony, and 9.00 for a misdemeanor, were respectively 111%, 113%, and 107% greater than jail days incurred by the regular offenders.

Table 17: Average Jail Days per Offender during 2004 by Status and Offense Type

	REGULAR OFFENDER	CONSUMER- OFFENDER	TOTAL	RELATIVE RATE
FELONY	11.84	25.20	14.96	213%
MISDEMEANOR	4.35	9.00	5.44	207%
TOTAL	16.20	34.20	20.40	211%

3. FINDINGS REGARDING REPEAT OFFENDING

Reoffending is operationally defined as being charged with another offense after being released from jail. In January 2004, 3,656 inmates were released from jail, among them 1,142 (i.e. 31%) consumer-inmates.

Table 18: Inmates Released January 2004 by Status (January 2004 Cohort)

	REGULAR OFFENDER	CONSUMER- OFFENDER	TOTAL	% OF INMATES WHO WERE CONSUMERS
TOTAL	2,514	1,142	3,656	31%

Subsequent to their January release, this cohort of inmates received 2,455 charges for criminal offending, of which 1,082 (44%) were for a felony and 1,373 (56%) were for a misdemeanor. While consumer-inmates made up 31% of this cohort, they received 44% of all post-January release charges. Similarly, 47% of the post-release felony charges were brought against consumers in the cohort. Viewed differently, consumer-inmates, in comparison with regular inmates, had a 13% greater risk of being charged with a post-release felony offense.

Table 19: Number of Post-Release Charges by Status and Offense Type (January 2004 Cohort)

	REGULAR OFFENDER	CONSUMER- OFFENDER	TOTAL	% OF CHARGES FILED AGAINST CONSUMER- OFFENDERS
FELONY	573	509	1,082	47%
MISDEMEANOR	800	573	1,373	42%
TOTAL	1,373	1,082	2,455	44%
				RELATIVE RATIO
FELONY	42%	47%	44%	113%
MISDEMEANOR	58%	53%	56%	91%
TOTAL	100%	100%	100%	

On the average the regular inmate group received 55 subsequent charges per 100 inmates, of which 32 were for a misdemeanor, and 23 for a felony offense (see Table 20). By contrast, the consumer-inmate group received 95 subsequent charges per 100 inmates, of which 50 were for a misdemeanor and 45 were for a felony offense. Thus, the consumer-inmate group was almost two times more likely to be subsequently charged with any offense after release from jail, 58% more likely to be charged with a misdemeanor, and two times more likely to be charged with a felony offense.

Table 20: Number of Post-Release Charges per 100 Inmates by Status and Offense Type (January 2004 Cohort)

	REGULAR INMATE	CONSUMER- INMATE	TOTAL	RELATIVE RATE
FELONY	23	45	30	196%
MISDEMEANOR	32	50	38	158%
TOTAL	55	95	67	173%

After being released from jail in January 2004, our cohort encountered 2,267 subsequent jail episodes for all offenses, 1,254 episodes for misdemeanors, and 1,013 felony-related jail episodes (see Table 21). The consumer-inmate group shared, respectively, 46%, 44%, and 49% of these jail episodes.

Table 21: Number of Post-Release Jail Episodes by Status and Offense Type (January 2004 Cohort)

	REGULAR OFFENDER	CONSUMER- OFFENDER	TOTAL	% OF JAIL EPISODES SERVED BY CONSUMER- INMATES
FELONY	521	492	1,013	49%
MISDEMEANOR	702	552	1,254	44%
TOTAL	1,223	1,044	2,267	46%

The rates of jail episodes per 100 offenders, post-January release, were 62 overall, 34 for misdemeanors, and 28 for felony offending (see Table 22). These rates among the consumer-inmates were respectively 91, 48, and 43 per 100 inmates. When compared with corresponding rates among regular offenders, the consumer-inmate rates were 88%, 73%, and 108% greater, indicating that consumer-offenders had higher risk for re-booking into jail after release from it.

Table 22: Rate of Post-Release Jail Episodes per 100 Offenders by Status and Offense Type (January 2004 Cohort)

	REGULAR OFFENDER	CONSUMER- OFFENDER	TOTAL	RELATIVE RATE
FELONY	21	43	28	208%
MISDEMEANOR	28	48	34	173%
TOTAL	49	91	62	188%

The total number of jail days associated with post-release jail episodes, as shown in Table 23, were 68,111 for all offenses, 21,035 days for misdemeanors, and 47,076 days for felony offenses. Respectively, the consumer-inmates shares were 52%, 57% and 50%.

Table 23: Number of Post-Release Jail Days by Status and Offense Type (January 2004 Cohort)

	REGULAR OFFENDER	CONSUMER- OFFENDER	TOTAL	% JAIL DAYS SERVED BY CONSUMER- INMATES
FELONY	23,439	23,637	47,076	50%
MISDEMEANOR	8,961	12,074	21,035	57%
TOTAL	32,400	35,711	68,111	52%

Each jail episode that happened after the January 2004 releases from jail lasted on the average 30.04 days overall, 16.77 days for a misdemeanor, and 46.47 days for a felony. Among consumer-inmates these per jail episode rates were 34.21 days overall, 21.87 for a misdemeanor, and 48.04 days for a felony. Thus, compared to regular inmates, consumer-inmates had jail episodes that were 29% longer overall, 71% longer in the case of a misdemeanor, and 7% longer in the case of a felony offense.

Table 24: Length of Subsequent Jail Episodes by Status and Offense Type (January 2004 Cohort)

	REGULAR OFFENDER	CONSUMER- OFFENDER	TOTAL	RELATIVE RATE
FELONY	44.99	48.04	46.47	107%
MISDEMEANOR	12.77	21.87	16.77	171%
TOTAL	26.49	34.21	30.04	129%

Each released inmate spent, on the average, 42.68 more days in jail again after being released in January 2004, 13.18 days for a misdemeanor, and 29.50 days for a felony. Each consumer-inmate, on the other hand, spent an additional 53.46 more days in jail overall, 18.07 days for misdemeanors, and

35.38 days for felony offenses. In other words, when compared to a regular inmate, a released consumer-inmate encountered 53% more subsequent jail days overall, 87% more misdemeanor-related jail days, and 40% more felony-related jail days.

Table 25: Average Subsequent Jail Days Served by Status and Offense Type (January 2004 Cohort)

	REGULAR OFFENDER	CONSUMER- OFFENDER	TOTAL	RELATIVE RATE
FELONY	25.26	35.38	29.50	140%
MISDEMEANOR	9.66	18.07	13.18	187%
TOTAL	34.91	53.46	42.68	153%

4. SUMMARIZING THE MAJOR FINDINGS

Table 26 summarizes the major findings with this 2004 cohort. On all indicators related to criminal justice involvement a consumer-offender encountered a higher risk of negative consequences. Compared to a regular offender, an offender with mental illness and/or disability was more likely to be subsequently arrested and charged with another offense, face a more serious charge, stay twice longer in jail, had a lesser chance of go free, and incurred more jail time for an equivalent offense.

Table 26: Summary of Major Findings

	REGULAR OFFENDERS	CONSUMER- OFFENDERS	CONSUMER- TO-REGULAR RELATIVE RATIO
Number of Persons Charged with One or More Offense during Calendar Year 2004	60,907	19,129	
<u>PART I: LIFE-TIME INDICATORS OF CRIMINAL JUSTICE INVOLVEMENT</u>			
Total Number of Charges Filed	147,076	81,825	
“Life-time” Number of Jail Days Served	4,405,007	3,800,386	
Number of Charges per Offender	2.41	4.24	177%
Average “Life-time” Jail Days Per Jailed Offender	72.32	198.67	275%
Average “Life-time” Misdemeanor-related Jail Days per Jailed Offender	15.61	44.32	284%
Average Duration of a Jail Episode (in Days)	28.75	40.73	142%
Average Duration of a Misdemeanor-related Jail Episode	10.73	17.88	167%

Table 26: Summary of Major Findings (continued)

	REGULAR OFFENDERS	CONSUMER- OFFENDERS	CONSUMER- TO-REGULAR RELATIVE RATIO
<u>PART II: INDICATORS OF CRIMINAL JUSTICE INVOLVEMENT DURING 2004</u>			
Total Number of Charges	62,225	20,878	
Average CY2004 Charges per Person	1.10	1.21	110%
Rate of NOT Booked into Jail	19%	2%	10%
Average Number of Felony Charges per 100 Offenders	36	54	151%
Total Jail Days during 2004	917,101	590,434	
Average Jail Days per Offender	16.20	34.20	211%
Average Jail Days per Offender for Misdemeanor	4.35	9.00	207%
Average Length of a Misdemeanor-related Jail Episode (in days)	7.80	14.34	184%
<u>PART III: INDICATORS OF CRIMINAL JUSTICE INVOLVEMENT FOR INMATES RELEASED IN JANUARY 2004</u>			
Number of Released Inmates	2,514	1,142	
Number of Post-Release Charges (February-December, 2004)	1,373	1,082	
Average Number of Post-Release Charges per 100 Released Inmates	55	95	173%
Average Number of Post-Release Jail Episodes per 100 Released Inmates	49	91	188%
Number of Jail Days after Release in January 2004	32,400	35,711	
Length of Post-Release Jail Episodes (in Days)	26.49	34.21	129%
Average Number of Post-Release Jail Days per Released Inmate	34.91	53.46	153%

5. A FISCAL EXERCISE: HOW MUCH MIGHT JAIL DIVERSION SAVE HARRIS COUNTY?

It is estimated that a jail day costs the County \$64 per inmate¹¹. Tables 27 and 28 offer some cost saving scenarios for different, hypothetical levels of jail diversion that, if successful, would reduce the number of jail days among consumer-offenders. For this exercise, three simple diversion levels were hypothesized. First is a diversion that would result in a reduction of jail days for mentally ill offenders by a third. The second level would reduce it by half, so that in effect a mentally ill offender does not serve any more jail time than a regular offender does. The third level hypothesizes a 75% reduction.¹²

Table 27 computes the hypothetical savings for the cohort of 788 consumer-inmates released in January 2004. These released inmates subsequently accumulated 35,711 more jail days, at an estimated \$2,285,485 cost to the County. A one-third diversion rate would have saved the county \$ 761,828, a 50% rate \$1,142,742, and a 75% diversion rate \$1,714,114.

TABLE 27. COST SAVINGS SCENARIOS FOR DIFFERENT HYPOTHETICAL LEVELS OF JAIL DIVERSION FOR CONSUMER-INMATES RELEASE IN JANUARY 2004

For the January 2004 Cohort Only (N=788)			
	# of Jail Days	Estimated Cost	Potential Saving
Number of Actual Jail Days Post-Release	35,711	\$ 2,285,485	
Hypothetical Reduction Rate by 1/3	23,807	\$ 1,523,657	\$ 761,828
Hypothetical Reduction Rate by 50%	17,855	\$ 1,142,742	\$ 1,142,742
Hypothetical Reduction Rate by 75%	8,928	\$ 571,371	\$ 1,714,114

Table 28 provides hypothetical savings based on 590,434 jail days found for consumer-offenders during calendar year 2004. This number of jail days would have cost the County \$37,787,795. Each of the three diversion scenarios, had they occurred, would have saved the County \$12,595,932, \$18,893,898, and \$28,340,846, respectively. A fourth scenario was included in Table 28. In this scenario, the percentage of consumer-offenders would be equivalent to their epidemiological rate in the general population (i.e., 5% or only 3,695 persons) and their average jail days are equivalent to those of the regular offenders, i.e., 20.40 days. Were this true, the number of jail days during 2004 for this group of offenders would only be 75,377 instead of 590,434 days. Under this idyllic scenario, the hypothesized cost would be only \$4,824,114 saving the county about \$33 million.

¹¹ Personal communication from Mr. Bobby Davis, Jail Medical Administrator to Mona Lisa Jiles, Director of MHMRA Forensic Services

¹² For simplicity sake in this illustrative exercise, we will not deal with the processes that may lead to such reduction. However, considering the overrepresentation of consumers among inmates (32%) and the excess of their average jail days (whether per inmates or per jail episode), a hypothesized 75% reduction does not seem excessive.

TABLE 28. COST SAVINGS SCENARIOS FOR DIFFERENT HYPOTHETICAL LEVELS OF JAIL DIVERSION FOR ALL CONSUMER-OFFENDERS DURING CALENDAR YEAR 2004

For the Annual Number of Consumer-Offenders (N=18,761)			
	# of Jail Days	Estimated Cost	Potential Saving
Number of Actual Jail Days during 2004	590,434	\$ 37,787,795	
Hypothetical Reduction Rate by 1/3	393,623	\$ 25,191,863	\$ 12,595,932
Hypothetical Reduction Rate by 50%	295,217	\$ 18,893,898	\$ 18,893,898
Hypothetical Reduction Rate by 75%	147,609	\$ 9,446,949	\$ 28,340,846
Rate of consumer-offenders to match their epidemiological rate and their average jail days to be the same as those of regular offenders	75,377	\$ 4,824,114	\$ 32,963,682

6. CONCLUDING COMMENTS

True estimation of the total cost to Harris County to arrest, prosecute, and confine mentally ill/disabled offenders requires more data about the cost of charging a criminal, the cost of forensic care, the court cost per case, the cost of a jail day, the cost of transporting an inmate, etc. Although not being able to express this total cost in dollars, our study indicates that this cost, whether computed on a per-person or per-charge basis, is likely far greater for mentally ill/disabled offenders than for regular offenders, for the following reasons.

First, the rate of severe mental illness is estimated to be around five percent in the general population. In our cohort of offenders, that rate was 24% percent or almost five times the epidemiological rate in the County's population. Thus the cost of arresting and charging is already five times greater than what it should be. In our study, on the basis of lifetime offending and jail records, consumer-inmates made up 38% of jail inmates from the 2004 cohort (see Table 3). This rate is more than twice the estimated national rate of 16%.¹³

¹³ Paula M. Ditton, *Mental Health Treatment of Inmates and Probationers*. Criminal Justice/Mental Health Consensus Project, Bureau of Justice Statistics, U.S. Department of Justice, July 1999. This project's prevalence statistic for mental illness in U.S. jails and prisons was gathered through a combination of inmate self-reporting and mental health treatment history. Inmates in the sample qualified as having a mental illness if they met one of the following two criteria: "They reported a current mental or emotional condition, or they reported an overnight stay in a mental hospital or treatment program." To account for inmate underreporting of their mental health problems, admission to a mental hospital was included as a measure of mental illness. Ten percent of inmates reported a current mental condition and an additional six percent did not report a condition but had stayed overnight in a mental hospital or treatment program.

Second, although consumer-offenders in our study made up only 24% of the cohort, they far exceeded their share of the costs associated with jail occupancy, having accumulated over 46% of the jail days which the whole cohort accumulated during their criminal career (see Table 4), and 39% of jail days during 2004 (see Table 14).

Third, assuming that a felony charge also requires more court cost than a misdemeanor charge, our consumer-offender group would have increased court cost by almost 58%, relative to the regular offenders (see Table 12).

Finally, the district attorney and police costs can also be anticipated to be relative higher, since the rate of charges per consumer-offender was found to be 10% greater than the rate of charges for the regular offender.

Two specific findings seem to have very significant policy implications. First is the finding that during 2004 the average jail days per offender doubled for any type of offense, when mental illness and/or disability was present (see Table 17). Secondly, based on the 2004 data, over 72% of all jail days were associated with a felony charge (see Table 14) and jail days associated with felonies committed by consumer-offenders accounted for 39% of all felony-related jail days, even though consumer-offenders made up only 24% of the study's cohort.

Our findings are congruent with the concept of criminalization of mental illness, a concept that came into existence in 1992. According to the *Sentencing Project*,¹⁴ [*with author's emphases in bold letters*]:

“Criminalization implies that people are being inappropriately processed through the criminal justice system rather than through the mental health system. However, if people with mental illness commit serious violent crimes, then a criminal justice response may be necessary in order to preserve public safety. Studies suggest that the crimes committed by the mentally ill fall under three broad categories:

- *Illegal acts which are byproducts of mental illness; e.g., disorderly conduct, criminal trespass, disturbing the peace, public intoxication.*
- *Economic crimes to obtain money for subsistence; e.g., petty theft, shoplifting, prostitution.*
- *More serious offenses such as burglary, assault and robbery.*¹⁵

Offenses in the first two categories might be avoided, or at least reduced, by better community resources providing treatment and other support services. Crimes in the third category are likely to continue to involve the criminal justice system. However,

¹⁴ *Mentally Ill Offenders in the Criminal Justice System: An Analysis and Prescription*. The Sentencing Project January 2002, page 7. <http://www.sentencingproject.org/pdfs/9089.pdf>. 514 10TH STREET NW, SUITE 1000. WASHINGTON, DC 20004. TEL: 202.628.0871 · FAX: 202.628.1091. Email contact: STAFF@SENTENCINGPROJECT.ORG Website: WWW.SENTENCINGPROJECT.

¹⁵ A fourth, major category of offenses stand out from our own data. A very cursory examination of the offense code recorded with the charges against our cohort indicated that 20% of lifetime charges brought against regular offenders was for a substance “possession” offense, while 25% of charges against consumer-offenders was for possession. A more comprehensive examination of the nature of the crimes for which offenders were prosecuted and/or jailed will be reported at a later date.

the mentally ill in prisons and jails need treatment and services to ensure that their condition is not exacerbated by imprisonment. They also require specialized prerelease planning to ensure a successful transition back into the community.

*The “revolving door” between jail and the street is propelled largely by untreated mental illness and **co-occurring substance abuse disorders** among individuals who have committed relatively minor crimes. This population includes homeless and mentally ill people whose untreated mental illnesses lead to repeated “nuisance crimes” and jail.*

*People with mental illness are more likely to exhibit the kinds of behaviors that will bring them into conflict with the criminal justice system, particularly under current policies of “zero tolerance” and arrests for “quality of life” crimes. According to the Bureau of Justice Statistics prisoners with mental illnesses were twice as likely as other inmates to have been **homeless** prior to their arrest; forty percent were **unemployed**; and nearly half said they were binge drinkers. Many people who suffer from both mental illness and substance abuse (referred to as co-occurring disorders) are particularly at risk of incarceration. Estimates of the proportion of people with mental health disorders who also have a substance abuse disorder range between 25- 50%. Almost 60% of mentally ill state prisoners reported using drugs in the month before their arrest.*

Co-occurring disorders in particular are strongly associated with poor social functioning, homelessness, violence, arrest and incarceration. The population of individuals with substance abuse problems as well as mental illness is considered hard to serve and is chronically underserved in most communities. Some providers are unwilling or unable to work with persons whose illnesses are so difficult to manage. Hospital emergency rooms, homeless shelters and jails are often used as de facto service centers for troubled, indigent and vulnerable mentally ill/substance-abusing individuals. An overloaded system and the lack of adequate treatment resources for co-occurring mental illness and substance abuse disorders have severely restricted many individuals’ access to treatment, increasing the likelihood of offending and incarceration of these individuals.”

According to the Criminal Justice / Mental Health Consensus Project ¹⁶ (*all emphases are the author’s*)

*“The lack of affordable, practicable **housing** options for individuals with mental illness compounds the difficulty of providing successful treatment. Without housing that is integrated with mental health, substance abuse, employment, and other services, many people with mental illness end up homeless, disconnected from community supports, and thus more likely to decompensate and become involved with the criminal justice system. Most studies estimate that at least 20 to 25 percent of the single adult homeless population suffers from some severe and persistent mental illness.”¹⁷*

¹⁶ Coordinated by the Council of State Governments, **The Criminal Justice / Mental Health Consensus Project Report** is a comprehensive blueprint that local, state, and federal policymakers, and criminal justice and mental health professionals can use to improve the response to people with mental illness who are involved with, or at risk of involvement with, the criminal justice system.
<http://www.consensusproject.org/downloads/Introduction.pdf>.

¹⁷ Paul Koegel et al., “The Causes of Homelessness,” in Homelessness in America, 1996, Oryx Press.

Compounding the problems stemming from the stigma associated with mental illness, changes to criminal justice policies during the course of the last two decades have prolonged the involvement of people with mental illness in the criminal justice system. For example, in response to community or government leaders' demands to increase quality of life and to reduce crime and fear of crime, many police departments have instituted "zero tolerance" policies, arresting people committing offenses such as loitering, urinating in public, and disturbing the peace.¹⁸ Many individuals netted as a result of these tactics were people demonstrating in public the symptoms of untreated mental illness. The majority of these people also have a co-occurring substance abuse problem."

The inequity which results from the criminalization, albeit unintentional, of mental illness/disability can be sadly illustrated with the current data. In 2004, Harris County has an estimated 2,553,221 adult residents. Using national prevalence estimates of mental illness/disability, one expects that 127,661 suffered from a severe mental disability, with the remaining 2,425,560 persons being clinically "regular". Our data indicates that 62,225 charges were brought against regular persons. This data translates into a rate of 2,565 charges per 100,000 persons. By contrast, 20,878 charges were brought against persons with mental illness/disabilities. This data translates into a rate of 16,354 charges per 100,000 persons with mental illness/disabilities, for a six-to-one (6:1) ratio.

Table 29: The Consequences of Criminalizing Mental Disabilities

	"Regular" Persons	Persons with Mental Disabilities	County Total	"Risk" Ratio
Estimated Number of Harris County Adult Residents	2,425,560	127,661	2,553,221	
Total Number of Charges during 2004	62,225	20,878	83,103	
Rate of 2004 Charges per 100,000 Persons	2,565	16,354	3,255	6:1
Total Jail Days during 2004	917,101	590,434	1,507,535	
Rate of 2004 Jail Days per 100,000 Persons	37,810	462,501	59,044	12:1

The jail day statistic offers a gloomier picture. As shown on the last line of Table 29, the annual rate of jail days per 100,000 persons with mental illness/disability was 462,501 which is 12 times greater than the rate (37,810 days per 100,000 persons) in the general population. Actuarially, while a regular citizen may run the risk of spending 9 hours in jail during any one year, a citizen with mental illness/disability risks being jailed for nearly five days (i.e., 111 hours) per year.

Over all, the findings from this preliminary analysis indicate that it is extremely worthwhile first to examine more closely the law enforcement dynamics that lead the Harris County's criminal justice system to bring relatively more severe charges, more often, and with heavier sentences, particularly for misdemeanors, against consumer-offenders¹⁹. Such an examination may bring about criminal justice

¹⁸ Ditton, *Mental Health and Treatment*, 4. According to the Bureau of Justice Statistics, over one-quarter of the inmates with mental illness in local jails were incarcerated for a public order offense.

¹⁹ One should note that a rather sizeable reduction in rates of prosecution against our consumers has occurred recently in our cohort, i.e., from the previous years' average of 41% to only 25% in 2004 (see Table 2).

practice changes that result in less use of the criminal justice resources by persons with mental illness and/or mental disability. Secondly, one should also examine processes for developing seamless integration of mental health treatment capacity and opportunities for offenders with mental illness throughout the stages of their involvement with the criminal justice system, from pre-arrest to post jail discharge.

The Criminal Justice / Mental Health Consensus Project Report offers many cogent options for actions and policies related to both areas. The first, foremost, and most obvious consequence of successfully diverting offenders with mental illness and disability from the criminal justice system is a significant reduction in the criminal justice cost to the County and taxpayers. Evidence is also emerging from more recent demonstration projects throughout the nation, showing that criminal justice diversion leads to other significant and positive social, health and psychosocial outcomes and benefits.

POSTSCRIPT

Data and statistics don't often paint a lively picture. Our data set, however, seems to be an exception. Witness the following sequence of events that one could reconstruct using only the dates and offense codes dryly recorded for one unfortunate individual among the 15 or so thousand of consumer offenders.

Carl Adler Rogerian²⁰ is a MHMRA consumer who reached his 20 year of age last March. His first arrest as an adult happened in June 2003 barely after his 17th birthday, for "making terroristic threat." That felony offense locked him up for 90 days. Between Christmas and Thanksgiving 2003 he was arrested for trespassing, a misdemeanor which cost him 28 jail days. Released in early January 2004, he was arrested late February for car burglary, a misdemeanor for which he spent 48 days in jail until the beginning of April. Three months later, he was picked up for trespassing, and was released after serving a two-week sentence. Within two weeks of his release, he was charged with possession of a control substance, a felony which removed him from civilized society for 47 days. Released mid-September 2004, he was caught again and put in jail for 13 days for trespassing. He managed to stay out of jail for two months, only to be caught and charged with a "criminal mischief costing between \$50 and \$500" in damage. His price for this \$500 damage? A full 18 days of lost freedom. He was released two days before Christmas.

The latest data says that he was charged again in February 2005 with a felony—for "unauthorized" use of vehicle.

Indeed, within a 20-month period since his first encounter with the adult criminal justice system as a teenager, this young consumer-offender was in and out of jail eight times, spending nearly half of that period of his life housed and fed by Harris County taxpayers, at an estimated cost of \$17,000.²¹ This is almost the poverty level income of a family of four. Or, in other words, the county has spent the

²⁰ not his real name, although he is a real person.

²¹ this amount does not include court cost, police cost, prosecuting and public defender costs, and medical and psychiatric care cost in the jail.

equivalent of an income which 15 percent of Harris county residents did NOT have to live on for a year.

What kind of person is Carl Adler Rogerian to keep flaunting our criminal justice system despite all the punishment it metted out to him? Dates and diagnosis codes and service program codes in the MHMRA clinical practice database show him to be a mentally ill and intellectually diminished human being. His first contact with MHMRA was when, at 15, he was brought into juvenile detention. Carl was then assessed as suffering from oppositional defiant and disruptive behavior disorder. For the next two years, he cycled through various juvenile detention episodes as well as MHMRA children treatment episodes. Each episode, unfortunately, did not last any more than a few weeks. Data about his mild mental retardation emerged at the time he was ready to be transitioned out of juvenile programs. However, Carl never received any services from a MHMRA's mental retardation program. After a few encounters with the adult criminal justice system and the jail-based psychiatric services, he was for a while categorized as suffering from bipolar disorder. Today, he is labelled as having generalized psychotic disorder, plus suffering from hallucinations, cannabis (marijuana) dependence, antisocial personality, and mild mental retardation. In all, MHMRA recorded 30 "episodes of care" for him. Most of these, given their brevity, seemed no more than attempts to evaluate, assess, and re-evaluate his mental conditions.

Carl's story illustrates the vicious cycle within which persons with mental illness or diminished intellectual capacity often are caught. Now with three felony convictions to his name, Carl's chance of escaping the criminal justice system seems extremely dim indeed. The doors to FREEDOM, CIVILIZATION, HUMAN KINDNESS, CITIZEN'S RIGHTS, TREATMENT and HOPE seem inexorably shut on him.

Unless drastic and inovative changes, which people like Carl himself cannot undertake, are made to happen.