

WHO IS DUEJUSTICEPROJECT ADVOCATING FOR?

DJP is advocating for people afflicted with the most serious forms of mental illness, who commit the most serious crimes. There is a heightened awareness in these times to the high percentage of incarcerated persons in this nation's jails and prisons. There are advocacy organizations and initiatives that are seeking to reduce these numbers. DJP's perceives the impetus driving the activism and policy prescriptions of these organizations to be the following:

Improve access to comprehensive and sustained mental health services for people with serious mental illness so that engagement with the criminal justice system is reduced. Address factors in the community and within the correctional system that may contribute to recidivism. Implement models of diversion for people with mental illness who commit non-violent offenses.

DueJusticeProject.net champions all of those goals; however, our perspective is squarely focused on matters of criminal culpability. The proverbial broken mental health system and shortages of beds in behavioral health treatment facilities may directly contribute to engagement with the criminal justice system, but one engaged, the criminal justice system is accountable for what happens to that person in the adjudication process. DJP condemns the conviction and punishment of people who were neurologically disconnected from reality or neurocognitively impaired in particular ways (relevant to culpability) when they committed acts of violence or other felony crimes. Families and advocates are fed up with seeing their loved ones punished for behaviors beyond their control.

DJP supports a robust application of the insanity defense. In the adjudication of people with SMI through the mechanics of due process, the insanity defense may never be raised, and when it is raised, it is commonly spurned by prosecutors and judges. The crux of the matter is that the insanity defense cannot be applied if prosecutors, judges, and jurors fundamentally misunderstand the nature of the medical conditions that give rise to insanity – as it would be defined by medical science. Moreover, if the definitions of insanity, principally M'Naghten's Rule, themselves are dissonant from medical science, then the wrong legal tests are being applied. Under M'Naghten's Rule, the "Affluenza" Defense is equivalent to Insanity. No one in this country would conceive of someone claiming this type of defense to be "Insane" in the common vernacular.

Another context that is operational in criminal proceedings is the persistent suspicion among prosecutors that people might be faking mental illness to escape punishment and in the general public, a fallacious belief that the insanity defense is abused as an "excuse". The fact is that the vast majority of people with the most severe forms of mental illness, severe enough to cause self-harm or harm to others are either transiently or persistently anosognosic, meaning that they are neurocognitively unable to recognize their medical condition, i.e. their insanity. Effectively, the charges levied by prosecutors and the general public against the raising of an insanity defense is an attack on the integrity of defense counsel and the medical professional.