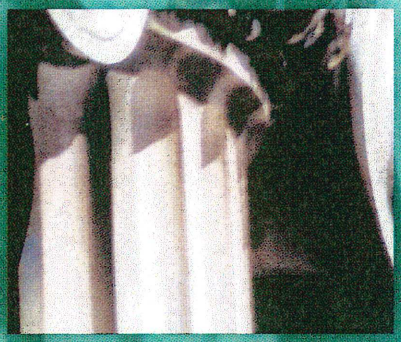
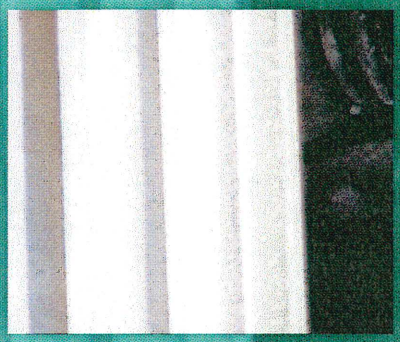
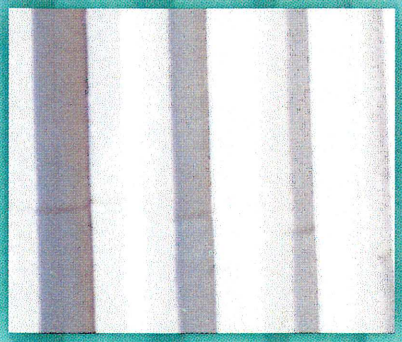


Non-Specialty First Appearance Court Models for Diverting Persons with Mental Illness: Alternatives to Mental Health Courts

John Clark





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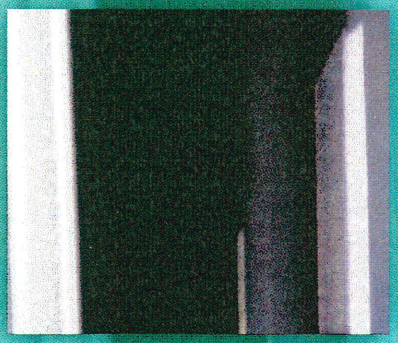

SAMHSA
Substance Abuse and Mental Health Services Administration

DEPARTMENT OF HEALTH & HUMAN SERVICES • USA

Non-Specialty First Appearance Court Models for Diverting Persons with Mental Illness: Alternatives to Mental Health Courts

John Clark
Pretrial Services Resource Center

February 2004

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Introduction

The number of persons with serious mental illness in U.S. jails is estimated at about 7 percent.[1] Figures are not available on how many persons with mental illness come into contact with law enforcement after the report or observation of a crime, or how many appear in court each day to be arraigned on new criminal offenses, but the percentages are likely to be just as high.[2]

The large number of persons with mental illness coming into the criminal justice system creates or exacerbates several public policy problems. From the criminal justice system's standpoint, many jurisdictions face severe jail crowding and overburdened court dockets. In addition, the costs of housing and treating persons with mental illness in jail can substantially increase a jail's operating expenses,[3] thus any efforts that facilitate the release of persons with mental illness or to reduce the high recidivism rates of this population can be of enormous help in curbing criminal justice costs, improving efficiency of court operations, and avoiding exposure to liability over jail conditions. From a mental health standpoint, when people with mental illness pass in and out of jail, their treatment is interrupted and they often lose connection to community services. Being held in jail can have a devastating impact on people with mental illness, often leading to a worsening of their condition. Finally, all parties recognize that fundamental fairness requires that persons not be penalized solely due to an illness.

Over the past several years, a number of jurisdictions around the country have developed intervention strategies in the criminal justice system that have significantly improved the handling of persons with mental illness. Within law enforcement, many jurisdictions have implemented training programs and procedures designed to help police identify persons with mental illness, use de-escalation techniques to defuse crisis situations, consult on the scene with mental health professionals, and when appropriate refer individuals to mental health treatment in lieu of arrest.[4] Within many local jails, model programs have

The large number of persons with mental illness coming into the criminal justice system creates or exacerbates several public policy problems.

worked to improve the identification of new inmates who may have a mental illness, alert mental health practitioners when a client has been booked into the facility, provide better treatment for persons with mental illness while they are incarcerated, speed their release to the community, and ensure connection with services upon release.[5]

As better policing strategies and jail practices have been developed, jurisdictions have also sought ways to integrate better practices into their court systems. Numerous jurisdictions have experimented with "mental health courts"—specialized separate court parts that handle only cases against defendants with mental illness. The significant popularity of mental health courts has been driven by at least two factors: in general, the growing popularity of specialty courts; and specifically, the recent availability of federal funding for the planning, implementation, and operation of mental health courts.[6]

As better policing strategies and jail practices have been developed, jurisdictions have also sought ways to integrate better practices into their court systems.

However, many courts have not made use of specialized dockets, including mental health courts. In some, the size or configuration of the court system may not make such dockets feasible or practical. In others, the court leadership may feel that it is inappropriate to dedicate substantial judicial resources to actively supervising cases, a common feature of specialized courts. In still others, court officials are waiting for more empirical evidence that specialty courts achieve favorable outcomes such as lower recidivism rates.

Even where court administrators are interested in developing mental health courts, many mental health advocates are cautious about these courts, believing that they create additional stigma for persons with mental illness,[7] abridge defendants' rights, or worse yet, expand the net of the criminal justice system by keeping people who would otherwise have simply been released under judicial supervision, sometimes indefinitely.[8] Others note that mental health courts may have the unintended consequence of making mental health services available on a priority basis to those who have been arrested, leaving "another group of previously served people now unserved in a system with the same fixed resources as existed before."[9]

Finally, even where mental health courts exist, not all defendants with mental illness are appropriate candidates for these courts. As with most specialty courts, mental

health courts have criteria specifying the categories of defendants who will be eligible for participation, criteria that may exclude many defendants whose mental illness may still be pertinent to the disposition of charges against them.[10]

For all these reasons, and despite the availability of federal funding for establishing mental health courts,[11] it is likely that many court systems will continue to look for additional or alternative court-based models for processing persons with mental illness.

This report examines an alternate model that courts can use, and have used, to improve the processing of persons with mental illness. The model focuses on two crucial decision points immediately following arrest: the pretrial release decision and the decision to defer prosecution. By changing how those decisions are made and, most importantly, the timing of those decisions, this model has helped numerous jurisdictions handle cases involving defendants with mental illness in an efficient and humane manner without the creation of a separate court part or calendar.

The model [this report examines] has helped numerous jurisdictions handle cases involving defendants with mental illness in an efficient and humane manner without the creation of a separate court part or calendar.

Pretrial release decision

The pretrial release decision making process varies from jurisdiction to jurisdiction in its details, but in general operates in the following manner. When a person is arrested on criminal charges, he or she is brought before a judicial officer for an initial appearance. At that hearing, which typically takes place within one day of the arrest, the judge informs the defendant of the charges he or she faces and decides whether to release the defendant pending disposition of the case. The judge may release the defendant on his or her own recognizance, impose conditions of release, set a financial bond that must be posted before the defendant can be released, or order the defendant detained without bond. In making the release decision, the judge must consider whether the defendant 1) is likely to return to court; and 2) poses a threat to the safety of the community. If released, the defendant must comply with any conditions that have been imposed and must return to court for all subsequent court dates. If the defendant fails to appear on a scheduled court date, a bench warrant is usually issued by the judge for the defendant's

arrest. In many jurisdictions, pretrial services programs provide information to inform the court's pretrial release decision and have the capacity to supervise conditions of release imposed by the court.[12]

People with mental illness have often been excluded or had less access to pretrial release and deferred prosecution than other defendants.

Deferred prosecution decision

In many jurisdictions, the prosecutor may offer selected defendants the opportunity to have their charges dropped or reduced by participating in a program for a specified period of time and successfully completing all program requirements. This decision is typically made within days of the arrest. If the defendant agrees to enroll in the program, prosecution of the charges is deferred. Should the defendant subsequently fail to complete the program, criminal proceedings are reinstated, but if the defendant successfully completes the program, the charges are dismissed or reduced. In some jurisdictions, the prosecutor is the sole authority in deciding whether to offer a defendant deferred prosecution. In others, first the prosecutor and then the court must approve an offer. Deferred prosecution is typically available only to defendants who are charged with minor offenses and/or have little or no criminal history. Many jurisdictions have formal deferred prosecution programs, sometimes referred to as pretrial intervention or pretrial diversion, that are responsible for identifying potential candidates and monitoring the compliance of participants with program requirements.

People with mental illness have often been excluded or had less access to pretrial release and deferred prosecution than other defendants. Judges and prosecutors may have questions about the defendant's illness, such as: Is the person a greater risk to others or to him- or herself due to the illness? Is the person capable of complying with the conditions of pretrial release or deferred prosecution? What types of services would best match the person's needs? Are the resources available in the community to provide those services? As a result of these questions, decisions about pretrial release and deferred prosecution in cases involving people with mental illness are often delayed for weeks or months until the person can be assessed by a mental health professional and a pretrial release or deferred prosecution plan can be developed and accepted. This situation creates additional burdens for courts and jails and disadvantages

for people with mental illness because of their disability. The experience of several jurisdictions described in the following pages, however, suggests that it is feasible and desirable to find ways to give people with mental illness who have been arrested the same opportunities for pretrial release and deferred prosecution—and within the same time frame—as any other arrested person.

At least two jurisdictions—the state of Connecticut and Hamilton County (Cincinnati), Ohio—have demonstrated the feasibility of providing these same opportunities for pretrial release and deferred prosecution for persons with mental illness as for other arrestees.[13] In these jurisdictions, a mental health screening is conducted of all new arrestees by a court- or jail-based agency. Those identified through screening as possibly having a mental illness have an immediate follow-up assessment conducted by a qualified mental health practitioner. The results of the second assessment are presented to the judge at the initial court appearance, along with options for the pretrial release or deferred prosecution of the defendant that are tailored to the individual's needs.[14]

These two jurisdictions have shown that a more informed decision can be made regarding persons with mental illness without delaying the timing of the decision. To determine whether this model—incorporating early pretrial release and deferred prosecution decision making—is being used in additional jurisdictions, the Pretrial Services Resource Center (PSRC) undertook a survey of pretrial release and deferred prosecution programs throughout the country, the results of which are described in the following sections.

The experience of several jurisdictions ... suggests that it is feasible and desirable to find ways to give people with mental illness who have been arrested the same opportunities for pretrial release and deferred prosecution—and within the same time frame—as any other arrested person.

The results of the screening and assessment, plus options for the pretrial release or deferred prosecution of the individual, are presented to the judge at the initial court appearance in the case of pretrial release, and to the prosecutor either before or very shortly after the initial court appearance in the case of deferred prosecution.

Methodology

To conceptualize clearly what is meant by "early pretrial release and deferred prosecution decision making," the PSRC established the following criteria for assessing whether a particular jurisdiction had a program of the type exemplified by Connecticut and Hamilton County, Ohio:

- There is a mental health screening of arrestees by a court- or jail-based agency that is responsible for gathering information for the pretrial release or deferred prosecution decision. In addition to questions about present and past mental health problems and treatment, the screening also involves observations by the screener and recording of any relevant information coming from other parties, i.e., the arresting officer, the arrestee's family, etc. Through that screening, arrestees who may have a mental illness are identified within hours of the arrest in the case of pretrial release, and within days in the case of deferred prosecution.

- For those identified during this screening as possibly having a mental illness, within hours of the screening there is an assessment conducted by a qualified mental health professional.

  The results of the screening and assessment, plus options for the pretrial release or deferred prosecution of the individual, are presented to the judge at the initial court appearance in the case of pretrial release, and to the prosecutor either before or very shortly after the initial court appearance in the case of deferred prosecution.

- These interventions do not take place in a specialized mental health court.

The PSRC identified formal pretrial release and deferred prosecution programs to be included in the survey using the following steps:

- The PSRC mailing lists were cross-referenced with mailing lists of the National Association of Pretrial Services Agencies (NAPSA) and jurisdictions that appeared on either of these mailing lists were identified. PSRC was established in 1977 as a clearinghouse of information for pretrial release and deferred prosecution programs. NAPSA is the professional association for pretrial release and deferred prosecution practitioners.

- The list that resulted from this cross-referencing was then shared with several national experts in the fields of criminal justice and mental health, who were asked to add any jurisdictions that they believed should be included. A list of jail diversion programs was obtained from the TAPA Center.

Finally, through conversations with staff in jurisdictions contacted from this list, project staff learned of several other jurisdictions that should be included on the final list.

The final contact list for the survey comprised 257 jurisdictions. The PSRC obtained information from 203 of these jurisdictions. The initial contact with each pretrial release and deferred prosecution program identified through the PSRC and NAPSA mailing list involved a general inquiry about whether they had procedures in place, other than mental health courts, aimed at early intervention after arrest for persons with mental illness, as defined in the preceding criteria. These inquiries were made to the administrator of the pretrial release program, deferred prosecution program, or mental health program.

The inquiry to the jail diversion programs identified by the TAPA Center and other national experts focused on the timing of the screening and assessment. Jail diversion programs may seek to facilitate the release of people with mental illness following arrest and booking or later in the criminal justice process. These programs take a variety of forms, including some that include one or more of the elements of the model described above: mental health screening and assessment and the provision of options to the court or prosecutor. Most jail diversion programs the PSRC contacted do not currently meet the described model

Jail diversion programs may seek to facilitate the release of people with mental illness following arrest and booking or later in the criminal justice process.

...Some [jail diversion] programs provide mental health screening and assessment, but the options for diversion are offered to the court at a later stage or without the option of deferred prosecution. The charges may be disposed of in a variety of ways, for instance, by a guilty plea and probation with a condition of obtaining treatment.

criteria, however. For instance, some programs provide mental health screening and assessment, but the options for diversion are offered to the court at a later stage or without the option of deferred prosecution. The charges may be disposed of in a variety of ways, for instance, by a guilty plea and probation with a condition of obtaining treatment.

The vast majority of the 203 programs contacted, 85 percent, reported that they did not have the early court intervention procedures described by the model criteria, although many indicated that they are working toward developing the elements of the model.

The PSRC then conducted a follow-up structured interview by telephone with officials from the 30 jurisdictions that reported in the initial inquiry that they had some type of early intervention procedures that included defendants with mental illness.

Findings

Through the follow-up interviews, the PSRC identified 12 jurisdictions, including Connecticut and Hamilton County, that met the model criteria for pretrial release decision making, including two jurisdictions that also use the mental health screening and assessment procedures for the deferred prosecution decision. The table on page 11 lists these programs, along with descriptions of the scope of the information on a person's mental illness that is reported to the decision maker; the range of treatment options that are provided; the population that is targeted for these interventions; when these interventions were instituted; and the size of the jurisdiction served by these interventions.

- JURISDICTIONS OFTEN MAKE DECISIONS BASED ON RELATIVELY STREAMLINED INFORMATION ABOUT THE DEFENDANT. As the table shows, in 9 of the 12 programs, the decision maker—the judge and/or the prosecutor—is provided with summary information about the defendant's mental illness. In these jurisdictions, the decision maker is advised that the defendant has been assessed as having a serious mental illness, and a plan is presented to address the illness in the community while the defendant is under supervision for pretrial release or deferred prosecution. In the three other jurisdictions, a more detailed statement about the defendant's illness, including diagnosis and treatment history, is presented.

- JURISDICTIONS USE A RANGE OF COMMUNITY TREATMENT OPTIONS TAILORED TO THE INDIVIDUAL'S NEEDS. In all the jurisdictions listed in the table the court has access to both inpatient and outpatient mental health treatment resources. In addition, in all the jurisdictions those defendants needing related services, such as housing, medical, or financial assistance, can receive that assistance as part of the supervision of pretrial release or deferred prosecution. While mental health programs typically employ case management services to assist clients, several of the court programs

Jurisdictions often make decisions based on relatively streamlined information about the defendant.

that act as the referral agency to treatment centers also provide their own case management services. Case managers in these court programs monitor the defendants' compliance with release conditions while under supervision, and work with mental health case managers to assist defendants in obtaining needed services.

- MOST OF THE JURISDICTIONS DO NOT AUTOMATICALLY EXCLUDE DEFENDANTS WHO ARE CHARGED WITH A FELONY, PARTICULARLY NONVIOLENT FELONIES. One of the two jurisdictions with deferred prosecution target persons charged with misdemeanors and nonviolent felonies. The other jurisdiction includes all defendants in the target population. Looking at the pretrial release programs, only one of the 10 is limited to misdemeanor defendants. Three of the remaining nine do not exclude nonviolent felony defendants; six target all defendants.

- MANY OF THESE PROGRAMS ARE RELATIVELY NEW INNOVATIONS. Five of the jurisdictions implemented the program described since 1999. Interestingly, the pretrial services program in Winnebago County, Illinois, started its mental health intervention procedures as the pretrial program itself was being established in 1990. The mental health procedures were built into the design of the pretrial program, and have been a core part of that program since. In most of the other jurisdictions, the mental health interventions were added on as enhancements to existing programs.

- SIMILAR PROGRAMS ARE WORKING IN JURISDICTIONS OF VASTLY DIFFERENT SIZES. Several of the jurisdictions with programs meeting our criteria are large. Three have populations of over one million residents; in one case, Connecticut, the jurisdiction is the entire state. Seven others have populations of between 500,000 and one million. On the other hand, one of the jurisdictions has a population of between 50,000 and 100,000, indicating that the model can be implemented in smaller jurisdictions.

Similar programs are working in jurisdictions of vastly different sizes.

Characteristics of Jurisdictions Meeting Criteria						
	Jurisdiction	Scope of Information Provided to Decision Maker	Range of Mental Health Options Presented to Decision Maker	Target Population for Mental Health Intervention	Year Mental Health Intervention Began	Population Size of the Geographical Area
Pretrial Release	District of Columbia	Summary	In- and outpatient treatment; assistance with services	Misdemeanors and nonviolent felonies	2002	Between 500,000 and 1,000,000
Pretrial Release	Winnebago County, IL	Summary	Case management; in- and outpatient treatment; assistance with services	All defendants	1990	Between 100,000 and 500,000
Pretrial Release	Montgomery County, MD	Summary	In- and outpatient treatment; assistance with services	All defendants	2001	Between 500,000 and 1,000,000
Pretrial Release	Wayne County, NY	Summary	In- and outpatient treatment; assistance with services	Misdemeanors and nonviolent felonies	Unknown	Between 50,000 and 100,000
Pretrial Release	Cuyahoga County, OH	Summary	Case management; in- and outpatient treatment; assistance with services	All felony defendants	2000	Over 1 million
Pretrial Release	Hamilton County, OH	Summary	Case management; in- and outpatient treatment; assistance with services	All misdemeanor defendants	1999	Between 500,000 and 1,000,000
Pretrial Release	Tulsa County, OK	Detailed	In- and outpatient treatment; assistance with services	All defendants	2000	Between 500,000 and 1,000,000
Pretrial Release	Montgomery County, PA	Detailed	Case management; in- and outpatient treatment; assistance with services	Misdemeanors and nonviolent felonies	1985	Between 500,000 and 1,000,000
Pretrial Release	Shelby County, TN	Summary	In- and outpatient treatment; assistance with services	All defendants	1998	Between 500,000 and 1,000,000
Pretrial Release	Harris County, TX	Summary	In- and outpatient treatment; assistance with services	All defendants	1993	Over 1 million
Pretrial Release and Deferred Prosecution	Connecticut—Statewide	Summary	In- and outpatient treatment; assistance with services	Misdemeanors and nonviolent felonies	1994	Over 1 million
Pretrial Release and Deferred Prosecution	Jefferson County, KY	Detailed	Case management; in- and outpatient treatment; assistance with services	All defendants	1992	Between 500,000 and 1,000,000

Critical Elements

Respondents from the 12 jurisdictions with active programs were asked to share their reflections on what elements they believe are critical to planning and implementing the model described herein. The PSRC identified seven themes that ran through their responses.

All of the 12 jurisdictions listed key party involvement as the most critical element. The key parties include judges, prosecutors, defense attorneys, pretrial and deferred prosecution staff, mental health providers, and mental health advocates.

Involvement of all key parties

All of the 12 jurisdictions listed key party involvement as the most critical element. The key parties include judges, prosecutors, defense attorneys, pretrial and deferred prosecution staff, mental health providers, and mental health advocates. These parties should hold regular meetings not just during planning and implementation, but during the operational phase as well.

It is not enough just to have a representative from each of these constituencies attend the regular meetings. As one respondent noted, each of the representatives should have a strong interest in mental health issues and in improving the court's handling of persons with mental illness, and, most important, "have the power to make changes" through their policymaking roles.

Several of the respondents emphasized the importance of having mental health advocates at the table. One respondent noted that his jurisdiction included a representative from the National Alliance for the Mentally Ill, an advocacy organization of family and friends of persons with severe mental illness, as well as consumers of mental health services, which has 1,200 state and local affiliates around the country.

Strong judicial leadership

All of the programs felt it was important to have strong leadership from the bench, even if it began with just one judge. One respondent described how one judge who

was well respected by colleagues was able to capture the interest of other judges on the bench in implementing new procedures for defendants with mental illness. Another noted with frustration that it is difficult to get judges to attend all the regular meetings, which "is holding us back from where we could be."

Quick access for assessment purposes

In order to provide a pretrial release or deferred prosecution decision for persons with mental illness within the same time frame that is available to other defendants, it is necessary that mental health practitioners who are qualified to conduct a mental health assessment have quick access to defendants needing such an assessment. The programs the PSRC surveyed have made it a priority to obtain space for this purpose in the court or in the jail.

In Connecticut, teams of clinicians are assigned to arraignment courts throughout the state. In Harris County, Texas, the pretrial services program relinquished some of its office space outside the arraignment court to the Mental Health and Mental Retardation Authority. A Psychiatric Clinic is in operation inside the Hamilton County, Ohio Justice Center. Liaisons from the Forensic Mental Health Agency have an office in the Cuyahoga County, Ohio Justice Center. In Wayne County, New York, the Behavioral Health Agency conducts the assessment from its office in the jail. In Montgomery County, Maryland, the Health and Human Services Department has established a Clinical Assessment and Triage Services Unit within the jail. A forensic psychologist is on duty at the Montgomery County, Pennsylvania jail.

In order to provide a pretrial release or deferred prosecution decision for persons with mental illness within the same time frame that is available to other defendants, it is necessary that mental health practitioners who are qualified to conduct a mental health assessment have quick access to defendants needing such an assessment.

Availability of mental health resources

Sites reported that accessing community mental health treatment services can be challenging on two levels. First, there must be enough mental health treatment resources in the jurisdiction to meet the needs of the community—a challenge in many jurisdictions. Second, even where adequate resources do exist, mental health programs must be willing to accept referrals from the criminal justice system. Several of the respondents noted that it took a

great deal of patience to work through the concerns of treatment providers about court referrals.

Assistance in complying with imposed conditions

All of the programs recognized that persons with mental illness may have more difficulty in complying with conditions than a typical defendant. One program administrator noted that they try to keep the conditions simple and are careful not to ask for any unnecessary conditions, saying, "we don't want to set them up to fail." Another stated that "we take a social worker-oriented approach with this population, especially while we are waiting for them to get stabilized." Yet another stated that the program seeks to prevent problems with compliance with conditions by focusing on a thorough assessment before a referral to a particular program is made.

If the person is failing to appear for treatment appointments, the court agency and the clinician work together to try to get the person back into treatment.

In most of the programs, the mental health program provides regular status reports on all clients referred by a court agency. Pretrial release and deferred prosecution staff leave it to the mental health clinicians to determine if the person is actively participating in treatment. If the person is not responding to a particular course of treatment, the clinician tries a different approach.

If the person is failing to appear for treatment appointments, the court agency and the clinician work together to try to get the person back into treatment. One respondent noted, "If the person is not showing up we try to find out why. If the person is not satisfied with the treatment, we'll talk about making some changes [to the treatment]." Several of the programs, both pretrial release and deferred prosecution, notify the court or prosecutor of changes in a defendant's treatment plan but do not ask for any action by the court. If these efforts ultimately fail, however, the programs ask the prosecutor or court to intervene. As one pretrial program administrator put it, "to maintain credibility with the court, we have to be willing to violate" when intervention efforts have failed. Several programs report any subsequent arrest on a new offense to the court as a violation. Even when a violation is reported, several programs noted that the court, rather than simply revoking release or reinstating charges, will use the opportunity to try to further assist the

defendant in complying with conditions by addressing the issue with the defendant in court.

Patience

Given the different perspectives represented by the key parties needed to implement this model, respondents noted that it is important to take time to understand each others' missions and to seek to use common terminology. As several respondents noted, the process of creating such a program requires a great deal of patience by all involved.

...The process of creating such a program requires a great deal of patience by all involved.

These jurisdictions have found efficient ways to follow a comprehensive mental health screening of all eligible candidates with an assessment by a mental health professional during the earliest phases of a criminal case, and provide the necessary information and options to the decision maker in a timely manner.

Conclusions

The purpose of this survey was to identify jurisdictions that provide early court intervention opportunities other than mental health courts for people with mental illness. Specifically, the PSRC sought to answer the question of whether courts can give persons with mental illness who have been arrested the same opportunities for pretrial release and deferred prosecution—and within the same time frame—as any other arrested person, or whether the procedures used in Connecticut and Hamilton County were isolated examples.

The results presented here suggest that in most jurisdictions persons with mental illness do not have the same opportunities for pretrial release and deferred prosecution as other defendants. In many jurisdictions there is no court- or jail-based agency that gathers information and develops options for the decision maker shortly after arrest for defendants with or without mental illness; only 257 jurisdictions were identified for this survey as having a formal pretrial release or deferred prosecution program. The survey included only those jurisdictions where such programs were known to exist, and only 12 out of 203 responding jurisdictions were identified as meeting the model criteria for programs that target people with mental illness.

But if the question is whether persons with mental illness can receive the same opportunities for pretrial release and deferred prosecution, then these 12 jurisdictions demonstrate that the answer is "yes." These jurisdictions have found efficient ways to follow a comprehensive mental health screening of all eligible candidates with an assessment by a mental health professional during the earliest phases of a criminal case and to provide the necessary information and options to the decision maker in a timely manner.

Stating that only 12 out of 203 jurisdictions meet the specific criteria outlined here does not mean that the other jurisdictions are not taking action to improve the

processing of persons with mental illness in the criminal justice system. As discussed earlier, law enforcement, jails, courts, and the mental health community have developed innovative procedures for this population, and many of the surveyed jurisdictions have done much to address this issue.

The model described here, illustrated by the highlighted programs, however, provides a logical next step in efforts to improve how persons with mental illness are processed through the courts. This model is based on the assumption that persons with mental illness should have the same opportunities for timely pretrial release and deferred prosecution as anyone else—an assumption that has both humanitarian and legal weight. The successful implementation of this model in several jurisdictions discounts the argument sometimes heard that cases involving defendants with mental illness need such specialized assessment and service planning that they cannot be processed quickly. The criminal justice and mental health systems can make—and have made—the necessary adjustments to assure timely decision making and equal access to these dispositions for people with mental illness.

This model also avoids the additional stigma that may affect participants in mental health courts, and can be accomplished without the significant restructuring of judicial resources that characterize all specialty courts. Finally, at least as applied to the pretrial release decision, this model targets all defendants who may have mental illness, not just those who might meet the eligibility criteria of a mental health court.

The critical elements described here should provide guidance to jurisdictions seeking to implement the model used in Connecticut, Hamilton County, Ohio, and the 10 other jurisdictions. "You don't have to re-invent the wheel," noted one administrator in addressing where others seeking to implement these procedures should start. "There are enough examples out there that you can borrow a little from here and a little from there to put together something that fits your jurisdiction."

The successful implementation of this model in several jurisdictions discounts the argument sometimes heard that cases involving defendants with mental illness need such specialized assessment and service planning that they cannot be processed quickly.

Contact Information for Highlighted Jurisdictions

Connecticut Jail/Court Diversion Program
Department of Mental Health and Addiction Services
410 Capitol Avenue
Hartford, CT 06134
Contact: Ellen Weber, Project Director
860-418-6888

District of Columbia Pretrial Services Agency
633 Indiana Avenue, NW
Washington, D.C. 20004
Contact: Spurgeon Kennedy, Operations Deputy Director
202-220-5654

Winnebago County Pretrial Services
400 West State Street, Room 107
Rockford, IL 61101
Contact: Nancy Schultz, Director
815-987-2596

Jefferson County Mental Health Diversion Program
Seven Counties Services
101 W. Muhammad Ali Blvd.
Louisville, KY 40202
Contact: Jim Burch, Psychological Associate
502-589-8926

Montgomery County Pretrial Services Unit
12500-C Ardennes Avenue
Rockville, MD 20852
Contact: Claire Gunster-Kirby, Director
240-777-5404

Wayne Pretrial Services, Inc.
165 E. Union Street
Newark, NY 14513
Contact: Trey Lockhart, Director
315-331-6441

Pretrial Services
Cuyahoga County Common Pleas Court
1276 West 3rd Street, Suite 512
Cleveland, OH 44113
Contact: Daniel Peterca, Director
216-443-2170

Hamilton County Pretrial Services
1000 Sycamore, #111
Cincinnati, OH 45202
Contact: Wendy Niehaus, Director
513-946-6165

Tulsa County Division of Court Services
500 S. Denver Avenue, Room B3
Tulsa, OK 73102
Contact: Kevin Francis, Director
918-596-5790

Montgomery County Emergency Service
50 Beech Drive
Norristown, PA 19403
Contact: Don Kline, Criminal Justice Director
215-349-8710

Shelby County Pretrial Services
201 Poplar Avenue, Room 8-01
Memphis, TN 38103
Contact: Janice Mosley, Director
901-545-2464

Harris County Office of Court Services
1201 Franklin, 12th Floor
Houston, TX 77002
Contact: Carol Oeller, Director
713-755-5440

Endnotes

[1] Steadman, H.J., Deane, M.W., Morrissey, J.P., Westcott, M.L., Salasin, S., & Shapiro, S. (1999). A SAMHSA research initiative assessing the effectiveness of jail diversion programs for mentally ill persons. *Psychiatric Services, 50,* 1620–1623.

[2] "When the massive volume of arrests, criminal cases processed, police contacts with citizens, persons supervised by pretrial services, and probation and parole agencies are taken into account, the numbers of mentally ill persons dealt with and/or supervised by the criminal justice system on a routine basis in the United States is extraordinarily large." Goldkamp, J.S., & Irons-Guynn, C. (2000). *Emerging Judicial Strategies for the Mentally Ill in the Criminal Justice System.* Washington, DC: Bureau of Justice Assistance.

[3] For example, the jail in Miami–Dade County, Florida spends $16 million per year in housing and treating inmates with mental illness. Buchan, L. (2003, May 19). Jail diversion for mentally ill top priority in Miami–Dade. *County News,* pp. 6.

[4] See, for example, Council of State Governments. (2002). Contact With Law Enforcement. In *Criminal Justice / Mental Health Consensus Project Report* (pp. 72–124). New York, NY: Author.

[5] Supra note 1.

[6] Under Public Law 106-515, *America's Law Enforcement and Mental Health Project* (Nov. 13, 2000; 114 Stat. 2399; 5 pages), Congress directed the Bureau of Justice Assistance of the U.S. Department of Justice to award competitive grants to local jurisdictions seeking to implement mental health courts. A total of $4 million was available in the Fiscal Year 2002 budget for this purpose, and an additional $2.98 million in Fiscal Year 2003.

[7] The National Mental Health Association, for example, has issued a Position Statement noting that it is "skeptical of mental health court initiatives which risk further criminalization of persons with mental illness." See Position Statement at *www.nmha.org/position/mentalhealthcourts.cfm.*

[8] Bazelon Center for Mental Health Law. (2003). *The Role of Mental Health Courts in System Reform.* Washington, DC: Author.

[9] Steadman, H.J., Davidson, S., & Brown, C. (2001). Mental health courts: their promise and unanswered questions. *Psychiatric Services, 52,* 457–458.

[10] Supra note 2.

[11] The Department of Justice, Bureau of Justice Assistance Mental Health Courts Program was created by Public Law 106–515, *America's Law Enforcement and Mental Health Project* (Nov. 13, 2000; 114 Stat. 2399; 5 pages).

[12] The Pretrial Release Standards of the American Bar Association call upon every jurisdiction to establish a pretrial services program to conduct a pre-initial appearance inquiry by gathering

information relevant to the pretrial release decision and presenting that information plus options for pretrial release to the judge at the initial appearance. American Bar Association. (2002). *Pretrial Release Standards* (Standard 10-1.10, 3rd ed.). Washington, DC: Author.

[13] See, for example, Council of State Governments. (2002). Pretrial issues, adjudications, and sentencing. In *Criminal Justice / Mental Health Consensus Project Report* (pp. 72–124). New York, NY: Author.

[14] There is consensus among criminal justice and mental health practitioners that such procedures should exist. Between 2000 and 2002, the Council of State Governments convened four advisory groups comprising over 100 officials, including judges, prosecutors, public defenders, pretrial and probation administrators, law enforcement, jail and prison administrators, mental health practitioners, mental health advocates, mental health consumers, victim advocates, and state legislators to develop consensus-driven policy statements and recommendations for the handling of persons with mental illness in the criminal justice system. These policy statements and recommendations, which were published in 2002, make it clear that no person should be detained pretrial or denied deferral of prosecution solely for lack of timely information and options to address the person's mental illness. Supra note 13.