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Mental Illness and the Texas Criminal Justice System

by Marc A. Levin, Esq.
Director, Center for Effective Justice

Introduction

The relationship between crime and mental illness has always been complex. Contemporary attitudes and knowledge concerning the treatment of mental illness indicate the urgent need for careful restudy and reshaping of this relationship.

Reformers in the late 1960s and early 1970s pressed successfully for deemphasizing institutional care, which they contended often led to abuse of patients. Their idea was that patients could function in society with supervised reliance on medications for the control of erratic, sometimes anti-social, behavior. In the 1950s mental institutions housed three times as many patients as prisons held convicts.

Both populations, at that, were small by current standards. Throughout the U.S. today, prison inmates total more than 2 million, compared with only 338,029 in 1970. General population growth is partly responsible; even more significant factors are increased crime and tougher sentencing laws. In Texas, the prison population is 13 times larger than in 1970—12,000 back then vs. more than 157,000 today.

Particularly striking is the recent estimate that "deinstitutionalization"—the release of mental patients into the general population—now accounts for up to 14 percent of the growth in incarceration.[1] Today, eight times as many mentally ill persons are admitted into prisons and jails as mental hospitals.

Mentally ill offenders also contribute to the probation and parole caseloads. Texas has a significant percent of offenders with mental illness throughout its prison, probation, and parole systems.

Texas Department of Criminal Justice Offenders with Mental Health and Mental Retardation (MHMR) Matches[2]*

Division	Number of Offenders	Percent of Offenders
Prisons	42,556	27.25
Probation	55,276	12.84
Parole	21,345	27.09

** Represents all Clients served since 1985, including those whose diagnosis is no longer eligible for MHMR*

Texas Department of Criminal Justice Offenders Target Population[3]**

Division	Number of Offenders	Percent of Offenders
Prisons	11,388	7.29
Probation	18,845	4.37
Parole	5,497	6.97

*** Schizophrenia, Bipolar, Major Depression (the three target groups for which there is funding)*

Mental illness also has a substantial impact on county jails. Of the 1 million offenders jailed every year, 17 percent are former MHMR clients. Some 20 percent of Harris County Jail inmates receive medications for mental illness. About 30 percent of offenders who come through Harris County courts have a mental illness.

continued on next page

900 Congress Avenue
Suite 400
Austin, TX 78701
(512) 472-2700 Phone
(512) 472-2728 Fax
www.TexasPolicy.com

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The impact on correctional costs is even greater, because mentally ill inmates cost more due to the care required and their longer average stay. For example, the average jail cost in Harris County for a mentally ill inmate is $7,017 compared to $2,599 for others.[4] Governments have little choice in this regard, because federal courts have ruled that inmates have a constitutional right to health care.

The average state prison cost per inmate today is $55.15 per day, including health care. Compare that with the average $132.41 per day for psychiatric ward care in 2006, the most recent year for which Legislative Budget Board data is available. These wards house 750 inmates.[5] The Legislative Budget Board projects that the state will spend more than $90 million in 2010-11 on psychiatric care for inmates. Furthermore, each new prison bed costs more than $60,000 to build in a system that is already at capacity.

The Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI) was established in 1987 to coordinate programs for offenders with major depression, schizophrenia, bipolar disorder, or diagnosis of mental retardation with the goals of promoting public safety and the rehabilitation of offenders. Included among TCOOMMI's priorities is diverting suitable mentally ill offenders from prisons and jails. TCOOMMI covers the cost of medications for parolees and some mentally ill probationers.

As always, the challenges for public policy involve the careful balancing of interests—the community's vital interest in safety, coupled with the demands of equity and justice for all concerned, including taxpayers. Mental illness as a phenomenon invites the criminal justice system's careful attention. Encouragingly, there are "best practices" for addressing constructively the full range of issues involved. Cost control and protection of public safety are fully compatible objectives.

Taking Into Account Mental Illness in Court

PROBLEM

Early assessment of an arrested person's mental state can be difficult to procure.

Section 16.22 of the Code of Criminal Procedure requires sheriffs to notify the magistrates of a defendant's mental illness or mental retardation within 72 hours of booking. However, TCOOMMI reports that "there exists little evidence to suggest that this is occurring."[6] Unless a mentally ill offender is incompetent, state law requires his release on a personal mental health bond, which, unlike a typical bond, is of a nominal amount. Yet, since there is no provision in the law for monitoring and enforcement of either of these requirements, there is no formal process to ensure that jails are in compliance.

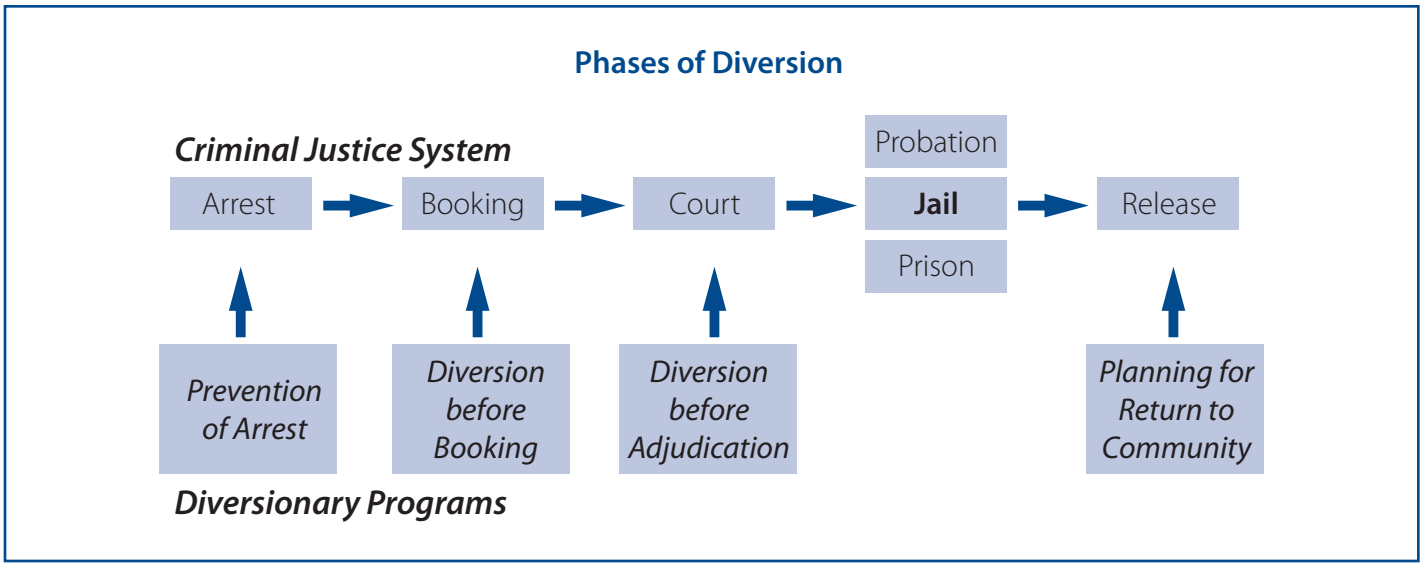
Currently, every jail inmate is cross-referenced with the state's mental health database, known as the Client Access Registration System (CARE). However, there is no formal procedure to notify the courts of a defendant's mental health disorder. Consequently, an offender eligible for specialized supervision and treatment might be kept in jail or sentenced to incarceration.

A survey of 244 Texas judges suggests that most judges do not learn about an offender's mental illness until arraignment or trial. The survey found that approximately 5 percent learn of the illness at arrest or booking, whereas more than 9 percent learn at the post-conviction stage.[7] Less than 1 percent of judges learn about mental illness issues at the charging stage. More than 22 percent learn at magistration, setting bond, or through appointed counsel. Due to this delay in information reaching judges, mentally ill arrestees unable to post traditional bond may unnecessarily sit in jail at taxpayer expense awaiting an opportunity to appear in court.

SOLUTION

To ensure courts are notified of an offender's mental illness, jails should be required to forward the mental health/suicide screening intake form to the court within 72 hours. The Texas Commission on Jail Standards, which oversees and inspects county jails, should monitor compliance with this requirement.

More than 90 percent of Texas judges indicated that having access to a mental health assessment prior to court disposition or final judgment would be helpful.[8] Administering the standardized probation risk assessment before sentencing rather than after sentencing would also provide courts with more information about the offender's condition. In addition to mental health questions that would determine if the defendant needs psychiatric evaluation, the



assessment would provide additional data on other risk factors that can better inform sentencing.

Local Diversion from County Jails

PROBLEM

Mentally ill offenders spend more time in jail than general jail inmates. Mentally ill offenders are arrested so regularly they are often dubbed frequent fliers, often for minor offenses such as trespassing.[9] Harris County spends more than $87 million a year to lock up some 31,781 mentally ill individuals.[10] In Travis County, 45 percent of mentally ill offenders had four or more previous bookings over the last eight years.[11]

Mentally ill offenders also remain longer in jail, absent a diversion process. The national average length of jail stay is 80 days for the mentally impaired offender compared with 20 days for the general jail inmate, and their prison stay is 15 months longer.[12] Texas Panhandle MHMR notes, "Law enforcement recognizes people with mental illness in the Texas Panhandle have longer stays in jails." Yet, 29 percent of mentally ill offenders who are jailed are never charged with a crime.[13]

SOLUTION

Some Texas counties are taking the lead in diverting mentally ill offenders from jail and producing cost savings for taxpayers.

Tarrant County has established the Mental Health Law Liaison Project, which uses emergency screenings to divert 40 percent of offenders from incarceration, resulting in significant cost savings to the County.[14] The program handled 1,286 screenings in 2007. The screened offenders are referred from a coalition of 40 law enforcement entities in Tarrant County that have partnered to divert mentally ill offenders. This successful partnership represents a model that other jurisdictions can emulate.

Bexar County has established a successful three-pronged jail diversion program that is saving money for taxpayers and promoting public safety. First, situations in which individuals display bizarre behavior or calls that do not involve a criminal offense are handled by Crisis Intervention Teams (CITs), who are specially trained law enforcement personnel.

The CIT model was originally developed by the Memphis Police Department. Officers in a CIT program receive at least 40 hours of training in how to interact with mentally ill persons. Officers learn through the training about mental illnesses and how to recognize them, information about the local mental health system and local laws, verbal de-escalation training, and role-playing. CIT officers respond to emergency calls on a 24 hour basis and are able to defuse some situations—a man yelling in a restaurant, for instance—without making an arrest.

Studies show that police-based diversions through CIT significantly reduce arrests of people with serious mental illnesses.[15] In one study, pre-booking diversion, including CIT, also reduced the number of re-arrests by 58 percent.[16] On average, participants in CIT programs spent two more months in the community than non-diverted individuals, resulting in significant savings in jail costs.[17] CIT programs also protect officer safety. After CIT was introduced in Memphis, officer injuries sustained during responses to "mental disturbance" calls dropped 80 percent.[18]

Although the largest Texas metropolitan police departments have CIT personnel, there is an opportunity for smaller police departments to establish a CIT program, including through cooperatives with other nearby departments. Such rural cooperative CIT programs have been established in Pennsylvania and Virginia.

In the second prong of the Bexar County program, arrested offenders are screened for mental illness and, if not a threat to public safety, released on a mental health bond or to a treatment center. Screenings are conducted at the Crisis Care Center, a 24 hour facility that provides significantly quicker service at a lower cost than the emergency room. Once stabilized, offenders are released on a mental health bond. Because the wait for a trial date can be as long as six months, outpatient monitoring significantly reduces the utilization of county jail space. Third, follow-up services are provided upon release from jail or prison.

Bexar County's MANOS program for diverting misdemeanants from the jail through intensive case management has been remarkably successful. The intensive case management includes outpatient medication management and counseling. Of the 371 offenders admitted to the MANOS program, 23 were re-incarcerated for a 6.2 percent rate. This compares to a re-incarceration rate of 67 percent for mentally ill offenders without the intensive case management services offered by the jail diversion program.[19]

Savings from Bexar County's jail diversion program, which also includes the post-booking Genesis program for diverting probationers and parolees discussed below, are estimated at between $3.8 and $5.0 million dollars per year.[20] Similarly, a study of an Ohio jail diversion program found $1 million in savings and an 11.5 percent recidivism rate.[21]

Other counties may be able to achieve similar savings by replicating Bexar County's MANOS program. TCOOMMI had concluded that mentally ill offenders in many counties are kept in jail beyond the 72 hour period after which state law requires them to be released on personal bond.[22] This is partly attributed to a lack of programs for diverting these offenders.

Treatment as a Condition of Probation

PROBLEM

Incarceration of the mentally ill occurs out of proportion to the public safety need for it.

SOLUTION

Probation is a viable alternative, particularly for nonviolent mentally ill offenders, and results in significant savings to the state when compared with incarceration. Probation costs the state only $2.27 per day, of which 40 percent is covered by offender fees. Of the more than 430,000 probationers, 55,276 have a match with MHMR records, suggesting some mental health problem.

Section 11d of Article 42.12 of the Code of Criminal Procedure authorizes a court to require mental health treatment as a condition of probation. Before it can do so, a mental health expert must examine the offender. The court then must conclude either that the offender's mental illness is chronic in nature or that the offender's ability to function independently will continue to deteriorate without proper treatment.

The statute also requires the judge to assure that appropriate outpatient or inpatient mental health services are available either through an MHMR facility or another provider. The judge may order inpatient or outpatient care as a condition of probation, or a combination of both.

Responses from judges suggest they would sentence more nonviolent mentally ill offenders to probation if more treatment was available, particularly in areas outside the major urban centers. Of more than 200 Texas judges surveyed, 87 percent state the lack of treatment to be an obstacle in jurisdictions having a population less than 50,000, compared to 73 percent in jurisdictions of 50,000-250,000.[23]

When an offender is placed on probation instead of being incarcerated, a significant share of the health care costs are borne by the federal government rather than state taxpayers. Incarceration results in the termination of benefits for individuals who are otherwise eligible for Social Security Income (SSI), Medicaid, or Veteran's benefits. Medicaid covers approximately 64 percent of treatment costs for offenders diverted from prison.

Treatment as a Condition of Parole

PROBLEM

Judges may hesitate to grant parole based on fears concerning effective supervision.

More than 5,000 parolees have a mental illness that is among those targeted by TCOOMMI. In general, parole costs $3.15 a day, offering significant savings over prison. Given that 99 percent of Texas inmates will eventually be released, the effectiveness of parole supervision is critical to public safety.

SOLUTION

Better and more widespread recognition of safeguards already in effect.

Many parolees are already on medication for mental illness. Some 20,000 Texas Department of Criminal Justice (TDCJ) inmates are on such medication. Compliance with treatment, including taking medication, is a condition included in offender parole agreements. Medication is important because pharmacological treatment success rates are 80 percent for bipolar disorder, 65 percent for major depression, and 60 percent for schizophrenia, according to the National Institute on Mental Health.[24] Additionally, antipsychotic medication has been found to significantly reduce violence in schizophrenic patients.[25]

Six months prior to release, the TCOOMMI staff in Huntsville identify all mentally ill offenders in the targeted groups and refer them to the MHMR center which will be providing post release care. The MHMR centers then obtain the medical records of these ex-inmates through the University of Texas Medical Branch at Galveston (UTMB) and Texas Tech University Health Sciences Center, the two hospitals that treat prisoners.

Intake appointments at MHMR are made prior to release, and the offender and district parole staff are notified of the appointment. TCOOMMI provides for medications and, depending on the location of the parolee, may provide intensive services, including counseling.

Specialized Probation and Parole Caseloads and Intensive Case Management

PROBLEM

Approximately 30,000 probationers and parolees are sent back to prison every year either for a technical violation of the terms of supervision or for a new offense. The cost of imprisoning these re-incarcerated offenders exceeds $500 million per year. Mentally ill offenders account for 35 percent of the motions to revoke parole, though they are 25 percent of the offenders under supervision.[26]

SOLUTION

Intensive and careful case management reduces the likelihood of the state having to return a mentally ill probationer or parolee to prison.

With the goal of reducing revocations to prison, the Parole Division and the Community Justice Assistance Division (the division of TDCJ that oversees probation departments) sponsor smaller caseloads for mentally ill offenders: 84 for specialized probation caseloads and 120 for specialized parole. Instead of supervising 90 offenders, each officer supervises only 45. The specialized caseloads cost an additional $3 a day, far less than the cost of prison.

Additionally, about 2,500 mentally ill probationers and 800 mentally ill parolees are assigned case managers funded by TCOOMMI. These case managers provide medication management, counseling, and other services. Each case manager works with approximately 25 offenders.

About 2,500 probationers and 800 parolees participate in this intensive case management initiative at a cost of $2,800 per participant. These offenders are also on a specialized caseload. TCOOMMI reports that the three-year re-incarceration rate for participating probationers is 15.1 percent and 16.0 percent for parolees. These recidivism rates compare favorably to the closest benchmarks. There is an estimated 52 percent re-incarceration rate for

mentally ill probationers and parolees who do not receive treatment.[27]

In Texas, the three-year re-incarceration rate for all inmates released from prison is 27.9 percent.[28] A Washington state study found a three-year re-incarceration rate of 43 percent among mentally ill offenders released from prison without any specialized follow-up, compared with 27 percent participating in a program similar to the TCOOMMI initiative.[29] An Iowa study found mentally ill male inmates have a recidivism rate of 54 percent compared to 31 percent for the general prison population.[30]

In their report to the 80th Legislature on TDCJ, the Sunset Commission found that "Offenders receiving services are more likely to be allowed to remain on community supervision, instead of being sent to prison or state jail, saving the state the cost of incarceration."[31]

The public safety imperative to follow up with mentally ill offenders to ensure treatment is illustrated by the potential for a high rate of re-incarceration among these offenders.

National Statistics Show High Rate of Previous Incarcerations Among Mentally Ill Inmates[32]

Previous Incarcerations	> 1	> 2	> 3	> 4
Psychiatric Inmates	50.7%	20.1%	7.0%	2.6%
Other Inmates	38.7%	12.2%	3.6%	1.8%

Approximately 3,000 probationers are on intensive case management and a specialized caseload in Harris County called New Specialized Team of Advocates and Rehabilitation Therapists (New START) that is funded with $3 million from TCOOMMI. A portion of these funds allows New START participants to receive medications and counseling through the Harris County MHMR. In 2006 and 2007, 4 percent of probationers on the program were revoked to prison compared with 30 percent of mentally ill probationers not in the program.[33]

Similarly, the Bexar County Genesis program funded through TCOOMMI served 429 mentally ill felony probationers and parolees in 2007. Participating offenders receive psychiatric drugs and counseling through the Center for Health Care Services that is part of the Bexar County MHMR. Of those participating, only 29 were re-arrested. The revocation rate was only 6 percent.[34]

For the 2010-2011 biennium, TCOOMMI has requested funds to serve an additional 1,000 mentally ill probationers on specialized caseloads with intensive case management. In evaluating this request, lawmakers should weigh the potential cost savings and public safety benefits from lower recidivism. Adopting other cost-saving recommendations in this report would more than cover the additional cost.

Paroling State Jail Inmates with Treatment

PROBLEM

State jail inmates, who serve flat time of up to two years and are not eligible for parole, are more difficult to manage behind bars than other inmates.

According to TDCJ officials, that is because, unlike other inmates, state jail inmates do not earn good time through good behavior. While TCOOMMI attempted to serve state jail inmates in 2007, 80 percent of exiting state jail inmates failed after release to keep medical or treatment appointments with medical or mental health providers. Unlike parolees, inmates released from state jail are under no supervision and therefore have no incentive to keep their appointments. Because of the high rate of no-shows, TCOOMMI has discontinued setting up treatment arrangements for mentally ill state jail inmates upon release. The lack of supervision for state jail inmates upon release may lead to higher rates of recidivism.

SOLUTION

Parole supervision, according to research, is known to be effective in reducing recidivism by drug offenders.

There are 648 state jail inmates who have no convictions other than possessing less than a gram of drugs, some of whom are also on psychiatric medication. If they are released without supervision, there will likely be no continuity of treatment. However, research indicates that parole supervision is effective in reducing the recidivism of drug offenders.[35] This is not surprising given that drug testing is part of parole supervision and parolees know that they can be revoked to prison for failing a drug test.

Of these 648 low-level drug offender inmates, those who are not an identified gang member and have already served at least six months with good behavior could be released up to six months early on parole. The terms of parole could require that the offender be working. Adopting this policy would save $4 million, including the additional parole costs, and possibly avoid $40 million in prison construction costs. Rather than compromised, public safety would be enhanced, because these offenders would be under parole supervision upon release. The mentally ill would receive services through TCOOMMI.

New Residential Beds for Mentally Ill and Substance Abuse Offenders

PROBLEM

Prison psychiatric wards, at $132 a day, are unduly expensive.

SOLUTION

A cheaper and more effective alternative, for probationers with both mental illness and substance abuse addiction, is the idea of the community correction bed. The 80th Legislature added funding to create 200 such beds in Harris, Bexar, and Dallas counties for diverting probationers with both mental illness and substance abuse addiction who would otherwise be sent to prison. These beds were part of the package of alternatives adopted in 2007 rather than build 17,000 new prison beds—at a five-year cost of $1 billion-plus to build and operate. These new dual diagnosis community corrections beds are run by the local probation departments and include psychiatric treatment. The daily cost of these facilities is approximately $75.

Specifically, the cost per offender is $13,500 for a six month stay compared to $81,140 for 4.5 years in a regular prison cell (the average length for a revoked probationer) and $220,698 for the same time in a prison psychiatric ward. Although no recidivism data is yet available for these new beds, the program is similar to court-ordered residential treatment facilities, which have only a 5.1 percent re-incarceration rate after one year.[36]

There is currently a waiting list for these beds. An indication that these beds divert offenders from prison is that the number of offenders on probation increased from 164,652 to 170,779 from 2007 to 2008 while technical revocations to prison remained flat.[37] Maintaining funding for these beds makes sense because they are likely to more than pay for themselves through diversions from prison.

Mentally Ill Drug Offenders

PROBLEM

A significant number of mentally ill offenders are convicted of drug possession. One study estimates that 72 percent of mentally ill offenders also have a substance abuse problem.[38] Similarly, 53 percent of substance abusers have a mental illness.[39] There are approximately 4,500 Texas prison inmates who have no offense other than possessing four grams or less of a controlled substance. SB 1909, which passed the Senate in the 80th session but was not considered in the House, would have redirected these offenders into probation and drug treatment.

SOLUTION

Diversion of mentally ill substance abusers from prison to treatment facilities.

Legislation cosponsored this session by Senators Rodney Ellis, John Carona, John Whitmire and Bob Deuell, as SB 1118, would divert only those offenders convicted of drug possession, not of drug dealing. Eligibility would be limited to offenders who have never committed another non-traffic misdemeanor. Moreover, the legislation would require drug offenders to pay for their own treatment and would allow faith-based treatment providers to participate.

California made a similar policy change in 2000 when over 60 percent of voters passed Proposition 36, mandating treatment instead of incarceration for nonviolent drug possession offenders. According to a UCLA study, this measure has saved the state $1.4 billion over five years, dramatically reducing incarceration costs for minor drug offenders.[40]

For offenders who cannot afford the mandatory treatment, the Department of State Health Services reports outpatient drug treatment in Texas costs an average of $1,080 for 90 days, intensive inpatient treatment costs $6,210 for 90 days. This contrasts with $18,031 per year of incarceration, excluding prison construction costs of $60,000 per cell in a system now at capacity.

By diverting eligible nonviolent drug offenders—including the mentally ill—into probation with treatment, the state could save more than half a billion dollars over five years, according to the Legislative Budget Board.[41] These savings do not include avoided prison construction costs, but take into account increased treatment costs.

According to the Office of National Drug Control Policy, drug treatment reduces drug use by 40 to 60 percent and significantly decreases criminal activity during and after treatment.[42] A survey found Texas judges strongly favor integrated treatment programs as the best option for nonviolent offenders with mental illness and substance abuse.[43] Yet to the extent they have sentencing options, 41 percent of judges have only substance abuse or mental health treatment.[44] More than 21 percent of judges were unsure what options were available.[45] By redirecting these mentally ill minor drug offenders into integrated treatment programs in lieu of prison, better outcomes and lower costs can be achieved.

State Hospital Competency Restoration Diversion

PROBLEM

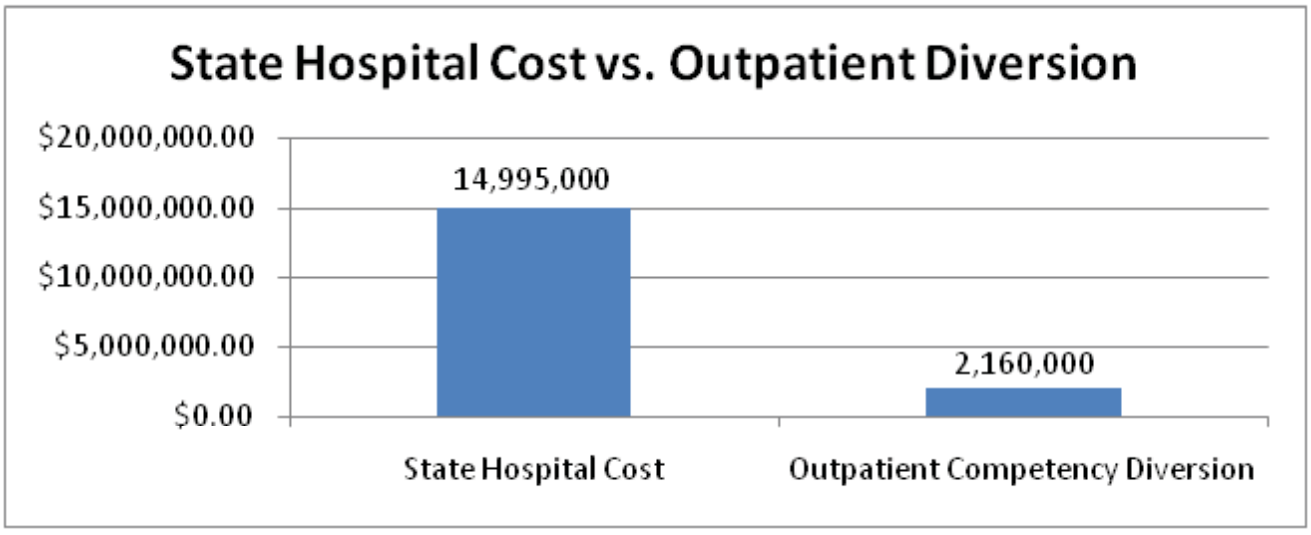
Offenders who are incompetent to stand trial are traditionally sent to state hospitals for competency restoration. The average cost per day at a state hospital is $390. The average cost for an entire stay is $30,000 to $40,000.

SOLUTION

The Outpatient Competency Restoration (OCR) pilot programs were launched by the Department of State Health Services in 2008. These pilot programs are pursuant to SB 867 for outpatient competency restoration of defendants determined by the court not to be a danger to others. Funding was awarded for pilot sites for OCR in selected areas where the MHMR and local judiciary have worked together on this project. OCR programming and curricula were modeled after successful OCR programs in other states.

The pilot program focuses on nonviolent offenders found incompetent to stand trial. Taking Travis, Tarrant, Bexar, and Dallas counties together, some 427 offenders are projected to be served in 2009. The total cost of these four programs is $2.16 million dollars compared with the state hospital cost of $14.95 million based on an average cost of $35,000 per offender.

Andrews Center, which serves Henderson, Rains, Smith, Van Zandt, and Wood counties, is also one of the six sites for outpatient competency restoration. In 2008, Andrews Center diverted 53 jail inmates who would have otherwise gone to the state hospital. The inmates remained in jail for 21 days for stabilization before being released for outpatient competency restoration. Based on the average cost of keeping a mentally ill inmate in the county jail of $101 a day and the average cost of a state hospital stay, the six sites



report annual savings of $450,000 compared with the cost of using the state hospital for competency restoration.

Expanding the number of competency diversion sites would likely result in further savings to the state by reducing commitments to state hospitals.

Mentally Ill Youth at the Texas Youth Commission (TYC)

PROBLEM

More than 50 percent of youths referred to TYC have a diagnosed mental illness.[46] Youth who undergo mental health treatment at TYC have a 47 percent chance of re-arrest within a year and a 42 percent chance of re-incarceration over three years.[47]

SOLUTION

Missouri has achieved far lower recidivism rates for all youths through transitioning from large state lockups like those that TYC operates to locally run group homes, which include mental health treatment. A 2003 study found that the three-year re-incarceration rate in the Missouri Department of Youth Services is only 23 percent compared to 52 percent at TYC.[48]

Operating costs of Missouri's group home system as of 2005 were $43,000 per ward per year.[49] TYC's stated cost per day in the third quarter of 2008 was $136.04 per youth, which equates to an annual cost of $49,665. However, if the 2,200 youths in TYC's institutions are divided by its total budget minus direct parole and contracted capacity costs ($247 million - $40.5 million = $206.5 million), the resulting cost is $257 per youth per day, equating to an annual cost of $93,864 per youth.

This figure fully allocates administrative costs to the institutional division. While some of TYC's administration is devoted to parole or contract facilities, most is appropriately attributable to institutions, particularly given that parole in some areas is subcontracted to juvenile probation departments and that contract beds are down to 228 following the 2007 closure of the Coke County facility.

Dallas Juvenile Probation Chief Mike Griffiths has developed a plan to address all of the 346 Dallas County youths currently in TYC facilities for $98.50 per day over the same period as the average stay in TYC of 1.5 years. This proposal would include youth with mental illness, providing a far more economical solution for Dallas County offenders than TYC placement. The Legislature should adopt a pilot program proposed by the Sunset Commission under which counties could choose this option and obtain some of the funding that would have otherwise gone to lock up their youths at TYC.

Mentally Ill Youths Released from TYC

PROBLEM

One factor that may contribute to the 52 percent recidivism rate of TYC offenders is that many do not show up for post-release mental health treatment funded by TCOOMMI. In fact, the number of no-shows increased from 431 to 850 from 2007-08.[50] This represents more than half of the 1,548 mentally ill offenders released from TYC in 2008.

SOLUTION

TYC could increase its communications with the parent or guardian before the youth is released to explain the importance of following through on the mental health treatment that began at TYC. This could be done through videoconferencing with the local MHMR agency. TYC can also partner with the local MHMR agency to assign a case manager, well before release, who can meet with the parent before the youth reenters society. If the parent is on probation or parole, bringing their youth to treatment should also be made a condition of their supervision. Finally, parole officers should be more active in monitoring the youth's compliance with treatment.

Information Sharing in the Juvenile System

PROBLEM

The juvenile justice system does not have the same provision for information sharing with TCOOMMI as does the adult system. Such information sharing would allow better use of existing resources.

SOLUTION

TCOOMI has a memorandum of understanding with TDCJ, county adult probation departments, and DSHS

for identifying adult probationers and parolees who need to receive mental health care upon release from prison.

The Sunset Commission noted, "The MOU allows TCOOMMI to access data showing which offenders in TDCJ have prior contact with the public mental health system, and use that information to begin preparing for the offender's transition to the community before they are ready for release."[51] TJPC has indicated that language can be added to Chapter 614.018 Health and Safety Code to allow information to be shared between juvenile probation officers, TCOOMMI, and MHMR staff without violating the Health Insurance Portability and Accountability Act (HIPPAA).[52] This exchange of data will facilitate better follow-up for youth on probation with mental illness.

Alternatives to Postadjudication Facilities for Mentally Ill Youth

PROBLEM

An estimated 55.3 percent of the 2,261 youths incarcerated in local postadjudication facilities are estimated to be mentally ill.[53] Of these, 63 percent receive treatment.[54] Data is not available on the recidivism rates for these facilities.

The state currently earmarks two streams of TJPC funding for youths at postadjudication facilities, meaning these funds cannot be used for other probation strategies. This limits the flexibility of counties in using existing state funds for non-residential sanctions that might yield the same or better results at a lower cost.

SOLUTION

TJPC has proposed in its legislative appropriations request that some of its various funding streams be consolidated to increase flexibility.[55] The Sunset Commission recommends consolidating funding streams in its staff report on TYC and TJPC.[56]

If all 18 of TJPC's funding streams were consolidated, counties could receive all probation funds based on their population, the number of adjudicated youth, and the risk level of their probation caseload. This would enable counties to use the same funds for day reporting centers where youth would receive intensive day treatment for mental illness, substance abuse, and behavioral issues. For youths in stable home environments, studies indicate that such alternatives to incarceration can reduce recidivism.[57]

Improve Parole Decision Making Related to Mental Illness

PROBLEM

Compliance with medication does not figure as an explicit factor in parole determinations. Inmates have a constitutional right to refuse medication unless they are determined to be a danger to themselves or others, and about 50 percent fail to comply.[58]

SOLUTION

The Board of Pardons and Paroles could begin considering compliance with medication as an explicit factor in their parole determinations. By doing so, it could encourage greater compliance among inmates without abridging civil liberties and also possibly reducing recidivism.

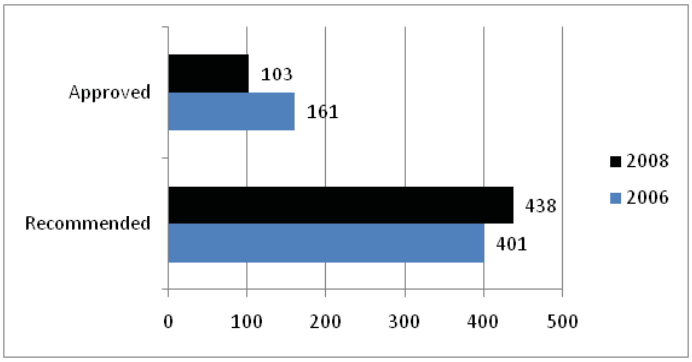
Also, the Board should act on more recommendations for medical parole. Several years ago, one Texas geriatric inmate consumed $1 million in health care costs per year. Medical costs for inmates aged 55 or older are three times those for other inmates. Texas has a Medically Recommended Intensive Supervision (MRIS) program, through which TCOOMMI and the Correctional Managed Health Care Committee recommend the early release of offenders who are elderly, physically disabled, mentally ill, terminally ill, mentally retarded, or have a condition requiring long-term care. The Committee consists of representatives of UTMB, Texas Tech, TDCJ, and physicians appointed by the Governor.

Under this provision in Section 508.146 of the Government Code, the Board of Pardons and Paroles must determine that inmates recommended by the Committee are no longer a threat to public safety. Offenders released on MRIS are on smaller caseloads and subject to electronic monitoring. Legislation passed in 2007 added state jail inmates to those eligible for MRIS.

However, fewer offenders are being released on MRIS today than in 2006. While from 2006-08, the number of of-

fenders presented to the Parole Board increased from 401 to 438, the number of offenders approved declined from 161 to 103. Most of the candidates are over 60. Studies have shown these offenders have a minimal recidivism rate.[59]

Medical Parole Approvals on the Decline



In addition to candidates who are rejected, many die before they can be approved. Some 83 inmates died while awaiting approval in 2008. TCOOMMI has concluded that "cases could have been referred in a more timely fashion by the unit medical providers."[60] Accordingly, the Committee should examine whether they can more quickly identify inmates who have an eligible condition. By approving more MRIS candidates, the Parole Board could reduce the number of geriatric inmates in prison who no longer pose a threat to public safety and the associated costs to taxpayers.

Telepsychiatry

PROBLEM

Management of medications can involve costly travel time.

SOLUTION

TDCJ and TYC currently use telepsychiatry, which allows psychiatrists at UTMB to treat patients in state lockups without incurring transportation costs. This enables inmates' medications to be managed in the same manner as if the inmate saw the psychiatrist in person. A majority of studies have found telepsychiatry reduces costs.[61]

This practice also has application at the local level. It is a costly burden for law enforcement to transport inmates from county jails to psychiatric appointments at MHMR. In Potter and Randall counties, MHMR has installed videoconferencing equipment in the jails to conduct telepsychiatry. This has reduced county labor and transportation costs while increasing safety.[62] A review of the medical literature found that telepsychiatry produces effective outcomes in patients.[63] Texas Panhandle MHMR is considering expanding telepsychiatry capability to other jails in the region. Other jails in the state can work with their local MHMR agency to achieve the cost savings associated with telepsychiatry.

Pharmaceutical Access

PROBLEM

Medication expenses can be daunting. TCOOMMI provides funding under a contract with MHMR centers for medications for criminal justice offenders in the targeted mental illness groups. These contracts include payments for medications for offenders not on specialized caseloads. Some of the medication costs are covered through Medicaid, veterans' benefits, and patient assistance programs sponsored by leading drug companies. However, for patients not eligible for Medicaid, county jails and MHMR centers pay more for medications than TDCJ.

SOLUTION

By purchasing its pharmaceuticals through UTMB, TDCJ benefits from a federal program that offers discounted pricing on pharmaceuticals. Under the 340b Drug Pricing Program, enacted as part of the Public Health Service Act of 1992, patients receive access to reduced price prescription drugs at more than 12,000 health care facilities certified by the U.S. Department of Health and Human Services as "covered entities."

These facilities include hospitals that care for large numbers of indigent persons; state-operated AIDS drug assistance programs; federally qualified health centers; certain treatment programs for tuberculosis, black lung, and sexually transmitted diseases; and primary care clinics. UTMB qualifies as a hospital that provides a disproportionate share of care to the indigent.

Even though MHMR centers and county jails are not on the list, county jails and MHMR centers could contract with UTMB or other 340b participants to provide telepsychiatry and receive the same discounted pharmaceutical

prices that TDCJ does. This would result in significant savings, as the 340b pricing provides 25 to 50 percent off of wholesale prices.[64] This could in turn reduce the cost that TCOOMMI and county jails absorb for medications for mentally ill offenders.

NorthSTAR, the managed care program offering mental health and substance abuse services in the Metroplex, has already entered into such an arrangement with UTMB. Through the program, UTMB co-locates at 23 provider clinics throughout the NorthSTAR area, which encompasses Collin, Dallas, Ellis, Hunt, Kaufman, Navarro, and Rockwall counties. Through telemedicine evaluation and shared electronic medical records, each medically indigent NorthSTAR enrollee in effect becomes a patient of UTMB, allowing NorthSTAR to benefit from UTMB's eligibility for 340b pricing on pharmaceuticals.

Mental Health Courts

PROBLEM

Special courts for dealing with mental illness are an underutilized resource.

Several counties in Texas, including Bexar, El Paso, Tarrant, and Dallas, have established mental health courts, which are designed to divert nonviolent mentally ill offenders from jail and prison. There are more than 150 mental health courts in operation throughout the United States.

SOLUTION

Although no two mental health courts function exactly alike, all have 10 essential elements: planning and administration, target population, timely identification and linkage to services, terms of participation, informed choice, treatment support and services, confidentiality, court team, monitoring adherence to court requirements including taking medication as a condition of probation, and sustainability.[65]

Planning and administration refers to the fact that a mental health court is multidisciplinary and thus must be both planned and administered from "the intersection of the criminal justice, mental health, substance abuse, and other social service systems."[66] All mental health courts have a target population that the court will service.[67] Timely identification and linkage to services means that "participants are identified, referred, and accepted into mental health courts, and then linked to community-based service providers as quickly as possible."[68] Each mental health court must provide the terms of participation to those it treats, and these terms of participation must be catered to each individual and his or her specific treatment plan.[69] Mental health courts must be an informed choice, which means the participants "must fully understand the program requirements before agreeing to participate in the court."[70]

Mental health courts provide treatment support and services, connecting participants to comprehensive and individualized treatment supports and services in the community, including medications and case management.[71]

Mental health courts employ multidisciplinary court teams that are dedicated to helping "mental health court participants achieve treatment and criminal justice goals by regularly reviewing and revising the court process."[72] Mental health courts monitor "participants' adherence to court conditions, offer individualized graduated incentives and sanctions, and modify the treatment as necessary to promote public safety and participants' recovery."[73]

According to one of the most systematic and well-constructed research designs of mental health courts, in the long run the "drop in jail costs more than offset the treatment costs, suggesting that the mental health court program may help decrease total taxpayer costs over time."[74] A RAND Institute study found that "the leveling off of mental health treatment costs and the dramatic drop in jail costs yielded a large cost savings at the end of [its] period of observation."[75]

The RAND study is not alone in advancing this analysis. Julie Clements, a Pretrial Services Officer with the Washoe County Mental Health Court in Reno, Nevada, reported that the 2007 class of 106 graduates went from 5,011 jail days one year prior to mental health court to 230 jail days one year after, a 95 percent reduction.[76] Strikingly, the cost to the system was reduced from $566,243 one year prior to mental health court to $25,290 one year after.[77]

An evaluation of the Santa Barbara County Mental Health Court found that the participants in the metal health court averaged fewer "jail days after treatment than they had before, with a greater reduction in jail days for participants in the [mental health court] than for those in the

[traditional judicial system.]"[78] *The American Journal of Psychiatry* found that "participation in the mental health court was associated with longer time without any new criminal charges or new charges for violent crimes."[79] It also reported that "successful completion of the mental health court program was associated with maintenance of reductions in recidivism and violence after graduates were no longer under supervision of the mental health court."[80]

There is also a record of success for mental health courts in Texas. The Tarrant County Mental Health Court focuses on jail detainees who have been screened for mental illness. Case management and clinical services are provided to participants who then report to the court each month to update the judge on their progress. Adults who complete the treatment protocol and do not re-offend have their cases dismissed. The Tarrant County Mental Health Court has achieved a 90 percent success rate, as measured by offenders diverted from jail or prison who do not re-offend.[81]

For these reasons, mental health courts are enjoying newfound status and popularity. Harris County's criminal district judges recently voted "to designate a full-time felony mental health court … to prevent some offenders from "recycling" through the system."[82]

The amount it costs to set up a mental health court depends on the model chosen to develop it.[83] For example, some models have a larger target population, require new staff, and require new treatment programs while other mental health courts do not.[84] Merrill Rotter, the Medical Director and Co-Project Director of the Bronx Mental Health Court, mentioned that some of the programs "cost as little as $150,000 while others cost multiples of that."[85] It is possible to have a mental health court with no funding at all.[86] Clements noted that the actual court session amounted to volunteer time during lunch one day a week.[87] The idea was to make offenders follow through on services already available to them.[88] It is important to note that much of the setup cost can be a transfer of existing resources.[89]

Dee Wilson, the Executive Director of TCOOMMI, indicates that counties are currently being surveyed for interest in starting mental health courts and that the potential cost to the state would depend on assessing the level of county resources that already exist. Any additional state cost should be accompanied by matching funds provided by the county and a commitment to achieving the jail and prison diversion cost savings associated with other mental health courts around the country.

Conclusion

For all the challenges that mentally ill offenders pose to the Texas criminal justice system, solutions to improve outcomes and reduce costs are not merely in sight—they exist and can be viewed in practice. Different jurisdictions model different solutions, with, nonetheless, almost uniformly encouraging results. The matter is not one of inventing answers; rather, it is one of learning from others' experience.

Significant progress has been made, particularly in some counties with local jail diversion and with reducing the number of parolees with mental illness who would otherwise be sent back to prison. However, there are many opportunities to divert more mentally ill offenders from the prison, jail, and state hospital systems in ways that protect public safety and control costs to both taxpayers and victims of crime.

With sound policies, the great imperatives of the criminal justice system—justice and safety at reasonable public cost—can be realized with respect to the mentally ill quite as successfully as with regard to ordinary offenders. The mentally ill offender who does not endanger the public can be diverted from settings—prisons, jails, state hospitals—inappropriate to his own needs, as to the community's. The challenge is to continue learning from the best practices in other jurisdictions and the best research and then translate those lessons into policy and practice. ✯

Endnotes

[1] Steven Raphael, "The Deinstitutionalization of the Mentally Ill and Growth in the U.S. Prison Populations: 1971 to 1996" (Sept. 2000) http://ist-socrates.berkeley.edu/~raphael/raphael2000.pdf (accessed 28 Jan. 2009).
[2] "Texas Correctional Office on Offenders with Medical or Mental Impairments Powerpoint" (2008) http://www.mhtransformation.org/documents/incarceration/TCOOMMI_Policy.pdf (accessed 28 Jan. 2009).
[3] Ibid.
[4] Interim Report to the 81st Legislature, House Corrections Committee (Jan. 2009) http://www.house.state.tx.us/committees/reports/80interim/80Corrections.pdf.
[5] "Current Correctional Population Indicators: Criminal Justice Uniform Cost Report Tables" (28 Jan. 2009) http://www.lbb.state.tx.us/PubSafety_CrimJustice/3_Reports/Uniform_Cost_Report_0109.pdf.
[6] "The Biennial Report of the Texas Correctional Office on Offenders with Medical or Mental Impairments (Jan. 2009) http://www.tdcj.state.tx.us/publications/tcomi/Biennial%20Report%202009%20FINAL.pdf (accessed 28 Jan. 2009).
[7] "Judicial Perspectives on Substance Abuse & Mental Health Diversionary Programs and Treatment, A Collaborative Project by The Task Force on Indigent Defense, The Office of Court Administration, and The Texas Criminal Justice Coalition" (2008) http://www.courts.state.tx.us/tfid/08workshopinformation/AnaJudge%20Survey %20PPP%20--%20FINAL.ppt (accessed 28 Jan. 2009).
[8] Ibid.
[9] Bill Murphy, "Judge Hopes Mental Health Court Will Cut Repeat Arrests," *Houston Chronicle* (11 Jan. 2009) http://www.chron.com/disp/story.mpl/health/6206022.html.
[10] Interim Report to the 81st Legislature, House Corrections Committee (Jan. 2009) http://www.house.state.tx.us/committees/reports/80interim/80Corrections.pdf.
[11] "Travis County Jail Diversion Cost Simulation Project" (14 Sept. 2007) http://www.caction.org/reports/ TCJailDiversionCosts.pdf (accessed 28 Jan. 2009).
[12] María Félix-Ortiz, Ph.D., "Mobilizing Community Support for Community Mental Health" (28 Jan. 2009) http:// texami.org/homecontent/NAMI_Maria.ppt.
[13] "Mental Illness in U.S. Jails: Diverting the Nonviolent, Low-Level Offender, Open Society Institute Criminal Justice Initiative" (26 Nov. 2003) http://www.prisonpolicy.org/scans/research_brief__1.pdf (accessed 28 Jan. 2009).
[14] "Mental Health Mental Retardation of Tarrant County (MHMRTC) Jail Diversion Plan Fiscal Year 2007" (28 Jan. 2009) http://www.mhatc.org/Archive/fy07jaildivplan-allattachments%20_2_.pdf.
[15] Steadman, H., Deane, M.W., Borum, R., & Morrissey, J. (2001) "Comparing Outcomes of Major Models of Police Responses to Mental Health Emergencies," *Psychiatric Services,* 51, 645-649.
[16] TAPA Center for Jail Diversion (2004) "What Can We Say about the Effectiveness of Jail Diversion Programs for Persons with Co-occurring Disorders?" The National GAINS Center (19 Dec. 2007) http://gainscenter.samhsa.gov/pdfs/ jail_diversion/WhatCanWeSay.pdf.
[17] Ibid.
[18] Dupont, R., Cochran, S., & Bush, A. (1999) "Reducing Criminalization among Individuals with Mental Illness," Presented at the U.S. Department of Justice and Department of Health and Human Services, Substance Abuse and Mental Health Services Administration (SAMHSA) Conference on Forensics and Mental Illness, Washington, DC, July 1999.
[19] Leon Evans, "Jail Diversion: Integration of Health and Behavioral Health within Award Winning Diversion Initiatives" (14 Feb. 2008) http://www.txcouncil.com/UserFiles/File/50th%20County%20Judges%20and %20Commissioner%20Ed%20Conferece%20Feb%2012%202008.pdf (accessed 28 Jan. 2009).
[20] "The Bexar County Jail Diversion Program: Measuring the Potential Economic and Societal Benefits" (Dec. 2004) http://www.chcsbc.org/JailCrisisSubstance/Preliminary%20Economic%20Impact%20Study.pdf (accessed 28 Jan. 2009).
[21] "Diverting the Mentally Ill from Jail to Treatment," 24 June 2004. 28 Jan. 2009 http://www.countynews.org/ Template.cfm?Section=New_Technical_Assistance&template=/ContentManagement/ContentDisplay.cfm&ContentID=15888.
[22] "The Biennial Report of the Texas Correctional Office on Offenders with Medical or Mental Impairments (Jan. 2009) http://www.tdcj.state.tx.us/publications/tcomi/Biennial%20Report%202009%20FINAL.pdf (28 Jan. 2009).
[23] "Judicial Perspectives on Substance Abuse & Mental Health Diversionary Programs and Treatment, A Collaborative Project by The Task Force on Indigent Defense, The Office of Court Administration, and The Texas Criminal Justice Coalition, 2008" (28 Jan. 2009) http://www.courts.state.tx.us/tfid/08workshopinformation/AnaJudge%20Survey %20PPP%20--%20FINAL.ppt.
[24] "Ensuring Unrestricted Access to Medications to Treat Mental Illness" (28 Jan. 2009) http://www.namiiowa.com/ documents/AccesstoMeds2008email_000.pdf.
[25] "Violence Declines With Medication Use In Some With Schizophrenia" (2 July 2008) http://www.sciencedaily.com/releases/2008/07/080701083527.htm
[26] Interim Report to the 81st Legislature, House Corrections Committee (Jan. 2009) http://www.house.state.tx.us/committees/reports/80interim/80Corrections.pdf.
[27] Leon Evans, "Jail Diversion: Integration of Health and Behavioral Health within Award Winning Diversion Initiatives" (14 Feb. 2008) http://www.txcouncil.com/UserFiles/File/50th%20County%20Judges%20and %20Commissioner%20Ed%20Conferece%20Feb%2012%202008.pdf (accessed 28 Jan. 2009).
[28] "Current Correctional Population Indicators: Statewide Criminal Justice Recidivism and Revocation Tables" (28 Jan. 2009) http://www.lbb.state.tx.us/PubSafety_CrimJustice/2_Current_Corr_Pop_Indicators/Recidivism_tables.pdf.
[29] "The Dangerous Mentally Ill Offender Program: Three-Year Felony Recidivism and Cost Effectiveness" (Feb. 2008) http://www.wsipp.wa.gov/rptfiles/08-02-1901.pdf (accessed 28 Jan. 2009).
[30] "State of Iowa: Mental Health Issues and Recidivism" (28 Jan. 2009) http://www.legis.state.ia.us/Isadocs /SC_ MaterialsDist/2008/SDBAL020.PDF.
[31] "Sunset Staff Report for the Texas Department of Criminal Justice, Board of Pardons and Paroles, Correctional Managed Health Care Committee" (28 Jan. 2009) http://www.sunset.state.tx.us/80threports/tdcj/tdcj.pdf.
[32] Jacques Baillargeon, Ph.D., "Psychiatric Disorders, HIV Infection, and Continuity of Care Following Release from Prison: Directions for Future Research" (28 Jan. 2009) http://www.mhtransformation.org/documents/incarceration/ Baillargeon_MH_Reentry.pdf.
[33] Bill Murphy, "Judge Hopes Mental Health Court Will Cut Repeat Arrests," *Houston Chronicle* (11 Jan. 2009) http://www.chron.com/disp/story.mpl/health/6206022.html.
[34] Leon Evans, "Jail Diversion: Integration of Health and Behavioral Health within Award Winning Diversion Initiatives" (14 Feb. 2008) http://www.txcouncil.com/UserFiles/File/50th%20County%20Judges%20and %20Commissioner%20Ed%20Conferece%20Feb%2012%202008.pdf (accessed 28 Jan. 2009).
[36] "Texas Residential Programs Community Corrections Facilities: Report to House Corrections Interim Committee" (16 July 2002) http://www.tdcj.state.tx.us/publications/cjad/fact-sheets/House_Residential_7-16-02.pdf (accessed 28 Jan. 2009).
[37] Texas Department of Criminal Justice Community Justice Assistance Division Report to the Governor and Legislative Budget Board on the Monitoring of Community Supervision Diversion Funds (1 Dec. 2008) http://www.tdcj.state.tx.us/publications/cjad/Monitoring%20of%20DP%20Reports_2008_REPORT%20TO%20GOVERNOR_12122008_Final.pdf.
[38] "The Prevalence of Co-Occurring Mental Illness and Substance Use Disorders in Jails" (Spring 2002) http://gainscenter.samhsa.gov/pdfs/disorders/gainsjailprev.pdf (accessed 28 Jan. 2009).
[39] "Dual Diagnosis and Integrated Treatment of Mental Illness and Substance Abuse Disorder" (Sept. 2003) http://www.nami.org/Template.cfm?Section=By_Illness&Template=/TaggedPage/TaggedPageDisplay.cfm& TPLID=54&ContentID=23049 (accessed 28 Jan. 2009).
[40] See "Prop. 36 Saved California 1.4 Billion in First Five Years" (6 Apr. 2006) http://www.prop36.org/ pr040606.html (accessed 28 Jan. 2009).
[41] Fiscal Note for SB1909, Legislative Budget Board, http://www.legis.state.tx.us/tlodocs/80R/fiscalnotes/html/SB01909H.htm.

[42] "Office of National Drug Control Policy: Treatment Effectiveness" (17 May 2006) http://www.white housedrugpolicy.gov/treat/effectiveness.html (accessed 28 Jan. 2009).
[43] "Judicial Perspectives on Substance Abuse & Mental Health Diversionary Programs and Treatment, A Collaborative Project by The Task Force on Indigent Defense, The Office of Court Administration, and The Texas Criminal Justice Coalition, 2008" (28 Jan. 2009) http://www.courts.state.tx.us/tfid/08workshopinformation/AnaJudge%20 Survey% 20PPP%20--%20FINAL.ppt.
[44] Ibid.
[45] Ibid.
[46] "Texas Juvenile Probation: Today and Tomorrow" (July 2008) http://www.tjpc.state.tx.us/publications/ reports/TJPCMISC0308.pdf (accessed 28 Jan. 2009).
[47] "Texas Youth Commission: Review of Agency Treatment Effectiveness" (31 Dec. 2008) http://www. tyc.state.tx.us/research/TxmtEffect/2008_Treatment_Effectiveness.pdf (accessed 28 Jan. 2009).
[48] Pablo Martinez, "Recidivism of Juvenile Offenders: One Year Follow Up" (16 Oct. 2008) http://www. jrsainfo.org/events/conference/presentations-08/Pablo_Martinez.pdf.
[49] Scott Charton, "Missouri Juvenile Justice Practices Praised, and Copied, as National Model," *Associated Press (*2 Mar. 2005) http://www.cjcj.org/press/missouri_juvenile. html.
[50] "The Biennial Report of the Texas Correctional Office on Offenders with Medical or Mental Impairments (Jan. 2009) http://www.tdcj.state.tx.us/publications/tcomi/Biennial%20Report%202009%20FINAL.pdf (accessed 28 Jan. 2009).
[51] "Sunset Advisory Commission Staff Report: TYC, TJPC" (4 Nov. 2008) http://www.sunset.state.tx.us/81streports/tyc/tyc_dec.pdf
[52] Texas Juvenile Probation Commission Agency's Response to Sunset Advisory Commission Staff Report (Nov. 2008) http://www.tjpc.state.tx.us/publications/reports/TJPCResponsetoSunsetRecommendations.pdf (accessed 28 Jan. 2009).
[53] "Texas Juvenile Probation Commission: Mentally Ill Juvenile Offenders, Overview of the Special Needs Diversionary Program For Mentally Ill Juvenile Offenders" (Mar. 2008) http://www.criminaljustice coalition.org/files/userfiles/juvenilejustice/Best_Practices/Overview_of_the_Special_Needs_Diversionary_Program_for_Mentally_Ill_Juvenile_Offenders,_FY_2007.pdf (accessed 28 Jan. 2009).
[54] Ibid.
[55] "TJPC 2010-2011 Legislative Appropriations Request" (6 Aug. 2008/4 Nov. 2008) http://www.tjpc.state.tx.us/ publications/reports/TJPCMISC0208.pdf.
[56] "Sunset Advisory Commission Staff Report: TYC, TJPC," 4 Nov. 2008 http://www.sunset.state.tx.us/81streports/tyc/tyc_dec.pdf (accessed 28 Jan. 2009).
[57] "Department of Juvenile Justice (DJJ) Outcome Evaluation Report" (2005) http://www.djj.state.fl.us/ Research/OE/2005/2005_oe_report_executive_summary.pdf.
[58] Jacques Baillargeon, Ph.D., et. al., "Compliance with Anti-Depressant Medication among Prison Inmates with Depressive Disorders" (Apr. 2002) http://www.ncjrs.gov/pdffiles1/nij/grants/194053.pdf (accessed 28 Jan. 2009).
[59] Brett Trowbridge, Ph.D. & J.D., "Age and Recidivism: How Accurate are Our Predictions," *Washington Criminal Defense* (Nov. 2004) http://www.trowbridgefoundation.org/docs/age_and_recidivism.pdf (accessed 28 Jan. 2009).
[60] The Biennial Report of the Texas Correctional Office on Offenders with Medical or Mental Impairments (Jan. 2009) http://www.tdcj.state.tx.us/publications/tcomi/Biennial%20Report%202009%20FINAL.pdf (accessed 28 Jan. 2009).
[61] See http://psychservices.psychiatryonline.org/cgi/reprint/54/7/976.pdf.
[62] "Texas Panhandle Mental Health Mental Retardation (TPMHMR) Diversion Action Plan 2008" (28 Jan. 2009) http:// www.tpmhmr.org/documents/DiversionAction-Plan2008.doc.
[63] Donald M. Hilty, MD, et. al., "The Effectiveness of Telepsychiatry: A Review" (28 Jan. 2009) http://ww1.cpaapc. org:8080/publications/archives/Bulletin/2003/october/hilty.asp.
[64] Lisa Scholz, "The 340b Drug Pricing Program: State Optimization of 340b" (23 July 2008) http://www. ncsl.org/print/health/LScholz708.pdf (accessed 28 Jan. 2009).
[65] Bureau of Justice Assistance (BJA), Office of Justice Programs, U.S. Department of Justice, "Improving Responses to People with Mental Illnesses: The Essential Elements of a Mental Health Court" (New York: Council of State Governments Justice Center, 2008) 1-10.
[66] Ibid., 1.
[67] Ibid., 2.
[68] Ibid., 3.
[69] Ibid., 4.
[70] Ibid., 5.
[71] Ibid., 6.
[72] Ibid., 8.
[73] Ibid., 9.
[74] Christine DeMartini, et. al., "Justice, Treatment, and Cost: An Evaluation of the Fiscal Impact of Allegheny County Mental Health Court" (Santa Monica: RAND Corporation, 2007) xi.
[75] Ibid.
[76] Julie Clements, Pretrial Services Officer, Washoe County Mental Health Court, personal interview 13 Jan. 2009.
[77] Ibid.
[78] "Evaluation of the Santa Barbara County Mental Health Treatment Court with Intensive Case Management" (2004) http://consensusproject.org/downloads/santa.barbara.evaluation.pdf (accessed 14 Jan. 2009).
[79] Renee L. Binder, M.D. and Dale E. McNeil, Ph.D., "Effectiveness of a Mental Health Court in Reducing Criminal Recidivism and Violence," *The American Journal of Psychiatry (*Sept. 2007) http:// ajp.psychiatryonline.org/cgi/content/abstract/164/9/1395 (accessed 14 Jan. 2009).
[80] Ibid.
[81] See http://www.mhatc.org/Archive/fy07jaildivplan-allattachments%20_2_.pdf.
[82] Jennifer Leahy and Peggy O'Hare, "Harris County Judges Vote for Felony Mental Health Court: Program Has a Record of Success," *The Houston Chronicle* (08 Jan. 2009) 14 Jan. 2009 http://www.chron.com/disp/story.mpl/ headline/metro/6199799.html.
[83] Merrill Rotter, Medical Director/Co-Project Director, Bronx Mental Health Court, personal interview 13 Jan. 2009.
[84] Ibid.
[85] Ibid.
[86] Julie Clements, Pretrial Services Officer, Washoe County Mental Health Court, personal interview 13 Jan. 2009.
[87] Ibid.
[88] Ibid.
[89] "Satellite Broadcast on Mental Health Courts" (13 Jan. 2009) 4, http://www.courtinfo.ca.gov/programs/ collab/documents/transcript.pdf.

About the Author

Marc A. Levin, Esq., is the director of the Center for Effective Justice at the Texas Public Policy Foundation. Levin is an Austin attorney and an accomplished author on legal and public policy issues.

Levin has served as a law clerk to Judge Will Garwood on the U.S. Court of Appeals for the Fifth Circuit and Staff Attorney at the Texas Supreme Court.

In 1999, he graduated with honors from the University of Texas with a B.A. in Plan II Honors and Government. In 2002, Levin received his J.D. with honors from the University of Texas School of Law.

Levin's articles on law and public policy have been featured in publications such as *The Wall Street Journal, USA Today, Texas Review of Law & Politics, National Law Journal, New York Daily News, Jerusalem Post, Toronto Star, Atlanta Journal-Constitution, Philadelphia Inquirer, San Francisco Chronicle, Washington Times, Los Angeles Daily Journal, Charlotte Observer, Dallas Morning News, Houston Chronicle, Austin American-Statesman, San Antonio Express-News* and *Reason Magazine*.

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