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Enhancing Public Safety and Saving Taxpayer Dollars:

The Role of Mental Health Courts in Texas

by Skyler Stuckey, Marc Levin, and Kate Murphy

Key Points

- Mental health courts effectively reduce recidivism, which makes society safer and saves money in the long-term.
- Limited community mental health treatment options likely contribute to overcrowding in Texas jails and prisons.
- Specialty courts train legal professionals in mental health challenges, and this specialization should improve judicial economy.

Measures that divert suitable offenders with mental illness from lockups to effective treatment programs can produce net savings while furthering public safety and offender accountability. States have begun implementing problem-solving courts to accommodate offenders with specific needs that traditional courts cannot adequately address. These problem-solving courts focus on outcomes that benefit society by reducing crime and saving correction costs. Mental health courts are one of these problem-solving courts designed to reduce recidivism by requiring offenders with mental illness to be directly accountable to the court on an ongoing basis for compliance with a supervision and treatment plan.

Jails and prisons have become some of the largest providers of mental health care across Texas and the country. Offenders with mental illness often move through these facilities as if they were a revolving door. Mental health courts that use best practices can help break this cycle by offering an alternative that holds offenders accountable and provides treatment.

Many issues related to mental illness in the criminal justice system stem from deinstitutionalization, which began in the 1950s. Throughout the decade, popular sentiment and litigation led to significant reductions in the mandatory institutionalization of people with mental illness in state-sponsored psychiatric hospitals. In 1963, President Kennedy pushed the Community Mental Health Act, which closed many of these state-run institutions. Although these institutions were imperfect, the current challenges at the intersection of mental illness and corrections are partly attributable to lack of a replacement. Thus, people with mental illness who come in contact with law enforcement are often funneled into jails and prisons.

Mental health courts could help Texas break the cycle of mental illness and crime. To reduce recidivism and spending on corrections, many states have established mental health courts. For example, New York has handled over 7,124 cases in mental health courts since December 2013.[1] And in Texas, the Harris County Felony Mental Health Court began screening defendants for court admission in March 2012.[2] Given this progression, the time seems ideal for examining the role these courts can play in Texas' future criminal justice policy.

continued

The Genesis of Mental Health Courts

Following deinstitutionalization, Texas prisons admitted a significantly higher percentage of people with a history of mental illness.[3] The absolute number of male prisoners who had a prior state mental hospitalization increased from 18 in 1968 to 1004 in 1978.[4] This is significant because of the potential consequences in terms of recidivism and costs.

For instance, in a post release survey 537 men, 45 percent of male offenders with mental illness released from prison reported that they engaged in criminal behavior within one year, compared with 36 percent of others.[5] In Texas, the average inmate costs about $50.00 per day. Inmates with some mental health challenges, such as needing medicine, would cost somewhat more, whereas inmates receiving intensive psychiatric services cost about $140.00 per day.[6]

States have started looking for possible solutions to the difficult problems arising from treating people with mental illness in the criminal justice system. In this search, several states have been inspired by the success of other jail diversion programs, like drug courts.[7] Most mental health courts, like drug courts, are designed to address the complexities connected with a specific subset of offenders in the criminal justice system. These problem-solving courts provide over-incarcerated populations with a more rehabilitative alternative to traditional corrections. These alternatives hold offenders accountable and provide necessary treatment in hopes of preventing future contact with the criminal justice system. Existing evidence, while not definitive, suggests that mental health courts, like other problem-solving courts, may be effective at reducing both recidivism and the ensuing correctional costs.[8]

Mental health courts were conceived through the observed success of drug courts, which were first implemented in 1989 in Dade County, Florida.[9] Like drug courts, mental health courts are distinct from traditional courts. The judge does not simply issue a sentence and then move on to the next batch of cases. Instead, the defendant must regularly appear in court, to be held accountable for attending treatment sessions and complying with any other court-imposed conditions.

Within these specialty courts judges are uniquely able to incentivize compliance. Judges have also been able to coordinate existing treatment resources including non-profit organizations, faith-based groups, and other support groups for people with mental illness and their families. Rather than rely on the traditional adversarial process, judges partner with the defense and prosecution to encourage the offenders' compliance and rehabilitation. Not only do these problem-solving courts hold participants accountable, but the courts themselves are also accountable for the ultimate outcomes. Recidivism and other longitudinal outcomes can typically be attributed to the court because of the court's ongoing supervision.

Both mental health courts and drug courts share an emphasis on successful offender outcomes by integrating treatment into the processes of sentencing and supervision. Traditional courts seem to measure performance by the volume of cases processed and time to disposition.[10] Mental health courts are specifically concerned with reducing recidivism. Additionally mental health courts work to help offenders effectively reintegrate into their communities and achieve maximum independence from the health care and social service systems.

Another benefit these specialty courts harness springs from a division of labor. Many judges lack training in mental health. Unmanageable court dockets interfere with the traditional court's ability to adequately address the complex issues related to mental illness. Adam Smith posits that specialization increases productivity and skill.[11] Applying this market principle of specialization to the court system could enhance the right to a speedy trial and foster a more effective correctional system.

The first highly publicized mental health court was opened in Broward County, Florida, in 1997.[12] The community quickly embraced this new mental health court.

The first mental health courts lacked uniformity and formal criteria.[13] Similarities between the initial courts were products of chance or conscious imitation.[14]

Prisons & Mental Illness in the U.S.

Prevalence of people with mental illness in the prison system

There are some important contextual factors that help put the challenge of dealing with mental illness in prisoners in perspective. First, the role of the mental illness in the offense varies across offenders, and often other criminogenic risk factors are present in addition to mental illness such as criminal thinking patterns and substance abuse. Second, not all inmates with mental health challenges fall within the Texas' priority population. Schizophrenia, bipolar disorder, and depression, commonly referred to as the "Big 3," are prioritized in Texas. People with these diagnoses often received treatment for their condition to the exclusion of others. Those excluded from treatment may be represented in the criminal justice system. To illustrate this point, in Texas 27.25 percent of TDCJ's detainees received state mental health services before incarceration, but only 7.29 percent of all inmates in TDCJ are suffering from schizophrenia, bipolar disorder, or major depression *(see charts below).*[15]

Texas Department of Criminal Justice Mental Health and Mental Retardation (MHMR) Matches*[16]

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. This chart reflects the number of offenders who previously had contact with the state mental health system, but would not include those who may have sought private care.*

Texas Department of Criminal Justice Offenders Target Population**[17]

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

*** Schizophrenia, Bipolar, and Major Depression are the three target groups for which there has historically been dedicated funding.*

Deinstitutionalization: Addressing One Problem Creates Another

Much research has been devoted to ascertaining what caused the explosion in the prison population in the United States. In 1999, the Cook County (Chicago) Jail staff identified about 10,000 detainees per year as mentally ill. The number of inmates with mental illness in Cook County jail exceeded the number of individuals admitted to all 10 Illinois state mental hospitals.[18]

Mental health consumers were released into the community with the hope that new medications would provide the same level of treatment as supervised hospital stays. But this hope did not prove well-founded. Patients often stop taking beneficial medications. And the community mental health centers did not have programs in place to adequately serve the people with serious mental illness.[19]

Additionally, the U.S. Supreme Court held that confining a "non-dangerous individual who is capable of surviving safely in freedom by himself or which the help of willing and responsible family members or friends" unconstitutional, which made it more difficult to commit people with mental illness to government-run institutions.[20] The resulting inflexible civil commitment laws, coupled with other barriers to care like declining availability of low-income housing and already limited community mental health care options, further compound the plight of people with mental illness and lead to system cycling.[21]

Concurrently, policymakers proved more willing than ever before to increase spending to combat a rising crime problem. States began to build jails and prisons, which have become the new institution for people with mental illness due to the absence of community alternatives for crisis stabilization.

Mental health courts provide a more recovery-oriented alternative consequence for people who may be able to avoid the criminal justice system provided they adhere to proper treatment.

Deinstitutionalization took place in Texas in the 1980s. As in other states, Texas's community resources did not meet the needs of the deinstitutionalized population. The criminal justice system thus became the default provider for people with mental illness.[22] Unfortunately, the criminal justice system lacked the structure and resources necessary to deal with people who have a mental illness.[23]

Texas quickly became aware of the system's shortcomings. Law enforcement, prosecutorial, judicial, and corrections officials lacked the necessary information and training to deal with signs, symptoms, and needs of people with mental illness.[24] As a result, people with mental illness were often prosecuted, sentenced, and incarcerated without consideration of their special needs.[25] When services were available, providers failed to coordinate, which created a "fragmentation of services" for a population with complicated needs.[26] The limited services and lack of specialized supervision have also been identified as handicapping efforts to deal with offenders with mental illness.[27]

An Imperfect Storm: Factors Contributing to the Frequency of Incarceration for People with Mental Illness

People with mental illness are incarcerated at a much higher rate than non-sufferers—usually for lower level misdemeanors that are clear manifestations of mental illness.[28] Most crimes committed by people experiencing mental illness fall into three categories: illegal acts that are a byproduct of mental illness (e.g., disorderly conduct, criminal trespass, disturbing the peace, public intoxication); economic crimes to obtain money for subsistence (e.g., petty theft, shoplifting, prostitution); and more serious offenses. Many crimes that fall into the first two categories could be avoided if people were receiving adequate treatment for their mental illnesses.[29] The increased interplay between mental illness and the corrections system often results in inadequate care and perpetuates the cycle of re-incarceration at the expense of the public.[30]

Although some people with mental illness commit serious crimes, most are placed behind bars for minor offenses that do not pose a threat to the general populace.[31] Once arrested, failure to properly diagnose and treat mental health problems often perpetuates the cyclical institutionalization of people with mental illness that occurs within the criminal justice system. Of course, some offenders with mental illness must remain in some form of secured confinement because some conditions cannot be safely managed in the community. But the difference between costs for non-residential community-based treatment and corrections illustrate the potential savings available through maximizing the use of community-based treatment.

Additionally, placing inmates with mental illness in general population creates challenges for correctional staff. The staff demands the same behavior of inmates with mental illness as of the general prison population to ensure inmate safety. Yet the staff often lacks training to differentiate behavioral problems associated with mental illness and general behavioral problems.[32]

The National Development of Mental Health Courts

The proportion of people with mental illness in jails increased by 154 percent between 1980 and 1992.[33] As the problems arising from people with mental illness in the criminal justice system became more apparent, a handful of communities across the nation began to develop specialized mental health courts.[34] Mental health courts provide a more recovery-oriented alternative consequence for people who may be able to avoid the criminal justice system provided they adhere to proper treatment. These specialized courts were modeled on the success of drug courts. Because no clearly delineated definition a mental health court existed, early courts were designed with the specific needs and resources of each jurisdiction in mind.[35]

Broward County, Florida, established the first mental health court in 1997.[36] Judge Mark Speiser and public defender Howard Finkelstein created a task force to address the problems of overcrowding and inadequate mental health care in jails.[37] Major figures in the criminal justice system and mental health care profession supported the initiative.*[38] So Chief Circuit Judge Dale Ross issued an administrative order in 1997 to create the nation's first mental health court.[39]

The Broward County mental health court carries a specialized docket for most misdemeanor cases involving defendants with mental illness.[40] The court employs a pretrial diversion model, which immediately moves defendants into treatment and away from the traditional criminal justice system.[41] The program limited eligibility. Nonviolent misdemeanors are eligible, except for offenders charged with domestic violence or driving under the influence; those charged with simple battery are eligible with the consent of the victim; in the future, nonviolent felons may also be eligible.[42] Voluntary participation allows offenders to opt out of the process and return to traditional criminal court at any time.[43] The court was designed to intercept and divert defendants with mental illness from jail into appropriate treatment facilities without compromising public safety.[44]

Broward County's mental health court has been used as a model for other mental health courts around the country as they began to develop. This "model" describes the unique role of mental health courts in holding offenders responsible for their offense, ensuring public safety, leveraging community treatment resources, and monitoring offenders' compliance.[45] After participants complete court-ordered treatment, meet all conditions of probation, and show signs of achieving stability, they "graduate" from the court and are released from supervision.[46]

A Texas Two-Step toward Mental Health Courts

Mental Health Court Statutes in Texas Chapter 125 of the Texas Government Code outlines the requirements for establishing mental health courts in Texas.[47] Sections 125.001 defines a mental health court program as a program with nine essential characteristics. Mental health courts must integrate mental illness treatment services in the processing of cases in the judicial system. The courts must use a non-adversarial approach designed to promote public safety and protect the due process rights of program participants. The program must promptly identify and place eligible participants. The program must provide access to mental health services. The judiciary must have ongoing interaction with program participants. Some defendants should be diverted to necessary services rather than be subjected to the criminal justice system. The program's goals should be monitored and evaluated for effectiveness. And the court should partner with public agencies and community organizations in its efforts.[48] The courts may be established to serve people suspected of having a mental illness who have been arrested for either a misdemeanor or a felony.[49] Mental health courts must provide legal counsel to participants before they volunteer to proceed through the court; voluntary participants must also be allowed to withdraw from the court. The court must provide an individualized treatment plan for each participant. The court must also limit its duration to the probationary period for the offense charged.[50] The mental health court may require the participant to pay for as much treatment as possible.[51]The statutory definition of mental health courts in Texas remains malleable with guideposts that are flexible to serve the needs of diverse communities across the state.

The Statewide Development of Mental Health Courts

In July 2008, Smith County commissioners laid the foundation for a mental health court program in Tyler. The Smith County model used a pretrial model divert non-violent, offenders with mental illness from the traditional criminal system.[52] The chief forensic psychiatrist of the Rusk State Hospital argued that too many inmates with mental illness are in the criminal system. These inmates with mental illness cost twice as much as other inmates and stay in jail or prison three times longer. In jail the people with serious mental illness do not receive adequate

* The task force included "the Broward Public Defender's Office, the State Attorney's office, the sheriff's office, county governmental staff, local members of the National Alliance for the Mentally Ill (NAMI), and community mental health and substance abuse providers, including Henderson Health Center and Nova Southeastern University."

treatment because jails were not designed to deliver mental health services.[53] The Smith County mental health court was designed to improve the lives of offenders with mental illness and to save the county money through intensive supervised probation.[54]

In 2009, the Harris County Criminal District Court Judges and Criminal Justice Coordinating Council approved the Felony Mental Health Court.[55] Judge David Mendoza and Judge Brock Thomas preside over the court.[56] The Harris County Felony Mental Health Court was implemented in March 2012. One indicator of the scope of the problem in the greater Houston area is that the Mental Health and Mental Retardation Authority of Harris County serves more than 15,000 individuals each month.[57] About one in five or 2,500 Harris County Jail inmates suffer from mental illness, making Harris County Jail the largest provider of mental health services in the state.[58] About 90 percent of these inmates have previously been in jail, which reflects the frequent recycling of people with mental illness through the criminal justice system.[59]

The Harris County Felony Mental Health Court aims to protect public safety and reduce recidivism by diverting defendants with mental illness from incarceration to community treatment.[60] Participation in the court is voluntary and lasts at least 18 months.[61] Participants frequently appear before the Felony Mental Health Court Judge and are visited by specially trained community supervision officers.[62] Participants also receive intensive treatment from mental health professionals.[63] The goal is to provide proper support to the participant during the program and following its completion. Ultimately, it is hoped that this support will help participants transition from supervision into society where they will continue to lead productive lives.

The Harris County court, at its inception, was expected to process up to 200 offenders per year, which constitutes about 25 percent of eligible offenders.[64] The court relies on referrals from courts and counsel, and participants are shepherded through the court by a dedicated prosecutor and defense counsel.[65] Eligibility requires an identified relationship between the mental illness and the behavior which resulted in the criminal charge, a guilty plea, and comprehensive evaluation.[66] Individuals currently charged with a violent felony are ineligible. Those with a prior violent felony can only be admitted with the express approval of the dedicated assistant district attorney. Those with a current or prior sex felony are also ineligible.

Candidates must enter a guilty plea and undergo treatment and supervision.[67] Participants frequently appear before the judge, and incentives and sanctions are applied to encourage treatment adherence and modify behavior that could lead to criminal activity.[68] Specially trained probation officers supervise participants and treatment is provided by mental health treatment professionals, along with chemical dependency treatment and random drug testing if the individual is diagnosed with a co-occurring substance abuse disorder.[69] An individualized wellness action plan is designed to promote stability following graduation from the court.[70]

While a comprehensive outcome study is in progress, as of February 2015, of the 24 participants who have graduated, only two have recidivated, which consisted of a drug possession case and a misdemeanor.[71] This is particularly encouraging given that the average participant during the first two years of the court's existence had 12 prior convictions and at least one incarceration.[72] Additionally, independent process evaluations were conducted in 2013 and 2014 by the University of Houston Department of Criminal Justice and the 2014 evaluation found that "nearly all" of the 27 recommendations from the 2013 report had been implemented.[73] These included strengthening incentives, such as recognizing participants with exemplary compliance as "all-stars"

at the beginning of hearings and better informing judges of eligibility requirements, which has reduced the number of referrals who do not qualify.[74]

Tarrant County also has a mental health court available to misdemeanants and non-violent felons with a mental illness.[75] The Tarrant County court screens, interviews, and assesses potential participants; the District Attorney's office reviews each case for final approval.[76] The court requires adherence to a specific treatment program developed for each participant. Supervision monitoring and compliance hearings ensure adherence to the program.[77] Participants who successfully complete the program become eligible for dismissal of the original charges.[78] From 2007 to 2013, 263 of the 294 participants in the Tarrant County mental health court successfully graduated from the program.[79]

Other communities are approaching the problem in different ways. In November 2006, Travis County opened the country's first public defender office specifically designed to assist people with mental illness.[80] Bexar County's jail diversion program diverts people from both jails and emergency rooms.

The Dollars and Sense of Mental Health Courts: Reducing Costs and Recidivism

As with any state or nation-wide change in administrative processes two things matter most: the results and the cost. From Broward County to New York City, mental health courts and jail diversion programs have been effective in reducing recidivism. The bigger question is whether mental health courts will be effective and financially viable in the long run. As time passes, data increasingly suggests that mental health courts may help protect public safety and save money.

Mental health courts were modeled on drug courts. Drug courts were designed to resolve issues related to the numerous non-violent substance abusers in jails and prisons. Mental health courts have the potential to similarly resolve issues with the mentally ill.

A RAND Institute study showed what proponents of mental health courts had hoped for from the beginning. The mental health court in Allegheny, Pennsylvania resulted in an increase in the use of mental health treatment services and a decrease in overall jail time.[81] The study found that the fiscal impact of the plan was minimal. Any costs related to the increased use of mental health services by the participants were mostly offset by the decreased jail time expenditures.[82] And after two years *both* jail costs and mental health costs were reduced. This cost reduction suggests that mental health courts may yield significant cost savings.[83] In the case of the Allegheny mental health court, total costs were on average $9,584 lower than predicted per participant after the second year.[84]

The Washoe County mental health court in Reno, established in 2001, has approximately 200 persons under daily supervision.[85] Julie Clements, a Pretrial Services Officer with the Washoe County Mental Health Court in Reno, Nevada, reports that one year prior to that the implementation of that county's mental health court, offenders with mental illness cost the county $566,246.[86] After the court was implemented, Clements says costs fell by more than 90 percent to $25,290.[87] Studies suggests that mental health courts generally can be financially advantageous. Examples like Washoe County show that mental health courts can have rapid, dramatic fiscal results.

Data from mental health courts in Indianapolis, Minneapolis, Santa Clara, and San Francisco indicate that participants averaged fewer jail days than for those in the traditional judicial system.[88] And participation in mental health courts has been linked to longer time without any new criminal charges.[89] For example, in 2007, participants in the San Francisco behavioral health court had a 26 percent lower risk of new criminal charges and a 55 percent lower risk for violent crimes than a comparable group booked into the county jail during the same period.[90]

Studies show that mental health court participants were half as likely to be re-arrested as similarly situated individuals who went through the traditional court system; and participants who complete the mental health court program are re-arrested less than a quarter of similar defendants in the traditional criminal justice system.[91] When mental health court participants faced new criminal charges, the charges were often related to probation violations rather than the commission of a new crime (non-participants tended to be re-arrested for new offenses).[92]

Mental health courts are relatively inexpensive compared to the cost of incarcerating the court's participants. Merrill Rotter, the medical director and co-project director of the Bronx Mental Health Court, notes that some of the programs "cost as little as $150,000 annually for all participants."[93]

Research also suggests that well-run diversion programs for offenders with mental illness can be effective in promoting public safety and controlling costs. In Bexar County, pre-booking diversion lowered criminal justice and treatment costs by $3,200 per person during the first six months after diversion.[94] Without pre-booking diversion, cross-system costs would have surpassed $1.2 million.[95] Post-booking diversion saved as much as $1,200 per person, and saved more than $700,000 across the criminal justice and treatment systems.[96] Diversion was also associated with improved access to treatment.[97] Proper treatment may help break the repeating cycle of people with mental illness moving between the community and criminal justice system.[98] Reducing recidivism effectively reduces overuse of scare criminal justice resources while simultaneously making society safer.[99]

Denver, Colorado, has a program that provides medication and monitors inmates with mental illness who are released from jails to community correction centers.[100] The year before this program was introduced, 56 percent of inmates with mental illness returned to prison for violating terms of their release.[101] During the first two years of the program, the recidivism rate among those receiving medication fell to three percent.[102]

Diversion program participants in Anchorage, Alaska, reduced the length of hospital and jail stays among its participants by 83 percent and 81 percent, respectively.[103]

Offenders with mental illness now have more options besides probation or prison. Mental health courts and other jail diversion programs are better equipped to handle the nuances in cases involving offenders with mental illness. Counties should consider whether mental health courts could maximize public safety by providing effective treatment at a lower cost than lock-up.

Considerations for the Future of Mental Health Courts

Research indicates that mental health courts could resolve some of the problems arising from offenders with mental illness in the criminal justice system. Successful programs in jurisdictions, such as Allegheny, Pennsylvania and Santa Barbara, California, suggest that mental health courts are a realistic, effective, and financially viable option for other jurisdictions. Such a choice is best left to the policy makers and administrators who would be tasked with establishing the court. The following are key recommendations for future research and policymaking:

- Further study is needed to identify which offenders with mental illness will benefit most from mental health court in terms of recidivism reduction and diversion from incarceration.
- Jurisdictions should review their jail and prison populations to identify the numbers and types of offenders with mental illness who are key drivers of incarceration costs, the current recidivism outcomes for these offenders, and the extent to which a lack of available alternatives in certain communities such as mental health courts may have contributed to the decision to incarcerate them.
- Validated risk/needs assessments and psychological screenings should be utilized to route offenders who are likely to have the best outcomes into these courts.
- Private support or reduced expenditures in other parts of the criminal justice system should be identified to offset the initial costs of mental health courts, with screening criteria adopted that ensure a large percentage of admission will be individuals who otherwise would be incarcerated, thereby producing substantial savings. Existing community resources, such as specialized probation caseloads and non-profit treatment programs, should be leveraged to minimize costs and foster community involvement.
- State funding should focus on diverting appropriate felony offenders who would otherwise go to prison, be tied to performance measures such as recidivism, and contingent on coun-

ties reducing the number of low-level offenders with mental illness sent to state prisons, thereby ensuring net savings are realized.

- District attorneys should ensure prosecutors receive appropriate credit when offenders they refer to mental health courts are successful.

Fortunately, there are valuable resources to help policymakers and practitioners research mental health courts. The Council of State Governments Justice Center Criminal Justice/Mental Health Consensus Project has identified 10 elements that are part of the most successful mental health courts:

1) planning and administration
2) target populations
3) timely participant identification and linkage to service
4) terms of participation
5) informed choice of participants
6) treatment supports and services
7) confidentiality
8) the court team
9) monitoring adherence to court requirements
10) sustainability.[104]

These elements are central to the seamless blending of accountability and treatment. All elements should be considered when opening mental health courts. The Consensus Project also offers two instructive reports geared towards launching mental health courts: *Mental Health Courts: A Primer for Policymakers and Practitioners* and *A Guide to Mental Health Court Design and Implementation*. Both reports focus on the basic practical details of initiating mental health courts. Additionally, the Consensus Project's website is regularly updated with new information on mental health courts across America

Although the number of studies and jurisdictions involved are limited, existing research suggests there are positive results associated with mental health courts, including a long-term net savings to government. And researchers note that diverting individuals with mental illness into the courts poses little additional risk to public safety.[105] By using mental health courts to connect people with mental illness with community-based treatment, jails and tax dollars can be put to better use, public safety can be improved, and communities can be made healthier.

Notes

[1] New York State Unified Court System, *Problem Solving Courts* (updated Aug. 5, 2014).

[2] Harris County District Courts, *Felony Mental Health Court* (last visited March 3, 2015).

[3] Henry J. Steadman, John Monahan, Barbara Duffee & Eliot Hartstone, *The Impact of State Mental Hospital Deinstitutionalization on United States Prison Populations 1968-1978* (1984), p. 481.

[4] Ibid, p. 481.

[5] Kamala Mallik-Kane and Christy A. Visher, *Health and Prisoner Reentry: How Physical, Mental, and Substance Abuse Conditions Shape the Process of Reintegration*, (Feb. 2008), p. 42

[6] Legislative Budget Board, *Criminal Justice Uniform Cost Report Fiscal Years 2010 to 2012* (Jan. 2013), p. 8.

[7] Henry J. Steadman, Susan Davidson, & Collie Brown, *Mental Health Courts: Their Promise and Unanswered Questions*, (April 2001), p. 457.

[8] Christine M. Sarteschi, Michael G. Vaughn & Kevin Kim, *Assessing the effectiveness of mental health courts: A quantitative review* (2011), p. 19.

[9] Steadman, et al, *Mental Health Courts: Their Promise and Unanswered Questions*, (April 2001), p. 457.

[10] Dan H. Hall & Ingo Keilitz, *International Framework for Court Excellence* (Nov. 9, 2012), p. 23.

[11] Adam Smith, *The Wealth of Nations* (1904), Book I.

[12] Center for Court Innovation, *The Proliferation of Mental Health Courts* (last visited March 3, 2015).

[13] Steadman, et al., *Mental Health Courts: Their Promise and Unanswered Questions*, (April 2001), p. 457.

[14] Henry Ibid, p. 457.

[15] Texas Correctional Office on Offenders with Medical or Mental Impairments PowerPoint (Jan. 28, 2009).

[16] Ibid.

[17] Ibid.

[18] Amy Watson, Patricia Hanrahan, Daniel Luchins, & Arthur Lurigio, *Mental Health Courts and the Complex Issue of Mentally Ill Offenders*, (April 2001), p. 477.

[19] Brian D. Shannon & Daniel H. Benson, *Texas Criminal Procedure and the Offender with Mental Illness,* 4th Edition, (2008), p. 9.

[20] *O'Connor v. Donaldson*, 422 U.S. 563 (1975).

[21] Catherine Conly, *Coordinating Community Services for Mentally Ill Offenders: Maryland's Community Criminal Justice Treatment Program*, (April 1999), p. 3.

[22] Shannon & Benson, *Texas Criminal Procedure and the Offender with Mental Illness,* 4th Edition,(2008), p. 9.

[23] Ibid, p. 9-10.

[24] Ibid, p. 9-10.

[25] Ibid, p. 9-10.

[26] Ibid, p. 10.

[27] Ibid, p. 7-25.

[28] The Sentencing Project, *Mentally Ill Offenders in the Criminal Justice System: An Analysis and Prescription* (Jan. 2002) p. 7.

[29] Ibid, p. 7.

[30] Robert Bernstein & Tammy Seltzer, *Criminalization of People with Mental Illnesses: The Role of Mental Health Courts in System Reform* (2003), p. 143-45.

[31] Shannon & Benson, *Texas Criminal Procedure and the Offender with Mental Illness,* 4th Edition, (2008), p. 12.

[32] Jamie Fellner, *A Corrections Quandary: Mental Illness and Prison Rules* (2006), p. 391.

[33] Amy Watson, Patricia Hanrahan, Daniel Luchins, & Arthur Lurigio, *Mental Health Courts and the Complex Issue of Mentally Ill Offenders*, (April 2001), p. 477.

[34] Ibid, p. 477.

[35] Ibid, p. 479.

[36] Ibid, p. 479.

[37] Ibid, p. 479.

[38] Ibid, p. 479.

[39] U.S. Department of Justice Bureau of Justice Assistance, *Strategies for the Mentally Ill in the Criminal Caseload: Mental Health Courts in Fort Lauderdale, Seattle, San Bernardino, and Anchorage*, (April 2000), p. 9.

[40] Watson, et al, *Mental Health Courts and the Complex Issue of Mentally Ill Offenders*, (April 2001), p. 479.

[41] Ibid, p. 479.

[42] Ibid (April 2001), p. 479.

[43] Ibid (April 2001), p. 479.

[44] U.S. Dept. of Justice Bureau of Justice Assistance, *Strategies for the Mentally Ill in the Criminal Caseload: Mental Health Courts in Fort Lauderdale, Seattle, San Bernardino, and Anchorage*, (April 2000), p. 9.

[45] Ibid, p. 16-19.

[46] Ibid, p. 11-16.

[47] Texas Government Code § 125

[48] Texas Government Code § 125.001-.003

[49] Texas Government Code § 125.002

[50] Texas Government Code § 125.003

[51] Texas Government Code § 125.004

[52] Grits for Breakfast, *Smith County will Create Pilot Mental Health Court*, (Jul. 28, 2008).

[53] Ibid.

[54] Ibid.

[55] Harris County District Courts, *Harris County Felony Mental Health Court*, (last visited Oct. 1, 2014).

[56] Harris County District Courts, *Felony Mental Health Court Program Description*, (last visited Oct. 1, 2014)

[57] MHMRA of Harris County, *An Overview of Mental Disorders in Harris County, Texas*, (last visited Sept. 30, 2014).

[58] MHMRA of Harris County, *An Overview of Mental Disorders in Harris County, Texas,* (last visited Sept. 30, 2014).

[59] Harris County District Courts, *Harris County Felony Mental Health Court*, (last visited Oct. 1, 2014).

[60] Harris County District Courts, *Felony Mental Health Court Program Description*, (last visited Oct. 1, 2014).

[61] Ibid.

[62] Ibid.

[63] Ibid.

[64] Harris County Felony Mental Health Court, *Planning Team Report,* (2009), p. 10.

[65] Clete Snell, *Harris County Felony Mental Health Court Process Evaluation,* (March 2014).

[66] Ibid.

[67] Ibid.

[68] Ibid.

[69] Ibid.

[70] Ibid.

[71] Ibid.

[72] Ibid.

[73] Ibid.

[74] Ibid.

[75] Tarrant County, *MHDP: Criteria for Participation,* (last modified on November 29, 2011).

[76] Tarrant County, *MHDP: Entry Process*, (last modified on November 29, 2011).

[77] Ibid.

[78] Ibid.

[79] Tarrant County Criminal Justice Community Plan (2015), p. 36.

[80] Grits for Breakfast, *Good Idea: New Austin Public Defender Office will Represent Mentally Ill*, (June 4, 2006).

[81] M. Susan Ridgely et al., *Justice, Treatment, and Cost: An Evaluation of the Fiscal Impact of Allegheny County Mental Health Court*, (2007), p. xi.

[82] Ibid, p. xi.

[83] Ibid, p. xi.

[84] Ibid, p. 26.

[85] Bureau of Justice Assistance, U.S. Department of Justice, *Mental Health Courts Learning Sites: Washoe County, Nevada Mental Health Court*, (last visited Oct. 1, 2014), p. 1.

[86] Interview by Marc A. Levin with Julie Clements.

[87] Ibid.

[88] Henry J. Steadman, Allison Redlich, Lisa Callahan, Pamela Clark Robbins & Roumen Vesselinov, *Effect of Mental Health Courts on Arrests and Jail Days*, (Oct. 4, 2010), p. E6.

[89] Dale E. McNeil & Renee L. Binder, *Effectiveness of a Mental Health Court in Reducing Criminal Recidivism and Violence*, The American Journal of Psychiatry, (Sept. 2007), p. 1395.

[90] Ibid, p. 1395.

[91] Marlee Moore and Virginia Hiday. *Mental health court outcomes: A comparison of re-arrest and re-arrest severity between mental health court and traditional court participants*. (2006), p. 670.

[92] Ibid, p. 661.

[93] Merrill Rotter, Medical Director/Co-Project Director, Bronx Mental Health Court, personal interview (jan. 13, 2009).

[94] Alexander J. Cowell, Arnie Aldridge, Nahama Broner & Jesse M. Hinde, A Cost Analysis of the Bexar County Jail Diversion Program, (2008), p. ES-1.

[95] Ibid, p. ES-1.

[96] Ibid, p. ES-1.

[97] Ibid, p. ES-1.

[98] Ibid, p. ES-2.

[99] Ibid, p. ES-2.

[100] Kirk Mitchell, *Drug Aid Program Benefits Mentally Ill Prisoners*, (Sept. 7, 2009).

[101] Ibid.

[102] Ibid.

[103] Amy Watson, Patricia Hanrahan, Daniel Luchins, & Arthur Lurigio, *Mental Health Courts and the Complex Issue of Mentally Ill Offenders*, (April 2001), p. 480.

[104] Michael Thompson, Dr. Fred Osher, & Denise Tomasini-Joshi, *Improving Responses to People with Mental Illnesses: The Essential Elements of a Mental Health Court*, (2008).

[105] M. Susan Ridgely et al., *Justice, Treatment, and Cost: An Evaluation of the Fiscal Impact of Allegheny County Mental Health Court*, (2007), p. 5.

About the Authors

Skyler Stuckey, currently an associate at Wilson Elser Moskowtich Edelman & Dicker L.L.P. in Dallas, began researching this report while a student at Texas Tech Law School. **Marc Levin** is the director of the Center for Effective Justice at the Texas Public Policy Foundation. **Kate Murphy** is the Mental Health Policy Fellow at the Texas Public Policy Foundation contributing to the Center for Effective Justice and teh Center for Health Care Policy.

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