MENTAL HEALTH COURTS

National Mental Health Association

90

FAX

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Monty Moeller, Chair of the Board ■ Michael M. Faenza, President and CEO

To: Sarah Bianci / Anna Ritcher

At: Chris Jennings' Office

Phone: —

Fax: 202-456-5557

From: Al Guida

Direct Line: 703-838-750[illegible]

Date: 8/6/99

Pages: 3 *(including cover)*

Comments: Sarah & Anna
As I promised...

SAVE THE DATE

National Mental Health Association's
1999 "Into the Light" Tribute Dinner

honoring
Steve Hyman, M.D., Director, National Institute of Mental Health
and Alan Leshner, M.D., Director, National Institute on Drug Abuse

Thursday, September 30, 1999
The Mayflower Hotel, Washington, D.C.

For more information, call (202) 467-6500.

MEMORANDUM

TO: Sarah Bianci/Anna Ritcher

FROM: Al Guida

DATE: August 5, 1999

SUBJECT: Rep. Strickland's Mental Health Courts Bill

Thanks you for seeking our input regarding "America's Law Enforcement and Mental Health Project." Overall, NMHA believes the measure is a valuable step forward and represents a critical component of a larger strategy to prevent the inappropriate incarceration of people with mental illnesses. In fact, we are so excited about the measure that the memo seeks your assistance on a specific legislative matter.

Objective: In proposing the relatively minor changes outlined below, our policy objective is to produce greater interagency cooperation between state penal systems and local mental health authorities. Often, on the local level, the lack of cooperation between law enforcement, the judicial system and mental health agencies is a huge contributing factor to both homelessness as well as the re-institutionalization of the mentally ill in state and county prisons.

Proposals: Our recommendations are indicated in bold

1.) pg 2, line 8: The Attorney General, **in coordination with the Substance Abuse and Mental Health Services Administration (SAMHSA),** may make grants to States, State courts, local courts, units of local government,, and Indian tribal governments....

2.) pg. 2, line 19: (2) the integrated administration of services **in close cooperation with state, county, and municipal mental health authorities,** which includes:

3.) pg. 3, line 1: (B) voluntary diversion into outpatient or inpatient mental health treatment that carries with the possibility of **further legal action** (strike "prosecution") **regarding** the original criminal charge if the mentally ill or mentally retarded defendant is noncompliant with program requirements.

4.) pg 5, after line 23: new (e) In order to comply with subsection (d)(5) above, applicants shall develop, at a minimum, a detailed memorandum of understanding with appropriate state, county and municipal public mental health agencies.

5.) pg 8, line 6: subsitute **$10,000,000** for $2,000,000.

Request For Help: I have instructed my staff (Ms. Andrea Price) to determine if its politically feasible to include the Strickland measure the juvenile justice legislation currently pending in a House-Senate conference committee. In all candor, that's difficult because the congressman's bill isn't in either of the underlying bills. Nevertheless, it presents a unique opportunity to achieve a quick victory. If we fail to seize this opportunity, it could be next year (at the earliest) before Strickland initiative receives serious congressional consideration.

Would the Administration be willing to express support for America's Law Enforcement and Mental Health Project Bill during the juvenile justice conference committee deliberations? Specifically, could that support be expressed in the DOJ letter establishing the Administration's position on the substantive issues being considered by the House & Senate?

TED STRICKLAND
6TH DISTRICT, OHIO

COMMITTEE ON COMMERCE

SUBCOMMITTEE ON ENERGY AND POWER

SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS

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CORRECTIONAL OFFICERS CAUCUS
FOUNDER AND CO-CHAIR

Congress of the United States
House of Representatives
Washington, DC 20515–3506

June 30, 1999

Audrey Tayse Haynes
Chief of Staff to Mrs. Gore & Special Assistant to the Vice President
Office of the Vice President
Old Executive Office Building
Washington, DC 20501

Dear Ms. Haynes:

It is my privilege to request your personal response to the enclosed draft legislation which I intend to introduce shortly in the House of Representatives. This bill proposes a mental health court pilot program that seeks to answer the question of what to do with mentally ill people whose petty crimes are symptomatic of their underlying illness. Specifically, this bill aims to offer court ordered mental health treatment, rather than jail time, to such mentally ill defendants.

Unfortunately, too many communities have no option but to recycle the mentally ill misdemeanant through the criminal justice system because no mechanism exists to defer nonviolent offenders into local community mental health systems. Jail cells and court dockets throughout the United States are crowded with an ever growing mentally ill population. The stress of this situation is often relieved by releasing these mentally ill offenders back into the community where, without access to treatment, they are likely to become repeat offenders. At this point, the defendent becomes a victim of cyclical court appearances and jail time and further burdens our country's already resource-strapped criminal justice system.

A few pioneering communities have developed what are known as Mental Health Courts, which are special dockets dedicated to enhancing public safety by diverting the mentally ill misdemeanant into treatment. The Mental Health Court is a collaborative effort of the criminal justice and mental health treatment systems. Its major goals are to improve case processing time, access to public mental health treatment service, and rates of recidivism.

The two known operating Mental Health Courts are in Broward County, Florida, and King County, Washington. Information about both courts is included herein for your reference. Inspired by their success, we propose legislation to provide for a federally funded Mental Health Court pilot project.

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JACKSON, OH 45640
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MARIETTA, OH 45750
(740) 376-0868

Knowing your involvement in criminal justice and mental health issues, we request the benefit of your expertise in developing this legislation. Please review the enclosed draft and advise us of your response. I respectfully request that responses be sent to my office at your earliest convenience, preferably within thirty days. Should you have any questions or need additional information, please do not hesitate to contact Brandy Tomhave, of my staff at (202) 225-5705. Thank you very much for your consideration. I look forward to hearing from you.

Sincerely,

Ted Strickland

Ted Strickland
Member of Congress

BACKGROUND

In 1994, the Honorable Mark A. Speiser, Circuit Court Judge, established a Mental Health Task Force. Members of the Task Force include community leaders in criminal justice, state and county government, mental health advocacy, mental health providers and law enforcement. The Judge established this task force because serious problems existed regarding the care, handling and community placement of mentally ill defendants. Over the past four years this task force has aggressively identified and solved key issues.

Through this task force initiative, on June 6, 1997, the Chief Judge of the Seventeenth Judicial Circuit Court, the Honorable Judge Dale Ross, established the nation's first "Mental Health Court" in Broward County, Florida. He stated in his administrative order, "This circuit has recognized that the creation of "specialized courts" within other divisions of the court has enhanced the expediency, effectiveness and quality of judicial administration. It is essential that a new strategy be implemented to isolate and focus upon individuals arrested for misdemeanor offenses who are mentally ill or mentally retarded. In view of the unique nature of mental illness, and mental retardation, [there is a] need for appropriate treatment in an environment conducive to wellness and not punishment, as well as the continuing necessity to insure the protection of the public."

"The Mental Health Court is a resounding success not just because it is extremely efficient and cost effective, but because it has brought a humanity to people who have been abused by the criminal justice system for way too long."

Howard Finkelstein, Chief Assistant Public

Mission Statement

" THE MISSION OF THE MENTAL HEALTH COURT IS TO ADDRESS THE UNIQUE NEEDS OF THE MENTALLY ILL IN OUR CRIMINAL JUSTICE SYSTEM"

Purpose

The purpose of the Mental Health Court is to expedite the mentally ill defendant through the criminal justice system by balancing the needs of both the defendant and the community.

Goals

The goals of the Mental Health Court are to:

- create effective interactions between the criminal justice and mental health systems
- ensure legal advocacy for the mentally ill defendant
- ensure that mentally ill defendants do not languish in jail because of their mental illness

- balance the rights of the defendant and the public safety by recommending the least restrictive, most appropriate, and most workable disposition
- increase access for the mentally ill defendant to community mental health services by creating centralized services
- divert mentally ill defendants with minor criminal charges to community based mental health services
- reduce the contact of the mentally ill defendant with the criminal justice system by creating a bridge between the criminal justice system and the mental health system
- monitor the delivery and receipt of mental health services and treatment
- solicit participation from consumers and family members in court decisions.

Guiding Principles

- The *INVOLVEMENT* of consumers and family members should be encouraged for all persons with mental illness.

- *ACCESS* to appropriate and flexible mental health services should be ensured for all persons with mental illness.
- The jail is a *COMMUNITY* institution, and the mentally ill inmate is a community concern.
- *CREATIVE* use of existing resources can encourage and inspire many needed changes without the massive infusion of new resources.
- Mental health services targeting the *COEXISTING DISORDERS* of mental illness and substance abuse should be a priority.
- *CROSS TRAINING* of law enforcement, mental health and corrections personnel is crucial.

THE TEAM

The Honorable Ginger Lerner-Wren was elected Broward County Judge in July of 1996. The Chief Judge assigned her to the Criminal Division of the County Court where she presides over misdemeanor cases. With her extensive experience in mental health law and working with persons with disabilities, Chief Judge Dale Ross appointed Judge Lerner-Wren to preside over the Circuit's newly created Mental Health Division. (June 6, 1997)

Honorable Ginger Lerner-Wren

Judge Lerner -Wren attended the University of Miami and received a Bachelor of Arts Degree in Politics and Public Affairs in 1980. She attended Nova University Center for the Study of Law. She was also a founder of the Florida Association of Women Lawyers, Nova Law Center Chapter and attained a Juris Doctor Degree in 1983.

Mental Health Court is a team effort. Other Mental Health Court team representatives include:

- Assistant Public Defender
- Assistant State Attorney
- City Prosecutor
- Forensic Social Worker (provided by the Public Defender's Office)
- Court Monitor (provided by Henderson Mental Health Center, funded by Broward County)
- Case Manager (funded by community mental health providers)
- Mental Health Court Liaison (funded by Florida Department of Children and Families)
- Baker Act Team

CRIMINAL JUSTICE MENTAL HEALTH TASK FORCE

In 1994, the Honorable Mark A. Speiser, Circuit Court Judge, established a task force of community leaders from the criminal justice, mental health, and law enforcement community. He established this task force because of serious concerns regarding the care, handling and community placements of mentally ill defendants. Over the past four years the task force has aggressively addressed and solved key issues. Because of this task force initiative, the Chief Judge established the Mental Health Court to handle the unique needs of the mentally ill in Broward County.

In July 1997, Judge Speiser expanded the role of the task force. Five subgroups were created to identify solutions to various obstacles facing the mentally ill in the criminal justice system. Their goal is the development of a system of quality care for mentally ill defendants, and to integrate the criminal justice system with community-based systems. The subgroups include leaders in law enforcement, criminal justice and mental health. Specifically, these groups examined diversion from arrest and incarceration; services for defendants in-custody and in the community; measurement of progress through data collection; and legislative issues.

Honorable Mark A. Speiser

Judge Speiser was born in Holyoke, Mass. He received his Bachelor of Science degree from American University (1969), Juris Doctor from the University of North Carolina (1972), and his L.L.M. (tax law) from Georgetown University (1976). Prior to becoming a judge he worked as a staff attorney for the U.S. Securities Exchange Commission. He was a special prosecutor for the U.S. Department of Justice Organized Crime Strike Force, and a senior staff counsel for the U.S. House of Representatives Select Committee on Assassinations. He was in private practice, and also worked in the Broward County State Attorney's Office. He was elected to the Circuit Court Bench in 1982. He has served in the Juvenile Division (two years), Criminal Division (13 years), as Criminal Administrative Judge (six years), and most recently in the Probate Division (two years).

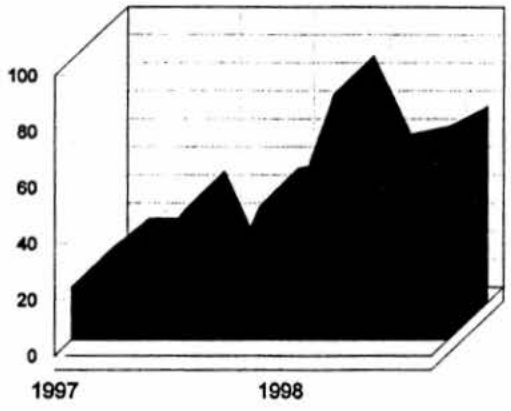
"From my perspective the judiciary needs to be, within ethical constraints, pro-active in the community. The mentally ill who are arrested for nonviolent misdemeanor offenses need not, nor should, be incarcerated. Through the efforts of our Task Force, and many mental health advocates in our community, we believe we have created a vehicle by which to address, with dignity, the true needs of this segment of our population. Through the tireless efforts of the Mental Health Court and its staff, the dual objectives of identifying and treating the mentally ill in the criminal justice system who are in need of assistance, not punishment, will be achieved."

Judge Mark A. Speiser, 17th Judicial Circuit

MENTAL HEALTH COURT CASELOAD

Cases come to the Mental Health Court from the magistrate/bond hearing court almost daily. Case referrals may also come from other court divisions, Broward Sheriff's Office Department of Corrections and Rehabilitation, Public Defender's Office, and the Fort Lauderdale jail.

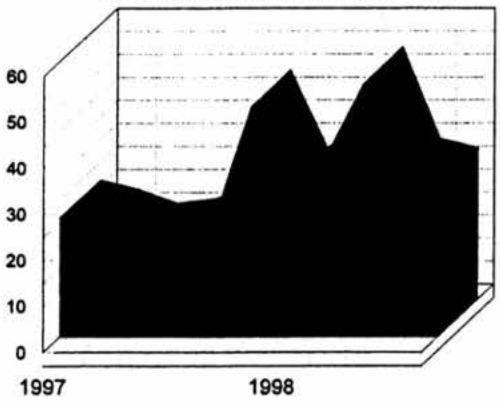
Under Court Jurisdiction at End of Month



The Henderson Community Mental Health Center reviews jail booking logs daily to identify active mental health cases. The Public Defender's Office Intake Unit then flags and opens these cases.

Total new cases	413
Average new cases per month	41
Total cases disposed	102

New Cases by Month 7/97 - 6/98



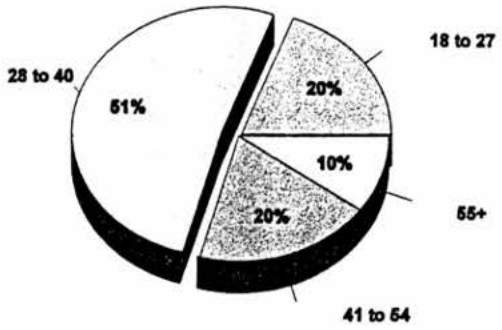
The Mental Health Court may monitor cases up to one year. The Court's caseload has been steadily increasing. Since the beginning of 1998, the Court has had an average of 69 cases under its jurisdiction each month.

DEFENDANTS

Male defendants have comprised 77 percent of the Mental Health Court caseload and are generally between the ages of 28 and 40.

There is concern that female defendants who are appropriate for treatment are not being identified and referred to Mental Health Court. Efforts are being made to develop "Gender Specific" screening instruments.

Average Age of Defendants



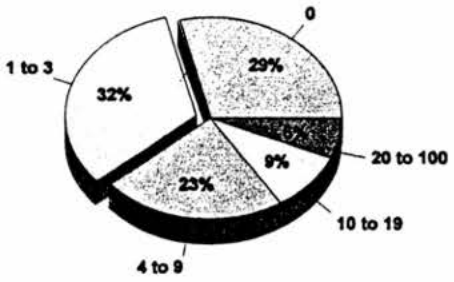
At the time defendants first appear in court they are living in a variety of places. A significant portion of Mental Health Court defendants are homeless.

Living Arrangements

A review of the psychiatric diagnoses of defendants reveals that 92 percent of all participants have a serious and persistent mental illness, with 70 percent having one or more past psychiatric hospitalization.

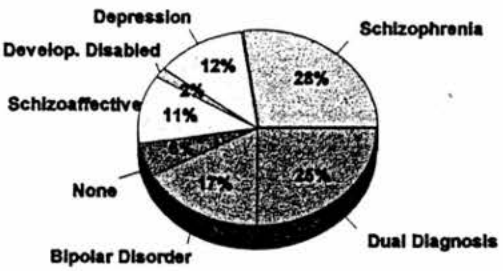
A significant statistic is the overwhelming number of participants with dual diagnoses (substance abuse and major mental illness).

Previous Psychiatric Hospitalizations
(Self-reported)



Previous substance abuse was acknowledged by 64 percent of defendants. The majority (53%) of those who admitted substance abuse, stated that they abused both drugs and alcohol.

Diagnoses



RESULTS FROM MENTAL HEALTH COURT

The Judge links participants in Mental Health Court with appropriate community mental health providers. A range of providers are available in the Broward County area.

Results	No	%
Linked with community mental health providers	88	24
Court-ordered for Baker Act evaluation	63	17
Hospitalized after Baker Act evaluation	57	15
Inappropriate for Mental Health Court	33	9
Refused community mental health services	31	8
Receiving private psychiatric care	28	7
Awaiting competency evaluation	24	6
Returned to jail due to other charges	20	5
Bonded out then failed to appear for Mental Health Court	18	5
Petitioned for involuntary civil commitment	9	2

by the Honorable James D. Cayce and Kari Burrell

King County's Mental Health Court

An Innovative Approach for Coordinating Justice Services

It is rare that an idea to improve on our system of justice gets virtually unanimous support and commitment. Yet, the concept of creating a Mental Health Court in the King County District Court has done just that. From its first mention over one year ago through its implementation in mid-February, the idea that we can do a better job in handling misdemeanant cases involving mentally ill defendants has received tremendous support. This support has included not only the commitment of time and energy from literally hundreds of planning participants, but also the necessary financial backing. The general consensus going into this project was that it was "the right thing to do" for many reasons.

There is some evidence that, with the movement to substantially reduce the use of state mental hospitals as a treatment option for the mentally ill, the numbers of mentally ill in the community who receive inadequate or even no treatment has increased.

In August 1997, retired Seattle Fire Captain Stanley Stevenson was fatally stabbed by a man later found to be criminally insane. That tragic incident has been the catalyst for some sweeping and innovative changes in the criminal justice and public health systems in which mentally ill offenders are handled. Shortly after the Stevenson incident, King County Executive Ron Sims formed a statewide task force of individuals representing the key treatment and legal service systems involved with the mentally ill. The task force included judges, prosecutors, public defenders, police, mental health professionals, mental health board, family advocates and government officials. Retired Justice Robert Utter was selected to chair the Mentally Ill Offenders Task Force. After an intense two months of meetings, the Task Force Report was issued with numerous recommendations for change and the implementation phase began. The civil and criminal laws under which these cases come before the Superior Court and the Courts of Limited Jurisdiction have been revised to give the courts far more options in dealing with this complex population. One of the numerous system changes recommended was a pilot Mental Health Court project to test whether an alternative approach to handling cases for mentally ill misdemeanants could be more effective than the regular court system in reducing jail time and recidivism, and in providing better linkages to the mental health treatment community. Executive Ron Sims asked King County District Court Presiding Judge James Cayce to chair a Mental Health Court Task Force for the purpose of further exploring this specific recommendation.

The issues that the Mental Health Court Task Force convened to address in Washington state are similar to issues faced by numerous localities nationwide. There is some evidence that, with the movement to substantially reduce the use of state mental hospitals as a treatment option for the mentally ill, the numbers of mentally ill in the community who receive inadequate or even no treatment has increased. Furthermore, some have hypothesized that, in fact, an emerging trend is the "criminalization" of mental illness: that the mentally ill are landing in jails and prisons with increasing frequency due to issues related more to their illness and less to the crimes they may have committed. The National Alliance for the Mentally Ill estimates that 25 to 40 percent of the mentally ill today will come in contact with the criminal justice system for one reason or another.[1]

National research studies have documented that the numbers of mentally ill incarcerated in jails and prisons is a significant percentage of the overall jail and prison population. One source indicates that more than seven percent of the incarcerated are diagnosed as having one of the three serious mental disorders (schizophrenia, bipolar disorder and major depression) and that more than 50 percent have other mental health diagnoses.[2] A study completed in 1997 indicated that the numbers were even higher — more than 10 percent of the incarcerated population had a diagnosis of a serious mental disorder. This study indicated that in jails (rather than prisons), nine percent of men and 18.5 percent of women in custody were seriously mentally ill. This rate of serious mental illness is four times higher than the rate in the general, non-incarcerated population.[3]

The growing number of mentally ill in the jail and prison population is problematic for a number of reasons. There is the concern that many individuals are arrested for behavior that probably could have been better addressed through the mental health treatment system. Another concern is that jail and prison environments may further aggravate, rather than improve, mental

health conditions. Finally, there is evidence that the mentally ill are arrested and jailed more frequently and have longer average jail stays than the general population. A 1991 study of mentally ill offenders in the King County Jail showed that inmates with misdemeanor charges admitted to the Jail's Psychiatric Unit had an average length of stay three times longer than that of other misdemeanants.[4] The longer jail stays for this population in King County may be partially attributed to concerns about releasing inmates without a treatment alternative.

In February 1998, Judge Cayce and 10 others from King County, the City of Seattle and Jail Alternative Services visited Broward County, Florida, to observe the then only operating Mental Health Court in the United States. All trip participants, including judges, attorneys and treatment providers, were enthusiastic about what they saw and how well they thought the model could be implemented, with some modifications, in King County. The Mental Health Court Task Force met initially in April 1998 to explore how the Court could work cooperatively with other criminal-justice agencies and the treatment community, and to develop specific recommendations for a King County Mental Health Court model. In August 1998, a final Mental Health Court Task Force report was released which outlined a proposed blueprint for the pilot court. After the report was released, King County Budget Office staff worked with the various partner agencies to secure funding.

FUNDING

Resources for King County's pilot Mental Health Court project came from three sources: leveraged existing funds and staff, additional new county funds, and an externally funded grant. The Prosecuting Attorney's Office, the Office of Public Defense, and the District Court have all absorbed portions of the staffing costs of this program. Additional new funds from the County General Fund, the County Criminal Justice Fund, and the County Mental Health Fund have been temporarily allocated to this project. The treatment funds allocated for the pilot project are coming from the County Mental Health Division's "fund balance," a non-renewable source of funding. If the pilot proves successful, a more permanent source of treatment dollars will have to be secured. A final funding source for the pilot came from the federal Bureau of Justice Assistance, which provided an 18-month grant of $150,000.

The pilot King County District Court Mental Health Court was launched on February 17, 1999. On April 29, 1999 the pilot court program was dedicated to the memory of Captain Stanley Stevenson. Many of the program policies and procedures are being established as the project unfolds. But the important elements of the model, as outlined by the Mental Health Court Task Force Report, are all in place. The Mental Health Court differs from a regular court in three fundamental respects. First, the cases are heard on a separate calendar and are all handled by the same core team of professionals. Second, there is an increased emphasis on linking the criminal justice system and the mental health treatment system. Third, the participants in this program receive increased court supervision.

As proposed by the task force, cases referred to the Mental Health Court program are transferred from the regular calendars and set on their own calendar. Mental Health Court cases receive extra

On behalf of her family, Jeanne Lagerquist (center) accepted a plaque dedicating the Mental Health Court program to the memory of her father, Captain Stanley Stevenson, during the formal April 29, 1999 kickoff ceremony for the court.

courtroom time, ensuring that the intricacies of the case are addressed and that the defendant is fully engaged in the proceedings. In regular courtrooms, judges may rotate and different prosecutors and defense attorneys may appear for hearings. All cases handled in the King County Mental Health Court are seen by the same judge, prosecutor, public defense team (with the exception of those represented by private counsel), treatment community liaison, and probation officer. The core team approach ensures that defendants work with a limited number of individuals who become familiar with the specifics of their case and treatment needs. This approach also ensures that the court team gains growing expertise in mental health issues and the relatively complex legal issues that can arise.

The second manner in which the Mental Health Court differs from other court venues is the emphasis on creating and maintaining a strong linkage with the mental health treatment community. A Court Monitor functions as a liaison between the court and the treatment community. The Court Monitor links the defendants with appropriate community treatment resources and monitors both the defendants' and the service providers' compliance in fulfilling the elements contained in each individualized treatment plan. In addition, each defendant's mental health case manager is encouraged to join his or her client in court for hearings to report on progress, both successful and unsuccessful. Case managers are encouraged to strengthen their clients' personal support networks, and family members are also welcomed and encouraged to participate.

The third important component of the Mental Health Court model is that defendants who opt into the program receive greater supervision and support. As mentioned above, case managers and family members are encouraged to be actively involved in a defendant's case. Mental Health Court cases are scheduled for more frequent review hearings than are regular cases. Also, Mental Health Court defendants on probation are assigned to a mental health specialist probation officer who carries a reduced caseload. Regular probation officers may have caseloads of up to 300 cases; the Mental Health Court probation officer has a caseload capped at 20-40 cases, so that these cases may be given intensive supervision as is warranted.

Mentally ill misdemeanant offenders are not required to appear before the Mental Health Court; rather, the program is an alternative for those who are interested in and committed to seeking treatment to ameliorate the mental health conditions that contribute to their unlawful behavior. Defendants are given a choice of "opting in" to Mental Health Court if they are willing to waive a trial on the merits of their case and are willing to comply with a supervised treatment plan. Based on experience to date, defendants who do choose to opt into the program are likely to be offered either a deferred or a reduced sentence. An important exception to the voluntary nature of this program is for cases in which competency is at issue: defendants in these cases may be referred to Mental Health Court, regardless of their preference, until the competency issues can be resolved. The Mental Health Court will not accept a defendant into this alternative court program if the defendant's mental health condition does not appear to be of a serious nature and to be a contributing factor in the alleged crime. The Mental Health Court program is not simply a jail-diversion program — out-of-custody defendants are equally eligible to participate, and in-custody defendants are not automatically released, as many present a significant public-safety risk.

During the first two months of operation, the court received referrals for 49 misdemeanant defendants, approximately six referrals per week, who were identified as having either a serious mental disorder, dementia, a brain injury or a developmental disability. The early experience of the Court indicates that many of the Court's cases are very complex. Thirty of the defendants, roughly 60 percent of the total group, were not enrolled in mental health treatment services at the time of referral. Eighteen of the defendants, roughly 35 percent of the total group, presented with housing issues; nine defendants had unstable housing arrangements; and nine defendants were homeless. Fourteen of the defendants, roughly 30 percent of the total group, presented with a dual diagnosis of a serious mental illness and a drug or alcohol addiction, and needed referrals to MICA (mentally ill/chemically abusing) treatment services. Defendants with a housing and/or a dual diagnosis treatment need are very difficult to place if they are also either acutely psychotic or have a history of committing violent acts. Additionally, many of the defendants (at least 25 percent) have active cases in other court jurisdictions including municipal courts, superior court, and other counties, making case planning more complicated due to other outstanding warrants or probation requirements.

One early outcome of the Mental Health Court pilot project has been that service gaps in the currently available community services continuum have been highlighted. Appropriate in-patient MICA services are not available and crisis or transitional housing for this population is also not readily available. Additionally, in this era of managed care, contingency funds for wraparound service needs (such as temporary medication coverage or transportation costs) are also difficult or impossible to obtain. The Mental Health Court team will likely be undertaking a grant-writing campaign in hopes of securing additional, non-county funds for the unmet needs of this pilot program.

Cases heard in Mental Health Court so far vary widely in terms of the defendants' current charges and past criminal histories, the degree to which their mental illness impacts their life functioning, and their ancillary service needs. Some defendants referred to Mental Health Court are facing their first criminal charge. An example is 19-year-old Mr. Smith,[5] facing a domestic violence assault charge for allegedly hitting his mother, with whom he lives. Mr. Smith's mother appeared with him at his first Mental Health Court appearance and explained that he had been an honor student, soccer player and a band member in high school, but that he had experienced his first mental break about a year ago and has not been the same since. Mr. Smith's mother believes that his assaultive behavior is attributable to his mental disorder and is not indicative of a battering problem. Mr. Smith had not been enrolled in formal mental health services at the time of his first appearance with the court, and his mother requested assistance in facilitating this process. His mother also requested assistance in locating appropriate alternative housing for him because she fears for the safety of her young, disabled granddaughter, who also lives in her home. As the treatment team works to find appropriate resources for Mr. Smith, the legal team will determine whether he appears competent to assist in his own defense and proceed to trial,

Cases heard in Mental Health Court so far vary widely in terms of the defendants' current charges and past criminal histories, the degree to which their mental illness impacts their life functioning, and their ancillary service needs.

and will work with him to explain the benefits and tradeoffs if he opts into the program.

Another case involves a defendant with a more chronic mental health disorder and criminal history. Although there are indications that Ms. Jones[6] began experiencing symptoms of a mental disorder at least 10 to 15 years ago, she had been a high-functioning member of the community — a multilingual mother of two small children, a teacher, and a doctoral student close to completing work for her Ph.D. More recently, however, Ms. Jones' mental condition has seriously deteriorated. She is divorced, is no longer employed, has become well-known to the staff in the Prosecutor's office, and is considered to be quite dangerous. Over the last five years she has acquired a lengthy history of various stalking, assault and trespassing charges all related to her compulsion to contact a few men she dated or was married to previously. All of Ms. Jones' prior charges had to be dismissed because of her incompetency to assist in her own defense or proceed to trial. Ms. Jones appeared before the Mental Health Court in early March with a new set of charges. She was found to be incompetent, but the charges were not dismissed, as she was eligible for hospitalization for the short period of time allowed under the new law for competency restoration. Ms. Jones' competency was successfully restored after a few weeks' stay at Western State Hospital and she returned to Mental Health Court. Ms. Jones communicated to the Court for the first time that she accepts that she has a mental illness and that she will most likely need to commit to lifelong treatment. Ms. Jones accepted a plea agreement offered by the prosecutor, which suspended jail time in return for strict compliance with a supervised mental health treatment program and other probation conditions, including weekly visits with her probation officer.

As demonstrated by the case examples outlined above, our early experience with this project indicates that a number of misdemeanants who appear before King County District Court present challenging public safety concerns and have complex treatment needs. As we noted above, it is rare that an idea to improve on our system of justice gets virtually unanimous support. However, it has been with the cooperation, top to bottom, of all three branches of government in King County and the community mental health treatment system, that the initially vague concept of a Mental Health Court has resulted in a project that we are proud to say is receiving both local and national recognition. It is our opinion, after our first few months of operation, that the Mental Health Court is a vast improvement over the old way of handling the mentally ill misdemeanant population. We see a positive difference in the defendants' personal level of satisfaction with their role in the system, the use of our limited jail resources, and in protecting public safety.

James D. Cayce was appointed to the bench in the Aukeen Division of King County District Court in 1992. He is now in his third year as Presiding Judge of the District Court. Among his other responsibilities, Judge Cayce committed time to chair the task force which led to the creation of the Mental Health Court pilot and he now presides over the Mental Health Court calendars.

Kari Burrell is the Program Manager for King County District Court's Mental Health Court program. She holds a Masters of Public Policy degree and has a background in social service program management.

Questions regarding the Mental Health Court pilot project may be directed to the Office of the Presiding Judge, King County District Court, W-1034 King County Courthouse, 516 Third Avenue, Seattle, WA 98104, 206-296-3594.

NOTES

1 Fox Butterfield, *By Default Jails Become Mental Institutions,* New York Times, March 5, 1998, and Ray Coleman, *How to keep the Mentally Ill Out of Jail,* Corrections Managers' Report, October/November 1998.
2 National GAINS Center, *The Prevalence of Co-Occurring Mental and Substance Abuse Disorders in the Criminal Justice System,* Just the Facts series, Spring 1997.
3 Fox Butterfield, *By Default, Jails Become Mental Institutions,* New York Times, March 5, 1998.
4 Policy Research Associates, Inc. *Diversion and Treatment Services for Mentally Ill Detainees in the King County Correctional Facility,* December, 1991.
5 A pseudonym.
6 A pseudonym.

King County District Court

Mental Health Court

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Updated: March 12, 1999

U.S. Department of Justice
Office of Justice Programs

Office of the Assistant Attorney General
Office of Justice Programs
810 7th Street, NW
Washington, DC 20531
Phone: (202) 307-5933
Fax: (202) 514-7805

FACSIMILE TRANSMISSION COVER SHEET

TO: Anna Richter

OFFICE: Sara Bianchi's Office

TELEPHONE NO.: 202-456-5585 **FAX#:** 202-456-5557

PAGES: 9 **(Includes cover sheet)** **DATE:** 7/28/99

FROM: Judy McBride, DOJ
TELEPHONE NO.: 202/514-1563, Fax: 202/514-7805

Dear Anna:

As promised, attached is a copy of Representative Strickland's bill.

Judy

Attachment

HR 2594 IH

106th CONGRESS

1st Session

H. R. 2594

To provide grants to establish 25 demonstration mental health diversion courts.

IN THE HOUSE OF REPRESENTATIVES

July 22, 1999

Mr. STRICKLAND introduced the following bill; which was referred to the Committee on the Judiciary

---

A BILL

To provide grants to establish 25 demonstration mental health diversion courts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the `America's Law Enforcement and Mental Health Project'.

SEC. 2. MENTAL HEALTH DIVERSION COURTS.

(a) AMENDMENT- Part V of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

`PART V--MENTAL HEALTH DIVERSION COURTS

`SEC. 2201. GRANT AUTHORITY.

`The Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribal governments, acting directly or through agreements with other public or nonprofit entities, for 25 programs that involve--

`(1) continuing judicial supervision, including periodic review at least every 45 days, over preliminarily qualified offenders with mental illness, mental retardation, or co-occurring mental illness and substance abuse disorders who are charged with nonviolent misdemeanors, for a period not to exceed 1 year; and

`(2) the integrated administration of services, which includes--

`(A) specialized training of law enforcement and judicial personnel to identify and

address the unique needs of a mentally ill or mentally retarded offender;

`(B) voluntary diversion into outpatient or inpatient mental health treatment that carries with it the possibility of prosecution of the original criminal charge if the mentally ill or mentally retarded defendant is noncompliant with program requirements;

`(C) centralized case management involving the consolidation of all of a mentally ill or mentally retarded defendant's misdemeanor cases, including violations of misdemeanor probation, and the coordination of all treatment plans of mental health and social service providers; and

`(D) life skills training, such as housing placement, vocational training, education, job placement, health care, and relapse prevention for each participant who requires such services.

`SEC. 2202. DEFINITION.

`In this part the term `preliminarily qualified offender with mental illness, mental retardation, or co-occurring mental and substance abuse disorders' means a person who--

`(1)(A) previously or currently has been diagnosed by a qualified mental health professional as having a mental illness, mental retardation, or co-occurring mental illness and substance abuse disorders; or

`(B) manifests obvious signs of mental illness, mental retardation, or co-occurring mental illness and substance abuse disorders during arrest or confinement or before any court; and

`(2) is deemed eligible for diversion by designated judges.

`SEC. 2203. ADMINISTRATION.

`(a) CONSULTATION- The Attorney General shall consult with the Secretary of Health and Human Services and any other appropriate officials in carrying out this part.

`(b) USE OF COMPONENTS- The Attorney General may utilize any component or components of the Department of Justice in carrying out this part.

`(c) REGULATORY AUTHORITY- The Attorney General shall issue regulations and guidelines necessary to carry out this part which include, but are not limited to, the methodologies and outcome measures proposed for evaluating each applicant program.

`(d) APPLICATIONS- In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this part shall--

`(1) include a long-term strategy and detailed implementation plan;

`(2) explain the applicant's inability to fund the program adequately without Federal assistance;

`(3) certify that the Federal support provided will be used to supplement, and not supplant, State, Indian tribal, and local sources of funding that would otherwise be

available;

`(4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;

`(5) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program;

`(6) certify that participating offenders will be supervised by one or more designated judges with responsibility for the mental health diversion court program;

`(7) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

`(8) describe the methodology and outcome measures that will be used in evaluating the program.

`SEC. 2204. APPLICATIONS.

`To request funds under this part, the chief executive or the chief justice of a State or the chief executive or chief judge of a unit of local government or Indian tribal government shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

`SEC. 2205. FEDERAL SHARE.

`The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the program described in the application submitted under section 2205 for the fiscal year for which the program receives assistance under this part, unless the Attorney General waives, wholly or in part, the requirement of a matching contribution under this section. The use of the Federal share of a grant made under this part shall be limited to new expenses necessitated by the proposed diversion program, including the development of treatment services and the hiring and training of personnel. In-kind contributions may constitute a portion of the non-Federal share of a grant.

`SEC. 2206. GEOGRAPHIC DISTRIBUTION.

`The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made that considers the special needs of rural communities, Indian tribes, and Alaska Natives.

`SEC. 2207. REPORT.

`A State, Indian tribal government, or unit of local government that receives funds under this part during a fiscal year shall submit to the Attorney General a report in March of the following year regarding the effectiveness of this part.

`SEC. 2208. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

`(a) TECHNICAL ASSISTANCE AND TRAINING- The Attorney General may provide technical assistance and training in furtherance of the purposes of this part.

`(b) EVALUATIONS- In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for evaluations of programs that receive support under this part.

`(c) ADMINISTRATION- The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.'.

(b) TECHNICAL AMENDMENT- The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended by inserting after part U the following:

`Part V--Mental Health Diversion Courts

`Sec. 2201. Grant authority.

`Sec. 2202. Definition.

`Sec. 2203. Administration.

`Sec. 2204. Applications.

`Sec. 2205. Federal share.

`Sec. 2206. Geographic distribution.

`Sec. 2207. Report.

`Sec. 2208. Technical assistance, training, and evaluation.'.

(c) AUTHORIZATION OF APPROPRIATIONS- Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)), is amended by inserting after paragraph (19) the following:

`(20) There are authorized to be appropriated to carry out part V, $2,000,000 for each of fiscal years 2000 through 2004.'.

END

25-40% of mentally ill today come in contact w/ the criminal justice system for one reason or another.

In overall jail population:

More than 7% of the incarcerated are diagnosed as having one of ~~MORE~~ 3 serious mental illness (schizophrenia, bipolar, major depress

⇒ More than 50% have other MH diagnosis

Final funding: 18 month grant from the federal ~~Gov~~ Bureau of Justice of $150,000.

Cou

MH Courts are a division

Would create a MH Division →

MH Court team Representatives

Assistant

TED STRICKLAND
6TH DISTRICT, OHIO

COMMITTEE ON COMMERCE
SUBCOMMITTEE ON ENERGY AND POWER
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS
SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT

Congress of the United States
House of Representatives
Washington, DC 20515–3506

RURAL HEALTH CARE COALITION
OLDER AMERICANS CAUCUS
EDUCATION CAUCUS
STEEL CAUCUS
MINING CAUCUS
CORRECTIONAL OFFICERS CAUCUS
FOUNDER AND CO-CHAIR

June 30, 1999

Audrey Tayse Haynes
Chief of Staff to Mrs. Gore & Special Assistant to the Vice President
Office of the Vice President
Old Executive Office Building
Washington, DC 20501

Dear Ms. Haynes:

It is my privilege to request your personal response to the enclosed draft legislation which I intend to introduce shortly in the House of Representatives. This bill proposes a mental health court pilot program that seeks to answer the question of what to do with mentally ill people whose petty crimes are symptomatic of their underlying illness. Specifically, this bill aims to offer court ordered mental health treatment, rather than jail time, to such mentally ill defendants.

Unfortunately, too many communities have no option but to recycle the mentally ill misdemeanant through the criminal justice system because no mechanism exists to defer nonviolent offenders into local community mental health systems. Jail cells and court dockets throughout the United States are crowded with an ever growing mentally ill population. The stress of this situation is often relieved by releasing these mentally ill offenders back into the community where, without access to treatment, they are likely to become repeat offenders. At this point, the defendent becomes a victim of cyclical court appearances and jail time and further burdens our country's already resource-strapped criminal justice system.

A few pioneering communities have developed what are known as Mental Health Courts, which are special dockets dedicated to enhancing public safety by diverting the mentally ill misdemeanant into treatment. The Mental Health Court is a collaborative effort of the criminal justice and mental health treatment systems. Its major goals are to improve case processing time, access to public mental health treatment service, and rates of recidivism.

The two known operating Mental Health Courts are in Broward County, Florida, and King County, Washington. Information about both courts is included herein for your reference. Inspired by their success, we propose legislation to provide for a federally funded Mental Health Court pilot project.

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254 FRONT STREET
MARIETTA, OH 45750
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Knowing your involvement in criminal justice and mental health issues, we request the benefit of your expertise in developing this legislation. Please review the enclosed draft and advise us of your response. I respectfully request that responses be sent to my office at your earliest convenience, preferably within thirty days. Should you have any questions or need additional information, please do not hesitate to contact Brandy Tomhave, of my staff at (202) 225-5705. Thank you very much for your consideration. I look forward to hearing from you.

Sincerely,

Ted Strickland

Ted Strickland
Member of Congress

by the Honorable James D. Cayce and Kari Burrell

King County's Mental Health Court

An Innovative Approach for Coordinating Justice Services

It is rare that an idea to improve on our system of justice gets virtually unanimous support and commitment. Yet, the concept of creating a Mental Health Court in the King County District Court has done just that. From its first mention over one year ago through its implementation in mid-February, the idea that we can do a better job in handling misdemeanant cases involving mentally ill defendants has received tremendous support. This support has included not only the commitment of time and energy from literally hundreds of planning participants, but also the necessary financial backing. The general consensus going into this project was that it was "the right thing to do" for many reasons.

There is some evidence that, with the movement to substantially reduce the use of state mental hospitals as a treatment option for the mentally ill, the numbers of mentally ill in the community who receive inadequate or even no treatment has increased.

In August 1997, retired Seattle Fire Captain Stanley Stevenson was fatally stabbed by a man later found to be criminally insane. That tragic incident has been the catalyst for some sweeping and innovative changes in the criminal justice and public health systems in which mentally ill offenders are handled. Shortly after the Stevenson incident, King County Executive Ron Sims formed a statewide task force of individuals representing the key treatment and legal service systems involved with the mentally ill. The task force included judges, prosecutors, public defenders, police, mental health professionals, mental health board, family advocates and government officials. Retired Justice Robert Utter was selected to chair the Mentally Ill Offenders Task Force. After an intense two months of meetings, the Task Force Report was issued with numerous recommendations for change and the implementation phase began. The civil and criminal laws under which these cases come before the Superior Court and the Courts of Limited Jurisdiction have been revised to give the courts far more options in dealing with this complex population. One of the numerous system changes recommended was a pilot Mental Health Court project to test whether an alternative approach to handling cases for mentally ill misdemeanants could be more effective than the regular court system in reducing jail time and recidivism, and in providing better linkages to the mental health treatment community. Executive Ron Sims asked King County District Court Presiding Judge James Cayce to chair a Mental Health Court Task Force for the purpose of further exploring this specific recommendation.

The issues that the Mental Health Court Task Force convened to address in Washington state are similar to issues faced by numerous localities nationwide. There is some evidence that, with the movement to substantially reduce the use of state mental hospitals as a treatment option for the mentally ill, the numbers of mentally ill in the community who receive inadequate or even no treatment has increased. Furthermore, some have hypothesized that, in fact, an emerging trend is the "criminalization" of mental illness: that the mentally ill are landing in jails and prisons with increasing frequency due to issues related more to their illness and less to the crimes they may have committed. The National Alliance for the Mentally Ill estimates that 25 to 40 percent of the mentally ill today will come in contact with the criminal justice system for one reason or another.[1]

National research studies have documented that the numbers of mentally ill incarcerated in jails and prisons is a significant percentage of the overall jail and prison population. One source indicates that more than seven percent of the incarcerated are diagnosed as having one of the three serious mental disorders (schizophrenia, bipolar disorder and major depression) and that more than 50 percent have other mental health diagnoses.[2] A study completed in 1997 indicated that the numbers were even higher — more than 10 percent of the incarcerated population had a diagnosis of a serious mental disorder. This study indicated that in jails (rather than prisons), nine percent of men and 18.5 percent of women in custody were seriously mentally ill. This rate of serious mental illness is four times higher than the rate in the general, non-incarcerated population.[3]

The growing number of mentally ill in the jail and prison population is problematic for a number of reasons. There is the concern that many individuals are arrested for behavior that probably could have been better addressed through the mental health treatment system. Another concern is that jail and prison environments may further aggravate, rather than improve, mental

health conditions. Finally, there is evidence that the mentally ill are arrested and jailed more frequently and have longer average jail stays than the general population. A 1991 study of mentally ill offenders in the King County Jail showed that inmates with misdemeanor charges admitted to the Jail's Psychiatric Unit had an average length of stay three times longer than that of other misdemeanants.[4] The longer jail stays for this population in King County may be partially attributed to concerns about releasing inmates without a treatment alternative.

In February 1998, Judge Cayce and 10 others from King County, the City of Seattle and Jail Alternative Services visited Broward County, Florida, to observe the then only operating Mental Health Court in the United States. All trip participants, including judges, attorneys and treatment providers, were enthusiastic about what they saw and how well they thought the model could be implemented, with some modifications, in King County. The Mental Health Court Task Force met initially in April 1998 to explore how the Court could work cooperatively with other criminal-justice agencies and the treatment community, and to develop specific recommendations for a King County Mental Health Court model. In August 1998, a final Mental Health Court Task Force report was released which outlined a proposed blueprint for the pilot court. After the report was released, King County Budget Office staff worked with the various partner agencies to secure funding.

Resources for King County's pilot Mental Health Court project came from three sources: leveraged existing funds and staff, additional new county funds, and an externally funded grant. The Prosecuting Attorney's Office, the Office of Public Defense, and the District Court have all absorbed portions of the staffing costs of this program. Additional new funds from the County General Fund, the County Criminal Justice Fund, and the County Mental Health Fund have been temporarily allocated to this project. The treatment funds allocated for the pilot project are coming from the County Mental Health Division's "fund balance," a non-renewable source of funding. If the pilot proves successful, a more permanent source of treatment dollars will have to be secured. A final funding source for the pilot came from the federal Bureau of Justice Assistance, which provided an 18-month grant of $150,000.

The pilot King County District Court Mental Health Court was launched on February 17, 1999. On April 29, 1999 the pilot court program was dedicated to the memory of Captain Stanley Stevenson. Many of the program policies and procedures are being established as the project unfolds. But the important elements of the model, as outlined by the Mental Health Court Task Force Report, are all in place. The Mental Health Court differs from a regular court in three fundamental respects. First, the cases are heard on a separate calendar and are all handled by the same core team of professionals. Second, there is an increased emphasis on linking the criminal justice system and the mental health treatment system. Third, the participants in this program receive increased court supervision.

As proposed by the task force, cases referred to the Mental Health Court program are transferred from the regular calendars and set on their own calendar. Mental Health Court cases receive extra

On behalf of her family, Jeanne Lagerquist (center) accepted a plaque dedicating the Mental Health Court program to the memory of her father, Captain Stanley Stevenson, during the formal April 29, 1999 kickoff ceremony for the court.

courtroom time, ensuring that the intricacies of the case are addressed and that the defendant is fully engaged in the proceedings. In regular courtrooms, judges may rotate and different prosecutors and defense attorneys may appear for hearings. All cases handled in the King County Mental Health Court are seen by the same judge, prosecutor, public defense team (with the exception of those represented by private counsel), treatment community liaison, and probation officer. The core team approach ensures that defendants work with a limited number of individuals who become familiar with the specifics of their case and treatment needs. This approach also ensures that the court team gains growing expertise in mental health issues and the relatively complex legal issues that can arise.

The second manner in which the Mental Health Court differs from other court venues is the emphasis on creating and maintaining a strong linkage with the mental health treatment community. A Court Monitor functions as a liaison between the court and the treatment community. The Court Monitor links the defendants with appropriate community treatment resources and monitors both the defendants' and the service providers' compliance in fulfilling the elements contained in each individualized treatment plan. In addition, each defendant's mental health case manager is encouraged to join his or her client in court for hearings to report on progress, both successful and unsuccessful. Case managers are encouraged to strengthen their clients' personal support networks, and family members are also welcomed and encouraged to participate.

The third important component of the Mental Health Court model is that defendants who opt into the program receive greater supervision and support. As mentioned above, case managers and family members are encouraged to be actively involved in a defendant's case. Mental Health Court cases are scheduled for more frequent review hearings than are regular cases. Also, Mental Health Court defendants on probation are assigned to a mental health specialist probation officer who carries a reduced caseload. Regular probation officers may have caseloads of up to 300 cases; the Mental Health Court probation officer has a caseload capped at 20-40 cases, so that these cases may be given intensive supervision as is warranted.

Mentally ill misdemeanant offenders are not required to appear before the Mental Health Court; rather, the program is an alternative for those who are interested in and committed to seeking treatment to ameliorate the mental health conditions that contribute to their unlawful behavior. Defendants are given a choice of "opting in" to Mental Health Court if they are willing to waive a trial on the merits of their case and are willing to comply with a supervised treatment plan. Based on experience to date, defendants who do choose to opt into the program are likely to be offered either a deferred or a reduced sentence. An important exception to the voluntary nature of this program is for cases in which competency is at issue: defendants in these cases may be referred to Mental Health Court, regardless of their preference, until the competency issues can be resolved. The Mental Health Court will not accept a defendant into this alternative court program if the defendant's mental health condition does not appear to be of a serious nature and to be a contributing factor in the alleged crime. The Mental Health Court program is not simply a jail-diversion program — out-of-custody defendants are equally eligible to participate, and in-custody defendants are not automatically released, as many present a significant public-safety risk.

During the first two months of operation, the court received referrals for 49 misdemeanant defendants, approximately six referrals per week, who were identified as having either a serious mental disorder, dementia, a brain injury or a developmental disability. The early experience of the Court indicates that many of the Court's cases are very complex. Thirty of the defendants, roughly 60 percent of the total group, were not enrolled in mental health treatment services at the time of referral. Eighteen of the defendants, roughly 35 percent of the total group, presented with housing issues; nine defendants had unstable housing arrangements; and nine defendants were homeless. Fourteen of the defendants, roughly 30 percent of the total group, presented with a dual diagnosis of a serious mental illness and a drug or alcohol addiction, and needed referrals to MICA (mentally ill/chemically abusing) treatment services. Defendants with a housing and/or a dual diagnosis treatment need are very difficult to place if they are also either acutely psychotic or have a history of committing violent acts. Additionally, many of the defendants (at least 25 percent) have active cases in other court jurisdictions including municipal courts, superior court, and other counties, making case planning more complicated due to other outstanding warrants or probation requirements.

One early outcome of the Mental Health Court pilot project has been that service gaps in the currently available community services continuum have been highlighted. Appropriate in-patient MICA services are not available and crisis or transitional housing for this population is also not readily available. Additionally, in this era of managed care, contingency funds for wraparound service needs (such as temporary medication coverage or transportation costs) are also difficult or impossible to obtain. The Mental Health Court team will likely be undertaking a grant-writing campaign in hopes of securing additional, non-county funds for the unmet needs of this pilot program.

Cases heard in Mental Health Court so far vary widely in terms of the defendants' current charges and past criminal histories, the degree to which their mental illness impacts their life functioning, and their ancillary service needs. Some defendants referred to Mental Health Court are facing their first criminal charge. An example is 19-year-old Mr. Smith,[5] facing a domestic violence assault charge for allegedly hitting his mother, with whom he lives. Mr. Smith's mother appeared with him at his first Mental Health Court appearance and explained that he had been an honor student, soccer player and a band member in high school, but that he had experienced his first mental break about a year ago and has not been the same since. Mr. Smith's mother believes that his assaultive behavior is attributable to his mental disorder and is not indicative of a battering problem. Mr. Smith had not been enrolled in formal mental health services at the time of his first appearance with the court, and his mother requested assistance in facilitating this process. His mother also requested assistance in locating appropriate alternative housing for him because she fears for the safety of her young, disabled granddaughter, who also lives in her home. As the treatment team works to find appropriate resources for Mr. Smith, the legal team will determine whether he appears competent to assist in his own defense and proceed to trial,

Cases heard in Mental Health Court so far vary widely in terms of the defendants' current charges and past criminal histories, the degree to which their mental illness impacts their life functioning, and their ancillary service needs.

and will work with him to explain the benefits and tradeoffs if he opts into the program.

Another case involves a defendant with a more chronic mental health disorder and criminal history. Although there are indications that Ms. Jones[6] began experiencing symptoms of a mental disorder at least 10 to 15 years ago, she had been a high-functioning member of the community — a multilingual mother of two small children, a teacher, and a doctoral student close to completing work for her Ph.D. More recently, however, Ms. Jones' mental condition has seriously deteriorated. She is divorced, is no longer employed, has become well-known to the staff in the Prosecutor's office, and is considered to be quite dangerous. Over the last five years she has acquired a lengthy history of various stalking, assault and trespassing charges all related to her compulsion to contact a few men she dated or was married to previously. All of Ms. Jones' prior charges had to be dismissed because of her incompetency to assist in her own defense or proceed to trial. Ms. Jones appeared before the Mental Health Court in early March with a new set of charges. She was found to be incompetent, but the charges were not dismissed, as she was eligible for hospitalization for the short period of time allowed under the new law for competency restoration. Ms. Jones' competency was successfully restored after a few weeks' stay at Western State Hospital and she returned to Mental Health Court. Ms. Jones communicated to the Court for the first time that she accepts that she has a mental illness and that she will most likely need to commit to lifelong treatment. Ms. Jones accepted a plea agreement offered by the prosecutor, which suspended jail time in return for strict compliance with a supervised mental health treatment program and other probation conditions, including weekly visits with her probation officer.

As demonstrated by the case examples outlined above, our early experience with this project indicates that a number of misdemeanants who appear before King County District Court present challenging public safety concerns and have complex treatment needs. As we noted above, it is rare that an idea to improve on our system of justice gets virtually unanimous support. However, it has been with the cooperation, top to bottom, of all three branches of government in King County and the community mental health treatment system, that the initially vague concept of a Mental Health Court has resulted in a project that we are proud to say is receiving both local and national recognition. It is our opinion, after our first few months of operation, that the Mental Health Court is a vast improvement over the old way of handling the mentally ill misdemeanant population. We see a positive difference in the defendants' personal level of satisfaction with their role in the system, the use of our limited jail resources, and in protecting public safety.

James D. Cayce was appointed to the bench in the Aukeen Division of King County District Court in 1992. He is now in his third year as Presiding Judge of the District Court. Among his other responsibilities, Judge Cayce committed time to chair the task force which led to the creation of the Mental Health Court pilot and he now presides over the Mental Health Court calendars.

Kari Burrell is the Program Manager for King County District Court's Mental Health Court program. She holds a Masters of Public Policy degree and has a background in social service program management.

Questions regarding the Mental Health Court pilot project may be directed to the Office of the Presiding Judge, King County District Court, W-1034 King County Courthouse, 516 Third Avenue, Seattle, WA 98104, 206-296-3594.

NOTES

1 Fox Butterfield, *By Default Jails Become Mental Institutions,* New York Times, March 5, 1998, and Ray Coleman, *How to keep the Mentally Ill Out of Jail,* Corrections Managers' Report, October/November 1998.
2 National GAINS Center, *The Prevalence of Co-Occurring Mental and Substance Abuse Disorders in the Criminal Justice System,* Just the Facts series, Spring 1997.
3 Fox Butterfield, *By Default, Jails Become Mental Institutions,* New York Times, March 5, 1998.
4 Policy Research Associates, Inc. *Diversion and Treatment Services for Mentally Ill Detainees in the King County Correctional Facility,* December, 1991.
5 A pseudonym.
6 A pseudonym.

King County, Washington

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King County District Court

Mental Health Court

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Updated: March 12, 1999

Background on Strickland Bill

Section I. MENTAL HEALTH COURTS

Part V of the Omnibus Crime Control and Safe Street Acts of 1968 to amend and:

In short:
The bill provides the Attorney General with the authority to grant state courts, local courts, local governments that in partnership with private and/or public entities will provide judicial supervision for mentally ill or mentally retarded offenders charged with misdemeanors.

Integration of services include:

- Specialized training for law enforcement officers and judicial personnel;
- Diversion into outpatient or inpatient mental health treatment—carried with the possibility of prosecution if terms of the diversion are not met;
- Centralized case management—consolidating all of a mentally ill or mentally retarded defendants misdemeanor cases;
- Life skills: job training and placement, education, health care, relapse prevention.

Applications:

- The chief justice of a State or the chief executive or chief justice of a local unit of government will submit an application to the Attorney General.
- Applications must:
  1. Provide a long-term strategy and plan;
  2. Demonstrate why Federal funding is essential;
  3. Certify that Federal funding is supplemental, and not supplanting other sources of funding;
  4. Identify government or community initiatives or partnerships of the program;
  5. Certify appropriate consultation and coordination with all affected agencies involved in the program;
  6. Specify plans for obtaining necessary support;
  7. Describe the methodology of the program.

Federal Share:

- The Federal share of a grant may not exceed 75 percent of the total cost of the program described in the application, unless the Attorney General makes an exception or waives, wholly or in part, the requirement of a matching contribution.

Distribution:

- Attorney General will ensure that practicable and equitable geographical distribution of funding is provided.

Evaluation/Training:

- Attorney General will provide technical training and assistance;
- Attorney General will make arrangements for the evaluations and requirements for the programs;
- Attorney General in collaboration with the Secretary of HHS will ensure that the evaluations, training and assistance requirements are met.

Background on Mental Health Courts

In 1994: Circuit Court Judge Mark Speiser formed a Mental Health Task Force because of serious problems regarding the care, handling and placement of mentally ill defendants.

In 1997: Because of the Task Force Initiatives, the first Mental Health Court was established in Broward County, Florida by Judge Dale Ross.

PURPOSE OF COURTS:

To expedite the mentally ill defendant though the criminal justice system to balance the needs of the offender and the community.

GOALS:

- Create interactions between criminal justice systems and mental health systems.
- Ensure legal advocacy for the mentally ill defendant.
- Ensure mentally ill defendants do not "languish" in jail because of their illness.
- Divert mentally ill defendants with minor criminal charges to community based mental health services.
- Reduce the contact of the mentally ill defendant with the criminal justice system—creating a bridge between the two.

Mental Health Courts Are Different in 3 fundamental ways:

① Cases Are heard on a separate calendar & by same team of professionals;
② Increased emphasis on linking the criminal justice & the mental health treatment center
③ Participants in this program receive increased court supervision.

[DISCUSSION DRAFT]

JUNE 4, 1999

106TH CONGRESS
1ST SESSION

H. R. _____

IN THE HOUSE OF REPRESENTATIVES

Mr. STRICKLAND introduced the following bill; which was referred to the Committee on _____

A BILL

To provide grants to establish mental health courts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MENTAL HEALTH COURTS.

Part V of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows:

"SEC. 2201. GRANT AUTHORITY.

"The Attorney General may make grants to States, State courts, local courts, units of local government, and Indian tribal governments, acting directly or through

agreements with other public or private entities, for programs that involve—

"(1) continuing judicial supervision over preliminarily qualified mentally ill or mentally retarded offenders charged with misdemeanors; and

"(2) the integrated administration of services, which includes—

"(A) specialized training of law enforcement and judicial personnel to identify and address the unique needs of a mentally ill or mentally retarded offender;

"(B) diversion into outpatient or inpatient mental health treatment that carried with it the possibility of prosecution based on a mentally ill or mentally retarded defendant's noncompliance with program requirements;

"(C) centralized case management involving the consolidation of all of a mentally ill or mentally retarded defendant's misdemeanor cases, including violations of misdemeanor probation, and the coordination of all treatment plans of mental health and social service providers; and

"(D) life skills training, such as housing placement, vocational training, education, job

placement, health care, and relapse prevention for each participant who requires such services.

"SEC. 2202. DEFINITION.

"In this part the term 'preliminarily qualified mentally ill or mentally retarded offender' means a person who—

"(1)(A) previously or currently has been diagnosed by a mental health expert as suffering from mental illness or mental retardation; or

"(B) manifests obvious signs of mental illness or mental retardation during arrest or confinement or before any court; and

"(2) is deemed eligible for diversion by the Mental Health Court Judge.

"SEC. 2203. ADMINISTRATION.

"(a) CONSULTATION.—The Attorney General shall consult with the Secretary of Health and Human Services and any other appropriate officials in carrying out this part.

"(b) USE OF COMPONENTS.—The Attorney General may utilize any component or components of the Department of Justice in carrying out this part.

"(c) REGULATORY AUTHORITY.—The Attorney General may issue regulations and guidelines necessary to carry out this part.

"(d) APPLICATIONS.—In addition to any other requirements that may be specified by the Attorney General, an application for a grant under this part shall—

"(1) include a long-term strategy and detailed implementation plan;

"(2) explain the applicant's inability to fund the program adequately without Federal assistance;

"(3) certify that the Federal support provided will be used to supplement, and not supplant, State, Indian tribal, and local sources of funding that would otherwise be available;

"(4) identify related governmental or community initiatives which complement or will be coordinated with the proposal;

"(5) certify that there has been appropriate consultation with all affected agencies and that there will be appropriate coordination with all affected agencies in the implementation of the program;

"(6) certify that participating offenders will be supervised by one or more designated judges with responsibility for the mental health court program;

"(7) specify plans for obtaining necessary support and continuing the proposed program following the conclusion of Federal support; and

"(8) describe the methodology that will be used in evaluating the program.

"SEC. 2204. APPLICATIONS.

"To request funds under this part, the chief executive or the chief justice of a State or the chief executive or chief judge of a unit of local government or Indian tribal government shall submit an application to the Attorney General in such form and containing such information as the Attorney General may reasonably require.

"SEC. 2205. FEDERAL SHARE.

"The Federal share of a grant made under this part may not exceed 75 percent of the total costs of the program described in the application submitted under section 2205 for the fiscal year for which the program receives assistance under this part, unless the Attorney General waives, wholly or in part, the requirement of a matching contribution under this section. In-kind contributions may constitute a portion of the non-Federal share of a grant.

"SEC. 2206. GEOGRAPHIC DISTRIBUTION.

"The Attorney General shall ensure that, to the extent practicable, an equitable geographic distribution of grant awards is made.

"SEC. 2207. REPORT.

"A State, Indian tribal government, or unit of local government that receives funds under this part during a

fiscal year shall submit to the Attorney General a report in March of the following year regarding the effectiveness of this part.

"SEC. 2208. TECHNICAL ASSISTANCE, TRAINING, AND EVALUATION.

"(a) TECHNICAL ASSISTANCE AND TRAINING.—The Attorney General may provide technical assistance and training in furtherance of the purposes of this part.

"(b) EVALUATIONS.—In addition to any evaluation requirements that may be prescribed for grantees, the Attorney General may carry out or make arrangements for evaluations of programs that receive support under this part.

"(c) ADMINISTRATION.—The technical assistance, training, and evaluations authorized by this section may be carried out directly by the Attorney General, in collaboration with the Secretary of Health and Human Services, or through grants, contracts, or other cooperative arrangements with other entities.".

(b) TECHNICAL AMENDMENT.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.), is amended by inserting after part U the following:

"PART V—MENTAL HEALTH COURTS

"Sec. 2201. Grant authority.
"Sec. 2202. Definition.
"Sec. 2203. Administration.
"Sec. 2204. Applications.
"Sec. 2205. Federal share.
"Sec. 2206. Geographic distribution.

"Sec. 2207. Report.
"Sec. 2208. Technical assistance, training, and evaluation.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793), is amended by adding at the end the following new paragraph:

"(20) There are authorized to be appropriated to carry out part V— [to be supplied]

BACKGROUND

In 1994, the Honorable Mark A. Speiser, Circuit Court Judge, established a Mental Health Task Force. Members of the Task Force include community leaders in criminal justice, state and county government, mental health advocacy, mental health providers and law enforcement. The Judge established this task force because serious problems existed regarding the care, handling and community placement of mentally ill defendants. Over the past four years this task force has aggressively identified and solved key issues.

Through this task force initiative, on June 6, 1997, the Chief Judge of the Seventeenth Judicial Circuit Court, the Honorable Judge Dale Ross, established the nation's first "Mental Health Court" in Broward County, Florida. He stated in his administrative order, "This circuit has recognized that the creation of "specialized courts" within other divisions of the court has enhanced the expediency, effectiveness and quality of judicial administration. It is essential that a new strategy be implemented to isolate and focus upon individuals arrested for misdemeanor offenses who are mentally ill or mentally retarded. In view of the unique nature of mental illness, and mental retardation, [there is a] need for appropriate treatment in an environment conducive to wellness and not punishment, as well as the continuing necessity to insure the protection of the public."

"The Mental Health Court is a resounding success not just because it is extremely efficient and cost effective, but because it has brought a humanity to people who have been abused by the criminal justice system for way too long."

Howard Finkelstein, Chief Assistant Public

Mission Statement

" THE MISSION OF THE MENTAL HEALTH COURT IS TO ADDRESS THE UNIQUE NEEDS OF THE MENTALLY ILL IN OUR CRIMINAL JUSTICE SYSTEM"

Purpose

The purpose of the Mental Health Court is to expedite the mentally ill defendant through the criminal justice system by balancing the needs of both the defendant and the community.

Goals

The goals of the Mental Health Court are to:

- create effective interactions between the criminal justice and mental health systems
- ensure legal advocacy for the mentally ill defendant
- ensure that mentally ill defendants do not languish in jail because of their mental illness

- balance the rights of the defendant and the public safety by recommending the least restrictive, most appropriate, and most workable disposition
- increase access for the mentally ill defendant to community mental health services by creating centralized services
- divert mentally ill defendants with minor criminal charges to community based mental health services
- reduce the contact of the mentally ill defendant with the criminal justice system by creating a bridge between the criminal justice system and the mental health system
- monitor the delivery and receipt of mental health services and treatment
- solicit participation from consumers and family members in court decisions.

Guiding Principles

- The *INVOLVEMENT* of consumers and family members should be encouraged for all persons with mental illness.

- *ACCESS* to appropriate and flexible mental health services should be ensured for all persons with mental illness.
- The jail is a *COMMUNITY* institution, and the mentally ill inmate is a community concern.
- *CREATIVE* use of existing resources can encourage and inspire many needed changes without the massive infusion of new resources.
- Mental health services targeting the *COEXISTING DISORDERS* of mental illness and substance abuse should be a priority.
- *CROSS TRAINING* of law enforcement, mental health and corrections personnel is crucial.

THE TEAM

The Honorable Ginger Lerner-Wren was elected Broward County Judge in July of 1996. The Chief Judge assigned her to the Criminal Division of the County Court where she presides over misdemeanor cases. With her extensive experience in mental health law and working with persons with disabilities, Chief Judge Dale Ross appointed Judge Lerner-Wren to preside over the Circuit's newly created Mental Health Division. (June 6, 1997)

Honorable Ginger Lerner-Wren

Judge Lerner -Wren attended the University of Miami and received a Bachelor of Arts Degree in Politics and Public Affairs in 1980. She attended Nova University Center for the Study of Law. She was also a founder of the Florida Association of Women Lawyers, Nova Law Center Chapter and attained a Juris Doctor Degree in 1983.

Mental Health Court is a team effort. Other Mental Health Court team representatives include:

- Assistant Public Defender
- Assistant State Attorney
- City Prosecutor
- Forensic Social Worker (provided by the Public Defender's Office)
- Court Monitor (provided by Henderson Mental Health Center, funded by Broward County)
- Case Manager (funded by community mental health providers)
- Mental Health Court Liaison (funded by Florida Department of Children and Families)
- Baker Act Team

Criminal Justice Mental Health Task Force

In 1994, the Honorable Mark A. Speiser, Circuit Court Judge, established a task force of community leaders from the criminal justice, mental health, and law enforcement community. He established this task force because of serious concerns regarding the care, handling and community placements of mentally ill defendants. Over the past four years the task force has aggressively addressed and solved key issues. Because of this task force initiative, the Chief Judge established the Mental Health Court to handle the unique needs of the mentally ill in Broward County.

In July 1997, Judge Speiser expanded the role of the task force. Five subgroups were created to identify solutions to various obstacles facing the mentally ill in the criminal justice system. Their goal is the development of a system of quality care for mentally ill defendants, and to integrate the criminal justice system with community-based systems. The subgroups include leaders in law enforcement, criminal justice and mental health. Specifically, these groups examined diversion from arrest and incarceration; services for defendants in-custody and in the community; measurement of progress through data collection; and legislative issues.

Honorable Mark A. Speiser

Judge Speiser was born in Holyoke, Mass. He received his Bachelor of Science degree from American University (1969), Juris Doctor from the University of North Carolina (1972), and his L.L.M. (tax law) from Georgetown University (1976). Prior to becoming a judge he worked as a staff attorney for the U.S. Securities Exchange Commission. He was a special prosecutor for the U.S. Department of Justice Organized Crime Strike Force, and a senior staff counsel for the U.S. House of Representatives Select Committee on Assassinations. He was in private practice, and also worked in the Broward County State Attorney's Office. He was elected to the Circuit Court Bench in 1982. He has served in the Juvenile Division (two years), Criminal Division (13 years), as Criminal Administrative Judge (six years), and most recently in the Probate Division (two years).

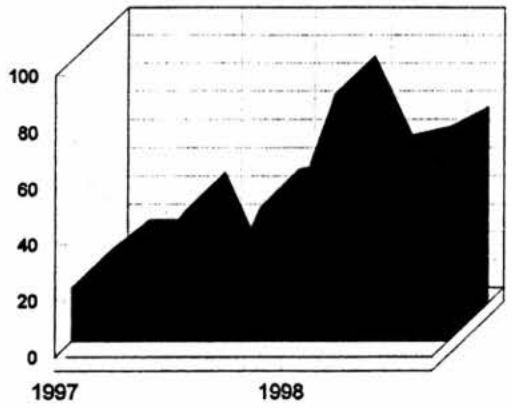
"From my perspective the judiciary needs to be, within ethical constraints, pro-active in the community. The mentally ill who are arrested for nonviolent misdemeanor offenses need not, nor should, be incarcerated. Through the efforts of our Task Force, and many mental health advocates in our community, we believe we have created a vehicle by which to address, with dignity, the true needs of this segment of our population. Through the tireless efforts of the Mental Health Court and its staff, the dual objectives of identifying and treating the mentally ill in the criminal justice system who are in need of assistance, not punishment, will be achieved."

Judge Mark A. Speiser, 17th Judicial Circuit

MENTAL HEALTH COURT CASELOAD

Cases come to the Mental Health Court from the magistrate/bond hearing court almost daily. Case referrals may also come from other court divisions, Broward Sheriff's Office Department of Corrections and Rehabilitation, Public Defender's Office, and the Fort Lauderdale jail.

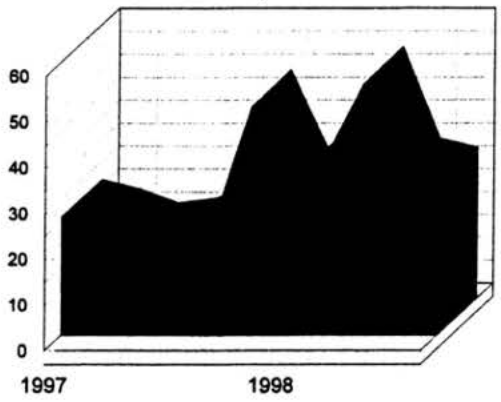
Under Court Jurisdiction at End of Month



The Henderson Community Mental Health Center reviews jail booking logs daily to identify active mental health cases. The Public Defender's Office Intake Unit then flags and opens these cases.

Total new cases	413
Average new cases per month	41
Total cases disposed	102

New Cases by Month 7/97 - 6/98



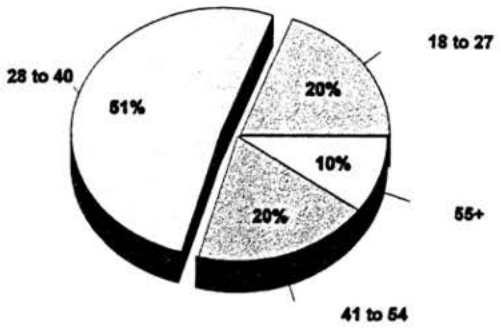
The Mental Health Court may monitor cases up to one year. The Court's caseload has been steadily increasing. Since the beginning of 1998, the Court has had an average of 69 cases under its jurisdiction each month.

DEFENDANTS

Male defendants have comprised 77 percent of the Mental Health Court caseload and are generally between the ages of 28 and 40.

There is concern that female defendants who are appropriate for treatment are not being identified and referred to Mental Health Court. Efforts are being made to develop "Gender Specific" screening instruments.

Average Age of Defendants



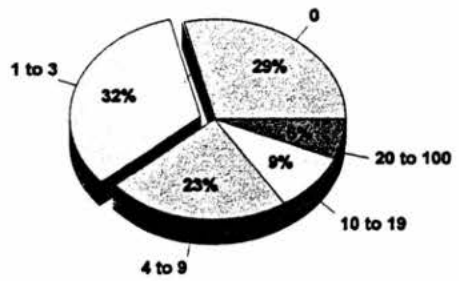
At the time defendants first appear in court they are living in a variety of places. A significant portion of Mental Health Court defendants are homeless.

Living Arrangements

A review of the psychiatric diagnoses of defendants reveals that 92 percent of all participants have a serious and persistent mental illness, with 70 percent having one or more past psychiatric hospitalization.

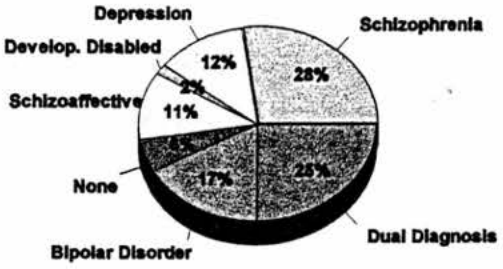
A significant statistic is the overwhelming number of participants with dual diagnoses (substance abuse and major mental illness).

Previous Psychiatric Hospitalizations
(Self-reported)



Previous substance abuse was acknowledged by 64 percent of defendants. The majority (53%) of those who admitted substance abuse, stated that they abused both drugs and alcohol.

Diagnoses



RESULTS FROM MENTAL HEALTH COURT

The Judge links participants in Mental Health Court with appropriate community mental health providers. A range of providers are available in the Broward County area.

Results	No	%
Linked with community mental health providers	88	24
Court-ordered for Baker Act evaluation	63	17
Hospitalized after Baker Act evaluation	57	15
Inappropriate for Mental Health Court	33	9
Refused community mental health services	31	8
Receiving private psychiatric care	28	7
Awaiting competency evaluation	24	6
Returned to jail due to other charges	20	5
Bonded out then failed to appear for Mental Health Court	18	5
Petitioned for involuntary civil commitment	9	2