

Mental Health Courts: System Innovation or Judicial Desperation?

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Characteristics

- Criminal courts
- Therapeutic orientation
- Specialty docket/typically one judge
- May be felony or misdemeanor or mixed
- Goals
 - Treat individuals with mental disorder with respect
 - Divert into treatment
 - Have an impact on treatment adherence through treatment conditions and monitoring

Why Mental Health Courts?

- Prevalence
- The “revolving door” defendant
- Judicial frustration with treatment system
- The ineffectiveness of traditional legal tools
 - Competency to stand trial
 - Insanity defense
 - Sentencing requirements

Mental Health Court Process

- Referral processes and criteria vary
- Therapeutic orientation
- Usually informal/non-adversarial
- Different roles for the judge and lawyers
- May be pre or post-plea
- Focus usually on treatment willingness
- Treatment template common/future modification assumed

Monitoring

- Community oversight common
 - May be criminal justice or mental health or combination
 - Treatment order can be renegotiated
- Judicial status hearings common
 - Schedule varies as does orientation
 - Use of jail varies

What Do We Know (Maybe)?

- Court process *may* be perceived as non-coercive and as fair
- MHC *may* reduce jail time
- MHC *may* increase treatment access
- MHC appears to forge new community alliances

What Do We Need to Know?

- For whom do these courts “work” and why?
- What is the impact of resources on the court and the court on resources?
- What is the impact of the use of jail?
- What is the impact of the judge as part of the therapeutic alliance?

Some Policy Questions

- Is this an appropriate role for judges?
- Should we be concerned about procedural rights issues?
- What about co-occurring disorders?
- Is there an appropriate mix of diversion strategies including therapeutic courts?
- Is there an ethical dimension to increased oversight leading to increased use of jail?

Potential Impact on the State Hospital

- *Possible* decrease in certain types of admissions
- Potential role in educating the legal system about therapeutic issues including assessment and treatment
- Potential new alliances with the criminal justice system