



**EXECUTIVE SUMMARY ON MENTAL HEALTH
COURTS
JULY 2005**

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Executive Summary on Mental Health Courts

The overall goal of mental health courts is to provide necessary services for mental health and other co-occurring needs in order to prevent the incarceration of the mentally ill and stop the revolving door of mentally ill offenders entering the justice system.

Core characteristics of mental health courts:

- A specialized docket that focuses on defendants with mental illness.
- Defendants typically have misdemeanor offenses.
- This court provides rapid linkage to community treatment providers.

Eligibility determinations are made according to the practices of the specific court. All courts require that the defendant has a mental disorder. Additionally, participation in the mental health court is a voluntary choice by the defendant.

Mental health courts typically are structured in one of three ways:

- In a pre-adjudication model, prosecution is deferred and the defendant agrees to participate in treatment.
- In a post-plea-based model, disposition of the case is deferred while treatment occurs.
- In a probation-based model, the defendant is convicted and sentenced to probation, with treatment as a condition of probation.

Participants in the mental health court are mandated to follow mental health treatment recommendations. These mental health services are generally provided by existing community treatment providers.

The court holds review hearings to monitor compliance and cooperation in treatment.

Sanctions and rewards are used as part of the mental health court program. Sanctions may be given for reasons such as noncompliance in treatment, substance use or abuse, or inappropriate behavior. Rewards are given for progress and compliance with the mental health court program.

Sanctions include more frequent hearings, reprimands from the judge, community service, jail time, or termination from the program. Rewards for progress in the program include recognition by the judge in court, changes in treatment requirements, and tangible items like gift certificates.

Mental health court participants are recognized for their successful completion of treatment requirements. Depending on the specific court practices, the court may dismiss the charges believing that the dismissal of charges will encourage participation in the mental health court by others in need of such services.



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Mental Health Courts

There is no one specific model for mental health courts. Rather, the literature describes a number of ways that courts, including those from Ohio, carry out the roles and responsibilities related to this particular type of specialized docket. In fact, the courts discussed in this literature were very diverse, while at the same time sharing some important similarities. The information provided in this document presents an overall picture of the general aspects of mental health courts while paying attention to structural variations.

History and Core Characteristics

The success of the drug court model prompted the idea of mental health courts (Steadman, Davidson & Brown, 2001). Like drug courts, mental health courts are typically specialized programs or dockets within the local court system. The goal of mental health courts is to provide necessary behavioral health services to mentally ill offenders in order to prevent incarceration and reduce recidivism (Watson, Hanrahan, Luchins, & Lurigio, 2001). Mental health courts are intended to result in therapeutic outcomes via legal means, a practice commonly referred to as therapeutic jurisprudence (Trupin & Richards, 2003).

In a survey of four mental health courts in three states, Griffin, Steadman, and Petrila (2002) identified what they described as core characteristics of mental health courts. The mental health court was described as being a specialty court with a dedicated docket that focuses only on defendants with mental illness. These courts typically served persons with mental illness who committed misdemeanors. Rapid linkage with community treatment seemed to be the goal over incarceration of the defendants.

Eligibility

In order to participate in the mental health court, the defendant typically has to suffer from some sort of mental disorder. Some courts specified the particular mental diagnoses that qualified a defendant for court, while others did not. Some courts also included defendants who had developmental disabilities in lieu of a mental diagnosis. Many of the courts were willing to include defendants with mental illness and a co-occurring substance use disorder (Griffin et al., 2002).

If a defendant is found to have a mental disorder, a determination must be made as to the defendant's eligibility for mental health court. Such eligibility determinations are made according to the practices of the specific court. While some courts use a team approach, typically it is the prosecutor that ultimately makes the eligibility determinations (Griffin et al., 2002). Due in part to public safety concerns, most of the courts focus on low-level, nonviolent misdemeanor offenders (Goldkamp & Irons-Guynn, 2000). Some mental health courts, however, like the one in San Bernardino, California, and Butler County, Ohio, do accept low-level felony offenders.

Participation in the mental health court is voluntary, as defendants are always given the option of being processed through regular court proceedings. In some jurisdictions, defendants who choose to enter the regular court system and are found guilty may be able to request admission to the mental health court. This late entry determination is made on a case-by-case basis (Goldkamp & Irons-Guynn, 2000).

Process

Two of the main goals of the mental health court are to connect the defendant to appropriate mental health treatment and to provide adequate supervision that this treatment takes place. The way in which the court meets these goals varies. Griffin et al. (2002) identified and described three different models for “using criminal charges to mandate participation in community treatment” (p. 1287). Generally, mental health courts adopt the structure of one of these three models.

<u>Model</u>	<u>General description</u>
Pre-adjudication model	-prosecution deferred -defendant agrees to participate in treatment, generally through contract with the judge
Postplea-based model	-adjudication occurs -deferred disposition or sentencing -treatment participation is not a condition of probation
Probation-based model	-defendant is convicted and sentenced to probation -sentence may also include suspended or deferred jail time -treatment is a condition of probation

Which model is employed has much to do with the philosophy of the court. Each bench will have idiosyncratic ways of balancing the need for public safety with the needs of the mentally ill defendants, all within a context of the community’s perceptions of crime and mental illness (Watson et al., 2001). Regardless of the model selected, none of the courts dismiss the criminal charges prior to completion of the mental health programming.

Treatment and Monitoring

Once the participant enters into the mental health court program, he or she is mandated to follow mental health treatment recommendations. Existing community treatment services and other related services are generally utilized by the mental health courts. Services may include counseling, case management, and/or psychiatric services. To follow-up on treatment progress and compliance, review hearings are held at frequency intervals determined by the individual courts. The length of mental health court involvement also varies by court. In one study (Goldkamp & Irons-Guynn, 2000), it was reported that treatment timeframes averaged between two to three years. Also, if

the court used a probation-based model, then treatment timeframes typically were connected to the states' allowable probationary sentence for the offense that brought them to the attention of the court.

Like many of the other features of mental health courts, variations were noted in the type of monitoring used within courts. Griffin et al. (2002) categorized monitoring into three supervision models. Some courts used community treatment providers to monitor participants. Others used probation/parole or mental health court staff to monitor participants. Still others used a combination of probation and mental health staff to monitor participants' compliance. In Ohio, court staff (including probation officers) and treatment personnel in combination provide monitoring (R. Swisher, personal communication, March 14, 2005).

Sanctions and Rewards

Sanctions and rewards are an important part of the mental health court. Behaviors which may lead to sanctions include, but are not limited to: noncompliance in treatment, substance use or abuse, and/or inappropriate behavior within or outside of the court. In turn, rewards are given for progress and compliance with the mental health court program.

The use of rewards and sanctions varies from court to court. Possible sanctions include: increased frequency of hearings, reprimands or admonishments from the judge, community service, adjustments in treatment, threat of jail time, actual jail time, or termination from mental health courts program (Goldkamp & Irons-Guynn, 2000; Griffin et al., 2002; Shoaf,¹ 2003). Rewards generally included recognition of progress by the judge, changes in treatment requirements, and tangible items such as gift certificates (Shoaf, 2003).

Research suggests that jail time is an infrequently used sanction by mental health courts (Griffin et al., 2002). Also, termination from the mental health courts program is a sanction of last resort, used only when the participant has been repeatedly noncompliant with the program. In all cases, when a participant is terminated from the mental health court for reasons of non-compliance, he or she returns to the traditional court system and charges are handled within that system.

Completion of Mental Health Court

Upon successful completion of the treatment requirements, mental health courts often recognize the participant for their success. Successful completion of the program also leads many courts to review the charges which brought the participant to the court. Often, courts will dismiss the charges under the belief that such dismissal will encourage the participation in the mental health court by other individuals in need of such programming (Griffin et al., 2002).

Footnotes

1. Lisa Contos Shoaf is a researcher with the Ohio Office of Criminal Justice Services.

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