



Spending Sanely

Report shows Travis County Mental Health
Public Defender Office is cost-effective

By Liz Carmack

Mr. Brown is a 60-year-old Travis County resident with schizophrenia and early dementia. He returned again and again to what was at one time his family home but now belonged to others. Each time, he was arrested for criminal trespass. After the Travis County Mental Health Public Defender Office (MHPDO) was appointed to his case, staff helped him get benefits and find a room at a nursing home facility. He was never arrested again.

Ms. Smith was homeless and schizophrenic and was a genuine nuisance to Austin's Capital Metro transit service and its bus drivers. She had a trespass notice for every bus stop in the city. Travis County's MHPDO staff worked with her for two years before she successfully faced her drug addiction and mental health issues. She has been sober for more than a year, has not been re-arrested and now lives in a residential facility.

According to a new cost-benefit report, Travis County's MHPDO has been cost-effectively helping these residents and many others with mental illness by providing tailored legal assistance and other services they need and keeping them out of the county's courts and jail.

"We pay for ourselves in cost avoidance," said Jeanette Kinard, Travis County's chief mental health public defender, on how the report's findings illustrate her office's achievements. *Mental Health Public Defender Office Cost-Benefit Analysis 2012* was conducted by Travis County's Justice Planning department and released this summer.

The analysis showed that since the office began operations in 2007, 304 clients who would have likely been rearrested and returned to jail remained arrest and jail free. The resulting jail bed savings coupled with other quantifiable costs allowed the county to avoid spending the \$1,199,000 that would have been necessary to deal with them as repeat offenders.

Because of this, taxpayers have effectively paid \$175,000 for the first five years of the office's operation (\$35,000 annually). In the 2013 fiscal year, the cost avoidance amount is expected to increase, with Travis County realizing a predicted fiscal return of \$50,900 on its total investment in the office.

The county has simultaneously increased the quality of legal representation, as well as critical case management services to a vulnerable group in its community – people with schizophrenia, schizoaffective disorder, bi-polar disorder and severe depression as well as those who are developmentally disabled, have a brain injury and vets suffering from post traumatic stress disorder.

"This population is arrested more frequently than the general population," said Kinard. "Historically, since deinstitutionalization in the late '70s, mentally ill people who were formerly in a hos-



pital are now in our jails and on the streets. We need to stop this trend. Those who are frequently arrested for minor crimes such as criminal trespass cost taxpayers an enormous amount of money."

Travis County Court at Law #5 Judge Nancy Hohengarten has championed the MHPDO from its start. "I've seen the office make a huge difference with some very ill people," said Hohengarten. "I can think of several individuals who they've worked with who aren't being arrested anymore.

"As a judge you're always concerned about whether a defendant with mental illness is going to get the best treatment possible because you don't want them to break the law again and you want them to be healthy and have a better life," Hohengarten said. "I know that I can trust the office's judgment and that the work they're doing is the work that needs to be done. When the public defender is assigned to a case it gives me peace of mind because I know the people in that office and the level of care and concern they have for their clients."

Travis County Office a National Trailblazer

Approximately 20 percent of those incarcerated in Texas have some type of mental illness, according to the Community Action Network. Austin Travis County Integral Care (ATCIC) estimates the mentally ill population in the local criminal justice system at 25 to 30 percent. To address this challenge, Travis County established a Mental Health Wheel in 2005. The wheel is a list of attorneys who've been trained to deal with mentally ill clients and who agree to take their court appointed cases. "There is one list for misdemeanors and one for felonies," Kinard said. "All attorneys are in private practice and appointments are given on a random, rotation basis."

In 2007, the county went one step further in opening the MHPDO. One of the first of its kind in the country, the office is staffed by Kinard and another attorney, two social workers and two case managers who serve clients charged with misdemeanors.

A year later, the county added a twice-weekly mental health docket (including separate dockets for misdemeanors and felonies) served by a dedicated prosecutor, a social worker from the jail, a representative of ATCIC, and MHPDO and wheel attorneys.

A four-year grant totaling \$1.28 million from the Texas Indigent Defense Commission (TIDC) helped set up the MHPDO and get it going. The county matched the state funding by 50 percent over the four years. It's now solely county-funded.

"A typical grant (from the commission) provides 80 percent the first year, 60 percent the next year, 40 percent in the third year, and 20 percent in the fourth year," said TIDC Executive Director Jim Bethke. "Over the four-year grant program they are contributing

50 percent. In the fifth year the county takes over 100 percent of the funding.”

The state-county funding partnership used to create programs such as Travis County’s provides long-term local returns, said Bethke. “There is a direct benefit to the taxpayers in the particular community because by getting persons with mental illness the proper treatment they are less likely to come back into the system. Investing in this has good savings and is good government.”

The applied research used by Travis County to produce its cost-benefit study helped quantify its achievements and confirmed that the office is meeting its objectives.

Office Increases Dismissals, Provides Holistic Representation

Study results showed that the MHPDO was able to reach legal disposition of clients’ cases about two times faster than wheel attorneys. Case dismissal rates since the office’s inception through fiscal year 2011 were 42 percent compared to 22 percent for cases held by wheel attorneys. These measurable results speak to the increased quality of representation by the office, according to the report.

“The large number of dismissals is important because we are evaluating not just cost savings, but better outcomes for the mentally ill,” Kinard said. She adds that the social workers and caseworkers in her office help accomplish this by helping provide a “holistic” approach to client representation.

“They are essential to running an office such as ours, a holistic public defender office that tries to deal with the whole person, not just their immediate legal problem,” Kinard said. “Our social workers help with housing, benefits, medication compliance and other needs. A homeless man



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who is frequently arrested for criminal trespass is less likely to re-offend if he has a place to live.”

While the study credits the office’s dedicated case management staff as one of the keys to its success, it shows how their caseload has grown to an unsustainable high. Since the office’s inception through January 2012, the case management team dealt with 2,149 referrals and experienced a 28 percent increase in its case loads from fiscal year 2010 to fiscal year 2012. The average caseload in fiscal year 2012 was 68 cases per person.

The report recommended adding a case manager to reduce this load down to a more reasonable 40 to 50 cases per person. Based on these results, the commissioners court approved funding to hire another case manager by the end of this year. “Our social and case workers are really over worked,” Kinard said. “With another pair of hands, we can better serve more people.”

Office Influences Culture, Educates Private Attorneys

The MHPDO has also had a positive effect on the culture and development of how the local courts and the wheel serve Travis County’s clients with mental health issues through the office’s hands-on case management, according to the report.

When counties establish a mental health public defender office, a mental health unit within a public defender office or a managed assigned mental health counsel program the local criminal justice community benefits. “It becomes an institutional resource. Other entities that are not necessarily linked to that office or unit go there for training, for advice, for referrals to other services,” said Dominic Gonzales, TIDC grant program specialist.

For instance, Travis County’s MHPDO provides regular, free

Objectives of the Travis County Mental Health Public Defender Office

- Minimize the number of days a person with mental illness spends in jail;
- Reduce recidivism by providing intensive case management services;
- Increase the number of dismissals among defendants with mental illness; and
- Enhance legal representation by providing attorneys with specialized knowledge needed to defend persons with mental illness.

training to attorneys on mental health issues. “We have the seminars in a courtroom every four to six weeks,” Kinard said. “Lawyers who are interested can get CLE (continuing legal education) hours.”

Counties that offer client services programs that represent the mentally ill should cooperate with the local bar and private lawyers, Kinard said. “Specialty public defender offices should be a partner and resource for appointed lawyers.”

Lessons Learned Can Benefit Other Counties

Kinard offered additional advice for those counties thinking of setting up such specialty public defender services. “Don’t be afraid to try new things. Don’t make more layers of bureaucratic red tape for this population. Don’t make clients fill out multiple forms in triplicate, punish them if they are late for appointments or insist that they adhere to ‘middle-class manners’ when they have no idea what that means,” she said. “Do make them feel welcome and do have as a goal to take them from where they are to where you want them to be. Let the practice be client-centered.

“Don’t expect the same level of manners from each client,” she added. “Everyone is different. Although we do not tolerate drunkenness or sincerely bad behavior, we accept the fact that not everyone knows good manners or can control their behavior at all times. One visitor asked me what kind of ‘sanctions’ we use. I just laughed.” ★

Addressing Mental Illness in Travis County’s Criminal Justice System

In addition to its Mental Health Public Defender Office, Travis County has funded or co-funded a number of other programs and initiatives to address the county’s ongoing challenges of people with mental illness in the criminal justice system:

Mobile Crisis Outreach Unit – A crisis outreach team that is called in cases of potential suicide or other emergency/crisis situations.

Crisis Intervention Team – Specially trained officers from the sheriff’s department that respond to 911 calls for the mentally ill in crisis.

Road to Recovery – A 90-day in-patient program for clients with alcohol abuse issues. Some clients have both substance abuse and mental health issues.

Mental Health Docket – A twice-weekly special docket for public defender clients with mental health issues. It includes both misdemeanor and felony dockets.

Sheriff’s Department Psychiatric and Mental Health Services – Sheriff’s department staff include 28 social workers, one full-time and one part-time psychiatrist, and a psychiatric nurse to assist people with mental health issue.

Counties Improve Indigent Defense with TIDC Help

The Texas Indigent Defense Commission (TIDC) has given more than \$7 million since 2003 in matching grants to Bell, Dallas, El Paso, Fort Bend, Harris, Limestone, Lubbock, Montgomery and Travis counties to provide defense services to indigent defendants with mental illness.

It’s also awarded more than \$488,000 to Collin, El Paso, Kaufman and Wichita counties to fund mental health-focused staff, such as social workers and attorneys, within those counties’ indigent defense programs.

The grants help make it financially feasible for counties to improve their indigent defense services, said Jim Bethke, TIDC executive director. “The commission has set mental health funding as a priority. In large part because the applied research and studies show that these programs are valuable.”

In addition to funding, technical assistance is also an important part of the TIDC’s mission. “Our staff is here to serve counties,” Bethke said. “Ultimately we want to give the local level policy makers the best information so they can make an informed decision in putting in place an indigent defense delivery system. Having a system is mandatory. The question is how do you provide that service?”

Counties across the state committed to

servicing mentally ill defendants as part of their indigent defense are helping reduce their numbers in the criminal justice system.

In Dallas County, the Public Defender’s Mental Health Division is a resource to judges, private defense attorneys and other criminal-justice workers who encounter defendants with mental illness. It has served more than 14,000 clients since 2005.

“The division has a 15 percent recidivism rate and most of the cases are disposed of through reduced sentences, probation, regular and conditional dismissals and referrals to specialty courts where the clients received mental health and substance abuse treatment along with intensive case management,” said Lynn Richardson, Dallas county public defender. “We have assisted them in reconnecting with family members, furthering their education, obtaining employment and helping to secure transitional and permanent housing.”

In 2009, Lubbock County established the state’s first managed assigned counsel program to represent people with mental illness. TAC presented the county with a 2009 Best Practices Award for its Special Needs Defender Office. Since then, Montgomery County and Collin County established their

own programs with TIDC grant funding.

Lubbock County Commissioner Bill McCay said, “The key success (of the office is) saving lives and tax dollars. We are getting individuals out of our criminal justice system and back in our community as productive citizens.”

McCay advised counties offering these services to: “Bring all the stakeholders together and get everything out on the table. Work through the challenges until everyone understands that their unique role is critical in solving the problem. Be patient, but don’t give up until everyone involved wants to help solve the problem.”

Bethke said the TIDC advises counties that offer mental health services as part of their indigent defense to collect data on the cost-effectiveness of their programs. The information can help them build upon successes and can spur additional counties to take up such initiatives.

Travis County’s *Mental Health Public Defender Office Cost-Benefit Analysis 2012* is one such effort. “I praise Travis County for investing in that assessment,” Bethke said. “They’re using applied research to help policy makers make informed decisions. That’s good government.”