

Forensic Diversion Programs

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Diversion as a Hot Topic

- ▶ Traditional Justice/Forensic System very expensive
- ▶ Diversion programs more humane, more effective, less expensive
- ▶ Legal pressures—lack of beds, recent lawsuits in Louisiana and Washington



Background of Lawsuits

- ▶ Louisiana: long waiting list for competency restoration (several over a year, one over two years, state hospitals “refusing to accept physical custody”)
- ▶ Washington: “Trueblood” case—length of time waiting for hospital admission. Asked court to determine the “precise outer boundary of constitutionally permissible wait times” and to spell out a remedy.



Louisiana Consent Decree

- ▶ Consultant hired to determine how many beds needed
- ▶ Created District Forensic Coordinators (MSWs)—go into jails, screen clients using the BPRS, and begin competency restoration
- ▶ Defendants must be screened with 5 days of the court order
- ▶ Depending upon screening results, must be admitted to the hospital within 2, 7, or 30 days of the screening
- ▶ Positive results—jail-based restoration and prioritizing of admissions



Washington Case—Plaintiff Foundation

- ▶ Defendants with mental illness spend more time in jail, are more likely to be assaulted in jail, are more likely to be placed in solitary confinement (which may exacerbate illness)
- ▶ Their behavior in jail may lead to additional charges—endless loop
- ▶ Jails are inherently punitive (focused on order rather than treatment)



Court Ruled in Washington

- ▶ Liberty interest at stake—freedom from incarceration
- ▶ Right to restorative treatment
- ▶ Lack of beds/resources not a sufficient reason to keep someone in jail
- ▶ Too much jail time is harmful—deterioration
- ▶ Oregon successfully met 7-day admission standard
- ▶ Court urged attorneys and judges to cooperate to minimize delays
- ▶ State required to have adequate staff, bed space, etc. and “must admit within 7 days without sacrificing therapeutic environment of the hospital”



Washington's Response

- ▶ Hired consulting group
- ▶ Raised some salaries in an attempt to fill positions (but still struggling to do so)
- ▶ Added 90 beds and looking at more (possibly at new vacant jail in Central Washington)
- ▶ Looking to contract out some restoration services (jail-based, secure group home, community (union issues with these plans))



Lawsuit Lessons

- ▶ “More beds” is not the sole solution
- ▶ What happens when we have more beds?
- ▶ Need to develop broader-based solutions



Palm Beach Post—April 2015

- ▶ “The ghastly system in place now exists only to prepare incompetent defendants for trial.”



Diversion Programs—What is Out There

- ▶ Indiana—new statute whereby state provides funding to counties for treatment courts and other county-based initiatives.
- ▶ Wisconsin—community restoration with connecting to local treatment programs
- ▶ Miami-Dade County, Florida—comprehensive diversion program



Wisconsin

- ▶ 2008 statute change allowed for outpatient competency restoration
- ▶ Various stakeholders brought together to develop a decision tree that could determine who is appropriate for community-based restoration services
- ▶ Statewide restoration curriculum



Wisconsin Results

- ▶ In 2013, 79% of those served in the community achieved competency
- ▶ Only 6% of those served had to be referred to inpatient
- ▶ Community services cost only 40% of inpatient (includes all treatment costs)



Miami-Dade

- ▶ Treatment courts with numerous enhancements
- ▶ CIT policing
- ▶ Pre and Post Booking diversion
- ▶ Court diversion
- ▶ Comprehensive Mental Health care
- ▶ Housing and transition programs
- ▶ ID card assistance
- ▶ Direct linkages to services



Miami-Dade Development

- ▶ Judge Andrew Leifman—strong commitment arising from his experience as a judge
- ▶ Judge Leifman worked unsuccessfully for years to bring stakeholders together
- ▶ Finally succeeded in bringing people together to agree on nature of the problem and on strategy for addressing it



Miami-Dade Program

- ▶ County passed a \$22 million bond issue to build forensic facility that includes assessment, treatment, and coordination of care
- ▶ Circuit Court funded to positions to help with forensic cases
- ▶ Peer specialists employed by jail



Miami-Dade Results

- ▶ One year recidivism of misdemeanor cases dropped from 70% to 18%
- ▶ Deadly force incidents involving mentally ill went from 13 to 0
- ▶ Reduced officer injuries
- ▶ Number of mentally ill individuals in county jail reduced by 2/3's
- ▶ Saved taxpayers \$2.3 million in one year



Main Points

- ▶ Holding many IST individuals in hospital is expensive and may not be in the best interest of the individual or the community
- ▶ Considerable evidence that diversion works
- ▶ As we consider diversion programs, we might ask: “What are we diverting to?”



Questions / Discussion

