

## Courts provide care for mentally ill

Mental health courts aim to prevent violent tragedies.

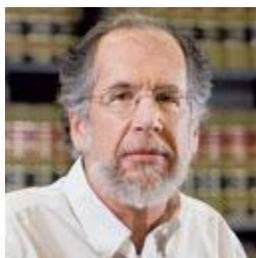
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Retired Ohio Justice Evelyn Stratton  
*AP Photo/The Repository, Scott Heckel*



The Bazelon Center for Mental Health Law's Ira Burnim

The need for more and better mental health services is a common refrain after violent tragedies, such as the mass shooting last month in Newtown, Conn., or recent instances of subway passengers pushed onto the tracks in New York City.

As service providers grapple with limited resources, though, judges point to the growing number of mental health courts — programs that offer mentally ill criminal defendants treatment-based alternatives to jail — as a success story. An offshoot of the popular drug courts, mental health courts were the product of judges, prison officials, lawyers and mental health advocates frustrated with the lack of options for mentally ill defendants.

The goal of mental health courts is to halt the cycle of arrest and incarceration and put mentally ill individuals on a path to stability. Judges say defendants who get the treatment and support they need are less likely to re-offend, as has been the case with drug courts.

Proponents hesitate to draw a line between incidents such as the Newtown shootings and mental health courts. The programs aid individuals already in the criminal justice system and are usually geared toward nonviolent misdemeanor offenders. Still, judges say they can help clear the stigma surrounding mental illness and serve as a jumping-off point to push for community-based services. "We bring in the mental health personnel and the drug and alcohol and housing [personnel] and we look at the person as a whole," said retired Ohio Justice Evelyn Stratton, an advocate for mental health courts in Ohio — there are more than 40 in the state — and nationwide.

Court watchers estimate that there are approximately 300 mental health courts in the United States; by comparison, according to the National Association of Drug Court Professionals, there are more than 2,700 drug courts.

Ira Burnim, legal director of the Judge David L. Bazelon Center for Mental Health Law in Washington, warned that although mental health courts are "an understandable response to a symptom," they can create incentives for individuals in need of care to get arrested. Mental health services providers, not judicial officers, should be managing care, he said.

In an ideal world, Stratton said, mentally ill individuals would have access to needed services before landing in court. But as long as they're falling through the cracks, she said, the courts are "the safety net for what the system doesn't pick up."

As drug courts spread in the 1990s, mental health courts were a natural next step as judges found defendants often suffered from mental health disorders, said Carol Fisler, the director of Mental Health Court Programs at the Center for Court Innovation. Programs took root in a handful of states by the late 1990s.

## **HOW THE COURTS WORK**

Under the mental health court model, a judge is designated to handle eligible cases. Defendants are diagnosed, and the judge works with case managers and service providers to determine what they need, from medication to substance abuse treatment and housing. Defendants come back to court regularly, often weekly, to report on their progress.

Programs vary by state. Funding is often a barrier, Fisler said, as is getting prosecutors on board. "Judges and prosecutors take the shared risk," she said. "They know they're not going to blame each other if things go wrong."

The Brooklyn Mental Health Court in New York is one of the few to accept violent offenders. Participants plead guilty and know that jail time is on the table if they fail to finish. Kings County, N.Y., Supreme Court Justice Matthew D'Emic, the presiding judge, said they tried to strike a balance between public safety and supporting defendants' needs. "It creates kind of a community in the courtroom and it eliminates some kind of stigma, because they all know why they're there," he said.

Other programs, such as the District of Columbia Superior Court mental health court, don't require guilty pleas in most cases and instead offer diversion — dismissing charges if defendants complete the program. "There's the motivation of having your case dismissed," said D.C. mental health court Presiding Judge Ann O'Regan Keary. "It's a really wonderful attraction."

## **RE-ARREST RATES**

Besides anecdotes and internal court data, there are few comprehensive studies on what mental health courts accomplish. A 2010 study of four mental health courts published in *Archives of General Psychiatry* found that graduates had lower re-arrest rates than those who didn't finish. But the study's lead author, Henry Steadman, president of Policy Research Associates Inc., said they didn't have conclusive data as to why.

Researchers theorized that it had to do with structure, Steadman said: the legitimacy of having a judge involved and the support of case managers who make sure participants stick to treatment plans and make court dates. The programs are also often cited as a cost-saving measure, since they keep defendants out of jail, but Steadman said his team is still exploring whether any savings outweigh the costs of providing services.

More than a decade in, mental health courts have inspired spinoffs, including programs focused on juveniles and veterans. "Judges that start mental health courts end up pulling the community together. Other projects get started, other groups start realizing things need to be done," Stratton said.

Even if mental health courts have a positive effect on a particular community, Burnim said, he hasn't seen them spur an increase in overall mental health resources. "The services that are needed to address the population that shows up in mental health courts...those services are pretty well understood," he said. "We haven't invested the resources to do it."

Nevada Supreme Court Justice James Hardesty agreed that expanding mental health care services should be the priority. "But obviously there are a number of folks who become a part of the criminal justice system," he said. "From the court's point of view, the rehabilitation process must include a mental health component."