

Recommendations for the King County Mental Health Court

Approved by the
Mental Health Court Task Force for Release
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Foreword

A measure of society is the manner in which it treats its less fortunate. And yet, there are realities that every county must face when it seeks solutions to the challenges posed by individuals with mental illness, and in particular, mentally ill individuals who pose a danger to others and to public safety. King County is grappling with the delicate balance of protecting public safety and providing treatment to mentally ill individuals who enter the criminal justice system.

The Mental Health Court Task Force acknowledges that addressing the needs of people with mental illnesses requires collaboration among a wide variety of players, including the treatment and community service systems. The recommendations presented in this document attempt to address the role of the criminal justice system in this on-going cooperative effort. The recommendations attempt to link the criminal justice system with the mental health treatment community and other efforts that deal with this population in order to address the full-range of needs of the mentally ill offender in an integrated and cost-effective manner.

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Executive Summary

On the heels of a recommendation made by the King County Mentally Ill Offender Task Force to develop a pilot Mental Health Court, King County District Court Presiding Judge Jim Cayce led a group of eleven people from King County on a trip to Broward County (Fort Lauderdale), Florida to observe the only operating Mental Health Court in the U.S. Trip participants were very enthusiastic about what they saw. Soon after returning to Seattle, Judge Cayce formed a Task Force to develop recommendations for a King County Mental Health Court.

The Problem

The work of the Mental Health Court Task Force was driven by a recognition that the current case processing system employed by the criminal justice system at the misdemeanor level often fails to address the needs of mentally ill offenders and reduce recidivism. Currently, King County District Court relies on a case processing strategy that requires defendants to appear before a number of judges on the same case. While this model provides for an efficient and predictable level of service for most defendants, the approach often creates barriers that prevent the Court from identifying and addressing the unique needs of the mentally ill offender. Under this system, judges do not have the opportunity to acquaint themselves with the circumstances surrounding the offender's entrance into the criminal justice system. Furthermore, judges have varying levels of expertise around mental illness. Even if the judge is able to identify the mental illness and is comfortable in dealing with these issues, the existing court system lacks sufficient resources and mechanisms to easily link these individuals with the treatment services they need.

As a result, decisions made by the Court do not address the root of the problem. Mentally ill offenders continue to cycle through the criminal justice system, often spending unnecessary time in jail and lacking access to mental health treatment services. A 1991 study of mentally ill offenders in the King County Jail shows that inmates charged with misdemeanors who are admitted into the Psychiatric Unit had an average of six prior bookings into the Jail in the three years prior to their current offense. The study also demonstrated that the average length of stay in the Jail for inmates with mental illnesses was three times longer than for the average inmate.¹

New Approaches

Two initiatives offer King County hope for finding new ways to address the needs of the mentally ill misdemeanant offender. One is the Broward County Mental Health Court. The other is a change in the Washington State laws to give courts of limited jurisdiction new authority to address the mental health issues of defendants.

Broward County Mental Health Court: Broward County's Mental Health Court offers an innovative approach to addressing the needs of people with mental illnesses who commit low-level criminal offenses. Mental Health Court provides a single forum where mentally ill offenders can come before a judge with experience dealing with people with mental illness to get court ordered treatment and monitoring. Whenever possible, Mental Health Court attempts to divert

¹ Policy Research Associates, Inc. "Diversion and Treatment Services for Mentally Ill Detainees in the KCCF." December 1991.

mentally ill offenders out of jail and into treatment. The defendant's well-being and public safety weigh heavily in the judge's decisions about the course of action. Through this model, Broward County acknowledges that jail does not serve the needs of mentally ill offenders. These individuals and the community are better served when the offenders are linked up with the services they need to address their mental illness.

Washington State Legislative Changes: In 1998, the Washington State Legislature adopted new laws that give courts of limited jurisdiction more authority to direct mentally ill offenders who may pose a danger to the community to receive the treatment they need. These changes, most of which go into effect in March, 1999, fit nicely with the Mental Health Court model that was developed in Broward County.

Under current law, the court in misdemeanor matters loses jurisdiction over cases involving defendants who are mentally ill and found incompetent. The new law will give the court some authority to commit defendants who have a history of violent acts or prior findings of incompetency or insanity for involuntary treatment in order to seek the restoration of competency. If competency is not restored the court will now be required to refer some defendants for involuntary commitment proceedings.

With respect to the civil commitment proceedings, the focus will now be on whether the person poses a danger to public safety or security rather than whether his or her action constituted a felony offense. This is a recognition that it is not the level of the current charge that determines the public safety risk, but rather, the history of violence, prior civil commitment orders, and other factors identified by the legislature.

The new laws will give courts more opportunity to address the mental health issues of defendants. The laws also give courts of limited jurisdiction more of the leverage they need to operate Mental Health Courts similar to the one in place in Broward County.

Profile of the Proposed King County Mental Health Court

The Mental Health Court envisioned in King County replicates many of the features of the Broward County Mental Health Court. The Mental Health Court Task Force makes eleven recommendations:

- 1) Establish a King County Mental Health Court with a dedicated judge, prosecutor, and defender to handle cases involving mentally ill misdemeanor offenders.*
- 2) Mental Health Court should employ the services of a Court Monitor and specialized probation officers to act as linkages between the Court and service providers and to monitor cases to ensure compliance.*
- 3) Mental Health Court should hold a daily first appearance calendar and a review calendar one afternoon a week.*
- 4) Mental Health Court should target mentally ill, developmentally disabled and dually diagnosed offenders (mentally ill and chemically abusing) who are charged with misdemeanor state offenses in District Court.*
- 5) Mental Health Court, through community mental health providers and other agencies, must offer defendants access to flexible and individualized treatment packages.*

- 6) *The Court Monitor should play the key role in linking Mental Health Court defendants to an appropriate treatment provider.*
- 7) *Mental Health Court must work with the State Division of Developmental Disabilities to improve the accessibility of treatment for defendants with developmental disabilities.*
- 8) *A well-developed training plan is key to the success of Mental Health Court.*
- 9) *To maximize the use of resources and to meet the full range of needs of the mentally ill offender, Mental Health Court should strive to establish strong linkages with other agencies and programs in King County that target the mentally ill population.*
- 10) *King County should hire consultants to perform two evaluations of the Mental Health Court. A process evaluation should be completed after one year of operation. An outcome evaluation should be completed after two to three years.*
- 11) *King County should run a ‘virtual mental health court’ prior to implementing Mental Health Court.*

By implementing these recommendations, King County can have a Mental Health Court that will offer misdemeanor defendants with mental illness a single point of contact where the defendant can work with a team of specialists, including a judge, prosecutor, defender, a court monitor, treatment providers, and probation officers, to receive court ordered treatment as a diversion from prosecution or as a sentencing alternative. Participation in Mental Health Court is voluntary. Unlike the Broward County Mental Health Court, the King County Mental Health Court will not be a straight diversion program. The defendants in King County will be required to agree that the case will not proceed to a trial.

Anyone in the criminal justice system who comes in contact with someone who is presumed to be mentally ill and is charged with a state offense in District Court can refer the individual to Mental Health Court. Family members of the mentally ill defendants may also request that cases be transferred to Mental Health Court. As is the case now, most of the defendants will be housed in the King County Jail. This will allow the Jail’s psychiatric evaluators to conduct an initial assessment of the defendants who are referred to the Court. This initial assessment will help the Court decide whether to admit the defendant into Mental Health Court.

The Mental Health Court Task Force assumes that very few of the defendants who will be eligible for Mental Health Court will be out-of-custody. When an out-of-custody defendant is referred to Mental Health Court, it could be done based on the recommendation by a number of people, including a judge, prosecutor, defender, or a family member. Regardless, the judge to whom the case was initially assigned will have to be consulted and agree to transfer the case. The information generated through this process will also help the Mental Health Court Judge decide whether to admit the defendant into Mental Health Court.

Once the Mental Health Court Judge decides to accept the case, the judge will decide whether to release the defendant from jail (in-custody defendants only). If the defendant’s competency is in question, the judge will refer the defendant for a competency evaluation. If the defendant is found incompetent, attempts will be made to restore competency under the new guideline of Washington State law (effective March 1, 1999).

If competency is not in question, or if the defendant is found competent after the Western State evaluation, the Court Monitor will work with the defendant to develop an interim treatment plan.

Once the Court accepts this interim plan, the Court Monitor will work with an appropriate treatment provider to develop a more long-term and detailed treatment plan. The defendant will then return to Court for a review hearing where the Mental Health Court Judge will, with input from the Court Monitor, the prosecutor and the defender, decide whether to accept the treatment plan. At this point, the defendant is expected to follow the treatment plan and any other court ordered instructions. The Court Monitor and a probation officer who will be dedicated to the Court will follow the case.

The Court will have regular review hearings to allow the judge and the other players to assess the efficacy of the treatment plan. This review process will allow for the modification of the plan if the defendant is not gaining the maximum benefit from the treatment. These reviews will continue until the Court is satisfied that the defendant is stable and receiving the long-term care that he or she needs, at which point the judge will dismiss the case, if so recommended by the prosecutor. The judge may also accept a plea agreement from the defendant and proceed to sentencing. In an effort to protect public safety and stabilize the defendant, Mental Health Court is expected to hold more frequent review hearings and more closely monitor the defendant's progress during the period of court jurisdiction over the defendant.

Outstanding Issues

While there are many minor details that must be addressed before Mental Health Court can begin operations, there is one major issue that remains outstanding. This issue surrounds the cost of operating a Mental Health Court. Additional costs to operate the Court will come from:

- Providing specialized criminal justice and monitoring services and
- Providing mental health treatment services to a population that is, in all likelihood, not currently accessing these services.

The Oversight Committee is making every effort possible to keep these costs to a minimum; however, it recognizes that this new service – particularly from the treatment side – has the potential for substantial additional costs. If the Oversight Committee determines that the costs are too high, it will consider modifying its recommendations. Although modifications will be made only to the extent that the Committee feels that it will have a responsible program that will consider both the treatment needs of the defendant and the public safety concerns of the community.

Conclusion

The creation of a mental health court offers King County a unique opportunity to creatively address the needs of the mentally ill offender. By implementing a specialized Court that offers treatment alternatives to jail to people with mental illnesses who are charged with misdemeanor offenses, King County can attempt to reduce recidivism among this population, decrease the use of the jail to warehouse the mentally ill offender, and at the same time increase public safety.

Background

In 1997, King County Executive Ron Sims appointed a special task force, known as the Mentally Ill Offender (MIO) Task Force, to review and address issues related to mentally ill offenders and commitment laws. The focus of the Task Force was on the mentally ill who are a danger to others and a threat to public safety.

The Task Force was assigned three areas of review: (1) cross system protocols for responsibility and transfer of information regarding mentally ill offenders; (2) assessment of the adequacy of current competency laws for misdemeanants; and (3) assessment of issues regarding the Involuntary Treatment Act for mentally ill offenders. The Task Force worked to develop recommendations to improve and strengthen the systems that handle mentally ill offenders and to identify legislative solutions for consideration during the next state session. One of the recommendations made by the Task Force was to develop a pilot Mental Health Court for King County. This Court would focus mental illness specialists, including judges, defenders, prosecutors, and community resources, on the mentally ill misdemeanor defendant thereby greatly increasing coordinated management and treatment of mentally ill offenders.

In February 1998, King County District Court Presiding Judge Jim Cayce led a group of eleven people from King County, the City of Seattle, and Jail Alternative Services to Broward County (Fort Lauderdale), Florida to observe the only operating Mental Health Court in the U.S. The trip participants were very enthusiastic about what they saw.² Soon after returning to Seattle, Judge Cayce formed a Task Force to develop recommendations for the King County Mental Health Court and to explore how the Court could work with other agencies in King County to take a comprehensive approach to dealing with the mentally ill offender.³

How the Court System Currently Handles Misdemeanant Offenders with Mental Illnesses

During the past decade, case processing in the King County District Court has emphasized efficiency and effectiveness. While these processes provide for an efficient criminal justice system, the inevitable result has been for defendants to appear before several judges on the same case. This model is not always in the best interest of defendants with mental illness.

For example, a defendant who is booked into the King County Jail will first appear before a judge for a probable cause hearing. The judge conducting the hearing may gain some insight into the defendant's mental health. However, the dockets for these hearings are often full, leaving judges limited time to explore mental health issues with defendants. Furthermore, the judge hearing the first appearance calendar, in all likelihood, will not see this defendant again on the current charge, as the case is typically assigned to another judge for a pretrial hearing. At the pretrial, the defendant will also encounter a new public defender and new prosecuting attorney. There is a significant possibility that the case would be transferred to a different court for trial where again there would be a new judge and prosecutor. Mentally ill defendants in the criminal justice system

² For a more detailed discussion of the site visit, please refer to Appendix A.

³ Please refer to Appendix B for details on the structure of the Mental Health Court Task Force.

may have several charges filed against them in the course of a year. It is unlikely that the different cases would be heard by the same judge, with the same prosecutor or public defender, and it is quite possible that the cases may end up in different courts.

While a case processing approach that divides the work load in this manner provides for an efficient and predictable level of service for most District Court defendants, the approach often creates barriers that prevent the Court from identifying and addressing the unique needs of the mentally ill offender. Under this system, judges do not have the opportunity to acquaint themselves with the circumstances surrounding the offender's entrance into the criminal justice system. Furthermore, judges have varying levels of expertise around mental illness. Even if the judge is able to identify the mental illness and is comfortable in dealing with these issues, the existing system lacks sufficient resources and mechanisms to easily link these individuals with the treatment services they need. As a result, the punishment handed down by the Court does little to address the root of the problem. Mentally ill offenders continue to cycle through the criminal justice system, often spending unnecessary time in jail and lacking access to mental health treatment services. In fact, a 1991 study of mentally ill offenders in the King County shows that inmates charged with misdemeanor offenses who are admitted into the Psychiatric Unit had an average of six prior bookings into the King County Jail in the three years prior to their current offense. The study also demonstrated that the average length of stay in the Jail for inmates with mental illnesses was three times longer than for the average inmate.⁴ As a recent *New York Times* article states, "jails and prisons have become the nation's new mental hospitals."⁵

New Approaches

Two initiatives offer King County hope for finding new ways to address the needs of the mentally ill misdemeanant offender. One is the Mental Health Court model developed in Broward County, Florida. The other is a change in the Washington State laws to give courts of limited jurisdiction new authority to address the mental health issues of defendants.

Broward County Mental Health Court:

Broward County, Florida, through its Mental Health Court, has developed an innovative approach to addressing the needs of people with mental illnesses who commit low-level criminal offenses. Mental Health Court provides a single forum where mentally ill offenders can come before a judge with experience dealing with people with mental illness to get court ordered treatment and monitoring. Whenever possible, Mental Health Court attempts to divert mentally ill offenders out of jail and into treatment. The defendant's well-being and public safety weigh heavily in the judge's decisions about the course of action. Through this model, Broward County acknowledges that jail does not serve the needs of mentally ill offenders. These individuals and the community are better served when the offenders are linked up with the services they need to address their mental illness.

⁴ Policy Research Associates, Inc. "Diversion and Treatment Services for Mentally Ill Detainees in the KCCF." December 1991.

⁵ "By Default, Jails Become Mental Institutions," *New York Times*. March 5, 1998.
Recommendations from the Mental Health Court Task Force

Mental Health Court is staffed by four key individuals: a judge, who has extensive background in dealing with issues surrounding mental illnesses; a state attorney; a public defender; and a court monitor. All of these individuals have received training and education to help them understand and more effectively handle cases involving defendants with mental illnesses. The court monitor is a mental health professional dedicated to the Court by a local mental health provider who acts as the linkage between the Court and the mental health service providers who treat the clients of Mental Health Court. In addition to these four staff members, individual case managers from community-based service providers also regularly appear in Court along with their clients.

Individuals with mental illness who are charged with misdemeanor offenses, with the exception of Driving Under the Influence (DUI) or domestic violence charges, are eligible for Mental Health Court. Individuals who are charged with assault may only be admitted if the victim is amenable to the idea. Virtually anyone in the criminal justice system – including police, jail staff, defenders, state attorneys, judges, and family members – who comes in contact with a defendant who they suspect has a mental illness and that meets the charging criteria can request that the case be transferred to Mental Health Court. Participation in Mental Health Court, assuming the defendants meet the charging criteria, is voluntary.

When a case is referred into Mental Health Court, the judge evaluates the case and the situation of the defendant. Based on what she learns from talking to the defendant in the courtroom and on input from the public defender, the state attorney, and the court monitor, the judge decides whether to accept the case. If she accepts the case, she refers the defendant to community-based in-patient or out-patient treatment for stabilization and an assessment of the defendant's competency. The judge, must also decide whether the defendant should remain in jail or should be released. The judge, again with input from the defender, the state attorney, and the court monitor, weighs not only the defendant's condition in making this decision, but also public safety issues. If deemed appropriate, the defendant is released from jail and into treatment.

Once the evaluation is complete, the defendant comes before the judge for a review hearing. If the defendant is found competent, the judge, the defendant, the court monitor, the defender, the state attorney, and the case manager agree on a treatment plan at the review hearing. The defendant is expected to follow this treatment plan. The court monitor and the case manager closely track the progress and report back to the Court, along with the defendant, for periodic review hearings. If the defendant fails to keep up with the court-ordered treatment plan, the Court attempts to understand why. The Court makes every effort to draw upon all available resources to ensure that the defendant succeeds. Additionally, the judge is not afraid to use coercive powers to ensure compliance from the defendant. The judge also tries to ensure that the service providers follow through with their responsibilities. Once the judge believes that the defendant is receiving the long-term care he needs and is stable, the judge, with agreement from the defender and the state attorney will dismiss the charges against the defendant.

The Broward County Mental Health Court has been operating for just over one year. Because the Court is in its infancy, no outcome evaluations have been performed. Despite its apparent success, the Court faces some challenges. Broward County's mental health system, like those in other jurisdictions, is over-worked. The system does not have a no-refusal policy. Therefore, it is sometimes difficult for the Court to persuade service providers to accept the Court's clients. Additionally, Broward County admits that the lack of residential services is often a challenge.

Regardless of these challenges, the Court has received widespread praise and publicity for its innovative approach to dealing with mental health issues of defendants. An article in the *ABA Journal* describes the Broward County Mental Health Court as “A one-of-a-kind court that may offer the best hope for steering nonviolent mentally ill defendants into care instead of jail.”⁶ The Broward County approach offers a promising alternative for other jurisdictions struggling to find better ways to address the needs of the mentally ill offender population.

Washington State Legislative Changes:

Based on recommendations made by the King County MIO Task Force’s Legislative Work Group, the Washington State Legislature adopted new laws that are designed to assure that mentally ill individuals who may pose a danger to the community receive the treatment they need. These changes, most of which go into effect in March, 1999, fit nicely with the Mental Health Court model that was developed in Broward County. The new laws will give courts of limited jurisdiction new alternatives for addressing the mental health issues of defendants.

The current statutes covering the adjudication of mentally ill offenders under both civil commitment and criminal procedure differentiate between misdemeanor and felony cases. Simply put, the law assumed that felony cases involving defendants with mental illness are far more serious in terms of public safety than misdemeanor defendants with a similar diagnosis. Consequently, the law emphasized treatment for felony defendants rather than misdemeanants. The Legislature has come to recognize that dangerousness to self or others cannot be measured simply by the classification of the current criminal charge or behavior. The new legislation has, to a certain extent, removed this artificial distinction between felonies and misdemeanors.

With respect to criminal procedure, under the existing law, the court in misdemeanor cases loses jurisdiction over a defendant once a finding of incompetence to stand trial is entered. The court has only very limited power to hold onto a case for a short period of time in order for civil commitment proceedings to commence. In other words, the court does not have the legal authority to address the mental health issues of a defendant in misdemeanor cases, if the defendant’s mental health is so severely impaired that the individual cannot understand the situation. In felony matters, on the other hand, the court has the power to commit the defendant to involuntary treatment and the possibility of the restoration of competency to stand trial. Under this scenario, the defendant receives treatment, thereby reducing his risk to public safety.

Under the new law, the court in misdemeanor matters will have some authority to commit defendants who have a history of violent acts or prior findings of incompetency or insanity for involuntary treatment in order to seek the restoration of competency. The court will have the power to require inpatient mental health treatment for up to 14 days or conditional release for outpatient treatment for up to 90 days in an attempt to restore competency or any combination of the two. If competency restoration treatment takes place on an inpatient basis and competency is not restored within 14 days, the judge may order the defendant to an evaluation and treatment facility for up to 72 hours for evaluation for purposes of filing a petition under the Involuntary Treatment Act (RCW 71.05). If competency restoration treatment takes place on an outpatient

⁶ Baker, Debra. “Special Treatment,” *ABA Journal*. June 1998.
Recommendations from the Mental Health Court Task Force

basis and competency is not restored, the defendant would be referred to a County-Designated Mental Health Provider (CDMHP) for an evaluation for possible civil commitment.

With respect to the civil commitment proceedings, the focus will now be on whether the person poses a danger to public safety or security rather than whether his or her action constituted a felony offense. This again is a recognition that it is not the level of the current charge that determines the public safety risk, but rather, the history of violence, prior civil commitment orders, and other factors identified by the legislature.

In summary, the new laws will give courts more opportunity to address the mental health issues of defendants. These laws will give courts of limited jurisdiction in King County, and the State, for that matter, more of the leverage they need to operate Mental Health Courts similar to the one in place in Broward County. Figure 1 illustrates how the new laws will work.

Profile of the Proposed King County Mental Health Court

The Mental Health Court envisioned in King County replicates many of the features of the Broward County Mental Health Court. It will offer misdemeanor defendants with mental illnesses a single point of contact where, if accepted into the Court, the defendant can work with a team of specialists, including a judge, prosecutor, defender, a court monitor, treatment providers, and probation officers, to receive court ordered treatment as a diversion from prosecution or as a sentencing alternative. Participation in Mental Health Court is voluntary. Unlike the Broward County Mental Health Court, the King County Mental Health Court will not be a straight diversion program. The defendants in King County will be required to agree that the case will not proceed to a trial.

The King County Mental Health Court would operate under the following mission, principles, and goals:

Mission Statement

The Mental Health Court will strive to increase public safety and humanely deal with individuals with mental disorders who enter the criminal justice system. This court is committed to focusing resources, training, and expertise on the unique needs of these individuals.

Guiding Principles

1. *We squarely face the complex problems of those with mental disorders in our criminal justice system. Although we confront many obstacles and difficulties, we are not immobilized by them. Instead, we welcome complexity, overcome traditional limitations, and always expect innovation.*
2. *Although we do not have a definition that specifies precise boundaries for the concept of “mental disorders,” our use of the term here is intended to be neutral and broadly inclusive. Consequently, in this court, developmental disabilities, co-occurring substance-related disorders, Alzheimer’s Disease, and other disorders are included under this rubric.*
3. *The individual and society benefit when those with mental disorders receive the treatment that they need. We do not believe, however, that the jail should be a focal point for treatment. We understand that incarceration will not restore good health, and provides only temporary protection to our community.*
4. *The Mental Health Court will respond to the unique needs of those with mental disorders by utilizing the knowledge, experience, and understanding of the many professionals who serve the court. We recognize, for example, that those with developmental disabilities or co-occurring substance abuse disorders require individualized attention. We are committed to seeking appropriate resources and forming community alliances to meet the unique needs of the individuals that we serve.*
5. *We will strive to provide equal access to treatment and alternatives to incarceration.*
6. *While community safety is important, we also believe that our community should be judged by the way in which it treats the most needy of its members. The highest aim of the King County Mental Health Court, therefore, is to defend both our community and those who pass through this court.*

Goals

- *Reduce the number of times mentally ill offenders come into contact with the criminal justice system in the future;*
- *Reduce the inappropriate use of institutionalization for people with mental illness;*

- *Improve the mental health and well-being of the defendants who come in contact with Mental Health Court;*
- *Expedite case processing;*
- *Develop greater linkages between the criminal justice system and the mental health system;*
- *Protect public safety;*
- *Establish linkages with other County agencies and programs that target the mentally ill population in order to maximize the delivery of services.*

Overview of the Court:

Before describing the specific recommendations for the King County Mental Health Court and the rationale behind those recommendation, this report lays out, briefly, how Mental Health Court would work if all of the recommendations are adopted.

As is the case in Broward County, anyone in the criminal justice system who comes in contact with someone who is presumed to be mentally ill and is charged with a state offense in King County District Court can refer the individual to Mental Health Court. Family members of the mentally ill defendants may also request that cases be transferred to Mental Health Court. As is the case now, most of the defendants will be housed in the King County Jail. This will allow the Jail's psychiatric evaluators to conduct an initial assessment of the defendants who are referred to the Court. This initial assessment will help the Court decide whether to admit the defendant into Mental Health Court.

The Mental Health Court Task Force assumes that very few of the defendants who will be eligible for Mental Health Court will be out-of-custody. When an out-of-custody defendant is referred to Mental Health Court, it could be done based on the recommendation by a number of people, including a judge, prosecutor, defender, or a family member. Regardless, the judge to whom the case was initially assigned will have to be consulted and agree to transfer the case. The information generated through this process will also help the Mental Health Court Judge decide whether to admit the defendant into Mental Health Court.

Once the Mental Health Court Judge decides to accept the case, the judge will decide whether to release the defendant from jail (in-custody defendants only). If the defendant's competency is in question, the judge will refer the defendant for a competency evaluation. If the defendant is found incompetent, attempts will be made to restore competency under the new guideline of Washington State law (effective March 1, 1999). If competency is not in question, or if the defendant is found competent after the Western State evaluation, the Court Monitor will work with the defendant to develop an interim treatment plan. Once the Court accepts this interim plan, the Court Monitor will work with an appropriate treatment provider to develop a more long-term and detailed treatment plan. The defendant will then return to Court for a review hearing where the Mental Health Court Judge will, with input from the Court Monitor, the

prosecutor and the defender, decide whether to accept the treatment plan. At this point, the defendant is expected to follow the treatment plan and any other court ordered instructions. The Court Monitor and a probation officer who will be dedicated to the Court will follow the case. The Court will have regular review hearings to allow the judge and the other players to assess the efficacy of the treatment plan. This review process will allow for the modification of the plan if the defendant is not gaining the maximum benefit from the court ordered treatment. These review hearings will continue until the Court is satisfied that the defendant is stable and receiving the long-term care that he or she needs, at which point the judge will dismiss the case, if so recommended by the prosecutor. The judge may also accept a plea agreement from the defendant and proceed to sentencing. In an effort to protect public safety and stabilize the defendant, Mental Health Court is expected to hold more frequent review hearings and more closely monitor the defendant's condition and progress during the period of court jurisdiction over the defendant. Figure 2 illustrates the traditional court process and the court process under Mental Health Court.

This, briefly, is how Mental Health Court would operate in King County if the plan is adopted. Below are a series of recommendations that would allow this to happen.

Case Processing:

***Recommendation:** Establish a King County Mental Health Court with a dedicated judge, prosecutor, and defender to handle cases involving mentally ill misdemeanant offenders.*

As previously noted, the existing case processing strategy employed by District Court does not provide for specialized expertise of the unique circumstances surrounding cases involving mentally ill defendants. By establishing a specific court with specially trained personnel, King County can provide sentencing alternatives that better meet the needs of the mentally ill offender. Sentencing alternatives, such as treatment, that directly address an individual's mental illness are more likely to reduce recidivism. In addition, the Court can handle these cases in a more consistent manner. This structure will allow Court personnel to become familiar with this type of case and to obtain on-going training and education.

Because the population targeted by Mental Health Court is part of the existing District Court workload, District Court, the Prosecutor, and Public Defense hope to be able to staff Mental Health Court using an existing judge, deputy prosecutor, and public defender.

***Recommendation:** The King County Mental Health Court should employ the services of a Court Monitor and specialized probation officers to act as linkages between the Court and service providers and to monitor cases to ensure compliance.*

In order for Mental Health Court to be successful, it is critical, not only for the defendant's well-being, but also for the protection of public safety, that the Court maintains linkages with the community service providers. A specially trained, highly skilled Court Monitor will be able to maintain this linkage. As is the case in Broward County, the Court Monitor will be present at all hearings conducted by Mental Health Court. This individual will have an understanding of both the court system and the service provider system. In addition, this individual will have demonstrated experience in working with individuals with mental illnesses. This individual will be responsible for monitoring the compliance with the court ordered treatment plan. The King County Mental Health Court Task Force suggests having the Court Monitor work under the auspices of United Behavioral Health (UBH), the agency that subcontracts all of King County's mental health treatment services.

In addition to the Court Monitor, the King County Mental Health Court will benefit from probation officers dedicated solely to handle cases associated with Mental Health Court. The probation officers, like the Court Monitor, will have experience and training in dealing with people with mental illness. Post-sentencing, the probation officers will monitor the case for compliance with court-ordered instructions. These probation officers will have a caseload of 40, which will allow for closer monitoring of the cases. Probation officers currently have a caseload of approximately 300 defendants.

Recommendation: *Mental Health Court should hold a daily first appearance calendar and a review calendar one afternoon a week.*

The hearing structure recommended for Mental Health Court by the Task Force is one that emphasizes consistency, timeliness, and monitoring. In order to ensure that mentally ill defendants are treated equally with other defendants, as well as to minimize the number of jail days these defendants serve, Mental Health Court will hold a daily first appearance calendar in the King County Jail in downtown Seattle.⁷ This may be a defendant's first appearance, or it may occur after the defendant has had a previous first appearance hearing where he or she was identified as a candidate for Mental Health Court. As will be described in greater detail in the Target Population section of this document, an average of two cases per day are expected on this calendar. Because this calendar is expected to be light, District Court feels that it can modify existing calendars to accommodate this new calendar. It is hoped that cases can be referred directly to the Mental Health Court from the Department of Adult Detention intake staff so as to minimize the amount of jail and court resources required to process these cases. This would also further minimize the number of court appearances required of the mentally ill offender and the number of jail days he or she serves.

A key factor in allowing Mental Health Court to ensure compliance from the defendant and the protection of public safety will be a structured review system. Mental Health Court can establish this review structure at a weekly review calendar that will be held on Thursday afternoons. Under Mental Health Court, review hearings will occur far more frequently than they do for a typical District Court case. While the frequency of the reviews will vary, it is anticipated that

⁷ Defendants who are referred to Mental Health Court, but are housed at the RJC, will be transferred to downtown Seattle.

they will occur at least once every thirty days. The defendant, the prosecutor, the defender, the Court Monitor, the probation officer, and the treatment provider will be present at these hearings to offer the judge insight from all perspectives about how the case is proceeding. At these hearings, the judge will praise the defendant's progress when appropriate. At other times, the judge may recommend modifications to the treatment plan. Other times, the judge may be in the position to reprimand the defendant or the service provider if the judge feels that one or both of them are not in compliance with court orders.

This review calendar will take place in an existing District Court courtroom on the Third Floor of the Courthouse. As the caseload for Mental Health Court builds, this calendar may require expansion to an additional half day a week.

Target Population:

***Recommendation:** The King County Mental Health Court should target all mentally ill, developmentally disabled and dually diagnosed offenders who are charged with any misdemeanor state offense in King County District Court.⁸*

The Mental Health Court Task Force asserts that a sentence requiring jail time for the mentally ill, developmentally disabled, and dually diagnosed offender (mentally ill and chemically abusing) is not the most effective means for reducing recidivism because jail does not provide the intensive and long-term treatment that this population needs to function in the community. In all likelihood, members of this population who enter the criminal justice system, do so because of their mental illness. And, without treatment, they are likely to re-offend in the future. Based on this premise, Mental Health Court would target the mentally ill, developmentally disabled and dually diagnosed offender and provide those defendants who choose to participate with treatment rather than time in jail. However, the Mental Health Court Task Force recognizes that jail may be necessary under certain circumstances due to the overriding concern for public safety.

Initially, only mentally ill, developmentally disabled, and dually diagnosed defendants who are charged with state offenses in King County District Court are eligible. The Task Force does not recommend including municipal court cases, including Seattle Municipal Court, or District Court contract cities' cases, at this time. Two factors support this recommendation. (1) The Task Force wishes to limit the size of Mental Health Court, at least initially, to ensure that the Court can effectively manage the caseload and all of the additional oversight these cases will require. (2) The Task Force is attempting to design a Mental Health Court that can begin operations fairly quickly. The Task Force sought to eliminate factors that would make achieving this goal difficult. One such factor centers around the issue of prosecution and defense services. Municipal courts and cities that contract with District Court provide their own prosecution and defense services. If cases from these jurisdictions were eligible for Mental Health Court, King County would need to find ways to recover the cost of providing prosecution and defense services for these defendants in order to keep the cost of Mental Health Court manageable. The Task Force felt that it could not address this issue in the limited time available to plan for the Court. Therefore, the Task Force recommends limiting Mental Health Court eligibility to state charges in District Court,

⁸ The proposed Guidelines for Admittance into Mental Health Court are available in Appendix C.
Recommendations from the Mental Health Court Task Force

allowing King County to use existing judicial, prosecution and defense resources. King County should consider expanding Mental Health Court to other jurisdictions if its effectiveness has been established with the initial target population and when cost recovery agreements are in place.

Unlike the Broward County model, which excludes defendants charged with DUI, domestic violence, or assault (unless the victim agrees) from participating in Mental Health Court, the King County Task Force chose not to place any restrictions on the type of misdemeanor offense. Broward County chose to restrict participation in this manner for a couple of reasons. It excludes DUIs and domestic violence charges because it already has specialized courts to handle these offenses. Broward County chose to exclude defendants charged with assault in order to get the State Attorney to agree to participate in the Court. King County does not have specialized courts to handle DUI and domestic violence cases. Additionally, all of the players involved with the development of King County’s Mental Health Court are confident that the Court structure offers enough oversight and review of cases to protect public safety.

Using the eligibility criteria described above, the Task Force, based on data gathered by the Department of Adult Detention’s Psychiatric Unit from November 1997 through March 1998, believes that as many as 54 defendants will be eligible to participate in Mental Health Court each month. As the table below demonstrates, an average of nearly 27 defendants who are admitted to the Psychiatric Units of the King County Jail meet the criteria. The Psychiatric Unit estimates, based an examination of the number evaluations conducted in April 1998, that half (50%) of the defendants referred to the psychiatric evaluators are deemed mentally ill, but stable enough to be housed in general population. Therefore, the Task Force assumes that twice as many defendants as housed in the Psychiatric Unit may be eligible for Mental Health Court, thus defining the upper limit of 54 defendants. The Task Force expects that most of the people who are eligible for Mental Health Court will be in custody defendants, although mechanisms are in place to allow the Court to handle out-of-custody defendants, as well.

**Estimated Number of Misdemeanants
Admitted to the Jail’s Psychiatric Units Per Month on State Charges**

| District Court Division | Average Number Admitted Per Month | Percent of Total Criminal Filings That Are State Cases | Estimated Number Admitted Per Month on State Charges |
|--------------------------------|--|---|---|
| Aukeen | 3.20 | 100% | 3.20 |
| Bellevue | 6.80 | 10% | 0.68 |
| Federal Way | 4.60 | 47% | 2.16 |
| Issaquah | 2.40 | 68% | 1.63 |
| Northeast | 4.20 | 67% | 2.81 |
| Renton | 2.00 | 97% | 1.94 |
| RJC | 0.20 | 100% | .020 |
| Shoreline | 6.20 | 55% | 3.41 |
| Southwest | 6.80 | 77% | 5.24 |
| Vashon | 0.00 | | 0.00 |
| Seattle | 5.40 | 100% | 5.40 |
| TOTAL | 41.80 | | 26.67 |

Again, based on data collected by the Psychiatric Unit of the Jail from November 1997 through March 1998, the Task Force estimates that most of these (20%) defendants will face a primary charge of non-person offenses (not including alcohol/drug and theft). Just under 13% of the

eligible defendants will face a primary charge of theft. At just over 37% of the sample, mood disorders are the most frequent primary diagnosis for those defendants who are eligible for Mental Health Court, followed by psychotic disorders with nearly 28% of the population.

Service Providers:

Recommendation: *Mental Health Court, through the community mental health providers and other agencies, must offer Mental Health Court defendants access to flexible and individualized treatment packages.⁹*

Mental Health Court will see defendants with a wide array of illness at varying degrees of severity. To address this diversity, the Task Force recommends three levels of service.

A minimum level of service would be appropriate when service providers outside the community mental health system could manage the mental health needs of the client. An example of this might be an elderly person arrested for shoplifting only because they are becoming cognitively impaired due to dementia. This person could be referred to Adult Protective Services and/or Division of Aging and Disability Services, rather than requiring enrollment into a mental health agency. Mental Health Court will develop relationships with agencies such as these to ensure that all defendants needs are met.

A moderate level of care would be defined as those services currently provided by the community mental health system to clients who are “authorized and tiered” at a mental health agency. These core services include:

- Crisis Intervention
- Stabilization Services
- Intake Evaluation
- Special Population Evaluation (Aging/Medically Homebound, Developmental Disabilities, Cultural/Sexual Minorities, Hearing Impaired)
- Interdisciplinary Evaluation
- Psychological Assessment
- Psychiatric Assessment
- Medication Management
- Individual Treatment Services including:
 - Assistance with entitlements
 - Protective payeeships
 - Housing
 - Employment and vocational services
 - GED and post-secondary education
- Group Treatment

⁹ The recommendations put forth by the Service Providers Sub-Group are done so prior to any discussions about costs and funding. Therefore, this recommendation should be considered preliminary. Of all of the sub-groups, the work of the Service Providers Sub-Group is the most complex. Outstanding issues such as cost will be resolved and final recommendations will be made within the next month.

- Day Treatment
- Acute Diversion (hospital diversion beds)
- Family Treatment
- Indirect Services (linkages to other services in the community)
- Interpreter Services

These services will be planned and provided through an individualized treatment plan. The plan will be flexible and tailored to meet the needs identified and prioritized by clients, family members and other persons identified as key members of the client’s support system.

For those who will need a high level of care, which is above the level of a standard benefit package provided by the community mental health system, a specialized treatment plan will be provided. Specialized services may include immediate residential placement, substance abuse treatment, sex offender treatment and treatment for batterers.

Recommendation: *The Court Monitor should play the key role in linking Mental Health Court defendants to an appropriate treatment provider.*

Four models for linking defendants with the appropriate treatment provider were considered. The models are depicted in Figure 3. Model 1 allows the Court Monitor to refer clients directly to a community mental health center via a specified liaison working at the agency.

Model 2 reflects the creation of a short-term transitional provider to furnish services until linkages could be made to a community mental health center. Model 3 reflects the creation of a long-term transitional provider to furnish services until linkages could be made to a community mental health center. The Task Force agreed that a transitional provider would be too cumbersome due to the geographic distribution of clients throughout King County. The Task Force feels strongly that services should be provided in a client’s own community rather than requiring them to travel to a centralized location.

Model 4 represents a not yet existing centralized Linkage and Placement center. This would coordinate all referrals from Mental Health Court, Triage Center, mental health hospitals and the jail into community mental health agencies. Although this idea may have merit, no plans have been made to pursue such an idea.

The Task Force decided on a service delivery model that would allow the Mental Health Court Monitor to work directly with community mental health centers. For example, the Court Monitor sees a client who needs a referral to Highline/West Seattle Mental Health Center, then calls an identified contact person at that agency to create the linkage into services. That agency liaison would then assign the client to an appropriate case manager. That case manager would remain with that client throughout the length of the client’s involvement in mental health court. The

Court Monitor will make every effort to link defendants with treatment providers that are geographically convenient and can best meet the individualized needs of the defendant.

Recommendation: *Mental Health Court must work with the State Division of Developmental Disabilities to improve the accessibility of treatment for those defendants with developmental disabilities.*

While the Mental Health Court Task Force recognizes that access to treatment is severely limited for defendants with developmental disabilities, it decided that the services that the Court can provide are an improvement over the status quo. In addition to providing an understanding, specialized setting, Mental Health Court will make every effort to link defendants with developmental disabilities to appropriate service providers. The Task Force anticipates that only a limited number of people who are solely diagnosed with developmental disabilities will appear before the Court. Most developmentally disabled defendants will have a dual diagnosis of mental illness that will allow the defendant to access services through the mental health system. Regardless, the Court will begin working with the State Developmental Disabilities Division to improve accessibility to treatment for the developmentally disabled offender.

Training:

Recommendation: *A well-developed training plan is key to the success of Mental Health Court.*

A hallmark of the Mental Health Court structure is its emphasis on having professionals who are skilled and knowledgeable about mental health issues in a single location to address the needs of the mentally ill offender. Mental Health Court will require court personnel to have an understanding of mental illnesses and the treatment system. It will also require the treatment system to be familiar with court processes.

Working with all interested parties including the criminal justice system, mental health professionals, and treatment providers, Mental Health Court will create a training program which provides a basic level of understanding in the following areas:

- an overview of the Mental Health System in King County
- an overview of the King County Criminal Justice System
- a process overview of how Mental Health Court will work in these systems
- an overview of mental health issues

In addition, Mental Health Court will produce a reference handbook for all participants in the Court. Site visits and cross training efforts are also expected to play a key role in Mental Health Court's training efforts.

Linkages With Other Programs:

***Recommendation:** To maximize the use of resources and to meet the full range of needs of the mentally ill offender, Mental Health Court should strive to establish strong linkages with other agencies and programs in King County that target the mentally ill population.*

King County is paying close attention to the manner in which it delivers services to people with mental illnesses. The King County Mental Health Court targets people who are mentally ill and are accused of committing a misdemeanor offense. Other efforts currently under development in King County would address other needs of people with mental illnesses. These efforts include the Bureau of Unified Services (BUS); Jail Alternative Services (JAS); Chronic Public Inebriates Task Force (CPI); and the Drug Involved Offender Task Force (DIOTF).¹⁰

In all likelihood, individuals who are targeted by one of the programs listed above may also be the focus of another one of these efforts. For example, a stratified sample of individuals incarcerated in the King County Jail in 1996 indicates that 30% of the misdemeanor offenders who would be targeted as high priority clients for DIOTF services were also identified by jail staff as having a mental illness. This statistic suggests the need for collaboration between DIOTF and Mental Health Court planning efforts in order to ensure that proposed plans are compatible and that any programming developed is integrated in a fashion that meets the needs of multiply diagnosed clients and does not represent a duplication of services. It is essential that Mental Health Court be well coordinated with this and other initiatives. Several members of the Mental Health Court Task Force are involved with these other efforts. The Task Force will continue to find ways to collaborate with these endeavors.

Evaluation:

***Recommendation:** King County should hire consultants to perform two evaluations of the Mental Health Court. A process evaluation should be completed after one year of operation. An outcome evaluation should be completed after two to three years.*

In order to assess how well Mental Health Court is achieving its goals, the County should commission two evaluations. The Task Force recommends that a process evaluation begin after Mental Health Court has been in operation for one year. Although this will be too early in Mental Health Court's existence to have good outcome data, an evaluation that examines the processes used by the Court could provide insight into the Court's early effectiveness. This evaluation would highlight aspects of the Court that are proceeding well and point to other areas that may need improvement or modification.

The Mental Health Court Task Force recommends that the County commission a second evaluation after two to three years of Mental Health Court operations. At this time, the Court

¹⁰ For additional information about the other efforts targeting the mentally ill population in King County, please refer to Appendix D.

will have enough outcome data to allow the evaluators to determine how well the Court is achieving its outcome goals. Again, this will provide an opportunity for the Court to celebrate its successes and improve on areas of weakness.

The Task Force believes that these evaluations will ensure that King County's resources are being spent wisely and that the needs of the mentally ill offenders are being served.

Recommendation: *King County should run a 'virtual mental health court' prior to implementing Mental Health Court.*

To get a better sense of the types of cases Mental Health Court can expect to see once it begins operations, the Task Force recommends that King County run a 'virtual mental health court.' This would involve the Jail flagging, through its normal evaluation process, the files of inmates who, if Mental Health Court were actually in operation, would be eligible to participate. This will give King County a better sense of the number and types of cases that will come through Mental Health Court. This information will also be useful in completing future evaluations of the effectiveness of Mental Health Court. The 'virtual mental health court' will be a source for baseline information about how the criminal justice system currently processes cases involving mentally ill offenders.

Outstanding Issues:

While there are many minor details that must be addressed before Mental Health Court can begin operations in King County, there is one major issue that remains outstanding. This issue surrounds the cost of operating a Mental Health Court. Additional costs to operate the Court will come from two areas:

- Providing specialized criminal justice and monitoring services and
- Providing mental health treatment services to a population that is, in all likelihood, not currently accessing these services.

The Oversight Committee is making every effort possible to keep these costs to a minimum; however, it recognizes that this new service – particularly from the treatment side – has the potential for substantial additional costs. If the Oversight Committee determines that the costs are too high, it will consider modifying its recommendations. Although modifications will be made only to the extent that the Committee feels that it will have a responsible program that will consider both the treatment needs of the defendant and the public safety concerns of the community.

Conclusion

The creation of a mental health court offers King County a unique opportunity to creatively address the needs of the mentally ill offender. By implementing a specialized Court that offers treatment alternatives to jail to people with mental illnesses who are charged with misdemeanor offenses, King County can attempt to reduce recidivism among this population, decrease the use of the jail to warehouse the mentally ill offender, and at the same time increase public safety.

Appendix A

Broward County Site Visit

The Broward County site visit February 11-12, 1998, stemmed from the recommendation of the King County Executive. The primary goal was to have a local team visit a functioning mental health court and report back regarding the feasibility of establishing such a court in King County. Led by the Honorable Jim Cayce, Presiding Judge of King County District Court, a diverse group of individuals from King County made the trip to south Florida to visit the Broward County Mental Health Court. The table below lists the people who went on the site visit.

| Broward County Site Visit Participants | |
|---|---|
| Name | Title |
| Jackie Brudvik | District Court Unit Supervisor; Society of Council Representing Accused Persons |
| James Cayce | District Court Presiding Judge |
| James C. Crane | Administrator, Office of Public Defense |
| Beth Goldberg | Budget Analyst, King County Office of Budget and Strategic Planning |
| Judith M. Hightower | Judge, Seattle Municipal Court |
| Ann Potter | Program Manager, Jail Alternative Services Program |
| Greg Powell | Psychiatric Evaluation Specialist, Dept. of Adult Detention |
| Jody Schneider | Supervisor, Crisis and Commitment Section, Department of Community and Human Services, Mental Health Division |
| Lawrence W. Smith | Administrator, Psychiatric Services Section, Dept. of Adult Detention |
| Margaret Smith | Systems Planner, Dept. of Community and Human Services, Mental Health Division |
| Doug Stevenson | King County Council Staff, Council Committees |

Site visit activities consisted of interviews, panel discussions, observations of court proceedings, and tours of the Broward County Courthouse, the Broward County Jail, and the Pompano Detention Center. Meetings were held with the individuals who played vital roles in the development and implementation of the Broward County Mental Health Court. The site visit activities allowed both a comprehensive overview of the operation of the Mental Health Court and the various agencies that support the Court, as well as detailed discussions with key individuals. The table below lists the people who were interviewed during the site visit.

| People Interviewed in Broward County | |
|--|---|
| Name | Title |
| Lee Cohen | Prosecutor, Broward County |
| Michael Elwell | Mental Health Court Coordinator |
| Howard Finkelstein | Public Defender, Broward County |
| Ginger Lerner-Wren | Broward County Judge, Mental Health Court |
| Randy Otto | Psychologist, Dept. of Mental Health Law and Policy, Florida Mental Health Institute, University of South Florida |
| John Petrilla | Chair, Dept. of Mental Health Law and Policy, Florida Mental Health Institute, University of South Florida |
| Mark Speiser | Circuit Court Judge, Broward County |
| Broward County Mental Health Providers (about 10 representatives on a panel) | Community Mental Health Providers |
| Executive Committee of Mental Health Court Task Force | Task Force |

The team toured the detention centers (Jail and Pompano Detention Center), interviewed mental health providers, and observed several courts in session. During one particularly busy session, Mental Health Court Judge Ginger Lerner-Wren was able to provide intermittent commentary during the proceedings. The King County team was able to hear the cases presented by the state attorney and by the public defenders, and was able to hear the responses of the defendants, the mental health staff, and support personnel that were involved with the cases.

In addition, Howard Finkelstein, Public Defender, met with the site visitors to provide his detailed description of the series of events that culminated in the implementation of the Mental Health Court. Mr. Finkelstein also shared his view of future directions for the Broward County Mental Health Court, and provided some advice on establishing a court here in King County.

Another key meeting was held with Professor John Petrilla and Dr. Randy Otto of the Department of Mental Health Law and Policy, Florida Mental Health Institute, University of South Florida. This meeting allowed for a detailed discussion of the evaluation of mental health court operations. Various topics, such as data systems, components of outcome studies, and data collection devices were discussed.

Because our King County team had the full cooperation and participation by the key individuals responsible for all aspects of the mental health court, the correctional facilities associated with it, and the judicial and legal practices in the operation of the mental health court, the brief trip provided excellent information. The diverse formats for the acquisition of information (interviews, panel discussions, observations, and tours) were particularly beneficial. The table below contains additional basic information about Broward County's Mental Health Court.

| Broward County Mental Health Court Information | |
|---|--|
| Date established | June 16, 1997 |
| Types of cases heard | Criminal cases involving mentally ill defendants arrested for misdemeanors (exception: those charged with domestic violence and driving under the influence); those charged with battery, a violent misdemeanor, may be admitted with victim's consent. |
| Mission statement | "The mission of the Mental Health Court is to address the unique needs of the mentally ill in our criminal justice system." |
| Purpose | "The purpose of the Mental Health Court is to insure that mentally ill people are treated with dignity and provided with the opportunity for treatment while at the same time protecting the public's safety." |
| Goals | <ol style="list-style-type: none"> 1. Create effective interactions between the justice and mental health systems. 2. Ensure effective legal advocacy for the mentally ill defendant. 3. Determine the most effective and least restrictive treatment options available 4. Monitor the delivery and receipt of mental health services and treatment 5. Solicit participation from consumers and family members in court decisions as much as possible 6. Divert mentally ill defendants with non-violent or minor criminal charges to community-based mental health programs |
| Main goal | The stable treatment of the offenders instead of the penal non-treatment of jail. |
| State Attorney/prosecutors' view of the court | Expresses initial satisfaction that the misdemeanor offenders are being connected with community resources, being stabilized, and being intensely monitored. |

Based on our interviews with individuals involved with Broward County's Mental Health Court, King County's team perceived a high level of teamwork and determination in the Broward County Mental Health Court staff and associated personnel. Although their local community mental-health resources are limited, the individuals and groups involved with the Mental Health

Recommendations from the Mental Health Court Task Force

Court spoke openly of their dedication and commitment to the court's success. Staffed by a core group of people who seem to have adopted a distinct vision, the court attempts to focus on what should be done, rather than on what cannot be done, according to Judge Lerner-Wren. One of their goals, according to the judge, is to make all the mental health and legal resources needed readily available to the court for the adjudication of a case. In several conversations, the judge described the manner in which the court, through its authority and coercive powers, initiates inpatient or outpatient treatment, and release from jail, conditional upon compliance with a court-ordered treatment plan.

The court also orders review hearings based on the nature of each case and according to the needs of the defendant. According to Broward County Mental Health Court personnel, this attention to both the uniqueness of each criminal case and the individual needs and capabilities of the defendants, is expected to have a beneficial effect on mentally ill defendants, resulting in long-term treatment compliance and reduced recidivism and incarceration.

One of the court staff members, known as the "court monitor," plays a significant role in the treatment components of the Mental Health Court. The monitor, a mental health professional dedicated to the court by a local mental health clinic, develops and coordinates long-term treatment plans to keep the defendant "on-track" in the community. Addressing both client welfare and public safety on every case heard in the Mental Health Court, the monitor makes recommendations about medication issues, treatment programming, community support services and residential placements. In addition, the monitor personally makes on-site visits to oversee the status of the defendant. Broward County's court monitor states that he tries to listen to what clients need, helps them achieve their goals, and provides the court with periodic status and statistical reports.

Although outcome studies are not yet available (since the court has been operating for just over one year) the Broward County Mental Health Court appears to hold great promise as a useful method for the adjudication of criminal cases involving the mentally ill. The court's goal of securing stable treatment for offenders as a way of protecting public safety is supported by research in this area.¹¹ The table below contains the primary optimistic expectations expressed by Broward County court staff about the potential benefits of their mental health court.

| |
|----------------------------|
| Mental Health Court |
|----------------------------|

¹¹ John Monahan, a professor of law and psychology at the University of Virginia, in his study of the violent mentally ill, found that the association between mental illness and violence appeared to have been caused by a subgroup of seriously mentally ill individuals who were not receiving treatment. [John Monahan, "Mental Disorder and Violent Behavior: Perceptions and Evidence," *American Psychologist* **47**: 511-21, 1992]. Richard Lamb and Robert Grant, after examining 85 seriously mentally ill persons in the Los Angeles County Jail, found that virtually all of the 85 had not been under medical treatment at the time of arrest. [H. Richard Lamb, Robert W. Grant, "The Mentally Ill in an Urban County Jail," *Archives of General Psychiatry* **39**: 17-22, 1982]. A study of 500 mentally ill individuals charged with crimes in San Francisco found that 94% of these individuals were not being treated at the time they committed the crimes. [G. Whitmer, "From Hospitals to Jails—The Fate of California's Deinstitutionalized Mentally Ill," *American Journal of Orthopsychiatry* **50**: 65-75, 1980]. Los Angeles County 1994-95 records showed that 86% were not receiving treatment at the time of arrest. These records also show that 90% had previously been hospitalized at least once for a psychiatric emergency, but did not necessarily receive follow-up treatment. [LA County Dept. of Mental Health, "1995 Annual Progress Report"]

| Positive Expectations | |
|------------------------------|---|
| Judicial administration | <ul style="list-style-type: none"> • Enhances expediency, effectiveness. • Decreases congestion in the criminal division court dockets. • Where appropriate, judicial process tailors treatment rather than punishment for the mentally ill misdemeanant. • The Mental Health Court provides an efficient method for addressing and communicating about the multiple mental health and legal issues enmeshed in a single case. |
| Mental health needs | <ul style="list-style-type: none"> • Recognizes the need for appropriate treatment in an environment conducive to wellness and not punishment.¹² • Makes mental health care more accessible to this special population. |
| Public safety | <ul style="list-style-type: none"> • Enhanced, not compromised. • The combined expertise of the professionals in the court results in a proper balance between treatment needs and public safety needs. • The defendant must show reasonable accountability for criminal behavior, as well as compliance with treatment as ordered by the court. • The court decreases the risk of miscommunication, which is the precursor of tragic outcomes. • The court abides by the principle of an “abundance of caution” in dealing with mentally ill defendants who are potentially dangerous or gravely disabled.¹³ |
| Jail overcrowding | <ul style="list-style-type: none"> • Decreases. • Recidivism is reduced. |

¹² Without therapeutic intervention, inmates leave jail potentially worse off than when they arrived. There is a correlation between inadequate mental health treatment of seriously mentally ill individuals and violence. [John Monahan, “Mental Disorder and Violent Behavior: Perceptions and Evidence,” *American Psychologist* **47**: 511-21, 1992].

¹³ The Broward County Mental Health Court refers a large majority of mentally ill defendants for civil commitment evaluation (as described in Florida’s “Baker Act”), and for competency evaluation. Roughly 80% of Mental Health Court defendants are referred by the court for “stabilization” treatment and for civil commitment evaluation, and 95% of those are civilly committed for at least 72 hours [Personal communications with Judge Ginger Lerner-Wren, Baker Act Team members, and community treatment providers, 2/11-2/12/98]

Appendix B

STRUCTURE & ORGANIZATION OF THE MENTAL HEALTH COURT TASK FORCE

The Mental Health Court Task Force was established and chaired by District Court Presiding Judge Jim Cayce. Beth Goldberg, Budget Analyst, Office of Budget and Strategic Planning offered staff support to the effort. The organization of the Task Force was as follows:

Task Force: This is a large group that includes representatives from a broad range of organizations, including:

King County:

- Office of the King County Executive
- King County Council
- District Court
- Office of Budget & Strategic Planning
- Prosecuting Attorney's Office
- Sheriff's Office
- Office of Public Defense
- Department of Community & Human Services
- Department of Adult Detention
- Department of Public Health

City of Seattle:

- Seattle Municipal Court
- City Attorney's Office
- Seattle Police Department
- Budget Office

State of Washington:

- Department of Corrections
- Western State Hospital
- Division of Developmental Disabilities

Other Affiliations:

- Mental Health Service Providers
- Public Defense Agencies
- Renton Municipal Court
- Suburban Cities Association
- University of Washington
- Washington Protection & Advocacy System
- Washington Advocates for the Mentally Ill
- Mental Health Consumers

The Task Force was designed to provide initial direction and buy-off on the concept. This group met twice -- in April, 1998 and in July 1998 to discuss and approve the recommendations for the King County Mental Health Court.

Oversight Committee: This group was designed to provide the on-going policy direction for the Mental Health Court proposal. This group met frequently and included members from each of the key King County agencies that will be impacted by Mental Health Court. Members of the Oversight Committee include:

- Jim Cayce, Presiding Judge, District Court
- David Cline, Finance Manager, District Court
- Bill Cobb, Director of Probation Services, District Court
- Catherine Cornwall, Budget Supervisor, Office of Budget & Strategic Planning

- Jim Crane, Administrator, Office of Public Defense
- Dave Gaba, Court Administrator, Seattle Division, District Court
- Barbara Gletne, Director, Department of Community & Human Services
- Beth Goldberg, Budget Analyst, Office of Budget & Strategic Planning
- Leslie Harper-Miles, TQM Director, Office of the King County Executive
- Mark Larson, Chief Deputy, Criminal Division, Prosecuting Attorney's Office
- Ethan Raup, Director of Policy Development, Office of the King County Executive
- Larry Smith, Director of Psychiatric Services, Department of Adult Detention
- Doug Stevenson, Staff, King County Council
- Eric Trupin, Director, Department of Psychology, Children's Hospital & Medical Center

Sub-Groups: Six sub-groups were formed to focus on the various details of a Mental Health Court. These groups explored specific issues and made recommendations to the Oversight Committee. The groups met on a number of occasions. Representatives from the organizations listed under the task force section participated on the sub-groups. The six sub-groups are as follows:

- *Target Population/Criteria for Admittance:* This group considered the criteria for admittance into Mental Health Court. This group was chaired by Judge Cayce, and Beth Goldberg provided staff support.
- *Service Providers:* This group had three primary goals. The first was to create a clinical needs package, which includes the range of services necessary for the mentally ill offender. The second was to devise a system to provide service linkages between the client and the treating agencies. The third goal was to help define the court monitor role and responsibilities insofar as the treatment community is concerned. Of all of the sub-groups, the work of the Service Provider Sub-Group was the most complex. In fact, some of its work continues, particularly in the area of determining how to finance the treatment component of Mental Health Court. This group is chaired by Barbara Gletne. Jody Schneider of the Mental Health Division is staffing this group.
- *Court Operations & Case Processing:* This group developed the plan for how District Court will handle cases in a Mental Health Court. Dave Gaba and Bill Cobb co-chaired this sub-group.
- *Interjurisdictional Issues:* This group was designed to explore how a mental health court will serve King County and its local jurisdictions. However, after further consideration by the Target Population Sub-Group and the Oversight Committee, a decision was made to delay expanding the King County Mental Health Court to other jurisdictions until the program started on a smaller scale, focusing initially on only state cases in King County District Court. Once the King County Mental Health Court has established its effectiveness King County may want to extend the program to other jurisdictions. When this decision is made, Ethan Raup will lead this effort.
- *Evaluation of the Program:* This group explored what King County will need to do to evaluate the effectiveness of a Mental Health Court. The group determined what

data we need to gather now, and what data we will need to gather when a court system is implemented, in preparation for an evaluation of the program. This group will also determine the outcomes King County should measure to assess the effectiveness of Mental Health Court. Eric Trupin chaired this group, and Margaret Smith of the Mental Health Division provided staff support

- *Legal Issues:* This group provided legal advice to the aforementioned sub-groups and was chaired by Mark Larson.

Appendix C
Mental Health Court
Target Population

Proposed Guidelines for Admittance into
Mental Health Court

It is the policy of the Mental Health Court, that unless otherwise agreed to by the Court, Prosecutor, and Defense, eligibility for this specialized court will be limited to those defendants who are charged under the jurisdiction of the King County District Court on state charges and who:

- a) are subject to a competency evaluation, or
- b) suffer from significant mental illness (including mentally ill chemically abusing - MICA) and/or developmental disability which is:
 - (i) directly or indirectly connected to the crime charged, and;
 - (ii) for which the person is in need of treatment, and;
 - (iii) that unless treated, the probability of future criminal recurrence is great.

The Mental Health Court Judge will have the discretion to accept or reject any matter referred to the Mental Health Court. If the issues in the case require a trial, the case will be transferred out of the Mental Health Court and placed on an appropriate calendar at the originating District Court Division.

An Executive Committee made up of all relevant parties will provide periodic review of the general policies of this specialized court.

Appendix D

Other King County Initiatives Targeting People with Mental Illnesses

Bureau of Unified Services (BUS)

In 1997, King County adopted a plan for a new behavioral health program, known as the Bureau of Unified Services (BUS), to provide “no wrong door” for those who are mentally ill and chemical abusing (MICA). In 1994, according to the plan:

- The substance abuse system served 12,300 individuals
- The mental health system served 18,500 individuals
- More than 1,300 of these clients were served by both systems simultaneously. This number represents only a fraction of those individuals with co-occurring disorders
- An unknown, but significant, number of these individuals was also incarcerated in the King County Correctional Facility

The plan called for integration of services for this population. As part of that integration, the 1998 work plan calls for mobilization of a pilot crisis triage center in conjunction with Harborview and reconfiguration of the Jail Alternative Services (JAS) program to work in conjunction with the triage center. Other activities include resolution of confidentiality issues across the mental health, substance abuse and criminal justice systems and conjoining mental health and chemical dependency involuntary treatment systems.

The triage center and the reconfigured JAS program will serve as a diversion from the Mental Health court for many. For some, it will be the first stop before booking. Figure 4 illustrates how the triage center will interact with the criminal justice system.

Jail Alternative Services (JAS)

Jail Alternative Services (JAS) is a jail diversion program which promotes enhanced and coordinated integration activities across multiple service systems. It originally began in 1985 as a Post-Booking (Jail) Diversion Project (JDP) with the purpose of reducing jail recidivism for those individuals being booked repeatedly into the KCCF because of behaviors related to serious and dysfunctional mental illnesses. A Pre-Booking Diversion Service was added in 1991 to provide an alternative to booking for those individuals who had a mental illness or who had a mental illness and chemical dependency who had allegedly committed a misdemeanor offense. The Pre-Booking (Community) Diversion Project and Post-Booking (Jail) Diversion Project were combined into one program, the Criminal Justice Diversion Project, in 1995 offering non-incarceration treatment alternatives to residents of King County with a mental illness or a mental illness and chemical dependency. The project was reconfigured in 1997 to include individuals with chemical dependency and a High Utilizer Intensive Case Management program and was renamed Jail Alternative Services (JAS).

The goal of JAS is to provide an integrated system of services to individuals with histories of mental illness and/or chemical dependency and involvement with the criminal justice system whose needs can be more appropriately addressed through the mental health and chemical dependency service systems than through incarceration.

JAS has two main components, a Jail Diversion Service and an Intensive Case Management Service. The Jail Diversion Service consists of a Pre-Booking Diversion Service which provides an intervention resource for police officers and a Post-Booking Diversion Service which provides an intervention resource to the King County Correctional Facility (KCCF), the Regional Justice Center (RJC) and courts (Municipal, District, Superior). The Intensive Case Management/High Utilizer Service provides intensive ongoing services to consumers who are mentally ill and/or substance abusers who are high users of the KCCF, mental health, and alcohol/substance abuse systems.

Persons eligible for the Diversion Service include individuals with a mental illness and/or chemical dependency who could have been booked into the KCCF on a misdemeanor charge, or any charged offender who may be released from KCCF pursuant to judicial approval, EXCEPT for those individuals who are:

- 1) violent or known to have a history of violence which presents a current threat to public safety; or
- 2) have a history of violent behavior toward a specific individual or individuals; or are under arrest for firearms charges; domestic violence; violation of a protection order or no contact order; or failure to appear on any of the above charges.

Individuals eligible for the high utilizer/intensive case management service are those individuals with a mental illness and/or chemical dependency who are on or eligible for the lists of the highest users of the KCCF/RJC and mental health and/or substance abuse services developed by KCCF, King County Division of Alcohol and Substance Abuse Services (DASAS), and KCMHD.

In addition, Post Release services are offered for individuals who do not meet project eligibility criteria. The Post Release Service provides linkage to follow-up care upon release from the King County Correctional Facility or Regional Justice Center for individuals who have served their entire jail sentence. Individuals are linked to a variety of resources including mental health services, chemical dependency treatment services, social services, vocational services, housing, and health care.

Persons with Chronic Public Inebriation (PCPI)

This comprehensive program targets persons, usually visible in the public arena, with histories of alcoholism or drug dependency and who have become significantly impaired and are disabled in biological, psychological and social ways. Goals include reduction of product availability in target areas as well as a full continuum of residential and treatment services for individuals in all stages of illness and recovery. It is estimated that a sizable number of these individuals also suffer from a mental disorder.

The program also calls for better integration of services between all systems – including the criminal justice system. One component of this program, the sobering center, should serve as a diversion from the jail. Availability of other services for those who have been charged are included in the initiative for Drug Involved Offenders.

Drug Involved Offenders Task Force (DIOTF)

The work of the DIOTF is progressing simultaneously with that of the Mental Health Court. This program will target substance abusing misdemeanants and felons in the King County Justice system with three or more jail bookings in a year. A sample of the jail population conducted for the task force, indicated that 23% of the population eligible for this program also had a mental illness. Thirty percent of the misdemeanants eligible had a mental illness.

The goal is to create a rational sentencing policy linked to a prescribed chemical dependency regimen that combines treatment and punishment in response to offender behavior. One of the hallmarks of the program is a day accountability center, which will also address the mental health needs of this population. Given the high proportion of individuals with co-occurring disorders, some may be eligible for both mental health court and a sentencing option under DIOTF.