Issues Update

A Newsletter of the Delaware Criminal Justice Council

Special points of interest:

- Comparison of Wilmington Shootings from 1997-2008
- Grants Corner

Inside this issue:

Delaware's Mental Health Courts	1
Wilmington Shootings	2
Protection for the Disabled	3
YMCA Peer Jury Program	4
Delaware's Mental Health Courts	5-7
Grants Corner	8-9
CJC Public Hearings	10
Methodist Action Program	11

Delaware's Mental Health Courts

The State of Delaware operates three "Mental Health Courts". The Court of Common Pleas, Family Court, and Superior Court each has a different version of a "Mental Health Court". Each is available in New Castle County. Each court is distinct from the others in whom it serves and how it functions. Despite individual differences however, the courts share the common goal of addressing the unique mental health issues of these defendants in a courtroom setting. Each of the courts is summarized below, beginning with Delaware's first Mental Health Court, *the Court of Common Pleas Mental Health Court* written by Susan K. McLaughlin, TASC Director, Division of Substance Abuse and Mental Health. The second summary, written by Commissioner Loretta Young, of Family Court describes the *Family Court Mental Health Court*, and the third summary, written by Chief Deputy Public Defender Brian Bartley, describes the *Superior Court Mental Health Court.*

** Court of Common Pleas Mental Health Court **

Susan K. McLaughlin, TASC Director

In today's society one can't help but notice people walking around the mall or other public places displaying their support for various medical illnesses by wearing red, pink, and yellow bracelets. In addition to this type of public expression, the insignia for breast cancer, for example, is proudly displayed on bumpers, coffee cups, pens, pencils, highlighters, tee-shirts and the like. Proceeds from the sale of these items go toward research in the hope of eliminating these illnesses. Even though May is highlighted as Mental Health month I venture to say that you find few individuals wearing a bracelet or tee-shirt that signifies either a family member or their own recovery from a mental health disorder.

In November of 2003, the Court of Common Pleas in collaboration with the Division of Substance Abuse and Mental Health (TASC), the Attorney General's office and the Public Defenders' office took a **bold step** toward combating the stigma of mental illness by starting Delaware's first Mental Health Court.

The Mental Health Diversion Court is a cooperative interagency effort to screen, identify, treat and divert misdemeanor offenders in need of mental health services. Each member of the team plans an integral part in the process. The Attorney General approves the charges; the TASC Psychiatric Social Worker assesses the individual to ensure that they meet the clinical criteria for entry and provides follow-up case management; the Public Defender ensures that the clients' rights are represented and legal issues addressed and the Mental Health Court Judge presides over the entire judicial process.

Since the time that the court has adopted this approach, 198 offenders have been served. The program length is determined by the offender's progress but there must be a minimum of four months participation. During that time the participants appear before The Honorable Joseph Flickinger for status hearings where he may impose sanctions and incentives depending on how they are progressing in the program. The most rewarding part of the process for the team is witnessing how the offender develops and becomes more independent. By the time they complete the program the participants are engaged and compliant in treatment, on a medication regimen,

Continued on page 5.....

*****Court of Common Pleas Mental Health Court*****

Continued from page 1.....

employed when qualified and have a better understanding of how their psychiatric illness affects their behavior in the community. On graduation day, Judge Flickinger comes down from the bench to shake their hand, present them with a certificate along with a letter stating that their charges have been nolle processed. To some, this may seem insignificant, but to those who participate in the CCP Mental Health Court this is a major accomplishment and gives them a great sense of pride. Should they not re-offend within a six month period after graduation they are eligible to have their record expunged.

Program success can be measured in many ways but statistically speaking, as of this writing (12-31-08) 85 % of the participants who successfully completed the program did not incur new convictions within six months of their graduation. Those of us who are involved in the program are hopeful that our work will be viewed not as just a 3-year Byrne grant opportunity, but as the model for how cases involving individuals with a mental health diagnosis should be handled statewide in all Delaware Trial Courts.

For more information on the CCP Mental Health Court you can contact Ms. McLaughlin at (302) 577-2711 or susan.mclaughlin@state.de.us.

*****Family Court Mental Health Court*****

Commissioner Loretta Young, Family Court

This juvenile mental health diversion program began in September 2006 and was created through the coordinated efforts of Family Court, Child Mental Health and the Office of the Public Defender and is funded by a CJC grant.

The Program has two tracks: 1) Mental Health Court Diversion Program, and 2) Competency Court. When competency to stand trial is questionable, mental health issues are suspected, or there is a pre-identified mental health issue, these cases are scheduled on the MHC Diversion calendar. Mental health evaluations are ordered to determine appropriate future scheduling. In some cases, competency will be contested. These cases require hearings and are re-scheduled on a separate calendar for Competency Court. If found not competent, a management plan will be developed and review hearings may be scheduled every 120 days to assess the likelihood of successful rehabilitation through medication or otherwise.

Competent individuals are considered as candidates for entry into the Mental Health Diversion Program. Final approval lies within the power of the Attorney General's Office. Juveniles must be competent in order to enter a guilty plea which will be held in abeyance. Following the entry hearing, "status review hearings" are scheduled every 4 to 6 weeks thereafter. At the reviews, the Court hears from all parties regarding compliance with treatment goals or problems which may require adjustment of the treatment plan.

The Program has the capacity to actively service up to twenty five juveniles. It employs a judicially coordinated, problem-solving, team approach as opposed to the traditional procedure of entering an adjudication and having a probation officer monitor. The goal is to promote consistent attendance at therapy, taking prescribed medications, school attendance, adherence to home rules, curfew, and any other recommendations of the case manager or treatment providers. The "team" consists of the Commissioner, defense counsel, a Deputy Attorney General, and a mental health case manager. Case mangers not only monitor compliance but assist parents/guardians in locating and connecting with community based treatment and social services for their children.

If a child shows consistent compliance with the treatment plan and has been in the diversion program for at least six months, graduation will be recommended. At that point, the charges are dismissed. On the other hand, if it is suspected that the child is not progressing or deteriorating due to behavioral issues not directly related to their mental health, a termination hearing is scheduled and the Court will consider sanctions or removal from the program. Continued on page 6.....

SENTAC Update

The 2009 Edition of the Benchbook was published in February 2009 after the conclusion of the 2nd session of the 144th General Assembly.

The download is available at: *http://www.state.de.us/courts/sentac.shtml*

Superior Court Mental Health Court

Brian Bartley, Chief Deputy Public Defender

Too often, defendants are sentenced to jail for probation violations when their mental health problems prevented them from succeeding on probation. Many times their mental health problems were the root cause of the crimes for which they were convicted in the first instance.

Traditionally, most sentencing judges have recognized mental health as a mitigating circumstance when imposing a sentence. However, merely imposing probation in light of mental health problems at most recognizes the underlying issue; it does not solve the problems or address potential recidivism in a meaningful way.

Pictured Left to Right: Tom Beardsley, TASC; Mike Vari, Bailiff; Brian Bartley, Chief Deputy Public Defender; Participant.

To begin addressing this sometimes silent injustice in a more systemic way, Judge Jan Jurden of New Castle County Superior Court began a pilot Mental Health Probation Court in April 2008. The Mental Health Probation Court was created to provide the most effective treatment options for offenders with mental illnesses and is premised upon the realization that the usual criminal sanctions for offenders with mental illness are not always appropriate. [The threat of incarceration posed by a "suspended" sentence rarely proves to be an effective deterrent when mental health problems interfere with a probationer's ability to readily comply with probationary conditions.]

Judge Jurden's Mental Health Probation Court is a mixture of prevention and intervention by a team of specialized professionals that includes a judge, a pair of probation officers, a trio of TASC ("Treatment Access Service Center") caseworkers, a prosecutor and defense attorney.

Continued on page 7.....

Pictured from Left to Right: Patrick Brannigan, Deputy Attorney General; Brian Bartley, Chief Deputy Public Defender; Participant.

***** Superior Court Mental Health Court *****

Continued from page 6.....

Interestingly, the attorneys necessary to the process play the least important role in this interactive court. This is because the Court's focus is on meeting the individualized needs of the probationers over time and through their life's challenges so that they can more readily succeed on probation.

Probation officers screen potential candidates in consultation with the TASC caseworkers to determine whether a particular probationer can benefit by participation in this interactive court.

Once approved for entry into the Mental Health Court, a formal entry takes place before Judge Jurden. This involves a colloquy between the defendant and Court. During the colloquy, Judge Jurden explains the goals and conditions of the program and determines whether the defendant is a suitable candidate. If the Court is satisfied that the defendant is committed to actively participating and otherwise a suitable candidate, the defendant is admitted into the program. Often the defendant was sentenced by another judge in which case Judge Jurden assumes supervision of the defendant.

Pictured Left to Right: Glen Jackson, Bailiff; Susan McLaughlin, Director of TASC; Brian Bartley, Chief Deputy Public Defender; Amy Miller, Probation and Parole; Hon. Jan Jurden, Superior Court; Georgiana Staley; Probation and Parole; Patrick Brannigan, Deputy Attorney General; Tom Beardsley, TASC; Daina Gunther, TASC; Al Hake, Bailiff.

Once accepted into the Mental Health Probation Court, the probationer reports weekly or biweekly as needed to both their probation officers and their TASC caseworkers to have the treatment, supervision and other needs with a special emphasis by all on mental health assessment, treatment and compliance with psychotropic medication prescriptions. The dynamic is as much educational as it is supervisory and most defendants benefit greatly and visibly thrive from the intensive attention.

Probationers regularly visit with Judge Jurden during one of her specially dedicated Mental Health Probation calendars which are held on alternate Tuesday afternoons to monitor the progress of the participants. Judge Jurden is regularly briefed on the progress of the probationers and she uses the calendar as an opportunity to encourage and congratulate the defendants on their many forms of progress such as maintaining a job, keeping all scheduled appointments, completing treatment, staying on medications, having all clean urine screens, etc. At times, the Court needs to caution defendants about poor performance or relapses. Most defendants have responded positively and there already have been several "graduations."