

# Mental Health What Do We Know What Can We Do

Texas Association for Court Administration

Judge Brent A. Carr

(Contributions from Nelda Cacciotti and Judge Rainey Webb)

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# Purpose of Presentation

- Identify the scope of the problem of mental illness in the justice system
- Highlight the problem in county and local jails
- Focus on low level, low risk offenders
- Thoughts and comments on dealing with the mentally ill

# Scope of Mental Illness in Criminal Justice System

- 2014 US population: 317,000,000 (1)
- 2014 total arrested: 11,400,000 (2)
  - Women: 1,710,000 (15%)
  - Men: 9,690,000 (85%)
  - 3.6 % of total US population

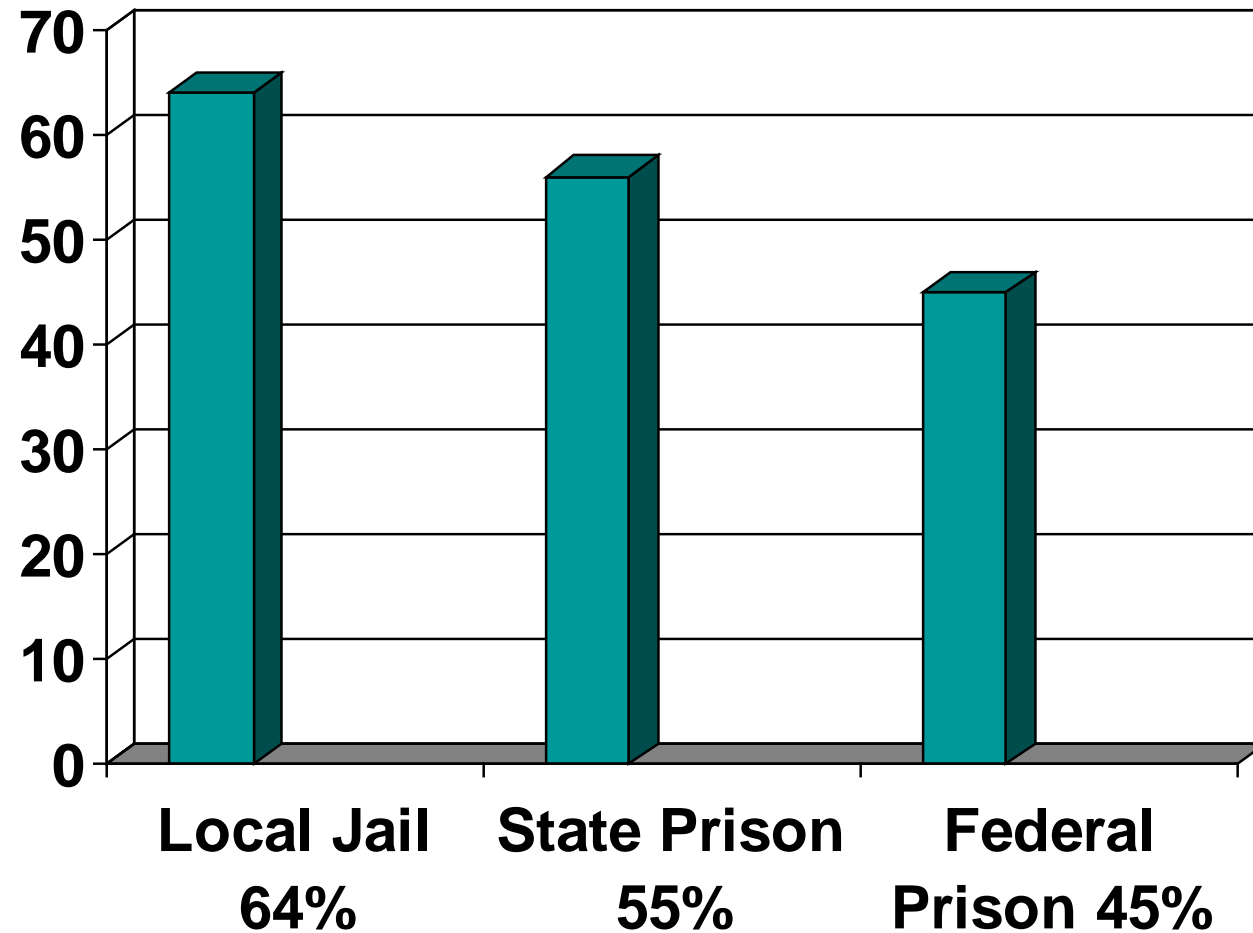
# Scope of Mental Illness in Criminal Justice System

- 2014 Total in US Prison: 1,561,500 (3)
- Texas: 140,000
- Texas Prison Capacity: 160,000
- 2014 Incarceration Rates:
  - US: 621 / 100,000
  - TX: 816 / 100,000
  - MA 242
  - MS 918; OK 932; LA 1,114 / 100,000

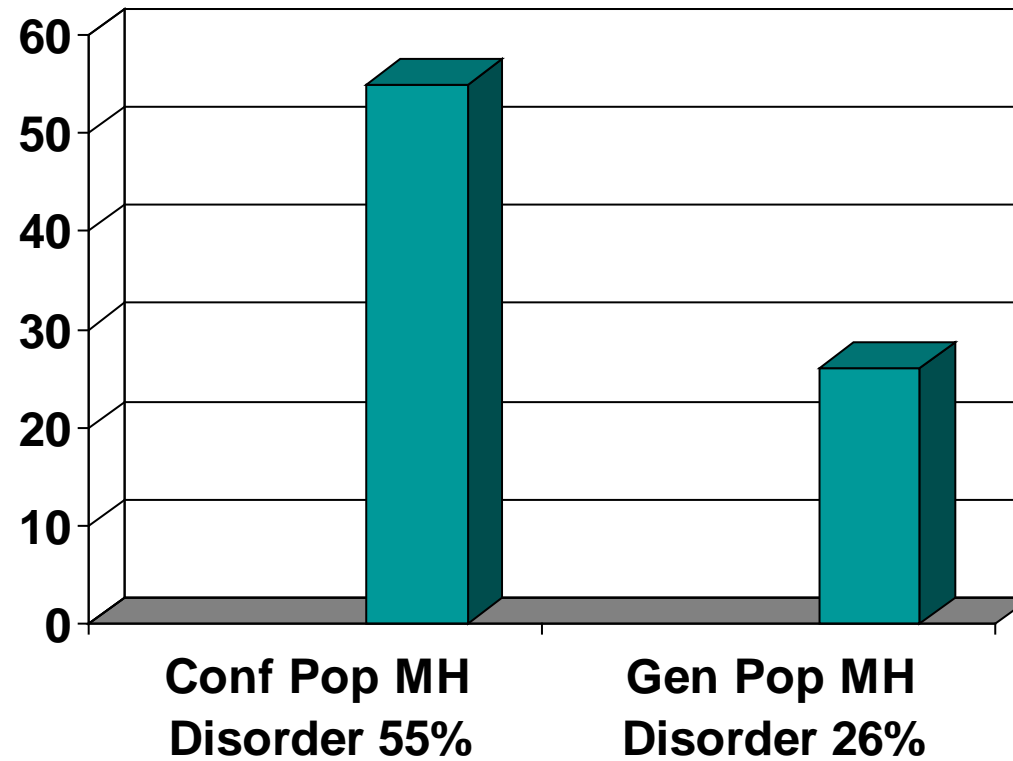
# Scope of Mental Illness in Criminal Justice System

- 2005 over half of federal, state and local prisoners had a mental health problem:
  - Recent history / symptom + clinical diagnosis
  - Mental health episode in last 12 months (4)
- Local jail: over 60% qualify as having a mental health problem (4)
  - Female 73% / male 55%

# Confinement Population With Mental Health Disorder <sup>(4)</sup>



# Confinement General Population <sup>(4)</sup> With MH Disorder



# Scope of Mental Illness in Criminal Justice System

- Approximately 25 % US population experiences mental illness yearly (5)
- Of the 55% of inmates with MH problem, 76% meet criteria for substance abuse disorder (4)



# Scope of Mental Illness in Criminal Justice System

- Approximately 17% of the jail population has a serious mentally illness (5)
- Approximately 4.2 of US population has a serious mental illness (6 )
  - Schizophrenia
  - Schizo-affective disorder
  - Bipolar disorder
  - Major depression
  - Post traumatic stress disorder
  - Trauma
  - Dementia
  - Brain injury

# Scope of Mental Illness in Criminal Justice System

- They stay in jail much longer (5)
  - Orange County, Fla
    - Overall avg: 26 days / Mentally Ill avg: 51 days
  - NY Rikers Island
    - Overall avg: 42 days / Mentally Ill avg: 210 days
- Why?
  - Difficulty following rules
  - More fights / injuries
  - Waiting for treatment

# Scope of Mental Illness in Criminal Justice System

- Tarrant County daily cost per inmate: \$75.00
- Yearly per person cost: \$27,375.00
- The average Tarrant County daily inmate population: 3,341
- Daily cost: \$250,575.00 (7)

# Scope of Mental Illness in Criminal Justice System

- Tarrant County Annual cost: \$91,459,875.00
- Daily cost of inmate with serious mental illness is often double to triple the cost of a non MH defendant. *(5) & (7)*
  - Professional staff, medication, increased observation

# Scope of Mental Illness in Criminal Justice System

- Suicide

(5)

- 2002 study of Washington State inmates found 77% of all inmate suicide attempts involved a mentally ill inmate
- Experts attribute increased confinement of the mentally ill as one factor in the increase of suicide in confinement facilities



# Scope of Mental Illness in Criminal Justice System

- Residential Mental Health Treatment (5)
  - 1955
    - 559,000 persons receiving residential mental health services
    - 1 bed per 300 person in US
  - 1997
    - 70,000 persons receiving residential mental health services
    - 1 bed per 3,000 persons in US

# Scope of Mental Illness in Criminal Justice System

- Number of state hospital beds: 2,463 (8)
- Harris County Jail daily inmate average: 9,000 (9)
- Harris County Jail daily average inmates receiving psychotropic medications: 2,400 (9)
- Jail is a default mental health service facility

# Naked Truth

Mental illnesses are **medical conditions** that disrupt a person's thinking, feeling, mood, ability to relate to others, and daily functioning.



# More Naked Truth

Mental illnesses are **biologically based** brain disorders. They **cannot be overcome** through "**will power**" and are **not related to** a person's "**character or intelligence.**"

Overwhelming number of mentally ill persons are neither a criminal nor dangerous

A comparative few are costly and / or dangerous

# Reality

One's willingness to engage MH treatment is affected by a number of factors:

- Diagnosis
- Support System
- History of compliance or noncompliance
- Availability of resources
- Susceptibility to the same criminal thinking that affects non MH defendants

# Mental Health vs. Criminal Justice

Mental Health      )(      Criminal Justice

Engagement      )(      Adversarial

Assessment      )(      Accusation

Treatment      )(      Punishment

Restored Health      )(      Case Disposition

For the most part, jails and prisons are not intended to be recovery centers.

# Early Thoughts

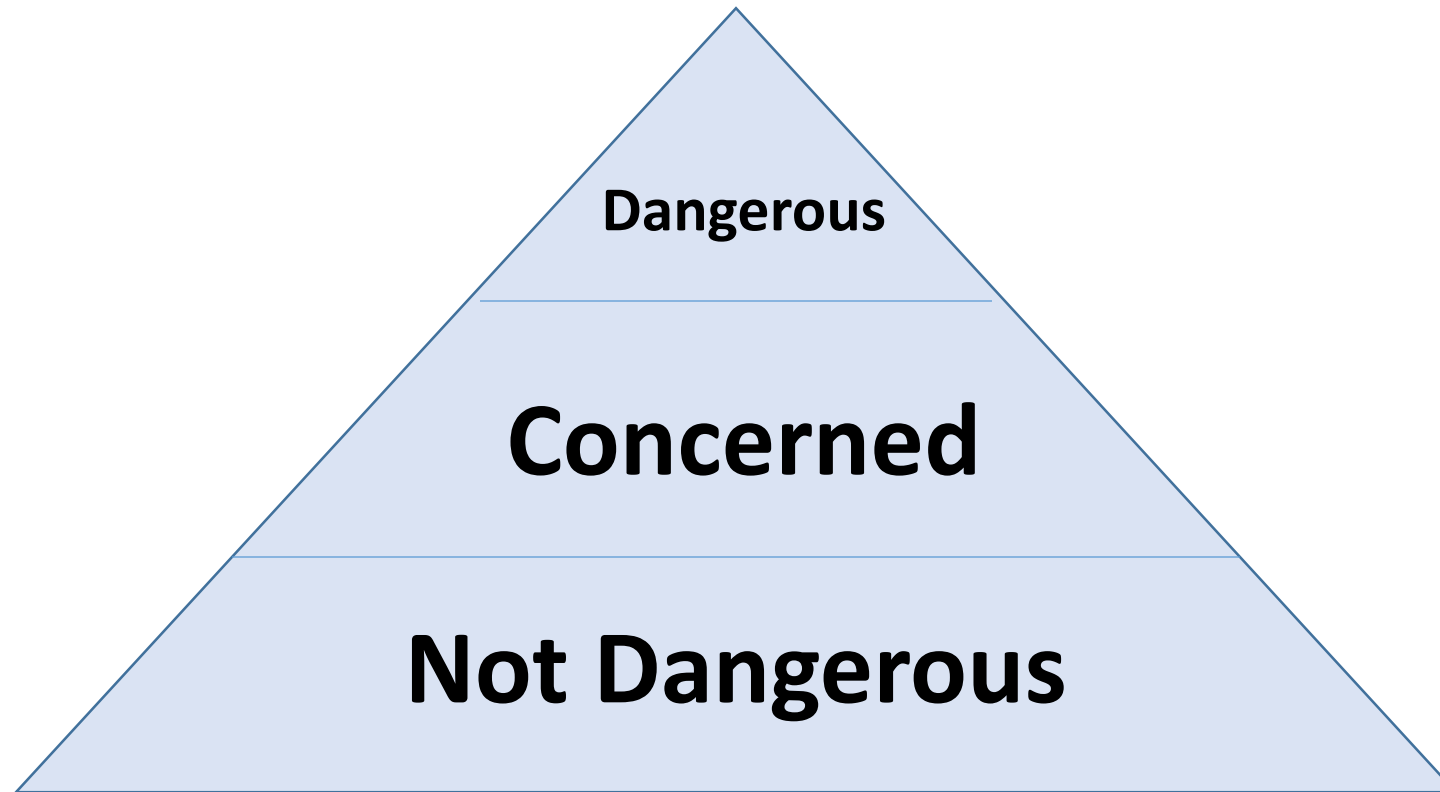
## Criminal Justice and Mental Health

- An annoyance
- May postpone case resolution
- Disruptive
- Expensive
- May prevent case resolution
- Each case requires wheel reinvention
- Results often inconsistent
- Time consuming
- **Complicated**

# Current Thoughts: Criminal Justice and Mental Health

- Mental illness is a major problem in CJ system
- Judges and lawyers are not MH professionals
- The use of MH professionals is essential to CJ
- Mental health resources facilitate justice
- CJ and MH partnerships produce better results
- Results that are right not just expedient
- Evolution in the understanding of criminal behavior
- **It's still complicated**

# Public Safety Threat of Criminal Defendants



# Mental Health Sequential Intercept Model

1. Best community practices: the ultimate intercept
2. Law enforcement and emergency services
3. Post-arrest: initial detention and initial hearings
4. Post–initial hearings: jail, courts, forensic evaluations and forensic commitments
5. Community corrections and community support
6. Reentry from jails, prison and forensic hospitalization

# Intercept 1 Law Enforcement and Emergency Services

# Intercept 2 Initial Detention and Initial Court Hearings

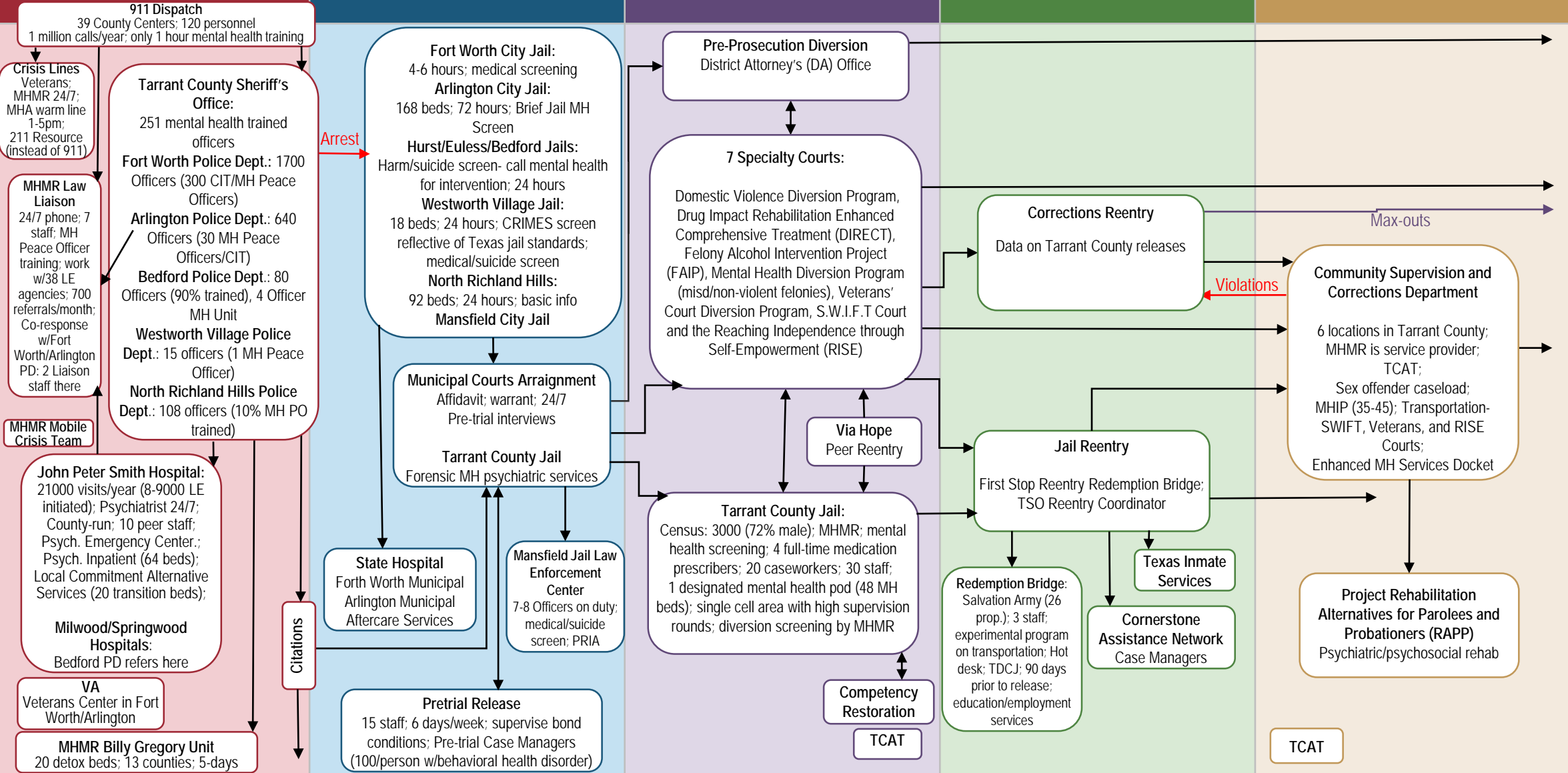
# Intercept 3 Jails and Courts

# Intercept 4 Reentry

# Intercept 5 Community Corrections and Community Supports

COMMUNITY

COMMUNITY



**Behavioral Health**  
MHMR (Mobile Crisis Outreach Team 24/7, peer support, suicide support, legal/justice support); TarrantCares resource website; Veterans Justice Outreach Program; Mental Health America (MHA) of Greater Tarrant County (peer support, warm line, outreach to suicide survivors)

**Recovery Supports**  
MHMR's Billy Gregory Unit (20-bed 5-day residential detox); MHMR ambulatory/outpatient detox; MHMR's Pine Street Rehab Center (50-bed residential treatment facility); Veterans Justice Outreach Program

**Housing/Shelter**  
MHMR (crisis residential unit/respice, Jennings Place- 24-hour transitional housing, Liberty House- 30-bed transitional housing for male veterans); Fort Worth Homeless Veterans Program; Patriot House (veterans)



# 1. Best Community Practices

- Find a Champion
- Must be aware of community resources for mentally ill.
  - Housing
  - Jobs, education, training
  - Social interaction
- Mental health service centers
- Crisis Line: Suicide **1-800-273-TALK (8255)** or [Live Online Chat](#)
- MCOT – Mobile Crisis Outreach Team
- Community MH (NAMI, MHA) and Faith-based groups

## 2. Law Enforcement and Emergency Services

- Non Jail Options for Officers
- Texas Peace Officer Mental Health Certification
- Mental Health Law Liaison: 24/7 phone line for officer encountering a mentally ill person
- MCOT – Mobile Crisis Outreach Team
- Police Critical Incident Team - CIT
- Have the Sherriff / Chief speak at MH related events

### 3. Post-arrest: Initial Detention and Initial Hearings

- Streamline Civil MH Emergency Detention Process
- All parties to the processing of arrested defendants should be on the lookout. (atty apt – pretrial – defense attorneys, etc.)
- Art. 1.051. RIGHT TO REPRESENTATION BY COUNSEL.
  - 3 working days after notice, county population < 250,000
  - 1 working day after notice, county population  $\geq$  250,000

### 3. Post-arrest: Initial Detention and Initial Hearings

- All persons booked into jail should have a mental health screening.
- Art. 16.22. EARLY IDENTIFICATION OF DEFENDANT SUSPECTED OF HAVING MENTAL ILLNESS OR MENTAL RETARDATION.
  - Sheriff to notify magistrate NLT 12 hours upon receipt of credible information
  - On finding Defendant may have MH / IDD condition, MH authority ordered to conduct review and determine:
    - Does Defendant have MH / IDD condition
    - Whether Defendant should undergo a competency evaluation
    - Recommended treatment

### 3. Post-arrest: Initial Detention and Initial Hearings

- Art. 17.032. RELEASE ON PERSONAL BOND OF CERTAIN MENTALLY ILL DEFENDANTS
  - Shall release on personal bond MH / IDD as long as:
    1. Good cause “not to release” has not been shown
    2. No current / past charge for violent offense
    3. Exam by local MH / IDD authority
    4. Confirms diagnosis and concludes Defendant competent
    5. Recommends MH treatment
    6. Community based services available
    7. Magistrate can require Defendant to submit to in or out patient treatment as a bail condition (chronic / deterioration)

### 3. Post-arrest: Initial Detention and Initial Hearings

- Combine Screenings for:
  1. Attorney Appointments
  2. Pretrial Release (SSI and housing implications)
  3. Risk Assessment (Static screening)
  4. Mental Health
- All info is relevant to making informed decisions re MH defendants

## 4. Post–Initial Hearings: Jail, Courts, Forensic Evaluations and Forensic Commitments

- Jail MH Forensic Unit of Jail MH Resource
- Mental Health Coordinator (Court Administrators love her)
- Relationship with Community Physical Health Care Provider

# 4. Post-Initial Hearings: Jail, Courts, Forensic Evaluations and Forensic Commitments

## CHAPTER 46B. INCOMPETENCY TO STAND TRIAL

(aka: that DREADED section of the code)





## 4. Post–Initial Hearings: Jail, Courts, Forensic Evaluations and Forensic Commitments

### Standards, Presumptions and Burden 46B.003

- Lacks a rational and factual understanding of the proceedings against the person; or
- Lacks sufficient present ability to consult with counsel with a reasonable degree of rational understanding
- Presumed competent
  - But what if there is a prior unresolved incompetency finding from an earlier case?
- Burden of Proof = Preponderance of the Evidence

## 4. Post-Initial Hearings: Jail, Courts, Forensic Evaluations and Forensic Commitments

- Suggestion defendant may be incompetent. 46B.021(a) & (b)
  - Suggested considerations
    - Confirm with reporting person that it relates to incompetency standard
    - Have MH professional do an informal assessment
    - Determine if MH condition or drug induced psychosis
    - Check local records for past criminal or civil MH history
    - Check state CARE system for MH history
    - Order assessment; copies of report to court, state and defense

## 4. Post–Initial Hearings: Jail, Courts, Forensic Evaluations and Forensic Commitments

- In a felony case, upon a finding of incompetence by agreement or by jury:
  - 120 day initial outpatient commitment, or
    - 46B.072(b)
  - 120 day initial residential commitment
    - 46B.073(b)(2)
  - In either case, **ONLY ONE 60 DAY EXTENSION**
    - 46B.080

## 4. Post–Initial Hearings: Jail, Courts, Forensic Evaluations and Forensic Commitments

- In a misdemeanor case, upon a finding of incompetence by agreement or by jury:
  - 120 day initial outpatient commitment
    - 46B.072(b)
  - 60 day initial residential commitment
    - 46B.073(b)(1)
  - In either case, **ONLY ONE 60 DAY EXTENSION**
    - 46B.080

## 4. Post–Initial Hearings: Jail, Courts, Forensic Evaluations and Forensic Commitments

- A defendant may not be committed to inpatient and / or outpatient treatment for an initial or extended restoration period longer than the maximum term for the offense.
  - 46B.0095(a)
  - Develop a relationship with state hospital staff
- **Exception Alert!!!**: the maximum initial and extended restoration period for a misdemeanor defendant ordered **ONLY** to outpatient treatment is two years.
  - 46B.0095(a)

## 4. Post–Initial Hearings: Jail, Courts, Forensic Evaluations and Forensic Commitments

- Only one initial restoration period per offense. 46B.085
- Once a commitment is ordered, the time available for restoration is reduced by all time the defendant was in custody from the date of the original arrest. 46B.0095(d)
- Upon expiration of an initial commitment period, further commitment pursuant to extended commitment with charges pending or civil commitment with charges dismissed. 46B.0095, 46B.085.

## 5. Community Corrections and Community Support

- Screening and appropriate level of care critical
- Community Corrections and Supervision Department (CSCD) mental health caseload (a resource).
- Mental Health Diversion / Intervention Programs
  - Diversion for low risk / intervention for high risk
- Justice System as leverage. (e.g.: 17.032(c) & (d) re bail conditions)
- Tarrant County Assertive Treatment Program (TCAT)

## 6. Reentry From Jails, Prison and Forensic Hospitalization

- Coordinated release from jail. (**Liability alert**)
- Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI)
- Jobs, Jobs, Jobs
- Purpose and community
- Resources:
  - National Alliance on Mental Illness (NAMI): [www.nami.org](http://www.nami.org)
  - *Mental Health America (MHA): [mentalhealthamerica.net](http://mentalhealthamerica.net)*
  - Create your own



# Specialty Court Programs

- 1988 – Drug Court Dade County Florida
- Main Types:
  1. Drug
  2. Mental Health
  3. Veterans
  4. Family Violence
  5. Driving While Intoxicated
  6. Human Trafficking
  7. Reentry (SAFPF)
  8. Swift / Hope (Strict Compliance)
- Intervention / Diversion

# Specialty Court Programs

## Tarrant County Veterans Treatment Court



Tarrant County  
Reaching Independence through Self Empowerment  
(RISE )

<https://vimeo.com/213913403>

# Thank you / Questions

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