

## **Concord Monitor – March 12, 2013**

### **Mental health court gives offenders treatment, not time**

**By ANNMARIE TIMMINS**

Leaning on her cane, a 56-year-old woman made her way to the front of a Concord courtroom to resolve charges of simple assault and disturbing the peace. Her schizophrenia and delusions had, once again, required a call to the police.

But this time, instead of being hospitalized against her will, she'd been arrested and given a choice: Face criminal charges and maybe jail, or agree to counseling and intense monitoring through a new mental health court. With close to half of the state's inmates believed to be suffering some form of mental illness, counties have embraced mental health court and treatment as a way to reduce recidivism and save money on incarceration costs.

The woman chose the latter and attended her first session Feb. 20.

"We are going to move forward," Judge Gerard Boyle told her as she began to renew complaints about her arrest.

From the bench, Boyle made clear that she needed to stay on her medication and out of trouble with the police. She had to attend all her counseling appointments and come back to court weekly.

The rules and the robe are a big part of mental health court because they remind participants that a new arrest or poor participation can land them back in regular court, even jail. Recently, when a female participant became uncooperative and combative, Boyle put her on notice.

"I've not had anybody in this program . . . who has shown such disrespect or caused so much chaos," Boyle told the woman. "I'm not sure (you) should be in this program. I think the only thing that is going to catch (your) attention is being up in Boscawen" at the county jail. She'll learn this week if she remains in the program.

But just as important, Boyle said, is the personal attention each person who comes before him receives. It might be a reminder to a woman that she can call for help. Or high praise to a young man for two weeks of good progress. Even a friendly disagreement with a woman over which dog should have won the Westminster Kennel Club show.

Boyle finds that connection with everyone, even on their first day.

"You look good today," Boyle told the woman with the cane. "Nice jacket, by the way." It was black with an American flag patch and the words, "Proud to be an American." The woman smiled, looked at her jacket and back to Boyle.

"Thank you," she said. "I got it at a thrift shop."

**What jail can't provide**

Concord's mental health court began about 18 months ago and is one of the newest of nearly a dozen in the state. The goal is the same at each: Treat rather than incarcerate nonviolent offenders who break the law because of mental illness.

"You need a place to address issues that these people have because the standard criminal justice system doesn't," said Merrimack County Attorney Scott Murray, a 30-year prosecutor who helped create the program. "The judges have a limited number of tools or alternatives that they can bring to bear to get at what is causing these people to get into trouble."

Without an alternative, the state's jails and prisons have become an extension of the state hospital, minus the treatment, said Ron White, the Merrimack County jail superintendent. He cited a 2005 study by the New Hampshire Association of Counties that found that as much as 46 percent of New Hampshire's jail population has some form of mental illness. Experts say a decline in community mental health services – counseling, case management and crisis intervention – has increased the number of people whose illnesses land them in court and behind bars.

Most of the 28 people who have participated in Concord's mental health court have attempted suicide at least once and have been hospitalized several times, said Robert Dumond, the court's program manager and only paid employee.

Most are on medications for their mental illness but also struggle with substance abuse or developmental disabilities, Dumond said. They've been charged with misdemeanor-level offenses, often involving shoplifting, disorderly conduct, criminal threatening, theft or simple assault.

To graduate from mental health court, which takes six months or longer, participants must attend weekly meetings with therapists, take their medications consistently and stay out of trouble as they resume their daily lives in the community. They are also connected with vocational therapists and substance abuse treatment when necessary. And they have to come to court, weekly at first, and less often as they stick with their treatment plans and improve.

When participants graduate, their charges are dismissed or considered resolved without a sentence, depending on the seriousness of the offense. Mental health court provides such a vital alternative that Concord's police chief, John Duval, said he didn't hesitate to sign on.

"I think there is an ethical obligation to look at any opportunity to separate out folks that shouldn't be (in a criminal court)," Duval said. The justice system "should hold them accountable but get them the help and services they need so the behaviors that got them where they are hopefully aren't repeated, and folks can get back on track with their lives."

Duval and Murray believe the program is helping, but they worry that it won't survive.

The state does not pay for the mental health courts. Counties that have them started their programs with three-year federal grants and absorbed the cost when the grant money ended. Concord's court will deplete its grant money this year, and the court's architects said they'll have to ask the county to foot the \$100,000 annual bill if they can't secure another grant.

It's impossible to know how much money Merrimack County has saved by not prosecuting and jailing the people in mental health court because the program is new and some participants may have avoided jail anyway.

Keene opened the first mental health court in 2003. Its director, Michael Potter, said it costs \$21.30 a day to put someone through the program. A day in jail costs more than \$100, depending on an inmate's medication and security needs. In 2011, 76 people went through Keene's mental health court, Potter said.

There is an additional savings to keeping people with mental illness out of jail. Once someone on Medicaid is incarcerated, their benefits stop, leaving the county to pick up the cost of treatment and medications, White said. Susan Stearns, director of development for the Greater Nashua Mental Health Center, works closely with the mental health courts in Hillsborough County. She said her county saved \$65,000 on medication expenses in 2010 and \$141,106 in 2011. The court served 235 people the first year and 309 the second.

"But it's not just about the numbers," said White, the Merrimack County jail superintendent. "It's also about what it provides the individuals."

Treating mental illness in jail is a challenge, he said, and not just because he has too few counselors and doctors to assist prisoners. Defendants can be reluctant to accept treatment while incarcerated, especially if they are in crisis. And a jail isn't a therapeutic setting.

When mentally ill prisoners are released after receiving little to no treatment, they are far more likely to re-offend and go back to jail, White said.

"By treating them in the community, we can help them connect with a counselor and learn the process of getting help," White said. "It's better for the community. It's better for the county. And it's better for the individual."

Bigger demand than anticipated

Since Concord's mental health court began meeting weekly in September 2011, 43 people have been referred by defense attorneys, prosecutors, the police or parents.

Of those, about 15 chose not to enroll or were ineligible, either because their crimes were violent or sexual in nature or because they were deemed incompetent.

The people who have enrolled have ranged in age from 17 to 66. In each case, the city or county prosecutor involved has agreed to resolve it through mental health court with the consent of the victim.

The nearly 30 participants so far is more than twice what Dumond had planned for, but he's never considered turning away anyone who was eligible and interested.

Instead, Dumond has given everyone in the program his cell phone number and permission to call at any hour. He's the program's only paid employee and relies heavily on the help of five college interns. Boyle said Dumond works 80-hour weeks.

The court's first graduate was a 58-year-old retired Marine whose past trauma and ongoing mental health issues led to an involuntary admission to the state hospital. During her admission, she became combative with the police and was charged with simple assault.

Boyle, also a retired Marine, lights up when he tells her story.

"She used the same skills she had learned in the Marines to focus on getting the job done," Boyle said.

"She did extremely well and became a mentor to others. This was clearly not somebody who belonged up at the county jail."

Success is not defined by graduation alone.

Dumond said one current participant who is in her mid-20s had been arrested 14 times in a year before coming to mental health court. Since enrolling, she has had no arrests, although she has admitted herself to the hospital several times, Dumond said.

"The mental illness continues to exist," he said. "But in my mind, that is a success."

The night before each Wednesday court session, Dumond gives Boyle and the attorneys on both sides a detailed report on how well each participant has met challenges that week and whether he or she has progressed in therapy.

Not everyone has made it through. Two men were removed from the program, one because of a new arrest and the other because he absconded, Dumond said.

But they have been the exceptions.

An example to others

A 20-year-old man from Salisbury learned last week that he will graduate next month, a year after enrolling. That means his theft and drug charges will be dismissed.

The man said he didn't graduate sooner because he had some setbacks. He said that included an addiction to spice, a synthetic marijuana.

"They helped me through my ups and downs," the man said, crediting Dumond, his public defender Brooke Belanger and the court staff. "I would imagine that if I was in the normal court system, I would have ended up in jail. It would have been, 'You screwed up again.' These people have helped me in the ways that I needed."

When asked how he'd been most helped, the man said, "I can talk to anyone here about anything."

Another participant, a 50-year-old Concord man, could have graduated four months ago, but he has been unwilling to say goodbye to the people involved with the program. He came into the program charged with operating after suspension, and the city prosecutor's office saw the court as a way to get him mental health treatment that may have eluded him otherwise.

Belanger doesn't want to see the man leave the program and has told him she'd like him to stick around as a mentor to newer participants. "One of our clients said, 'Can you tell me when (the man) graduates because I want to be there,' " Belanger said. "He was one of the people he helped the most."

The man has already proven himself to be a great mentor, Belanger said. He's told others in the program how they can get a free phone if they can't afford one. He's tracked people down at homeless camps

and given out job leads. And when he sees court participants on the street in Concord he tells them “to keep their nose clean.”

Belanger said the man was a very different person when he began mental health court. He agrees. “Here you get the help you actually need,” he said. “And everything isn’t being slammed at you. It’s more relaxed so you don’t feel so tense. It would do more harm by putting (participants) in jail than having them take this program.”