



# Judicial Perspectives on Substance Abuse & Mental Health Diversionary Programs and Treatment


A Collaborative Project of  
The Task Force on Indigent Defense  
The Office of Court Administration  
The Texas Criminal Justice Coalition

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## Background

- ▶ Texas prison and jail overcrowding crisis prompted initiatives to reduce recidivism and increase public safety.
- ▶ 2007 Texas Legislature appropriated millions in new funding to support diversion programs.
- ▶ Goal: Provide treatment alternatives for offenders diagnosed with a mental illness and/or chemical dependency problem.



## Legislative Questions

- Interim Study to monitor progress of 2007 legislative investment identified two key areas for assessment:
  1. Availability and efficacy of substance abuse treatment services for defendants and individuals on probation, in custody, and on parole.
  2. Policy recommendations to address the proliferation of individuals suffering from mental health problems in both the juvenile and criminal justice system.

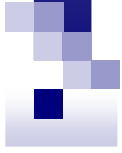


# Legislative Questions

## **May 29, 2008 – Joint Hearing**

Appropriations Subcommittee on Criminal Justice and  
Corrections Subcommittee on Substance Abuse & Mental Illness

- Representative Sylvester Turner stated an interest in learning more about the circumstances under which judges would place defendants with substance abuse and/or mental health problems in diversionary programs to address their treatment needs.



# Project Overview

## Two Components:

1. Survey of judges to develop understanding of alternative sentencing options for defendants with a mental illness and/or addiction problem.
2. Research project to identify current models, best practices, and resources to assist court personnel in efforts to divert individuals from incarceration.



## Survey Overview

- Survey distributed to judges that included county (constitutional and court-at-law) and district court judges, as well as juvenile court judges across Texas.
- 22 Questions – 50% free response, 50% multiple choice (most of which also included opportunity for free response).
- 244 Judges responded.



## Key Findings

- Judges' responses evenly represented urban and rural jurisdictions, as well as felony and misdemeanor case jurisdictions (Questions #1, #2).
- Of judges who run a specialized court/docket, approximately 42% run a drug or DWI court, while almost 18% have a mental health docket (Question #3).



# Key Findings

- Questions about timeliness in learning about a defendant's mental illness and/or substance abuse issue (#4, # 5, #6):
  - Most judges do not learn about mental illness or substance abuse issues until arraignment or trial.
  - Approximately 5% learn of substance abuse issues at arrest/booking, while more than 9% learn at the post-conviction stage.
  - Less than 1% of judges learn about mental illness issues at the charging stage. More than 22% learn at magistration, setting bond, or through appointed counsel. This is important because those unable to bond may sit in jail – without appropriate mental health treatment – awaiting opportunity to appear in court.
  - A significant number of judges indicate that notification or discovery of these issues varies, and the data suggests that judges are not adequately notified of possible mental health issues within 72 hours of intake or booking as required in Article 16.22, CCP.



# Key Findings

- Questions about options to address substance abuse and/or mental health issues (#7, #8, #9):
  - Almost 36% of judges use treatment services for substance abuse issues, while approximately 48% of judges use treatment services for mental health issues.
  - Almost 9% of judges have few or no options to address substance abuse issues, and free responses noted little available services for misdemeanor offenses.
  - More than 13% of judges have few or no options to address mental illness issues.
  - When considering co-occurring mental health and substance abuse issues, judges indicate the need for **integrated treatment (shown in evidence-based studies as the most effective model)**. 41% of judges have *only* substance abuse treatment, *only* mental health treatment, or no options at all. More than 21% of judges were unsure what options were available.



# Key Findings

- Questions about defendants' eligibility for diversion, and the availability of non-incarceration programs for individuals charged with crimes related to substance abuse or mental illness (#10, #13):
  - More judges than not indicated they have effective non-incarceration programs. However, when controlling for population, 60% of judges from large jurisdictions have a successful program, while less than 30% of judges from smaller jurisdictions have an effective program.
  - Judges identify the importance of specialty courts, which shows a **positive correlation between effective non-incarceration programs and specialty courts.**
  - Although many judges believe defendants charged with non-violent crimes should be eligible for referral to treatment programs, more than 10% would allow assaultive offenses to be eligible for referral as well. This is significant – nationally the norm is that only non-violent offenses are eligible for referral.



# Key Findings

- Regarding judges' familiarity with Article 17.032, CCP -- which requires the release of a mentally ill person into treatment, provided the individual has not been charged with or previously convicted of a violent offense – almost 84% do know of this legislation.
- However, many judges indicate a lack of resources to effectively carry out the requirements of the law.



# Key Findings

- Questions about options that would assist judges in effectively addressing individuals charged with crimes related to substance abuse or mental illness (#11, #12, #15):
  - The vast majority of judges indicate a need for more funding, additional resources, more beds, and just better accessibility. “[A]s a State, we should be ashamed of the lack of services for these individuals. It does not protect the community and does nothing to address the crimes committed.”
  - Judges also note that quick-fix or short-term programs don’t work: “Drug treatment is long-term, as are most mental health issues, and we have to be able to monitor them locally for compliance, taking meds, staying clean, and being ready to intervene.”
  - Regarding the types of services that would most benefit offenders suffering from substance abuse and/or mental illness, judges suggest that a full range of programs are preferable. **Research shows the effectiveness of intensive out-patient wrap-around services in reducing recidivism for mentally ill offenders.** A number of responses also indicate the importance of getting the family involved.



## Key Findings

- Questions about the availability of assessment/other information that would inform judges about individuals appearing before the court (#16, #17, #18):
  - When considering chemical dependency and mental health assessments of defendants, the vast majority (more than 90%) of judges indicate that having such evaluations prior to court disposition or final judgments would be beneficial.
  - Just over half of judges indicate that their jurisdiction has access to an LCDC. However, when controlling for population, more than 60% of judges from jurisdictions over 50,000 have access to an LCDC, while only 40% of judges from smaller jurisdictions do.
  - Although judges would find early assessment for chemical dependency issues beneficial, many jurisdictions do not receive LCDC assessments until post-conviction or probation revocation or review.



# Key Findings

- Questions about problems encountered while processing offenders with a history of substance abuse or mental illness (#19, #20, #21):
  - Judges' most prevalent complaint relates to the lack of treatment available. This was more problematic in less-populated jurisdictions: Over 87% claim this to be an obstacle in jurisdictions having a population less than 50,000, compared to only 73% in jurisdictions of 50,000-250,000.
  - Many respondents from smaller jurisdictions (less than 50,000) also identified a lack of confidence in current programs as an obstacle.
  - Almost 25% of judges listed systemic issues related to processing offenders through the system.



## Opportunities Ahead

- We are grateful to the judges who participated in the survey. Their tremendous input is invaluable in shaping successful reforms.
- We must provide judges with the opportunities and resources to meet Texas' public safety needs by helping them better address offenders suffering from mental illness and/or substance abuse issues.