

**Creating A Mental Health Court in Delaware**

**White Paper II:**

**Strategic Plans for Planning**

**Report to the  
Delaware Criminal Justice Council  
Mental Health Sub Committee  
Larry Sullivan, Chair**

**By**

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## Introduction

The Delaware Criminal Justice Council (CJC) established the Mental Health Subcommittee to address the issues of the mentally ill defendants coming into contact with the Delaware criminal courts. The Mental Health Subcommittee has determined that the implementation of a mental health court in Delaware modeled on the mental health courts in Florida, Washington, Alaska and California<sup>1</sup> would achieve the mandate of the CJC. The following recommendations<sup>2</sup> have been made to the Mental Health Committee for the formation of a plan for a mental health court:

1. Conduct quantitative research to establish the need for a mental health court.
2. Conduct an assessment of the criminal justice system and how coordinated mental health programs could aid in reducing the incarceration of the mentally ill and the improvement of community based programs for the mentally ill.
3. Conduct a cost analysis of a program specifically designed for dealing with the mentally ill defendant.
4. Determine of the judicial jurisdiction of a mental health court.
5. Determine of population to be served by the mental health court.
6. Draft a mission statement for the mental health court.
7. Draft a mental health court plan that has the full and complete cooperation of various agencies and departments.

The goal of this white paper is to present an implementation plan for the formation of a mental health court in Delaware.

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<sup>1</sup> See, Garrison, A. (2001). CREATING A MENTAL HEALTH COURT IN DELAWARE WHITE PAPER I: ISSUES, GOALS AND OBJECTIVES TO BE CONSIDERED – REPORT TO THE DELAWARE CRIMINAL JUSTICE COUNCIL MENTAL HEALTH SUBCOMMITTEE. Delaware Criminal Justice Council: Wilmington, DE.

<sup>2</sup> Id.

**Recommendation Number One:  
Quantitative research must be conducted to establish the need  
for a mental health court.**

The following data needs to be collected to establish that a mental health court is needed in Delaware:

1. How many mentally ill individuals come in contact with the police per year;
2. How many mentally ill individuals are detained at Gander Hill per year;
3. What types of mental illnesses are being observed by police and correctional officers;
4. What types of charges are being made against mentally ill defendants;
5. What are the circumstances that underlie the charges made against mentally ill defendants;
6. What is the recidivism rate of mentally defendants; and
7. What, if any, patterns of offenses are occurring with mentally ill defendants.

Cooperation from the Department of Corrections and Law Enforcement agencies will be needed to secure this information. Staff will need access to police arrest reports and detention logs to gather the data information. Cooperation will include staff time from the police and DOC to work with the committee to physically gather and review these reports.

**Recommendation Number Two:  
Conduct an assessment of the criminal justice system and how coordinated  
mental health programs could aid in reducing the incarceration of the  
mentally ill and the improvement of community based programs for the  
mentally ill.**

An organizational chart needs to be developed showing how the current criminal justice system handles defendants who are mentally ill. The chart should show what services are currently available and what gaps are present in the *actual* services provided to the mentally ill. The organizational chart should also depict the entry points where mentally ill defendants come in contact with the criminal justice system.

The present services chart should be used to map out how a Delaware Mental Health Court system would address the stated needs of the current criminal justice system. As demonstrated by the mental health court charts for programs in Alaska, Florida, Washington, and California – each possibility and need of mentally ill defendants must be depicted and how each part of the mental health court system interacts with other parts to meet the needs of the defendant.

**Recommendation Number Three:  
Conduct a cost analysis of a program specifically designed for dealing with  
the mentally ill defendant.**

At *minimum* a mental health court program should be able to provide the following services in an integrated plan:

1. In-patient treatment – *on command*
2. Out-patient treatment – *on command*
3. Homeless housing – *on command*
4. Mental health evaluations / reports to the court with short notice
5. Mental health probation officers / mental health case managers to supervise mentally ill defendants
6. Co-occurring mental health / drug addition treatment
7. Transportation
8. A system for recognizing mentally ill patients early in the criminal justice process.

Part of the implementation of this recommendation is the assessment of the amount of funds that are currently expended by the criminal justice system due to the presence of mentally ill defendants. This includes time spend by police in making multiple arrest (if this is true) of the same mentally ill patients for the same offenses; the cost in holding mentally ill defendants by DOC and the cost to the judiciary (including the public defender and Attorney General). These expenditures of time and funds need to be compared to the time and funds not spent if services were available to the mentally ill defendants through a mental health court. Additionally the cost analysis would show the social benefits that would occur due to the presence of mental health court. Lastly, the

**cost benefit analysis should show the start up cost and implementation costs for the  
maintaining the mental health court.**

**Recommendation Number Four:  
Determine of the judicial jurisdiction of a mental health court.**

The better mental health courts have one court that has exclusive jurisdiction over mentally ill defendants. Mental health courts can have jurisdiction over only misdemeanor cases and/or felony cases. The court can handle only non-violent cases or it can handle both violent and non-violent defendants. Jurisdiction of the court includes how cases will be determined to be appropriate for adjudication in the mental health court. Thus agreements need to be established between the mental health court, the Attorney General and the Public Defender. Additionally, the location of the mental health court needs to be determined. The location should be such that it is relatively accessible and have the facilities to handle mentally ill patients. The jurisdictional issues also must resolve how pleas will be entered, how defendants will be supervised (and for how long the court will have supervisory power over the defendant), the court's power over plea agreements and how mental health services will be guaranteed to be in effect during operation of the court.

**Recommendation Number Five:  
Determine of population to be served by the mental health court.**

Planning needs to include a determination of what types of offenders the program will service. Will the court handle cases involving first time offenders and/or multiple offenders? Will the court handle defendants with and/or without previous mental health diagnosis? Will the court handle defendants who elect to enter its jurisdiction before adjudication only or will it handle cases of defendants who have been convicted in other courts? What mental disorders will the mental health court attempt to address and which ones will it not accept? These considerations will be addressed to a certain level through the addressing recommendations three and four.

**Recommendation Number Six:  
Draft a mission statement for the mental health court.**

Planning should begin with the completion of this recommendation first. The mission statement, with the statement of principles and goals will govern the planning and implementation of the mental health court. Planning and implementation of the recommendations will be lead by the stated mission of the mental health court. A unified and agreed upon mission statement with stated principles and goals will keep the planning for the mental health court on track.

The *mission statement* should state the over arching objective of the mental health court.

The *statement of principles* should explain the “why” behind the need and the purpose of the mental health court.

The *goals statement* should make clear the “what” and the planned achievements of the mental health court.

All three (the mission statement, statement of principles, and the goal statement) act as guideposts for all other decision making for the mental health court. It is important that all parties that are involved in the planning and implementation of the mental health court are involved in the drafting of these statements and are in agreement with them.

**Recommendation Number Seven:  
Draft a mental health court plan that has the full and complete cooperation  
of various agencies and departments.**

The current configuration of the mental health subcommittee includes many of the interested parties that are needed for the planning of the mental health court. But an assessment should be made to determine if additional organizations and agencies need to be included to make sure that the planning process has all of the various interested parties present. This will ensure that all of the issues and ramifications of a mental health court are discussed and planned for.

### **Suggested strategy for planning and implantation**

The proposed recommendations were not suggested in order or priority in the first white paper to this committee. This concluding section will provide a strategy for further planning based on the priority of the recommendations that have been made to this committee.

***First.* Draft a mission statement for the mental health court complemented by statements of purpose and goal statements for the mental health court.**

***Second.* Draft a mental health court plan that has the full and complete cooperation of various agencies and departments.** Specifically, make sure that the membership of the mental health committee has representation of all parties and agencies that have an interest in the formation of a mental health court and would be responsible for the implementation of the services provided by a mental health court.

***Third.* Conduct the needed research to establish the need for a mental health court.**

- 1. Quantitative research must be conducted to establish the need for a mental health Court.**
- 2. Conduct an assessment of the criminal justice system and how coordinated mental health programs could aid in reducing the incarceration of the mentally ill and the improvement of community based programs for the mentally ill.**
- 3. Conduct a cost analysis of a program specifically designed for dealing with the mentally ill defendant**

*Fourth.* Determine the operating structure of the mental health court.

1. **Determine of the judicial jurisdiction of a mental health court.**
2. **Determine the population to be served by the mental health court.**

*Fifth.* **Planning for training of mental health court personnel needs to be considered.** Specifically, training for the judge, bailiffs, court clerical personnel, the assigned Deputy Attorney General, the assigned Deputy Public Defender and probation officers. Each participant in the mental health court will need training in the treatment and supervision of mentally ill individuals.