

# Mental Health in the Criminal Justice System: Research Update

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# Outline

1. Dynamics between mental health problems and the criminal justice system
2. Therapeutic jurisprudence – a more appropriate theoretical foundation for vulnerable offenders?
3. Mental health courts – a practical ‘solution’?



# Mental Health & Criminal Justice

- Criminal justice ethos not conducive to addressing an individual's mental illness
- Over-representation of mental illness in prison population
- Ineffective use of police, court and prison service resources
- Failure to link individuals to effective treatment



# Therapeutic Jurisprudence - Philosophy

*“ ... [TJ] prescribes attention to the unique circumstances of each accused and recommends the use of treatment plans tailored to the individual ... standard interventions exist only insofar as standard accused exist, which of course they do not.”*

– (Schneider, Bloom, Heerema, 2007)



# Criticisms of TJ

- Concept of “therapeutic” is ambiguous
- Paternalistic approach
- Widens the net of the criminal justice system
- Coercive treatment of vulnerable individuals
- Resource issues



# TJ in Practice

- Problem-solving courts
- Diversion schemes
- Education of judges and lawyers
- Interpersonal skills of professionals



# Mental Health Courts

1. What is a Mental Health Court?
2. Does it work?
3. Could it work here?



# 1. What is a MHC?

## US Model

- Community-based treatment under judicial supervision
- Aims to address serious mental health concerns of participants in lieu of a prison sentence
- Goals:
  - Decrease recidivism
  - Increase participant commitment to treatment



# 1. What is a MHC?

## Advantages:

- Multidisciplinary
- Alternative to imprisonment
- Participants aided in committing to treatment
- Increased awareness of mental health issues in CJS

## Disadvantages:

- Net-widening
- Inclination to arrest if MHC seen to be in 'best interests'
- Difficulties determining competency



# 1. What is a MHC?

## Recent trends:

- ‘The Second Generation of Mental Health Courts’ – (Redlich *et al*, (2005) 11(4) *Psychology, Public Policy, and Law* 527:
  - Increase in felony and violent crime admissions
  - Mostly serious conditions and high rate of co-occurring substance abuse
  - Move from pre-adjudication to post-plea referral
  - More comfortable with prison as a sanction
  - Identified later in the process
  - Referrals from defence attorney, judge, jail staff and family
  - Move toward criminal justice supervision



# 1. What is a MHC?

## UK Model

- Magistrates' Court pilot scheme – Brighton and Stratford, 2009
- Aims:
  - develop a model for identifying those with mental illness in CJS
  - put in place and provide links to appropriate treatment
  - assess cost of operating MHC
  - reduce recidivism

(- Winstone, J and Pakes, F (2010) *Process Evaluation of the Mental Health Court Pilot (London: Ministry of Justice)*)



## 2. Does MHC work?

- No standardised definition of 'success'
- Almquist & Dodd, 2009:
  - Lower rates of recidivism both during and after supervision
  - More effective than traditional court system at connecting participants with mental health treatment services
  - Potential to reduce costs and use resources more effectively

(- Almquist, L., & Dodd, E. (2009) *Mental Health Courts: A guide to research-informed policy and practice* (New York: Council of State Governments Justice Centre))



# 3. Could MHC work here?

- Recommended by IPRT, NCC and MHC & An Garda Síochána
- Drug Court model already in place – how effective is it?
- Diversion/liaison schemes already in place – how effective are they?



# Conclusion

- More data needed to bolster confidence in research conclusions (- Almquist & Dodd, 2009)
- Empirical evidence needed on **which** aspects of MHCs work best, **why** and for **whom**
- Need to identify appropriate target populations
- Need to reveal key practices

