BEXAR COUNTY PUBLIC DEFENDER’S OFFICE

Defense Counsel at Magistation: Benefits for Defendants with Mental Illness or Intellectual or Developmental Disabilities

TIDC 2nd Annual Texas Roundtable on Representation of Defendants with Mental Illness
November 17, 2017
With the support of the Criminal District and the County Court Judges and the District Attorney’s office, in September 2015 Bexar County Public Defender’s Office received a grant from TIDC to begin providing representation to arrested persons suffering with a mental illness at their first court appearance.
What is CMAG?

- CMAG is an acronym for “Central Magistration”

- Facility in Bexar County where all arrested persons are taken, regardless of what jurisdiction arrested them.

- Compare to most jurisdictions where arrested persons are first taken to a municipal jail facility and then taken to county jail.
What is Magistration?

- Magistration is controlled by Tex.Code.Crim.Proc Art. 15.17

- Within 48 hours of arrest, must take the person before a “magistrate”.
Who is a magistrate?

- Tex.Code.Crim.Proc Art. 2.09 states who can act as a magistrate in Texas

- From Judges of the Court of Criminal Appeals, Justices of the Courts of Appeal, District Judges, County Court Judges, Elected County Judge, Justices of the Peace and mayors of incorporated cities.
What happens at this first hearing?

- Determines if there is probable cause to support the arrest
- Advises the accused of their rights (Miranda warnings) and right to request appointed counsel
- SETS THE BOND IN THE CASE
Who is present at these hearings?

- Always... the Magistrate, the accused and police officer or detention officer.
- In most jurisdictions......a prosecutor or Assistant District Attorney
- In virtually all counties in Texas, an attorney for the defendant IS NOT present.
Goal of having Attorneys at Magistration

- Gather information to present to the magistrate that supports the release of the arrested person on a personal bond (or in the alternative a lower bond)
What kind of information?

Information regarding strength of the charges

Information on ties to the community, employment and family.

Positives from previous arrest... always showed up for court... successfully completed probation

Information from pretrial services, monitoring, risk assessments etc.
In addition to relevant information regarding arrested person our program provides a mental evaluation, diagnosis and treatment plan to address mental illness.

Presented to the magistrate with a request for release on personal bond conditioned on participating in treatment.
Results so far?

- Before Public Defenders were present, only 124 were released in the year before we started

- First year saw 378 arrested persons diverted

- Second year 434 persons diverted
Effect of Harris County Bail litigation

- Jan–June 2017 we had 1.97 presentations per day when staffed by PD office
- July 17 – 21 3.25 presentations per day
- Following policy changes by the judges because of the Harris County Bail litigation
Better Outcomes

**BCPDO Clients**
- 75% Closed Satisfactorily
- 25% Closed Unsatisfactorily

**Non-BCPDO Clients**
- 58% Closed Satisfactorily
- 42% Closed Unsatisfactorily
Better Outcomes

BCPDO Releases

- Engaged: 91%
- Refused/Non-Engaged: 9%

Non-BCPDO Releases

- Engaged: 79%
- Refused/Non-Engaged: 21%
What comes next?

- Get private bar involved in the process
- Study the recidivism rate for clients released into treatment
- Expand the scope to include all arrested persons, not just those with mental health issues
- Reduction in the jail population and better outcomes