



JUSTICE AND PUBLIC SAFETY

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***Mental Health Public Defender Office
Cost Benefit Analysis, Part 1:
Analysis of Performance of the
Texas Task Force on Indigent Defense Grant***

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May 2011

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EXECUTIVE SUMMARY

In 2007, Travis County, with financial assistance from the Texas Task Force on Indigent Defense, became the first county to in the nation implement a standalone a Mental Health Public Defender Office (MHPD). This office, comprised of specialized public defenders with knowledge of mental health issues as well as social workers and caseworkers, is designed to minimize the time persons with severe mental illness spend in jail and help them access community mental health resources and other basic needs that can further divert them from criminal justice involvement. It is estimated that between 20% and 25% of those incarcerated in Texas have some type of mental illness¹; and in Travis County, Austin Travis County Integral Care (ATC-IC) estimates the mentally ill population in the justice system appears to be higher than state or national averages at 25% to 30%². Travis County has been proactive in dealing with the over-representation and recidivism of individuals with mental illness in the justice system with the creation of the Mental Health Wheel (June, 2005), the MHPD (May, 2007) and the Mental Health Docket (May, 2008). The cost-benefit analysis which follows this Executive Summary focuses on the Mental Health Public Defender Office.

With cut backs in community services, many people with mental illness have migrated to the criminal justice system; a belief echoed in a 2009 National Leadership Forum on Behavioral Health/Criminal Justice Services report. Many of these are indigent and require court-appointed representation, however, few criminal defense attorneys are equipped to adequately address mental health issues, and fewer still have the necessary supports needed to connect their clients to social services and treatment options. More importantly, with no institutional voice within the criminal justice system, programs aimed at helping get and keep mentally ill offenders out of the criminal justice system have not been readily available. The MHPD was designed to address these concerns. MHPD is staffed with one Director/Managing Attorney, one Staff Attorney, two Social Workers, two Case Workers and two administrative support staff. The annual budget is \$625,000, with partial funding provided by Texas Task Force on Indigent Defense. The contribution from the grant will cease in FY11 and the MHPD will be entirely funded by Travis County.

As defined in the charter of the MHPD in 2007, the mission of the MHPD is to:

- Minimize the number of days a person with mental illness spends in jail
- Increase the number of dismissals among defendants with mental illness
- Reduce recidivism by providing intensive case management services
- Enhance legal representation by providing attorneys with specialized knowledge needed to defend persons with mental illness

For the purposes of this cost-benefit analysis we examined the goals set at the foundation of the MHPD, the new objectives developed from lessons learned and best-practices adoption while pioneering the office, and

¹ *Community action network community overview*. (November, 2005).

² *Texas Task Force on Indigent Defense, "Representing the Mentally Ill Offender"* (April, 2010).

other key performance indicators to more deeply study the execution of the MHPD. Since inception, the MHPD has been appointed to **1,236 legal cases** and has had **1,762 case management** referrals (562 through social referrals).

The cost-benefit analysis looked at these cases and associated appointments and has concluded that the MHPD has successfully achieved most of its original goals including a reduction in jail bed days, an increase in dismissals, a reduction in recidivism and enhanced knowledge about persons with mental illness.

- Forty two percent (42%) of the legal cases closed were closed as dismissals
 - The average length of stay for MHPD clients is 16.5 days for Class A misdemeanors compared to 19.4 days for non-MHPD mentally ill inmates
 - The average length of stay for MHPD clients is 9.8 days for Class B misdemeanors compared to 11.4 days for non-MHPD mentally ill inmates
 - The average length of stay on misdemeanor charges for incompetent MHPD clients was reduced by 28.6 days in FY11 over FY10
- Of the 735 MHPD legal clients evaluated, the number of bookings post-MHPD involvement has decreased by 38% and jail bed days consumed has decreased by 13% between 2001 and 2011
 - During the same time frame, the average number of days between bookings is 129 days up from 122 prior to appointment to MHPD
 - The average number of days since last released from jail for MHPD clients is 517 days
 - Of the MHPD clients evaluated since inception; 39% have not been rearrested in one to five years
 - A total jail bed day reduction was realized during the period evaluated, equating to a decrease of 7 inmates per day in the average daily jail population
- Through social referrals from private attorneys, case managers within MHPD have served 562 clients; of the clients evaluated post-MHPD involvement, bookings were reduced by 57% and jail bed days consumed decreased by 20%
 - During the same time frame, the average number of days between bookings for social referrals is 126 pre-MHPD and 103 post-MHPD
 - The average number of days since last released from jail for MHPD clients for social referrals is 385 days

- Of the MHPD social referral clients evaluated, 21% have not been rearrested in one to five years
- A total jail bed day reduction was realized during the period evaluated, equating to a decrease of 8 inmates per day in the average daily jail population

The MHPD has also shown to have had a constructive impact on the culture and development of how the Courts and MH Wheel do business, namely in the MHPD's execution of an unrestrained, "hands-on" forensic case management. Their distinctive case management methodology has resulted in increased quality of life and sustained connection to services for MHPD clients, and accounts for the decrease in recidivism rates. These findings are further substantiated in Mental Health Stakeholder surveys and independent review from The Spangenburg Project (TSP), as well as a recent Texas Task Force on Indigent Defense study, both available from our office upon request. While noticeable inroads have been made in quality outcomes for the majority of MHPD clients, 10.7% (79 of the 735 evaluated) have proven to be chronic offenders (clients with ten or more arrests post-MHPD involvement) who are non-responsive to the Office's case management methodologies, and have demonstrated to be difficult to stabilize.

Because of the increased quality of legal representation (both directly and as a change agent within the mental health legal community) and case management outcomes -- *coupled with the fact that the MHPD caseworkers are at capacity with an inordinately high case load* -- the cost-benefit analysis also attempts to provide a foundation for the expansion of the office in both size and scope, specifically into felony mental health cases and increased case management services to both the felony and misdemeanor MH Wheel and MH Dockets.

To this point, and to address current and future demand for these services, it is recommended:

- That the Commissioners Court continue funding the MHPD through the General Fund at its current levels
- That Justice and Public Safety continue its cost-benefit analysis with the goal of determining appropriate caseloads for attorneys and case managers, and to what extent the MHPD legal and social work components need to be expanded.
- That the Commissioners Court approve \$40,000 additional funding for transitional housing that has been submitted for the FY12 budget.
- That Justice and Public Safety work closely with the greater mental health community and other stakeholders to create a forum to identify places for greater efficiencies, cooperation and cost reductions in working with mentally ill offenders.

I. OVERVIEW & HISTORY OF THE MENTAL HEALTH PUBLIC DEFENDER OFFICE

I. OVERVIEW & HISTORY

In 2007, Travis County was awarded a \$625,000 four-year grant from The Texas Task Force on Indigent Defense to develop and establish a Mental Health Public Defenders Office to serve 400 cases annually. The MHPD, comprised of specialized public defenders with knowledge of mental health issues as well as social workers and caseworkers, is designed to minimize the time persons with severe mental illness spend in jail and help them access community mental health resources that can further divert them from criminal justice involvement. Travis County has been proactive in dealing with the over-representation and recidivism of individuals with mental illness in the justice system with the creation of the Mental Health Wheel (June, 2005), the MHPD (May, 2007) and the Mental Health Docket (May, 2008).

Texas has a disproportionate number of individuals with mental illness in jails or prisons. The Texas Correctional Office on Offenders with Medical and Mental Impairments (TCOOMMI) reports that one in five inmates, or 20%, have some type of mental illness.³ This percentage is consistent with the national estimates.⁴ ATC-IC (Austin Travis County-Integral Care) has found that the incidence of Travis County jail inmates who have had some history with Texas Department of State Health Services (TDSHS) community mental health services ranges from 25% to 30%. These statistics show that the mentally ill population in the Travis County justice system appears to be higher than state or national averages.

With cut backs in state and community mental health services, many people with mental illness have migrated to the criminal justice system⁵. Not surprisingly, few criminal defense attorneys are equipped to adequately address mental health issues, and, also not surprisingly, fewer still have the necessary supports or knowledge needed to connect their clients to social services and treatment options. The MHPD was designed to address these concerns while also serving as an institutional voice within the criminal justice system.

Along with the specialized legal representation from attorneys whom have become the chief mental health law experts in the County, MHPD clients are also paired with case management services provided by the Office's case management team. The case management team has adopted a unique "hands -on" forensic approach to case management. Additional social referrals for case management come from the Courts, the MH Felony Wheel, community service providers and social referrals, as well as on rare occasion, walk-in customers with pending misdemeanor cases in Travis County. Two of the primary components of the cultural changes brought by the MHPD in the greater mental health legal community are in continuing legal education that is created and sponsored by the MHPD, and high-visibility advocacy work done in and out of the courtroom. The positive impact on the community can to some degree be measured by the scores in the stakeholder surveys highlighted below in Table 1.

³ *Community action network community overview*, (November, 2005).

⁴ *National Sheriff's Association, "More Mentally Ill Persons Are in Jails and Prisons Than Hospitals: A Survey of the States"*, (May, 2010)

⁵ *National Leadership Forum on Behavioral Health/Criminal Justice Services*,(September, 2009),

Table 1

MENTAL HEALTH STAKEHOLDERS SURVEY				
2010	Satisfied w/MHPD, Representation	Satisfied w/ MHPD, Timeliness	Satisfaction of Indigent Defense Prior to MHPD	Quality of MH Representation Since MHPD
Average Score	4.00	3.67	2.23	4.00
2009	Satisfied w/MHPD, Representation	Satisfied w/ MHPD, Timeliness	Satisfaction of Indigent Defense Prior to MHPD	Quality of MH Representation Since MHPD
Average Score	4.00	3.72	1.88	3.94
2008	Satisfied w/MHPD, Representation	Satisfied w/ MHPD, Timeliness	Satisfaction of Indigent Defense Prior to MHPD	Quality of MH Representation Since MHPD
Average Score	3.89	3.79	2.26	3.79

Rated on a 1-4 rating scale, with 4 being the highest.

II. DEPARTMENT FUNDING AND BUDGET

The MHPD is staffed with one Director/Managing Attorney, one Staff Attorney, two Social Workers, two Case Workers and two administrative support staff. The annual budget is \$625,000, with partial funding provided by the Texas Task Force on Indigent Defense since its origin in 2007. Grant funding to the MHPD began in FY07, but because the Office was still in “start-up” mode, the grant has spanned approximately 4½ years. Over five fiscal years, Travis County has received approximately \$1.25 million in grant monies for the start-up and operation of the MHPD. The contribution from the grant will cease in FY11 (May 31, 2011) and the MHPD will be entirely funded by Travis County.

Table 2

	*Year 1	Year 2	Year 3	Year 4
TTFID Grant	\$500,000	\$375,000	\$250,000	\$125,000
County Contribution	\$125,000	\$250,000	\$375,000	\$500,000
TOTAL	\$625,000	\$625,000	\$625,000	\$625,000

**Year 1 spanned two fiscal years of operation.*

II. MENTAL HEALTH PUBLIC DEFENDER DATA

This section is broken in to three primary sub sections; Legal Case Data, Case Management Case Data and Impact to Jail Bed Days.

The legal case data considers the work of both of the attorneys providing legal representation. The Case Management Case Data outlines key data points relevant to the four case management staff. Every legal case represented by the MHPD is referred to case management staff. Often, clients are followed for some time after the legal case is closed to ensure that the clients are connected to services, benefits such as SSI are started or re-instated, client needs are met and in general, the client is somewhat stabilized with community support. These same services are provided by the MHPD case management team to other private attorneys who are representing clients with a serious mental illness.

I. LEGAL CASE DATA

Legal case data for Fiscal Years 2009-2011 to date (through March 2011) is outlined in Table 3 below. This data is relevant to the MHPD attorney representation.

Table 3

	FY09		FY10		FY11 (TD)*	
	Total	Pct	Total	Pct	Total	Pct
Legal Cases Accepted	313	-	358	-	169	-
Legal Cases Closed	294	94%	368	103%	161	95%
<i>Dismissed</i>	123	39%	155	43%	76	45%
<i>Plea Agreement</i>	133	42%	174	49%	65	38%
<i>Re-Appointed</i>	14	4%	27	8%	11	7%
<i>Convicted at Trial</i>	0	-	0	-	0	-
<i>Aquitted</i>	0	-	0	-	0	-
<i>Other</i>	23	7%	11	3%	8	5%

**FY2011 to date is through March 2011.*

Table 3 above, demonstrates the last three fiscal years of cases accepted and closed by fiscal year, including closure outcomes. The MHPD was originally targeted to accept 400 cases per year. Since inception, as the caseloads began building up, it was quickly realized that the attorneys would need to balance incoming cases with the availability of the case management staff, whose caseloads quickly exceeded that of recommended standards for the clients with the high level of need that MHPD clients often have. This point is discussed in greater detail in the Case Management section.

The MHPD consistently closes a high percentage of cases in each year received. Some of the “bleed over” in cases is simply related to when they are appointed. Also, worthy of noting is that across the two and a half fiscal years highlighted here, 42% of the cases are closed as dismissed. From a legal representation

perspective this is highly desirable. Additionally, this is important as often convictions for offenses such as assault and drug related offenses can limit a clients’ access to certain benefits such as food stamps and some housing. While important to most people within the criminal justice system, access to benefits and services is incredibly important and essential to this segment of the population.

In late FY2009, the MHPD began tracking the Average Length of Stay (ALOS) for their clients in jail. They track the ALOS for both competent and incompetent clients. The FY10 ALOS for MHPD “competent” clients vs. that of the general population and other inmates coded as having mental illness are outlined in Table 4 below. The portion of inmates used here are coded “PSY” by jail staff. This population has a mental illness, though not one of the four diagnoses identified as “Priority Population” (Major Depression, Schizophrenia, Schizoaffective Disorder and Bipolar Disorder) and are followed by a psychiatrist and counselor in the jail for the duration of their stay. Inmates who have a serious mental illness and are chronically mentally ill, those who have a “priority” diagnosis or have issues related to competency are coded as Psych Special Need (PSNI) or Priority Population (PP).

Table 4

	FY10	
	Count	ALOS (Days)
MHPD “Competent” Clients	-	-
Class A Misdemeanor	113	16.5
Class B Misdemeanor	178	9.8
“PSY” Coded Inmates	-	-
Class A Misdemeanor	371	19.4
Class B Misdemeanor	339	11.4
General Population	-	-
Class A Misdemeanor	5,578	14.1
Class B Misdemeanor	7,999	7.6

For the above analysis, the data pulled for general population and the “PSY” coded inmates was captured from the jail records included to the Integrated Database (IDB). The total number of booking records pulled for FY10 was 61,977. This number was reduced by the following:

- 9 presumed keying errors where the booking date was greater than the release date, and
- 22,451 records where the inmates were released within one day

Removing records where inmates were released within one day was done to get a better comparison to inmates that might most resemble jail stays like MHPD clients. Most MHPD clients are not released on bonds within their first day in jail however a large number of general population inmates are released on bond, as evidenced by 36% of the records being reduced by the number of inmates released within one day.

PSNI and PP inmates were not used for comparison here, the PSNI and PP population would include MHPD clients and other MH Wheel attorneys clients, however, there is no way to eliminate the incompetent clients from evaluation. Incompetent clients often have extended jail stays because it can take at times up to three and four months for a bed at the State Hospital to become available and then additional time in the hospital for competency to be restored. The impact of this process is demonstrated later in this section when MHPD “incompetent” clients are discussed.

The length of stay for MHPD clients is almost three days less than PSY coded inmates for Class A misdemeanors and just short of two days less for Class B misdemeanors. When compared to the general population, the ALOS of MHPD clients is slightly higher, but it should be noted that the ALOS of the general population seen in the sample is heavily weighted to the large number that are released on bond. While those released within one day have been removed, 41% of the remaining Class A misdemeanors evaluated were released within two days and 67% of the remaining general population Class B misdemeanors were released within two days. There are a number of options available to general population inmates for release that are often not a fit for MHPD clients. A large number of MHPD clients are homeless, making it hard to have options like GPS monitoring and Personal Recognizance Bond.

As of March 31, 2011, there were 52 legal cases active for an average of 98 days open. Of all the legal cases closed since inception, through March 31, 2011, the average number of days from appointment to legal case closure has been 65. In the last 18 to 24 months, MHPD has been receiving the vast majority of all misdemeanor incompetent cases on the MH Docket. This can easily explain the increase in the number of days that legal cases are open.

II. SOCIAL WORK/CASE MANAGEMENT DATA

All MHPD legal clients receive services from the social workers and/or caseworkers within the MHPD office. Assessments are done at intake, and as necessary, full mental status exams are done to aid the attorneys in best preparing for the case. The case management staff work with jail counseling staff, ATC-IC, State Hospital Staff and many community partners or benefit providers to ensure that the client needs are met and that appropriate resources are planned for when the client returns to the community.

The MHPD case management staff also take cases referred to as “Social Referrals”. These are cases where the legal representation for the case is provided by private attorneys from the “Mental Health Wheel” and can include clients with pending felony cases. Table 5 outlines some of the basic MHPD Case Management data.

Table 5

	FY09		FY10		FY11 (TD)*	
	Total	Pct	Total	Pct	Total	Pct
Total Client Referrals	490	-	513	-	221	-
MHPD Legal	313	64%	358	70%	169	76%
Social Referral	177	36%	155	30%	52	24%
Average Number of Cases Open to Case Management Services	194	-	216	-	226	-
MHPD Legal	132	68%	146	68%	156	71%
Social Referral	62	32%	70	32%	70	31%
Average Active Caseload	49	-	54	-	57	-

*FY2011 to date is through March 2011.

As of March 31, 2011, the MHPD case management team has a total of 221 active cases, open for an average of 201 days. Of these active cases, 149 are MHPD legal clients open for an average of 183 days and 72 are social referrals open for an average of 252 days. (These include felony referrals for case management which can bring an added level of complexity).

The MHPD case management team often keeps cases active/open in excess of the 120 days imagined in the original grant application. The staff works closely with ATC-IC and other entities to ensure rapid engagement in services, and then monitor to ensure the client is stable prior to closing the case. However, staff has noted that with a number of clients, in order to achieve success, it often takes the “village” approach. In some instances clients are connected to ATC-IC and/or in transitional or semi-permanent housing and still require some level of case management from the MHPD case management team. There are a number of other issues in which ATC-IC does not address through their current level of resources. For example, a client who also had a CPS case and needed continued assistance navigating that process. Also, many clients frequently encounter immigration issues. These are sometimes issues critical to the success of the client and necessary to move on to more permanent solutions, but support for these broad spectrum issues within the community are scarce, if available at all.

Of concern for the MHPD case management team, as well as the legal staff, are the caseloads. MHPD clients are typically Level of Care (LOC) III and IV. The MHPD case management staff has consistently carried an average of 53 since FY2009. The high across the last two and a half fiscal years was 60 and the average FY2011 to date is 57.

Because of the intensive case management required for the population that the MHPD serves, the Managing Attorney of the MHPD has been quite cognizant of the size of the case management caseloads. This has required at times a balancing act of new legal cases accepted and has certainly impeded the MHPD case management team’s ability to serve clients represented by the MH wheel attorneys and through social

referrals. Social Referrals accepted by the MHPD case management staff has declined from 36% of their caseload in FY09 to 24% of their caseload FY11 to date.

Whereas similar levels of care appropriate for the majority of the MHPD clients do exist in the community (see Table 6 below), many of the MHPD's more severely ill clients have failed repeatedly in navigating the complex and rigid pathways to their necessary levels of service. It was not until they were receiving case management services from the MHPD were they able to connect for sustained periods of time with treatment services. The noted reduction in recidivism in MHPD clients is directly linked to the level of care clients receive while being case managed by MHPD staff.

Table 6

Case Management	Active Clients	Staff	Avg Per	Reporting Date
ATC-IC LOC II	*106	3	35.33	As of May 10, 2011
ATC-IC LOC III	*528	26	20.31	As of May 10, 2011
ATC-IC LOC IV (ACT)	*99	11.45	8.65	As of May 10, 2011
MHPD	221	4	55.25	As of April 30, 2011

**Please note it is reported by ATC-IC that active client numbers potentially fluctuate daily.*

A. INCOMPETENT CLIENTS

The total number of incompetent clients served through the MHPD in FY2010, whose cases were closed, was 78. These 78 clients had an ALOS of 145.2 days on misdemeanor charges. The majority of this stay is spent waiting for State Hospital beds to evaluate/restore competency. These clients spent an average of 70 days at the hospital for treatment and/or restoration. The MHPD tracks this data on closed cases only, so these 78 clients do not represent the total number of incompetent clients served.

To date in FY11, the MHPD has closed 53 cases with incompetent clients. Should this trend continue through the last six months of the fiscal year, the MHPD will have seen a 36% increase in incompetent clients in FY11. The ALOS of these 53 incompetent clients is 116.6 days with an average of 66 days at the hospital. This is a decrease in the number of days to establish competency and get the client's case disposed so that they can be released from jail.

As compared to the FY10 data this is an average of 28.6 days faster in FY11, a 20% reduction in the average jail stay for incompetent clients. While the wait for hospital beds has improved some in the last few months, this decrease is also attributable to the intensive case management of the MHPD staff. Incompetent clients are seen regularly by the Social Workers with the MHPD. Clients are assessed regularly to determine if he or she is improving while in jail. Sometimes competency is restored through stabilization and medications in the jail. In these cases, the client may become able to appreciate the gravity of the charges brought against them

and aid in their defense. When this is accomplished, the MHPD has the client re-evaluated by a forensic psychologist/psychiatrist and long stays at the state hospital for competency restoration are **not** necessary. The client is then removed from the list for state hospital beds and the client can return quickly to their case.

III. IMPACT ON JAIL BED DAYS

For evaluation of the impact that the MHPD has on jail bed day consumption, each of their clients – both legal and social referrals -- were run against Travis County Jail records to capture all arrests and lengths of stay since the conversion of the system in 1999. These results were culled down to a ten year period to capture equal times prior to the inception of the MHPD and after. All data reflected in this section covers the period between 2001 and 2011 to date. Any booking after MHPD’s initial involvement with the case was evaluated as “Post-MHPD Involvement” whether they represented that client for subsequent arrests or not. This measure helps to evaluate whether intensive case management and specialized legal representation decreases the frequency of interaction with the criminal justice system. It was never expected that the MHPD would eliminate recidivism in this difficult population, however, it was believed that the frequency and time between arrests could be improved.

A. MHPD LEGAL CASES

Booking and jail bed day data for MHPD legal cases are outlined below in Table 7.

Table 7

MHPD - Legal Cases	Bookings	Jail Bed Days Consumed	Average Length of Stay
Pre – MHPD	5,569	99,107	17.79
Post – MHPD involvement	3,451	85,995	24.92
Change Post-MHPD	-2,118	-13,112	+7.12

The number of bookings Post-MHPD involvement has decreased by 38% and the jail bed days consumed by MHPD clients has decreased by 13%. The disparity in the decrease in bookings and jail bed days consumed is related to the increase in the ALOS. Some of this is related to the incompetent clients and their increased jail stays waiting for competency evaluation/restoration. A jail bed day savings of 13,112, when divided by the five years of MHPD’s existence, is a 2,622 reduction in jail bed days per year or roughly an average of 7 fewer inmates per day in the average daily jail population.

During the same time frame, the average number of days between bookings Pre-MHPD was 122 and Post - MHPD is 129. A particularly strong data point with regard to the MHPD impact on jail bed day consumption is that the average number of days since last released (for clients with misdemeanor offenses only) is 517 days.

There were a total of 735 clients evaluated from the MHPD case records since inception. Of these 735 clients, 167 (23%) were last arrested with a felony level offense. For the calculation of average number of days since last released, these felonies were removed to ensure that what was captured were individuals who were released in to the community. To better illustrate this, Table 8 outlines these clients.

Table 8

MHPD - Legal Cases	Number	Percentage of Last Offense-Misdemeanor	Percentage of the Whole Including Felonies
Currently In Custody	42	7.4%	6%
Last Released 0-30 days	25	4.4%	3%
31-60 days	35	6.2%	5%
61-90 days	30	5.3%	4%
90-120 days	30	5.3%	4%
120-180 days	33	5.8%	4%
6 months to 1 year	82	14.4%	11%
1 to 2 years	130	22.9%	18%
2 to 3 years	85	15.0%	12%
3 to 4 years	66	11.6%	9%
4 to 5 years	2	0.04%	.3%
Deceased	8	1.40%	1%
Total Released Whose Highest Charge was a Misdemeanor	568	-	77%

Note: Brackets in the original table group the '1 to 2 years' through '4 to 5 years' rows under a 49.8% total for the 'Percentage of Last Offense-Misdemeanor' column, and a 39% total for the 'Percentage of the Whole Including Felonies' column.

When evaluated as just the misdemeanants released into the community, 49.8% of the clients that the MHPD had represented, since inception, have been out of custody and/or not returned to jail in one to five years. When evaluated as a percentage to include the clients who were once represented by the MHPD but have since returned on a felony offense, the percentage of clients who have not returned in the last one to five years is still impressive at 39%.

This population is a difficult population to stabilize. While there have been a great number of successes, there remain to be inmates who are frequent users of jail beds. Seventy-nine MHPD clients have been re-arrested 10 times or more since inception.

- 33 Clients have been re-arrested 10-15 times
- 16 Clients have been re-arrested 16-20 times
- 11 Clients have been re-arrested 21-25 times, and
- 19 Clients have been re-arrested 26 times or more

It should be noted however that when preparing this report, it was discovered that the two clients showing the most arrests since representation by the MHPD have not been clients of the MHPD for some time. These clients were originally referred to MHPD and represented on the original case because they were involved in

the Project Recovery program. It was discovered that there was not a co-occurring serious mental illness and these clients were not represented by the MHPD again, as they are chronic inebriants and not seriously mentally ill. More clients such as these two exist in the data evaluated; however a list was not available at the time of evaluation so that they could be removed from pre-post-MHPD evaluation and jail bed day consumption evaluation.

B. SOCIAL REFERRALS

The social referrals were evaluated the same as legal cases for pre and post-MHPD involvement.

Table 9

MHPD - Legal Cases	Bookings	Jail Bed Days Consumed	Average Length of Stay
Pre – MHPD	3,569	70,162	19.66
Post – MHPD involvement	1,549	55,978	36.14
Change Post-MHPD	-2,020	-14,184	+16.48

The number of bookings has decreased 57% and the jail bed days consumed has decreased by 20%. The disparity in the decrease in bookings and jail bed days consumed is related to the increase in the ALOS. This disparity in the MHPD legal case section was related to the increased length of stay of incompetent clients, however this is often not the case with social referrals. Social referrals entail very few incompetent clients and often include clients with a felony level offense. These cases are often quite complex and require a great deal of planning on the part of the case managers so that the attorney representing them can help these individuals avoid spending time in the penitentiary and be released to support and resources within the community. A few things that impact the ALOS of the social referral clients are:

- The original nature of the case, as the MHPD usually only get the most challenging situations. Cases referred for case management from MH Wheel attorneys are often complex with multiple issues;
 - For instance, a seriously mentally ill woman (in her 50's) in denial of her illness has a fairly serious felony charge, little family support and no housing or benefits. The consensus is that prison is not an option and since she is homeless, probation is not an option either. She has had several hearings, but a solution is not easily found. So then MHPD is called in to help.
- It then takes some time to get a plan in place. When someone is getting out of jail with no benefits or support finding housing can be almost impossible. Often MHPD case managers have to pick these clients up from jail to ensure they make it to their placement and get them to their appointments with ATC-IC to ensure continuity with support and medication for their mental illness.
- The MHPD does not take felony clients who are incompetent and pending a bed at a state hospital very often, but they do frequently take those same clients when they are at ASH or when they have

returned to the jail and are in need of discharge planning. This group would then have longer jail bed days because they were incompetent.

Still, an overall jail bed day savings of 14,184 days is realized for MHPD social referral clients. This equates to an impact to the average daily population; when divided by the five years of MHPD’s existence, there are 2,837 jail bed days per year, or roughly an average of 8 fewer inmates per day in the average daily jail population.

During the same time frame, the average number of days between bookings Pre-MHPD was 126 and Post-MHPD is 103. A particularly strong data point with regard to the MHPD impact on jail bed day consumption is that the average number of days since last released (for clients with misdemeanor offenses only) is 385 days.

There were a total of 305 clients evaluated from the MHPD social referral case records since inception. Of these 305 clients, 151 (50%) were last arrested with a felony level offense. For the calculation of average number of days since last released, these felonies were removed to ensure that what was captured were individuals who were released in to the community. To better illustrate this, Table 10 outlines these clients.

Table10

MHPD – Social Referrals	Number	Percentage of Last Offense-Misdemeanor	Percentage of the Whole Including Felonies
Last Released 0-30 days	11	7.2%	4%
31-60 days	18	11.8%	6%
61-90 days	11	7.2%	4%
90-120 days	10	6.5%	3%
120-180 days	6	3.9%	2%
6 months to 1 year	34	22.2%	11%
1 to 2 years	36	23.5%	12%
2 to 3 years	20	13.1%	7%
3 to 4 years	7	4.6%	2%
4 to 5 years	0	-	-
Deceased	-	-	-
Total Released Whose Highest Charge was a Misdemeanor	153		50%

Note: Brackets in the original table group the following rows: 1 to 2 years (23.5%), 2 to 3 years (13.1%), and 3 to 4 years (4.6%) to a total of 41.2%. Another bracket groups 2 to 3 years (7%), 3 to 4 years (2%), and 4 to 5 years (-) to a total of 20.7%.

When evaluated as just the misdemeanors released into the community, 41.2% of the clients that the MHPD case management staff has assisted with, since inception, have been out of custody and/or not returned to jail in one to five years. When evaluated as a percentage to include the clients whose last arrest was a felony offense, the percentage of clients who have not returned in the last one to five years is 20.7%.

III. SUCCESS STORIES

The following are just a few of the many success stories for the MHPD.

MR. S

Mr. S was 59 years old when the office first began working with him. He was appointed by the judge after she had concerns with how he presented at jail call. MHPD had Mr. S evaluated for competency, in which he was found to be incompetent to stand trial. Mr. S waited for 4 months in the jail awaiting transfer to ASH. During that time, the case manager attempted to meet with him every 1-2 weeks, though many times he refused the visit. When he did not refuse, the visit was little more than silence. Even after spending 3 months at ASH, Mr. S was unable to be restored to competence. His legal case was dismissed and transferred to Probate Court, where he was readmitted into the hospital. Unfortunately, he was discharged a week later without anyone's knowledge. It was not long before he was arrested again and assigned to a different attorney. He went through the same competency process, but was able to be restored. The defense attorney gave Mr. S the MHPD case manager's contact information and encouraged him to call.

Mr. S called the day after he was released. He was in need of housing, benefits, and treatment linkage. He did not want MHPD's help in accessing mental health treatment, but the case manager encouraged him to follow up with ATC-IC. A couple weeks later, he was an active MHPD client. The case management staff found a boarding house that was willing to take him even without funding and got him in touch with the owner. He stayed there for about 1 week. MHPD got in contact with his sister in Maryland and friend in Austin, who agreed to provide some financial help while his benefits were pending. The case manager provided the family and Mr. S with information on some independent living situations, as he was not comfortable in a boarding house type situation. Mr. S found one where he was comfortable and has lived there for the past 2.5 years.

Since ATC-IC had started the benefits application process, the MHPD was providing technical assistance to Mr. S' sister and helping all parties to understand the process. When it came time for the actual appointment at Social Security, the case manager met with Mr. S at the social security office, along with a friend who had also been a part of the application process. Mr. S was awarded presumptive benefits, 2 months before the final determination was to be made.

Mr. S began to decompensate shortly after he was awarded the presumptive benefits. MHPD engaged with him at his residence and got him to agree to meet with the mobile crisis team. He was subsequently hospitalized. After this hospitalization, the MHPD case management team was able to get Mr. S on the recidivist case load while he continued to stabilize.

Over the next several months, MHPD worked with him to work through some errors that were made by Social Security, which successfully avoided him being evicted. The case manager closed the case at the 1 year mark, as he was stable, in services at ATC-IC, had appropriate housing and was doing well.

Since then, Mr. S has continued to maintain contact with the case manager. The case manager continues to informally work with him and has opened a couple of social referrals to help him replace documents lost

when his wallet was stolen and to address outstanding Class C fines/warrants. MHPD also worked with him when he began showing signs of decompensation after moving to a different room in the same facility.

Mr. S had five arrests prior to MHPD, consuming a total of 681 jail bed days. Since MHPD involvement, Mr. S has had two arrests consuming 290 jail bed days, the majority of which were attempting to restore competency. Since his release from Del Valle 7/31/08, Mr. S has stayed out of the criminal justice system, has stayed out of the hospital since February 2009 and has been a strong volunteer at the local senior center and at his church. He continues to check in from time to time, just to tell his MHPD case manager how he's doing.

MR. M

Mr. M was referred to MHPD in April 2009, by his MH attorney. At the time of referral Mr. M was in custody and preparing to respond to his arresting offense of Arson.

After his arrest for Arson in 2009, Mr. M was found incompetent to stand trial. Case study found that Mr. M was 24 years of age and during the past 3 or 4 years prior to arrest, family and friends were aware that something was going terribly wrong regarding his mental functioning. Periods of homelessness and/or unemployment were noted.

Mr. M had graduated from high school, worked steadily while attending community college and serving as a Reserve in the National Guard. Apparently, the disease of Schizophrenia struck and regrettably Mr. M was not led to treatment. At one point he became so symptomatic and distressed he set fire to his apartment to "end it all".

Working with the appointed attorney and an associate pastor at Mr. M's church, the MHPD case management team was able to arrange placement at a Board and Care Home which allowed the court to grant a 10 yr. term of probation. Recent contact with Mr. M and his Probation Officer found reports of him to be doing well. Mr. M continues to be stable, cooperative, and compliant with recommended treatment.

Contact with Mr. M on 2/9/11, found him on duty at a job and doing well. This was Mr. M's only interaction with the criminal justice system.

MR. A

In the 10 year period evaluated between 2001-2011, Mr. A had 39 arrests prior to MHPD. After a little more than a year working with Mr. A and 5 additional arrests, he got sober, connected to services and community support and had spent more than a year out of jail. Within the last year, he has relapsed and been in custody 4 more times. Despite his relapse, staff is working closely with him to get him stable and successful again.

MR. C

Mr. C with 16 arrests prior to MHPD involvement had one additional arrest after MHPD initially took the case. Case management staff got benefits established for Mr. C and got him into a nursing home for optimal long-term care. He has had no arrests since October 2009.

MR. T

Mr. T began working with MHPD in August 2009, referred by an Austin State Hospital Social Worker. Mr. T after an arrest for Aggravated Assault with a Deadly Weapon in 2004 and was found to be Incompetent to Stand Trial. In December 2009, while at the State Hospital Mr. T was referred to ATC IC for a Determination of Mental Retardation and was found to have a full scale IQ of 46.

Eventually the offense was dismissed by the prosecutor and MHPD case managers were able to plan and coordinate his release back in to the community from ASH.

In September 2010, Mr. T and his MHPD case manager started working on his treatment plan. Mr. T was placed at a local group home and has been with the same provider since. Mr. T has kept all appointments as an outpatient for receipt of his psychotropic medication to treat his Schizoaffective Disorder. Mr. T supports himself on with his social security benefits.

Since his release from ASH in September 2010, Mr. T has not been arrested and has not presented with any substance abuse issues. Mr. T has maintained 100% compliance with his MHPD case manager while they obtained a birth certificate, a state ID card, put in place SSI benefits, and he has maintained outpatient treatment with ATC IC without interruption.

This was Mr. T's only interaction with the criminal justice system, however he spent six and a half years in the jail and State Hospital while trying to establish competency. It was just under five years before all of the stays at the State Hospital led to the realization that Mr. T was Developmentally Disabled and would never regain competency. While all of these jail bed days were not directly spent in the jail, his case lingered for 2,389 days before his release. It was after MHPD case management got involved that the Determination of Mental Retardation was done and one year after MHPD involvement that coordination was achieved to get him released.

MR. B

Mr. B was 60 years old when the MHPD was appointed to represent him on a criminal trespassing charge. He had returned several times to an address where he once lived and believed that he could return. He had a history of criminal trespassing charges at the same address, for similar reasons. At the time of this case, he had been placed on an outpatient commitment order to attend services at the VA. Mr. B needed help finding an appropriate living arrangement, accessing his benefits from the VA and needed help with caring for himself.

Referrals were made to several VA programs, Veteran Services agencies, boarding houses and Adult Protective Services. One boarding house agreed to take Mr. B directly from jail. APS had history with Mr. B and was able to evaluate his capacity while he was still in custody. During the course of MHPD involvement, it was discovered that Mr. B had not received VA benefits in 7 months and had received a minimal amount prior to that. The reason for the suspension of benefits was not exactly clear. However, it was going to take at least 3 months to get it sorted out and reinstated.

Due to Mr. B's history, his family was unwilling to help him in any way. APS helped fund the boarding house for several months before the VA benefits could get sorted out. He fit in well at the boarding house, was able to get his medications from the VA, his benefits reinstated and a payee.

Mr. B had five arrests prior to MHPD involvement occurring in less than 12 months during the period of August 2006 and June 2007. He was first represented by the MHPD in July 2007 and has not returned to jail since.

IV. CONCLUSIONS & RECOMMENDATIONS

I. CONCLUSIONS

In review of the available data, the Mental Health Public Defender Office is meeting the objectives set forth in its creation, and has additionally added value with the new objectives developed from lessons learned and best-practices adoption while pioneering the office. Since inception, the MHPD has been appointed to **1,236 legal cases** and has had **1,762 case management** referrals (562 through social referrals).

The cost-benefit analysis looked at these cases and associated appointments and conducted interviews/observations of MHPD staff and MH stakeholders within the community, and has concluded that the MHPD has successfully achieved most of its original goals including a reduction in jail bed days, an increase in dismissals, a reduction in recidivism of the targeted population and enhancement of knowledge among stakeholders about these issues.

The data below highlights the impact the MHPD has had, especially on jail bed day consumption and recidivism rates as performance measures.

- Forty two percent of the legal cases closed were closed as dismissals
 - Has resulted in an average length per stay of 16.5 days for Class A misdemeanors compared to 19.4 days for non-MHPD mentally ill inmates
 - Has resulted in an average length of stay of 9.8 days for Class B misdemeanors compared to 11.4 days for non-MHPD mentally ill inmates
 - The average length of stay on misdemeanor charges for incompetent MHPD clients was reduced by 28.6 days in FY11 over FY10
- Of the 735 MHPD clients evaluated, the number of bookings post-MHPD involvement has decreased by 38% and jail bed days consumed has decreased by 13% between 2001 and 2011
 - During the same time frame, the average number of days between bookings is 129 days down from 122 prior to appointment to MHPD
 - The average number of days since last release from jail for MHPD clients is an average of 517 days
 - Of the MHPD clients evaluated since inception; 39% have not been rearrested in one to five years

- A total jail bed day reduction was realized during the period evaluated, equating to a decrease of 7 inmates per day in the average daily jail population
- Through social referrals from private attorneys, case managers within MHPD have served 562 clients; of the clients evaluated, post-MHPD involvement, booking were reduced by 57% and jail bed days consumed decreased by 20%
 - During the same time frame, the average number of days between bookings for social referrals is 126 pre-MHPD and 103 post-MHPD
 - The average number of days since last release from jail for MHPD clients for social referrals is 385 days
 - Of the MHPD social referral clients evaluated, 21% have not been rearrested in one to five years (In a Los Angeles County study of mentally ill offenders in county jail showed that recidivism rates are as high as 90%; while in Texas, our percentage of released general population offenders who are re-arrested on a new crime is 27% [with an overall recidivism rate of 32%]⁶.)
 - A total jail bed day reduction was realized during the period evaluated, equating to a decrease of 8 inmates per day in the average daily jail population

Furthermore, it is important to note that variances in originally targeted caseloads, both legal and social work, have shifted from the original projection as the Office matured its mission and focus. What we have discovered is that, incompetent clients and social referral cases have required more case management due to their circumstances and complexity, and are the largest major contributors to the MHPD caseload being at capacity. The balancing of case management caseworker accessibility to align with demand from both the MHPD legal staff and through social referrals warrants further review, particularly in additional study of case lifecycles. Initial data indicates that if the amount of required casework continues at its current demand/client need rates (reflected in the decline in percentage of availability for social referrals from FY10 to FY11), additional staff and/or greater access to community-based services appropriate for the needs of the population may be the only solutions.

Taken together, these results are a strong argument for the MHPD model and offer encouragement for the continued development of creative treatment-oriented case processing of mentally ill offenders. The positive impacts accounted for in this and other reports demonstrate that the benefits extend not only to the clients whose lives are impacted, but to the broader criminal justice system as well.

⁶ The Pew Center on the States Public Safety Performance Project, "State of Recidivism" (2011)

II. RECOMMENDATIONS

It is recommended that the Commissioners Court continue funding the Mental Health Public Defender Office through the General Fund at its current levels. The office is meeting or exceeding expected outcomes.

It is also recommended that Justice and Public Safety work more closely with the greater mental health community and other stakeholder organizations to create a forum to identify places for greater efficiencies, cooperation and cost reductions in working with mentally ill offenders, especially within the County and with County funded programs.

It is also recommended that the Commissioners Court approve CJP's FY12 Budget Request of funding an additional \$40,000 for transitional housing fund for use within the County. It is universally agreed amongst the various offender re-entry programs that housing is one of the largest barriers for offenders, mentally ill and general population alike, to remaining out of the criminal justice system.

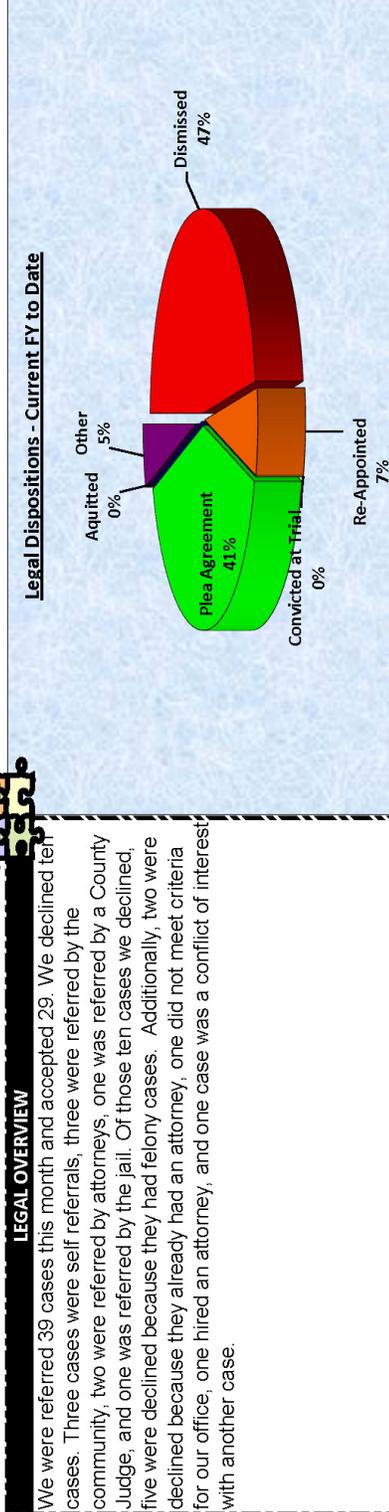
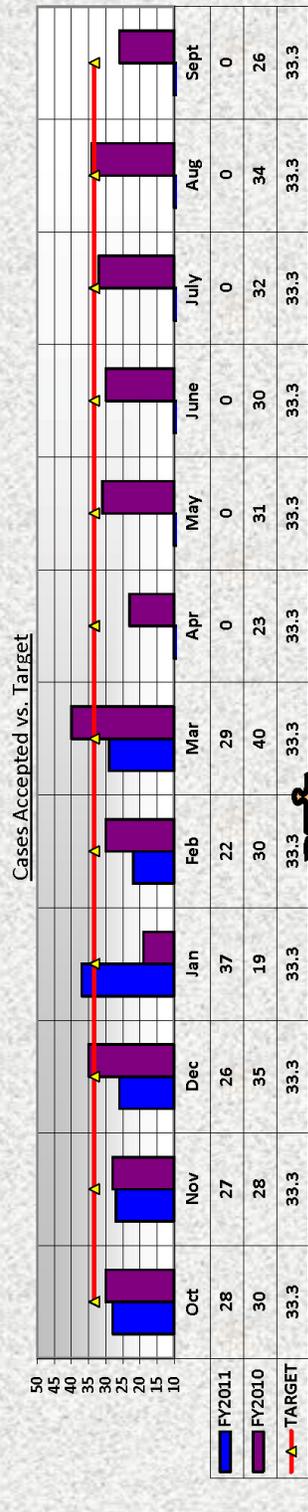
Lastly, it is recommended that the cost-benefit analysis be continued with the goal of determining appropriate caseloads for attorney's and case managers and whether the MHPD legal and social work components need to be expanded.

APPENDIX A

The Dashboard Report below is used for tracking the key performance indicators for the MHPD and derives its information from multiple sources. It is provided here as a sample of the monthly reporting metrics.

**Justice and Public Safety - Monthly Performance Indicators
Mental Health Public Defender Office**

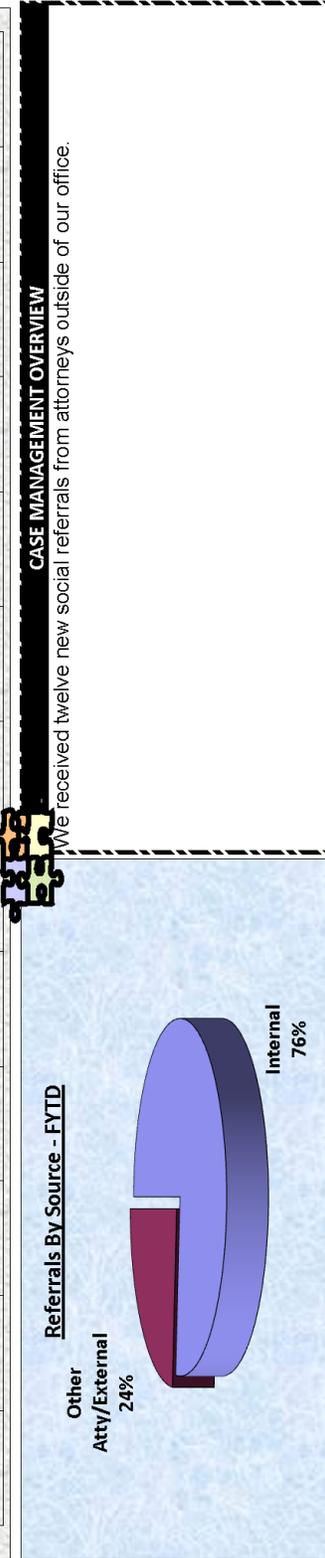
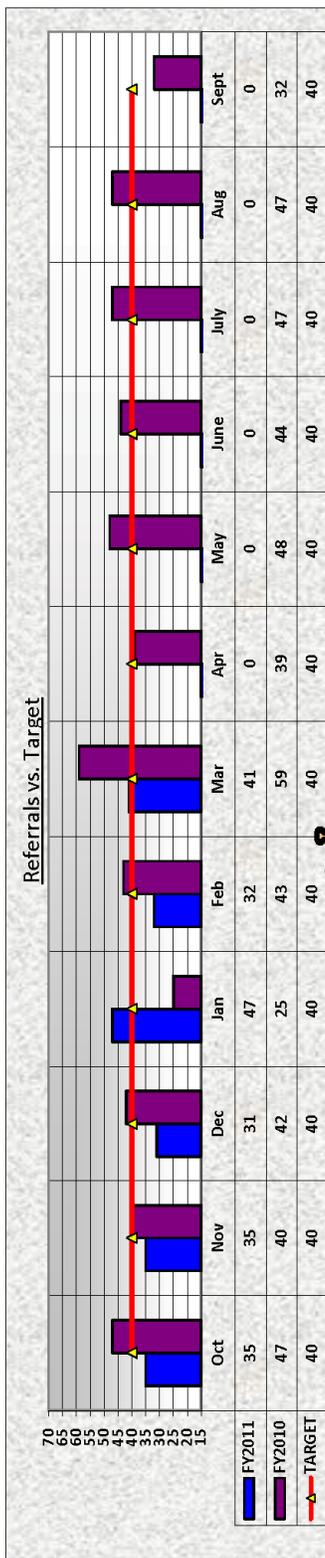
Legal Data	MONTHLY CHANGE				LAST YEAR				YEAR TO DATE and TARGET MEASURES					
	CURRENT YEAR		CHANGE		LAST YEAR		CHANGE		FY2010		FY2011		FY2011 TARGET	% of Target Achieved
	Mar	Feb	Change	%	Mar	Feb	Change	%	YTD	YTD	Change	%		
Number of Cases Referred	39	35	4	11%	40	31	9	29%	207	213	6	3%	400	42%
Number of Cases Accepted	29	22	7	32%	40	30	10	33%	182	169	-13	-7%	400	42%
Cause Numbers Represented	35	24	11	46%	44	41	3	7%	214	192	-22	-10%		
Number of Cases Closed	31	22	9	41%	33	30	3	10%	191	160	-31	-16%		
Legal Dispositions	31	22	9	41%	32	29	3	10%	188	160	-28	-15%		
Average # of Days from Open to Close	65	58	7	12%	60	60	-27	-45%	50	53	2	5%		
Ave # of Cases remaining Open at the EOM	52	54	-2	-4%	46	42	4	10%	45	48	4	8%		



LEGAL OVERVIEW
 We were referred 39 cases this month and accepted 29. We declined ten cases. Three cases were self referrals, three were referred by the community, two were referred by attorneys, one was referred by a County Judge, and one was referred by the jail. Of those ten cases we declined, five were declined because they had felony cases. Additionally, two were declined because they already had an attorney, one did not meet criteria for our office, one hired an attorney, and one case was a conflict of interest with another case.

**Justice and Public Safety - Monthly Performance Indicators
Mental Health Public Defender Office**

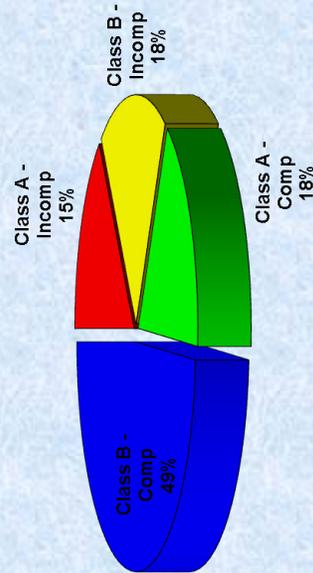
Case Management	MONTHLY CHANGE						YEAR TO DATE and TARGET MEASURES					
	CURRENT YEAR			LAST YEAR			FY2011 YTD	FY2010 YTD	Change	FY2011 TARGET	% of Target Achieved	
	Mar	Feb	Change	Mar	Feb	Change						
	Mar	Feb	Change	Mar	Feb	Change	YTD	YTD	Change	TARGET	Achieved	
Total Casework Referrals	41	32	9	59	43	16	221	256	-35	480	46%	
<i>From other attorneys/external</i>	12	10	2	19	13	6	52	74	-22			
# of Assessments/Intakes	40	21	19	52	36	16	187	218	-31			
<i>From other attorneys/external</i>	10	3	7	15	9	6	34	57	-23			
# of Comprehensive Mental Status Exams	1	1	0	0	0	0	7	0	7			
<i>From other attorneys/external</i>	1	1	0	0	0	0	5	0	5			
# of Community/Resource Referrals Completed	136	66	70	92	67	25	603	371	232	63%		
Ave # of Cases Open to CM at EOM	221	221	0	208	189	19	226	209	18	8%		
<i>From other attorneys/external</i>	71	66	5	65	54	11	71	63	8	12%		
Average days CM Cases Open	0	0	0	0	0	0	0	0	0			
Average Casemanager Caseload	55.25	55.25	0	52	47.25	4.75	57	52	4	8%		



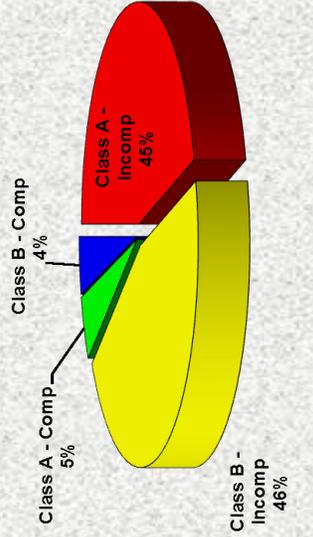
Justice and Public Safety - Monthly Performance Indicators
Mental Health Public Defender Office

Jail Stay Data (Calculated for Closed Cases)	MONTHLY CHANGE						YEAR TO DATE and TARGET MEASURES					
	CURRENT YEAR			LAST YEAR			FY2011 YTD	FY2010 YTD	Change	FY2011 TARGET	% of Target Achieved	
	Mar	Feb	Change	Mar	Feb	Change						
INCOMPETENT CLIENTS												
Class A - # Incompetent	9	5	4	80%	3	1	2	200%	24	19	5	26%
ALOS	133.0	148.0	-15.0	-0.1	218.0	407.0	-189.0	-0.5	112.0	224.2	-112.2	-0.5
Class B - # Incompetent	5	3	2	67%	2	6	-4	-67%	29	22	7	32%
ALOS	85.0	771.0	-26.0	-0.2	181.0	160.0	21.0	0.1	112.8	152.7	-39.8	-0.3
Total Number of Incompetent Clients	14	8	6	75%	5	7	-2	-29%	53	41	12	29%
Overall Incompetent ALOS	115.9	134.1	-18.3	-0.1	203.2	195.3	7.9	0.0	116.6	166.0	-49.4	-0.3
Average Days in Hospital	64	156	-92	-59%	97.0	112.0	-21.0	-0.2	66	80	-14	-18%
COMPETENT CLIENTS												
Class A - # Competent	5	2	3	150%	10	9	1	11%	29	65	-36	-55%
ALOS	171.0	8.0	3.0	0.4	16.0	32.0	-16.0	-0.5	11.8	20.2	-8.3	-0.4
Class B - # Competent	12	12	0	0%	17	14	3	21%	78	85	-7	-8%
ALOS	111.0	12.0	-1.0	-0.1	6.0	9.0	-3.0	-0.3	10.3	9.5	0.8	0.1
Total Number of Competent Clients	17	14	3	21%	27	23	4	17%	107	150	-43	-29%
Overall Competent ALOS*	11.0	11.4	-0.43	-4%	9.7	18.0	-8.296	-46%	10.7	14.2	-3	-24%
TOTALS												
Total Class A	14	7	7	100%	13	10	3	30%	53	84	-31	-37%
ALOS	89.4	108.0	-18.6	-0.2	62.6	69.5	-6.9	-0.1	59.0	55.0	4.0	0.1
Total Class B	17	15	2	13%	19	20	-1	-5%	107	107	0	0%
ALOS	32.8	37.8	1.0	0.0	24.4	54.3	-29.9	-0.6	38.6	38.5	0.2	0.0
Overall	31	22	9	41%	32	30	2	7%	160	191	-31	-16%
ALOS	58.4	56.0	2.31	4%	39.9	59.4	-19.43	-33%	46.4	45.8	1	1%

Current FYTD - Cases Closed by Clients



Current FYTD - Cases Closed by Jail Stays



Justice and Public Safety - Monthly Performance Indicators
Mental Health Public Defender Office

JAIL STAY/MIHPDO NARATIVE

Thirty-one cases were closed this month. Of those closed cases, fourteen had an original finding of incompetent to stand trial. Three clients regained competency while at Austin State Hospital. Three clients regained competency while at the Community Competency Restoration Program. Two clients regained competency while at the jail waiting for a bed. Due to severity of symptoms, two cases were dismissed and transferred to probate. One case had an original finding of incompetent to stand trial and unlikely to regain. That case was dismissed. One case was re-appointed while the client was waiting for a bed at the hospital. One client was found incompetent and unlikely to regain while at Austin State Hospital. And one client maxed out their time in custody while at the hospital without regaining and his case was dismissed.