

Travis County Mental Health Public Defender Office



Travis County Justice Planning
PO Box 1748, Austin, TX 78767
Phone: (512) 854-4415
Fax: (512) 854-4786

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Executive Summary

The Travis County Mental Health Public Defender (Travis County MHPD) office opened in April 2007 to provide specialized criminal defense and intensive social services support to indigent defendants who are experiencing significant mental illness. The process begins at booking, where counselors at the Travis County Jail assess each arrested person to determine if they have mental health issues that need to be addressed. A list of individuals identified as having mental health needs, and qualifying for court appointed counsel is then transmitted to Travis County Court Administration. Indigent misdemeanor defendants presenting with the most severe mental illness symptoms and least outside resources for support are assigned to MHPD attorneys. Indigent felony defendants, misdemeanants with less severe symptom presentation, and those possessing more outside social support, are assigned to private attorneys on a mental health “wheel”¹ for representation.

To qualify for representation from the Travis County MHPD or the mental health “wheel”, an individual must be diagnosed with at least one of the following priority population diagnoses: schizophrenia, bipolar disorder, major depression, and/or schizoaffective disorder². However, cognizant of the complexity and fluidity of mental health and disability diagnoses, Travis County MHPD values remaining flexible to accept clients experiencing significant need, that may not neatly fit into a specific category. Additionally, Travis County MHPD social services, including intensive case management, mental health assessments, psychosocial assessments, and formal mitigation reports, may be requested by mental health “wheel” attorneys for their clients, regardless of the level of charge.

In the present study, Travis County Justice Planning has evaluated the Travis County MHPD, building on the work of four prior evaluations.³ The earliest evaluation of the Travis County MHPD chronicled how they were working to track the following performance measures:

- The number of days clients spend in jail
- How many clients were released on personal recognizance bonds
- The outcome of each case including sentence length and type
- The amount of time between arrest and disposition of each case
- The amount of time between disposition and re-arrest⁴

In the present evaluation we are now able to provide an analysis of these measures.

Specifically, this evaluation provides a workload-process evaluation of six full fiscal years (FY 2009-2014). This evaluation also includes a recidivism outcome analysis of five years (FY 2009-2013) of disposed cases. This is especially relevant as State policymakers and county officials have begun to focus on examining how specific interventions and programs are impacting recidivism and criminal justice costs. While the MHPD model may not necessarily be an anti-recidivism program, policymakers and officials are still interested in the recidivism outcomes correlated with these new legal offices.

¹Attorneys for defendants with mental health needs are appointed from a separate rotating list, “wheel”, of attorneys with additional training in mental health and the issues it can present in criminal cases.

² The qualifying “priority population” diagnoses are defined by the Texas Health and Safety Code as “those groups of persons with mental illness or an intellectual disability identified by the applicable department as being most in need of mental health or intellectual disability services.” .” Tex. Health & Safety Code §531.002 (17).

³ See the References Section on page 19 of this Report for the citations to prior Travis County MHPD evaluations.

⁴ The wording for these performance measures are taken word for word from Riggs et al, 2008, p. 14.

Key Findings of the Workload Process Evaluation for FY 2009-2014 clients

- Travis County MHPD clients had, on average, a shorter time from arrest to court disposition compared to similar clients who received assigned counsel. Travis County MHPD client cases took an average 51.09 days to dispose of the case and assigned counsel cases took an average of 91.49 days, a difference of 40.40 days.
- Travis County MHPD clients spent a longer time in jail prior to their court disposition compared to similar clients who received assigned counsel. Travis County MHPD clients had an average of 42.35 pretrial days and assigned counsel clients had an average of 19.97 days, a difference of 22.38 days. These results appear to be directly correlated to the high percentage of MHPD clients whose legal representation was transferred from assigned counsel to MHPD, after a court finding of incompetence to stand trial. After that court finding, defendants incur substantial additional days in confinement as they first wait for a hospital bed and then, secondly, during the time that they are committed to an institution for competency restoration.

Key Findings of the Legal Disposition Evaluation for FY 2009-2014 clients

- Travis County MHPD clients were more likely to receive dismissals on their legal cases, compared to similar clients who received assigned counsel from the mental health wheel. Misdemeanor dismissals occurred for 47 percent of the Travis County MHPD client cases and 19 percent of the assigned counsel cases, a difference of 28 percent.
- For those clients who received jail sentences, Travis County MHPD clients received shorter jail sentences. On average, Travis County MHPD client cases received 29.04 days in jail and assigned counsel clients received 37.70 days in jail, a difference of 8.66 days. It is worth stating that far fewer of the Travis County MHPD clients actually received jail time. MHPD clients were also less likely to receive probation (MHPD clients also received shorter probation sentences)

Key findings of the Recidivism Outcome Analysis for clients with disposed cases in FY 2009-2013

- In a recidivism analysis of clients with disposed cases, this study found that Travis County MHPD clients had a lower recidivism rate in the year following the disposal of their legal cases, than those represented by counsel from the mental health wheel. Specifically, 39 percent of MHPD clients were rearrested, as compared to 50 percent in the comparison group.
- Travis County MHPD clients who recidivated, as a group, had fewer total new arrests that resulted in a jailing during the one-year follow-up period compared to assigned counsel clients.
- Travis County MHPD clients who recidivated did so in a shorter number of days than the assigned counsel clients who recidivated. While overall, the Travis County MHPD clients were less likely to recidivate, those that did recidivate did so in a slightly shorter period of time compared to the comparison group.⁵ Going forward, MHPD might focus on developing a process for identifying these clients and the specific factors implicated in their shorter arrest-free tenures in the community. With these data, MHPD can explore interventions to address these factors.
- Travis County MHPD clients had fewer total jail bed days for new bookings during the one-year follow-up period than the assigned counsel clients. This is relevant because it suggests that the MHPD model is correlated with a decrease in jail bed days.

⁵ The comparison group is discussed later in the report, under Appendix # 6, pages 25-26.

1. Introduction

During the past decade, the creation of Mental Health Public Defender (MHPD) offices has emerged as one of several new innovations that have improved how the justice system responds to mentally ill criminal defendants. In specific Texas counties, these MHPD offices have led to reductions in the time from arrest to disposition for defendants, as well as improved disposition outcomes for clients. These performance improvements have captured the attention of Texas legislators, judges, justice executives, and funders, leading to the founding of at least 10 MHPD offices across the state between the years 2004-2015. These other counties with MHPDs, or private defenders that are organized similarly to MHPDs, include Bexar (2014), Collin (2012), Dallas (2004), El Paso (2004), Fort Bend (2010), Harris (2011), Lubbock (2009), Montgomery (2011), Tarrant (2015).

This evaluation focuses on the first freestanding MHPD in the country, the Travis County MHPD, which began in Austin in 2007. The present study benefits from Travis County data collection enhancements, and draws on recent evaluations of other MHPD offices, to bring an additional level of scientific rigor to this analysis.⁶

This study also explores an intriguing question that prior evaluations have raised: Can the MHPD model be correlated with reductions in recidivism among the legal clients that it represents (Fabelo et al., 2013)? This question is important because it adds a new level of inquiry to studying models of indigent defense. While prior evaluations of indigent legal defense models have focused primarily on legal system performance measures (i.e. time to disposition, ultimate legal case outcome), this new question investigates whether using specially trained lawyers and social workers might also bring about improved recidivism outcomes among clients that traditionally have high rates of reoffending.

This study begins by describing the Travis County MHPD and delineates the variety of interventions that attorneys and social work professionals have used to provide an improved response to mentally ill defendants. This study focuses on evaluating the processes, outcomes, and recidivism rates of the Travis County MHPD.

2. The Travis County Mental Health Public Defender Office

In November 2006, Travis County received a \$500,000 grant from the Texas Indigent Defense Commission to be allocated over four years to establish its own MHPD. In April of 2007, the Travis County MHPD opened its doors to provide specialized criminal defense and intensive social services support to indigent defendants experiencing significant mental illness.

The office began its mission with one full time attorney, and an attorney/program director with a reduced caseload. Social services staff included two master's level social workers, a case management coordinator, and social worker, respectively; and, two bachelor's level case workers. The office was supported by two administrative support staff. The majority of the office's cases are placed on the misdemeanor mental health docket, also known as the "Special Reduction Docket". MHPD attorneys, assigned counsel, collaborate with representatives of the Travis County Attorney, Austin Travis County Integral Care, the Travis County Sherriff's Office social worker, and Travis County Pretrial Services to come to a resolution in the best interest of the client, and the safety of the community. After five years

⁶ See the References Section on page 19 of this Report for the citations to prior MHPD evaluations.

of operation, in 2012, the office added an additional case worker to the team; in 2014, an additional full time attorney was hired.

Each client assigned to a Travis County MHPD attorney is simultaneously assigned to a case worker or social worker within the office (see appendix 1 for a listing of charge descriptions for the MHPD legal cases). All staffing assignments are made after review by the director and the case management coordinator considering individual staff workloads, expertise, and other factors that may contribute to a productive potentially long term working relationship. A case management coordinator supervises one social worker and three case workers. A social or case worker meets with each client to identify other factors that may have contributed to the individual's involvement in the criminal justice system. The client establishes goals based on what factors he/she would like to address. These goals are then met through intensive case management, advocacy and support in the community. For the MHPD, intensive case management goes well beyond simply providing phone numbers. The social/case worker may sit with the client during psychiatric/medical appointments, providing information to the provider and support for the client. Intensive case management also could involve spending hours at the Social Security Administration, helping to manage symptoms so the client can get benefits reinstated. The social/case worker actively participates in whatever activities are necessary to help clients be successful in the community. The intensive case management is provided for no less than the duration of the legal case, but often extends well past the legal disposition.

While many counties have organizations that provide these types of social services to justice-involved clients, they are rarely located within public defenders offices. What makes the Travis County MHPD unique is that this office was set up with an equal emphasis on providing both legal representation and social service. Indeed, MHPD attorneys, case workers, and social workers are co-located within the same suite of offices; collaborate together as part of their everyday work; and share the same files and computer systems for documenting their work with clients.

While the Travis County MHPD primarily focuses on clients in need of legal representation and social services, there are three ways that they may receive and serve clients. The first and most frequent way that the Travis County MHPD serves clients is as **legal cases**, where they provide legal representation for a defendant accused of committing a misdemeanor offense. One of the three specially trained attorneys will create a case file number for the legal client after receiving a referral from Travis Court Administration, a Judge, an attorney, pretrial services, or an advocacy group. The official start date when the attorney begins serving this client is the court appointment date. The attorney, who represents the client through his legal case, will ultimately close the client's legal case.

Assigned counsel, outside of Travis County MHPD, also refer their clients who have a mental illness and pending felony or misdemeanor charges in Travis County for intensive case management services only. **Intensive case management participants** may also be previous legal clients whose involvement with case management had ended, but are now faced with problems that could increase their likelihood of re-offending. These individuals may need help finding new housing, may have lost their identification or even face difficulties with their benefits. Finally, an intensive case management case may also be opened if a legal client is open to case management and gets arrested on felony charges.

Another service available to assigned counsel is **mitigation assistance** for indigent clients in an attempt to humanize the individual, advocate for transferring the case to the felony mental health docket or sentencing advocacy. A licensed social worker will create a detailed, comprehensive report summarizing the client's "life story." As much information as possible is obtained from the client, friends, family and

anyone that may have had knowledge of the client’s life. Documents such as medical, psychiatric, educational or court records are also obtained. The report may help to highlight untreated mental illnesses, identify key life events, and help to explain how the client got to the point in time that he/she did at the time of the offense. The licensed social worker provides the report to the defense attorney only; he/she decides how that information will be used.

3. Travis County MHPD Work

3.1 Legal Representation

For fiscal years 2009-2014, the Travis County MHPD represented a total of 2,011 individuals in 2,432 cases. Table 1 below illustrates the breakdown of clients represented in each fiscal year.

Table 1. Misdemeanor Clients Represented by MHPD Attorneys FYs 2009-2014

| | FY 09 | FY 10 | FY 11 | FY 12 | FY 13 | FY 14 | Total |
|--------------|------------|------------|------------|------------|------------|------------|--------------|
| Total | 313 | 358 | 346 | 340 | 321 | 337 | 2,015 |

Source: Defender Data Report

In their performance measures, the Travis County MHPD tracks their work by the number of cases they serve each fiscal year. The Travis County MHPD defines a case as a cause number. When reporting their fiscal year counts, they are totaling up the number of cause numbers they deal with. Table 2 below shows the number of cases represented in each fiscal year.

Table 2. Misdemeanor Cases (Cause Numbers) Represented by MHPD Attorneys FYs 2009-2014

| | FY 09 | FY 10 | FY 11 | FY 12 | FY 13 | FY 14 | Total |
|--------------|------------|------------|------------|------------|------------|------------|--------------|
| Total | 378 | 412 | 401 | 394 | 378 | 405 | 2,368 |

Source: Defender Data Report

It is worth noting that the definition of misdemeanor cases is slightly different than the definition recommended by the National Center for State Courts, which is “one defendant, one incident” (Riggs et al., 2008, p. 28). Specifically, the National Center for State Courts definition counts a case as “all charges against one defendant arising out of a single incident” (Riggs et al., 2008, p. 28).

In our evaluation we will report our analysis in terms of client booking numbers (which is identical to the National Center for State Courts) and cause numbers. The reason for including the client booking numbers is that each client booking number represents one person. If one wants to examine how many people were sentenced to jail, for example, one would need to use the client booking number.

3.2 Intensive Case Management

Table 3 below shows the types of intensive case management assistance provided to Travis County MHPD legal clients in FY2009-FY2014.

Table 3. FY 2009-2014 Intensive Case Management Provided for Legal Client

| Assistance Delivered | Objective Met | | Social Assistance Type Service | |
|----------------------|---------------|------------|--------------------------------|--|
| 233 | 166 | 71% | Basic Needs | |
| 553 | 494 | 89% | Benefits/Financial | |
| 142 | 74 | 52% | Employment/Education | |
| 533 | 378 | 71% | Housing | |
| 141 | 116 | 82% | ID Assistance | |
| 1,996 | 1,976 | 99% | Indigent Item | |
| 308 | 266 | 86% | Legal | |
| 161 | 116 | 72% | Medical | |
| 789 | 578 | 73% | Mental Health | |
| 101 | 59 | 58% | Substance Abuse | |
| 1,122 | 1,076 | 96% | Transportation | |
| 9 | 7 | 78% | VA | |
| 6,088 | 5,306 | 87% | Total | |

Table 4 below shows the types of assistance provided participants in MHPD Intensive Case Management only. This table is on the same scale as the preceding table to allow for comparison.

Table 4. FY 2009-2014 Community Referrals made for Intensive Case Management participants

| Assistance Delivered | Objective Met | | Social Assistance Type Service | |
|----------------------|---------------|------------|--------------------------------|--|
| 123 | 95 | 77% | Basic Needs | |
| 287 | 256 | 89% | Benefits/Financial | |
| 55 | 32 | 58% | Employment/Education | |
| 288 | 215 | 75% | Housing | |
| 70 | 62 | 89% | ID Assistance | |
| 1,413 | 1,394 | 99% | Indigent Item | |
| 241 | 223 | 93% | Legal | |
| 177 | 152 | 86% | Medical | |
| 428 | 334 | 78% | Mental Health | |
| 76 | 43 | 57% | Substance Abuse | |
| 570 | 548 | 96% | Transportation | |
| 2 | 2 | 100% | VA | |
| 3,730 | 3,356 | 90% | Total | |

4. Evaluation Methodology

Methodological clarity, data transparency, and study replication are key features of rigorous social science research. With this in mind, the present study draws from a collection of previous evaluations that clearly describe their methodology and data, and attempts to replicate their findings. Indeed, this current evaluation of the Travis County MHPD draws heavily on the prior research of MHPDs in other Texas counties. Specifically, this study examines similar hypotheses and uses similar process, outcome, and recidivism measures to evaluate the efficiency and effectiveness of the Travis County MHPD.

Additionally, this study follows the example of these multiple prior evaluations and analyzes clients served by the MHPD model compared to clients served by assigned counsel. Yet, it should be stated at the outset, that this evaluation should not be viewed as an assessment of the quality of the legal defense provided by the MHPD or assigned counsel. The details of legal cases vary, and there are a variety of reasons why a case may have a higher number of days, or a specific legal outcome disposition. That stated, though, it is important to begin to experiment with different measures of examining the process of a legal case through the courts system. This study seeks to follow the methodology of prior studies to see whether their results are replicable (see appendix 2 for the specific hypotheses and measures).

5. Evaluation Results

The evaluation results are divided into three sub-sections: Process Outcomes, Legal Disposition Outcomes, and Recidivism Outcomes. It is worth stating that these data were originally electronic administrative records: various justice staff collected and entered information into their respective databases for administrative purposes rather than research purposes, which is a common practice across justice agencies (Maxfield, 2001). Accordingly, program data may occasionally have limitations when used as research data. In particular, specific researchers, working on similar court and MHPD evaluations in other Texas counties, have reported on the complications of obtaining, cleaning, and analyzing court data (Fabelo et al., 2013). Indeed, Fabelo et al. (2013), in their study of the Harris County Public Defender, stated that “due to limitations in available data and of statistical analysis” the results in their study had to be “interpreted carefully” (p. 2).

This evaluation of the Travis County MHPDO extracts data from three data management systems: Tiburon, FACTS, and Defender Data (see appendix 3 for a description of these data sources). After consultation with various justice staff, this study was able to clean these data for use in analyzing the Travis County MHPD processes and outcomes. As with any social science study, the reader should use caution when examining the analysis and making assumptions about the findings of this study. As a check on the accuracy of these results, this evaluation examined the analysis against multiple Travis County data sets and also had another researcher, Meg Ledyard of the Travis County Courts Tech Team, run separate analyses to verify these findings. Additionally, this evaluation provides the results of other empirical studies of the other county MHPDs, which allows the reader to see that when similar methods and data were analyzed, the results of this evaluation were similar to the results of these other studies.

Finally, it is worth stating that these complexities could be easily remedied if the Travis County MHPD had access to the data in Travis County’s Tiburon database system (Riggs et al., 2008; The Spangenberg Project, 2010). Because Travis County MHPD does not have access to the Tiburon system, we are forced to try to reconcile data across three data management systems: Tiburon, FACTS, and Defender Data. This is extremely difficult, as each data management system tracks clients in slightly different ways. Opening access to these data would allow for the easy generation of comprehensive performance

measures and continual outcome evaluation. This evaluation, however, has attempted to make the best of a less than ideal situation.

5.1 Process Outcomes

This evaluation analyzed case process outcomes for misdemeanor defendants who were indigent and suffering from mental illness. Specifically, the study examined all legal cases served by MHPD and assigned counsel that were disposed by the court during fiscal years 2009-2014.

Process Finding 1: Travis County MHPD clients had a shorter period of time between the arrest and court disposition compared to assigned counsel clients.

This study found that **legal clients** of the Travis County MHPD had a shorter period of time between the arrest and court disposition compared to assigned counsel clients. Table 5 below shows the specific results of this analysis:

Table 5. Days to Disposition FYs 2009-2014

| Charge Level | MHPD - Days | Assigned Counsel - Days | # Difference | % Difference |
|--------------|------------------------|-------------------------|---------------|----------------|
| Misd Class A | 56.52 (n=707) | 90.03 (n=7,961) | -33.51 | -37.22% |
| Misd Class B | 47.58 (n=1,096) | 92.55 (n=11,058) | -44.97 | -48.59% |
| Total | 51.09 (n=1,803) | 91.49 (n=19,019) | -40.40 | -44.16% |

Unit of Analysis: Booking Number

This study next analyzed whether **legal cases** (which might include multiple cause numbers) represented by the Travis County MHPD had a shorter time period from arrest to disposition. This study found that legal cases represented by the Travis County MHPD have a shorter time period between arrest and court disposition for legal cases. Table 6 below presents the results of this analysis:

Table 6. Days to Disposition FYs 2009-2014

| Charge Level | MHPD - Days | Assigned Counsel - Days | # Difference | % Difference |
|--------------|------------------------|-------------------------|---------------|----------------|
| Misd Class A | 56.20 (n=778) | 88.32 (n=9,049) | -32.12 | -36.37% |
| Misd Class B | 50.10 (n=1,252) | 91.69 (n=13,469) | -41.59 | -45.36% |
| Total | 52.44 (n=2,030) | 90.34 (n=22,518) | -37.90 | -41.95% |

Unit of Analysis: Cause Number

Process finding 2: Travis County MHPD clients spent a larger number of pretrial days inside the jail between their arrest date and disposition date compared to assigned counsel clients.

This study found that the clients of the Travis County MHPD clients spent a greater number of days in jail between their arrest date and disposition date compared to assigned counsel clients. This finding is consistent with an earlier evaluation of the Travis County MHPD that used a much smaller sample (Riggs et al., 2008). Yet, this finding contradicted prior evaluations that found that clients represented by other MHPDs had fewer pretrial jail days prior to the disposition of their case (Pickhartz, 2010). The results of this analysis appear below in table 7:

Table 7. Pretrial Jail Days (Arrest to Disposition) FYs 2009-2014

| Charge Level | MHPD - Days | Assigned Counsel - Days | # Difference | % Difference |
|---------------------|------------------------|--------------------------------|---------------------|---------------------|
| Misd Class A | 49.91 (n=652) | 27.25 (n=7,340) | +22.66 | +83.16% |
| Misd Class B | 37.55 (n=1,025) | 14.01 (n=8,978) | +23.54 | +168.02% |
| Total | 42.35 (n=1,677) | 19.97 (n=16,318) | +22.38 | +112.07% |

Unit of Analysis: Booking Number

It is important to note that upon further review, the results above appears to be directly correlated to the high percentage of MHPD clients whose legal representation was transferred from assigned counsel to MHPD, after a court finding of incompetence to stand trial. After that court finding, defendants incur substantial additional days in confinement as they first wait for a hospital bed and then, secondly, during the time that they are committed in an institution waiting for competency restoration.

This study also found that legal cases (which might include multiple cause numbers) represented by the Travis County MHPD had a larger number of jail bed days during the pretrial period from arrest to disposition. Table 8 below presents the results of this analysis:

Table 8. Pretrial Jail Days (Arrest to Disposition) FYs 2009-2014

| Charge Level | MHPD - Days | Assigned Counsel - Days | # Difference | % Difference |
|---------------------|------------------------|--------------------------------|---------------------|---------------------|
| Misd Class A | 49.84 (n=711) | 29.04 (n=8,425) | +20.80 | +71.63% |
| Misd Class B | 39.30 (n=1,187) | 16.69 (n=11,175) | +22.61 | +135.47% |
| Total | 43.25 (n=1,898) | 22.00 (n=19,600) | +21.25 | +96.59% |

Unit of Analysis: Cause Number

5.2 Legal Case Disposition Outcomes

This evaluation analyzed legal case disposition outcomes for misdemeanor defendants who were indigent and diagnosed with a mental illness. Specifically, this study analyzed whether legal clients represented by the Travis County MHPD had a higher percentage of dismissals.

Legal Case Disposition Finding 1: Travis County MHPD clients had a higher percentage of dismissals than non-MHPD clients.

This study found that legal **clients** of the Travis County MHPD had a higher percentage of dismissals than non-MHPD clients.

Table 9. Legal Client Dispositions for FYs 2009-2014

| | MHPD | Assigned Counsel | % Difference |
|------------------|------------|------------------|--------------|
| Dismissal | 47% | 19% | +28% |

Unit of Analysis: Booking Number

Next, this study found that all legal **cases** served by the Travis County MHPD had a higher percentage of dismissals than assigned legal counsel cases.

Table 10. Legal Case Dispositions for FYs 2009-2014

| | MHPD | Assigned Counsel | % Difference |
|------------------|------------|------------------|--------------|
| Dismissal | 45% | 19% | +26% |

Unit of Analysis: Cause Number

Legal Case Disposition Finding 2: Travis County MHPD clients were sentenced to fewer days in jail.

This study also found that the Travis County MHPD **clients** were sentenced to fewer days in jail compared to assigned counsel clients. Table 11 below presents the results of this analysis:

Table 11. Jail Sentence in Days (Post-Disposition) FYs 2009-2014

| Charge Level | MHPD - Days | Assigned Counsel - Days | # Difference | % Difference |
|--------------|----------------------|-------------------------|--------------|----------------|
| Misd Class A | 45.55 (n=280) | 58.49 (n=4,472) | -12.94 | -22.12% |
| Misd Class B | 19.35 (n=477) | 25.02 (n=7,450) | -5.67 | -22.66% |
| Total | 29.04 (n=757) | 37.70 (n=11,922) | -8.66 | -22.97% |

Unit of Analysis: Booking Number

This study found that the Travis County MHPD **cases** were sentenced to fewer days in jail compared to assigned counsel cases. The results of this analysis appear below in table 12:

Table 12. Jail Sentence in Days (Post-Disposition) FYs 2009-2014

| Charge Level | MHPD - Days | Assigned Counsel - Days | # Difference | % Difference |
|--------------|----------------------|-------------------------|---------------|----------------|
| Misd Class A | 47.67 (n=294) | 62.07 (n=4,978) | -14.40 | -23.20% |
| Misd Class B | 19.66 (n=516) | 26.84 (n=8,455) | -8.82 | -25.76% |
| Total | 29.82 (n=810) | 39.90 (n=13,433) | -10.08 | -25.26% |

Unit of Analysis: Cause Number

Legal Case Disposition Finding 3: Travis County MHPD clients were less likely to be sentenced to probation than assigned counsel cases. Those who were sentenced to community supervision received fewer days on probation than assigned counsel cases.

This study found that the **clients** of the Travis County MHPD were less likely to be sentenced to probation compared to assigned counsel clients. The results of this analysis appear below in table 13:

Table 13. Legal Client Dispositions for FYs 2009-2014

| | MHPD | Assigned Counsel | % Difference |
|------------------|-------------|-------------------------|---------------------|
| Probation | 2% | 3% | -1% |

Unit of Analysis: Booking Number

Next, this study found that all legal **cases** served by the Travis County MHPD were less likely to receive a probation sentence compared to assigned legal counsel cases.⁷

Table 14. Legal Case Dispositions for FYs 2009-2014

| | MHPD | Assigned Counsel | % Difference |
|------------------|-------------|-------------------------|---------------------|
| Probation | 2% | 4% | -2% |

Unit of Analysis: Cause Number

5.3 Recidivism Outcomes

This evaluation analyzed recidivism rates for indigent misdemeanor defendants with mental illness. Specifically, the study examined all legal cases served by MHPD and assigned legal counsel that were disposed by the court during fiscal years 2009-2013.

To analyze recidivism outcomes, this evaluation drew direction from Michael’s Maltz’s seminal work (1984) *Recidivism*, which provides policy makers, justice professionals, and researchers with guidelines for examining the (possible) relationship between justice interventions and lawful-unlawful behavior. This study operationalized recidivism as any new arrest for a felony or misdemeanor offense (including a Class C Misdemeanor) within Travis County. The recidivism follow-up period for these clients is the 365 day period after the attorney closes the individual’s legal case for *the first time* during this time period. The reason arrest was used over, say, a criminal conviction, was because arrests are “closer to the crime” than a conviction date, and thus better at capturing the actual recidivism behavior⁸ (Matlz, 1984, p. 139).

To select the first time these clients received legal case service, this study focused on fiscal years 2009-2013. This evaluation excluded fiscal year 2014 because a full one year (365 days) follow-up period was needed for the recidivism analysis. To examine the outcomes of these individuals, this study followed each client from the date of his first legal case closure, for 365 days, even if he had future legal cases with the MHPD or assigned counsel.

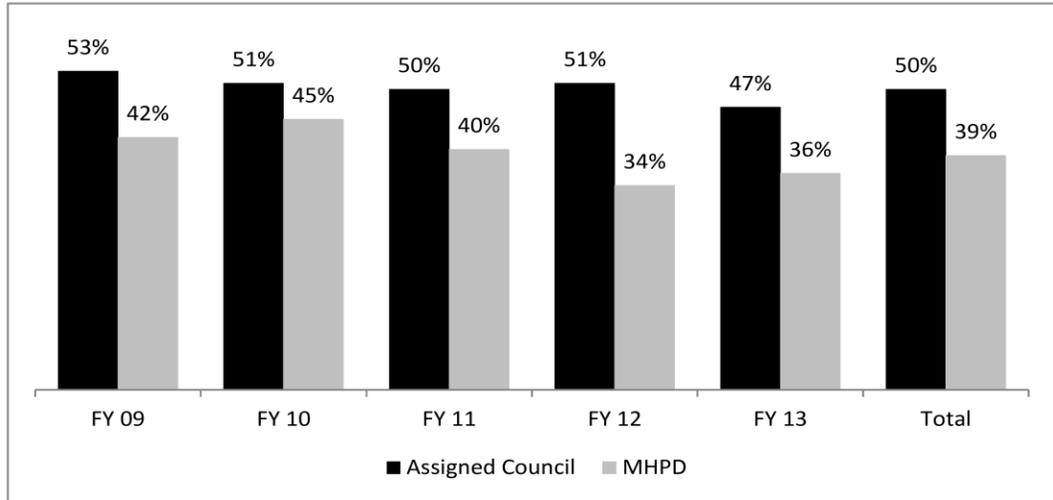
⁷ Fewer MHPD clients received a probation sentence compared to Assigned Counsel Cases. Of the MHPD clients who received a probation sentence, their probation sentence was shorter than the Assigned Counsel Clients. Specifically, MHPD clients had probation sentences that were 28.82 days shorter than Assigned Counsel Clients.

⁸ This is, of course, assuming that the arrest is valid. The arrest may be invalid for a variety of reasons.

Recidivism Finding 1: Travis County MHPD clients have a lower rate of recidivism after their legal case is closed compared to assigned counsel clients.

This study found that the legal clients of the Travis County MHPD clients had a lower rate of recidivism after their legal case is closed. The results of this analysis appear below in the table:

Figure 1. Recidivism Rates for Legal Clients



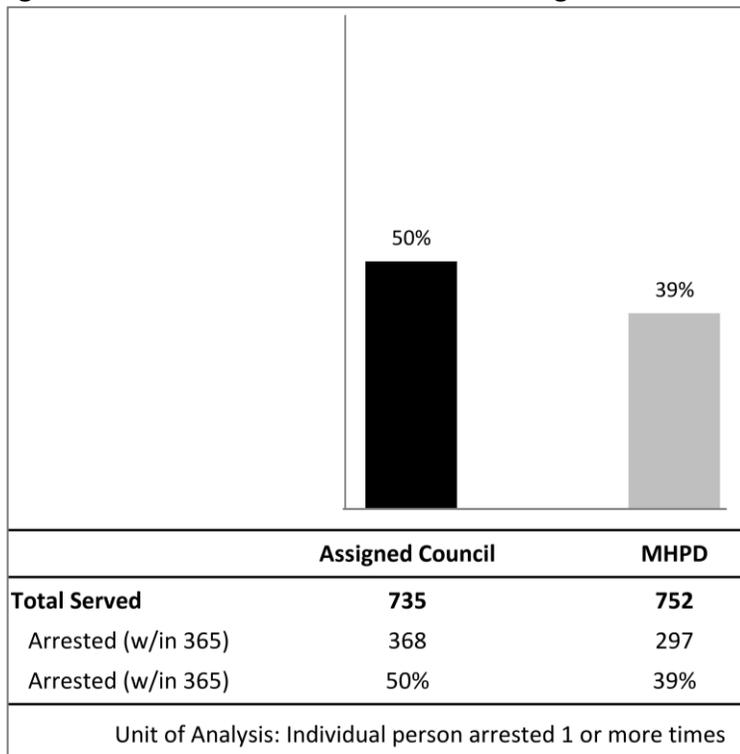
| | FY 09 | FY 10 | FY 11 | FY 12 | FY 13 | Total |
|-------------------------|------------|------------|------------|------------|------------|--------------|
| MHPD | 168 | 154 | 142 | 159 | 129 | 752 |
| Arrested (w/in 365) | 71 | 69 | 57 | 54 | 46 | 297 |
| Arrested (w/in 365) | 42% | 45% | 40% | 34% | 36% | 39% |
| | FY 09 | FY 10 | FY 11 | FY 12 | FY 13 | Total |
| Assigned Council | 658 | 631 | 480 | 558 | 477 | 2,804 |
| Arrested (w/in 365) | 346 | 324 | 239 | 283 | 223 | 1,415 |
| Arrested (w/in 365) | 53% | 51% | 50% | 51% | 47% | 50% |

Recidivism Finding 2: Using a matched-comparison group, Travis County MHPD clients have a lower rate of recidivism after their legal case is closed compared to assigned counsel clients.

This evaluation also created a comparison group from the Assigned Counsel clients to match against the Travis County MHPD clients. To create the comparison group, this study conducted a person-to-person match on the following variables: sex, race-ethnicity, offense level, and age level (see appendix 4 for methodology). Using this methodology, this evaluation created a matched for comparison group of 735 people (there were 752 Travis County MHPD clients).

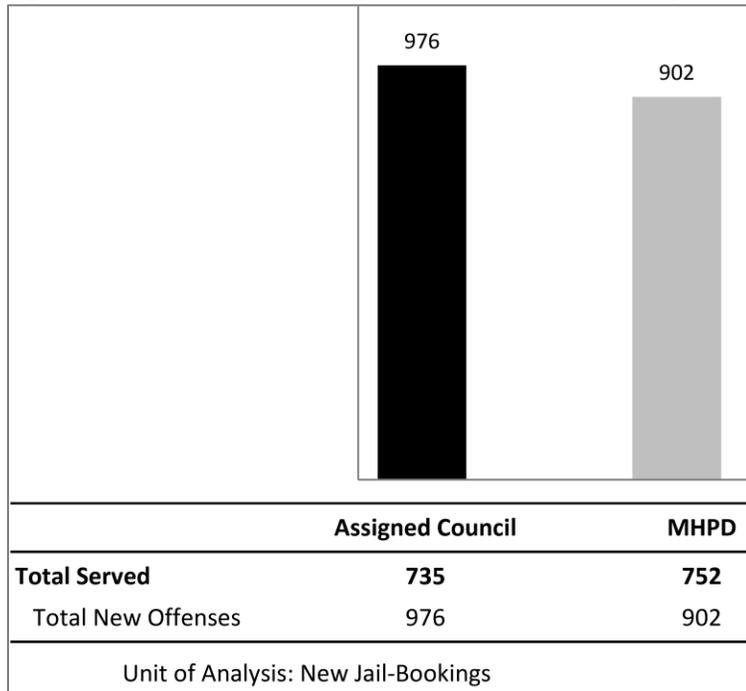
The analysis, presented below, found that Travis County MHPD clients have fewer incidents of recidivism in a one-year follow-up. Specifically, the following table shows that fewer clients that were represented by the Travis County MHPD had fewer incidents of recidivism (a new arrest-booking).

Figure 2. Recidivism for MHPD clients and assigned counsel comparison clients



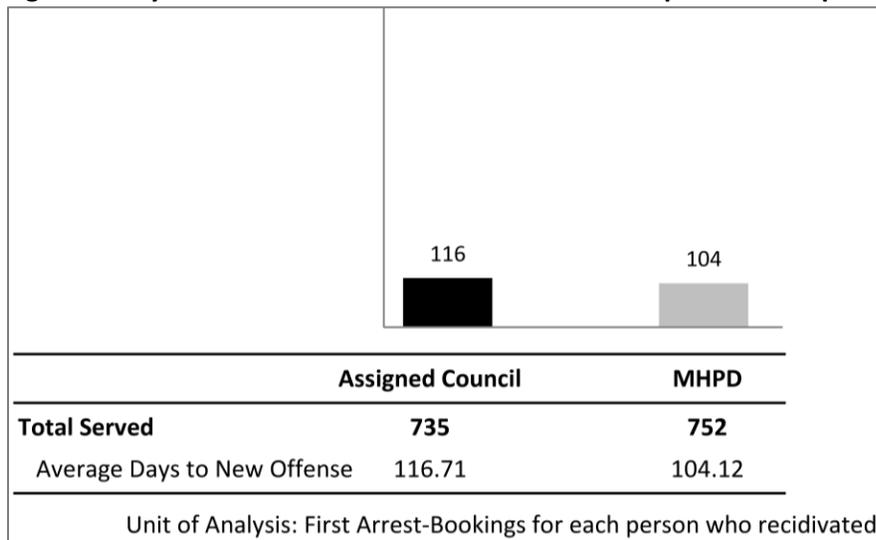
Additionally, the Travis County MHPD clients, as a group, had fewer total recidivism incidents. Figure 3 below presents the total arrest-bookings for each group.

Figure 3. Total Arrest-Bookings for Treatment and Comparison Groups



The Travis County MHPD clients did have a slightly shorter time until recidivism than the Assigned Counsel clients. Figure 4 below presents the average days until recidivism for each group.

Figure 4. Days until Recidivism for Treatment and Comparison Groups

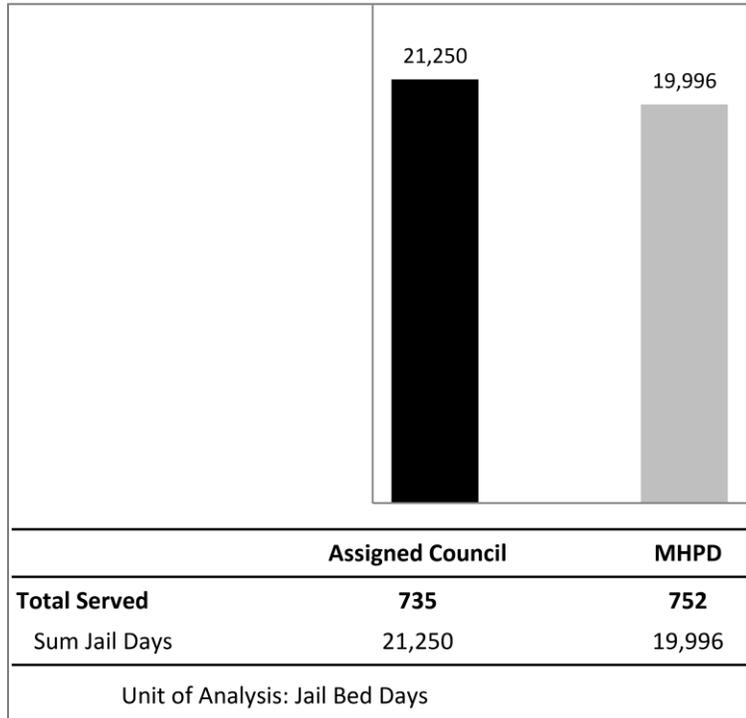


While overall, the Travis County MHPD clients were less likely to recidivate, those that did recidivate did so in a slightly shorter period of time compared to the comparison group. Going forward, MHPD might focus on developing a process for identifying these clients and the specific factors implicated in their

shorter arrest-free tenures in the community. With these data, MHPD can explore interventions to address these factors.

Finally, the Travis County MHPD clients had a shorter number of jail bed days than the assigned counsel clients. The table below presents the total number of jail bed days for each group.

Figure 5. Total Jail Bed Days for Treatment and Comparison Groups



Yet, it should be noted that perhaps recidivism is not be the best measure to determine the effectiveness of the Travis County MHPD. In a prior evaluation of recidivism among Harris County MHPD clients Fabelo et al. (2013) raised an intriguing point. Specifically, Fabelo et al. (2013) appear to suggest that the post-disposition recidivism rate might be an inappropriate measure for evaluating the effectiveness of a MHPD. In their own words:

Evaluating defense counsel by the later success of their clients is difficult and ordinarily should not be a measure that applies to the performance of counsel. Defense counsel’s role is to provide effective representation at the time of the trial or plea, and not to rehabilitate the defendant. A number of factors wholly independent from attorney representation drive recidivism, and attorney representation is not traditionally thought to have any effect on recidivism. [The Harris County Public Defender] does provide community outreach to influence and encourage the provision of these services to diminish countywide recidivism rates, but the office is not responsible for rehabilitative services. The Justice Center performed the recidivism analysis because officials were curious to review these results (Fabelo et al., 2013, p. 31).

This point warrants reflection for several reasons. It is worth considering whether the efficient and client-focused legal defense that MHPD offices offer can be considered “a program.” It would seem that MHPDs might be best classified as a legal right of any mentally ill indigent individual who is accused of a crime. Indeed, the focus on public defenders and the funding for the MHPD offices, originated from the Texas Indigent Defense Commission, which is focused on ensuring that Texas counties provide indigent clients with effective legal counsel. Can the services provided by legal counsel, an attorney who is responsible ultimately to her client, be considered the same thing as the supervision provided by a criminal justice program?

It is also worth identifying the specific components of an effective criminal justice program. During the past twenty-five years, the majority of criminal justice research has identified several best practices for administering correctional programs. Specifically, research indicates that correctional programs should target higher-risk offenders (Andrews et al., 2006; Bonta, 2002); employ cognitive-behavioral interventions (Lowenkamp et al., 2009; Wilson et al. 2005); and tailor service delivery to the personalities and backgrounds of the program participants themselves (Lowenkamp et al., 2006a; Lowenkamp et al., 2006b). These program components are not necessarily to be found in a public defender office, where legal defense services are provided. While this study posits that it is important to track and report recidivism, it is less clear that recidivism should be used as performance measure to reflect the success or lack of success of a MHPD office.

Conclusion

In this most recent evaluation of the Travis County MHPD, we analyzed the workload-process measures for six fiscal years (FY 2009-2014) and recidivism outcomes for five years (FY 2009-2013). This evaluation found the following:

Workload Process Evaluation for FY 2009-2014

- Travis County MHPD clients had, on average, a shorter time from arrest date to court disposition date compared to similar clients who received assigned counsel.

Legal Disposition Evaluation for FY 2009-2014

- Travis County MHPD clients were more likely to receive dismissals on their legal cases, compared to similar clients who received assigned counsel from the mental health wheel.
- For those clients that received jail sentences and probation, Travis County MHPD clients received shorter sentences. It is worth stating that far fewer of the Travis County MHPD clients actually received jail time or probation sentences.

Recidivism Outcome Analysis for FY 2009-2014

- In a recidivism analysis of clients with disposed cases for FY 2009-2013, which used a one-year follow-up period and a matched comparison group, this study found that Travis County MHPD clients had a lower recidivism rate in the year following the disposal of their legal cases, than those represented by counsel from the mental health wheel.
- Travis County MHPD clients, as a group, had a smaller number of total arrests that resulted in a jail booking during the one-year follow-up period than the assigned counsel clients.
- Travis County MHPD clients who recidivated did so in a shorter number of days than the assigned counsel clients that recidivated. While overall, the Travis County MHPD clients were less likely to recidivate, those that did recidivate did so in a slightly shorter period of time compared to the comparison group. Going forward, MHPD might focus on developing a process for identifying these clients so that they can be targeting for additional mental health programming to delay or curtail future recidivism.
- Travis County MHPD clients had fewer total jail bed days for new arrests-bookings during the one-year follow-up period than the assigned counsel clients. This is relevant because it suggests that the MHPD model is not correlated with an increase in jail bed days.

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Appendix 1. Top Charges for Travis County MHPDO clients

Top Fifteen Legal Client Court Charges for FYs 2009 - 2014

| Legal Charges | # Charges | % Charges |
|-----------------------|-----------|-----------|
| Criminal Trespass | 531 | 22% |
| Asslt Bodily Inj:Fam | 217 | 9% |
| City Ordinance Viola | 164 | 7% |
| Asslt Causes Bodily | 119 | 5% |
| Poss Marij <2Oz (MB) | 103 | 4% |
| Resist Arrest Search | 89 | 4% |
| Public Intox W/3 | 87 | 4% |
| Public Intoxication | 86 | 4% |
| Poss Of Drug Para | 83 | 4% |
| Theft>=\$50<\$500 | 77 | 3% |
| Fail To Id Give Fals | 51 | 2% |
| Traffic Offense Mult | 38 | 2% |
| Criminal Mischief>=\$ | 36 | 2% |
| Driving While Intoxi | 36 | 2% |
| Fail To Id Fug Int T | 36 | 2% |

Appendix 2. Hypotheses and Measures

Process Outcomes

To examine the processing of legal cases, this study investigates two hypotheses using the following process measures:

1. **Process Hypothesis:** This study posits that the clients of the Travis County MHPD will have a shorter period of time between the arrest date and disposition date compared to assigned counsel clients. Prior evaluations have found that MHPDs have a shorter amount of days between the arrest date and disposition date than the local assigned counsel system (Fabelo et al., 2013; Pickhartz, 2010; Steinberg, 2013).
1. **Process Measure:** Time to Disposition: the days between the arrest date and date when the legal case is disposed of by the court.
2. **Process Hypothesis:** This study asserts that the clients of the Travis County MHPD will have fewer days in jail between their arrest date and disposition date compared to assigned counsel clients. Prior evaluations have found that clients represented by MHPDs have fewer pretrial jail days prior to the disposition of their case (Pickhartz, 2010).
2. **Process Measure:** Pretrial Jail Days: the number of pretrial days the client spends in jail between the initial arrest date and the legal disposition of the case.

Legal Case Disposition Outcomes

To examine legal case disposition outcomes, this study investigates two hypotheses using the following outcome measures:

1. **Legal Case Disposition Hypothesis:** This study theorizes that Travis County MHPD clients will have a higher percentage of dismissals than non-MHPD clients. The rationale behind this hypothesis is derived from prior evaluations that found MHPD cases had a higher rate of dismissals compared to similar cases that received legal services from assigned counsel (Fabelo et al., 2013; Fabelo et al., 2009; Pickhartz, 2010).
1. **Legal Case Disposition Measure:** Legal Disposition Outcome: the ultimate legal finding of the court that disposes the case.
2. **Legal Case Disposition Hypothesis:** Travis County MHPD clients will be sentenced to fewer days in jail.
2. **Legal Case Disposition Hypothesis:** This study used Jail Sentence Days variable from court data.
3. **Legal Case Disposition Hypothesis:** Travis County MHPD clients will be sentenced to fewer days on probation.
3. **Legal Case Disposition Measure:** This study used Probation Sentence Days variable from court data.

Recidivism Outcomes

To examine recidivism outcomes, this study investigates one outcome using three recidivism measures:

- 1. Recidivism Hypothesis:** This study theorizes that Travis County MHPD clients will have a lower rate of recidivism after their legal case is closed. The rationale behind this hypothesis is derived from a prior evaluation that found MHPD cases had a lower rate of recidivism (Fabelo et al., 2013; Fabelo et al., 2009; Pickhartz, 2010).
- 1.1 Recidivism Measure:** Any Arrest-Jail Booking: whether the legal client was arrested and jailed for a new criminal offense during the 365 day follow-up period.
- 1.2 Recidivism Measure:** Total Arrest-Jail Bookings: total number of arrest-jail bookings for a new criminal offense for each client during the 365 day follow-up period.
- 1.3 Recidivism Measure:** Jail Bed Days: total number of jail bed days for each legal client during the 365 day follow-up period.

Appendix 3. Data Sources: Definitions and Explanations

This evaluation of the MHPD draws on three sources of data:

Defender Data

Defender Data is a private vendor that serves public defenders offices by collecting their data electronically and holding it for them. Defender Data provides access to the data electronically in computer dashboards, canned reports, and ad hoc data requests. The specific data from Defender Data used for this evaluation included case management information about each client served by the MHPD.

The Travis County Integrated Justice System (Tiburon)

The Travis County Integrated Justice System (Tiburon) is a series of data tables and databases used by many government agencies in the county for electronically storing administrative records. These data include records of most people arrested and booked in Travis County (except expungements).

This study uses these data to examine the recidivism of the MHPD and Assigned Counsel clients. This study also draw on these data to determine how often each client recidivated. The study also used the Tiburon data to supplement information about these clients' specific criminal charges.

The Travis County Office of Court Administration

The Travis County Office of Court Administration is a new data source that represents an exciting development that will provide additional information about what happens in the criminal courts in Travis County. These court data provide information about many qualitative aspects of the court process and case outcomes. These data provide information about how long it takes for the court to process legal clients. These data also provide a sense of what the client experiences while awaiting their final hearing, such as whether or not they received bond, the number of days they spent in jail prior to their hearing, and the number of days it took from arrest to hearing. These data also provide useful information about the outcome of the court case, such as how the case was ultimately decided, the nature of the sentence, and if there was jail or probation time, the sentence length of the days of the community or institutional sentence.

The unit of analysis for the case data is the cause number, which is the specific charge in a criminal case. Often defendants face multiple charges in a criminal case, which result in multiple cause numbers. This study uses the cause number in the court data as a linking variable to connect these data to the Tiburon data.

Appendix 4. Recidivism Analysis Methodology

1. Locate the MHPD clients to follow

This recidivism analysis focused on MHPD clients who received the full range of legal and social service. To begin this process, this study identified the defendants represented by MHPD attorneys and who received services from the MHPD case and social workers. During fiscal years 2009 – 2013, there were 752 people who were legal clients. These 752 people ultimately had a total of 1,962 legal case closures.

2. Select each MHPD client only once

This recidivism study selected MHPD clients who had multiple legal cases only one time. For the outcome evaluation, this study selected each client at the point of his first legal case closure. This outcome analysis excluded later legal cases for MHPD clients with multiple cases.

3. Identify the Start Date for the recidivism Follow-Up period

To measure recidivism, researchers often try to capture a starting date and an ending date for a participant's first "round" of service. This study operationalized the recidivism follow-up period as the 365 day period after the attorney closes the individual's legal case for *the first time*. This date is the first legal case closure.

The selection parameters for the study time period was fiscal years 2009 – 2013. This study selected the unique client within this time period. It is possible that a small number of clients were served during fiscal years 2007-2008. This study used the end date of the parameter, fiscal year 2013, so there would be at least one full year (365 days) for the recidivism follow-up period.

4. Screen MHPDO Clients for Recidivism

The outcome evaluation examined if the MHPD clients were arrested and booked for any new offenses for Class C Misdemeanor offenses and above. To conduct this recidivism screen, this study ran the 752 MHPD clients against all arrest and jail bookings (Tiburon) to see if there was a match on the MNI number.

The MNI number is a person-specific code that is assigned to a person when he first enters the Travis County Criminal Justice System. The unique MNI number makes it easy to see if the person has a subsequent arrest-booking event: the researcher simply searches the MNI field for the specific MNI to isolate the individual's arrest-booking history.

5. Specific Code Values used to Identify New Arrest-Bookings

This study operationalized new arrest and jail bookings using two variables in the Tiburon data. First, the Authority Code (Auth_Code) variable had to have at least one of three values: CCN (Community Court New Charge), CWARD (taken into custody for a Class C Misdemeanor offense), or New (New Arrest). Second, the jail code (BJ_TYP_PRIS) for these charges had to have either CITY or CTY as a value. Finally, the booking date of the variable had to occur within 365 days of the clients first MHPD legal case closure date.

6. This Recidivism Analysis Includes Class C Misdemeanors

It is worth stating that this recidivism analysis includes jail-bookings for Class C Misdemeanors. In the past, many evaluations of various programs within the State have omitted Class C misdemeanors arrest-bookings because the Department of Public Safety Texas only provides consistent data for Class B

misdemeanor arrest-bookings and higher. This inconsistent reporting is not the fault of the Texas Department of Public Safety. There are several counties within the State that do not report their Class C Misdemeanor arrest-bookings to the State. Nonetheless, we chose to include jail-bookings for Class C Misdemeanors because they account for about 25 percent of the fiscal year jail bookings. Moreover, in Travis County, many of the justice-involved individuals suffering from chronic mental illness account for a high number of Class C Misdemeanors. Finally, this study includes Class C misdemeanor arrest in the analysis because they represents a criminal justice cost within the City and County (specifically, Class C misdemeanor a represent police cost, in terms of the arrest, a County cost in the jail in terms of the jail booking, and finally, court costs, in terms of the effort to file a Class C misdemeanor case.

7. Comparison Group

To examine the outcomes of the MHPD, this study focused on examining what happened to other defendants, who finding themselves in similar situations, were defended by different lawyers than those in the MHPD. In other words, this evaluation focused on defendants, who were both charged with committing a misdemeanor offense and who had a mental health diagnosis, but had other legal representation.

In Travis County, the Courts have assigned counsel to ensure that indigent defendants have legal representation. The Assigned Counsel System serves clients who are both accused of committing felony and misdemeanor offenses. This study used a dataset of every person, listed by cause number, who was served by Assigned Counsel. This study also used a Tiburon data snapshot (these data were linked to the Assigned Counsel data using the cause number) to aggregate-up from the cause number to the entire criminal case itself.

To create a comparison group, this study removed several people from the Assigned Counsel data for the following reasons:

- People accused of committing a felony offense
- People who were represented by MHPD attorneys anytime during fiscal years 2009-2013
- People with cause numbers that did not match for any reason (Assigned Counsel data versus the Tiburon data snapshot)

In addition to these cuts, this evaluation also reduced these data down by client. The client was selected based on their first release date from jail within the time frame of their final court hearing.