

A Second Chance for the Mentally Ill

Minnesota's mental health court is designed to provide humane treatment to afflicted criminals. Is it working?

By Frank Jossi • Photography by Larry Marcus

After waiting more than an hour and a half to appear in Hennepin County Mental Health Court last November, Jason Stone Baxter stood nervously before Judge H. Richard Hopper for his final court appearance. With close-cropped hair and a thin moustache, the 36-year-old did not seem like someone who had once appeared in the same court dangerously out of control while facing several counts of theft and swindle.

But the first time Hopper saw Baxter in 2004, the defendant arrived in court in chains claiming loudly to be the Colombian drug lord Pablo Escobar's grandson and offering the judge \$4 million to let him go. He was wild, unhinged and more than a little frightening. On this day, Baxter looked like a new man. "We're here to discharge you from probation," said Hopper, beaming during a morning when few cases had such happy endings. "That must sound great. It's been a long time, and you continue to do great and keep up on your own. You have the incentive to keep going."

"Thank you, Judge, and the court, thank you very much," replied Baxter. With that terse reply, and after two years of good behavior on Baxter's part, the 58-year-old Hopper, who looks like he could be the older brother of actor Willem Dafoe, set Baxter free to navigate the world without any court oversight—and without having served any jail time. The court's dual-track approach to getting Baxter

off the criminal treadmill involved getting him appropriate medication to treat his paranoid schizophrenia while requiring that he report frequently to a probation officer and the mental health court. He also was tested periodically for illegal drug use.

In Baxter's case, the strategy worked.

MENTAL HEALTH COURT

Baxter's recovery is reflective of the justice Hopper delivers daily as the chief judge for Hennepin County's Mental Health Court. The county court system—widely heralded for its innovation—was one of the first judicial districts in the country to create a mental health court in 2003. Today, the nation has more than 100 mental health courts, including one that has operated since 2005 in Ramsey County.

The prevailing concept of a mental health court is little different than that of courts addressing other nonviolent actions such as DWI, drugs and property/theft issues. Mental health court is part of a national trend toward creation of "problem solving" courts, dedicated to understanding the issues underlying criminal behavior and helping defendants address their challenges rather than simply locking them up.

Hennepin's mental health court hears misdemeanor and gross misdemeanor cases four days a week, felonies on Thursday; Ramsey's court hears misdemeanors and gross misdemeanors only one day a week; as it stands now, it does not hear felonies. Judges work closely



Kevin Broughton's life turned around after parole officer Chuck Decker (with Broughton in photo) urged him to give recovery a chance.

with probation officers, prosecutors, public defenders and private attorneys to construct a strategy for getting defendants medications, jobs and housing rather than simply offering time in the workhouse or general probation. (Severely mentally ill defendants face commitment hearings rather than mental health court.) In return for compliance, defendants can walk away from the court system without any charges on their record and avoid jail time.

Judges serve a less neutral role here than is the norm. They act as coaches, mentors and

cheerleaders for their mentally fragile defendants, who they know have often fallen into the court system as a result of their illness instead of a true, unadulterated criminal impulse. And they often come with the baggage of difficult lives and chemical dependency issues, says Hopper, which reflect an urge to "self-medicate" in an effort to deal with their mental illness.

The nation's overburdened criminal justice system has made clear that the courts need to take another tack in dealing with defendants who clearly suffer from depression, bipolar disorder

or other mental disabilities. The nation's largest mental health institution, for example, is the Los Angeles County Jail. The U.S. Department of Justice's Bureau of Justice Statistics released a report in September 2006 revealing that mental illness afflicts 64 percent of local jail inmates, 56 percent of state prisoners and 45 percent of federal inmates. The Minnesota Bureau of Corrections reported in December 2006 that 30 percent of adult female offenders and 8 percent of adult male offenders incarcerated in the state had a major mental illness.

"If you look at the trend over the last decade, you see more people with mental illness in the justice system than ever before," says Susan Abderholden, executive director of the Minnesota affiliate of the Arlington, Va.-based National Alliance on Mental Illness (NAMI). "Many of these people are in for nonviolent crimes, and we're seeing that treatment is much better and more cost-effective than prison."

Mental health courts may sound like a good idea, but they are actually a Band-Aid approach to mental illness that fails to treat the bigger problem of the beleaguered state of mental health care in the United States, according to Tammy Seltzer, director of state policy for the National Council for Community Behavioral Healthcare in Rockville, Md. "We have not valued mental health care the way we should," says Seltzer, who has published research papers on the courts. "We expect effective treatment for chronic and sometimes disabling conditions like diabetes and other physical health problems. We have not committed the same resources to providing effective care and support to people with chronic mental health conditions. Our failure to properly invest in community mental health is reflected in the grim statistics you see."

Seltzer says that defendants with mental health issues are arrested at twice the rate of people without mental illness "for the same behavior." In some communities the only way for people on the margins to receive mental health treatment is to get arrested, a strategy that "does not address the problem" and causes great disruption in their lives. In the matter of legal ethics, Seltzer notes that some defense attorneys feel uncomfortable serving on treatment teams for clients, "a role that conflicts with their professional ethics and duty."

Still, judges such as Hopper and E. Gregg Johnson, who oversees Ramsey County's Mental Health Court, see advantages in having the courts. They cite the extraordinary costs of defendants cycling through the system as a major sales point with tight-fisted county commissioners looking to reduce the cost of government services. Hopper had the court system look at two defendants who had been in the system for years and study how much they cost the county over the span of one year.

The total came to \$1 million—for two defendants only—a figure including only emergency room visits to Hennepin County Medical Center but "not the cost of jail time, the cost of lawyers, judges or other charges," says Hopper. "These individuals were committed for nothing



Judge H. Richard Hopper says it costs taxpayers \$1 million per year to support two defendants in the judicial system.

greater than low-level offenses, but they ran up quite a bill." A similar study in Ramsey County showed two defendants ate up \$450,000 worth of charges in the criminal justice system in just six months' time, a figure Johnson says "was on the low side."

It's not only about saving money. Johnson, whose court accepts just 25 cases at a time, believes the courts can help people recover their lives and function within normal society. Many defendants have come to his court after loitering, disorderly conduct or trespassing, usually a result of not having the jobs, homes or medications they require to maintain stability. "The goal is to stop them from committing crimes, and to do that you need intensive supervision," he says. "They need that kind of supervision to change their lives, and to begin to lead normal lives."

Since both Twin Cities mental health courts are so new, it is hard to determine just how effective they have been. Still, preliminary studies are encouraging. Dr. Deborah Eckberg, principal research associate with the Fourth Judicial District, studied the data of 272 defendants who visited the Hennepin mental health court from October 1, 2004, to October

31, 2005. She compared offenses committed four months prior to entering mental health court and four months after their start date. "Recidivism was cut in half when you look after four months prior to going to court and four months after," says Eckberg. "That's a significant difference."

INSIDE THE COURT

Hennepin County oversees 250 mental health court cases annually. On Thursdays, Hopper hears nonviolent felony cases where defendants deemed mentally ill mix with community court defendants facing charges for credit card fraud, shoplifting, theft and property damage. Defendants wind up in mental health court if they—and their attorneys—agree to an evaluation by a social worker to determine if they suffer a mental illness and agree to court supervision for as long as three years. In exchange for complying with the sanctions of the courts, defendants can have charges dismissed after as little as a year of supervision; defendants with lengthier records plead guilty and receive workhouse time and supervised probation rather than prison.

For many defendants it will not be the first time they have had contact with social services or had a psychiatric examination, says Cynthia Arkema-O'Harra, a Hennepin County mental health screener. More than a few men-

tal health defendants come into the court after losing access to their medications because they have lost a job and health care coverage, she says. Others know they suffer some kind of mental illness, but neglected to get it treated for any number of reasons, among them a lack of knowledge concerning the county's social service offerings and the mental illness itself. Paranoia does not lend itself to having a clear enough mind to get help.

Prior to hearing cases, Hopper convenes an unusual support cast in a court office. Among them are mental health case workers and probation officers who give him an update on each defendant he will see that day. Many defendants will simply show up for a progress report: they tell the judge they are taking medication and report on their success, or lack thereof, in finding employment and housing. The professional staff in the meeting will tell Hopper of options for defendants, ranging from halfway houses to job counseling programs.

On this November day Hopper sees a diverse parade of humanity—black and white, gender-balanced (rare in the judicial system) and trending toward poor. Several simply appear to politely tell the judge they're doing

fine. But if some aspect of their sentence is not being followed, Hopper will instruct the defendant's probation officer to help out. Arranging an appointment for a drug test or a consultation, and finding transportation to it, can be an enormous burden to many defendants.

The tide of cases includes a 24-year-old white man—with a far-off look and pants hanging down off his waist—who faces new charges for loitering and possession of drug

judge agrees to the plan as soon as her husband installs a landline phone, a necessity for home monitoring to work.

Other cases involve less time and energy. A low-functioning defendant comes to say everything is fine, and Hopper congratulates him. A 34-year-old woman reports monthly to drug court after being charged with possession of stolen goods and theft. After a quick review of her case, Hopper says, "Keep up the good work, and we'll see you after the holiday."

It's been a typical day in mental health court, where social services are discussed as much as case law; where the judge spends as much time admonishing defendants as punishing them; where medication protocol and group counseling get the same sort of air time as sentencing procedures. It's a court where even prosecutors root for the defendants.

Andrew LeFevour, an assistant Hennepin County senior attorney who works on mental health court cases, says the approach has worked to remove people who once cycled through community court every four to six months after committing "impulse" crimes such as stealing food or breaking into buildings to get shelter. "For this population this is the way to do it because they need a lot of supervision, they need someone to take some time with them," he says. "They're committing crimes not because of criminal intent, but because there are other issues."

Jessica McConaughy, an assistant city attorney for St. Paul who often prosecutes cases in Ramsey County's mental health courts, says "problem solving" courts bring together different shareholders—judges, social service employees, attorneys—to come up with a plan for defendants that will stop them from reoffending. The diversionary nature of the court encourages "accountability and responsibility" on the part of defendants and gets them "back on track in dealing with their mental illness," she says.

GETTING ON TRACK

In a windowless basement conference room with walls graced by Sierra Club posters, a group of current and past mental health court defendants gather every Wednesday to discuss their lives with career probation officer Chuck Decker. The Wednesday group meets at a social service agency near downtown Minneapolis to give Decker status reports on their medications, psychiatric counseling, group therapy, housing and transit issues.

One member, 23-year-old Siad Suleiman, has been in the mental health court process for more than a year for a felony drug offense and forgery. His legs swing nervously from side to side as he describes how he emigrated from Somalia at the age of 18, around the same time he began to "hear things" in his head and "the doctor there couldn't figure out what was wrong." Getting arrested may have been the best thing that happened to Suleiman because he managed to get a proper diagnosis and medication for schizophrenia, allowing him to attend courses at a local college and to participate in group therapy.

He hasn't reoffended, either, and has found a stable home with an aunt. "Siad has to go every three months to mental health court for a review," says Decker. "That's one of the keys to success, to make them come back to court, and that can be tough on these people. Not all of them are successful. It takes a lot of self-determination and effort to make it work."

Decker is a big reason why mental health court has worked for these defendants. They often cite his intense interest in their lives, his encouragement and his help as a key to their progress. The probation officer calls himself "old school" when it comes to working with defendants since he's willing to take a much more hands-on approach, from getting them transportation to appointments to checking on them many times beyond what the court orders. Whatever problems the group members have in moving forward, he finds an answer.

One of his recent, and most unlikely, success stories has been Kevin Broughton, a 47-year-old African-American man with a long arrest record who once lived under bridges and ran con games to support his drug habit. Broughton's life began to unravel in his 20s. At the time, he was married, lived in a nice home and had used his technical school education to find work as a mechanical engineer. And then he began hearing things. To stop the voices he first turned to alcohol, and then cocaine.

His life started to fall apart. He lost his job, his house and his marriage. He fell into depression, tried suicide, suffered from paranoia, anxiety and schizophrenia. Family members gave him little support—not uncommon among the mentally ill—and went so far as to flush his antipsychotic pills down the toilet in one instance. His arrest record grew and he spent time in solitary confinement in prison because of his outrageous behavior.

"I got to the lowest depth anyone can reach," he recalls. "I didn't see any way back. I was ready to step over the line and do something really stupid." After another arrest he met Decker, who convinced him to give recovery a chance, even though Broughton's first inclination was to plead guilty and do a five-year sentence in state prison. Instead, after his



Assistant Hennepin County senior attorney Andrew LeFevour believes crimes are sometimes committed not for criminal intent but "because there are other issues."

paraphernalia. Like many such cases, Hopper is reluctant to drop him from mental health court, preferring to add 30 days to his sentence and adding that a warrant for his arrest will be issued if he has any more violations.

A 39-year-old white woman with flowing, curly hair reports to tell the judge she relapsed and took crack cocaine after being released from a halfway house. A veteran of mental health court with a handful of theft and swindle charges, she quickly checked herself into a hospital after the cocaine episode. She pleads with the judge for a second chance, pointing out that her husband will allow her to come home if the court puts her on home monitoring. The

initial skepticism over Decker's interest—"I kept thinking, 'What's his angle?'"—the life-long offender decided to take a reduced sentence requiring a short stint in the workhouse and two years of intense supervision by the mental health court on the basis of Decker's promise to help him transition to a more stable life.

He lived in Sober House for four months after the workhouse and found an appropriate mixture of medications to stop the voices. That process took some time and added several inches to his waistline. He began working as a caretaker in a group of apartments in Fridley, where he lives. One experience in particular revealed his progress—a former jailmate spotted him walking home from a group meeting and offered him a ride. Broughton obliged and a conversation ensued about the jail time they once served. The man remembered some help Broughton had given him in prison and handed him a bag of crack cocaine worth thousands of dollars. Broughton declined the generous gift before asking the man to drop him off on the side of the road and to leave him alone in the future.

"Judge Hopper once told me, 'You're really something, you're a star,' and that made me feel good," says Broughton, who is being considered for a job at a new treatment center for mental

health court defendants. "When I have the respect of Chuck Decker, and Judge Hopper, well, that really means a lot to me. That's been an incentive to me. When I have the respect of people like that, I know I'm no longer the monster I was."

According to the U.S. Department of Justice, mental illness affects 64 percent of local jail inmates, 56 percent of state prisoners and 45 percent of federal inmates.

NEXT STEPS

The hardest challenge for Hennepin County has been creating a single place where mental health court defendants can receive their medications, counseling and other services, says Eckberg, the researcher. As it stands, the many defendants without personal transportation had better have a bus pass because their appointments tend to be spread out all over Minneapolis. That recently changed, however, when the county

created an intake center on Park Avenue, where defendants can receive medications, speak to a psychiatrist or ask about social services from counselors.

Ramsey County, meanwhile, will continue its program, but with tight budgets. Johnson sees little chance, at least right now, for an expansion of the mental health court. For him, the court offers a sense of accomplishment tempered by a struggle to force change among the severely antisocial defendants who end up back on the streets after being assigned to mental health court. Overall, he believes the court's efforts have been worth it. "It's remarkable how we have seen people turn their lives around," he says. "It's pretty rewarding. It beats locking people up."

Hopper shares the observation. The public has demanded that the justice system change to begin treating the underlying conditions resulting in crime, rather than simply building more prisons, he believes. And when people slip, as when one woman in mental health court did recently when she shoplifted some items after not taking her medication for a few days, Hopper will give them a second chance. "This is a more humane way to treat people with mental health problems," he says. "It's much more effective than jail, or prison." **L&P**

STAYING OUT OF TROUBLE

About the last place mental health advocates want the mentally ill to end up is in court. A system treating the mentally ill before they get involved with law enforcement would save a great deal of heartache and tragedy.

One way to do this is to have better-trained police officers. Minneapolis has more than 120 officers who have received crisis intervention team (CIT) training, which is based on a program developed by the Memphis police department in the late 1980s, according to Mark Anderson, executive director of the Barbara Schneider Foundation. The department began training in 2000 after officers killed Schneider, a well-respected academician who suffered from mental illness, during a dispute.

Anderson says St. Paul will begin CIT training in March with help from the Minneapolis department. Other departments with CIT-trained personnel include Burnsville, the University of Minnesota and Rochester,

he says. The goal of some departments is to have 20 percent of their force trained so that they will have an officer available on every shift to respond to calls involving the mentally ill, says Anderson. The foundation also held a conference in February 2007 focusing on CIT training.

Other organizations work to keep the mentally ill out of harm's way by offering them housing and supportive services. St. Paul-based Mental Health Resources Inc. provides supportive housing for the homeless and mentally ill — often one and the same — mainly in Ramsey, Hennepin and Dakota counties, says Nancy Abramson, the organization's executive director. Several housing options are focused buildings assigned to the mentally ill, while others use Section 8 Housing and Urban Development (HUD) vouchers to live in more mainstream environments.

Mental Health Resources created teams of

experts whose members visit clients sometimes as often as three or four times a week to check on their progress, she says. Several clients are graduates or participants in mental health court, says Abramson, while others receive referrals from social service agencies. "This program allows these people, with supportive housing, to stay in their communities and often have their own apartments," she says.

Ron Brand, executive director of the Minnesota Association of Community Mental Health Programs, believes the state's network of care for the mentally ill is decent but it needs better coordination. "It's a shame how often people's first encounter with the mental health system is in jail," he laments. "We have so much potential for reducing the harm that person ends up suffering and the other consequences they face if we get them treatment before they're arrested."

—Frank Jossi