Courts mix justice with social work

‘Problem solving’ programs flourish.

By Leonard Post

A niche of specialty courts called “problem solving” courts—which handle drug, mental health and community crime caseloads—are thriving across the nation.

Hundreds more are in the planning stages as the success stories roll in. The first community court, established in New York, is cited as one factor in taming once-notorious Times Square.

The pioneering drug court in Miami-Dade County, Fla.—the first of 1,100 nationwide—has dramatically cut recidivism rates, while 85% of the defendants who enroll in the nation’s first mental health court, in Indiana, complete the program.

All of these courts share one essential quality: They are places where justice and social services are meant to come together.

These courts have a “dual commitment to changing the lives of individual offenders and the quality of life in communities,” asserted David Rotman, principal court research consultant for the National Center.

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Problem-solving courts mix justice, social services

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for State Courts. When these courts are successful, defendants get well and communities rid themselves of the physical and psychological damage to them by repeat and sometimes habitual offenders. Judges are assigned to special calendars within existing courts or to stand-alone courts where they hone their expertise in these drug, mental health and community courts. Variations in the way these courts operate are plentiful.

First community court

Opened in 1993, the Midtown Community Court located near New York's Times Square is a prototype for the more than 20 others that have opened in 13 other states. These courts are solely replacing the revolving doors through whichpretrial, transit fare-hunters and petty thieves have been released back into their communities without much punishment—often no more than the time served in jail before arraignment.

Although sometimes offenders were also fined or ordered to perform community service, compliance was often not monitored because judges had more serious cases on their calendars.

Midtown Community Court

Midtown Community Court has 12 cells where low-level offenses are the crux of the calendar, although some community courts hear other community matters as well. In addition to misdemeanors and violations, Midtown hears small claims cases up to $5,000. In another New York City court, the Midtown Community Justice Center in Brooklyn, probably the most expansive community court in the country, a single judge hears misdemeanors, violations and the most serious family court cases such as juvenile delinquency and civil orders of protection. The impetus for these courts came from the community, said John Feinblat, who became New York City's criminal justice commissioner in 1991. Between 1991 and 1993 he coordinated the planning for the Midtown court with a grant administered by the nonprofit Fund for the City of New York. Feinblat, a verbivore and a partner in the law firm of Cadwalader, Wickersham & Taft, sees the Midtown court as a way to make courts better places to live.

The Midtown court was born out of the frustrations felt by government, the business community and people who lived in the area, he said. No one disputes that in 1991, Times Square—New York's theater district and a tourist mecca—was vice-ridden and downright squallid. It is not like that anymore.

"Midtown almost from the start got improved compliance with court orders, an improved sense of procedural fairness among defendants and an improved sense of confidence among the public," said William Z. Rein, president of the Center for Court Innovation, an independent research and development arm of the Midtown court—a laboratory for testing new ideas.

Berman readily concedes that the reasons for the reduction in a crime are complex and include law enforcement and other policy decisions also played roles in the lower crime rates in Midtown. It is likely that some combination of the three police precincts and all of Manhattan's prostitution cases. "But the area is much less aggressive," asserted Berman. "It has made a conscious decision to improve the quality of life in the neighborhood." In the mix of defendants in the Midtown court are those with lengthy criminal histories who have committed a new

misfit crime. These offenders often face consequences very different from those who are new to the system.

Someone now may receive only two days of community service and three days in a treatment readiness program. The community service jobs are often suggested by a community advisor. Completion of the job is interspersively monitored by court personnel whether it be cleaning an apartment or mowing a lawn.

But "those with lengthy criminal histories face longer-term incarcerations and therefore longer-term interventions," said Berman. That might include mental health counseling, drug treatment, community service and job training.

Jail sentences are hung like Swords of Damocles over offenders, who have to enter guilty pleas at arraignment to participate. Then, if the sword does fall—because of failures of the defendant or the system—the sentence is often longer than it would have been in a traditional court.

But Midtown's design may not be for everyone. "Planning has to be done at the local level," said Berman, whose center offers legal assistance to other sites. "The model has to make sense for the communities. Our multiple stakeholders who were first invested in the court's creation are still involved. Some still donate money to the program and some offer jobs to offenders who have come through the job-training program."

The system is adversarial, but as one official puts it: "We try to clear away the crap and understand the underlying and complicated problems affecting defendants and communities so that mutually beneficial outcomes can be achieved.

First drug court

More than 1,100 drug courts have taken root nationwide since the first one was launched in Miami-Dade County, Fla., in 1989.

Circuit Judge Jeffrey Rosinkle took over the Miami-Dade drug court in 1999. It is a program which means that an offender doesn't enter a plea. But Florida has many other kinds of drug courts, including adult, juvenile, driving under the influence, post-conviction and re-entry drug courts (for prisoners being released). There are also dependency courts for children of abusers whose parents may lose custody if they can't stay drug free, and a judicial monitoring program on courts' regular calendars for substance abusers who don't otherwise qualify for drug courts. In Florida, but not all states, a prior violent felony prevents an offender from entering in a drug court.

If an offender in Miami-Dade County chooses to participate in drug court and then wants back into the adversarial system, he or she is going to have to test clean first under Rosinkle's rules, said Cynthia Wolfe, a public defender who has been assigned to the court for the past 18 months.

But an offender who is willing to stick it out gets a shot at housing, educational opportunities, a job, a charge dismissed, an arrest record sealed or expunged and a life without addiction.

The court has 1,500 cases, mostly felonies involving mainly purchasers and users because alleged possessors with intent to sell are not eligible for it. Between 1998 and December 2003, the recidivism rate from the Miami-Dade court was 4.2%, much lower compared with the 60%-70% rates for addicts leaving prison without re-entry programs, Rosinkle said. He noted that the 4.2% represents reoffenders in Miami-Dade only, so the exact number is unknown and likely somewhat higher.

Both the intensity of treatment, which takes place in a minimum one-year program, and the sanctions and incentives offered during the program's various phases account for the program's success, said Assistant State Attorney Courtroom

Hofman.

"It's a team effort and Judge Rosinkle's commitment and determination to defendants' drug-free future really makes it work," Rowan said.

In the first phase, which is detox, offenders report to a group program every day, and sometimes receive acupuncture. In phase two, which is stabilization, it's group or individual therapy two to three times a week. At the end of which offenders are introduced to a 12-step program. The final phase is two 12-step meetings a week and counseling. Urine testing continues during all phases. They have to pay for these programs too, in cash or community service, on a sliding scale, or they can attend a court-approved private program.

Among the 50 housing programs, including one for those who enter the program homeless, job training: and an employment program. And if the offender is unable to make 25% of the rent, they will pay him or her to go back to school.

More than 500 drug courts are being planned, including a drug court clearing-house at American University's School of Public Affairs.

Mental health courts

Many consider Marion County, Ind.'s Psychiatric Assertive Identification ffers (PAI), which started in 1996, to be the nation's first mental health court. Though it isn't called that. Ninety-two other mental courts now dot the country, with many more planned.

Cases are mainly referred to PAI by judges, family and mental health workers and public defenders. For an offender to qualify, a mental illness must be serious, for example schizophrenia or bipolar disorder. The district attorney's office must approve the remand of a case to the diversionary mental health court.

That won't happen unless the victim consents, which they do about 90% of the time. The court has accepted 267 defendants who have been with PAI since its inception. Her 140-client caseload comes from the misdemeanor, felony, community, traffic and high court courts of Marion County, which includes Indianapolis. With few exceptions, the underlying cases are predominantly drug and alcohol related.

"Defendants are required to come to court to sign a diversion agreement, which is accompanied by a treatment plan," said Hallbert. The court receives written reports from mental health providers every month and offenders frequently return for compliance hearings. "No one is ever put in jail," Hallbert said.

They have to try other options and they may find a new job and can plead guilty or go to trial. Hallbert said that those who progress that right are not treated more harshly than if they had never entered the program.

There are no statistics on recidivism because they can't afford a study. "Our program has never been given a dime," Hallbert said. "It relies on the court, mental health association and community mental health centers. Our goal is to de-criminalize mental illness and get people out of the criminal justice system and into treatment."

But mental health courts do have their critics. Former Federal District Attorney in New York's Urban Justice Center's mental health project, said she fears that the mentally ill are being drawn into an ever-widening net of behavior to get people into treatment rather than having treatment available to those who need it most.

"It's becoming easier to get treatment through the courts than off the streets both for people with mental illness and substance abuse," she said. "That's just not right."