

The Brooklyn Mental Health Court

by Maia Szalavitz

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"A young fellow in his third year of college had a psychotic break," Judge Matthew D'Emic recounts. The man began hearing voices, which spoke to him through the TV and the radio and convinced him that he was Jesus Christ reborn. He began to act increasingly strange and distant -- and was soon arrested for grabbing a woman's purse. His claims about being the savior irritated his fellow inmates at Riker's Island, and he was brutally beaten while awaiting the disposition of his case.

Typically, in New York City, people such as this man, whom the judge did not name, are at the start of an alternating cycle between incarceration and homelessness in which their underlying mental illness is never adequately addressed. Of the inmates on Riker's Island, as many as 20 percent have a severe mental illness -- and of those who were on psychiatric disability before their arrest, nearly half had been homeless the night before, according to the [Urban Justice Center](#). Around 3,000 severely mentally ill people are incarcerated at Riker's Island on any given day, making it in effect the city's largest psychiatric hospital.

But a new court which began operating in October in Brooklyn hopes to start to change that. The college student whose story D'Emic told is one of the first case to be referred to him.

"He had never been in trouble before," says D'Emic, who has now seen him in court for several months. His father attended his court appearances. "At first, I could see this terrible look on his father's face, like 'What happened?'" says D'Emic. "Now he comes and says that his son is back to his old self." He has re-enrolled in college and is under psychiatric care.

If he completes his period in care under court supervision satisfactorily, the student's case will be dismissed and he will not have a criminal record. [The Brooklyn Mental Health Court](#) focuses on serious non-violent crimes committed by the mentally ill. Participants are referred by the District Attorney's office or by other judges. Some violent crimes like burglary can be considered on a case-by-case basis. However, the District Attorney has to approve all participants.

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But while these courts sound like a great solution to the problem of the criminalization of the mentally ill, many advocates for those with serious psychiatric problems are skeptical.

Even Judge D'Emic admits that the courts alone can't solve a critical underlying problem, which is a severe shortage of services and residences for those with mental illness. "I do see that there is a problem with not enough services being available," he says, even though only about 30 defendants have already been through his court.

"[These courts] don't do anything to fix the community mental health system, which is in complete shambles in most of the country and that certainly includes New York City," says Heather Barr, staff attorney at the Mental Health Project of the Urban Justice Center.

"I feel like this is more of a band-aid approach," adds Susan Saler, Director of Services for the National Alliance of the Mentally Ill's [New York Metro Chapter](#), though both support measures in general to keep the mentally ill out of the justice system. Both advocates say that if community services were adequately funded and regulated, however, many of the mentally ill would not get arrested in the first place.

A more positive reaction is expressed by Dr. John Goldkamp, a professor of criminal justice at [Temple University](#), and a leading authority on both drug courts and mental health courts. "I think that [these courts] bring an important focus to a long-neglected area," he says. "Good mental health courts are going to play a very important role." Goldkamp says there are now about 20 mental health courts across the country, with others about to be launched. He says that their goal primarily is to keep the mentally ill out of prison

Judge D'Emic is quite clear about that. Using short stays in jail to punish non-compliance with treatment poses a real problem with the seriously mentally ill, that it may not pose with other offenders in alternative sentencing courts.

"Drug treatment courts have the option of putting defendants in jail for a few days for non-compliance," he says. "If I do that, the person could decompensate, he might not get his medications and then I'm worse off than I was before."

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As a result, D'Emic must use rewards like fewer court appearances, praise and even lectures to try to motivate those before him. Jail is a last resort. It is not used as a motivator, but simply to protect the public if a defendant becomes dangerous.

Part of the impetus for creating the court, in fact, was the failure of drug courts to help those who were both addicted and mentally ill. Because they were often unable to comply with treatment -- and because many drug treatment centers are not set up to treat serious mental illness -- the addicts with mental illness frequently wound up back in prison.

Since about 50 percent of the severely mentally ill have drug problems and about 50 percent of addicts have additional mental illnesses of varying severity, this is a large group of people who often have contact with the criminal justice system.

Goldkamp says that just as drug courts were started in part because the drug treatment system was failing to help, the same is true of mental health courts. "Thank goodness for the judges who want to face this problem of mental health, just like others wanted to deal with substance abuse. There are all kinds of issues that make this even more complicated and difficult. [These courts] are only there because of the failure of other social service delivery systems," he says.

But many advocates for the mentally ill feel that spending money on mental health courts reduces the pool of money available to improve community treatment. Goldkamp doesn't think this is necessarily so; he says that drug treatment providers initially opposed drug courts using the same reasoning but that the special courts can push providers to offer better and more cost-effective services if they are set up properly.

The [New York State Office of Mental Health](#) is spending \$465,000 on this court and on training judges to expand it. There will be an [outside evaluation](#) once the court has been in operation for six months.

Only time will tell whether these courts will be successful in New York -- but there is no doubt that change is needed. On any given day, there are about 8,000 seriously mentally ill people in

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New York state's prisons and jails -- and roughly 10,000 seriously mentally ill homeless people on the city's streets.

Maia Szalavitz is author, with Dr. Joseph Volpicelli, of "Recovery Options: The Complete Guide: How You and Your Loved Ones Can Understand and Treat Alcohol and Other Drug Problems." She writes frequently on health, science and public policy for the New York Times, New York Magazine, the Village Voice, and other publications.