

Screening, Special Defender's Office Help County Better Handle Mentally Ill in Jail
By Logan Carter
Lubbock Avalanche-Journal
October 31, 2010

Rose was psychotic — thrashing on a gurney when she accidentally kicked an emergency services technician.

Just like that, assault on a public servant — a felony.

Rose suffers from bipolar disorder and has had 16 psychiatric hospitalizations since 1982, six of which were emergency detentions where police officers in other cities had taken her directly to a psychiatric facility instead of arresting her.

The 56-year-old had not been taken to jail in a psychiatric emergency until she was 53 years old, living in Lubbock.

That includes the time she walked down the streets of San Diego with a “bucket of purple paint and a gallon of vodka, trying to reunite the 12 tribes of Israel.”

She ended up receiving deferred adjudication and was placed on probation for the assault. But when she broke the law again, she was arrested and jailed.

Rose said she was completely irrational and that someone should have noticed she was psychotic and treated her.

“I spent six days in jail just hallucinating my brains out,” Rose said. “I’d lay real still and felt like if I could align all the hairs on my body, I could re-establish the electromagnetic field and everything would not be lost. It was terrifying.”

What got her through, she said, was the woman in the next cell slipping her own psychiatric drugs to Rose.

More than a year and a half since Rose was arrested, the handling of mentally ill defendants in Lubbock County has improved.

And while county officials agree more changes are necessary to ensure mentally ill defendants don’t languish in jail, improvements such as specialized screening at the jail and cooperation between the Lubbock Special Needs Defender’s Office, defense attorneys and the probation office have streamlined identifying mentally ill defendants and getting them through the system.

The Special Needs Defender’s Office provides private appointed legal representation, as well as specialized one-on-one care outside the jail to help ensure defendants make their court dates and don’t end up back in jail.

The office is a synthesis of a board, director, 21 attorneys on an appointment wheel and two social workers.

The program is the first of its kind in Texas and works with defendants from arrest through disposition.

Since November 2009, the office has received 367 qualifying referrals out of 1,777 total referrals.

Of those 367, 208 were accepted, according to data from the defender's office.

The office represents defendants who are charged with felonies or Class A or B misdemeanors, are indigent and have a qualifying mental health illness or condition like schizophrenia, bipolar disorder or major depressive disorder.

County officials began looking into establishing a program to represent defendants with special needs when they realized the people spending the longest amount of time in jail were individuals who had mental health issues.

"That's why we're here — it's about the people," said office director Irma Shepler. "It's about helping those who can't help themselves."

Supporters of the program said the extra work the office is doing for these defendants could end up paying off by reducing jail time and the proclivity of offenders to re-offend.

"In many cases, a little more attention at the front end, as we're taking care of these cases, will benefit society in the future by reducing recidivism," said Judge Drue Farmer, who has established a mental health docket to help move cases more expeditiously.

Special needs defendants need more services and attention while in jail than anyone else, said David Slayton, director of court administration for Lubbock County. They need attorneys who are trained in handling those needs because the legal process gets bottled up even more when attorneys don't know how to handle their clients.

The Special Needs Defender's Office was able to provide that legal representation without having to expand the county payroll by utilizing private attorneys trained to handle special needs cases, Slayton said.

The office works as a central hub, coordinating with private attorneys and the Lubbock Regional Mental Health Mental Retardation Center.

"It allows us to get all the benefits of a public defender, but you still get to use all the private resources of the bar," Slayton said.

The best way to help as many special needs defendants as possible is to first find out if they have special needs.

Slayton said the old mental health screening process wasn't good enough.

Jailers were responsible for asking a few screening questions and didn't have access to inmates' state mental health records.

"Twenty percent of the people (screened) have mental health issues," Slayton said. "That would be 20 percent we were missing."

Now the screening is done by qualified mental health professionals who have access to MHMR and state databases, said Mary Gerlach, former behavioral health and forensic services director at the Lubbock Regional MHMR Center.

She said the more detailed mental health screenings began in September 2009 and were in full swing by December.

The screening process in the past was so rudimentary it didn't catch a lot of the people it was intended to, with questions like "what season is it?" Gerlach said.

"If you had an IQ of 50, it was probably going to point that out. It might point out somebody who was in an acute psychotic crisis," Gerlach said. "Somebody can be pretty psychotic and hold it together long enough to get through something like that."

Being able to search more than just the MHMR database, which is all that was available until recently, is also beneficial, Gerlach said.

The MHMR records would have shown whether someone had been in the MHMR system, but not to what extent, she said.

"It doesn't show whether you just came in and got screened or whether we'd been treating you for psychosis for 10 years," Gerlach said.

Once the office accepts a case, the client can begin working with his or her attorney and caseworker.

Sources interviewed for this story agreed the mentally ill are often easily overlooked in the criminal justice system.

They will sit compliantly in the corner and never ask for help, but they're the ones who need the most help, Farmer said.

As was the case with Rose's assault charge, Farmer said oftentimes mental illness is wrapped up in the case. It's either the reason for the offense or involves family members or peace officers trying to interact with someone who is in crisis.

Once a mentally ill defendant is declared competent or is restored to competency, the case moves forward like other cases, Farmer said.

It returns to the original trial court, where the case will be expedited to resolve it quickly.

It is then up to the defense attorney and prosecutor to take the defendant's condition into account when working out a plea bargain.

Aside from the attorney handling the client's legal representation, the defendant has the support of a caseworker.

Each of the social workers at the defender's office maintains an average caseload of about 50 to 55 cases, Shepler said.

"I think the higher our caseload, the better for the community because it means we have these clients that have been flagged in the system and they're not going unnoticed anymore," Shepler said.

The caseworker will visit the client while he or she is in jail and help with medication, housing, food and clothing upon release, Shepler said, adding that the caseworkers have the hardest job of anyone associated with the office.

Rose said the office can be especially helpful to the many people with mental illness who don't have family or a support group.

"I really felt like these were really beautiful people that would listen to me," Rose said.

Rose's caseworker, Jose Leal, worked with her attorney and the Criminal District Attorney's Office to resolve the case.

Leal said he tried to help them understand that her illness is something that can be managed by utilizing the resources available to her.

He said Rose was easy to work with because she was proactive and did everything that was asked of her.

"Did it play a part in reference to getting her probation? Yes," Leal said. "It shows that she's stabilized."

Rose said she thought Leal's help was crucial to her receiving probation.

"I really think I would have gone to prison if it wasn't for Mr. Leal," Rose said.

Now Rose is on the Lubbock/Crosby County Community Supervision and Corrections Department's mental health initiative caseload.

Four community supervision officers handle between 40 and 60 cases per person.

Phillip Saffel, who has worked the mental health caseload since March, said he tries to help his probationers understand that their crimes are often caused by their mental illness.

He focuses on how their disorder affects their daily lives and what they can do to improve it.

Saffel said mental health probationers don't get any special treatment and still have to do everything that anyone else on probation is required to do, but said they do require and receive more supervision.

“If we can get an individual to function properly in society and be an active member of society and to give back to the community, then of course that's better than them being in prison.” Saffel said. “Of course that's our goal and that's what we strive for every day.”