

## Mental Health Courts: Decriminalizing the Mentally Ill

By Richard D. Schneider, Hy Bloom, and Mark Heerema.  
Toronto, Ontario, Canada: Irwin Law, 2007. 296 pp.  
\$50.00 Canadian.

Reviewed by Howard Sokolov, MD

Over the past decade, there has been a transforming trend in how nonviolent mentally ill offenders are processed by the criminal justice system. These persons increasingly have had their cases diverted to mental health programs that offer rehabilitation services in lieu of incarceration. *Mental Health Courts: Decriminalizing the Mentally Ill* is devoted to explaining the etiology, theoretical framework, and assessment of this change, as well as salient operational matters in these courts.

The authors are exceptionally qualified to present this topic. Richard Schneider is the presiding judge of the Toronto Mental Health Court, the largest and most comprehensive mental health court in Canada; he also is a psychologist. Hy Bloom is a forensic psychiatrist and attorney, and Mark Heerema is an attorney and Masters of Law candidate.

The book contains an introductory chapter and three sections. The first section, entitled "The Emergence of Mental Health Courts," contains two chapters that describe the historical foundation of mental health courts and the theoretical underpinnings of the mental health court model. The authors note that there has been a massive influx of mentally ill individuals into the criminal justice system, because of state hospital closures and fragmented community mental health services. The criminal justice system has, in the authors' opinion, become a "default" mental health system and "social safety net of last resort."

The authors state that the traditional approach to processing criminal offenders, which includes retribution and punishment, has not been effective for offenders with mental illness. They opine that incarceration without treatment merely clogs local jails beyond capacity and does little to prevent recidivism. They also contend that punishment without treatment seems inappropriate, because minor offenses

committed by these individuals may be attributed, at least in part, to mental illness.

The philosophy of therapeutic jurisprudence appears more relevant and effective when it is applied to mental health courts. The authors explain that therapeutic jurisprudence, which was first described in the late 1980s, allows courts to shape an individualized therapeutic rehabilitation program for each offender. Solutions may include linkages to mental health, housing, employment, or other services that may ameliorate the conditions that caused the criminal behavior. They attempt to add balance to the discussion by addressing concerns cited by opponents of the therapeutic jurisprudence model.

The second section of the book, which contains three chapters, is "The Operation of a Mental Health Court." Readers are introduced to a variety of diversion programs designed to facilitate transferring offenders with mental illness from the criminal justice system to the mental health system, including crime prevention activities, specialized police officer training, court or jail liaison, post-sentence community linkage, and mental health courts. The roles of mental health practitioners in mental health courts are also described.

The authors examine the challenging process of setting eligibility standards for admission of offenders to mental health courts. Criteria explored include requirements for guilty pleas, voluntary participation, appointment of counsel, confidentiality, and withdrawal from participation in the program.

Although most mental health courts deal exclusively with diversion, there are exceptions. The authors describe the Toronto Mental Health Court as a comprehensive organization that has jurisdiction over court diversion as well as more traditional forensic matters, including competency to stand trial and criminal responsibility. The need for rapid assessment requires a flexible and collaborative approach by psychiatrists, social workers, attorneys, and judges. Cross-disciplinary training and creative thinking are expected of all team members. The authors comment that the unique nature of this work suggests that there may be a psychiatric subspecialty in the making, above and beyond traditional forensic psychiatry.

The third section of the book, "The Success of Mental Health Courts and Their Future," describes assessments of mental health courts. The authors acknowledge the paucity of studies regarding the effec-

tiveness of the courts. Although more than 100 such courts are mentioned in the book, only nine studies are briefly summarized. The research suggests a high degree of perceived satisfaction, fairness, and confidence in the administration of justice. Studies also conclude that offenders with mental illness experience less perceived coercion in mental health courts than in criminal courts. Despite these gains, the studies do not suggest that offenders processed through mental health courts have lower recidivism rates.

The authors link the relative lack of studies to sparse funding for evaluation of these courts, the variation in court structures, a lack of defined best practices, and difficulty defining success. Surprisingly, no evaluative data are presented about the Toronto Mental Health Court.

The future of mental health courts is contemplated by the authors, who say that establishing additional mental health courts within existing judicial systems is like placing “buckets under a leaky roof.” The authors identify one solution to the primary problem: fix the mental health system. They also acknowledge that sufficient funding for this repair is unlikely. Consequently, the authors predict mental health courts will remain “a long-term partial solution.”

This is a well-written, organized description of the current state of mental health courts. There are helpful tables, graphs, and footnotes throughout. The listing of pertinent court cases and sample court forms will be more useful to Canadian readers.

The authors are to be commended for producing an informative resource for persons involved with or interested in learning about mental health courts, diversion, and novel collaborative programs combining criminal justice and mental health initiatives.

## Law and Mental Health: A Case-Based Approach

By Robert G. Meyer and Christopher M. Weaver. New York: The Guilford Press, 2006. 394 pp. \$48.00.

Reviewed by Gregory B. Leong, MD

Forensic mental health educators seek to identify scholarly, intriguing, and timely material that enhances the experiences of students and professionals. The references should be clearly written, sufficiently

interesting to motivate readers to study challenging legal concepts, and written for a specific group of forensic mental health professionals. Psychologists Robert G. Meyer and Christopher M. Weaver considered these criteria and wrote *Law and Mental Health: A Case-Based Approach*, to serve as a supplementary text for “advanced students and professionals in the mental health fields.”

The book, which commences with a brief introduction to basic legal concepts, is divided into seven sections: “Psychological Issues and Involvement in Basic Courtroom Proceedings,” “Legal Precedent in Everyday Clinical Practice,” “Clinical Forensic Evaluation,” “Civil Rights and Civil Law,” “Specific Mental Diagnoses in the Law,” “Violent Criminals and Violent Crime,” and “Juveniles in the Legal System.” Each section contains three or four self-contained chapters; readers do not have to review the material in any particular order.

The chapters cover various topics central to forensic mental health education, including admissibility of expert testimony, informed consent, confidentiality and privilege, duty to warn or protect, competency, insanity, hypnosis, civil commitment, dangerousness, prison mental health, personal injury, sex offenders, the death penalty, child abuse, and child custody. The authors also include a few chapters on subjects at the fringes of a core forensic mental health curriculum such as jury selection, jury consultation, psychological profiling, and sexual orientation and civil rights.

Each chapter begins with a quick overview of the identified topic, followed by one to three detailed legal case studies that examine salient clinical and legal concepts. For example, the authors review the forensic mental health landmark cases *Dusky v. U.S.* and *Godinez v. Moran* in the competency chapter and *Thompson v. Oklahoma* and *Roper v. Simmons*, among others, in the chapter that examines juveniles and the death penalty. However, many of the featured cases did not undergo appellate review or achieve landmark case status, such as the John Hinckley case in the “Insanity and Criminal Responsibility” chapter; the case of the “Mad Bomber” George Metesky (New York, 1940s and 1950s) in the “Criminal Psychological Profiling” chapter; and the case of serial killer John Wayne Gacy in the “Psychopathy and Antisocial Personality Disorder” chapter. The case studies, which add color to each chapter, sustain the interest of the reader.