Long-term recidivism of mental health court defendants

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ABSTRACT

The first MHC was established in 1997 and now, over 15 years later, there are over 300 mental health courts in the United States. In a relatively short time these courts have become an established criminal justice intervention for persons with a mental illness. However, few studies have looked at the long-term outcomes of MHCs on criminal recidivism. Of the studies evaluating the impact of MHCs on criminal recidivism, most follow defendants after entry into the court during their participation, and only a few have followed defendants after court exit for periods of one or two years. This study follows MHC defendants for a minimum of five years to examine recidivism post-exit with particular attention to MHC completion's effect. Findings show that 53.9% of all MHC defendants were rearrested in the follow-up and averaged 15 months to rearrest. Defendants who completed MHC were significantly less likely to be rearrested (39.6% vs. 74.8%), and went longer before recidivating (17.15 months vs. 12.27 months) than those who did not complete. This study suggests that MHCs can reduce criminal recidivism among offenders with mental illness and that this effect is sustained for several years after defendants are no longer under the court's supervision.

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1. Introduction

Given the large numbers of persons with serious mental illness in the criminal justice system (Abram, Teplin, & McClelland, 2003; Abram, Teplin, McClelland, & Dulcan, 2003; Steadman, Osher, Robbins, Case, & Samuels, 2009; Teplin, 1990; Teplin, Abram, & McClelland, 1996; Trestman, Ford, Zhang, & Wiesbrock, 2007) and the fact that many of these individuals repeatedly cycle through the system, local US jurisdictions have implemented various diversionary programs for mentally ill offenders. One such program is the mental health court (hereafter MHC), which is a type of problem-solving court that attempts to divert persons with mental illness out of the cycle of arrest, incarceration, release and rearrest, by requiring and motivating them to connect with treatment and services and to change their behaviors (Almquist & Dodd, 2009).

The MHC uses case management and enhanced judicial supervision to monitor a defendant's progress. Judges, probation officers, social workers, community corrections, and treatment service professionals work together as part of the MHC team to develop treatment plans for each defendant and monitor defendants' progress (or lack thereof) while under court supervision. Individualized treatment plans may include requirements like attending a treatment program, meeting with a mental health professional, submitting to drug screenings, complying with a medication regimen, and offering some form of restitution. Some defendants complete the court process meaning they were compliant with court mandates for a

continuous period of time and received a full "dose" of the court's treatment, services, structure, supervision and encouragement (Moore & Hiday, 2006). Other defendants who are persistently noncompliant are terminated from the process, receive only a part of their individualized plans, and eventually have their charges sent back to traditional court. Some opt out, choosing to return to traditional court for processing of their cases. These two groups are the MHC noncompleters.

The majority of empirical research on MHCs has focused on criminal recidivism and has found that defendants who participate in a MHC have lower rates of reoffending than before entering the MHC (Burns, Hiday, & Ray, 2013; Christy, Boothroyd, Petrila, & Poythress, 2003; Dirks-Linhorst & Linhorst, 2012; Frailing, 2010; Herinckx, Swart, Ama, Dolezal, & King, 2005; Moore & Hiday, 2006; Palermo, 2010; Steadman, Redlich, Callahan, Robbins, & Vesselinov, 2011; Trupin & Richards, 2003). When compared to defendants with a mental illness in a traditional criminal court, MHC defendants are no more likely to reoffend (Christy, Poythress, Boothroyd, Petrila, & Mehra, 2005; Cosden, Ellens, Schnell, Yamini-Diouf, & Wolfe, 2003; Dirks-Linhorst & Linhorst, 2012; Frailing, 2010; Hiday, Wales, & Ray, 2013; McNiel & Binder, 2007; Moore & Hiday, 2006; Steadman et al., 2011; Trupin & Richards, 2003). Some of these studies had comparison groups that consisted of defendants who were not referred to MHC or did not opt into MHC after referral (Dirks-Linhorst & Linhorst, 2012; Frailing, 2010; Hiday et al., 2013; McNiel & Binder, 2007; Moore & Hiday, 2006; Steadman et al., 2011; Trupin & Richards, 2003), while others had no comparison group and looked at recidivism between MHC completers and noncompleters (Burns et al., 2013; Herinckx et al., 2005; Hiday & Ray, 2010; Palermo, 2010).

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Although there are now over 300 MHCs throughout the United States (Almquist & Dodd, 2009)—and this number continues to grow—most of the studies have examined recidivism after MHC entry with follow-up over the time defendants are still in the MHC. Only a few studies have looked at the impact of the MHC on offending behavior post MHC exit (Burns et al., 2013; Dirks-Linhorst & Linhorst, 2012; Hiday & Ray, 2010; Hiday et al., 2013; McNiel & Binder, 2007). By examining offending behavior post MHC exit, researchers are able to determine whether the MHC program that is expected to impact recidivism does so for a sustained period of time when defendants are no longer under the court's monitoring and receiving its treatment and services. Moreover, many MHC teams acknowledge that they are trying to change long-standing patterns of criminal behavior and accept that defendants often make mistakes early on in the MHC process and may be re-arrested (Ray, Dollar, & Thames, 2011; Redlich et al., 2010). In such cases, the team can decide to add the additional charges to the original ones on the MHC docket. Looking at offending after MHC entry would count these arrests as recidivism when in fact technically these additional charges are disposed of along with the original charges if the defendant successfully completes the MHC.

Of the post-exit studies, the longest follow-up period has been two years (Burns et al., 2013; Hiday & Ray, 2010). Longer-term follow-up studies allow researchers to examine how long MHCs reduce offending and whether they help reintegrate defendants back into the community as law-abiding citizens. Given the spread of MHCs in the United States, it is important that policy decision makers are provided with information on the longer-term criminal justice outcomes of offenders with serious mental illness when considering the effectiveness of MHCs. Until recently such evidence has been hard to assemble as MHCs have not been around long enough for evaluators to complete studies with long-term outcomes.

The present study examines post MHC exit arrests for a minimum of five years of all defendants who participated in one MHC in its first six years, 2000 to 2006. In doing so the study also investigates differences between completers and noncompleters of the court. MHC studies consistently suggest that completers are less likely to recidivate than noncompleters because they receive a full "dose" of MHC supervision, treatment, case management, services, and support. Unlike MHC studies that have examined noncompleters' recidivism, this study accurately assesses the risk period of rearrest for noncompleters by considering traditional court disposition and jail time dates. Using survival analysis to examine the likelihood of criminal recidivism and the length of time post MHC exit until defendants recidivate, this study addresses whether MHC participation and completion leads to compliance with the law in the years following MHC exit. In multivariate analyses, it controls those factors shown by previous empirical research to be significant in predicting recidivism and desistance over time.

1.1. Setting

This study's MHC was the first in North Carolina. It takes misdemeanors and felonies, nonviolent and violent charges, and pre-adjudication and post-adjudication cases of defendants with mental illness. To participate the defendant voluntarily signs an agreement to comply with the court ordered individualized treatment and behavioral mandates. During MHC, criminal charges for misdemeanants and sentences for felons are placed in abeyance. Defendants are required to attend court sessions each month for compliance audits. Compliance is determined at monthly team meetings that occur before each court session. This MHC does not have a phased completion status, instead defendants must remain in compliance with court orders for six consecutive months to have their charges disposed of positively. If a defendant is non-compliant, the judge may express disappointment, issue a warning, place the defendant in jail for a short stay, and/or order alternative treatments or services. If the non-compliance continues or the team determines that the defendant is unsuitable for MHC, the judge reassigns

him or her back to traditional court. Earlier reports of this court found that criminal offending was reduced during court monitoring (Moore & Hiday, 2006), for one year post entry (Moore & Hiday, 2006) and up to two years post-exit (Hiday & Ray, 2010).

2. Methods

This study uses court administrative data for all defendants who were in the first MHC in North Carolina for its first six years, 2000 to 2006 ($N = 449$). Over the six years of data collection, the number of defendants who entered the MHC per year ranged from 56 to 100, averaging 74.8 ($SD = 12.68$) per year. This number varied with fluctuations in the ability of the court to provide case management and mental health services as funding fluctuated. Court data provided demographics, key arrest (the arrest that brought them into MHC), court dates and exit statuses (i.e., complete, ejected, opt-out) on all defendants; and statewide criminal history files provided their dates of arrest, arrest charges, dispositions and disposition dates of the charges. Cases were merged by key arrest to determine disposition for those defendants who were sent back to traditional criminal court. In order to accurately measure each defendant's risk period for recidivism, data were also collected on the timing of traditional court outcomes (i.e., court disposition and jail release date) for those who did not complete the MHC process.

The dependent variables in this study are rearrest and time to first rearrest post-exit. Data collection on these variables occurred during November 2011, providing a follow-up period of over a decade for those defendants who left the court at the end of 2001 and over five years for those who left in the end of 2006. Most MHC studies have not examined the traditional court outcomes of MHC noncompleters (see Hiday et al., 2013, for exception); however, these outcomes are important to accurately determine each defendant's risk period for rearrest, that is, the time when a defendant is no longer under the supervision of the MHC or no longer incarcerated and in the community capable of recidivating.

Cox regression survival analysis was used to examine recidivism post-exit. One of the strengths of survival analysis methods is how it handles censored data: left censoring occurs when data on the starting point are not available and right censoring when there are no data on the ending point, which often occurs when studying recidivism. In order to accurately measure each defendant's risk period for recidivism, data were also collected on the timing of traditional court outcomes (i.e., court disposition and jail release date) for those who did not complete the MHC process. As such, none of these data are left censored as all starting points for the risk of recidivism are known; for completers ($n = 265$) the starting point is the last day of the MHC and for defendants whose charges were sent back to traditional court (e.g., opt-outs and noncompleters, $n = 184$), the starting point is the date of release from jail or prison for those incarcerated and on the date that key arrest was disposed in traditional court for those not incarcerated. However, there is right censoring because for some individuals the event of interest, rearrest, had not yet occurred before the end of the study period. Cox regression uses the censored and uncensored (i.e., those that did recidivate) cases to calculate the probability of surviving (i.e., not recidivating) for each time point (Box-Steffensmeier & Bradford, 2004). Covariates can be added to the Cox regression equation to predict the hazard rate, which is the probability of the event occurring in a given time period given survival through prior time periods. Therefore, it is able to examine both the likelihood of and time to recidivism by court exit status (e.g., completers and noncompleters). With such a long-term risk-period for recidivism these data can also explore how long a follow-up would be necessary to capture those who might recidivate post-exit.

A methodological issue rarely discussed in the MHC literature (see Christy et al., 2005 for an exception) is that some defendants are accepted back into the MHC after exiting. Over the six years of MHC defendants examined in this study, 18.0% ($n = 81$) of those who left the MHC were accepted back into the court. Most (60.5%, $n = 49$) of these