

INTRODUCTION

MENTAL RETARDATION

Reports by The Arc of the United States and the American Association on Mental Retardation indicate that approximately 2.5-3% of the population is mentally retarded. That number increases significantly when related developmental disabilities are added. Based on 2002 Dallas County population estimates, this means that approximately 67,935 of our fellow residents are affected by this disabling condition. Mental retardation cuts across the lines of racial, ethnic, educational, social and economic backgrounds. It can occur in any family. One out of ten families is directly affected by mental retardation.

Yet as significant as these numbers are, mental retardation is still largely misunderstood by peace officers, lawyers, judges and the general public. For example, many people do not understand that roughly 89% of all people with mental retardation are mildly affected, therefore, their disability is not readily apparent from their physical appearance alone. Mental retardation also continues to be mistaken for a type of mental illness or simply a synonym for mental illness.

An individual is considered to have mental retardation based on the following three criteria:

- Intellectual functioning level (IQ) is 70 or below.
- Significant limitations exist in two or more adaptive skill areas (communication, self-care, home living, social skills, leisure, health and safety, self-direction, functional academics, and community use and work).
- The condition is present during the developmental years (0-21 years old).

These facts coupled with an individual's strong desire to conceal his/her disability present the judicial system with unique challenges.

As the point agency, Dallas MetroCare (formerly Dallas County Mental Health Mental Retardation Center) is a community mental health mental retardation center serving the residents of Dallas County. Governed by a nine member Board of Trustees appointed by the Dallas County Commissioners Court, the Center provides a comprehensive array of services and supports to Dallas County residents living with the challenges of mental illness and mental retardation.

Established in 1968 as Dallas County MHMR, Dallas MetroCare Services currently provides services to more than 18,000 individuals annually. Dallas MetroCare Services is divided into two divisions: Mental Health Services and Mental Retardation Services

The Mental Retardation Services division has been accredited by The Council, a national accrediting body for services for people with developmental disabilities. Mental Retardation Services commitment to "outcomes" for people underlies the program of services and supports provided to Dallas County residents. It is clear that there are not enough services to meet the needs to the citizens in Dallas County.

PERSONS LIVING WITH MENTAL RETARDATION WAITING FOR SERVICES

Dallas Metro Care	Currently Receiving No Services	Currently Receiving Any Services	Total Waiting Under Age 18	Currently Receiving No Services	Currently Receiving Any Services	Total Waiting Age 18+	Currently Receiving No Services	Currently Receiving Any Services	Total Waiting
2001	181	448	629	237	664	901	418	1,112	1,530
2002	225	517	742	362	747	1,109	587	1,264	1,851

Numerous individuals in Dallas County have mental retardation and many more have related conditions. There are systemic needs that must be addressed within the justice system for people with mental retardation at every portal of entry, whether as victims, witnesses, suspects, prisoners, probationers, or parolees.

Researchers have found the people with disabilities are twice as likely as others to be victimized. Factors such as impaired cognitive abilities and judgment, physical disabilities, insufficient adaptive behaviors, constant interactions with “protector” who exploit them, lack of knowledge on how to protect themselves, and living and working in high-risk environments increase the vulnerability of people with mental retardation to victimization.

As victims, people with mental retardation may be reluctant to report a crime due to fear of retaliation or not clearly understanding that they have been victimized. If an investigation is launched, the victim may be perceived as an unreliable witness or may not have the skills to articulate the criminal event.

Unfortunately, people with mental retardation are limited in their ability to interact meaningfully with the system. It has been reported that 77% of inmates in the juvenile justice system at McLennan County State Juvenile Correctional Facility near Waco, have I.Q.’s below average (Dallas Morning News, 1/4/00). These limitations frequently create problems such as failure to have the disability identified by authorities; engaging in behavior that is viewed as disrespectful, disruptive, or damaging to their credibility; and giving incriminating but inaccurate confessions because the individual is confused or wants to please the authority figure, often resulting in incompetence to stand trial because the individual fails to understand the justice system proceedings therefore unknowingly waiving their rights.

Additional programs addressing waiting lists, the justice system and overall assistance for individuals living with mental retardation are strongly needed in Dallas County.

The following issues address the current needs facing Dallas County residents.

**Mental Retardation Community Plan
Focus Group Participant List
FY 2005 Grant Cycle**

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*NOTE: This list was compiled using
focus group sign-in sheets from
meetings held in 2002-2003.*

OFFENDERS WITH DISABILITIES

PROBLEM

What is the problem for Dallas County?

Offenders with developmental disabilities are often given inappropriate standard options such as jail time and probation without any recognition of their differences. Differences in functioning create different needs. If the needs are not met, then often the offender becomes a part of the system in a “revolving door” manner. Justice professionals are stymied in their efforts to divert offenders with developmental disabilities into alternative programs. Chief Public Defender, Jeanette Drescher Green, illustrated this problem when a young adult with a developmental disability was incarcerated for 13 months simply because there was no alternative, even though the presiding judge was eager to be offered another option.¹

Why is this a problem for Dallas County?

The expense of people circulating through the justice system repeatedly is born by the taxpayers. Without intervention, the offender may continue to offend. It is inefficient and unsuccessful and expensive. The result is a high recidivism rate when this cycle is not broken. According to the Texas Department of Criminal Justice’s Statistical Report Fiscal Year 2002, the recidivism rate for offenders in Texas is 41.6%.²

What needs to be done to alleviate this problem?

We can improve this problem by providing personalized justice plans to developmentally disabled offender delineating community based services and providing case management. A model program of this sort is the Developmentally Disabled Offender Program in New Jersey, which has a recidivism rate of 6.2% for offenders who have been in their program.³ Dallas County could expect a significant reduction in reconviction rates of developmentally disabled offenders with a similar program. The program: provides technical assistance; monitors and coordinates the legal process; provides alternatives to incarceration; coordinates various resources to prevent fragmentation; and provides case management services for offenders enrolled in DDOP.

Impact for Dallas County

Developmentally disabled offenders will not linger in jail at a cost to county. Their cases will be referred to the DDOP who will write a personalized justice plan for the attorneys’ and judge’s consideration. Offenders in the program receive case management for as long as they are willing to meet the terms of their plan.

SUPPORTING STATISTICS

According to the Texas Department of Criminal Justice (TDCJ) Statistical Report for fiscal year 2002, the most current information available, the prison population is 125,655. They also note that 8,758 inmates in the entire prison population (7%) score below 70 on IQ tests. The report also notes that 19,002 offenders came from Dallas County. We can conclude that there are probably 1,330 inmates (7%) in Dallas County who’s IQ is below 70.⁴

CURRENT SERVICE PROVIDERS

This service does not exist in Dallas County.

GOALS AND OBJECTIVES

The goal is to offer judges, attorneys, the community and clients with developmental disabilities a safe alternative to jail while meeting offender needs and keeping the community safe. This also provides the opportunity to reduce recidivism while possibly saving the county money.

Budget:

An annual budget of \$205,000 will cover salaries for an executive director, community liaison director, program development, equipment, materials, office space and related expenses.

EVALUATION AND OUTCOME MEASURES

The goal is to offer judges, attorneys, the community and clients with developmental disabilities a safe alternative to jail while meeting offender needs and keeping the community safe.

Outcome #1

Objective: Offenders will benefit from the increased knowledge of judges and attorneys, program alternatives to jail by receiving the necessary and appropriate response to their situation.

Measurement: Marked increase in training programs available, less offenders inappropriately jailed and an increase in alternative programs.

REFERENCES

1. Interview on 5/6/02, with Dallas County Chief Public Defender, Jeanette Drescher Green
2. Texas Department of Criminal Justice, Statistical Report FY2002, January 2003, http://www.tdcj.state.tx.us.publications/executive/stat_report_fy02_stat_report_fy02_toc.htm
3. Suzanne Lustig, "The Hidden Population in the Criminal Justice System: Providing Successful Advocacy Services to Defendants with Mental Retardation for the next Generation Leadership Symposium Criminal Justice Issues, August 7-9,1998, Washington, D.C.
4. Texas Department of Criminal Justice, Statistical Report FY2002, January 2003, http://www.tdcj.state.tx.us.publications/executive/stat_report_fy02_stat_report_fy02_toc.htm

INTERACTION WITH THE JUSTICE SYSTEM

PROBLEM

What is the problem for Dallas County?

The justice system and people with developmental disabilities (victims, witnesses or suspects) are unable to interact effectively. Sometimes people with developmental disabilities are unable to comprehend the criminal justice system and their constitutional rights. As a result, people with mental retardation are sometimes unable to understand Miranda rights and other warnings; will waive their rights due to a lack of understanding; may give inaccurate confessions caused by confusion and a desire to please; are often unable to assist in their own defense; are not always offered Americans with Disability Act (ADA) accommodations by authorities since they are not clearly identified as such; compound the problem by attempting to hide their condition due to stigma; and may have communication difficulties that sometimes appear as disrespectful, disruptive or damaging to their credibility¹.

Why is this a problem for Dallas County?

Justice professionals may mistake innocent behaviors that are often manifestations of the disability as aggressive and/or criminal. When they do not make ADA accommodations, these suspects' rights can be violated and the county is at risk for a lawsuit. More importantly, minor situations can be escalated endangering the safety of the officers, the suspect and the community.

What needs to be done to alleviate this problem?

The solution is an educational program that would train those with disabilities about how to obey the law and how to interact safely with law enforcement, as well as train criminal justice professionals about the nature of developmental disabilities. Since September 1, 2000, more than 200 criminal justice professionals have received training and more than 600 people with mental retardation have learned about the law and their rights in this type of program. Many attorneys have approached the facilitator after training to report they now suspect clients on their caseload to have mental retardation that the attorneys did not previously recognize².

Impact for Dallas County

The impact will be to improve effective communications between these two groups while preserving the civil rights of those accused and protecting the county from a lawsuit. All justice professionals will be better able to justly represent defense and prosecution cases involving those with developmental disabilities. Instead of dismissing a case with a mentally retarded witness, the prosecutor will recognize that people with this condition are often able to provide valuable information.

Supporting Statistics

Researchers have found that people with disabilities are about twice as likely as others to be victimized (Sobsey & Doe)³. Factors such as impaired cognitive abilities and judgment, physical disabilities, insufficient adaptive behaviors, constant interactions with "protectors" who exploit

them, lack of knowledge on how to protect themselves, and living and working in “high-risk” environments increase the vulnerability of people with mental retardation to victimization (Luckasson, 1992)⁴.

CURRENT SERVICE PROVIDERS

The Arc of Dallas
Mental Health Association of Greater Dallas
Constable Helen Hicks

GAPS IN SERVICE DELIVERY

There is inconsistency in training staff, training time and curriculum. Since there is no state mandate requiring this training, it is not provided routinely in Dallas County. Furthermore, since the Texas Education Agency (TEA) has not issued requirements for this type of training, a standardized curriculum has not been formally adopted by school districts. There is insufficient staff to penetrate a statistically significant portion of the developmentally disabled.

GOALS AND OBJECTIVES

The goal of this project is to increase the efficiency of the justice system at every level and to comply with federal law. This program will facilitate better communication with suspects, victims, and witnesses with developmental disabilities and their families while enhancing the professionalism and safety of criminal justice professionals. As a result, criminal justice professionals and people with developmental disabilities will be more knowledgeable about one another and less afraid of one another.

Budget:

\$156,427: staff, equipment, supplies, and office space as well as related training materials

EVALUATION AND OUTCOME MEASURES

This program will facilitate better communication with suspects, victims, and witnesses with developmental disabilities and their families while enhancing the professionalism and safety of law enforcement professionals.

Outcome #1

Objective: Increasing the training offered for law enforcement personnel will result in more appropriate responses and interaction with those living with developmental disabilities.

Measurement: Monitor the number of new and or augmented training provided for law enforcement personnel.

REFERENCES

1. Perske, Robert, “Unequal Justice,” Abingdon Press, 1991.
2. Lilli Hallam, Project Coordinator, Mental Retardation and Justice Information Initiative, The Arc of Dallas.

3. Sobsey, D. and Doe, T. (1991), "Patterns of sexual abuse and assault," *Journal of Sexuality and Disability*, 9 (3), 243-259.
4. Luckasson, R. (1992). "People with mental retardation as victims of crime." In R.W. Conley, R. Luckasson & G.N. Bouthilet (Eds.), *The criminal justice system and mental retardation* (209-220). Baltimore: Paul H. Brookes Publishing Co.

RECREATION

PROBLEM

What is the problem for Dallas County?

A significant number of people with disabilities are not benefiting from existing recreation center programs because Dallas County has few specifically designed programs for clients with developmental disabilities, so access and transportation barriers are an issue. A more significant problem is that program staff does not have the knowledge and ability to make all of their programs accessible and inclusive.

Why is this a problem for Dallas County?

All people need and deserve recreational opportunities. People with developmental disabilities are limited in their ability to participate in Dallas County Municipalities' Recreation Centers. Few centers often program adaptations for those with disabilities. As a result, there can be a misuse of leisure time, sometimes resulting in criminal activity. Inappropriate social skills can result in criminal charges.

What needs to be done to alleviate this problem?

Strategies to address this problem are to provide staff and volunteer training on how to develop accessible programs and to create an active outreach to people with disabilities and their families to secure adequate funding. We encourage the governing bodies of area Park and Recreation Departments to include this strategy as they develop their long-range plans. Studies continue to point to the positive impact of exercise and recreation on an individual's health.

Impact for Dallas County

This action will improve the quality of life of people with disabilities and their families. The long-term benefits of recreation's positive impact on health and well-being are well documented.

SUPPORTING STATISTICS

Daniel Huerta, former Assistant Director of Dallas Parks and Recreation, distributed a survey to 17 Dallas County recreation centers in March 2002¹. According to survey results, 597 individuals with mental retardation received services at Parks and Recreation Facilities within Dallas County. According to Texas Department of Mental Health and Mental Retardation (TDMHMR) prevalence data, revised 2003, there are 62,435 people with mental retardation in Dallas County².

CURRENT SERVICE PROVIDERS

Dallas County Parks and Recreation Departments that include Addison, Carrollton, Coppell, Dallas, DeSoto, Duncanville, Farmers Branch, Garland, Grand Prairie, Richardson and Rowlett.

GAPS IN SERVICE DELIVERY

There is insufficient training for recreation staff on recreational opportunities and adaptations for people with developmental disabilities. At this time, four Park and Recreation Departments in Dallas County (Carrollton, Dallas, Garland, and Irving) employ at least one Certified Therapeutic Recreation Specialist. Therapeutic Recreation Specialists are trained to design, implement, and evaluate recreation and leisure programs for people who are disabled. Training of other Recreation professionals would be implemented within these four cities' Park and Recreation Departments.

GOALS AND OBJECTIVES

The goal is to enrich the community by offering recreation to all members of it. Inclusion enhances the quality of all programming and the reputation of Dallas Parks and Recreation Centers. Recreation provides a positive use of time as well as enhanced physical and emotional health.

Budget:

\$33,515 for one full-time staff person to circulate through all municipalities training other staff and disabilities and recreational options

EVALUATION AND OUTCOMES MEASURES

The goal is to enrich the community by offering recreation to all members of the community. Inclusion enhances the quality of all programming and the reputation of Dallas County Parks and Recreation Centers

Outcome #1

Objective: Offer additional programs and locations where folks living with disabilities can participate in recreational activities.

Measurement: Survey the number of new/additional programs and locations offering programs for people living with disabilities.

REFERENCES

1. Survey: *"Survey of Dallas County Park and Recreation Centers to Determine Levels of Service to Individuals Who Are Mentally Retarded,"* distributed March 2002 and compiled April 2002. Twelve centers responded to the survey (Grapevine replied that they are not in Dallas County). The other eleven centers were from the cities of: Addison Carrollton, Coppell, Dallas, DeSoto, Duncanville, Farmers Branch, Garland, Grand Prairie, Richardson, and Rowlett.
2. Texas Department of Mental Health Mental Retardation, 2001-2005 Mental Retardation Prevalence/Priority Population Data, Revised February 2003.

SUPPORT FOR THOSE LIVING WITH DISABILITIES

PROBLEM

What is the problem for Dallas County?

Without supports, people with mental retardation are staying at home with aging parents, residing in institutions, failing to find appropriate employment and are generally unable to use mainstream public programs. According to the American Association on Mental Retardation, "Supports are defined as the resources and individual strategies necessary to promote the development, education, interests, and personal well-being of a person with mental retardation¹." These services include things such as nursing care, medical supplies, adaptive aids, physical/occupational therapy, respite care, employment assistance and case management. In Texas, those kinds of supports are primarily provided with Home and Community Based Services (HCS), a Medicaid waiver program.

Why is this a problem for Dallas County?

There are inadequate community supports for people with mental retardation in Dallas County. In fact, there are currently over 1,600 people on Dallas MetroCare's waiting list for Home and Community Based Services². It is estimated that those on the list will need to wait 8-10 years for HCS services. *The only reason these individuals are on a waiting list is because the State has not designated enough funds to meet this need.* Since HCS services are not available to all those who are eligible, families struggle to meet the needs of their loved ones at home and without help. If they fail, those people with disabilities sometimes are sent to institutions, at higher cost to the taxpayer and with negative consequences for the resident.

What needs to be done to alleviate this problem?

Additional funding must be secured to alleviate the waiting list for HCS services. It is expected that current HCS providers will be able to expand their client base to include those 1,600 people on the waiting list.

Impact for Dallas County

A community that embraces diversity is enriched by the contributions of all its residents. According to the Community Services Cost Report (Revised 2/19/03), the annual cost for a person residing in a state school is \$71,678.39 while the cost for a consumer living in the community is \$47,917.433³. The county could realize substantial savings by providing services in the community.

SUPPORTING STATISTICS

It is estimated that someone who joins the waiting list today will remain on it for 8-10 years. As of August 31, 2002, of the approximately 18,833 Texans waiting for the Medicaid waiver program, 21% of the main caregivers are approaching retirement age, while 8% are classified as elderly⁴.

CURRENT SERVICE PROVIDERS

Dallas MetroCare Services is charged by the Texas Department of Mental Health Mental Retardation to assess the needs and types of services and supported required by this population. They also maintain the waiting list for those services.

GAPS IN SERVICE DELIVERY

Due to a lack of funds and the volume of the waiting list, most individuals will wait 8-10 years for services.

GOALS AND OBJECTIVES

The goal is to provide sufficient supports to people with developmental disabilities and to enable them to live successfully in their family home or within their community. The Supreme Court's Olmstead decision determined that these individuals are entitled to live in the least restrictive environment.

Budget:

$\$47,917 \times 1,600 = \$76,667,200$

This figure represents the average amount it costs to maintain someone in the community multiplied by the number of people on the waiting list.

EVALUATION AND OUTCOME MEASURES

The goal is to provide sufficient supports to people with developmental disabilities and to enable them to live successfully in their family home or within their community.

Outcome #1

Objective: Expand the services available to eligible participants through the Medicare Waiver program Home and Community Based Services offered through Dallas MetroCare.

Measurement: Increase number of participants receiving support services through Dallas MetroCare.

REFERENCES

1. "The AAMR (American Association on Mental Retardation) Definition of Mental Retardation," [http://www.aamr.org/Policies/faq_mental_retardation.shtml], 2002.
2. Texas Department of Mental Health and Mental Retardation (TDMHMR), "Persons Waiting for Community Mental Health and Mental Retardation Services, Waiting List Reports (from the TDMHMR CARE Information System), as of August 31, 2002, Revised 11/26/02.
3. TDMHMR "Rider 65 Cost Comparison Report, December 2002, Revised 2/19/03.
4. TDMHMR, "Draft Report, The Waiting List for Mental Retardation Services, An Analysis of FY 2001 Information," October 2001.

LEGAL TRAINING PROGRAMS

PROBLEM

What is the problem for Dallas County?

Attorneys and judges do not understand the impact developmental disabilities have on the abilities of victims, witnesses and offenders to participate in the justice system. When their disabilities are not recognized, these individuals may make false confessions, not understand the Miranda warning, and may not understand courtroom proceedings or the consequences of their actions or decisions. The problem is further compounded by the fact that people with developmental disabilities often try to mask or hide their disability because of its stigma.

Why is this a problem for Dallas County?

To our knowledge, attorneys and judges in Dallas County with education and awareness of developmental disabilities are very limited in number¹. Without this education, attorneys do not have the ability to assist their clients in effectively and fully participating in the justice system and judges do not recognize when these inmates might need knowledgeable representation. Title II of the ADA requires this training for all public entities and their staff.

Victims, witnesses and suspects are limited in their ability to interact meaningfully. These limitations frequently create problems such as failing to have the disability recognized by authorities; engaging in behavior that is viewed as disruptive; unknowingly waiving their rights and even giving inaccurate “confessions” because of their desire to please.

What needs to be done to alleviate this problem?

Appropriate course work should be incorporated in all law schools. At every juncture in an attorney’s career, a refresher course should be made available. For example, new prosecutors must go to “prosecutor school.” That would be a perfect time and place for this learning to occur. Experts in the mental retardation community would be able to supply the curricula and Minimum Continuing Legal Education units as well. Judges would be supplied with a list of defense attorneys who are knowledgeable in this field.

Impact for Dallas County

Knowledgeable attorneys and judges will interact more effectively with clients who have developmental disabilities. This will result in fewer false confessions, mistrials, and overturned cases. Clients with special needs will be able to enjoy all the rights and responsibilities of citizenship, including appropriate punishment for criminal actions.

SUPPORTING STATISTICS

Statistics are not kept on the number of defendants with mental retardation who make a plea bargain or go to trial. The Texas Department of Criminal Justice (TDCJ) Statistical Report for fiscal year 2002 indicates that the prison population in Texas is 125,655 with 19,002 of those inmates coming from Dallas County. Knowing that 7% of all prison inmates score lower than 70

on IQ tests, we can conclude that there are probably 1,330 inmates in Dallas County with mental retardation².

CURRENT SERVICE PROVIDERS

The Arc of Dallas Mental Retardation and Justice Information Initiative provides attorney training without cost. The State Bar, The Criminal Defense Lawyers Association and Texas Defender Service provide this type of training as well.

GAPS IN SERVICE DELIVERY

There is no formal requirement for training or standardized curriculum^{3,4}

GOALS AND OBJECTIVES

The goal of this initiative is to have an extensive cadre of attorneys and judges who are knowledgeable about developmental disabilities. The corollary goal is that this part of the criminal justice system will then be in compliance with the Americans with Disabilities Act.

Budget:

\$50,000: This amount will cover salary for an educator and curriculum.

EVALUATION AND OUTCOME MEASURES

The goal of this initiative is to have an extensive cadre of attorneys and judges who are knowledgeable about developmental disabilities.

Outcome #1

Objective: Augment and/or develop training curricula for the legal profession specifically designed to address the needs of the disabled.

Measurement: Monitor the number of trainings being offered as well as the number of participants attending those trainings.

REFERENCES

1. Elise Mitchell, Laurel Clement, Drew Dixon, Lilli Hallam, Judge John Creuzot
2. Texas Department of Criminal Justice, Statistical Report, FY2002, January 2003, www.tdcj.state.tx.us/publications/executive/stat_report_fy02_statreport_fy02_toc.htm
3. Interview on December 9, 2002 with Elise Mitchell, attorney for Advocacy, Inc. and Laurel Clement, attorney in private practice.
4. Interview on December 9, 2002 with Elise Mitchell, attorney for Advocacy, Inc. and Laurel Clement, attorney in private practice.