

RHODE ISLAND PUBLIC DEFENDER

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William J. Murphy
Speaker of the House
323 State House
Providence, RI 02903

Dear Speaker Murphy:

I am writing to report on the outstanding success of the Office of the Public Defender's Defender Community Advocacy Program (DCAP). DCAP is an innovative approach to criminal defense that takes a client-centered holistic approach to the advocacy of a defendant's case. It involves having an attorney in the arraignment courtroom along with the assistance of a social worker, intake technician and an interpreter for our Spanish speaking clients. We target those clients who are most likely to be incarcerated and/or those clients who present substance abuse, mental health issues or other social handicaps (i.e. homelessness) which are strongly indicative of being a substantial contributing factor to the client's presence in the criminal justice system.

The goal of the Office of the Public Defender is to provide a high quality of legal assistance that will result in a disposition that serves the best interest of our client, such a non jail disposition where there quite possibly would be a jail disposition but for our presence, having services provided to the client (i.e. substance abuse treatment, mental health services, housing, counseling etc...) that improves the quality of life for the client and hopefully substantially reduces the likelihood of recidivism for the client, a shorter jail sentence than normally would be imposed because there is a treatment component.

The true value of this work is the human facet of what all this innovative hard work has done in touching the lives of real people. The staff of the Public Defender's Office has assisted clients in making life changing improvements in their lives. Our clients have been able to get on their feet. They have reunited with their families and they have stayed sober. They received the appropriate medication and monitoring for their mental health problems. They have gained employment, housing, and gone back to school and are making positive contributions to society.

Public safety has been enhanced, the result of this legal public service intervention could well mean that a potential victim won't be victimized in the future due to this approach.

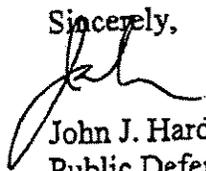
The Public Defender DCAP program undoubtedly has saved the State as well as cities and towns thousands, if not several million dollars in that less people are going to jail and those who do go to jail are going for much less a period of time. The pretrial and trial calendars in Providence County District Court from our own personal caseloads have been reduced some 25%. The district court violation calendar has been cut to more than half of the workload it was previously. Where it was usual for the Office of the Public Defender to have more than 100 clients a month, we now average 35-50 a month on the District Court violation calendar. Our intervention at arraignment has resulted in 654 probation/bail violations being withdrawn or not filed. Of that number, 410 of those clients were potential Superior Court violators. This has resulted in less court congestion and saved cities and towns from having to send police officers and other witnesses to court to testify.

The sheriff's department has reported a dramatic reduction in prisoner transport since we began DCAP. When it was normal for the sheriff's department to transport anywhere from 125-200 prisoners a day from the Garrahy Courthouse to the Adult Correctional Institutions, they now report the average is 50 to 100.

In late September of 2005, we extended DCAP into Kent County. The first few months are a learning experience for all parties involved. Yet, we have similar success, although on a smaller scale in Kent County. Judge Clifton and the law enforcement community of Kent County have come to embrace the DCAP endeavor and I expect even greater success in the future.

I have attached those pertinent statistics to this letter that clearly show the success of the Public Defender DCAP program for your perusal and I am happy to meet with you at your convenience to speak to you about DCAP and its widespread collateral effects or answer any questions you may have.

Sincerely,



John J. Hardiman
Public Defender

JJH/sac

PROVIDENCE COUNTY DCAP	
JANUARY, 2005 - DECEMBER, 2005	
TOTAL CLIENTS REPRESENTED AT ARRAIGNMENT	7563
TOTAL NUMBER OF CLIENTS DISPOSITIONS AT ARRAIGNMENT	3131
NUMBER OF CLIENTS WHO PLEAD TO MISDEMEANORS AT ARRAIGNMENT	2381
CLIENT ADMISSION TO VIOLATIONS OF PROBATION/BAIL	1186
PROBATION/BAIL VIOLATIONS WITHDRAWN OR NOT FILED	654
DISTRICT COURT PROBATION/BAIL VIOLATIONS WITHDRAWN OR NOT FILED	244
SUPERIOR COURT PROBATION/BAIL VIOLATIONS WITHDRAWN OR NOT FILED	410
CASES DISMISSED (48a) AT ARRAIGNMENT	239
TOTAL COURT DAYS SAVED (DISTRICT AND SUPERIOR)	4906
TOTAL NUMBER OF CLIENTS WHERE SOCIAL WORKER HAD ROLE IN CASE FROM TIME OF ARRAIGNMENT	429
In an attempt to calculate the amount of jail days saved by the presence of the DCAP program, the Office of the Public Defender devised a formula based on our collective experience in district court practice. This formula was specifically related to the district court violation calendar where most jail dispositions traditionally occurred as well as calculating the customary detention period between court date when we were successful in gaining a defendant's release.	
The formula also took into consideration the practices of the various Judges assigned to the violation calendar and was modified as Judges's change assignments.	
Our calculations using this formula resulted in us surmizing that we have saved several thousand days of incarceration across the board for close to a thousand clients. Unfortunately, we are unable to illustrate that when we study the statistical data of the Department of Corrections.	

Public Defender social workers have four main responsibilities.

1) DCAP – Defender Community Advocacy Program. Social workers are stationed in the Providence and Kent County arraignment courtrooms as part of the defense team, which includes attorneys and intake workers. People who are arrested appear first in the arraignment courtroom. Often people are in physical or emotional crisis when they come to court for the first time, so working in the arraignment courtroom is similar to working in an emergency room. People may have been injured and brought to court from the hospital, or need to go to the hospital. If people have used drugs or alcohol they may still be intoxicated and require detox. Sometimes people may be experiencing symptoms of mental illness such as paranoia, hearing or seeing things that aren't there, or racing thoughts. They may need medication which they haven't had access to since their arrest. Social workers provide an on the spot assessment for all of the above situations. Social workers present the information collected to the attorney in the courtroom. This information often makes a significant difference in the dispositions Public Defender clients are offered.

- A 32 year old male was charged with possession of a false prescription. After having surgery for an abscess on his back and Rhode Island Hospital he was given a prescription for a narcotic pain medication. He attempted to fill the script at a 24 hr. pharmacy on a Sunday. The pharmacy suspected that the script was false and called the hospital. The doctor they spoke with stated that he never wrote that script and he was subsequently arrested. The client, at arraignment the next day, showed the wound in his back and stated that he had an appointment with the surgeon in the afternoon to have the dressing changed. He was adamant, which physical evidence supported, that he did have the surgery and was prescribed the narcotic. Upon myself calling the actual surgeon it was learned that the pharmacy spoke to a doctor with the same last name as the surgeon but who was not the actual prescribing surgeon. The surgeon, upon hearing that the client was arrested, the surgeon prepared and faxed a letter to the court to explain the client's course of treatment and his need to be released in order to make his appointment otherwise his wound could potentially be infected. End result-the case was dismissed and the client was released.

2) Assessment and referral for treatment as part of a sentence. If clients have substance abuse or mental health problems that contribute to their criminal charges, sometimes the judge will agree to have the client do treatment in lieu of part of a jail sentence or as a condition of bail. This usually happens on misdemeanor charges or for probation violators. A client found guilty of a misdemeanor, which is punishable by up to a year at the ACI, is often sentenced to 60 days at the ACI and then be released to do substance abuse or mental health treatment with the remaining 10 months stayed. If the client successfully completes the treatment required by the court, then the sentence is considered complete and the 10 months are not imposed. If the client does not complete treatment the judge may impose the 10 months to serve at the ACI. Some of the district court judges go so far as to waive court costs for clients who do complete programs (usually those that are long-term ie. 6 mos. +).

- This particular client was arrested in Newport for transporting a firearm under the influence (alcohol). He brought a gun into his ex-wife's house while intoxicated, he had actually blacked out and did not remember what he did. He was 55 year old father of one with an extensive history of alcoholism. He had been to numerous detox. facilities and residential programs during the past 20 years and had failed at all of them. At the time of his arrest he was drinking a quart of vodka of day and would constantly black out. He was diagnosed from cirrhosis. The client was released to the Talbot Long-Term program, he was driven by a social from Newport to the program in Pascoag.. He has served 4 ½ mos. awaiting trial and his bail was changed to P.R. to get into the program. The client completed the program in 10 mos. and was transitioned to a sober house. It's the longest he has ever been sober while in the community and he continually calls the office to report his progress and more importantly, his sobriety.

3) Mitigation. Social workers supply two types of mitigation reports. Social workers meet with clients who are facing substantial prison time on probation violations or felony charges to review their history: family history, school experiences, work experience, substance abuse, mental health and medical issues are covered. Sometimes there may be mitigating factors that could cause a judge to sentence a client to less time on these charges. Examples of mitigating factors would include: the client's age, criminal history, IQ, successful completion of treatment in the past, significant time being clean from alcohol or drugs, or a diagnosed serious mental illness.

- A 25 year old client with an 8 year history of paranoid schizophrenia was charged with assaulting a police officer with a dangerous weapon. He had jumped out of a 2nd floor window in an attempt to kill himself. He was psychotic at the time despite being on medication. He survived the fall, went back into his house, and locked himself in his room. His parents, who were from Cambodia called the police to get their son help. When police arrived the client was cutting his head with a broken vase. He was 'attacking' the voices that were invading his thoughts. A struggle ensued with the police and one of the officers was cut resulting in the assault charge. Records were obtained from the Providence Center and interviews were contacted with him and his father. A report was compiled and submitted to the AG and the presiding judge. His charge was amended and the client received no jail time and minimal probation.

Capital mitigation includes a complete psychosocial history of a client charged with or facing sentencing on a crime that can carry a sentence of life in prison. This requires several interviews, sending for all kinds of records, interviewing family members, looking at photographs, and library and internet research. The goal is to present the judge, or the prosecutor if the mitigation is offered before a plea is entered into, with a complete picture of the client, not simply as someone accused or convicted of a heinous crime. There may be mitigating factors in a client's life that would allow a judge to sentence the client to a term of years, rather than spending their entire life in prison. Factors that might mitigate a capital offense could include the client being a product of incest, the client experiencing substantial

physical and sexual abuse during childhood, the lack of previous criminal charges, medical records, letters of support from landlords and employers.

4) Follow up visits in the community. Public Defender social workers follow their clients after they have started treatment. Clients are usually seen every month while at the program. Follow up includes visiting clients at residential treatment facilities, calling clients involved in outpatient treatment, assisting clients with any new referrals the client may require, helping them problem solve any kind of problem. We have gotten strong, positive feedback from clients and treatment providers since we started visiting the programs 1/1/05. The staff at the programs become familiar with our faces and a relationship has developed in that they feel comfortable calling us to let us know if a client is having difficulty or hopefully has graduated. Clients have remarked that the continued involvement and presence, which they often don't get from probation, is helpful and is a reminder of the consequences if they don't complete the program. On many an occasion, a client will inquire about upcoming court dates, fines, or if they have any outstanding warrants. Recently a client, who was at a long term program had been issued a warrant because he missed his PAC date. He was actually at the program. He was instructed by the office on how to take care of the warrant without being incarcerated which was done successfully and the client was able to return to the program after presenting himself to the court.

Statistics

Out of the 734 cases that have been referred since 1/1/05, 602 have been referred from either Providence District Court or Superior. This would be partially due to the lack of office presence in the counties. In August 2005 a social worker was permanently assigned to the Kent County Courthouse.

In 2005, 629 cases were closed- of those 321 were placed in residential treatment. There currently are an additional 175 open cases that were originally referred in 2005.

In 2004, 679 cases were closed. Of those, 88 clients have been referred back since then. Roughly 13%.

There are roughly 310 open social service cases as of 3-10-06.