

# THE DAILY RECORD

LAW, REAL ESTATE, FINANCE AND GENERAL INTELLIGENCE SINCE 1908

## Tales From The Front Line: Mental Health Docket Up And Running

BY DALE HALL

It's Thursday afternoon and court is in session in Monroe County's new Mental Health Docket. A defendant, who reports to Monroe County Court Judge Patricia Marks regularly as part of his treatment plan, is telling Judge Marks he has some bad news and some good news. The bad news is he had trouble getting along and behaved badly in his group home this week. The good news is he saved someone's life since he last reported to Judge Marks.

### Part One Of Two

It seems one of the other residents at the group home carelessly lit a cigarette and accidentally set her hair on fire. The defendant, now appearing in the Mental Health Docket, rose to the occasion and put the fire out. The fire department is going to give him an award. Judge Marks commends the defendant for his heroics and the defendant promises to let the judge know when the award ceremony is scheduled.

On another day last winter, the temperature was in the 20s and snow was piled up waist-high along the streets of Rochester. The courtroom was full. Defendants and their families were gathered there to see what would happen next in their case. Some defendants were in custody. Others were in various forms of release, in treatment programs, struggling to become and stay mentally healthy. Attorneys and social workers, probation officers, counselors and psychologists — all connected to the defendants appearing on this day — milled about, awaiting their defendant's appearance.

One defendant appeared barefoot before the court. Judge Marks made no comment on this occasion, but a week later, when this defendant again appeared before her and was lobbying for release from treatment, Judge Marks said, "Mr. \_\_\_\_\_, it was in the 20s last time you were here and you were barefooted."

Quickly, the defendant, explained, "There's carpet in here, so I took my shoes off at the door."

"Oh, I didn't know that," Judge Marks acknowledged respectfully. But she held firm in her resolve that this defendant was still in need of treatment and the supervision of the court. She encouraged him to continue his compliance with court-ordered reporting to Pre-trial Services.

Respect for defendants is the hallmark of Judge Marks' demeanor toward those who appear before her on the Mental Health Docket. She doles out praise for those who pass their drug screenings, for those who comply with treatment protocols set by the court and for those who show up dressed in their best clothes.

Defendants do not always recognize her respectfulness, but often they do — as with one young woman who was actually in police custody when she appeared before Judge Marks. Judge Marks did not release the woman, but she did compliment her on her compliance with court directives and promised that if her current behavior continued, the defendant might be released to a mental health facility as soon as space became available. As the deputy escorted her out of the courtroom, the woman looked back over her shoulder and said, "Have a

## KEEPING YOUR BALANCE



DALE HALL

nice day, Miss Marks!"

Judge Marks acknowledges, "Some of the people in the court make remarkable transformations from the first appearance to the time that they are engaged in treatment. It is fascinating to see someone go from an angry person who spouts obscenities to a respectful person now interested in the future.

For many of the participants in the court, this is the first time that they have been connected with services that have helped them and the first time someone has listened to them about their concerns. It is a rewarding experience when we can be part of the process that allows someone to resolve criminal charges and become a more productive and law abiding member of society."

This is not your usual courtroom, these are not your usual defendants and this is not your usual judge. To the contrary, this is an innovative court initiative, born of the need to treat mentally ill defendants in a way that takes their illness into consideration. In this court, though many of the defendants are in custody, alternative treatments are always being sought. Many defendants are in strictly supervised release to various treatment programs.

Judge Marks works closely with social workers, psychiatric professionals and attorneys to find just the right treatment for each defendant. Incarceration is the final option, chosen only after other options have failed.

Each week, Judge Marks meets with counselors, social workers, probation officers and other professionals who are working with defendants in the Mental Health Docket. The group assembles in the jury room adjacent to the courtroom prior to each Thursday's court session, and Judge Marks goes over case files with the professionals involved — including the assistant District Attorneys prosecuting the cases. She listens intently to their reports and recommendations, often incorporating them into her decisions on the bench in the next hour.

Judge Marks says, "It is a privilege to work with some outstanding professionals in the field. The Mental Health Court has been a cooperative effort and it has been rewarding to work with each of the professionals who work with the court."

As they proceed through the stack of files, Judge Marks wants to know which defendants are in compliance with treatment programs, reporting requirements, drug screenings; which defendants are progressing and which ones have fallen along the way. What happened this week in group homes and psychiatric hospitals where defendants are lodging? Are medications working as they are supposed to? Are defendants taking their medications as they are supposed to? Is a defendant ready for supervised release from jail or from hospitalization?

On any given Thursday afternoon in the Mental Health Docket, the answers to these questions are given, often in compelling fashion, by defendants and their case workers and psychiatric care providers.

To be continued in an upcoming edition of *The Daily Record*.

*Dale Hall is the associate director of the Laboratory of Interpersonal Violence and Victimization in the Department of Psychiatry at the University of Rochester.*

# THE DAILY RECORD

LAW, REAL ESTATE, FINANCE AND GENERAL INTELLIGENCE SINCE 1908

## Tales From The Front Line: Mental Health Docket In Monroe County Is Up And Running

BY DALE HALL

The Mental Health Docket in Monroe County is an initiative in therapeutic jurisprudence — an innovative and increasingly accepted method of treating mentally ill defendants who run afoul of the law. Similar strategies have been used in drug courts, where defendants are treated rather than incarcerated when possible.

The theory behind these “specialty courts” is that the criminal justice system doesn’t deal very effectively with some defendants — for example, those who are chemically dependent or mentally ill — and a different approach might be more successful in such cases.

Since defense attorneys, prosecutors, social workers and psychiatric counselors are all in the room for the pre-court session each week and exchange information with each other and the judge, the issue of lawyer-client privilege and confidentiality are addressed by a contract that defendants sign in exchange for having their cases handled in the Mental Health Docket as opposed to a regular criminal court.

Monroe County Court Judge Patricia Marks remarked “It has been a challenge to learn about the agencies that deal with people with mental illness, mental retardation and traumatic brain injury and fashion a contract that balances the rights and needs of the defendant and the safety of the community.”

As part of the contract, prosecutors agree not to use information revealed in Mental Health Court conferences if the case ends up going through the normal channels (regular criminal court as opposed to the Mental Health Docket). They may use the information for determining compliance with court conditions.

Supervising Judge of City Courts, Seventh Judicial District, Judge John Schwartz pioneered the Drug Treatment Court in Monroe County (and in New York State) in the early 90s. He sometimes sits in for Judge Marks in the Mental Health Docket. Judge Schwartz has been known to startle defendants, their lawyers and case workers who gather in the courtroom.

On a recent day in the Mental Health Docket, after being frustrated in his efforts to set up the transfer of a defendant from jail to a psychiatric hospital, Judge Schwartz decided to cut through the red tape. He asked for the phone on his clerk’s desk. The clerk started to hand the phone up to the judge on the bench, only to realize the cord had been coiled and wrapped and wouldn’t reach. So a hasty unwrapping was undertaken and the phone

### KEEPING YOUR BALANCE



DALE HALL

was handed up to the judge.

Judge Schwartz dialed a number and announced to the bureaucrat who answered that he was Judge John Schwartz, he was calling from a packed courtroom and his (the judge’s) career was “on the line.” There were about 30 people — social workers, probation officers, attorneys, a slew of defendants and one researcher — in the courtroom. All were amused by the judge’s take-charge phone call from the bench. The transfer was arranged by phone. And when Judge Schwartz asked the amazed defendant, “Is that okay?” the defendant, hardly believing what had just transpired, answered, “Uh ... yeah!”

There aren’t any “typical” or “average” days in the Mental Health Docket because the court itself is, by definition, atypical. Started less than a year ago, Monroe County’s Mental Health Docket is one of a new breed of Mental Health Treatment Courts in the country, and is still in the experimental stages.

This court, like most such courts, requires that the defendant be diagnosed as mentally ill. Little research has been completed on Mental Health Treatment Courts. But one study conducted in California showed some evidence that such a court was effective in helping defendants improve their quality of life, reduce distress and engage in fewer new criminal activities. (Cosden, Merith, Ellens, Jeffrey K, Schnell, Jeffrey L., Yamini-Diouf, Yasmeen and Wolfe, Maren M. (2003), “Evaluation of a Mental Health Treatment Court with Assertive Community Treatment,” *Behavioral Science Law*, 415-427.)

A study is currently underway in Monroe County’s Mental Health Docket to determine long-term outcomes for defendants who appear in the court. The results will be available when the study is complete, in approximately two years.

For now, the Mental Health Docket continues each Thursday afternoon in Judge Marks’ courtroom on the second floor of the Hall of Justice. While the impact of the court hasn’t been fully measured, there are anecdotal indications that the court is having a positive effect on some defendants.

One defendant recently emerged from the courtroom saying, “I used to hate coming to court. I was afraid. Now I like coming to court because my reports are good and I don’t have anything to hide.”

*Dale Hall is the associate director of the Laboratory of Interpersonal Violence and Victimization in the Department of Psychiatry at the University of Rochester.*

Part Two  
Of Two