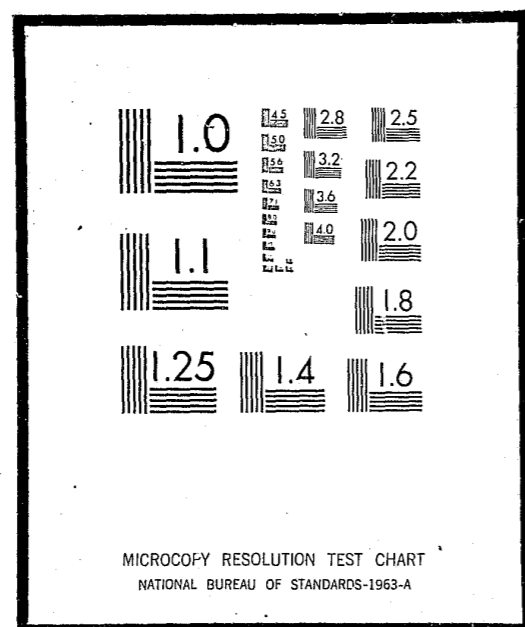


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### ALL ABOUT THE MASSACHUSETTS COURT CLINICS PROGRAM

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In Massachusetts a system of Court Clinics - i.e., mental health clinics in courts to provide psychiatric services - was established in 1954. Events leading to this establishment began several years earlier. In 1950 the Massachusetts Legislature requested that the Department of Mental Health make a study of the advisability of providing psychiatric services to the district courts of the Commonwealth (Chapter 47 of the Resolves of 1950, Chapter 23 of the Resolves of 1951). In complying with this legislative request the Department of Mental Health sought the collaboration of a Committee made up of members of the Boston Bar Association and the Suffolk District Medical Society that had for three years been studying a similar question proposed jointly by their constituent organizations. The initial report of this study (House No. 2719, 1951) was a general survey of the administration of the criminal laws in Massachusetts District Courts as it applied to offenders with personality disorders or other kinds of mental disturbance. The Legislature continued this study and the second report (House No. 2270, 1953) surveyed the relationship of the state mental hospitals to the courts of the Commonwealth in the light of handling persons with personality disorders or some form of mental illness. This report recommended a

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demonstration court clinic to test the feasibility of providing not only diagnostic but therapy services to certain offenders coming before the court wherein the Judge or his Probation Officer and the physician assigned to the court felt that justice would best be served if the offender could be provided with some form of therapy.

The Legislature concurring and appropriating the necessary funds, the demonstration court clinic was set up in the Cambridge District Court by the Department of Mental Health. The clinic was modeled after a pilot court clinic which had been operating since 1949, under county auspices, for the combined juvenile probation districts of Norfolk County. Further reports of the study (House No 2471, 1954 and House No. 2502, 1955) described the progress of the demonstration court clinic, which may be summarized: "Experience with this clinic demonstrated two things: that the courts had a great use for the services of this clinic and that many cases were better managed by the use of the clinic by the Probation Officer and by the Court. The clinic is used by the court for information as to motives in certain crimes, but more importantly as a source for referral of cases which the court felt were in need of psychiatric treatment. It became obvious that the court wished to use the clinic for many types of offenders."

During the period of this legislative study interest and concern broadened to include the need for psychiatric services to all types of offenders - those before courts, and those juveniles as well as adults, in correctional institutions. Accordingly it was recommended by the Department of Mental Health to the Governor by a letter that court clinic services be made available to the majority of the district courts if they requested it. It was further recommended that the Department of Mental Health establish professional facilities and staff subject to the

call and use of the Judges and Probation Departments of the courts for all types of offenders, as well as to the Department of Correction and Parole, and the Division of Youth Services. The Governor recommended budgetary enablement for the services and the Legislature concurred.

No specific law was passed giving specific authorities for these services as it was believed that the authority to establish and operate them was included in the general powers of the Department of Mental Health, which is directed to provide appropriate mental health services to the Commonwealth. The operation of these clinics was seen as merely expanding the services formerly offered to courts by the state hospitals and the Area Mental Health Centers in various parts of the State. (General Laws, Chapter 123, Sections 2 and 3A).

In 1956 the Department of Mental Health, to accomplish the task of providing psychiatric services to courts and correctional institutions, established its Division of Legal Medicine. The Commissioner of Mental Health and the Director of the Division of Legal Medicine chose the psychiatrist and probation officer who had set up and operated the pilot Norfolk County Court Clinic as Director and Liaison Agent, respectively, for the new Court Clinic Program. These men had served as resource persons to the Study and consultants to the Middlesex County Demonstration Court Clinic. The final report of the study, reporting the progress of setting up a system of court clinics throughout the State was filed with the Legislature in 1957.

Elemental to the institution of court clinics by the Division of Legal Medicine were the following:

1. The Department of Mental Health would furnish the salaries for court clinic personnel, who would thus be hired in appropriate Mental Health salary "blocks" and be subject to all regulations, qualifications and benefits of State employees.

2. The clinics would be given suitable quarters within the courthouse, each court to furnish space, equipment, supplies and other amenities for its clinic.

3. The Court Clinics Program Director and Liaison Agent would be responsible for working with judges and probation officers to set up clinics; for the administration of the Program and its policies, for the recruitment, training and supervision of court clinic personnel, and for the establishment and maintenance of effective working relationships between court personnel and their clinics.

4. The clinics would be therapeutically oriented towards helping offenders before the courts.

That court clinics personnel be Department of Mental Health rather than court employees was determined by the facts that psychiatric services are a prerogative of that Department, the monies being given to it for these services by the Legislature, and also it was considered that courts, with their legal orientation and function would not find it feasible to recruit professional staff and manage a clinical facility. In providing the services the Department of Mental Health had no intention of interfering in any way with legal process in courts. This is stated in the Commissioner's Memorandum to the Division of Legal Medicine of September 17, 1957: "It should be pointed out that the clinic and its staff has no authority to direct the court or the probation department to do anything with any persons referred to it. We can only recommend and treat those cases thought suitable for treatment by the court; its probation department and by the professional staffs of the clinics: Our obligation is to provide psychiatric consultation, advice and treatment services to the courts as they want it. Our concern is that if the court wants a psychiatric clinic that it have a good one."

Aside from the obvious logistical reasons for having the clinics within the courts themselves, this was seen as necessary to the full inter-relating of the court with its clinic, for at that time, while courts felt their needs for psychiatric services, the breach between law and psychiatry was rather wide - to be closed only by proximity, belonging, and the development of mutual understanding and professional respect. A further reason, which will be discussed below, is that the authority of the court (largely exercised through its probation officers) is an essential concomitance to the psychiatric therapy of most offender-patients.

The establishment of an individual court clinic may involve a number of complex factors. The process begins when a judge makes a formal request to the Division of Legal Medicine for a court clinic in his court. The Director and Liaison Agent of the Court Clinics Program then have a series of conferences with the Judge and his Probation Department in the court in which the Court's need for and potential ability to fully utilize and house a clinic are definitively discussed. The administrative structure and policies of the Court Clinics Program and the inter-relationships between a court and its clinic, and with the Department of Mental Health are explained. Some assessment is usually made of the needs of the community itself for services to offenders, and of the particular problems of the local police, school and social welfare departments - which may be seen as both referrants and resources to the court. Often, however, the most decisive factors in the providing of a new court clinic are the availability of interested and qualified personnel within the particular geographical area, and the presence of Mental Health funds for the clinic. Once it has been decided that a given court will have a clinic, funds being available and personnel recruited, it is policy that the Judge

himself must interview and accept the professional staff before they are hired by the Department of Mental Health. The Directors of court clinics must qualify in the Department of Mental Health category of "Director of Clinical Psychiatry". They are administratively responsible to the Program Director, and to their Judge for meeting the clinical needs of the Court. They are responsible for the members of their Court Clinic staff.

The original purpose of Court Clinics was to provide psychiatric services to courts, and diagnostic and treatment services to offenders before courts. This broad change has allowed for the ever developing scope of court clinic services over the past sixteen years; - apace with the progressive juvenile court and Youth Services procedures, the new Drug Law, the recently enacted mental health commitment law, the expansion of probation services, and the new court-linked programs and facilities for the rehabilitation of offenders. Thus, in 1972 the services provided by Court Clinics may be enumerated as follows:

1. To provide mental examinations as indicated by law, of individuals referred by the Court.
2. To evaluate offenders upon request of the Court as an aid in its planning for their rehabilitation.
3. To provide consultation to judges and probation officers in legal-psychiatry matters.
4. To provide psychiatric treatment and other mental health services to offenders and their families, so referred by the court.
5. In Probation-Clinical Conferences to share professional knowledge for increasing acumen in the difficult tasks of managing and helping offenders.
6. To provide consultation and evaluation services, when

requested, to court sponsored programs and facilities of offender rehabilitation.

7. To keep functional case statistics, and to provide reports and evaluations to the court as to the clinic's functioning in terms of the court's needs.

8. To maintain working relationships with mental health and other community agencies, facilities and programs who are involved in the welfare of offenders.

As a principal function of a court clinic is to give direct service to its court, all cases referred to it for examination or evaluation are accepted at once. The court clinic does not see, or otherwise interest itself in any court cases other than those formally referred. Referrals are made by the judge, the chief probation officer, or by probation officers, the judge of each court setting policy on this. Persons before the court may be referred at any stage in the legal process, or in certain instances "informally". Thus cases may be referred pre-trial<sup>1</sup> for opinion on sanity and competency to stand trial, at trial for opinion on criminal responsibility (Superior Court), pre-sentence for an evaluation that would be of assistance in disposition, for probation planning, and at any point in probation to help in management and rehabilitation. The referrals are made directly to the court director whose responsibility it is to see that they are handled expeditiously and that reports are ready when needed by the court. Upon referring a case the clinic should be given the reason for the referral and all available court material, as of the probation investigation, police reports, etc. While the clinic allots some time when the court is in session to see urgent referrals at once, most cases are seen by appointment. Appointments are made by the clinic with the authority of the court, and probation officers are notified if they are not kept.

Psychiatric reports<sup>2</sup> on all cases referred are rendered to the court and become a part of the official probation file. They are thus the property of the court and as such are protected or made available according to law and court policy. The fact that the clinic will submit a report to the court is appropriately discussed with all those who are examined. During the 16 years of court clinics operation there have been no instances of legal issues being raised about the examinations or the reports. The court clinic reports are written to serve a specific purpose, - that of giving psychiatric information and opinion relevant to the court's referral of the case. They are brief, non-repetitive, do not contain extraneous matter, and are free of psychiatric jargon and cliches. They differ in content and form from being simple statements of mental status at pre-trial, to the pre-sentence and probation evaluations which give a picture of the offender in terms of his personality structure as it is relevant to his offending, social adjustment and rehabilitation. The clinic may also make follow-up and progress reports on cases in treatment.

Inherent in the court clinics is their therapeutic role, a major function being to provide psychiatric treatment, and to assist in the court's rehabilitative efforts for offenders. The thesis of court clinics is that psychiatry has a good deal more to offer - to courts, and to offenders - than its traditional role at trial in the adversary process for the determination of criminal responsibility. Court clinics share with their courts an orientation being that when a person offends, that offending may be a signal, a sign or a symptom of an underlying emotional or social problem, unrecognized as such and deserving attention that may well not be available elsewhere. Having psychiatric treatment clinics in courts was motivated by the facts that referrals of offenders to conventional mental health clinics were seldom well received or followed through, that

offenders made poor "patients"-not being able to cooperate in voluntary efforts to help themselves, and not keeping appointments. The treatment provided by the court clinics is not voluntary, is in a sense "enforced" by the court, usually as a condition of the offender's probationary status. Treatment being a part of probation calls for close team-work between the psychiatrist and the probation officer in a combined rehabilitative effort, each having his own role with the offender-patient. Cases are chosen for treatment by the Court Clinic Director after evaluation, if he feels that psychiatric therapy may be helpful to the particular offender. This is discussed with the court, and if agreeable to the treatment plan the court commits itself to do all possible within their power to support the offender's treatment.

Once the therapist has his, albeit captive offender, it is up to him to make a patient of him - to help him to involve himself in his therapeutic process. This is not always possible, but with a significant number of probationers the treatment process proceeds, with certain differences, much the same as with other patients seen in voluntary settings. A large percentage of offenders who profit from therapy would not have voluntarily sought it for themselves, or been able to become involved in it. It would seem that the externalized "ego" of the court is necessary to make their involvement possible. Offenders in treatment are told that the therapeutic relationship is a confidential one, except in extreme situations wherein is indicated that the probationer needs the authority and protection of the court lest his acting out endanger himself or others, and jeopardizes his liberty and his therapy. When such instances occur, effort is made by the therapist to get the patient to take the matter up directly with his probation officer. Patients are also told that, while the court favors and enables their treatment as an opportunity for them to have help in working out their problems which

have directly or indirectly brought them to court, that the therapist is in no position of authority, and that all judgments and dispositions are made by the court.

It is often important in the treatment of a juvenile or an adult that their parents or spouse, respectively, become involved with the clinic, however, the court has no legal authority to insist upon this in most instances. Many parents and spouses appreciate the opportunity and involve themselves fairly easily. Others may do so only after the advantages and alternatives in relation to the patient's welfare are interpreted to them by the judge or probation officer. Working with parents and spouse is one of the principal functions of the court clinic social workers - they may also do some therapy with offenders and provide social and family data for the diagnostic evaluation process.

The feasibility and efficacy of treating offenders in the court setting with the collaboration of judges and probation officers has long been established in court clinics, and is documented in the considerable contributions that have been made in the professional literature on offender therapy.<sup>3</sup>

Working with the court and with offenders requires particular skills and knowledge, as well as aptitude, in clinical personnel who would serve in court clinics. Many of the clinics have a formal affiliation with psychiatry and child psychiatry-accredited teaching centers for the training of residents as a part of their curriculum. Also Social Work Schools use court clinics as field placements for students. Such court clinic training not only gives students awareness of the psychological and social problems of offenders to add to their general learning and acumen, but may influence their career choice, thus providing a number of trained persons for recruitment for court clinic positions. Staff personnel who have not had previous special training

receive intensive supervision and training on the job by the Program Director. The Court Clinic Case Conferences augment training for both clinical and probation personnel, and provide a forum for the clinic-court inter-relationship. Each clinic holds their Conferences on a regular schedule; a psychiatrist from another court clinic attends as "guest-consultant" in a case presentation and discussion which involves clinic staff, probation officers, community agencies workers, and often the judge.

Essential to the successful operation of a court clinic is the development and maintenance of mutual professional respect between clinic and court staffs, with full understanding of their respective roles, duties and limitations, and how each serves the other in their common task of working with offenders. It is in this special area that the Program Liaison Agent provides an important function as advisor, consultant and instructor. In order to promote, in a broader way, communication for better understanding of common problems among persons of all professions and disciplines who deal with offenders, the Court Clinic Program established in 1959 the Massachusetts Chapter of the Association for the Psychiatric Treatment of Offenders (APTO). Monthly meetings are held throughout the year at which a paper on some aspect of work with offenders is presented and discussed. The membership includes judges, lawyers, probation officers, Youth Service and Correction Departments workers, Social Workers, psychologists and psychiatrists.

As we have noted, court clinics in Massachusetts were set up to provide for the needs of the district courts, - courts dealing with misdemeanors and juvenile problems, - and what has been presented above applies largely to district court clinics. The problems presented to those "lower" courts are not usually of serious legal consequence, are more easily seen as entailing social and psychological problems, and

thus there is in general a considerable latitude within which to deal with offenders at the community level. However, court clinic principles have been applied to the provision of services to other kinds of courts, - namely the Superior and Probate Courts.

The Suffolk Superior Court Clinic was established in 1958 with these general principles, but was also planned to provide a somewhat different kind of service. A special function of this clinic being that of "amicus curiae",<sup>1</sup> - assisting the Court pre-trial and at trial, as well as on the pre-sentence level with cases that involve serious and complex psychiatric issues.

Court clinic services were brought to the Norfolk County Probate Court in 1969 in order to give clinical assistance in divorce and child custody matters. While such are not criminal proceedings, there are frequently strong implications for feelings of guilt, blame, punishment and retribution in the contestants. Such feelings may be vociferously expressed and reacted to in kind, may involve deep-seated, often irrational emotions. In such highly charged situations the feelings and emotional needs of the involved children may be neglected, or on the other hand, exploited. That the court itself have the advantage of impartial professional services in its investigation of such complex human issues - particularly in relation to children gave impetus and rationale for the establishment of this clinic.

In conclusion we would note that the Court Clinics Program has grown considerably since 1956, there now being 24 court clinics, serving 39 District, Superior and Probate Courts throughout the State. Over 6 thousand offenders annually are seen in diagnosis and treatment, while essential legal-psychiatry services are constantly being provided to the

courts. The original policies and principles of court clinics have sustained - the provision of good clinical services, full respect for the court's authority and solid working relationships with probation - and therein lies, we feel, the rudiments of successful court clinic operation.

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