

The Downtown Austin Community Court

Ten Year Assessment

Report Prepared for the Downtown Austin Alliance

William R. Kelly. Ph.D.

Background

The Downtown Austin Community Court (DACC) was designed and implemented with the intention of significantly reducing public order offending in downtown Austin. The initiative began when the Downtown Austin Alliance (DAA) requested that the University of Texas Center for Criminology and Criminal Justice Research undertake research that assessed the state of public order offending (Class C misdemeanors) and how those cases were being disposed.

That research, completed in 1998, demonstrated that public order offending was clustering in the 78701 zip code (essentially the Central Business District) of Austin, and consisted primarily of drug and alcohol related offenses. A significant portion of the Class C offenders were homeless and mentally ill. Moreover, there was a relatively small proportion of Class C misdemeanants who were repeat offenders, cycling in and out of the municipal justice system year after year.

The disposition of these public order cases was handled by Municipal Court at that time. The analysis of case disposition demonstrated that approximately 25% of cases were still pending eighteen months post arrest. Roughly 60% of cases had a disposition eighteen months after arrest. Of those, barely one-half had completed their sentence (either a fine or CSR - community service restitution). Of those that had completed their sentence, the clear majority had "paid" their fine or "performed" their community service by laying out in jail. What that means is that these offenders were permitted to apply jail credit (credit from time spent in jail) to fulfill their sentence. Nearly 60% of offenders assessed a fine and 80% of those sentenced to community service completed their sentence by laying out. Moreover, essentially none of these offenders received any kind of intervention or treatment or rehabilitation to address the reasons they offended.

The overwhelming consensus from this research was that Austin was operating a classic revolving door for many public order offenders. When one observes that a significant portion of the Class C offenders who entered the municipal justice system were homeless, mentally ill, addicted or dependant on controlled substances or alcohol, and who received no treatment or intervention or real punishment, it was not surprising in the least that many of the offenders cycled in and out of the system on a routine basis. The simple way to look at a situation such as this is by posing the question: What do we expect? Many of these offenders have significant criminogenic problems (factors that are related to their offending) for which the municipal justice system did nothing. So, if nothing changes, why should we expect these offenders to change?

It is one thing to criticize and another to identify and implement potential solutions. Several stakeholder groups convened and developed a strategy to build a potential solution. Over a period of several months, committees met to assess the feasibility of developing a Community Court, modeled after the Midtown Community Court, launched in 1995 in Mid-Town Manhattan. Once the concept passed the feasibility test, we turned to the design and implementation stage. The Downtown Austin Community opened its doors in October, 1999.

As is the case with the implementation and operation of any type of intervention program, all of the participants have to understand the mission and goals. The unfortunate history of the first ten years of the DACC was the responsibility primarily of the administrator. Skipping all of the details, let it suffice to say that the prior administrator did not understand or agree with the mission and goals of the court. It was operated largely as a criminal court over much of the first ten years. Therefore, the ten year assessment of the court's performance is one generally of missed opportunities. By way of footnote, only since a new administrator has come on board (about 12 months ago) has the DACC Advisory Board been provided with any statistical information about the operation and performance of the court, despite repeated requests directed to the prior administrator for such information.

The research reported herein was a product of discussions at several DACC stakeholder meetings convened by Council Member Chris Riley. One of the issues that arose in these discussions was what do we know about the performance of the DACC today. The same questions arose in meetings of the DACC Advisory Board. It was decided in the Riley stakeholder meetings and the DACC Advisory Board meetings that we should compile as much statistical information as possible and provide an overview of the DACC's operation and performance. This research was funded by the Downtown Austin Alliance at the

request of the City Manager's Office. The City Manager's Office, in particular Assistant City Manager McDonald, was quite interested in obtaining this information in order to have a firmer basis for decision making to enhance the court's performance. The author of this report received no compensation for his involvement in this project.

The Court Today

As one might anticipate from the discussion above, the picture regarding public order offending in downtown Austin is not much different today than it was in 1998. Fortunately, today, we have access to statistical information that allows us to assess the extent and nature of the problem, and potential remedies going forward.

Here is what we know about the DACC today, based on data compiled by DACC staff covering the time period January 1, 2009 through April 15, 2010.

Over this time period, the court docketed 7,000 cases, involving 3,700 different offenders, which indicates a significant amount of repeat offending. More on that later.

One of the key functions of a problem solving court is adequate screening and assessment to determine what criminogenic circumstances offenders have. For the history of the court, there has been inadequate screening and assessment. This is evidenced by the fact that there is much more that we do not know about DACC offenders compared to what we do know (see Table 1 below). Granted, not all offenders have significant problems. Witness the UT student who is arrested for PI on 6th Street on a Saturday night. However, there is a significant group of offenders for whom the court should perform screening and assessment. The data in Table 1 show that the Court has been unable to do this very effectively. The primary reason is that the DACC is substantially understaffed, especially with regard to case management, one of the functions of which is screening and assessment when someone enters the front door of the Court.

Table 1. DACC Offender Characteristics:
What We Don't Know

<u>Characteristic</u>	<u>% D/K</u>
Education	28%

Employment	69%
Chronic Homeless	49%
Substance Abuse	64%
Mental Health	65%

The majority of convicted DACC offenders receive a sentence of a fine (see Table 2). Only 13% receive any form of rehabilitation. Roughly 50% of sentences are completed within the Court ordered time limit (see Table 3). Of those who completed their sentence of a fine, the majority (53%) “paid” that fine by laying out in jail (see Table 4).

Table 2. Sentence Imposed.

<u>Sentence</u>	<u>Percent</u>
Fine	53%
Community Service	28%
Rehabilitation	13%
Other	6%

Table 3. Sentence Completed.

<u>Sentence</u>	<u>% Completed (past due)</u>
Fine	55%
Community Service	47%
Rehabilitation	59%

Table 4. Method of Fine Payment

Fine Paid By	
Cash, Check, M.O.	10%
Community Service	9%
Layout	53%

The bottom line is that in several respects, the DACC is still operating as the Municipal Courts operated in the 1990s. Relatively little treatment or intervention (clearly more today than in the past), and still a heavy reliance on laying out. Clearly, the problem with laying out as a method for fulfilling a sentence is that the offenders who lay out face few consequences and no intervention/treatment for their behavior. We are back to the question: What do we expect them to do when they are released from jail?

Over the period in question (January, 2009 to April, 2010), the DACC had funding to send 64 individuals to thirty day in-patient substance abuse treatment. In-patient substance abuse treatment accounts for the vast majority of the DACC's rehabilitation budget. There has been anecdotal information provided to the DACC Advisory Board that for many of the 64 individuals sent to 30 day in-patient substance abuse treatment, 30 days is insufficient. And the profile of some of these individuals would support that observation. That is, many are long term chronic substance abusers, homeless, and mentally ill. The bottom line here is that the DACC rehabilitation budget is critically under funded.

Back to repeat offending. DACC statistics show that there are 245 individuals who have had 25 or more cases before the court. The best we can tell, with the limited screening and assessment information that the DACC has, is that about 40% of these 245 chronic offenders have an identifiable mental illness and about two-thirds are homeless.

There are 76 DACC offenders who have had cases before the court since its inception. Best we can tell, all of these 76 are homeless and the majority have a diagnosable mental illness.

These statistics tell us that there is a relatively small number of offenders who account for a good bit of the public order offending and a good bit of the DACC's resources. It is clear that these individuals face substantial challenges and present to the court with significant criminogenic circumstances. Because of the chronic nature of these conditions, many of these individuals (we do not really know how many at this point in time) are likely to be highly resistant to treatment or intervention. For those who are receptive to treatment, it will require a significant investment of resources and time, including assertive case management, to address these conditions. However, in my opinion, it is these individuals and those on the cusp of being these individuals who constitute the primary targets of the DACC. Cases far removed from these types of cases, such as the UT student arrested for PI and who pays a fine is not what the DACC should be spending time and resources on. Rather, the DACC needs to clearly delineate the types of cases for which it was designed and then identify those cases, through screening and assessment, as they enter the front door. Those cases, and those on the cusp of being those cases, are what the court's resources should primarily target.

The Cost Picture

There is usually a reluctance on the part of policy makers to invest in the long term. This is especially acute in times of fiscal constraint. However, when we assess the cost impact that the DACC repeat offenders have had, rehabilitation may start to look like a reasonable investment. The following consists of some of the costs that the City of Austin and Travis County have incurred due to the repeat offending of the 245 offenders with 25 or more cases and the 76 offenders who have had cases since the DACC's inception in 1999.

In 2009 alone, the 245 offenders cost the City and the County \$1,280,000. This is the cost associated with DACC case processing, jail bookings, jail days, APD costs for arrest and field release and EMS trips. Obviously, there is much missing from these estimates, including ER visits, ATCIC visits, homeless shelter stays, etc., as well as the incalculable costs due to the harm done to the community and the local economy by their offending behavior.

The costs associated with the 76 offenders who have been in and out of the DACC since 1999 amounts to an approximate \$4.3 million over the period 1999 to 2009. Again, these are just direct criminal justice and EMS costs (DACC case processing, jail booking, jail days, APD arrest and field release and EMS).

Business as usual suggests that these costs and many more will continue to be incurred on an ongoing basis, absorbed by the justice system, public shelters, local emergency rooms, mental health facilities, etc.

Missing Pieces

In my opinion, the proper path forward for appropriately addressing public order offending in downtown Austin includes a significant ramp up of the DACC budget to provide:

- state of the art screening and assessment of all individuals who enter the court
- assertive case management to assure that individuals comply with court orders
- use of evidence-based intervention practices
- treatment/rehabilitation that corresponds to what individuals need, rather than what is available
- ability to provide a sufficiently long period of substance abuse treatment for those who require more than 30 days
- appropriate aftercare to insure that the direct treatment effect is maximized
- ability to provide appropriate mental health treatment (without the typical delays due to inadequate capacity at public, community based facilities)
- sustainable housing, based on a housing first model; housing (not temporary shelter stays) is key to the entire effort; scientific evidence clearly demonstrates that without housing, most other efforts will be ineffective