

Working with Public Defenders

by **Stephen Bush**, Chief Public Defender, Shelby County, Tenn.



Stephen Bush

What is the role of the public defender and what role can family members have in communicating with a public defender?

Often, the public defender is the only advocate a person with a mental health condition has in the justice system. The public defender's job is to represent the interests of the individual charged with an offense, and act as advocate and counselor

through the attorney-client relationship. Our job is to protect the due process rights of the individual and to develop and guide a high-quality defense. I think public defenders also have a second role, which is to explore and engage social services, where doing so is helpful to the client.

Families and advocates can be the single most important source of relevant information regarding a client living with serious mental health problems. There are restrictions on what a public defender can share with a third party (including family members), but there are no restrictions on the information that families and advocates can provide to the public defender.

If my loved one has been arrested and doesn't want his or her public defender to give me information about the case, is there anything I can do?

If the client says he or she doesn't wish for the public defender to share certain information with family about the case, that directive must be respected by the attorney. I almost always encourage clients to give me permission to speak with their families—preserving key relationships is always an important goal—but a public defender has a legal and ethical obligation to protect the confidentiality of client communications.

How can family members share information with the public defender if he or she doesn't seem open to communication?

The public defender will be more successful in providing a good defense if he or she is better informed. Family members need to be polite, but persistent in providing information. It's helpful to understand that the public defender systems everywhere are underfunded and understaffed. Often, attorneys are in court all day, meaning they have very little time to prepare cases and communicate with clients and their families.

For this reason, family members will get the best reception if they are polite and respectful of the public defender's time. If it is possible to meet face to face, that is best. I suggest family members try to make a *brief* personal introduction at the initial hearing for their loved one's case and offer their assistance. It's important to make yourself helpful to the attorney. If repeated, respectful efforts to open a channel of communication are unsuccessful, you can be more assertive. For example, you may mail a summary of your loved one's medical information to the public defender's office with a return receipt request. Play nice at first but persist until you can communicate the information you think is important.

What sort of information should a family member share with the public defender?

Of course, ask the attorney what would be most helpful for them but I recommend assembling a summary of your loved one's medical information and attaching relevant documentation. For example, include his or her immediate treatment needs, current medications and diagnosis, as well as any other information that you think is important. Be as concise as possible, as public defenders will not have time to read hundreds of pages of medical history. 🌀

Stephen Bush is the Chief Public Defender in Shelby County, Tenn. Shelby County's Jericho Project is an innovative program that provides post-booking jail diversion to people with serious mental health problems and co-occurring disorders.