

JUDICIAL COUNCIL MEETING

AGENDA

July 18, 2019

**Grand Summit Hotel
4000 Canyons Resort Dr.
Room – Cabin I and II
Park City, Utah 84098**

Chief Justice Matthew B. Durrant Presiding

1. 9:00 a.m. Welcome & Approval of Minutes..... Chief Justice Matthew B. Durrant
(Tab 1 – Action)
2. 9:05 a.m. Chair’s Report..... Chief Justice Matthew B. Durrant
3. 9:10 a.m. Administrator’s Report Judge Mary T. Noonan
4. 9:20 a.m. Reports: Management Committee Chief Justice Matthew B. Durrant
Liaison Committee.....Justice Thomas Lee
Policy & Planning Committee Judge Derek Pullan
Bar Commission..... Rob Rice, esq.
(Tab 2 – Information)
5. 9:30 a.m. Judicial Performance Evaluation Commission Report Dr. Jennifer Yim
(Information) Commissioner Gil Miller
6. 9:50 a.m. Proposed Amendment to Code of Judicial Administration Rule 4-401.02 ...
(Tab 3 – Action) Dr. Jennifer Yim
Commissioner Gil Miller
Michael Drechsel
7. 10:00 a.m. Expungement Bill Follow-Up and Recommendations Michael Drechsel
(Tab 4 – Action) Heidi Anderson
8. 10:10 a.m. CCJ/COSCA Summit: Improving the Court and Community Response to
Those with Mental Illness Report..... Judge Kara Pettit
(Tab 5 – Action) Doug Thomas
Laura Thompson
Jeremy Christensen
- 10:40 a.m. Break
9. 10:50 a.m. FY20 Justice Court Technology, Security, and Training Account
Expenditures Jim Peters
(Tab 6 – Action)

- | | | | |
|-----|------------|--|--|
| 10. | 11:05 a.m. | Utah State Bar Welcome and Report
(Information) | Dickson Burton
John Baldwin
Heather Farnsworth
Herm Olsen |
| 11. | 11:15 a.m. | Four Commissioner Recertifications
(Tab 7 – Action) | Cathy Dupont |
| 12. | 11:20 a.m. | AP&P Presentation of New PSI Report Forms.....
(Tab 8 – Action) | Shane Bahr
Glenn Ercanbrack
Mike Hadden
James Hudspeth |
| 13. | 11:30 a.m. | Old Business/New Business
(Discussion) | All |
| 14. | 11:50 a.m. | Executive Session – There will be an executive session | |
| 15. | 12:00 p.m. | Adjourn | |

Consent Calendar

The consent calendar items in this section are approved without discussion if no objection has been raised with the Administrative Office of the Courts or with a Judicial Council member by the scheduled Judicial Council meeting or with the Chair of the Judicial Council during the scheduled Judicial Council meeting.

- | | |
|---|--|
| 1. Committee Appointments
(Tab 9) | Pretrial Release and Supervision – Keisa Williams
Education Committee – Tom Langhorne |
| 2. National CASA Awareness Grant
Child Access Visitation Grant
(Tab 10) | Stacey Snyder
Nini Rich |
| 3. Probation Policy 5.1 and 5.3
(Tab 11) | Neira Siaperas |
| 4. Rule for Public Comment
(Tab 12) | Michael Drechsel |
| 5. Forms Committee Forms
(Tab 13) | Brent Johnson |

Tab 1

JUDICIAL COUNCIL MEETING

Minutes

June 24, 2019

S.J. Quinney College of Law – Level 6
383 South University Street
Salt Lake City, UT 84112
9:00 a.m. – 10:00 a.m.

Chief Justice Matthew B. Durrant, Presiding

Members:

Chief Justice Matthew B. Durrant, Chair
Hon. Kate Appleby, Vice Chair
Hon. Brian Cannell
Hon. Augustus Chin
Hon. Paul Farr
Justice Thomas Lee
Hon. Mark May
Hon. Kara Pettit
Hon. Derek Pullan
Hon. Brook Sessions
Hon. Todd Shaughnessy
Hon. John Walton
Rob Rice, esq.

AOC Staff:

Hon. Mary T. Noonan
Brent Johnson
Jim Peters
Jeni Wood

Guests:

Hon. James Brady, Fourth District
Judge Jennifer Brown, Fourth District
Judge Gregory Orme, Court of Appeals
Tim Shea
Mark Urry, TCE Fourth District
Justice Michael D. Zimmerman

Excused:

Shane Bahr
Cathy Dupont
Hon. Ryan Evershed
Neira Siaperas

1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)

Chief Justice Matthew B. Durrant welcomed everyone to the meeting.

Motion: Judge Kate Appleby moved to approve the Judicial Council minutes from the May 20, 2019 meeting, as presented. Judge Todd Shaughnessy seconded the motion, and it passed unanimously.

2. CHAIR'S REPORT: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant stated the Judicial Compensation Committee will meet on July 2. Chief Justice Durrant thanked Ray Wahl for his many contributions in the advancement of the courts.

3. ADMINISTRATOR’S REPORT: (Judge Mary T. Noonan)

Judge Mary Noonan noted Judge Evershed and Cathy Dupont would not be able to join the meeting. Ray Wahl’s last day with the courts was last Friday. Judge Noonan stated Mr. Wahl will be missed and was a tremendous asset. The Online Court Assistance Program (OCAP) received the Best of State in Technology Award. The “child welfare during court proceedings” performance audit is nearly complete. The next audit will be conducted in the Seventh District Price drug court.

Chief Justice Durrant, Judge Noonan, Cathy Dupont, Judge Kara Pettit, Judge Elizabeth Knight, Brent Johnson, and individuals from the Dept. of Human Services attended the 2019 CCJ/COSCA Sun Valley Summit, which focused on mental health issues.

4. COMMITTEE REPORTS:

Management Committee Report:

The work of this committee is reflected in the minutes.

Liaison Committee Report:

Justice Thomas Lee mentioned the Liaison Committee discussed taking positions on behalf of the Judicial Council. During the legislative session responses are needed quickly, therefore, it may be difficult to contact each Council member in a timely manner. Recently, the committee emailed Council members for input on S.B. 214. The committee voted to support the proposed reduction in 2019, but asked to reassess data in the future.

Policy and Planning Committee Report:

Judge Derek Pullan said the work of the committee is reflected in the minutes.

Bar Commission Report:

Rob Rice said the 2019 Bar’s Summer Convention begins July 18 in Park City with hopes of better attendance. The 2020 Bar’s Summer Convention will also be held in Park City. The Bar may begin a rotation schedule between Utah locations and Sun Valley in the future.

5. APPROVAL OF FOURTH DISTRICT COMMISSIONER: (Judge James Brady, Judge Jennifer Brown, and Mark Urry)

Chief Justice Durrant welcomed Judge James Brady, Judge Jennifer Brown, and Mark Urry. Judge Brown stated that the Fourth District Bench interviewed 7 of the 31 applicants for the open commissioner position. Three applicants interviewed were selected by the committee for consideration and public comment. Following public comment, the committee recommended the same three applicants to the Fourth District judges. After discussion and review of the applicants, the Fourth District bench voted to nominate Marian Ito for review and approval by the Judicial Council, effective August 1, 2019.

Chief Justice Durrant thanked Judge Brady, Judge Brown, and Mr. Urry.

Motion: Judge Kate Appleby moved to approve Marian Ito as the new Fourth District Commissioner, effective August 1. Judge Augustus Chin seconded the motion, and it passed unanimously.

6. APPROVAL OF JUSTICE COURT JUDGES: (Jim Peters)

Chief Justice Durrant welcomed Jim Peters. Jim Peters sought approval from the Council for Katherine Peters, Salt Lake City Justice Court; Lee Edwards, Logan City Justice Court, and Matthew Morz, Hyde Park Justice Court and North Logan City Justice Court. The candidates (all of whom are attorneys) passed their exam, BCI background check, and have completed new judge orientation.

Motion: Judge Appleby moved to approve Katherine Peters be appointed as a new judge in the Salt Lake City Justice Court; Lee Edwards be appointed as a new judge in the Logan City Justice Court, and Matthew Morz be appointed as a new judge in the Hyde Park Justice Court and North Logan City Justice Court. Judge Chin seconded the motion, and it passed unanimously.

7. FY20 JUSTICE COURT TECHNOLOGY, SECURITY, AND TRAINING ACCOUNT EXPENDITURES: (Jim Peters)

Mr. Peters requested this item be deferred until the July Council meeting. The Council approved.

8. JUDICIAL COUNCIL RETREAT.

Motion: Judge Shaughnessy moved that Policy & Planning should draft rules to clarify the roles of the Utah Supreme Court and of the Judicial Council regarding the shared responsibility between the two bodies with respect to the hiring and firing of the State Court Administrator. Judge Appleby seconded the motion.

Motion: Judge Pullan moved to amend the motion to include the creation of a committee to assist both bodies in the execution of these responsibilities, and other related duties. Judge Shaughnessy accepted Judge Pullan's amendment. Judge Appleby seconded the motion, and it passed unanimously.

Motion: Judge Shaughnessy moved to ask create an interim ad hoc budget and finance committee that initially would be composed of one member from each of the three Judicial Council executive committees (selected by each committee to serve) and that the Council form a workgroup, chaired by Associate Chief Justice Thomas Lee, to investigate questions concerning the composition of the Council and its executive committees. The workgroup will report its recommendations to the Council. Justice Lee seconded the motion, and it passed unanimously.

Justice Lee requested that volunteers for the workgroup, contact him.

Judge Noonan noted that suggestions to improve communication and transparency within the courts have been forwarded from judges, the Boards, Trial Court Executives, Clerks of Court, and others. The suggestions are compiled in her memorandum to the Council, dated June 17, 2019, and attached to the retreat materials. Some of the suggestions have already been implemented, others require consideration by the Council.

The Council determined that it will consider the memorandum at a future meeting.

Chief Justice Durrant thanked everyone involved with their work on the retreat.

9. EXECUTIVE SESSION

Motion: Judge Appleby moved to go into an executive session to discuss personnel character issues. Judge Shaughnessy seconded the motion, and it passed unanimously.

Motion: As to the first executive session item, Judge Pullan moved to refer the current complaint and the prior complaint to the Judicial Conduct Commission. Judge Chin seconded, and it passed with Rob Rice abstained.

Motion: As to the second executive session item, Judge Pullan moved that the Presiding Judge meet during an executive session with the Management Committee at the July 9, 2019 meeting, and that the judge attend an executive session with the Judicial Council at the July 18, 2019 meeting. Judge Shaughnessy seconded the motion, and it passed. Justice Lee recused from discussion and voting.

10. CONSENT CALENDAR ITEMS

a) Forms for Final Approval. 1) Stipulation to Enter Judgment Modify Custody; 2) Motion to Waive Fees and Statement Supporting; 3) Order on Motion to Waive Fees; 4) Order on Motion to Waive Fees Inmates; 5) Memorandum Demonstrating Inability to Pay Fees; 6) Motion to Set Aside Judgment; 7) Order on Motion to Set Aside Judgment; 8) Motion to Delay Enforcement of Judgment; and 9) Order on Motion to Delay Enforcement of Judgment. Approved without comment.

b) Committee Appointments. 1) Professor James Hedges was appointed to the Education Committee. Justice John Pearce and Shane Bahr were reappointed to the Technology Committee. Approved without comment.

11. ADJOURN

The meeting adjourned.

Tab 2

JUDICIAL COUNCIL MANAGEMENT COMMITTEE

**Minutes
July 9, 2019
Council Room
Matheson Courthouse
450 South State Street
Salt Lake City, Utah 84111
12:00 p.m. – 2:00 p.m.**

Chief Justice Matthew B. Durrant, Presiding

Members:

Chief Justice Matthew B. Durrant, Chair
Hon. Kate Appleby, Vice Chair
Hon. Paul Farr

Excused:

Hon. Mark May
Hon. Todd Shaughnessy

AOC Staff:

Hon. Mary T. Noonan – by phone
Cathy Dupont
Michael Drechsel
Heidi Anderson
Shane Bahr
Tracy Chorn
Geoff Fattah
Brent Johnson
Tom Langhorne
Chris Palmer
Jim Peters
Nini Rich
Neira Siaperas
Stacey Snyder
Karl Sweeney
Keisa Williams
Jeni Wood

Guests:

Hon. George Harmond, Seventh District
Joyce Pace, Fifth District TCE – by phone
Hon. Jeffrey Wilcox, Fifth District – by phone

1. WELCOME AND APPROVAL OF MINUTES: (Chief Justice Matthew B. Durrant)

Chief Justice Matthew Durrant welcomed everyone to the meeting. Judge Mary T. Noonan attended by phone.

After reviewing the minutes, the following motion was made:

Motion: Judge Kate Appleby moved to approve the June 11, 2019 Management Committee meeting minutes, as presented. Judge Paul Farr seconded the motion, and it passed unanimously.

2. ADMINISTRATORS REPORT: (Cathy Dupont)

Cathy Dupont mentioned Judge Douglas Thomas, Seventh District, announced his retirement, effective January 1, 2020, after serving more than 17 years on the bench. Michael Drechsel has been appointed as the Assistant State Court Administrator and Clayson Quigley is the new Court Services Director, both positions are effective July 15. The Human Resources Director interviews begin tomorrow, with final interviews expected for next week.

Ms. Dupont noted Wolf Blitzer is unable to attend the Bar's opening ceremony on July 18. The July 18 Council meeting will be held at the Grand Summit Hotel in Park City.

Ms. Dupont stated Judge May has expressed interest in joining the Council's newly created ad hoc Budget Committee. Chief Justice Durrant approved Judge May's request.

The "Performance Audit of Child Welfare During Divorce Proceeding" audit is complete. In general, findings were favorable. Ms. Dupont reviewed the audit recommendations and provided a copy of Judge Noonan's proposed response. The Committee approved the letter, as written. The Commission on Criminal Juvenile Justice (CCJJ) notified the court that a justice reinvestment initiative audit is expected to begin soon.

**3. COMMITTEE APPOINTMENT: (Tom Langhorne and Keisa Williams)
Education Committee**

Tom Langhorne addressed the committee vacancy for a chief probation officer representative. The committee recommended the appointment of Megan Haney.

Motion: Judge Appleby moved to approve the appointment of Megan Haney to the Education Committee, and to place this item on the Judicial Council consent calendar. Judge Farr seconded the motion, and it passed unanimously.

Pretrial Release and Supervision Committee

Keisa Williams addressed the committee vacancies from the Utah Association of Counties and a justice court judge. The committee recommended Commissioner Lorene Kamalu from the Utah Association of Counties and justice court Judge Jeanne Robison.

Motion: Judge Appleby moved to approve the appointments of Commissioner Lorene Kamalu from the Utah Association of Counties and justice court Judge Jeanne Robison, to the Pretrial Release and Supervision Committee, and to place this item on the Judicial Council consent calendar. Judge Farr seconded the motion, and it passed unanimously.

4. PSA DATA REPORT: (Judge George Harmond and Keisa Williams)

In 2016, very early in the PSA development phase, Harvard Law School's Access to Justice Lab (Lab) provided the PSA Working Group with a document outlining which PSA outcome measures the Lab would be tracking for its study purposes. With guidance from the Lab, the PSA Working Group developed a similar document for internal purposes to ensure that the AOC: 1) had or created the technical infrastructure necessary to capture the underlying data elements for the Lab, and 2) provided the data to the Lab in accordance with the Lab's definitions and requirements. More than a year later and in the midst of significant political

interest, a decision was made to track outcomes internally (in addition to the Lab's study) once the PSA had been implemented, and to be transparent about what was found. On June 1st, the AOC began to compile data for the first reporting period.

Raw data was released this morning to the bail bond industry. Additional data will be released at the end of July. Ms. Dupont believed it is important to build relationships and keep communications open with President Adams and Representative Schultz. Harvard is collecting data for their study, which is expected to be complete in two years. Ms. Williams noted originally the data collected by the courts was only information needed for the Harvard study. However, because the need for further evaluation evolved, the data collection needs to change.

Judge Harmond and Ms. Williams sought approval from the Judicial Council regarding the provision of the initial raw data sets to Aladdin, and guidance regarding whether the data sharing agreement should be amended or terminated to address concerns regarding quarterly reporting and data release requirements. Due to the urgent nature of this matter, the Committee decided to email a draft of a Judicial Council update on the progress of the PSA and data regarding the PSA to the Judicial Council by end of the day, for review and approval with a 24-hour response deadline. The update will then be distributed to legislative leadership, the bench, and other interested parties. The Management Committee removed the discussion of the PSA and data issues from the Judicial Council July 18 agenda.

5. EXPUNGEMENT BILL FOLLOW-UP AND RECOMMENDATIONS: (Michael Drechsel and Heidi Anderson)

Michael Drechsel noted the purpose of H.B. 431 Clean Slate Expungement Implementation Bill (Senator Thatcher and Representative Hutchings) is to create automatic expungements for certain convictions that meet the eligibility criteria. The legislature granted funding in the amount of \$200K one-time and \$200K ongoing, which was significantly less than what the Court asked for in the fiscal note attached to the bill. Currently, there is insufficient funding for the courts to be prepared for the implemented May 1, 2020 date. Mr. Drechsel is seeking additional grant money from CCJJ.

The Bill requires the courts to

- automatically expunge “clean slate eligible” cases (without petition or request),
- expunge cases full acquittal (after 60 days) or dismissal with prejudice (after 180 days),
- delete traffic cases,
- notify prosecution and DPS of expungements, and
- have the Judicial Council create rules to implement procedures.

A clean slate conviction is either a class A misdemeanor possession of a controlled substance (≥ 7 years), a class B misdemeanor (≥ 6 years), a class C misdemeanor (≥ 5 years), or an infraction (≥ 5 years), and the person must not have any pending criminal cases. It is anticipated that historically there are approximately 207,000 district court cases, 470,000 justice court cases, and millions of traffic cases that would be eligible for automatic expungement. It is expected that on an ongoing basis, there will be approximately 5,800 district court cases, 24,000 justice court cases, and 330,000 traffic ongoing cases.

Convictions that do not meet the clean slate criteria are:

- Where conviction or plea in abeyance for:
 - Any offense that is ineligible for typical expungement
 - Any offense against person under Title 76, Chapter 5
 - Any weapon offense under Title 76, Chapter 10, Part 5
 - Sexual battery
 - Lewdness
 - Any DUI / Driving offense under Title 41, Chapter 6a, Part 5
 - Damage to or interruption of a communication device
 - Domestic violence
 - Any felony or other class A misdemeanor
- Where prosecutor objects because: 1) eligibility criteria not met; 2) ongoing criminal activity; or 3) unpaid restitution to victim
- Where there is a “criminal judgment account receivable” that has been either converted to a civil judgment and sent to OSDC or has not been satisfied according to court records
- Where not guilty by reason of insanity

The Bill requires “reasonable efforts within available funding shall be made to expunge or delete a case as quickly as is practicable with the goal of . . .” starting on May 1, 2020, and one-year from identification to process backlog of historical cases.

Mr. Drechsel is seeking approval from the Judicial Council to authorize the development of foundational technology for all automatic expungements, including the data pipeline between the courts and the Department of Public Safety (DPS), the creation of automatic expungement orders, develop a process for acquittals and dismissals, develop and test logic for identifying cases, develop a process for notifying prosecutors and objection workflow, and develop routines for automatic deletion of traffic cases. Heidi Anderson discussed the complexity of the foundational technology between the courts and DPS. An algorithm must be created to collect data on cases that are eligible.

Mr. Drechsel sought approval for the following:

- Authorization from Judicial Council to pursue implementation that leverages standing orders from judges to automate the expungement orders
- Prioritization of development path to be responsive to political consideration while balancing fiscal limitations
- Implementation team (including a project sponsor)
- Rules to govern processes (via Policy & Planning)

Motion: Judge Appleby moved to place this item on the Judicial Council agenda. Judge Farr seconded the motion, and it passed unanimously.

6. JUDGE SAM CHIARA EMAIL: BOARD OF DISTRICT COURT JUDGES RECOMMENDATIONS TO THE JUDICIAL COUNCIL: (Cathy Dupont)

The Board of District Court Judges met on June 21 and discussed ideas to improve court governance. Specifically the Board discussed communication and responsibility between the

Board and the Judicial Council. Judge Sam Chiara provided the following feedback from the Board.

- The perception of members of the Board is that the Board of District Court Judges is presently an advisory committee whose function has little effect with regard to decisions and actions of the Council, the judiciary, the AOC, or other committees.
- The perception of lack of effectiveness certainly has multiple causes. The causes may include a lack of understanding of the Board's role, failure of the Board to affirmatively engage in its prerogatives, inadequate communication between the Board and the Council, and failure of the Council to delegate tasks to the Board.
- It is also possible that the Board's perception that its efforts have little or no effect is not entirely correct.
- This final perception could also stem from inadequate communication between the Council and the Board.
- The communication between the Council and the Board presently consists of a monthly report of the Council to the Board, a biannual report of the Board to the Council, copying of the Council's agenda to the Board, and communications between the Council and the Board via executives in the AOC.

The Board recommended consideration of a change to how the membership of the Council is constituted, specifically, by adding a seat on the Council be filled by the Chair or Vice Chair of each Board.

Judge Appleby recommended referring this information to Justice Lee's Council Composition Subcommittee. Judge Noonan will notify Judge Chiara.

7. FIFTH DISTRICT ATTORNEY BYPASS SECURITY: (Judge Jeffrey Wilcox, Joyce Pace, Chris Palmer, and Brent Johnson)

Judge Jeffrey Wilcox stated between 2017-2018 ID cards were created by the Washington County Attorney's Office to allow attorneys to bypass security screening in the Washington County courthouses. This practice was not included in the local security plan or in Code of Judicial Administration Rule 3-414. A meeting was held on May 21, 2019 in St. George to address the issue. Brock Belnap of the Washington County Attorney's Office interprets the rule to allow Sheriff's to use their discretion as to who to search. Additionally, Mr. Belnap believes having an attorney go through the normal security checks, sometimes multiple times a day, is an affront to their basic dignity, is disrespectful, and would damage morale of local attorneys.

Judge Wilcox noted the judges in the Fifth District and the federal judges who share the St. George courthouse, were not aware of this process. Federal prosecutors also have badges that provide them access to the courthouse. Brent Johnson said the position of the courts and the rule is clear. Security is a judicial function that does not belong to the Sheriff's. The Committee agreed the process violates the rule.

Judge Appleby recommended having Brent Johnson notify the attorneys with the Southern Bar that they are in violation of the rule.

8. FIFTH DISTRICT REQUEST FOR SENIOR JUDGE COVERAGE: (Judge Jeffrey Wilcox and Joyce Pace)

Judge Wilcox has a three week trial scheduled on the Medicaid fraud case listed above. This is a complex case with two defendants and multiple documents. The Fifth District requested senior judge assistance be provided for the trial to prevent the occurrence of a backlog in the court's calendar. Judge Wilcox carries a large workload with two weekly law and motion calendars as well as weekly Recovery Court.

In reference to Rule 3-108(2), the Fifth District gave consideration to the possible use of other Fifth District Judges and found that all of them are in similar situations. Consideration has also been given to acquire a visiting judge from another district, but they have had to rely on visiting judges for many conflict cases recently and have almost reached a point of saturation. The Committee discussed whether a senior judge could fill in for law and motion calendar and whether Judge Wilcox could cover the trial. Judge Wilcox and Joyce Pace will try to fill the law and motion calendar with a Senior Judge.

Motion: Judge Appleby moved to approve the use of a senior judge to fill Judge Wilcox's law and motion calendar so he can attend to the three-week trial. Judge Farr seconded the motion, and it passed unanimously.

9. NATIONAL CASA AWARENESS GRANT: (Stacey Snyder)

Stacey Snyder presented the Judicial Council grant application for the National CASA Awareness Grant, which provides an opportunity for states to use the National CASA media campaign in major metropolitan areas, including billboards, social media, TV advertisement, and recruitment. The grant level is under \$1 million. This is the first time this Grant is being requested.

Motion: Judge Appleby moved to approve the National CASA Awareness Grant and add this item to the Judicial Council consent calendar. Judge Farr seconded the motion, and it passed unanimously.

10. CHILD ACCESS VISITATION GRANT: (Nini Rich)

Nini Rich requested a renewal of 3-year Child Access Visitation Grant, which has been provided to the courts for the past 18 years. The Grant provides the co-parenting mediation program services to aid disputing parents increase visitation between their children. The grant is \$111,111 each year.

Motion: Judge Appleby moved to approve the Child Access Visitation Grant and add this item to the Judicial Council consent calendar. Judge Farr seconded the motion, and it passed unanimously.

11. PROBATION POLICY 5.1 AND 5.3: (Neira Siaperas)

Neira Siaperas first discussed Probation Policy 5.1, which was last updated in 2001. Changes in the policy were made to update the conditions under which probation staff conduct searches and include reference to Local Security Plans and the Work Crew Deputy Probation Officers' Operating Manual in regards to administrative searches.

Ms. Siaperas next discussed Probation Policy 5.3, which was last updated in 2001. Changes were made to align the policy with the current Utah State Juvenile Court Probation Officer Safety Training curriculum, Natural Response Control Tactics.

Motion: Judge Appleby moved to approve the proposed changes to Probation Policy 5.1 and 5.3, as presented, and to add this item to the Judicial Council consent calendar. Judge Farr seconded the motion, and it passed unanimously.

12. THIRD DISTRICT JUVENILE – SALT LAKE, TOOELE, AND SUMMIT COUNTIES LIMITED TRUST AUDIT REPORT: (Karl Sweeney and Tracy Chorn)

Karl Sweeney reviewed the Limited Audit Final Report of the Third District – Salt Lake, West Jordan, Tooele, and Summit Juvenile Courts.

Motion: Judge Appleby moved to approve the Report, as presented. Judge Farr seconded the motion, and it passed unanimously.

13. APPROVAL OF JUDICIAL COUNCIL AGENDA: (Chief Justice Matthew B. Durrant)

Chief Justice Durrant addressed the proposed agenda for the July 18, 2019 Judicial Council meeting. There was an addition to the consent calendar of forms from the Forms Committee and removal of PSA Data Report item. Judge Farr noted he will not be able to attend the Council meeting. Judge Appleby suggested agenda item 9 regarding the PSA discussion be eliminated from the agenda.

Motion: Judge Appleby moved to approve the Judicial Council agenda, as amended. Judge Farr seconded the motion, and it passed unanimously.

14. OLD BUSINESS/NEW BUSINESS: (All)
There was no old or new business discussed.

15. EXECUTIVE SESSION
An executive session was held.

16. ADJOURN
The meeting adjourned.

Tab 3



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

Hon. Mary T. Noonan
Interim State Court Administrator

Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council Members

FROM: Michael C. Drechsel, Associate General Counsel – AOC

DATE: Monday, July 1, 2019

RE: CJA 4-401.02 – Possession and use of portable electronic devices – JPEC Basic Evaluation Pilot

Policy and Planning was approached by the Judicial Performance Evaluation Commission (JPEC) to explore possible changes to the Code of Judicial Administration that would permit JPEC to use electronic audio and video recordings as part of a pilot project for basic evaluations for certain justice court judges. Currently, a basic evaluation is described on JPEC's website,¹ as follows:

A judge is scheduled to receive a basic level evaluation if they carry less than a .2 weighted caseload in each of the locations they serve.

Judges who are scheduled to receive the basic level evaluation are not in court frequently or regularly and do not have enough attorneys sitting before them to take a quantitative survey. Because these individuals also do not have enough court participants for JPEC to conduct intercept surveys, no survey is completed. No courtroom observation is done.

JPEC is hopeful that, through the use of audio and video recordings, courtroom observation can be accomplished even for those judges who are subject only to basic evaluation. JPEC has presented the concepts behind this pilot project to the Board of Justice Court Judges, and reports receiving unanimous support from that group. The pilot will be conducted only for mid-term judges so that the effect of the pilot can be evaluated independent of any concern with actual retention elections for those judges.

The basic premise of the pilot project is to create a system for courtroom observation that mimics the in-person courtroom evaluation to which all other judges are subject. By using

¹ <https://judges.utah.gov/process/basic-evaluation-details/>

audio and video recording equipment, JPEC will be in a position to collect a sufficient amount of courtroom data to allow a JPEC volunteer to review the recordings and provide the same feedback that would otherwise be available for all other judges who sit on the bench more frequently. Because the in-person observation does not result in any permanent record beyond the documented observations of the JPEC observer, the audio and video recordings will not be retained beyond the period of time necessary to review the recordings.

One challenge to the pilot program is that the current language in CJA 4-401.02 prohibits audio and video recording in courtrooms (see CJA 4-401.02(3)(B)(ii)). In order to permit JPEC's pilot project, the rule must be revised. Policy and Planning has spent significant time reviewing and discussing the proposed revisions to 4-401.02. Ultimately, after significant discussion, Policy and Planning voted to recommend that these proposed revisions be published for public comment. The vote was not unanimous, especially in regard to the third sentence of proposed CJA 4-401.02(2)(D) regarding retention of the recordings. Policy and Planning members intend to discuss this in detail with the full Judicial Council either before publication for public comment is authorized or before seeking final approval of the revisions.

1 **Rule 4-401.02. Possession and use of portable electronic devices.**

2 **Intent:**

3 To permit the use of portable electronic devices in courthouses and courtrooms, subject to local
4 restrictions.

5 **Applicability:**

6 This rule applies to the courts of record and not of record.

7 **Statement of the Rule:**

8 (1) Definitions.

9 (1)(A) "Judge" as used in this rule means the judge, justice, or court commissioner who
10 is presiding over the proceeding.

11 (1)(B) "Portable electronic device" as used in this rule means any device that can
12 record or transmit data, images or sounds, or access the internet, including a
13 pager, laptop/notebook/personal computer, handheld PC, PDA, audio or video
14 recorder, wireless device, cellular telephone, or electronic calendar.

15 (2) Possession and use of portable electronic devices in a courthouse.

16 (2)(A) A person may possess and use a portable electronic device anywhere in a
17 courthouse, except as limited by this rule or directive of the judge.

18 (2)(B) All portable electronic devices are subject to screening or inspection at the time
19 of entry to the courthouse and at any time within the courthouse in accordance
20 with Rule 3-414.

21 (2)(C) All portable electronic devices are subject to confiscation if there is reason to
22 believe that a device is or will be used in violation of this rule. Violation of this rule
23 or directive of the judge may be treated as contempt of court.

24 (2)(D) For the limited purpose of conducting a pilot project to evaluate the performance
25 of justice court judges using courtroom observation, the Judicial Performance
26 Evaluation Commission may record and transmit video and sound of court
27 proceedings. These recordings and transmissions are protected records. To
28 meet the objective of mirroring the process of in-person courtroom observation,
29 the records must not be retained after completion of the observation.

30 (3) Restrictions.

- 31 (3)(A) Use of portable electronic devices in common areas. The presiding judges may
32 restrict the time, place, and manner of using a portable electronic device to
33 maintain safety, decorum, and order of common areas of the courthouse, such
34 as lobbies and corridors.
- 35 (3)(B) Use of portable electronic devices in courtrooms.
- 36 (3)(B)(i) A person may silently use a portable electronic device inside a
37 courtroom.
- 38 (3)(B)(ii) A person may not use a portable electronic device to record or
39 transmit images or sound of court proceedings, except in accordance
40 with Rule 4-401.01 or subsection (2)(D) above.
- 41 (3)(B)(iii) A judge may further restrict use of portable electronic devices in his or
42 her courtroom. Judges are encouraged not to impose further
43 restrictions unless use of a portable electronic device might interfere
44 with the administration of justice, disrupt the proceedings, pose any
45 threat to safety or security, compromise the integrity of the
46 proceedings, or threaten the interests of a minor.
- 47 (3)(B)(iv) During trial and juror selection, prospective, seated, and alternate
48 jurors are prohibited from researching and discussing the case they
49 are or will be trying. Once selected, jurors shall not use a portable
50 electronic device while in the courtroom and shall not possess an
51 electronic device while deliberating.
- 52 (4) Use of portable electronic devices in court chambers. A person may not use a portable
53 electronic device in chambers without prior approval from the judge.
- 54 (5) Instruction to witnesses. It should be anticipated that observers in the courtroom will use
55 portable electronic devices to transmit news accounts and commentary during the
56 proceedings. Judges should instruct counsel to instruct witnesses who have been
57 excluded from the courtroom not to view accounts of other witnesses' testimony before
58 giving their own testimony.

59 *Effective May/November 1, 20__*

Tab 4

**CLEAN SLATE
EXPUNGEMENT
IMPLEMENTATION**

HOUSE BILL 431

- Sponsored by Rep. Hutchings and Sen. Thatcher
- The main objective of the bill is to put in place systems that will result in automatic expungement of certain convictions so that a person is better situated to obtain employment and housing
- Funding appropriated to the Courts:
 - **\$200,000.00** one-time and **\$200,000.00** ongoing
 - Courts' fiscal note was **\$952,500.00** one-time and **\$100,000.00** ongoing
 - Available appropriations are clearly not sufficient for Courts to fully implement the bill by May 1, 2020
 - Working with CCJJ to hopefully receive additional grant money
- Effective Date: May 1, 2020

REQUIREMENTS

- Courts must automatically:
 - expunge “clean slate eligible” cases
 - expunge cases full acquittal or dismissal with prejudice
 - delete traffic cases
- Notify prosecution and DPS of expungements
- “Automatically” means without petition or request as soon as the courts identify that a case meets the eligibility criteria
- The Judicial Council to make rules to implement procedures for automatic case expungement and case deletion

CLEAN SLATE =

- Each conviction is for either a class A misdemeanor possession of controlled substance, class B misdemeanor, class C misdemeanor, or infraction
- Total convictions in Utah courts (excluding infractions, traffic offenses, and minor regulatory offenses) does not exceed the amounts for regular expungement
- No pending criminal case
- Time elapsed from adjudication date:
 - ≥ 5 years for MC and infraction
 - ≥ 6 years for MB
 - ≥ 7 years for MA possession

CLEAN SLATE ≠

- Where conviction or plea in abeyance for:
 - Any offense that is ineligible for typical expungement
 - Any offense against person under Title 76, Chapter 5
 - Any weapon offense under Title 76, Chapter 10, Part 5
 - Sexual battery
 - Lewdness
 - Any DUI / Driving offense under Title 41, Chapter 6a, Part 5
 - Damage to or interruption of a communication device
 - Domestic violence
 - Any felony or other class A misdemeanor
- Where prosecutor objects because: 1) eligibility criteria not met; 2) ongoing criminal activity; or 3) unpaid restitution to victim
- Where there is a “criminal judgment account receivable” that has been either converted to a civil judgment and sent to OSDC or has not been satisfied according to court records
- Where not guilty by reason of insanity

NUMBER OF CASES

- HISTORICAL CASES (depending on data quality)
 - District Court > 207,000 cases
 - Justice Court > 470,000 cases
 - Traffic = millions of cases
- ONGOING CASES
 - District Court ~5,800 per year
 - Justice Court ~24,000 per year
 - Traffic > 330,000 per year

TIMING

- “Reasonable efforts within available funding shall be made to expunge or delete a case as quickly as is practicable with the goal of . . . “ starting on May 1, 2020
 - Acquittals = 60 days after
 - Dismissal with prejudice (other than PIA) = 180 days after
 - Clean slate = within 30 days of determining case is eligible
 - Traffic deletion = upon identification
 - One year from identification to process backlog of historical cases

EFFICIENT PROCESS

- STANDING ORDERS – authorize use of judicial signature stamp for automatic expungement orders
- Develop foundational technology for all automatic expungements, including the data pipeline between the Courts and the Department of Public Safety
- Develop process for acquittals and dismissals
- Develop and test logic for identifying clean slate eligible cases and the related processes
- Develop process for notifying prosecutors and objection workflow
- Develop routines for automatic deletion of traffic cases

NEEDS

- Authorization from Judicial Council to pursue implementation that leverages standing orders from judges to automate the expungement orders
- Prioritization of development path to be responsive to political consideration while balancing fiscal limitations
- Implementation team (including a project sponsor)
- Rules to govern processes (via Policy & Planning)

Tab 5

STRATEGY FOR IMPROVING COURT AND COMMUNITY RESPONSE TO THOSE WITH MENTAL ILLNESS

Developed by Utah Team at 2019 CCJ/COSCA Western Region Summit

- Establish steering committee of Judicial Council and present to the judicial Boards Summer 2019
- Conduct statewide summit in Fall 2019 to introduce Sequential Intercept Model (SIM) framework, concepts and to energize stakeholders Fall 2019
- Train individuals to conduct, and conduct local summits in each of the eight (8) judicial districts 2020
- SIM mapping at the local level 2020-21

2016-2017 Policy Paper

Decriminalization of Mental Illness: Fixing a Broken System



Author

Milton L. Mack, Jr.

State Court Administrator, Michigan State Court Administrative Office

Contributors

Steve Canterbury

West Virginia, State Court Administrator (Ret.)

Judge Laura R. Mack

29th District Court, Wayne, Michigan

COSCA Policy and Liaison Committee

David W. Slayton, *Chair*

Administrative Director, Texas Office of
Court Administration

Milton L. Mack, Jr.

State Court Administrator, Michigan State
Court Administrative Office

Arthur W. Pepin, *Vice Chair*

Director, New Mexico Administrative Office
of the Courts

Ms. Beth McLaughlin

State Court Administrator, Montana Supreme
Court

David K. Byers

Administrative Director of the Courts, Arizona
Supreme Court

Greg L. Sattizahn

State Court Administrator, South Dakota
Unified Judicial System

Michael L. Buenger

Administrative Director, Supreme Court of
Ohio

Anne B. Wicks

Executive Officer, Courts of the District of
Columbia

Kingsley W. Click

State Court Administrator, Oregon Office of
the State Court Administrator

COSCA Policy and Liaison Committee Staff

Rosalyn W. Frierson

Director, South Carolina Court Administration

Richard Y. Schauffler

National Center for State Courts

Sally Holewa

State Court Administrator, Supreme Court of
North Dakota

Shannon E. Roth

National Center for State Courts

Martin Hoshino

Administrative Director, Judicial Council of
California

Table of Contents

I. Introduction	1
II. Jails and Prisons: The New Institutions for Persons with Mental Illness.....	2
III. The Forces that Shaped this Outcome.....	4
IV. More Effective Tools Exist for Courts to Address Mental Illness and its Impact on the Court System and the Community.....	8
A. Overview of the Sequential Intercept Model.....	8
1. Capacity-Based Standard for Intervention	9
2. Expanded Use of Assisted Outpatient Treatment.....	12
B. Use of the Sequential Intercept Model.....	14
1. Intercept “0”	14
2. Intercept 1.....	14
3. Intercept 2.....	16
4. Intercept 3.....	16
5. Intercept 4.....	19
6. Intercept 5.....	19
V. State Court Judges as Conveners	19
VI. Conclusion	20

I. Introduction

*Waiting four months for a state psychiatric hospital bed to become available, Jamecheal Mitchell died of a heart attack after starving himself in a Virginia jail cell. He had been arrested for stealing \$5.05 worth of snacks from a 7-Eleven. He had a mental illness and had thought he was in a relative's store. He was arrested, jailed, found incompetent to stand trial, and ordered into a state hospital to restore competency. No bed was available, so he waited in jail until he died. He was 24.*¹

As tragic as Jamecheal Mitchell's story is, it is not uncommon for those suffering from serious mental illnesses to languish in jails or hospital emergency rooms. Jails and prisons have replaced mental health facilities as the primary institutions for housing persons suffering from mental illness. Our criminal justice system has become a revolving door for persons with mental illness, with the same persons cycling through the system again and again at great cost.²

With timely and appropriate services and support, most mental illnesses are treatable, and recovery is possible, reducing the likelihood of behavior that can lead to incarceration. However, outdated and untimely responses to mental illness now

block treatment and services that can prevent crime and lead to recovery.³ Rigid legal standards for involuntary treatment and the lack of an adequately funded community-based mental health system have led to a public safety crisis. Instead, the criminal justice system is systematically being used to criminalize mental illness and re-institutionalize persons with mental illnesses into jails and prisons.

For people suffering from serious mental illness, many state court systems are currently unable to order needed treatment as an alternative to incarceration. Judges and court personnel are in a unique position to describe to policymakers what they see in their courtrooms every day – a broken system, leading to compromised public safety, excessive incarceration, and damaged lives.

Policy makers need to provide our courts with better tools to meet this challenge. New legal standards that promote early intervention, combined with easily accessible assisted outpatient community-based treatment, will create the best opportunity to begin to reduce the use of jails and prisons as the *de facto* mental health system.⁴

COSCA advocates (1) An “Intercept 0” capacity based standard for court-ordered treatment as used in court-ordered treatment

¹ Treatment Advocacy Ctr., *Going, Going, Gone: Trends and Consequences of Eliminating State Psychiatric Beds 4* (2016), <http://www.treatmentadvocacycenter.org/storage/documents/going-going-gone.pdf> [<http://perma.cc/HFW9-GQUM>]; see also June W. Jennings, Office of the State Inspector General, Report to Governor Terence R. McAuliffe, Investigation of Critical Incident at Hampton Roads Regional Jail (2016), <https://osig.virginia.gov/media/5749/2016-bhds-002-hrrj-death-final-sig-approved.pdf> [<http://perma.cc/Z946-6PG4>].

² The Sentencing Project, *Mentally Ill Offenders in the Criminal Justice System: An Analysis and Prescription*

7 (2002), <http://www.sentencingproject.org/wp-content/uploads/2016/01/Mentally-Ill-Offenders-in-the-Criminal-Justice-System.pdf> [<http://perma.cc/4R6X-NFRE>].

³ Mich. Mental Health Comm'n, Part I: Final Report 16-17 (2004), http://www.michigan.gov/documents/FINAL_MHC_REPORT_PART_1_107061_7.pdf [<http://perma.cc/9H47-94XN>].

⁴ Anasseril E. Daniel, *Care of the Mentally Ill in Prisons: Challenges and Solutions*, 35 J. Am. Acad. Psychiatry & L. 406, 406 (2007).

of other illnesses to replace the dangerousness standard now applied, (2) Assisted Outpatient Treatment (AOT) under a capacity based standard, and (3) robust implementation of Intercepts 1 through 5 of the Sequential Intercept Model. COSCA supports court leadership to convene parties interested in mental health issues to address more effective court involvement with these issues in the three ways advocated in this paper.

II. Jails and Prisons: The New Institutions for Persons with Mental Illness

“[W]hen mental illness is a factor in lawlessness and that fact is ignored, the result can be an unproductive recycling of the perpetrator through the criminal justice system, with dire consequences to us all.”⁵
Chief Judge Judith S. Kaye

In nearly every state, jails and prisons are now the primary institutions for housing persons with mental illness.⁶

Over the course of the year, approximately two million adults suffering from serious mental illnesses will spend time in our

nation’s jails.⁷ While many thousands receive mental health treatment in custody, many do not. Even if treatment is available, jails and prisons are not therapeutic environments, leading to increased symptoms and diminished quality of life following release.⁸ For persons who enter the jail on a regimen of psychotropic medications, this regimen often cannot be sustained because of inadequate access in the jail to prescription medication. Often, inmates experience a delay between entry to the jail and provision of medication (which may not be their regularly prescribed medication, but a substitution based on availability or cost). Interruptions in the continuity of a medication regimen are detrimental to establishing stability.⁹

Current estimates are that over 383,000 people with serious mental illnesses are residing in our nation’s jails and prisons while fewer than 40,000 people with mental illnesses are being treated in state-funded hospitals.¹⁰ Ironically, the movement to provide state psychiatric hospitals, also known as “mental institutions”, was a reform movement that began over 150 years ago to end inhumane conditions of incarceration.¹¹

⁵ Matthew J. D’Emic, *The Promise of Mental Health Courts: Brooklyn Criminal Justice System Experiments with Treatment as an Alternative to Prison*, 22 *Crim. Just.* 24, 28 (2007) (quoting a November 25, 2002 press release from the New York State Office of Mental Health).

⁶ Treatment Advocacy Ctr., *More Mentally Ill Persons Are in Jails and Prisons than Hospitals: A Survey of the States* (2010), http://www.treatmentadvocacycenter.org/storage/documents/final_jails_v_hospitals_study.pdf [<http://perma.cc/XV5L-9YD6>].

⁷ Henry Steadman et al., *Prevalence of Serious Mental Illness Among Jail Inmates*, 60 *Psychiatric Servs.* 761, 764 (2009).

⁸ See Anasseril, *supra* note 4; see also Beatrice Coulter, *My Turn: The Trouble with New Hampshire’s Secure Psychiatric Unit*, *The Concord Monitor* (Feb. 28, 2016),

<http://www.concordmonitor.com/Archive/2016/02/my-turncoulter-cmforum-022716> [<http://perma.cc/L5L6-PJS4>].

⁹ Kavita Patel et al., *Integrating Correctional and Community Health for Formerly Incarcerated People Who Are Eligible for Medicaid*, 33 *Health Aff.* 468 (2014).

¹⁰ *Fast Facts*, Treatment Advocacy Ctr., <http://www.treatmentadvocacycenter.org/evidence-and-research/fast-facts> (last visited Jan. 31, 2017) [<http://perma.cc/ED22-KNDS>].

¹¹ See Manon S. Parry, *Dorothea Dix (1802-1887)*, 96 *Am. J. Pub. Health* 624, 624-25 (2006); see also Dorothea L. Dix, *Memorial to the Legislature of Massachusetts*, 1843, <http://www.archive.org/stream/memorialtolegisl00dix/d#page/n3/mode/2up> [<http://perma.cc/Z733-L2P2>].

In 44 states, a jail or prison holds more prisoners with mental illness than the largest state psychiatric hospital.¹² In a 2009 study, nearly two-thirds of all prisoners with mental illness were off their medications at the time of arrest.¹³ Estimates are that 25% to 40% of individuals with serious mental illness have been in jail or prison at some time in their lives.¹⁴

Incarceration of persons with mental illness has been a growing problem for several years and shows no signs of abating. A 2002 report warned of the growing population shift of persons with mental illness from psychiatric hospitals to prisons.¹⁵ Fifteen years later, that trend continues to grow. For example, in Michigan, although the total number of prisoners is declining, the number of prisoners with serious mental illness has increased 14% since 2012 and now comprises 23% of the total prison population while those with the most severe mental illnesses annually cost \$95,233 per inmate to house and treat compared with an average cost of \$35,253 for other inmates.¹⁶ On the other hand, Michigan spends an average of

\$5,741 annually on unincarcerated adults with mental illness.¹⁷

Virginia has had a similar experience. The closure of state hospitals was not accompanied by an adequate increase in community-based services, resulting in an increase in the number of people with mental illness in Virginia's jails. Between 2005 and 2012, Virginia's share of inmates with mental illness went from 16% to 23.7%.¹⁸

Prisoners with mental illness are also more likely to have experienced homelessness and prior incarceration, and they are known to have other criminogenic risk factors, including substance use disorders.¹⁹ Studies of prisoners with mental illness in Texas, Utah, Maryland, Illinois, and Ohio found that the likelihood of returning to prison dramatically increased for inmates with major psychiatric disorders.²⁰ Prisoners with mental illness in the criminal justice system serve longer sentences, receive more

¹² *Criminalization of Mental Illness*, Treatment Advocacy Ctr., <http://www.treatmentadvocacycenter.org/key-issues/criminalization-of-mental-illness> (last visited Jan. 31, 2017) [<http://perma.cc/V4EM-9GV3>].

¹³ Andrew P. Wilper et al., *The Health and Health Care of U.S. Prisoners: Results of a Nationwide Survey*, 99 *Am. J. Pub. Health* 666, 666 (2009).

¹⁴ See Jeffrey W. Swanson et al., *Costs of Criminal Justice Involvement Among Persons with Serious Mental Illness in Connecticut*, 64 *Psychiatric Servs.* 630 (2013); More Mentally Ill Persons are in Jails and Prisons than Hospitals, *supra* note 6, at 1.

¹⁵ Mentally Ill Offenders in the Criminal Justice System, *supra* note 2, at 3.

¹⁶ Michael Gerstein & Jonathan Oosting, *Growth of Mentally Ill Inmates Raises Concern in Mich.*, *The Detroit News* (Dec. 28, 2016, 12:03 AM), <http://www.detroitnews.com/story/news/local/michigan/2016/12/28/growth-mentally-inmates-raises->

[concern-mich/95897544/ \[http://perma.cc/V7GH-U77G\]](http://perma.cc/V7GH-U77G) (referencing a Michigan Department of Corrections report).

¹⁷ Mich. Dep't of Health & Human Servs., Report on CMHSPs, PIHPs, Regional Entities, at 904(2)(b), p. 1 (2016), http://www.michigan.gov/documents/mdhhs/Section_904_2015_530673_7.pdf [<http://perma.cc/RRD8-KJSM>].

¹⁸ Mira E. Signer, *Virginia's Mental Health System: How It Has Evolved and What Remains To Be Improved*, 90 *Va News Letter* 1, 10 (2014).

¹⁹ KiDeuk Kim et al., *Urban Inst.*, *The Processing and Treatment of Mentally Ill Persons in the Criminal Justice System* 9-10 (2015), <http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000173-The-Processing-and-Treatment-of-Mentally-Ill-Persons-in-the-Criminal-Justice-System.pdf> [<http://perma.cc/KYN2-5KRV>].

²⁰ *Id.* at 11-12.

probation and parole violations, and have higher rates of recidivism.²¹

Prisoners with mental illness remain incarcerated much longer than other inmates largely because many find it difficult to follow and understand jail and prison rules.²² For example, in Washington State, prisoners with mental illness accounted for 41% of prison rule infractions but only 19% of the prison population.²³ Prisoners with mental illness are more likely to be placed in solitary confinement and commit suicide.²⁴ All of this is at great expense to taxpayers and great human cost to affected inmates and their families.

The cost for psychiatric services spent in correctional environments, combined with the increased rate of recidivism for those with mental illness who are not appropriately supported means that these societal fiscal and human expenditures must be made again and again with no measurable benefit.

III. The Forces that Shaped this Outcome

The Community Mental Health Act (CMHA) of 1963 created a financial incentive for states to close state-funded

mental hospitals while promising to fund community-based outpatient treatment and community mental health centers to replace the services provided by hospitals. However, the community mental health centers that were to be the backbone of the promised community treatment system failed to materialize.²⁵ The absence of the promised community treatment system, the lack of adequate funding, and the inability to intervene except in the event of a crisis have led to the dramatic increase in the incarceration of persons with mental illness.²⁶

Under the CMHA, the federal government agreed to help states pay for the treatment of indigent persons with mental illness. In 1965, Congress excluded the use of federal funds for hospitalization in state hospitals. This restriction, known as the Institution for Mental Diseases (IMD) exclusion was the “stick” used by the federal government to disincentivize the treatment of persons with mental illness in large institutions.²⁷ This created a strong impetus for states to close hospitals.²⁸

In 1975, the United States Supreme Court ruled in *O'Connor v. Donaldson* that persons could not be held in mental hospitals solely due to mental illness if they

²¹ Doris J. James & Lauren E. Glaze, U.S. Dep’t of Justice, Bureau of Justice Statistics Special Report, *Mental Health Problems of Prison and Jail Inmates* (2006), <https://www.bjs.gov/content/pub/pdf/mhppji.pdf> [<http://perma.cc/G7K9-2UTK>].

²² Treatment Advocacy Ctr., *Serious Mental Illness (SMI) Prevalence in Jails and Prisons 2* (2016), <http://www.treatmentadvocacycenter.org/storage/documents/backgrounders/smi-in-jails-and-prisons.pdf> [<http://perma.cc/YBF4-3CFJ>].

²³ *Id.*

²⁴ *Id.* at 3-4.

²⁵ Michelle R. Smith, *50 Years Later, Kennedy’s Vision for Mental Health Not Realized*, The Seattle

Times (October 21, 2013, 8:28 PM), <http://www.seattletimes.com/nation-world/50-years-later-kennedys-vision-for-mental-health-not-realized/> [<http://perma.cc/ART8-JF5Y>].

²⁶ More Mentally Ill Persons are in Jails and Prisons than Hospitals, *supra* note 6.

²⁷ Treatment Advocacy Ctr., *The Medicaid IMD Exclusion and Mental Illness Discrimination 2* (2016), <http://www.treatmentadvocacycenter.org/storage/documents/backgrounders/imd-exclusion-and-discrimination.pdf> [<http://perma.cc/E376-KTDK>].

²⁸ Part I: Final Report, *supra* note 3, at 9.

were capable of living safely outside the hospital.²⁹ In reaction to this decision and the financial incentives in the CMHA, state legislatures adopted mental health codes that severely restricted the ability of courts to order inpatient treatment without the consent of the person with mental illness.³⁰

The codes were designed to make it very difficult to order hospitalization, thereby helping to facilitate the deinstitutionalization³¹ of persons with mental illness and the closing of psychiatric hospitals.³² “The purported effectiveness of deinstitutionalization was predicated both on the availability of effective treatment in the community and on the willingness of patients to accept treatment voluntarily.”³³ While most people who suffer from mental illness who would have been institutionalized in the past are able to live independently, for far too many, the system is inadequate to prevent homelessness, incarceration, and impoverishment.

The mental health codes of the 1970s established important due process rights in involuntary mental health proceedings. Those safeguards, such as the right to counsel at state expense, the right to a trial by jury, and the right to an independent medical examination at state expense, were important reforms that should continue.

In addition to due process protections, these laws limited the basis upon which mental health treatment could be ordered. Over the years, there have been some modifications to these laws, but generally, three standards for involuntary mental health treatment are in use by all of the states. They include: (1) dangerousness, (2) gravely disabled, and (3) need-for-treatment.³⁴ However, all of the standards require a substantial probability of harm or dangerousness. The result is that civil courts can only intervene when an individual is in crisis and poses a clear risk of harm.³⁵ For example, Wisconsin, in its need-for-treatment standard, requires that an individual’s lack of capacity be accompanied by a substantial probability of severe mental, physical, or emotional harm based on a history of actions by that individual that supports that expectation. Even then, if there is a substantial probability that the individual may be provided protective placement or services, involuntary treatment cannot be ordered.³⁶ These codes also created complex processes to secure treatment. A request for treatment is initiated by petition. In most states, a family member can initiate the proceeding, but in some states, only a professional can initiate proceedings. Most states require that multiple physicians participate in the process to secure treatment. For many

²⁹ O’Connor v. Donaldson, 422 U.S. 563, 575 (1975).

³⁰ Treatment Advocacy Ctr., Mental Health Commitment Laws: A Survey of the States 5-6 (2014), <http://www.treatmentadvocacycenter.org/storage/documents/2014-state-survey-abridged.pdf> [<http://perma.cc/U9CB-C9HU>].

³¹ “Deinstitutionalization” is moving psychiatric patients from hospital settings into less restrictive settings in the community.

³² Am. Psychiatric Ass’n, Mandatory Outpatient Treatment Resource Document 2 (1999), https://www.psychiatry.org/File%20Library/Psychiatrists/Directories/Library-and-Archive/resource_documents/rd1999_MandatoryOutpatient.pdf [<http://perma.cc/GLE6-SHFS>]. See also Richard D. Lyons, *How Release of Mental Patients Began*, N.Y. Times (Oct. 30, 1984), <http://www.nytimes.com/1984/10/30/science/how-release-of-mental-patients-began.html?pagewanted=all> [<http://perma.cc/K9RP-VLJD>].

³³ See Mandatory Outpatient Treatment Resource Document, *supra* note 32, at 2.

³⁴ Mental Health Commitment Laws, *supra* note 30, at 7-8.

³⁵ *Id.* at 4-8.

³⁶ Wis. Stat. § 51.20(1)(a)2(e) (2016).

family members, the process is too complicated and too late.

States should be given greater flexibility to use federal funds to address the mental health needs of the general population. Today, with less than 38,000 psychiatric beds available in the United States, the goal of the IMD to reduce the use of hospitalization for treatment has long been met. The IMD exclusion has greatly contributed to the nation's shortage of psychiatric hospital beds and should be eliminated.

The risk of unnecessary or inappropriate hospitalization has vanished. While hospitalization is sometimes necessary, mental health systems, like medical systems in general, will remain financially incentivized to use hospitalization as a last resort, even without the IMD exclusion, in order to maximize the allocation of scarce resources. "In fact, longer hospital stay[s] may nowadays imply poor mental health care and support in the community."³⁷ Funding decisions have also contributed to the crisis by converting state mental health systems that once served the general public into systems that primarily serve only those who qualify for Medicaid. Following adoption of the CMHA, states began reducing funding for mental health.³⁸

Therefore, for those not eligible for Medicaid, safety net resources are hard to find,³⁹ resulting in delays in treatment and increasing the risk of adverse consequences. More recently, during the 2007-2009 recession, state funding for mental health dropped by \$4.35 billion.⁴⁰ Many states also cut back services for uninsured people who were not Medicaid-eligible, leaving them without access to care.⁴¹

A study of state spending on mental health systems for fiscal year 2002 established a very strong correlation between those states having more persons with mental illness in jails and prisons and those states spending less on mental health services. The states spending more on mental health services were less reliant on jails and prisons while those spending less on mental health tended to rely more heavily on jails and prisons.⁴²

Compounding this problem, the promised comprehensive community-based treatment services that were to replace hospitalization did not materialize. "Unfortunately, community resources have not been adequate to serve the needs of many chronic patients, and large numbers of patients have failed to become engaged with the community treatment system."⁴³

³⁷ Athanassios Douzenis et al., *Factors Affecting Hospital Stay in Psychiatric Patients: The Role of Active Comorbidity*, 12:166 BMC Health Servs. Res. 1, 3 (2012), <http://bmchealthservres.biomedcentral.com/articles/10.1186/1472-6963-12-166> [<http://perma.cc/GTB9-KFJP>].

³⁸ Judge David L. Bazelon Ctr. for Mental Health Law, *Funding for Mental Health Services and Programs 1-2* (2011), <http://www.bazelon.org/LinkClick.aspx?fileticket=GzmAbAweikQ%3D&tabid=436> [<http://perma.cc/ESC6-VURZ>].

³⁹ Part 1: Final Report, *supra* note 3, at 9.

⁴⁰ Nat'l All. on Mental Illness, *State Mental Health Legislation 2015: Trends, Themes & Effective Practices 1* (2015), <https://www.nami.org/About-NAMI/Publications-Reports/Public-Policy-Reports/State-Mental-Health-Legislation-2015/NAMI-StateMentalHealthLegislation2015.pdf> [<http://perma.cc/6KY8-87BJ>].

⁴¹ *Funding for Mental Health Services and Programs*, *supra* note 38, at 2-3.

⁴² *More Mentally Ill Persons Are in Jail and Prisons than Hospitals*, *supra* note 6, at 8.

⁴³ *Mandatory Outpatient Treatment Resource Document*, *supra* note 31, at 2 (citations omitted).

The closure of most psychiatric hospitals in response to the CMHA and the enactment of laws limiting involuntary treatment have resulted in an apparent shortage of psychiatric hospital beds.⁴⁴ This shortage, along with insurance limits, has created an incentive to release patients as quickly as possible to create more bed capacity without adding more beds. There is also a shortage of psychiatrists for adults⁴⁵ and an even greater shortage for children.⁴⁶ As a result of these shortages and changing practices, length of stay (LOS) in the hospital has been steadily shrinking. The median LOS for an acute episode of schizophrenia went from 42 days in 1980 to 7 days by 2013.⁴⁷

The shortage of hospital beds and psychiatrists is also affecting the criminal justice system. Forensic centers that house and treat persons found not guilty by reason of insanity and those found incompetent to stand trial are full, and these persons are now filling state psychiatric hospital beds.⁴⁸ In Maryland, 80% of those admitted to state facilities are arriving via the criminal justice system.⁴⁹

The shortage of space is causing long delays in conducting competency evaluations and placement for those ultimately found incompetent to stand trial. These prisoners languish in jail awaiting their evaluation or placement, too often with tragic results, like the senseless death of Jamycheal Mitchell.

The shortage of hospital beds has also led to the practice of “psychiatric boarding.” People experiencing mental health crises often appear in hospital emergency rooms, where they face prolonged waits for admission or placement. Psychiatric patients are boarded in hospital emergency departments longer than any other type of patient and experience poorer outcomes.⁵⁰ In West Virginia, “psychiatric boarding” may mean the back of a police cruiser; a person picked up on a mental hygiene order could potentially spend as many as eighteen hours in the back of the car waiting for a mental hygiene commissioner.⁵¹

Today, when a law enforcement officer encounters a person with mental illness who is creating a disturbance, the officer must

⁴⁴ The shortage has continued to grow. Bed capacity has declined from 70,000 in 2002 to less than 40,000 in 2017. *Mentally Ill Offenders in the Criminal Justice System*, *supra* note 2, at 3; E. Fuller Torrey, *A Dearth of Psychiatric Beds*, *Psychiatric Times* (Feb. 25, 2016), <http://www.psychiatrictimes.com/psychiatric-emergencies/dearth-psychiatric-beds> [<http://perma.cc/SX9B-XFVN>].

⁴⁵ Jonathan Block, *Shortage of Psychiatrists Only Getting Worse*, *Psychiatry Advisor* (Sept. 8, 2015), <http://www.psychiatryadvisor.com/practice-management/psychiatrist-psychiatry-shortage-few-stigma/article/437233> [<http://perma.cc/PF39-DQ3N>].

⁴⁶ *Workforce Maps by State: Practicing Child and Adolescent Psychiatrists by State 2015*, *Am. Acad. Child & Adolescent Psychiatry*, https://www.aacap.org/aacap/Advocacy/Federal_and_State_Initiatives/Workforce_Maps/Home.aspx (last visited Jan. 31, 2017) [<http://perma.cc/4WKW-Y8ZR>].

⁴⁷ Treatment Advocacy Ctr., *Released, Relapsed, Rehospitalized: Length of Stay and Readmission Rates*

in *State Hospitals 1* (2016), <http://www.treatmentadvocacycenter.org/storage/documents/released-relapsed-rehospitalized.pdf> [<http://perma.cc/T2U7-73FQ>].

⁴⁸ Forensic patients now occupy almost half of state hospital beds nationwide. *Going, Going, Gone*, *supra* note 1, at 1-2.

⁴⁹ Michael Dresser, *With Psychiatric Beds Full, Mentally Ill in Maryland are Stuck in Jails*, *The Balt. Sun* (June 8, 2016, 8:43 PM), <http://www.baltimoresun.com/health/bs-md-mental-health-beds-20160608-story.html> [<http://perma.cc/GP7C-DWJT>].

⁵⁰ John E. Oliver, *Mental Health Crises and Hospital Emergency Departments*, 34 *U. Va. Inst. L., Psychiatry & Pub. Pol’y* 6, 6 (2015).

⁵¹ E-mail from Steve Canterbury, State Court Administrator (Ret), West Virginia, to author (Jan. 27, 2017, 1:49 AM).

decide between arrest and referral to a psychiatric facility for mental health treatment. In practice, officers know that access to care is limited, so the default option to resolve the immediate problem is often arrest or no action at all.⁵²

IV. More Effective Tools Exist for Courts to Address Mental Illness and its Impact on the Court System and the Community

What should courts do to address this complex issue? The overuse of jails and prisons to house persons with serious mental illnesses has broad impact and should be addressed systematically.⁵³

A. Overview of the Sequential Intercept Model

A promising approach is the Sequential Intercept Model. The model provides a conceptual framework for states and communities to use when constructing the interface between the criminal justice and mental health communities to use as they address the criminalization of people with mental illness.

“The Sequential Intercept Model ... can help communities understand the big picture of interactions between the criminal justice and mental health systems, identify where to intercept individuals with mental illness as

they move through the criminal justice system, suggest which populations might be targeted at each point of interception, highlight the likely decision-makers who can authorize movement from the criminal justice system, and identify who needs to be at the table to develop interventions at each point of interception. By addressing the problem at the level of each sequential intercept, a community can develop targeted strategies to enhance effectiveness that can evolve over time.”⁵⁴

The model contemplates diversion programs to keep people with serious mental illness in the community and not in the criminal justice system, providing constitutionally adequate institutional services in correctional facilities and the establishment of reentry transition programs to link those inmates with serious mental illness to community-based services when they are released.

The CMHS National GAINS Center⁵⁵ has developed a comprehensive sequential model for people with serious mental illness caught up in the criminal justice system. It provides for five intercept points: Intercept 1—contact with law enforcement, Intercept 2—initial detention and court hearing, Intercept 3—after incarceration, including mental health court and jail-based services; Intercept 4—reentry, and Intercept 5—parole or probation.

⁵² Mentally Ill Offenders in the Criminal Justice System, *supra* note 2, at 14.

⁵³ Adults with a serious mental illness (SMI) are defined by the Substance Abuse and Mental Health Services Administration as persons age 18 or over with a diagnosable mental illness of sufficient duration to meet diagnostic criteria with the DSM-IV, resulting in functional impairment which substantially interferes with or limits one or more major life activities. See Substance Abuse & Mental Health Admin. Ctr., Definitions and Terms Relating to Co-Occurring Disorders: COCE Overview Paper 1, at 2 (2006),

<https://store.samhsa.gov/shin/content/PHD1130/PHD1130.pdf> [<http://perma.cc/GA9J-EEQY>].

⁵⁴ Mark R. Munetz & Patricia A. Griffin, *Use of the Sequential Intercept Model as an Approach to Decriminalization of People with Serious Mental Illness*, 57 *Psychiatric Servs.* 544, 547-48 (2006).

⁵⁵ The Gains Center is a part of the Substance Abuse and Mental Health Services Administration (SAMHSA) and is focused on expanding access to services for people with mental illness who come into contact with the criminal justice system.

COSCA supports the sequential intercept model and encourages its adoption. COSCA also supports the addition of an Intercept 0 that addresses what can be done prior to contact with law enforcement. The new Intercept 0 should enable the civil justice system to help persons with mental illness secure earlier treatment in order to avoid behavior that may lead to contact with the criminal justice system.

Accomplishing this requires modifying mental health codes to permit timely, court-ordered treatment for persons with mental illness, before and after contact with law enforcement. This requires the conversion of mental health codes from current “inpatient” models to “outpatient” models focused on delivering timely treatment in the community.

If we are to be successful in reducing our reliance on jails and prisons, the courts would do best if they could address the needs of individuals with mental illness prior to their involvement with the criminal justice system. Modern mental health codes that will permit earlier intervention and promote the use of assisted outpatient treatment (AOT) will help persons with serious mental illness recover, exercise meaningful self-determination and avoid contact with law enforcement.

1. Capacity-Based Standard for Intervention

State mental health codes adopted in the 1970s in response to the Supreme Court’s decision in *O’Connor* were modeled to only address involuntary hospitalization. Court-

ordered community-based treatment did not exist and therefore was not addressed.

The late 1990s saw the emergence of the “recovery model” in guiding mental health policy and practice. The emphasis of this model was on the ability of a person with severe mental illness to develop a sense of identity and regain control over his or her life.⁵⁶ This model offered the hope of restoring the capacity to exercise self-determination. The recovery model recognizes that early intervention is preferred to secure the likelihood of a successful recovery. However, the recovery model is not reflected in the old mental health codes, which are “inpatient” models in an “outpatient” world.⁵⁷ The old codes focus on preventing hospitalization unless an individual is in crisis.

Modern brain research and the development of effective treatment have demonstrated the value of early intervention in recovery and resiliency.⁵⁸ What is needed are mental health codes based on the current outpatient model of treatment. That begins with changing the standard for intervention in the course of a person’s mental illness. Since *O’Connor* was decided, most mental health treatment is now provided on an outpatient basis. Recognizing this fact, states have begun using court-ordered Assisted Outpatient Treatment (AOT) instead of hospitalization for those who do not recognize their need for treatment. AOT is court-supervised treatment within the community. A treatment plan is developed that is highly individualized. These plans typically include case management, personal therapy, medication, and other services

⁵⁶ The President’s New Freedom Comm’n on Mental Health, Final Report 4-5, 57, 60 (2003), <http://govinfo.library.unt.edu/mentalhealthcommission/reports/FinalReport/downloads/FinalReport.pdf> [<http://perma.cc/TEV5-BVVF>].

⁵⁷ Part I: Final Report, *supra* note 3, at 30.

⁵⁸ *Id.* at 12, 14.

designed to promote recovery. Noncompliance with the plan can lead to immediate hospitalization.⁵⁹

The Agency for Healthcare Research and Quality and the Substance Abuse and Mental Health Services Administration have both recognized AOT as an effective treatment option that has now been added to the National Registry of Evidence-Based Programs and Practices.⁶⁰

AOT enables people with mental illness to recover from their symptoms and lead productive lives. *AOT is not confinement*. It is most useful when used before an individual with mental illness is in crisis. AOT reduces hospitalization, arrests, incarceration, poverty, and homelessness. It would be difficult to imagine a more significant array of legitimate state interests that would justify ordering outpatient treatment. There is nothing in *O'Connor* that requires a showing of dangerousness before ordering AOT for a person suffering from mental illness in order to alleviate the symptoms of mental illness.

Currently, the standards for court-ordered treatment focus on a person's *future conduct* (the likelihood of causing harm), not *capacity*. This requires predictive ability as opposed to a present assessment. Assessing

a person's present capacity is far less problematic than predicting future conduct. The person may be incapacitated and unable to make informed decisions about his or her mental illness, but, unless the person can be predicted to be currently dangerous enough to be expected to seriously injure someone, nothing can be done. The *lack of capacity to make an informed decision* alone is not sufficient to secure court-ordered treatment for mental illness in any state.

Even in those states⁶¹ that appear to have a capacity-oriented standard, also known as the "need-for-treatment standard," the law still requires that there also be a substantial probability of severe mental, emotional, or physical harm without the treatment.⁶² A person that lacks the capacity to make an informed decision about his/her illness is simply not enough. The law requires waiting for crisis before acting.

Comparing the evolution of the law with respect to adult guardianship proceedings is helpful. Years ago, most states moved from a conduct-based standard to a capacity-based standard when deciding whether to appoint a guardian for an incapacitated adult. The old standard focused on whether the person was making responsible decisions.⁶³ The modern standard for appointing a guardian focuses on whether the person lacks the capacity to make or communicate informed decisions about him/herself. Unlike a petition seeking

⁵⁹ Treatment Advocacy Ctr., *A Guide for Implementing Assisted Outpatient Treatment 9* (2012), <http://www.treatmentadvocacycenter.org/storage/documents/aot-implementation-guide.pdf> [<http://perma.cc/N2GC-UL53>].

⁶⁰ *Assisted Outpatient Treatment (AOT)*, Substance Abuse & Mental Health Servs. Admin., Nat'l Registry of Evidence-Based Programs & Practices, <http://legacy.nreppadmin.net/ViewIntervention.aspx?id=401> (last visited Jan. 31, 2017) [<http://perma.cc/A923-S8BM>].

⁶¹ Alabama, Arizona, Colorado, Kansas, Mississippi, Texas, Utah and Wisconsin.

⁶² *Mental Health Commitment Laws*, *supra* note 30, at 7.

⁶³ See Mich. State Representative Perry Bullard, Chair, House Judiciary Comm., *Michigan Guardianship Reform Act Handbook* (1991).

involuntary mental health treatment, there is no requirement of a threat of imminent harm or danger before a guardian can be appointed for someone who is incapacitated.

The same standard should be used when deciding whether to order mental health treatment. Mental illness should be treated the same as any other illness. For someone incapacitated by mental illness, current law makes it more difficult to secure involuntary mental health treatment than for almost any other illness.

For example, if a person has a guardian due to mental illness, the guardian could, over the ward's objection, consent to treatment of a leg infection that could include amputation. However, unless danger is imminent (i.e., the person was threatening to harm himself or others), the guardian would be unable to secure court-ordered mental health treatment for that same person, even though that treatment may restore the person's capacity to make his/her own decisions.

In most states, the same court that can appoint a guardian for a person with mental illness if that person lacks the capacity to make informed decisions cannot grant authority to the guardian to consent to mental health treatment that would restore that person's capacity and terminate the guardianship. To rectify this issue, at least four states have implemented some statutory authority to permit guardians to consent to mental health treatment over the ward's

objection. North Dakota made that change this year.⁶⁴

Waiting to intervene until a crisis exists damages a person's resiliency, the ability to recover from a psychotic episode.⁶⁵ There is often adequate time between the onset of incapacity and crisis to secure the treatment necessary to prevent the crisis and avoid the consequences of untreated mental illness. For too long, family members of persons with mental illness have endured the frustration of attempting to secure treatment for family members unable to help themselves only to be turned away because the person was not yet in crisis.⁶⁶

Complicating the problem is the fact that many individuals with serious mental illness, like schizophrenia, lack insight into their illness due to anosognosia, a functional and structural abnormality of the brain. In these cases, poor insight is a function of the illness rather than a coping mechanism.⁶⁷

A more appropriate standard for ordering involuntary mental health treatment would be: *When a person's judgment is so impaired by mental illness that he or she is unable to make informed decisions about that mental illness.* This is the standard used for all other illnesses. This is the standard generally used to appoint a guardian to consent to treatment for all other ailments. Such a standard would permit earlier intervention—intervention before a crisis occurs. This intervention would also present a better opportunity for an earlier recovery that would preserve that person's ability to

⁶⁴ H.B. 1365, 65th Legis. Assemb., Reg. Sess. (N.D. 2017), <http://www.legis.nd.gov/assembly/65-2017/documents/17-0901-04000.pdf> [<http://perma.cc/TH7S-X2TX>]. Wisconsin, Florida and Massachusetts have taken similar action.

⁶⁵ Am. Psychiatric Ass'n, Practice Guidelines for the Treatment of Psychiatric Disorders 256-61 (2004).

⁶⁶ See generally Pete Earley, *Crazy: A Father's Search Through America's Mental Health Madness* (2006).

⁶⁷ See generally Xavier Amador, *I Am Not Sick I Don't Need Help!: How to Help Someone with Mental Illness Accept Treatment* (2012).

bounce back from a future episode and avoid permanent incapacity. Most significantly, it would create the opportunity to restore the person's capacity and liberty to make his or her own choices.

2. Expanded Use of Assisted Outpatient Treatment

New York State has led the way in implementing AOT. A study of New York State's AOT program found that court-ordered AOT was effective at increasing medication adherence, reducing hospital readmission, and promoting recovery. AOT patients had a substantially higher level of personal engagement in their treatment, and they were no more likely to feel coerced by the mental health system than voluntary patients. The best predictor of perceived coercion or stigma was the patient's perception of being treated with dignity and respect by mental health professionals. The study found that increased services available under AOT clearly improved recipient outcomes. The court order itself, and its monitoring, appeared to offer additional benefits in improving outcomes.⁶⁸ Other states, including California, Florida, and Ohio have also found that the use of AOT reduces hospitalization, incarceration, and cost.

However, despite its effectiveness, in many states, the standard that must be used to order AOT is often stricter than the standard for ordering hospitalization. States often

require that a person have a history of recent involuntary hospitalization, serious violent behavior, or incarceration before AOT can be ordered. AOT is not used to prevent crisis; it is used only after the adverse consequences of a crisis have occurred.⁶⁹ Recently, Michigan joined Arizona and modified its law to permit courts to order AOT in all proceedings seeking involuntary mental health treatment.⁷⁰ Michigan no longer requires a history of recent involuntary hospitalization, serious violent behavior, or incarceration to order AOT. This policy change will permit the use of AOT whenever treatment is ordered.

AOT has been referred to as "outpatient commitment." This term reflects the ethical tension in the psychiatric community between principles of self-determination and promotion of the patient's medical best interest.⁷¹ However, AOT is less likely to impair self-determination than detention in a prison or psychiatric hospital and is an opportunity to restore the person's meaningful exercise of self-determination.

Dr. Alexander Simpson, Chief of Forensic Psychiatry at the Center for Addiction and Mental Health in Toronto, Ontario, Canada, wrote that the international evidence of the effectiveness of AOT supports the conclusion that it provides treatment in a deinstitutionalized environment for those who would otherwise refuse it and for whom

⁶⁸ Sharon E. Carpinello, N.Y. State Office of Mental Health, *Kendra's Law: Final Report on the Status of Assisted Outpatient Treatment 20-21* (2005), https://www.omh.ny.gov/omhweb/Kendra_web/finalreport/AOTFinal2005.pdf [<http://perma.cc/JF3K-JB33>].

⁶⁹ Mental Health Commitment Laws, *supra* note 30, at 14-18.

⁷⁰ Mich. Comp. Laws 330.1468(2)(e), as enacted by 2016 PA 320 (effective Feb. 14, 2017).

⁷¹ Am. Psychiatric Ass'n, *Position Statement on Involuntary Outpatient Commitment and Related Programs of Assisted Outpatient Treatment 1* (2015), <https://www.psychiatry.org/File%20Library/About-APA/Organization-Documents-Policies/Policies/Position-2015-Involuntary-Outpatient-Commitment.pdf> [<http://perma.cc/CKS6-NQZY>].

adverse events would otherwise occur.⁷² He added that limiting the use of compulsory treatment increases the likelihood that treatment will occur late in the course of a relapse, too late to be used as a risk management tool.⁷³ He observed that these compulsory treatment laws require that the risk be manifested, not anticipated, which results in intervention that is too late.⁷⁴ It means that people suffering from serious mental illness will be at risk of living in the community with more acute symptoms and functional impairment, leading to homelessness, self-harm, criminalization, and incarceration. He added that too many limits on intervention make it harder for families to cope with major ongoing symptoms.⁷⁵

Where AOT has been used, it has been effective in reducing homelessness, psychiatric hospitalization, violent behavior, arrest, and incarceration.⁷⁶ Unfortunately, AOT has not been widely used in most states. Just as courts can order hospitalization without a history of violence or incarceration, courts should be able to order AOT before people are in crisis rather than require that they suffer the consequences of untreated mental illness before receiving help.

AOT, rather than being a rarely used special sort of relief, should be the cornerstone of the community treatment program promised by the CMHA. Some states use AOT as a

discharge planning tool following treatment in a hospital.⁷⁷ AOT should be used as a discharge planning tool from jails and prisons as well as hospitals for those who fail to recognize their need for ongoing treatment.

The current model of hospitalization until stabilization is expensive. Short stays mean that release, relapse, and then rehospitalization occur far too often.⁷⁸

AOT, on the other hand, is a less restrictive, evidence-based practice that improves self-care, reduces harmful behavior, and offers results that are sustainable. Persons who have been the subject of AOT orders report high levels of satisfaction, including gaining control over their lives, getting well and staying well, and being more likely to keep appointments and take medication.⁷⁹

Instead of wasting scarce resources by repeatedly incarcerating or hospitalizing people with mental illness, it would be much better policy, at far less cost, to provide AOT early in the course of a person's mental illness. This would promote recovery and avoid criminal behavior that could result in incarceration as well as creating avoidable victims of criminal behavior. This is particularly evident when the crime is a minor one, such as shoplifting snacks worth \$5.05.⁸⁰ If Jamycheal Mitchell had received outpatient treatment through an AOT, he might be alive today.

⁷² Alexander Simpson, *Mental Health Law in Ontario: Challenges for Reform*, 31 Health L. in Can. 65, 69 (2011).

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ Marvin S. Swartz et al., Duke Univ. Sch. of Med., New York State Assisted Outpatient Treatment Program Evaluation (2009), <https://www.omh.ny.gov/omhweb/resources/publicati>

ons/aot_program_evaluation/report.pdf [<http://perma.cc/K84P-DZ8M>].

⁷⁷ *See id.*

⁷⁸ *See* Released, Relapsed, Rehospitalization, *supra* note 47.

⁷⁹ Sharon E. Carpinello, N.Y. State Office of Mental Health, *Kendra's Law: Final Report on the Status of Assisted Outpatient Treatment 20-21* (2005), https://www.omh.ny.gov/omhweb/Kendra_web/finalreport/AOTFinal2005.pdf [<http://perma.cc/JF3K-JB33>].

⁸⁰ *See supra* text accompanying note 1.

There are significant up-front costs in establishing AOT programs.⁸¹ However, states that use AOT have found that the cost of mental health services for those being served has been reduced, primarily due to the effectiveness of AOT in reducing rehospitalization rates,⁸² reduced length of stay, and less expenditures of tax dollars per person.⁸³

More access to care as well as earlier intervention would increase the number of people being served. This could result in a short-term increase in cost. However, the cost over time, and the burden on other entities like jails, prisons, and hospitals would decrease; and the quality of the lives of persons with mental illness would improve.⁸⁴

Modifying mental health codes to permit ordering treatment, including AOT, when a person's mental illness robs them of the capacity to make informed decisions would be an effective addition that would reduce contact with law enforcement and reliance on jails and prisons. It would also permit the civil justice system to intervene earlier and order a mental health evaluation and either AOT or hospitalization.

B. Use of the Sequential Intercept Model

The Sequential Intercept Model, as described below, should be implemented throughout the country.

⁸¹ Jeffrey W. Swanson et al., *The Cost of Assisted Outpatient Treatment: Can It Save States Money?*, 170 *Am. J. Psychiatry* 1423, 1423 (2013).

⁸² *Id.* at 1430.

⁸³ *Id.* at 1426.

⁸⁴ Caroline M. Sallee & Erin M. Agemy, Anderson Econ. Grp., *Costs and Benefits of Investing in Mental Health Services in Michigan* 4-6 (2011), <http://www.andersoneconomicgroup.com/Portals/0/upl>

1. Intercept “0”

Intercept 0 is prior to contact with law enforcement. This contact should permit the civil justice system to intervene early in the course of a person's mental illness in order to treat the illness and avoid contact with law enforcement. Changing the standard for court-ordered treatment to permit earlier intervention and providing assisted outpatient treatment as described in earlier sections of this paper will create the best opportunity to help someone recover in the course of their mental illness and avoid behavior that might lead to contact with the criminal justice system and other consequences of untreated mental illness.

2. Intercept 1

Intercept 1 is the first contact with law enforcement. Action steps in Intercept 1 include training police officers and 911 operators to recognize mental illness and providing a police-friendly drop-off at local hospitals or crisis centers.

About one in ten police calls across the nation now involve mental health situations.⁸⁵ People with mental illness are 16 times more likely to be killed than any other civilians approached or stopped by law enforcement.⁸⁶

oad/AEG_MACMHB_Final%20Full%20Report.pdf [<http://perma.cc/6BAK-UQDA>].

⁸⁵ Mike Maciag, *The Daily Crisis Cops Aren't Trained to Handle*, *Governing*, May 2016, at 55, <http://www.governing.com/topics/public-justice-safety/gov-mental-health-crisis-training-police.html> [<http://perma.cc/Z6XM-FBFB>].

⁸⁶ Treatment Advocacy Ctr., *Overlooked in the Undercounted: The Role of Mental Illness in Fatal Law Enforcement Encounters* 1 (2015),

Crisis Intervention Training (CIT) for law enforcement is effective in reducing violent incidents involving police and persons with mental illness. This program originated in Memphis, Tennessee, and is now promoted by a national CIT training curriculum developed through a partnership between the National Alliance on Mental Illness, the University of Memphis CIT Center, CIT International, and the International Association of Chiefs of Police. The curriculum is designed to give officers more tools to do their jobs safely and effectively and help people with mental illness stay out of jail and get on the road to recovery.⁸⁷

In a recent study, officers who received CIT training believed that the training not only increased their knowledge and understanding of mental illness, but also gave them the skills to identify possible mental illness, de-escalate the situation, listen actively, and build trust. Following training, there was a significant and constant increase in drop offs at the mental health crisis center as opposed to jail.⁸⁸ More CIT training would improve law enforcement's response to mental health situations and help divert people from the criminal justice system. CIT training would also help probation officers who work closely with the courts, emergency room personnel unfamiliar with mental health issues, jail personnel, and others called upon to intervene in crisis situations.

<http://www.treatmentadvocacycenter.org/storage/documents/overlooked-in-the-undercounted.pdf> [<http://perma.cc/SR7S-WPEM>].

⁸⁷ *What is CIT?*, Nat'l All. on Mental Health, <http://www.nami.org/Law-Enforcement-and-Mental-Health/What-Is-CIT> (last visited Feb. 1, 2017) [<http://perma.cc/6ZNK-YPRF>].

⁸⁸ Sheryl Kubiak et al., Mich. State Univ., *Statewide Jail Diversion Pilot Program Implementation Process Report*, at I-G4 and I-G5 (2015), http://www.michigan.gov/documents/snyder/MSU_Im

As an example, Oakland County, Michigan, in partnership with its community mental health agency began CIT training of officers from across the county in 2015. In the previous five years, 51 individuals had been diverted to treatment in lieu of incarceration. Since then, over 300 persons per year have been diverted to treatment. The de-escalation skills learned by officers have improved the handling of other potentially hazardous situations such as domestic disputes.⁸⁹

Even with a civil justice intervention system that has the tools to handle mental health cases effectively and efficiently, there will still be a need for the criminal justice system to be able to effectively respond. This includes not only law enforcement, but all the participants in the criminal justice system. This means using effective screening tools to divert persons with mental illness into treatment, training judges and staff, and expanding the use of mental health courts and diversion programs.

There is evidence that well planned diversion programs that include jail-based interventions and CIT training can substantially reduce the rate of incarceration of people with serious mental illness. Aggregate findings for eight counties in Michigan with diversion programs found a 25% reduction in the number of inmates with serious mental illness between 2015 and 2016.⁹⁰

http://www.michigan.gov/documents/mentalhealth/Aggregate_Report_NO_Appendices_1.5.17_568762_7.pdf [<http://perma.cc/DS7H-838E>].

⁸⁹ Testimony of Lieutenant Steven Schneider to the Michigan House Law and Justice Committee on May 23, 2017.

⁹⁰ Sheryl Kubiak et al., Mich. State Univ., *Diversion Pilots: Planning for the Future with Baseline Data 5* (2017), http://www.michigan.gov/documents/mentalhealth/Aggregate_Report_NO_Appendices_1.5.17_568762_7.pdf [<http://perma.cc/2PYN-A723>].

Miami-Dade County in Florida has developed a remarkably successful pre-booking jail diversion program under the leadership of Judge Steven Leifman. Over the past seven years law enforcement has responded to 71,628 mental health crisis calls resulting in almost 16,000 diversions to crisis units and only 138 arrests. The daily census in the county jail system has dropped from well over 7,000 to 4,000 inmates and the county has closed an entire jail facility representing cost-savings of \$12 million per year.⁹¹

3. Intercept 2

Intercept 2 is the initial detention and initial court hearing. Action steps at Intercept 2 include screening, assessments, pretrial diversion, and service linkage.

The courts should use their convening power to set up an interagency commission to study expediting time to disposition for cases where mental illness has been identified as a factor in the alleged crime. The courts should also provide education and training to court personnel in pretrial services to help them work effectively with defendants who have been identified as having a serious mental illness as well as education on community resources and how to link defendants with them.

Assessments should be used to determine appropriateness for diversion decisions, such as bond release programs, pretrial services, and by prosecutors in pre- or post-plea diversion programs. Identifying criminogenic risk is one critical component,

⁹¹ Judge Steven Leifman. Decriminalizing Mental Illness - Applying Lessons Learned in Miami-Dade County, paper delivered at the Arizona Court Leadership Conference in Flagstaff, Arizona, on October 13, 2017

⁹² Ctr. for Health & Justice at TASC, No Entry: A National Survey of Criminal Justice Diversion

but the assessment should also include mental health screening. Mental health screens and assessments identify an individual's needs for services and provide the best placement and treatment plan for providing support, services, and stability.

In a typical pre-adjudication diversion program, a person with mental illness who has committed a crime would be offered the opportunity to have potential charges dismissed if he or she submits to mental health treatment and other conditions. There is usually some type of supervision similar to probation to ensure the conditions are met. Once conditions are met, the prosecutor or judge dismisses the charges.⁹²

4. Intercept 3

Intercept 3 usually occurs after incarceration and includes problem solving courts designed to divert persons with mental illness. The action steps include screening, referral to a mental health court and jail-based services.

Mental health courts are a type of problem solving court. They represent a dynamic partnership between the criminal justice system and community mental health providers. Mental health court is usually a form of intensive probation after a criminal charge is made and the defendant pleads guilty or is found guilty by a judge or jury. Nationally, the majority (73%) of mental health courts allow participants to enter post-plea, but there are also a significant number who also accept participants post-sentence (41%). The trend is that more

Programs and Initiatives 20 (2013), http://www2.centerforhealthandjustice.org/sites/www2.centerforhealthandjustice.org/files/publications/CHJ%20Diversion%20Report_web.pdf [<http://perma.cc/8V76-DBHT>].

mental health courts are trying to divert individuals sooner in the adjudicative process.⁹³

Potential participants must meet certain eligibility requirements and agree to participate and comply with their treatment plans. Once admitted into the program, they appear regularly at status hearings before the judge, where their accomplishments and setbacks from the date of the last status hearing are discussed. Accomplishments are rewarded with incentives, and setbacks are punished by sanctions.⁹⁴ Typically, mental health courts adopt the Ten Essential Elements of Mental Health Courts. Some also apply case management through the Assertive Community Treatment (ACT) model, which provides wraparound services to meet an array of treatment and social service needs.

Nationally, mental health courts have become an effective way to address individuals with mental illness who face criminal charges. They have increased in number by 36% between 2009 and 2014.⁹⁵

Several research findings have supported positive outcomes with regard to reductions in recidivism and less time in custody and have found lasting results for at least two years after discharge; results extend beyond just the provision of treatment and services.⁹⁶

A statewide comparison of Michigan mental health courts found a significant difference in recidivism based on the structure of the program. Mental health courts with higher levels of integration performed better, meaning that, the case manager and the clinician participate on the treatment team and attend status conferences.⁹⁷

There is evidence that it is difficult to sustain reductions in recidivism over time for those who participate in these programs. For example, in one statewide study, recidivism rates for mental health court participants four years after graduation rose to 23%, only slightly better than the comparison group recidivism rate of 26% after two years, although still better than the nonparticipants after four years.⁹⁸ It may be

⁹³ Suzanne M. Strong, Ramona R. Rantala & Tracey Kyckelhahn, U.S. Dep't of Justice, Census of Problem-Solving Courts, 2012 (2016), <https://www.bjs.gov/content/pub/pdf/cpsc12.pdf> [<http://perma.cc/A3N8-MK8M>].

⁹⁴ Sheryl Kubiak et al., Mich. State Univ., Statewide Mental Health Court Outcome Evaluation Aggregate Report (2012), https://www.michigan.gov/documents/mdch/Statewide_MHC_Evaluation_-_Aggregate_Report_Final_103112_w_seal_407300_7.pdf [<http://perma.cc/RT2S-52BR>].

⁹⁵ Douglas B. Marlowe, Carolyn D. Hardin & Carson L. Fox, Nat'l Drug Court Inst., *Painting the Current Picture: A National Report on Drug Courts and Other Problem-Solving Courts in the United States* (2016), <http://www.nadcp.org/sites/default/files/2014/Painting%20the%20Current%20Picture%202016.pdf> [<http://perma.cc/J6M3-DE3L>].

⁹⁶ Christine M. Sarteschi, Michael G. Vaughn & Kevin Kim, *Assessing the Effectiveness of Mental Health*

Courts: A Quantitative Review, 39 J. Crim. Just. 12 (2011); H.J. Steadman et al., *Effect of Mental Health Courts on Arrests and Jail Days: A Multisite Study*, 68 Archives of Gen. Psychiatry 167 (2011); Virginia Aldigé Hiday, Bradley Ray & Heathcote W. Wales, *Predictors of Mental Health Court Graduation*, 20 Psychol., Pub. Pol'y & Law 191 (2014); Shelli B. Rossman et al., U.S. Dep't of Justice, *Criminal Justice Interventions for Offenders with Mental Illness: Evaluation of Mental Health Courts in Bronx and Brooklyn*, New York, Final Report (2012), <https://www.ncjrs.gov/pdffiles1/nij/grants/238264.pdf> [<http://perma.cc/6VVW-AHNB>]; Virginia Aldigé Hiday, Bradley Ray & Heathcote W. Wales, *Longer-Term Impacts of Mental Health Courts: Recidivism Two Years After Exit*, 67 Psychiatric Servs. 378 (2016).

⁹⁷ Kubiak et al., *supra* note 94, at 60-62.

⁹⁸ Mich. Supreme Court, State Court Admin. Office, *Michigan's Problem-Solving Courts: Solving Problems Saving Lives* 42 (2015), [17](http://courts.mi.gov/administration/admin/op/problem-</p>
</div>
<div data-bbox=)

that participation in the program only defers recidivism.

Recidivism for participants may increase over time due to a lack of adequate community treatment and support. Once a person completes the program, he or she may lack access to continuing treatment and may decompensate. Unless the person poses an immediate danger to self or others, involuntary treatment cannot be ordered, and it is necessary to wait until the recurrence of the behavior that led to arrest in the first place. Linking the person to continuing community treatment may be necessary to achieve sustainable, long-term improvement in recidivism and mental health. More research is needed to measure the impact of different mental health court practices in reducing recidivism.⁹⁹ Research should include whether mental health courts have an impact on involuntary treatment orders and on why rates of recidivism increase over time. For example: What intervening variables might be influencing this and can they be addressed while the defendant is still subject to the jurisdiction of the mental health court?

In addition, mental health courts often have constraints that limit their use. Participation is usually voluntary, so those who do not understand their need for treatment are less likely to participate. This excludes the highest need defendants. And these courts usually require a guilty plea before the defendant can participate. This results in a criminal record and the negative

consequences that flow from a conviction, including social stigma and its effect on a person's well-being.¹⁰⁰

Many diversion programs and mental health courts exclude those who have been charged with a violent crime, although inclusion could very well help avoid future violence. Since almost half of all state prisoners had a violent offense as their most serious offense, this exclusion can also be a significant limitation on the scope and usefulness of these programs.¹⁰¹ Federal grant programs have exacerbated the problem by restricting the use of those funds for nonviolent offenses. COSCA has previously recommended that federal law automatic exclusion of certain categories of persons and other state law or practice automatic exclusions be eliminated.¹⁰²

The level of supervision needed for mental health courts is time intensive and costly. With prosecutor and court budgets strained, sustainability is a significant challenge. For all of these reasons, diversion programs and mental health courts reach only a small percentage of the severely mentally ill defendants in the criminal justice system.

Expanding the continuum of criminal justice alternatives, including diversion programs and mental health courts, coupled with ensuring community-based treatment and support for each participant after completion of diversion or probation, would likely be most effective at securing long-term

solving-courts/documents/psc%202015%20report%20final_4-7-16.pdf [http://perma.cc/PMM5-8648].

⁹⁹ Kim et al., *supra* note 19, at 40.

¹⁰⁰ *Id.*

¹⁰¹ *Id.* at 9.

¹⁰² Conf. of State Court Adm'rs, 2014-2015 Policy Paper: Problem-Solving Courts in the 21st Century (2015), <http://cosca.nesc.org/~media/Microsites/Files/COSCA/Policy%20Papers/Problem-Solving-Courts-in-the-21st-Century-Final.ashx> [http://perma.cc/MC44-6X97].

recovery for participants and achieving long-term reductions in recidivism.

5. Intercept 4

Intercept 4 occurs at reentry to society following discharge from incarceration and should include a plan for treatment and services and coordination with community programs to avoid gaps in service. It has been demonstrated that people with medical care and health insurance at reentry experience reduced rates of recidivism.¹⁰³

The Substance Abuse and Mental Health Services Administration (SAMHSA) has noted that transition planning is the least developed jail-based service and has developed a comprehensive implementation guide to help transition persons with mental illness or substance use disorders from institutional correctional settings into the community.¹⁰⁴

SAMHSA found that upon release from jail or prison, persons with mental illness or substance use disorders often lack access to services while at a time of heightened vulnerability. A formalized continuity of services from institution to community settings offers better outcomes and reduced recidivism. This is necessary to ensure adherence to treatment plans and avoid gaps in care. Coordination between corrections departments, mental health agencies, and the courts, could result in the use of court-ordered AOT to encourage compliance and improve treatment outcomes.

¹⁰³ See *supra* note 100 and accompanying text.

¹⁰⁴ Substance Abuse & Mental Health Servs. Admin., Guidelines for Successful Transition of People with Mental or Substance Use Disorders from Jail and Prison: Implementation Guide 4 (2017), <https://store.samhsa.gov/shin/content/SMA16-4998/SMA16-4998.pdf> [http://perma.cc/YFW2-7344].

6. Intercept 5

Intercept 5 occurs at parole or probation and includes screening and maintaining a community of care. It also includes connecting individuals to employment and housing. Courts should adopt specialized dockets to provide supervision after release. This could be accomplished with AOT orders.

Housing is the number one critical resource lacking for persons with mental illness. A meta-analysis of controlled outcome evaluations on effectiveness of housing and support interventions and assertive community treatment found support for such programs.¹⁰⁵

V. State Court Judges as Conveners

Because of the unique vantage point of the judiciary at the front and back doors of the civil commitment and criminal justice systems, state courts judges, particularly presiding judges or those that hold administrative leadership positions in the courts, are the ideal organizing force to convene the entities that must come together to develop better protocols to evaluate the impact of the mental health crisis on our criminal justice system and devise solutions. The courts are found at nearly every step of the Sequential Intercept Model. In order to integrate that model, it is necessary that all the stakeholders are brought together, and state court judges are in the best position to make that happen.

¹⁰⁵ See Geoffrey Neslon, Tim Aubry & Adele Lafrance, *A Review of the Literature on the Effectiveness of Housing and Support, Assertive Community Treatment, and Intensive Case Management Interventions for Persons with Mental Illness Who Have Been Homeless*, 77 Am. J. Orthopsychiatry 350 (2007).

Juvenile, criminal, civil, and family courts all face this crisis as well as all the various parties interested in the outcome of these proceedings. They include the mental health system, National Alliance on Mental Illness (NAMI), law enforcement, prosecutors, public defenders, public health agencies, healthcare providers such as doctors, emergency room physicians, therapists, and case workers, as well as correction agencies and state and local government. State courts are in the best position to convene these groups, because they have frequent and collegial contact with many officials from the executive branch. They are in the best position to convene the relevant interested parties and design a comprehensive, collaborative approach to provide treatment instead of incarceration for persons with mental illness.

Judge Leifman is the perfect example of the effectiveness of the judge as a convening force. Prior to becoming a judge, he was in charge of the public defender office. He attempted but was unsuccessful in convening the necessary parties to address jail conditions for persons with mental illness. Once he became a judge and sent the same invitation out on judicial stationary, he had no trouble convening the necessary parties.

A series of public policy decisions has caused a shift in addressing mental health issues from the civil justice side of the judiciary to the criminal justice side. This has come at great human and monetary cost. Institutions were developed in the mid-nineteenth century as a reform effort to stop warehousing people with mental illness in jails. One hundred fifty years later, we are

once again confronted with the same dilemma.

Court leaders cannot solve the “chaos and heartbreak of mental health in America.”¹⁰⁶ Court leaders can, and must, however, address the impact of the broken mental health system on the nation’s courts—especially in partnership with behavioral health systems. The broken system too often negatively impacts court cases involving those with mental illness, especially in competency proceedings, criminal and juvenile cases, civil commitment cases, guardianship proceedings for adults and juveniles, and oftentimes family law cases. Each state court, as well as CCJ and COSCA, are urged to initiate a thorough examination of the mental health crisis and its impact on fair justice.

VI. Conclusion

The tools currently available to the judiciary fail to meet the challenge of dealing with persons with mental illness. The public safety of our citizens is as much at stake with the improper handling of such cases as is the fair treatment of individuals who have mental illness.

State courts should encourage policy makers to make changes in the court-ordered treatment standard and to use their convening power to bring stakeholders to the table to work on correcting problems and developing better tools for addressing mental health issues. COSCA advocates for judges to convene all parties interested in mental health issues to support these actions:

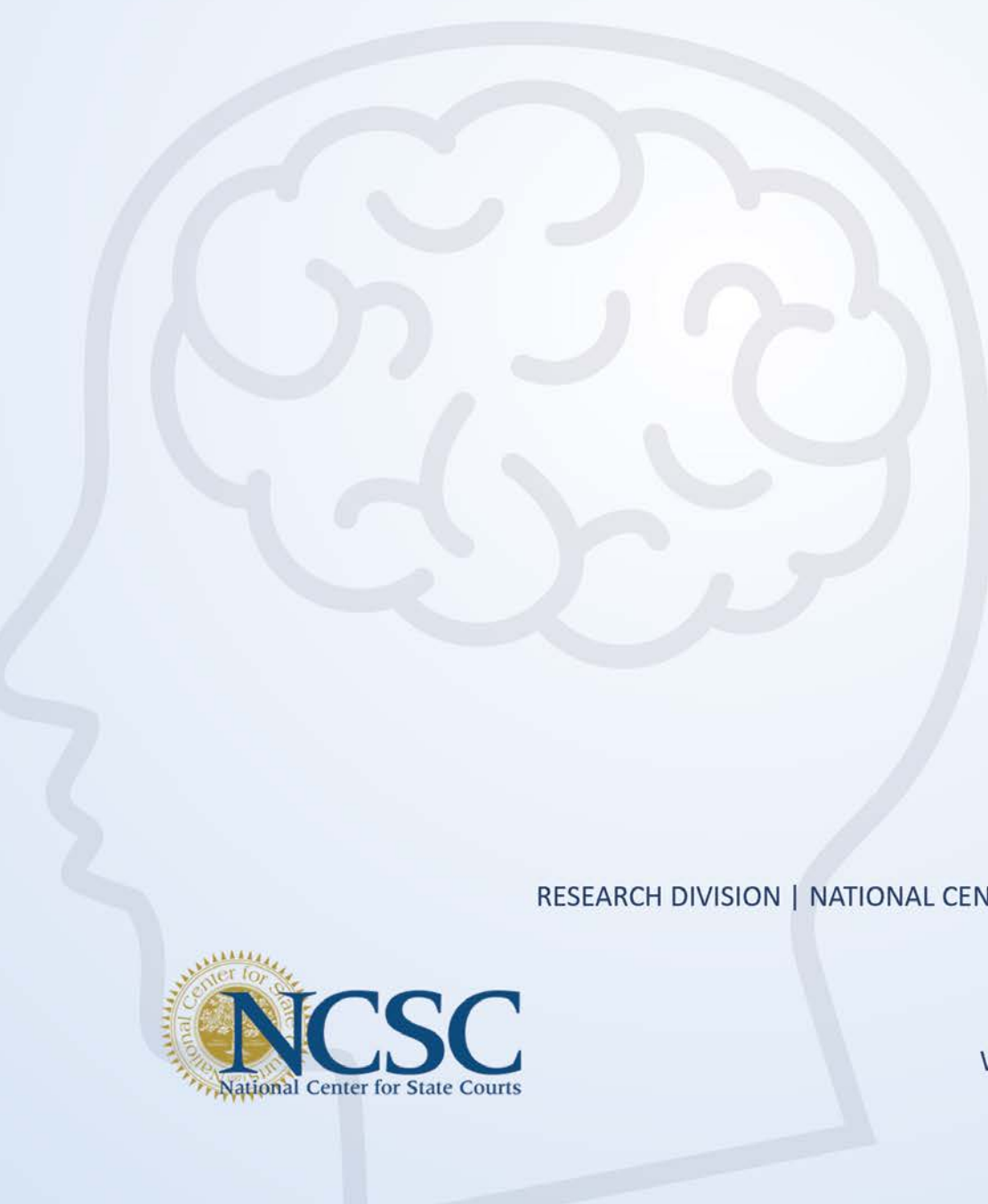
¹⁰⁶ Ron Powers, *No One Cares About Crazy People: The Chaos and Heartbreak of Mental Health in America* (2017).

1. Encourage policy makers to modify mental health codes to adopt a standard based on *capacity* and not *conduct* for ordering involuntary mental health treatment similar to the standard for court-ordered treatment of other illnesses.
2. Expand the use of Assisted Outpatient Treatment (AOT).
3. Encourage law enforcement agencies to train their officers in the use of CIT.
4. Support the adoption of the Sequential Intercept Model.
5. Chief Justices and State Court Administrators should encourage and assist local judges to convene stakeholders to develop plans and protocols for their local jurisdiction.
6. Provide information to policymakers that demonstrates how increased funding for mental health treatment can reduce jail and prison cost as has been demonstrated in Miami Dade County.

These recommendations, if implemented, will enable the courts to do a better job of effectively managing mental health cases. Courts can help forge a path toward policies and practices that treat those with mental illness more effectively and justly.



**FAIR JUSTICE FOR PERSONS WITH MENTAL ILLNESS
IMPROVING THE COURT'S RESPONSE**



PROJECT DIRECTOR
Nicole Waters, Ph.D.

PROJECT STAFF
Shelley Spacek J.D.
Patricia Tobias, M.S.J.A

RESEARCH DIVISION | NATIONAL CENTER FOR STATE COURTS



October 2018

300 Newport Avenue
Williamsburg, VA, 23185

TABLE OF CONTENTS

Acknowledgements	iii
How to Use This Guide	1
Leading Change: Improving the Court’s Response to Mental Health	4
<i>Getting Started</i>	4
<i>Convene Stakeholders</i>	6
<i>At Your First Meeting</i>	28
<i>Assess the Mental Health Landscape</i>	9
<i>Collect Data</i>	14
<i>Implement Improved Responses</i>	15
<i>Sustain Your Efforts</i>	16
Protocols in the Sequential Intercept Model	19
<i>Public Health</i>	19
<i>Intercept 0: Community Supports and Services</i>	22
<i>Intercept 1: Contact with Law Enforcement</i>	28
<i>Intercept 2: Initial Detention and Court Hearings</i>	31
<i>Intercept 3: After Incarceration</i>	35
<i>Intercept 4: Re-Entry</i>	40
<i>Intercept 5: Parole or Probation</i>	42
Appendix A. Arizona Statutes and Rules	46
Appendix B. Draft Invitation and Agendas	47
Appendix C. Checklist of Presiding Judge Action Steps	50
Appendix D. Sample Planning Materials for Sequential Intercept Mapping	52

The National Center for State Courts and the Arizona Supreme Court thank the State Justice Institute for its financial support of this effort. This document was developed under Grant Number SJI-16-T-287. The points of view expressed within are those of the authors and do not necessarily represent the official position or policies of the State Justice Institute, the Arizona Administrative Office of the Courts, or the National Center for State Courts.

Acknowledgements

Attention by local, state, and national leaders to individualized, timely, and situationally appropriate responses to mental and behavioral health issues has increased. While the focus of this Guide is on mental health, its use and application can and should be extended to individuals with co-occurring disorders, or both mental illness and substance use disorders. Failure to respond invites a continuing public safety crisis and the continued criminalization of mental health that has devastating effects to individuals, families, and society. Therefore, state court leadership has recognized the importance of coordinated and comprehensive responses to mental health that focus on early diversion, redirection, and treatment outside of the courts and the justice system. In 2017, the Conference of State Court Administrators (COSCA) published a policy paper, *Decriminalization of Mental Illness: Fixing a Broken System*.¹ The policy paper, adopted by the Conference of Chief Justices in 2018, addresses the evolution of responses to those with mental health issues, highlights key issues for successful responses, and makes explicit recommendations around developing a more robust, capacity-based response to those with mental health issues.² As part of these recommendations, COSCA encouraged robust implementation of the Sequential Intercept Model (SIM)³ to take action on mental health issues in state courts.

Develop recommendations designed to promote a more efficient and effective justice system for those individuals who come to court and are in need of behavioral health services.

Fair Justice Subcommittee on Mental Health and the Criminal Justice System

Judge Steve Leifman claims that the "justice system is a repository of other failed public policy." Simply put, the involvement of courts in criminal cases is indicative of a failed societal response to mental and behavioral health issues. While courts are not the appropriate venue for addressing mental health issues, they are in a unique position to lead and coordinate community-based responses. Recognizing the immediate importance of addressing mental health issues in state courts, Arizona established the Fair Justice Subcommittee on Mental Health and the Criminal Justice System.⁴ Working under the auspices of the Fair Justice For All Taskforce, the 24-member Subcommittee worked for eight months to develop "recommendations designed to promote a more efficient and effective justice system for those individuals who come to court and are in need of behavioral health services."⁵ The

¹ Conference of State Court Administrators, *Decriminalization of Mental Illness: Fixing a Broken System*, 2017, <http://cosca.ncsc.org/~media/Microsites/Files/COSCA/Policy%20Papers/2016-2017-Decriminalization-of-Mental-Illness-Fixing-a-Broken-System.ashx>.

² COSCA expressly advocates for "1) an Intercept 0 capacity based standard for court-ordered treatment as used in court-ordered treatment of other illnesses to replace the dangerousness standard now applied, 2) Assisted Outpatient Treatment (AOT) under a capacity-based standard, and 3) robust implementation of Intercepts 1 through 5 of the Sequential Intercept Model."

³ For more discussion on the Sequential Intercept Model (SIM), see *How to Use this Guide*.

⁴ Subcommittee meeting materials and member information can be found at <https://www.azcourts.gov/cscommittees/Task-Force-on-Fair-Justice-for-All/Subcommittee/Mental-Health-and-Criminal-Justice>.

⁵ Report and Recommendations of the Fair Justice Taskforce's Subcommittee on Mental Health and the Criminal Justice System, May 2018, <https://www.azcourts.gov/Portals/74/TFFAIR/Subcommittee/FJ-MHCJ/Resources/Report042618TFFAIRMHCJ.pdf>.

Arizona Supreme Court Committee on Mental Health and the Justice System’s recommendations were presented to the full Taskforce for adoption in May, 2018. Arizona’s leadership provided the genesis for this project, which will address mental health responses at the local as well as the state court level by providing presiding judges a Guide to developing mental health protocols for their local jurisdictions.

The National Center for State Courts (NCSC) would like to thank the Arizona Administrative Office of Courts and the many professionals in multiple counties who have shared their time and expertise with the project team. Their extensive contributions and candor during site visits and interviews provided a wealth of information and context from which to develop this Guide. NCSC would like to especially thank Donald Jacobson for his leadership efforts coordinating and facilitating this project.

The contributions to and resources in this Guide reflect conversations with 49 state and local stakeholders from across Arizona, but primarily focused on the three pilot sites: Yavapai, Pima, and Coconino Counties. Additional observational opportunities and input was provided by Maricopa County. Input from the following agencies and courts are represented in this Guide:

Coconino County

Honorable Thomas Chotena, Municipal Judge
 Sarah Douthit, Chief Probation Officer
 Honorable Elaine Fridland-Horne, Superior Court
 Howard Grodman, Justice of the Peace
 Cathy Harrison, City Deputy Court Administrator
 Gary Krcmarik, Court Administrator
 Lauren Lauder, Southwest Behavioral & Health Services
 Honorable Margie McCullough, Presiding Judge, Juvenile
 Honorable Mark Moran, Presiding Judge
 Honorable Ted Reed, Superior Court
 Bill Ring, County Attorney
 Maia Rodriguez, Administrative Supervisor Justice Court
 Cory Runge, Flagstaff Police Department
 Fanny Steinlage, Public Defender Office
 Val Wyant, Clerk of Superior Court
 Sharon Yates, Deputy Court Administrator

Pima County

Kent Batty, Retired Superior Court Administrator
 Dean Brault, Public Defender
 Honorable Kyle Bryson, Presiding Judge
 Honorable Mike Butler, Superior Court Presiding Judges (Criminal)
 Domingo Corona, Pretrial Services Director
 Sarah Darrah, Cenpatico
 Honorable Charles Harrington, Probate Court
 Honorable Danielle Liwski, Superior Court
 Ken McCullough, Probation Division Director
 Ron Overholt, Court Administrator

Wendy Peterson, Deputy County Manager
Honorable Tony Riojas, Tucson Municipal Court Presiding Judge
David Sanders, Chief Probation Officer
Cassandra Urias, Deputy Court Administrator
Danna Whiting, Behavioral Health Administrator

Yavapai County

Rolf Eckel, Court Administrator
Shawn Hatch, West Yavapai Guidance Center
Kennedy Klagge, Public Defender
Honorable David Mackey, Presiding Judge
Scott Mascher, County Sheriff
John Morris, Chief Probation Officer
Honorable John Napper, Superior Court
Sheila Polk, County Attorney Office
April Rhodes, Spectrum Health Care
David Rhodes, County Sheriff's Office
Kathy Rhodes, Mental Health Court Coordinator

State Stakeholders

Mike Baumstark, Deputy State Administrative Director
Dave Byers, Administrative Director of the Courts
Don Jacobson, Senior Special Projects Consultant, Arizona Supreme Court
Jodi Jerich, Senior Court Policy Analyst
Marcus Reikensmeyer, Director of Court Services
Beya Thayer, Justice System Liaison (CCRT) Health Choice
Kathy Waters, Adult Probation Services Director

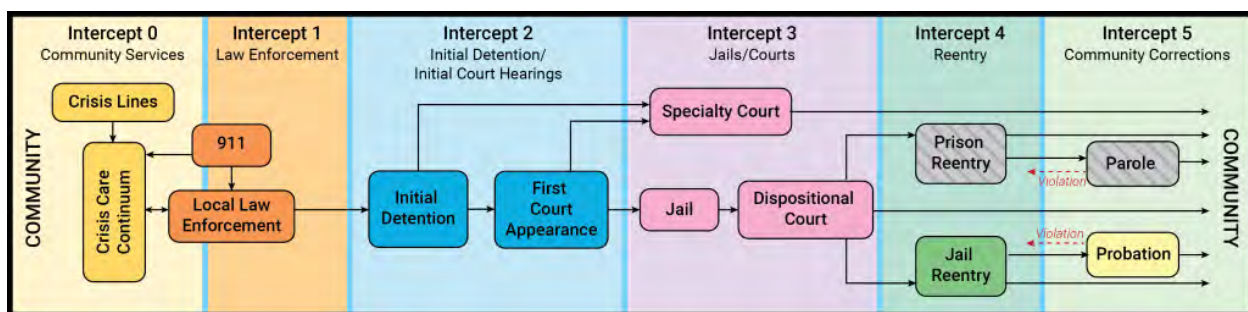
How to Use This Guide

This Guide is intended to be a practical tool for convening and developing protocols focused on working with justice-system involved individuals with mental or behavioral health issues. However, given the national focus on opioid abuse and 70,000+ overdose deaths in 2017, this Guide can and should be extended to those with co-occurring disorders. The Guide focuses on highlighting the important steps of convening stakeholders, assessing the mental health landscape, and implementing court and community responses and strategies. These process-oriented issues are addressed in the first section of the Guide. The second section focuses on the critical step of implementing protocols in a meaningful way as framed by the Sequential Intercept Model (SIM). Throughout both sections key resources and best practices are noted.

Justice-system involvement for those with mental illness has broad-reaching implications. For courts and communities to effectively respond to individuals with mental and behavioral health issues who are involved in the justice system requires committed stakeholders across a spectrum of services and time. From initial emergency health responses to probation and beyond, effective mental health responses must be appropriately tailored to the individual, their situation, and available services. This community-based response is conceptualized in the widely adopted Sequential Intercept Model, which identifies where services are scarce or non-existent and serves as the underpinning of the second section of this guide.

The Sequential Intercept Model (SIM) was developed as a “conceptual framework for communities to organize targeted strategies for justice-system involved individuals with behavioral health disorders.”⁶ The idea behind the SIM is that appropriate responses at identified intercepts can keep an individual from continuing to penetrate the justice system. The most effective approach is to design responses that are engaged in by community collaborators *early* and *often*. Figure 1 (below) lays out the widely used SIM with identified intercepts in linear fashion.⁷

Figure 1. Sequential Intercept Model



© 2016 Policy Research Associates, Inc.

⁶ SAMSHA GAIN'S Center for Behavioral and Justice Transformation, Developing a Comprehensive Plan for Behavioral Health & Criminal Justice Collaboration: The Sequential Intercept Model, <https://www.praince.com/wp-content/uploads/2015/10/SIMBrochure.pdf>. The Sequential Intercept Model was developed by Mark R. Munetz, MD, and Patricia A. Griffin, PhD, in conjunction with the GAINS Center in 2006, M.R. Munetz & Patricia Griffin, *Use of the Sequential Intercept Model as an Approach to Decriminalization of People with Serious Mental Illness*, 57 Psych. Services 544-49 (2006) available at <https://ps.psychiatryonline.org/doi/pdf/10.1176/ps.2006.57.4.544>.

⁷ SAMSHA GAIN'S

Today, the SIM's points of system interaction, or intercepts, serve as guideposts for developing interdisciplinary state and local community-based responses to individuals with mental health issues across the country. Many justice-related mental health responses have been developed with the SIM as the organizing structure and its framework is now widely accepted as the best practice for assessing available resources, determining gaps in services, and planning for change.⁸

Arizona has joined the national *Stepping Up Initiative*⁹ in an effort to reduce the number of individuals with mental illness in jails and increase connections to treatment. As part of the *Stepping Up Initiative*, each county should have completed a SIM mapping exercise. This Guide provides an opportunity for local courts to revisit and update existing mapping, or if needed, engage in a new mapping process.

This Guide adopts the traditional SIM but also expands it to include new intercepts that allow for a better understanding of early intervention to effectively address mental health issues before they evolve into the justice system. COSCA's policy paper expressly advocates incorporating "Intercept 0" for court-ordered treatment.¹⁰ Expanding to earlier intercepts aligns with recent recommendations around a more expansive approach to the SIM.¹¹ Addressing awareness and action to respond to mental health needs, this guide incorporates both Intercept 0, and presents an even earlier stage, Public Health.

By overlaying the SIM framework, Figure 2 identifies intercepts and, for each one, references building blocks of infrastructure, assessment questions, and resources for both national resources and Arizona-specific actions and programming. Figure 2 provides a high-level overview of the protocol model for each intercept. Protocol building blocks at each intercept are organized in a pyramid shape, with more foundational protocols at the base of the pyramid. There are a number of building blocks that "reoccur" across intercepts. Examples of these include advanced directives, housing support, data sharing, etc.

This guide approaches protocol development from the individual's perspective. This perspective supports a more expansive approach to the SIM, which has implications across both the civil and criminal justice system. Civil processes and responses often occur prior or simultaneously to involvement in the criminal justice system. Therefore, this guide explicitly integrates the interplay between the civil and criminal judicial responses. While this Guide focuses on the adult system, we acknowledge that there is significant interplay with the juvenile and family systems. Courts should integrate and coordinate with juvenile resources and stakeholders when possible.

⁸ *Id.*

⁹ The Stepping Up Initiative is a national initiative that seeks to reduce the number of people with mental illnesses in jail, <https://stepuptogether.org/>.

¹⁰ COSCA Policy Paper, *supra* note 2 at 2.

¹¹ Policy Research Associates: <https://www.prainc.com/wp-content/uploads/2017/08/SIM-Brochure-Redesign0824.pdf>; Abreu, et al., Revising the paradigm for jail diversion for people with mental and substance use disorders: Intercept 0, 35 Behavioral Sciences & The Law 380-95 (Oct. 2017);

Figure 2. Protocol Building Blocks, by Intercept



Public Health



Intercept 0: Community Supports and Services



Intercept 1: Contact with Law Enforcement



Intercept 2: Initial Detention and Court Hearings



Intercept 3: After Incarceration



Intercept 4: Re-entry



Intercept 5: Parole and Probation



Leading Change: Improving the Court’s Response to Mental Health

Courts are in a unique position to lead statewide and community by community change to address mental and behavioral health issues within their community. For decades, courts have gained experience in convening diverse stakeholders to tackle complex problems within and outside the justice system. From the evolution of specialty courts to dependency dockets, courts are often at the vanguard of responding to societal issues. This reality has paved the way for an independent but involved judiciary. At the national level, state court leadership has recognized the important role courts play in addressing the mental health crisis, “court leaders can, and must . . . address the impact of the broken mental health system on the nation’s courts—especially in partnership with behavioral health systems.”¹²

“Court leaders can, and must . . . address the impact of the broken mental health system on the nation’s courts—especially in partnership with behavioral health systems.”

As leaders of their courts and communities, presiding judges are advantageously positioned to successfully convene and engage stakeholders and solve multi-faceted problems.¹³

This chapter of the Guide describes the many steps the presiding judge can take to improve the court’s response. The recommended checklist of action steps incorporates protocol development considerations across a diverse set of jurisdictions. While these action steps provide the “backbone,” protocol development will vary from jurisdiction to jurisdiction depending on existing efforts, available resources, and community infrastructure. Where possible, this Guide contains *Jurisdiction Considerations* that reflect these characteristics.

GETTING STARTED

- Review this Guide and talk with your court administrator.
- Together, discuss the status of your court and community response to those with mental illness.
- What is the status of any other prior efforts undertaken in your county?
- Who has been involved and provided leadership on key efforts in this area?

¹² COSCA, *supra* note 1 at 20.

¹³ Recent conferences have focused on providing leadership training and resources for judges. *See* National Association for Presiding Judges and Court Executive Officers, 2017 Leadership Conference, <http://napco4courtleaders.org/2017-conference/>.

This entire *Guide for Arizona Presiding Judges: Improving Courts Response for Persons with Mental Illness* has been developed for you, as the presiding judge, along with the court administrator. As a first step, review the Guide in its entirety and ask your court administrator to do the same. After you have both read the Guide, discuss your preliminary thoughts on how best to proceed in your community. This discussion should include a conversation on existing court and community mental health responses. Laying these out in a preliminary manner will provide context on the community's size, infrastructure, and resources that shape the most appropriate approach to this effort. For example, a jurisdiction with numerous treatment providers and many stakeholders might best tackle protocol development in more manageable working groups that report back to a main development group. A jurisdiction with fewer key stakeholders might develop protocols as an entire group.

Local Considerations

Existing councils and committees can be leveraged as a starting point and governance support for protocol development.

Also, consider any prior multi-disciplinary efforts that may have been undertaken in the last few years. Has your court and/or the community participated in the *Stepping Up Initiative* or the *Safety and Justice Challenge*? Have you participated in any “mapping” exercises? Do you have a criminal justice coordinating council or other group of stakeholders that meets periodically? Think about the leaders in your court and in the community. Like any important effort, you will need “champions” to contribute to the work ahead.

Developing any effective collaborative response to a complex issue requires first understanding the available resources. Simply put, you must first understand where you are before you can determine where you want and need to go. Figure 3 outlines the mapping process that informs effective and appropriate judicial and community responses.¹⁴

Figure 3. The Community-Based Mental Health Response Mapping Process



¹⁴ This process is similar to other court-led reform efforts in the access to justice and civil justice reform arenas. The Civil Justice Initiative provides a roadmap for implementing change in the civil justice system *See* Transforming Our Civil Justice System for the 21st Century: A Roadmap for Implementation, <http://www.ncsc.org/~media/Microsites/Files/Civil-Justice/CJI%20Implementation%20Roadmap.ashx>. The Justice for All project lays out the process for an integrated, action-driven assessment and planning process. *See* Justice for All Guidance Materials 2016, <http://www.ncsc.org/~media/Microsites/Files/access/Justice%20for%20All%20Guidance%20Materials%20Final.ashx>.

Figure 3 shows the mapping process with five main phases: assessment, gap determination, protocol development, implementation, and sustainability. All five are necessary to develop a comprehensive community response to mental and behavioral health issues.

CONVENE STAKEHOLDERS

- Consider the many stakeholders who could be involved and identify stakeholders relevant for your jurisdiction. See the list of potential stakeholders in Table 1.
- Plan a first meeting, create an agenda, and invite stakeholders.
- Convene the workgroup of stakeholders to assist you in this important effort.

Table 1 identifies the many stakeholders who should be considered for a task force that you will appoint. When considering possible appointments, consider broad involvement in the work ahead and consider gender, racial, ethnic and geographic diversity across all spectrums of responsibility. This might include bringing new stakeholders to the table and developing new relationships through the task force effort. Also consider the *Safety and Justice Challenge* work by Pima County to offer guidance on steps in convening a community stakeholder group.¹⁵

Local Considerations

Judges should consider a jurisdiction's available resources and infrastructure when identifying stakeholders and the protocol development structure. If a jurisdiction's effort does not include a sufficient number of stakeholders to form meaningful working groups, the entire development group should work as a whole on each intercept.

Although it is important to leverage stakeholder expertise at each intercept, it is even more critical that community responses to mental health issues are viewed in a holistic manner to combat narrow and siloed responses. Development efforts should include creation of individual working groups to develop intercept-specific protocols. However, to ensure comprehensive system responses, there should also be a mechanism for bringing the entire development group together to review findings and protocols that span across intercepts.

Convening a group of stakeholders requires careful consideration so as to not be at odds with or competition with currently existing councils or working groups. Presiding judges should consider:

- 1) Purpose of the group (e.g., develop policies, communication strategies, funding coalitions);
- 2) Whether the group is a standing committee or convened for a limited duration; and
- 3) Who is best suited to serve in this capacity (i.e., top leadership or those with in-depth knowledge about the resources and programs).

¹⁵ See "[June 2, 2016 – Community Meeting PowerPoint](#)". Pima County's *Safety and Justice Challenge* Resource.

Leadership should consider implementation and sustainability strategies when convening participants. This includes ensuring stakeholder leadership representation and buy-in to execute developed protocols. Presiding judges should consider the importance of soliciting a range of viewpoints from state leadership to “front-line” employees who directly interact with affected individuals. Inclusion of individuals with lived experiences and their family members is critical to understanding their perspective in navigating across systems. The importance of buy-in cannot be understated in the development process. As leaders, presiding judges should endeavor to ensure the participants feel heard and are offered an opportunity to meaningfully contribute to the protocols.

After you have considered who to invite to contribute to this effort, you and the court administrator will plan the first meeting agenda. A number of sample meeting agendas are included for your reference and adaptation to the needs of your court and the community (see Appendix B).

At your first meeting of stakeholders you will also want to ask those participating if you have missed other important roles to include in your efforts.

Once you have identified those you want to invite and drafted an initial agenda, issue the invitations on your letterhead. Set the meeting date sufficiently in advance to maximize participation. A minimum of four to six weeks in advance is recommended.

Table 1. Recommended Stakeholders

- ✓ Presiding Judge/Court Administrator
- ✓ Law enforcement (Sheriff, local police)
- ✓ Bailiffs
- ✓ Prosecutors
- ✓ County attorneys
- ✓ Private counsel
- ✓ Public defenders
- ✓ Former system-involved individuals/Persons with lived experiences
- ✓ City council
- ✓ County board members/Board of supervisors
- ✓ Criminal justice commissions
- ✓ Legislators
- ✓ Family member(s)
- ✓ Direct treatment providers (public and private)
- ✓ National Alliance on Mental Illness
- ✓ RHBA representatives
- ✓ Psychiatrist
- ✓ Supported employment and housing specialists
- ✓ Jail administrators
- ✓ Jail mental health staff
- ✓ Probation officers
- ✓ Pre-trial officers
- ✓ Disability/Physical brain disorder advocates
- ✓ Civil commitment personnel
- ✓ Mobile crisis units (MCIT)
- ✓ Crisis units
- ✓ Benefits representatives (AHCCCS enrollment office)
- ✓ Tribal representatives
- ✓ Competency evaluators
- ✓ Competency restoration treatment providers
- ✓ Disability law groups
- ✓ Liaisons from AOC
- ✓ Social security/Disability representatives
- ✓ Faith-based organizations
- ✓ Emergency room personnel
- ✓ Public advocates/Public fiduciaries

AT YOUR FIRST MEETING

- Engage your stakeholders; do a lot of active listening. Ask stakeholders how can we think outside the box to find solutions.
- Propose a “mapping process” with your stakeholders to understand where you are and where you need to go to improve court and community responses.
- If not already completed in your county, map to the Sequential Intercept Model (SIM). Recognize that completing the mapping process may take a number of meetings and effort by separate workgroups.
- Decide the frequency of agendas and meetings to lead change in your community.
- Create a communication plan for sustained collaboration with stakeholders.

Following the distribution of the meeting agenda and invitation, engage your stakeholders. Share with them why this effort is important to you and the court administrator and what you hope to accomplish through this effort. Do a lot of listening. Ask each person to introduce themselves, share his or her role and responsibilities and why the work is important to them. Later in the agenda you will ask each participant if they are willing to work with you in the months and year(s) ahead to improve the court and community response to those with mental illness.

You will then either propose a development approach and/or invite the participants to offer their suggestions, or both. Mapping the Sequential Intercept Model (SIM) is recommended, if it has not already been completed in your county (See Appendix D for sample planning materials for SIM). You can either propose the SIM workshop model with a facilitator or an abbreviated mapping process so that all stakeholders understand where you are, what the gaps are, and what needs to be accomplished to improve court and community responses.

At this first organizational meeting you will also want to decide how best to move forward, i.e., how to organize yourself within workgroups or meetings of the whole body and decide the frequency of meetings. Meeting at least monthly or every other month is recommended to build and maintain momentum.

Ongoing communications both within the workgroup or task force and throughout the community are critical to the success of the ongoing efforts. You will want to develop a communications plan for sustained collaboration with the stakeholders. Later as you proceed you will want to expand your communications plan and strategies throughout your communities.

Local Considerations

Jurisdictions without dedicated communications staff/support can explore tailoring communication plans that reflect jurisdiction capacity and explore coordinated communication partnerships with other jurisdictions.

ASSESS THE MENTAL HEALTH LANDSCAPE

- Using the SIM model, examine the existing responses at each intercept point; document those responses.
- Identify any gaps in the community and court processes for those with mental illness.
- Consider adapting protocols that have been developed in other counties and states to meet your needs.
- Develop protocols to address identified gaps.
- Solicit viewpoints and ensure “buy-in” of all stakeholders at every step.

Completing a candid assessment of the mental health landscape will secure buy-in from stakeholders. You should encourage direct observations and inquiries across the Sequential

Local Considerations

Jurisdictions that have already completed SIM mapping should complete an abbreviated review (and update) of their mapping process.

Intercept Model (SIM) intercepts. Understanding the community’s landscape is the foundation on which informed and targeted action is based. A comprehensive assessment requires input from all stakeholders and will allow you to identify ways to “intercept” persons with severe mental illness and co-occurring disorders to ensure prompt access to treatment; opportunities for redirection or diversion; timely movement through the justice systems; and linkage to community resources. Each intercept point provides opportunities for intervention, as early as possible and allows you and the community to develop targeted strategies.

A comprehensive assessment should consist of the following steps:

- 1) **Convene** Stakeholders;
- 2) Discuss and **decide** on assessment approach (working groups, evaluations, reports, etc.);
- 3) **Investigate** the existing response at each intercept and data collection opportunities;
- 4) **Document** responses and effectiveness as well as resources/gaps; and
- 5) **Identify** accompanying best practices.

Depending on your community’s experience with SIM mapping, you will either schedule a separate mapping workshop or use the results of previous mappings to build upon. Mapping provides you the best tool to inventory community services and collaborative efforts, assess gaps and opportunities, identify where to begin interventions, and help you to examine, plan, and implement improved protocols to improve your community and court responses.¹⁶

¹⁶ See [The Sequential Intercept Model as a Framework](#) Video.

A one to two-day mapping workshop will generally include the following agenda items:

- 1) Description of the SIM.
- 2) Promising practices and national trends across intercepts. For Arizona this will also include the protocols identified in this Guide.
- 3) Mapping of cross systems (community, civil, criminal, law enforcement, behavioral health, etc.) and creating a visual map.
- 4) Identification of gaps and opportunities.
- 5) Setting of priorities.
- 6) Action planning based upon priorities and developing specific plans for taking action.
- 7) Next steps, moving forward.

Assessment goals should frame the work of the group. Assessment approaches and strategies require an action plan and timeline. Investigating existing responses, both qualitatively and quantitatively, will provide the current mental health response “landscape.” Table 2 contains general assessment questions for each intercept to direct the assessment process. Additional assessment questions accompany each intercept in Section 2 of this Guide. Assessment inquiries should target a response from a multi-agency perspective in addition to a response from an individual perspective.

Effective individual responses are impossible if they are not backed by supportive systems. While presiding judges appropriately lead court response efforts, they are one piece of the mental and behavioral health responses system; effective community-based mental health responses require buy-in and action from local elected officials. *Six Questions County Leaders Need to Ask*, developed by the *Stepping Up Initiative*, is an excellent resource for framing assessment at the systems level (see Box Out).¹⁷

Stepping Up Initiative

1. *Is our leadership committed?*
 2. *Do we collect timely screening assessments?*
 3. *Do we have baseline data?*
 4. *Have we conducted a comprehensive process analysis and inventory of services?*
 5. *Have we prioritized policy, practice and funding improvements?*
 6. *Do we track progress?*
-

¹⁷ The Stepping Up Initiative, County Election Official’s Guide to the Six Questions County Leaders Need to Ask (2018) <https://stepuptogether.org/wp-content/uploads/2018/04/Elected-Officials-Guide%E2%80%93to%E2%80%934-4-18.pdf>. A more robust guide describes why each question matters and what the best practices around the questions look like. Risë Haneberg et al., Reducing the Number of People with Mental Illness in Jail: Six Questions County Leaders Need to Ask (2017), <https://stepuptogether.org/wp-content/uploads/2017/01/Reducing-the-Number-of-People-with-Mental-Illnesses-in-Jail-Six-Questions.pdf>¹⁸ The

Table 2: General Assessment Questions by Intercept

PUBLIC HEALTH

- What public outreach on mental health currently exists (e.g. awareness campaigns, hotlines, health fairs)?
- What public benefit assistance is available for mental and behavioral health services? What assistance exists for obtaining and maintaining it? (e.g., AHCCCS eligibility)

INTERCEPT 0: COMMUNITY SUPPORTS AND SERVICES

- What resources are available in the community to provide mental and behavioral services?
- What are the potential referral sources for individuals seeking mental and behavioral health treatment and services?
- What options exist for establishing advanced directives (e.g., guardianships) for individuals at risk for mental and behavioral crises?
- What processes are in place to initiate a civil commitment? Are family and the public made aware of these services?

INTERCEPT 1: CONTACT WITH LAW ENFORCEMENT

- What pre-arrest diversion or redirection options are available in the community?
- What law enforcement and first responder training and efforts exist related to crisis intervention (e.g., CIT, mental health first aid)?

Justice for All Strategic Action Planning guidance materials, developed in 2016 to help courts and other access to justice stakeholders meaningfully assess their access to justice ecosystem provides templates and questions that help drive a quality-driven inquiry. *See* Justice for All Guidance Inventory Assessment Guide, Appendix A (2016), <http://www.ncsc.org/~media/Microsites/Files/access/Justice%20for%20All%20Guidance%20Materials%20Final.as.hx>. Toolkits for collaborative educational teams also implicitly incorporate this concept in self-assessment. *See* New Jersey Department of Education, Collaborative Teams Toolkit, 5 (2015), <https://www.state.nj.us/education/AchieveNJ/teams/Toolkit.pdf>¹⁹ States courts are now embracing evidence-based and data-informed strategies. There are a number of resources that provide informative data as well as questions to ask around data. *See* National Association of Counties, County Explorer: Mapping County Data, <http://explorer.naco.org/> (mapping numerous county indicators), Council of State Governments Justice Center, 50-State Data on Public Safety, Arizona Workbook: Analyses to Inform Public Safety Strategies, 31 (March 2018) https://50statespublicsafety.us/app/uploads/2018/06/AZ_FINAL.pdf (outlining key questions about state data for public safety strategies).

- What, if any, data are collected on mental illness during law enforcement responses? How are such data shared across agencies?
- Are dedicated stabilization units established in the community to handle mental and behavioral crises? Are there stabilization units dedicated to co-occurring substance abuse/mental health crises?
- What information sharing protocols and agreements are established to access mental health information (e.g., past evaluations) across agencies?

INTERCEPT 2: INITIAL DETENTION AND COURT HEARINGS

- What protocols are in place to identify mental and behavioral health needs upon intake to detention?
- What screening or assessment tools are used to identify mental or behavioral health needs? Are these tools validated on the population of those with mental illness?
- How are individuals with mental or behavioral health needs identified by courts?
- What protocols are established to reduce redundancy in conducting and maintaining assessment and evaluation results?

INTERCEPT 3: AFTER INCARCERATION

- Is there a mental health liaison position in the courts to connect with detention facilities and/or conduct evaluations?
- Are referral sources (e.g., prosecutors, defense attorneys, judges) familiar with identification of individuals with mental illnesses and understand potential judicial responses?
- Does a mental health court operate in your community? Are referral sources informed about eligibility criteria?
- Is the referral process to a mental health court established in writing and shared with referral sources?
- How are individuals identified and referred for competency evaluations? Are the processes efficient? What competency restoration, treatment, and education services are provided?
- What outpatient restoration services are available? What, if any, restoration processes differ for lower level offenses?
- What mental health information is provided to judges for pretrial release or sentencing decisions?

- Is prescription continuity ensured throughout an individual’s progress through treatment and community, county, and state entities?

INTERCEPT 4: RE-ENTRY

- Are individualized re-entry plans developed that include treatment and social services?
- What is done to facilitate benefit (re)enrollment upon re-entry?
- Are wrap-around services coordinated for individuals? Are “warm hand-offs” available upon release?
- What community engagement strategies are provided upon reentry (e.g., employment, education, or pro-social activities)?

INTERCEPT 5: PAROLE AND PROBATION

- What pro-social behaviors or wellness indicators are monitored by supervision agencies (e.g., housing, health, peer support)?
- What proactive measures are available to establish advanced directives/guardianship?
- Are there specialized units or trained probation/parole officers to assign individuals to with mental illnesses?

As the workgroup considers assessment questions by intercept, the workgroup should document existing responses and resources to allow for meaningful synthesis of existing gaps. When documenting the current status, discuss the *quality* of existing responses in addition to their existence.¹⁸

¹⁸ The Justice for All Strategic Action Planning guidance materials, developed in 2016 to help courts and other access to justice stakeholders meaningfully assess their access to justice ecosystem provides templates and questions that help drive a quality-driven inquiry. See Justice for All Guidance Inventory Assessment Guide, Appendix A (2016),

<http://www.ncsc.org/~media/Microsites/Files/access/Justice%20for%20All%20Guidance%20Materials%20Final.as.hx>. Toolkits for collaborative educational teams also implicitly incorporate this concept in self-assessment. See New Jersey Department of Education, Collaborative Teams Toolkit, 5 (2015),

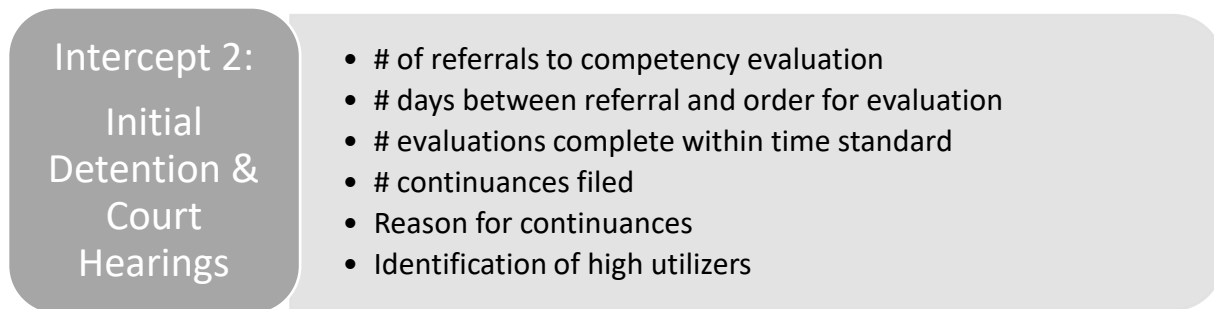
<https://www.state.nj.us/education/AchieveNJ/teams/Toolkit.pdf>¹⁹ States courts are now embracing evidence-based and data-informed strategies. There are a number of resources that provide informative data as well as questions to ask around data. See National Association of Counties, County Explorer: Mapping County Data, <http://explorer.naco.org/> (mapping numerous county indicators), Council of State Governments Justice Center, 50-State Data on Public Safety, Arizona Workbook: Analyses to Inform Public Safety Strategies, 31 (March 2018) https://50statespublicsafety.us/app/uploads/2018/06/AZ_FINAL.pdf (outlining key questions about state data for public safety strategies).

COLLECT DATA

- Decide what data are important to collect to measure and assess effective responses.
- Identify which agency(cies) will be responsible for the collection of the data and reporting to the workgroup.
- Secure necessary data sharing agreements.
- Leverage technology whenever possible.

Existing data collection strategies inform many justice and public safety strategies.¹⁹ The development of comprehensive community-based mental and behavioral health responses is no different. Data collection is critical to enable outcome tracking and conducting the initial mapping assessment. Therefore, data collection opportunities and strategies should be discussed at every intercept and across both civil and criminal matters. A sample intercept building block for data collection opportunities and accompanying data elements are shown in Figure 4. The data elements listed are not exhaustive and should be identified by the stakeholders.

Figure 4. Sample Data Collection Opportunities



Data collection opportunities inherently require data sharing agreements between agencies. For example, if a defendant is booked into jail, but was receiving mental health treatment through the Regional Behavioral Health Authority (RHBA), it is critical to share status notifications. Stakeholder organizations work collectively to identify additional data sharing opportunities. Once identified stakeholders should enter into an agreement that covers what events trigger data sharing and who has access to what information. The agreement should consider data retention

¹⁹ States courts are now embracing evidence-based and data-informed strategies. There are a number of resources that provide informative data as well as questions to ask around data. See National Association of Counties, County Explorer: Mapping County Data, <http://explorer.naco.org/> (mapping numerous county indicators), Council of State Governments Justice Center, 50-State Data on Public Safety, Arizona Workbook: Analyses to Inform Public Safety Strategies, 31 (March 2018) https://50statespublicsafety.us/app/uploads/2018/06/AZ_FINAL.pdf (outlining key questions about state data for public safety strategies).

and timing for receiving data updates.²⁰ This agreement should be in writing to establish stability throughout leadership and staffing transitions.

Data collection opportunities will be identified throughout the mapping process as well as throughout the planning process.

IMPLEMENT IMPROVED RESPONSES

- Develop an action plan, strategies, and timelines for implementation of responses.
- Identify plans to secure full leadership support.
- Identify strategies to overcome substantial barriers, including a need for financial support.
- Discuss and document shared goals. Use these as a starting point for implementing strategies toward solutions.
- Consider grant and funding opportunities to enable you to accomplish your goals and action plans.

Following a workshop or similar mapping exercise(s) the stakeholders will begin to refine the list of priorities identified and action plans developed. This further action planning will define the responses desired; identify necessary leadership support; prioritize the order for implementation starting with foundational steps first; and identify strategies to overcome barriers, constraints and financial support to move forward.

This detailed action plan will include strategies and timelines for implementation of responses. You will also need to discuss funding needs and whether any funding could be obtained from grants and other opportunities. The stakeholders, with your leadership and encouragement and that of the court administrator, should make every effort to leverage technology to improve court and community responses to those with mental illness.

Local Considerations

Jurisdictions can partner to leverage technology capacity and seek funding opportunities to overcome sparse resources.

The potential for leveraging technology in mental health responses is immense and should support the entire response process. Automated messaging can be used at virtually every intercept, whether raising awareness, prompting action, or enabling informed monitoring. Video appearances enable remote participation. Remote appearances enable individuals with mental or behavioral issues to overcome many impediments to successful court hearings including social anxiety and navigating scheduling or transportation challenges.

²⁰ See Summary of the HIPAA Privacy Rule: <https://multco.us/file/75791/download>.

Technology can also facilitate the participation of remote stakeholders to overcome access issues often experienced in remote locations.²¹

SUSTAIN YOUR EFFORTS

- Conduct regular reviews through workgroup meeting agendas, adjust plans if necessary.
- Identify and implement outcome measures relevant to data collection.
- Reach out to the community on an ongoing basis through an established communication plan.
- Continue to engage your stakeholders; regularly review list of stakeholders for additions/adjustments.
- Discuss and agree upon effective communication strategies, such as enlisting leadership support and identifying a point of contact for regular communication.
- Establish a regular schedule to assess and reassess your response efforts.
- Facilitate necessary training (and cross-training) for the workgroup members and others involved in improving responses.

Various organizations provide resources and tools to help drive and sustain change.²² There are also new national and statewide efforts and taskforces aimed specifically at addressing mental health in the state courts. These efforts should be leveraged as support for implementation.

To ensure sustainability, the presiding judge must:

- 1) Conduct regular reviews and make adjustments;
- 2) Secure stable funding strategies; and
- 3) Establish leadership support.

²¹ Courts should consult with mental and behavioral clinicians to carefully consider which individuals may have deleterious reactions to remote technologies (e.g., individuals suffering from paranoid disorders).

²² *The Stepping Up Initiative* is an effort that is collaboratively run by the National Association of Counties, The Council of State Governments Justice Center, and the American Psychiatric Association Foundation. At the core of agencies like SAMSHA is to reduce the impact of mental illness in American communities

Local Considerations

Obtaining stakeholder feedback is an important part of protocol evaluation.

Jurisdictions with fewer stakeholders might find more informal feedback channels more effective and timely.

An important component for sustainability that informs regular reviews and targets appropriate responses and adjustments is evaluation. Evaluation should be built into the protocols. A successful strategy will document the intervention's desired impact on stated objectives and outcomes.

Presiding judges and collaborators should use data from evaluations to secure stable funding allocations. As an example, researchers have noted the importance and impact of using data (e.g., impact of housing stabilization on arrests) to inform crisis response system reform.²³ Creating outcome

measures, evaluation frameworks, and carrying out evaluations is critical.

National efforts in place to support and sustain local efforts include SAMHSA, *Stepping Up Initiative*, and the McArthur *Safety and Justice Challenge*. In recent years, state responses have moved to the forefront. These include Arizona's Fair Justice Task Force and other state efforts including one in Texas and one in Ohio.²⁴

Presiding judges should explore funding strategies and grant opportunities to help support protocol development efforts. Dedicated mental health liaisons can also help ensure continued attention to mental health responses in your community. Cross-agency coalitions, as used in Minnesota, may be a worthwhile strategy for securing funding from the legislature.²⁵

Effective training and coordination ensures support by leadership and improves chances of successful implementation. For example, Virginia and Massachusetts have successfully implemented "train the trainer" approaches to mental health responses.

There are various forums at the national level to elevate mental and behavioral health issues and share solutions at the national level. For example, the National Association for Court Management (NACM) and the National Association of Presiding Judges and Court Executive Officers (NAPCO) host annual conferences. The Substance Abuse and Mental Health Services Administration (SAMSHA) also provides trainings that are designed for addressing substance abuse and mental health issues at the local level.²⁶

²³ Lyn Overman, Angela LaScala-Greunewald and Ashley Winstead, MODERN JUSTICE: USING DATA TO REINVENT AMERICA'S CRISIS RESPONSE SYSTEMS, May 2018 (provides examples where data is used to track the impact of reforms (e.g., impact of housing stabilization on arrests in San Diego and New York) as well as the benefit of data sharing).

²⁴ Texas recently started a Commission to mental health issues in civil, criminal courts. See Judicial Commission on Mental Health, <http://www.txcourts.gov/supreme/news/commission-to-address-mental-health-issues-in-civil-criminal-courts/>. Ohio has a standing taskforce on criminal justice and mental illness, <https://www.ohioattorneygeneral.gov/Individuals-and-Families/Victims/Task-Force-on-Criminal-Justice-and-Mental-Illness>.

²⁵ See Report: <https://ncsc.contentdm.oclc.org/digital/collection/spcts/id/303/>

²⁶ SAMSHA, Empowering Communities to Address Health Disparities: Practical Steps to Take at the Local Level (October 2016), <https://www.samhsa.gov/capt/tools-learning-resources/empowering-communities-address-health-disparities-practical-steps-take>

Central to securing leadership support, funding, and sustainable collaborative responses, is communication and outreach. Presiding judges should carefully consider how best to communicate response plans. There are several national resources available to help guide and inform communication efforts.²⁷

One such resource comes from efforts to achieve legislative reform. The *Toolkit for Legislative Reform: Improving Criminal Justice Responses to Mental Illness in Rural States* provides a number of excellent references and tools to consider for group composition, identifying problems, communications needs and strategies, stakeholder engagement, and setting the stage for sustainability.²⁸

²⁷ See *Stepping Up Initiative*, Talking to the Media and the Public about People with Mental Illness in their Jail (2018), https://stepuptogether.org/wp-content/uploads/2018/04/Elected-Officials-Guide-to-Talking-to-the-Media_4-10-18.pdf; Barbara Peirce, A Toolkit for Legislative Reform: Improving Criminal Justice Responses to Mental Illness in Rural States, http://www.crj.org/assets/2017/10/CJ-Responses-to-MH-Toolkit-Sept-2017_Final.pdf (2017).

²⁸ *Id.*

Protocols in the Sequential Intercept Model

The Sequential Intercept Model (SIM) provides the framework for developing effective responses to persons with mental illness. The following description lays out the SIM with a brief description of the intercept, accompanying protocol building blocks at that intercept, opportunities for data collection and referrals, and available Arizona-specific and national resources. As previously mentioned, the protocol building blocks are structured with more foundational building blocks at the bottom of the pyramid.

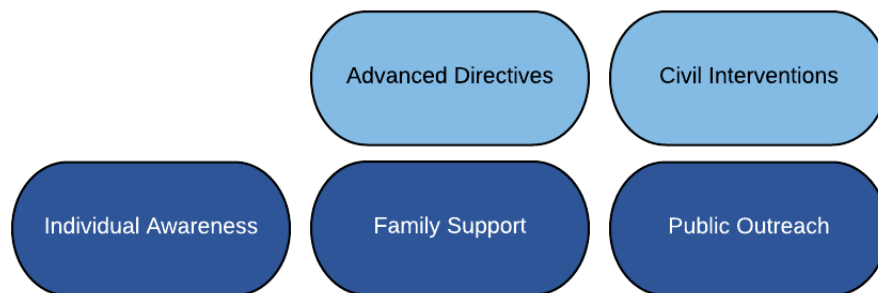
The protocol building blocks are intended to be comprehensive, but additional building blocks may be identified depending on the needs of the individual jurisdiction. Several building blocks apply across intercepts; these building blocks are cross-referenced at each intercept.



PUBLIC HEALTH

Addressing mental health issues does not and should not begin with the justice system. Countless Americans contend with mental health issues, often successfully and without any court involvement. While there is no guarantee that an individual with mental and behavioral health issues may not eventually interact with the civil and/or criminal justice system, collaborators should recognize that early intervention is ideal. Therefore, as part of this Guide, we include Public Health to illustrate the appropriate responses in the context of a public health problem.

Figure 5. Building Blocks for Public Health



Public Health intercept addresses the importance of laying a groundwork that sets up individuals, families, and public outreach systems for appropriate identification and responses to mental and behavioral health issues before *any* justice-related system comes into play. Options for leveraging legal powers include powers of attorney (POA), advance directives (PAD),

“springing” powers of attorneys,²⁹ and appointment of guardianship for determinations of incapacity.

Mental health awareness should be heightened through public outreach to individuals, family, and support systems. Awareness is intentionally broad and refers to awareness of resources. All protocol building blocks introduced in this intercept are relevant throughout the SIM. Figure 5 displays the relevant protocol building blocks organized in a pyramid style. Although all protocol building blocks should be considered, each of the layers of blocks build upon the foundation set by the bottom row.

Individual Awareness: Identifying mental illness is the first step to effective responses. Individuals can seek medical assistance and treatment if they are able to assess and recognize that it is necessary to seek help and comply with prescribed medications and/or treatment. Comprehensive treatment plans that are proactive and focus on developing protective factors against mental illness provide long-term effects.³⁰

Family Support: Often family or friends are the first to respond to a crisis for a loved one. Organizations like National Alliance on Mental Health (NAMI), and the Treatment Advocacy Center (TAC) provide guidelines for how to respond to a mental health crisis, including how to navigate the Health Insurance Portability and Accountability Act (HIPAA), knowing how to find available resources within the community, and how to navigate the justice system (both civil and criminal).

Public Outreach: Public outreach and campaigns to enhance mental health awareness enable citizens, loved ones, and professionals to identify and correctly respond to the need for mental health interventions before a crisis occurs. Health fairs and mobile health units are examples.

Advanced Directives: Advanced directives enable an appointment of an agent to give consent or make decisions on an individual’s behalf concerning medical, mental health, and financial issues. Options for leveraging legal powers include powers of attorney (POA), advance directives (PAD), “springing” powers of attorneys, and appointment of guardianship for incapacity determinations.

Civil Interventions: Civil interventions include initiation of civil commitment orders and court-ordered treatment, including assisted outpatient treatment (AOT). Judges should consider hybrid solutions for civil commitment and/or competency restoration orders. Inpatient and outpatient

²⁹ Beginning in 2010, Oregon law specifically allows powers of attorney that do not take effect at the time they are signed. The person who creates the power can give a specific date when it will go into effect, or list a particular event that would cause the power to be effective, or describe a situation when the power could be used. This type of power of attorney, called a “springing” power, springs to life only if the event the power mentions comes to pass. A person might prefer to give an agent power in the future at the time the person becomes unable to handle his or her affairs, but not before. In such a case, the person can say who will determine if the person has lost that ability. Retrieved from Oregon State Bar - Powers of Attorney and Other Decision-Making Tools: https://www.osbar.org/public/legalinfo/1122_PowerofAttorney.htm

³⁰ For example, researchers are exploring the potential for integrating resilience concepts in therapeutic interventions as a way to bolster preventative psychiatric responses to mental health issues. See Amresh Shrivastava & Avinash Desousa, Resilience: A psychobiological construct for psychiatric disorders, 50 Indian J. of Psych 38-43 (2016).

can be delivered sequentially, or alternatively, beginning with outpatient options and utilizing inpatient settings as needed.

ASSESSMENT QUESTIONS

- What public outreach on mental health currently exists (e.g., awareness campaigns, hotlines, health fairs)?
- What mental health awareness information is provided during routine medical visits?
- What resources are available on advanced directives, power of attorney, and other prospective legal planning? Where is this information provided? Is legal aid assistance available?
- What public benefit assistance is available? What are the processes to obtain and maintain financial assistance?

RESOURCES

Other State and National Resources

Department of Health and Human Services: When can I obtain treatment information about my loved one? [Decision Tree](#).

Treatment Advocacy Center, [Grading the States: An Analysis of Involuntary Psychiatric Treatment Laws](#) (2018).

[California SB 1045 \(Chapter 845\) \(2018\)](#) expands conservatorship to individuals with serious mental illness and substance use disorders.

The Stepping Up Initiative

[County Elected Officials' Guide to Talking to the Media and the Public About People with Mental Illnesses in their Jail](#) (2018).

National Alliance on Mental Health (NAMI), [NAVIGATING A MENTAL HEALTH CRISIS: A NAMI RESOURCE GUIDE FOR THOSE EXPERIENCING A MENTAL HEALTH EMERGENCY](#) (2018) (Mental illness overview- includes self- perspective. There is also a section on mental health treatment expectations and crisis responses. The latter is more geared to family and friends.)

Treatment Advocacy Center

[Family and Loved Ones](#) (General information on crisis response, state laws, emergency preparedness, criminal justice involvement, guardianship, HIPAA, and various mental illnesses). See, Arizona-specific [section](#).

Resilience Interventions

Resilience meta-analysis found indicators of well-being were enhanced with social and emotional learning interventions: <https://www.npr.org/sections/health-shots/2018/05/23/613465023/for-troubled-kids-some-schools-take-time-out-for-group-therapy>

See also story on National Public Radio: <https://www.npr.org/sections/health-shots/2018/05/23/613465023/for-troubled-kids-some-schools-take-time-out-for-group-therapy>

Arizona-Specific Resources

Arizona Health Choice Integrated Handbook, <http://www.healthchoiceintegratedcare.com/>

A.R.S. Title 36, Chapter 32, Arizona statutes set forth the requirements of a living will, a healthcare power of attorney, and a mental healthcare power of attorney. A mental healthcare power of attorney allows a person (principal) to authorize another (agent) to make mental healthcare decisions in accordance with the wishes as expressed in the directive when the principal is found to be incapable.³¹ “Incapable” is statutorily defined (A.R.S. §36-3281(D)). An agent may admit the principal to an inpatient psychiatric facility only if that power of attorney authorizes the agent to make that decision (A.R.S. §36-3284). A sample mental health care power of attorney document is provided in statute and is also available on the Arizona Secretary of State and the Arizona Attorney General websites.³² Both officials market these documents as life care planning resources for senior citizens. Persons who are seeking information on advance directives for those who are not senior citizens may not realize this information may be pertinent to their inquiry.

The Arizona Secretary of State maintains an optional Advance Directive Registry.³³ This is a free registry to electronically store and access one’s medical directives. It also allows the person to authorize a health care provider to access the document. Failure to file an advance directive with the Registry does not affect the validity of a health care directive (ARS §36-3293).



INTERCEPT 0: COMMUNITY SUPPORTS AND SERVICES

Beyond awareness and general proactive measures, community supports and services provide avenues for mental and behavioral health needs identification, supports, and coordination. This intercept accommodates and contemplates the escalation of mental health and behavioral needs that does not yet involve law enforcement.

Community supports and services can help ensure appropriate and holistic interventions to protect against escalation and justice system involvement as mental health needs progress. Community services and resources can be leveraged to serve as a support and an opportunity for identification of needs. For example, linkage to the medical or social services system can provide an entry point to identify support needs. Likewise, mental health issues do not happen in a

³¹ A Healthcare Power of Attorney may also contain instructions regarding mental healthcare. A person does not need to execute two separate documents.

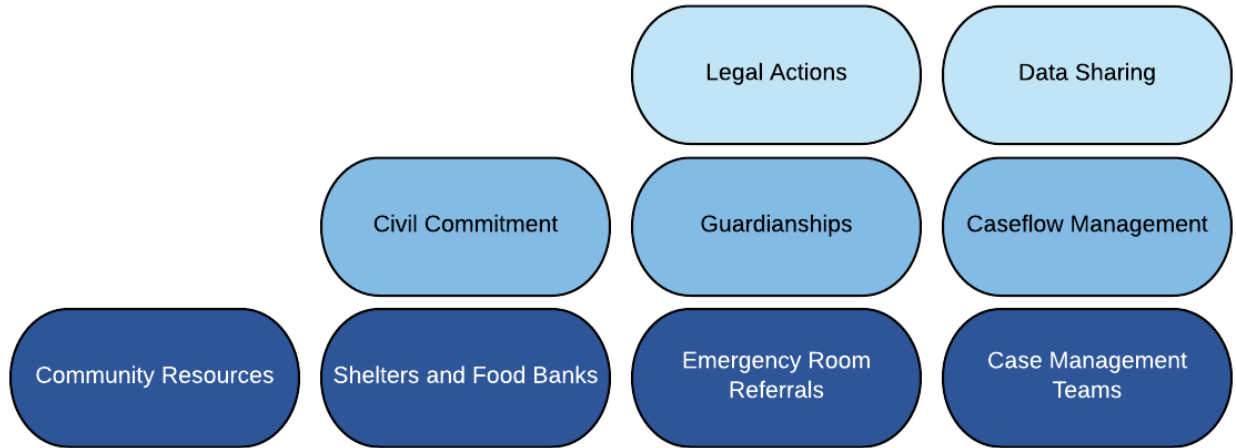
³² <https://www.azag.gov/seniors/life-care-planning>

³³ <http://azsos.gov/services/advance-directives>

vacuum and the most effective responses incorporate resources across a spectrum of mental-health related and other wellness needs. This increased involvement makes coordination and data sharing critical to effectively address mental health issues.

This intercept also incorporates the existence of mental health crises that do not involve law enforcement. In these situations, plans around guardianship and civil commitment are key.

Figure 6. Building Blocks for Community Supports and Services



Community Resources: Robust community resources can provide a lifeline to mental-health involved individuals. Strong human and social services agencies often provide meaningful internal programs, coordinate with other service providers, and provide referrals to other external resources for individual supports. Religious, service-based, and other philanthropic organizations also provide valuable outreach and resources. They also might serve as a “first stop” if individuals do not meet qualifying requirements for other resource agencies.

Shelters and Food Banks: Homelessness and hunger are significant barriers to being able to lead a healthy and productive life, regardless of mental health status. The very high prevalence of homelessness for those with mental illness shows their interconnected nature. As such, shelters and food banks can serve as excellent resources both to combat factors that are often intertwined with mental illness and identify mental health needs in the first instance.

Emergency Room Referrals: Emergency room visits provide an excellent opportunity to identify and refer individuals to mental health treatment and services. Screeners and targeted questioning can help identify underlying mental and behavioral health needs even if they are not the presenting reason for the emergency room visit. Training medical professionals and hospital staff is key at this intercept.

Civil Commitment: Civil commitment can be an option to address mental and behavioral health needs that are more intensive and require on-site treatment. While commitment can be voluntary, there are times when it may not be the case. In this situation, a commitment process can be initiated by various agents to ensure the individual gets the treatment they need. Civil commitment processes and assisted outpatient treatment (AOT) do not require involvement of the criminal justice system.

Guardianships: Guardianships are another mechanism for enabling appropriate responses to mental and behavioral health needs. Either general or limited, guardianships give approved individuals responsibility over a range of personal care decisions. Guardianships facilitate treatment and can mitigate ancillary consequences that can result from untreated mental illness. Guardianships require annual reporting and are subject to court oversight.

Caseflow Management: Following caseflow management best practices keeps cases from languishing in the justice system. Strong continuance policies and meaningful hearing/trial dates help maintain case momentum. Courts can also leverage case management reports to monitor case progress. This is particularly important in cases with mental health-involved individuals, which might require additional hearings or filings around competency, rehabilitation, and treatment. In the criminal context, case management should also factor in important concerns like speedy trial and consider principles of differentiated case management.

Case Management Teams: Case management teams with local agencies help provide a more holistic response to mental and behavioral health needs. Specialized staff can ensure services across domains (housing, employment, life skills, etc.) that consider and respond to the full spectrum of an individual's needs. Team members also ensure that traditional information silos are broken down to best serve their client and position them for success.

Legal Actions: Mental and behavioral health disorders impact individual's behavior in several ways. Today, research tells us that these disorders are the underlying driver of anti-social or threatening behaviors. Considering this dynamic, the importance of addressing the core drivers behind negative behaviors, community responses should carefully make decisions regarding prematurely escalating charges or initiating legal actions that will impact housing availability, treatment options, and overall stability in lieu of more appropriate interventions.

Data Sharing: Data sharing is critical at every SIM intercept. In the community services and support context, it is necessary for effectively coordinating services and treatment across resources. Data-driven indicators measure the effectiveness of operational practices for support and service providers (i.e., sharing referral information to assess referral practices). All data sharing protocols should be put in writing and be in compliance with relevant state and federal laws.

ASSESSMENT QUESTIONS

- What resources are available in the community to provide mental and behavioral services?
- Are in-custody or inpatient beds available if required? What are the discharge practices? Who is notified, when, what resources are in place upon discharge (e.g., plans for medication continuity, housing, transportation, clothing)?
- What are the potential referral sources for mental and behavioral health treatment and services?

- What options exist for establishing advanced directives (e.g., guardianships) for individuals at risk for mental and behavioral crises?
- What processes are in place to initiate a civil commitment? Are family members and the public made aware of these processes and accompanying services?
- What efforts are in place to increase public and referral source awareness of treatment and service options?
- What practices are in place to identify individuals with mental and behavioral health needs?
- Are service providers trained in de-escalation techniques and tactics? Are community resources aware of and trained on appropriate practices for responding to individuals with mental or behavioral health needs?
- Are relevant providers aware of and trained on data-sharing best practices, including applicable federal and state laws on privacy?
- What data sharing practices currently exist? What are additional data sharing priorities?

RESOURCES

Other State and National Resources

SAMSHA's [Gains Center for Behavioral Health and Justice Transformation](#)

[HIPAA Privacy Rule and Sharing Information Related to Mental Health](#)

Screening and Referral

SAMSHA, [Screening and Referral in Integrated Health Systems](#)

Civil Commitment

Improving Civil Commitment in King County, Washington Vols. [I](#) & [II](#) (NCSC 2012).

Treatment Advocacy Center, [Mental Health Commitment Laws: A Survey of the States](#) (2014).

Treatment Advocacy Center supporter, D.J. Jaffe, published [Insane Consequences](#), a policy manual of sorts that outlines the ways that the mental health industry fails people with serious mental illness.

New York and Virginia state laws to include [mental health education in public schools](#).

Arizona-Specific Resources

Community and Regional Resources

Arizona Regional Behavioral Health Authorities (RHBAs) manage mental and behavioral health services to Seriously Mentally Ill (SMI) individuals. RHBAs also manage for physical and mental health care services for persons who meet the Arizona Health Care Cost Containment System (AHCCCS) eligibility requirements. The following map shows RHBA regions across Arizona:

Civil Commitment

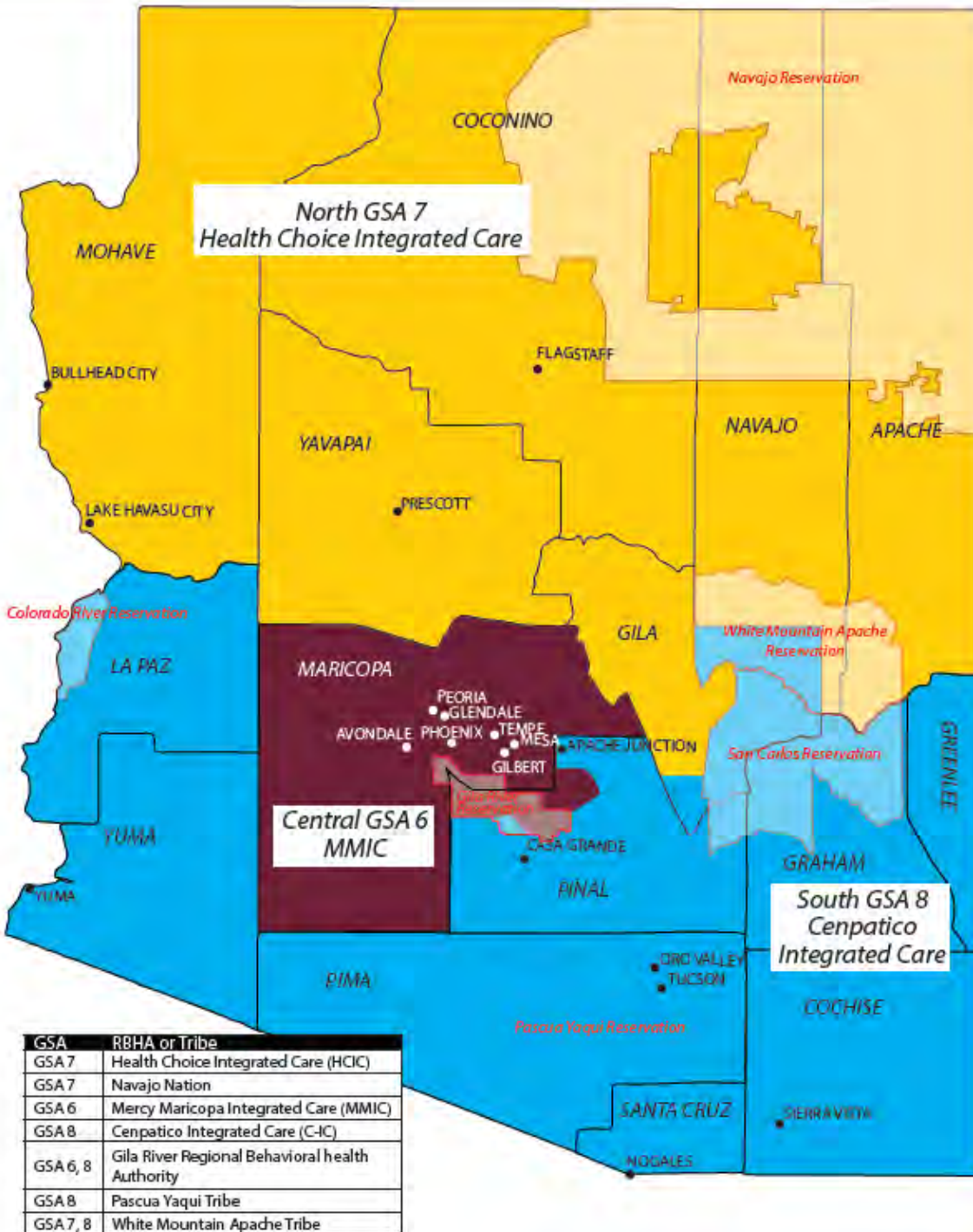
AHCCCS, [Tribal Court Procedures for Involuntary Commitment](#)

Guardianship

Maricopa County, [Guardianship Process Map](#)

[A.R.S. Title 14, Chapter 5, Article 3: Guardians of Incapacitated Persons](#)

Figure 7: RHBA Service Locator Map

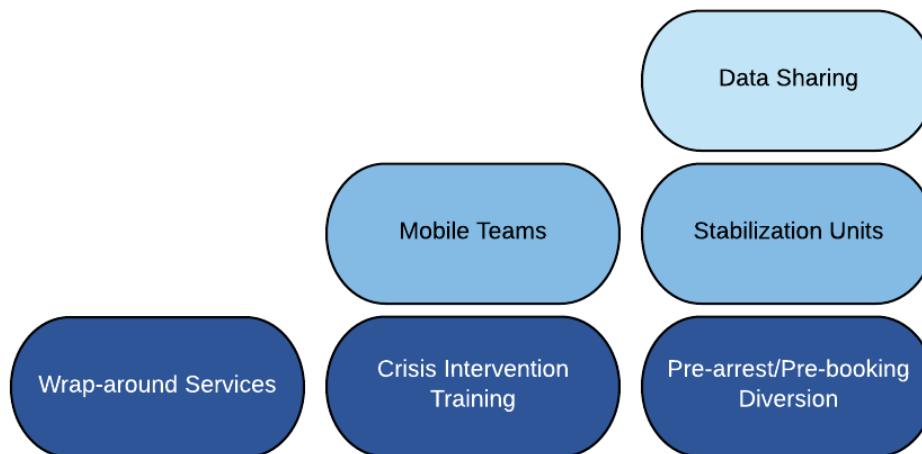




INTERCEPT 1: CONTACT WITH LAW ENFORCEMENT

Today law enforcement is on the front lines of mental health responses, with more than roughly 1 in 10 calls to law enforcement involving mental health situations.³⁴ These situations provide opportunities for diversion to a response that more effectively addresses the behavior that prompted law enforcement involvement.

Figure 8. Building Blocks for Contact with Law Enforcement



Contact with Law Enforcement is the gateway to the criminal justice system. New practices and programs across the country recognize the gatekeeper role law enforcement plays. From the initial crisis response to serving as an important element of wrap-around services, this intercept leverages law enforcement as an active partner in effective community-based mental and behavioral health responses.

Wrap-Around Services: Wrap-around services embrace cross-sector engagement for the benefit of an individual. Law enforcement knowledge and referral to community resources and service providers is key to ensuring a true wrap-around response for individuals with mental and behavioral health needs.³⁵ Special law enforcement units and community outreach efforts enable better relationships and a stronger knowledge base. Case management teams should be utilized as a resource across the early intercepts.

Crisis Intervention Training (CIT): Crisis intervention training focuses on identifying signs of mental illness, de-escalating a situation that involves those signs, and connecting a person to treatment. The importance of crisis intervention training has increased in recent years to avoid

³⁴ Decriminalization of Mental Illness: Fixing a Broken System. Conference of State Court Administrators: 2016-2017 Policy Paper at 14. <https://cosca.ncsc.org/~media/Microsites/Files/COSCA/Policy%20Papers/2016-2017-Decriminalization-of-Mental-Illness-Fixing-a-Broken-System.ashx>

³⁵ While this Guide focuses on individuals with mental illness as defendants, effective mental health responses are also important for victims of crime. Police partnerships with community and service providers facilitates full wrap-around services for victims.

escalation into the use of force. All law enforcement officers should receive crisis intervention training and regular updates on related best practices.

Pre-Arrest/Pre-booking Diversion: Pre-arrest/pre-booking diversion or redirection embraces the concept that mental health responses are most appropriate beyond the judicial system. Charging decisions that implicitly consider leveraging effective mental health response may result in diversion or redirection before arrest or booking. This is especially the case when dealing with low-level crimes and individuals with little to no criminal history or low risk of reoffending.

Mobile Teams: Mobile crisis teams are a law enforcement and mental health co-response to crisis situations in the community. Mobile teams may be housed within law enforcement or include team members from law enforcement and other mental health agencies. Mobile teams have been found to reduce incidents of arrest and psychiatric hospitalization.³⁶

Stabilization Units: Crisis stabilization units are facilities that seek to stabilize a person and enable community reintegration while offering supportive outpatient services. Stabilization units are less restrictive than a hospital and can serve as great resource for law enforcement to divert non-violent individuals.

Data Sharing: Data sharing at this intercept focuses on tracking individual progress or needs, and responses to those needs as well as assessing operations and efforts to improve mental health responses. Data sharing offers an opportunity to identify high cross-system utilizers at this intercept. For example, Maricopa Consolidated Mental Health Court offers a benefit in that the dockets operating within this court are interrelated, covering a range of mental health issues (e.g., guardianship, competency). The mental health court operates a docket to provide judicial support and oversight for probationers on specialized caseloads who have serious mental illnesses that is part of the consolidated docket to improve consolidation and collaboration.

ASSESSMENT QUESTIONS

- What pre-arrest diversion or redirection options are available in the community?
- What law enforcement and first responder training is available and offered to share effective responses to crisis intervention (e.g., CIT, mental health first aid)?
- What, if any, data are collected on mental illness during law enforcement responses? How are such data shared across agencies?

³⁶ Roger Scott, Evaluation of a Mobile Crisis Program: Effectiveness, Efficiency, and Consumer Satisfaction, 9 *Psychiatric Services* 1153-6 (2000); Amy C. Watson & Anjali J. Fulambarker. (2012). The Crisis Intervention Team Model of Police Response to Mental Health Crises: A Primer for Mental Health Practitioners. *Best Pract Men Health*; 8(2): 71. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3769782/>

- Are dedicated stabilization units established in the community to handle mental and behavioral crises? Are stabilization units dedicated to co-occurring substance abuse/mental health crises available?
- What information sharing protocols and agreements are established to access mental health information (e.g., past evaluations) across agencies?

RESOURCES

Other State and National Resources

[Fair and Just Prosecution, Highlight](#). Key principles for improving law enforcement approaches to mental health crisis, including diversion and reentry initiatives.

Council of State Governments Justice Center, [Statewide Law Enforcement/Mental Health Efforts: Strategies to Support and Sustain Local Initiatives](#) (2012).

Bureau of Justice Assistance, [Police-Mental Health Collaboration Toolkit](#): Law enforcement and mental health collaboration toolkit includes resources for dealing with assaults of law enforcement agents, health care providers, and care givers.

Vancouver, Canada Police Department: [Mental Health Units and Pathway to Wellness](#).

[Mental Health First Aid](#) training.

[Miami-Dade County Diversion Programs](#), including both pre-booking diversion and post-booking diversion as well as resources for crisis intervention team training.

Police, Treatment, and Community (PTACC) [Collaborative Recommended Core Measures for Pre-arrest Diversion](#).

Arizona-Specific Resources

Crisis Intervention Teams & Training

Maricopa and Yavapai have created mobile crisis intervention teams.

- Maricopa – in 2017 diverted approximately 23,000 people who were identified as having a mental illness from jail and were sent to a sub-acute facility or a detox center.
- Yavapai – in 2015 responded to 560 calls and only 7 people were taken to jail.

Tucson also has increased training in crisis intervention and mental health first aid. *See* Pricilla Casper, [Tucson Police Department Becomes National Leader in Mental Health Crisis Training](#) (2018).

[Tucson Police Department](#), U.S. DOJ/BJA and Council of State Governments Law Enforcement-Mental Health Learning Site.

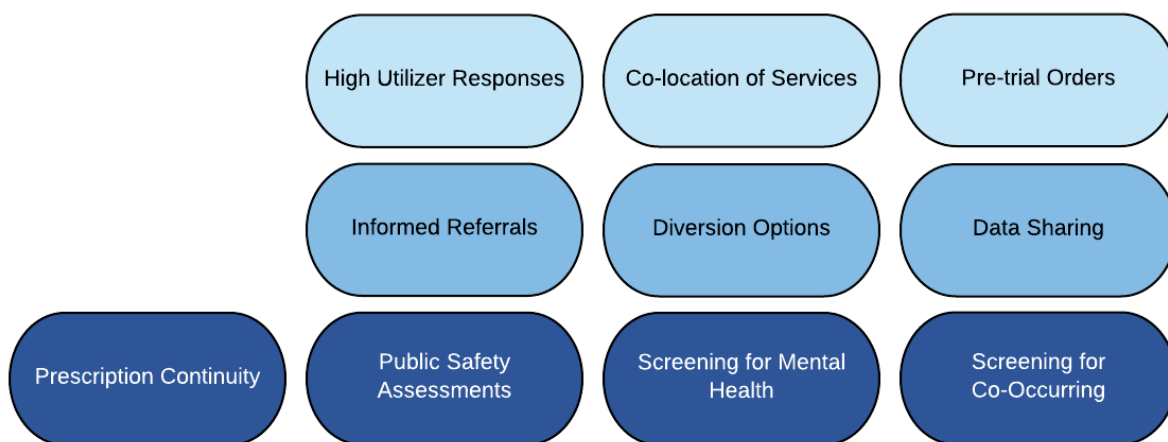
Pima County has a co-located crisis response and center before booking. *See* National Association of Counties, [Mental Health and Criminal Justice Case Study: Pima County](#).



INTERCEPT 2: INITIAL DETENTION AND COURT HEARINGS

Effective community-based responses to mental and behavioral issues should not end when individuals enter the justice system.

Figure 9. Building Blocks for Initial Detention and Court Hearings



Initial Detention and Court Hearings provide the first opportunity for broader criminal justice system partners to be involved in mental and behavioral health responses. Maintaining treatment and medication during detention can prevent decompensation and relapses. Screening, assessment, and referrals at intake support informed decision-making around an individual's care, treatment continuation, and pre-trial orders. Strategically located services can leverage scarce resources and responses tailored for individuals with difficulty navigating transportation options and at risk of missing hearings or appointments. Diversion and data sharing continue to be a focus in this intercept.

Prescription Continuity: Prescription continuity is critical to keeping individual's mental and behavioral health from deteriorating. Intake officials should screen individuals and coordinate with the RHBA to identify and coordinate existing prescriptions upon entry into detention. Medication continuity should be a priority along with suspended rather than discontinued enrollment in AHCCCS.

Public Safety Assessments: Public safety assessment is a tool that can inform pre-trial release decisions. Numerous assessment tools exist. In 2017 the Laura and John Arnold Foundation released their Public Safety Assessment (PSA) tool, which uses nine factors to assess the risk of defendant flight or recidivism pending trial.

Screening for Mental Health: Using mental health screeners at intake can identify new treatment needs (or even initial treatment needs) pending release on trial. Screening information can also be provided directly to the court to facilitate more appropriate and tailored pre-trial orders and in-court responses to individuals. There are numerous mental health screeners available for use, such as the Reach Out Initiative Screening Form.

Screening for Co-occurring: Co-occurring mental and behavioral disorders are associated with worse outcomes and therefore require special and dynamic treatment strategies. Screening tools should be used to identify co-occurring disorders to provide detention stakeholders with an informed picture of treatment and custody needs.

Informed Referrals: Informed referrals require coordinated efforts across system agencies. Coordinated and informed referrals avoid duplicate and redundant efforts to creating an accurate treatment profile. Informed referrals should also identify trauma and culture needs so as to ensure culturally competent and trauma-informed responses.

Diversion Options: Stakeholders should consider diversion options throughout the criminal justice system process from initial intake to the initial court hearing. At this intercept diversion options might vary from jail-based (i.e., pre-trial supervision and treatment outside of jail) to court-based (i.e., establish outpatient treatment plan and enter deferred adjudication).

Data Sharing: Data sharing becomes perhaps more critical at this stage as previous non-justice system interventions have likely failed an individual. Sharing data facilitates more effective individual treatment responses and can help leverage scarce resources, particularly for high system utilizers. Sharing data at this intercept is also pertinent beyond the interest of the individual, as public health and safety can be implicated. Also consider HIPAA Rules related to sharing mental and behavioral health information.

High-Utilizer Responses: High system utilizers place an out-sized strain on system resources. Therefore, specifying criteria to identify high system utilizers as well as targeting and developing responses tailored for these high-system users can not only stop a vicious cycle for individuals and affected families, but it can lead to significant resource savings across systems.

Service Co-Location: Service co-location eases the burden of seeking and providing mental health treatment for detained individuals. Even for individuals out on their own recognizance, service co-location provides an answer to transportation and resource barriers that mental health-involved individuals often experience. Co-locating services also increases the likelihood of participation and service retention rates, while reducing rates of failure to appear.

Pre-Trial Orders: Pre-trial orders provide the basis for establishing a court-ordered treatment plan and the court should individualize the order. While pre-trial orders should incorporate victim and public safety considerations, they also provide an opportunity to further tailor community-based mental health responses to an individual's mental health and criminogenic needs.

ASSESSMENT QUESTIONS

- What protocols are in place to identify mental and behavioral health needs upon intake to detention?
- What screening or assessment tools are used to identify mental or behavioral health needs? Are these tools validated for this population?
- How do courts identify individuals with mental or behavioral health needs?
- What protocols are established to reduce redundancy in conducting and maintaining assessment and evaluation results?
- How are mental and behavioral health needs communicated to providers? How are individuals connected to providers?
- Has your community planned and established co-located services? What (additional) opportunities exist for co-locating services?
- How can justice stakeholders identify high system utilizers? What criteria should be applied to identify high utilizers?
- How are justice system stakeholders and individuals informed of diversion options?
- What are existing data sharing practices and opportunities?

RESOURCES

Other State and National Resources

[Brief Jail Mental Health Screen](#)

[Texas Judicial Branch training materials on mental health](#) through SB 1326 (2017) including jail screening, competency restoration flowchart, and assessment forms.

Stepping Up Initiative, [Implementing Mental Health Screening and Assessment](#) (2018).

Judges' Criminal Justice/Mental Health Leadership Initiative, [Judges' Guide to Mental Illness in the Courtroom: Observations that Indicate a Defendant May Have a Mental Illness](#).

Laura and John Arnold Foundation, [Public Safety Assessment Tool Risk Factors and Formula](#).

Laura and John Arnold Foundation, [Modern Justice: Using Data to Reinvent America's Crisis Response Systems](#). Examines how police officers, emergency workers, housing officials, judges, case workers, doctors, and nurses can contribute to solving the problem of "frequent utilizers"—those who cycle in and out of jails, hospitals, shelters, and other social service programs at a high rate.

University of Chicago Center for Data Science and Public Policy, Data-Driven Justice, [Identifying Frequent Users of Multiple Public Systems for More Effective Assistance](#).

Washington, D.C. Criminal Justice Coordinating Council Research Report: [Mental Health Information Sharing in the District of Columbia Criminal Justice System, An Identification of Information Sharing Opportunities for Member Agencies](#) (2015).

Yakima County, Washington, innovative pretrial release program, Smart Pretrial Initiative and development of county collaborative diversion policy team as a [Safety and Justice Challenge site](#).

Arizona-Specific Resources

[Safety and Justice Challenge Strategies – Pima County](#)

Data Sharing

Maricopa County: County Corrections and Mercy Maricopa have established a bi-directional datalink that allows the jails to know at the time of booking whether that person has been serviced by the RHBA. Then, the jails can identify a treatment plan for that person.

Co-Location of Services

Yavapai County: The Yavapai County Sheriff established a Behavioral Health Unit in the jail in 2015 to provide treatment to persons identified as having mental health needs at time of booking. Approximately 52% of the jail population were prescribed psychotropic medications.

Screening & Assessment

Arizona's Fair Justice Task Force (FJTF) recently recommended Arizona eliminate the concept of money for freedom and shift to a risk-based system to determine whether a person should be incarcerated pending trial. General jurisdiction courts have substituted the Public Safety Assessment (PSA) in place of bond schedules, allowing individuals determined to be at low risk and identified mental health needs to remain free to seek or continue mental health treatment.

Yavapai County: The sheriff's office uses the Reach Out Initiative Screening Form. Screening information is not shared with prosecution and is sent directly to the court. The form contains information on whether defendant meets the criteria to receive services and includes service recommendations. Yavapai County Sheriff's Office (YCSO) is utilizing the Screening & Assessments for development of a single effective and efficient tool for the Reach Out Initiative.

The YCSO comprehensive screening tool is comprised of modified versions of the Mental Health Screening Form III (MHSF-III), Adverse Childhood Experience (ACE), and the Simple Screening Instrument (SSI AOD). It was determined by the administration that these three evidence-based screening tools were the best practices to accomplish the goals of The Reach Out Initiative. The goal is to identify risk factors in the areas of mental health, substance abuse, and co-occurring disorder reflecting the need for treatment.

Pima County employs a behavioral health assessment along with the PSA. See [Pima County Safety & Challenge summary](#).

Court Ordered Treatment

Maricopa County Public Advocate: Mental Health Division, [Your Rights in Court Ordered Evaluation & Treatment](#).

Diversion Options

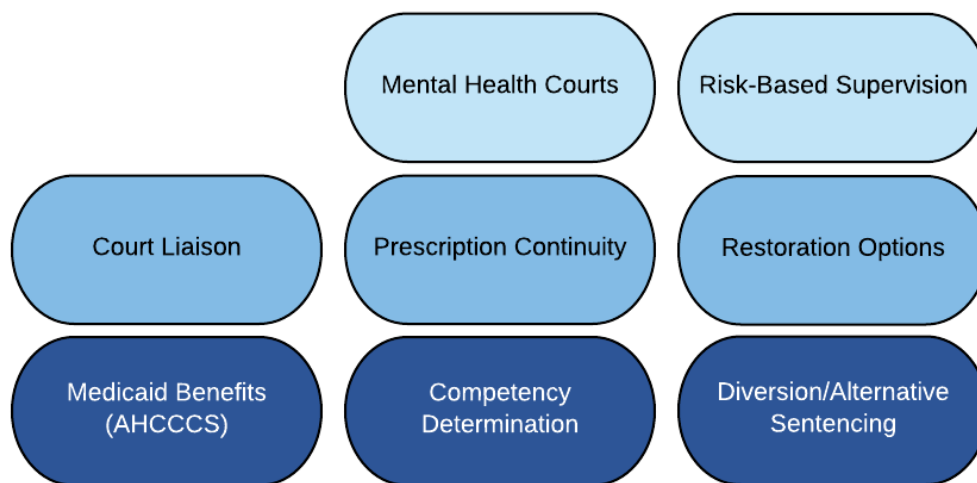
The Arizona legislature recently passed [S.B. 1476](#) which amends A.R.S. §13-1805 to allow for pre-arrest diversion when shoplifting occurs. Diversion is at the discretion of the merchant.



INTERCEPT 3: AFTER INCARCERATION

Traditionally, the bulk of criminal justice responses have been positioned post-incarceration. It is at this intercept where the judicial supports of community-based mental health responses are most strongly needed as a result of previously failed interventions, and the life consequences of a failed response are most keenly felt by individuals.

Figure 10. Building Blocks for After Incarceration



After Incarceration intercept addresses the importance of continued and concerted mental health responses in the criminal justice system. Once individuals advance beyond initial detention they enter a system that is punitive rather than new models that embrace rehabilitative goals. This intercept puts rehabilitation into action while also balancing the needs of justice and constitutional protections. Specialized dockets like mental health courts highlight this approach.

Medicaid Benefits: Medicaid benefits cover a large number of individual's mental health treatment and medication. Arizona's Medicaid Agency, AHCCCS (Arizona Health Care Cost Containment System), can suspend benefits during incarceration in lieu of cancellation. Continuity of benefits is critical for this population who is vulnerable to instability.

Competency Determination: Competency determinations in Arizona are governed by Rule 11 and ensures an individual is fit to stand trial. Competency determinations include psychiatric evaluations followed by an in-court hearing. If an individual is found competent the case will proceed to determine adjudication. If found incompetent, judges can order a variety actions. Competency determinations can significantly impact case timelines, which is especially important if an individual is incarcerated. Every effort should be made to streamline determinations and related proceedings. Pilot efforts in Arizona have shortened competency determination timelines by allowing limited jurisdiction courts to hold hearings.

Diversion/Alternative Sentencing: Post-trial diversion and alternative sentencing options provide opportunities to direct individuals to rehabilitation-focused punishments that balance the interests of justice. Most importantly, it avoids incarceration when an individual meets certain sentencing conditions. Often involving suspended sentences and/or probation, alternative sentencing can be as creative and flexible as a judge and community resources will allow. Examples of alternative sentencing include community service, assisted outpatient treatment, and required participation in issue-specific classes (e.g., anger management or life skills).

Court Liaison: Court liaisons provide a vital link to mental and behavioral health service providers during the life of criminal cases. Liaisons are typically clinically-trained and connected with a provider or agency. They are trained to conduct assessments and adept at providing program and treatment recommendations.

Prescription Continuity: Prescription continuity ensures an individual can continue their medication and avoid adverse patient outcomes. Continuity is also important as medications are necessary to maintain stability and/or competency and limit side effects or interruptions in dosages. Prescription continuity also eases re-entry hurdles and disruption.

Restoration Options: If the court finds an individual incompetent, a judge will typically order restoration services. Generally, a Superior Court judge must order treatment or education programming in an effort to restore competency.³⁷ Treatment orders must follow Arizona Revised Statutes. An individual is classified as incompetent and not restorable if a judge rules “there is no substantial probability that the defendant will become competent within 21 months.”³⁸

Mental Health Courts: Mental health courts are specialized dockets for individuals with mental illness. These dockets embrace a non-adversarial, problem-solving approach to qualifying cases. Mental health courts provide a greater focus on treatment and individualized case plans than traditional criminal dockets. Mental health court models vary across the state (most around timing of participant entry). Strong coordination and judicial leadership influence the success of mental health courts, which led to Arizona’s adoption of mental health court standards. While mental health courts are seemingly the most appropriate fit for individuals with mental illness, other specialized dockets such as Veterans court or co-occurring treatment courts (integrating substance use disorder and mental health treatment) should also be considered. While probation-based, or post-adjudication, specialty courts are excellent interventions in later intercepts, it is a

³⁷ Some jurisdictions allow limited jurisdiction judges to generate these orders as part of a pilot project to expedite competency determinations.

³⁸ 16 A.R.S 11.5(b)(3).

best practice that the county also have programs in place that encourage action at earlier intercepts (e.g., diversion programs).

Risk-Based Supervision: Pre-trial supervision is increasingly driven by various individual risk factors. Widely accepted as a best practice, risk-based supervision should be used for individuals with mental illness. Professional administration of a validated risk assessment tool should determine individual criminogenic risk (or risk of reoffending).

ASSESSMENT QUESTIONS

- Is there a mental health liaison position in the courts to connect with detention facilities and/or conduct certain evaluations?
- Who are the referral sources (e.g., prosecutors, defense attorneys, judges)? Are they familiar with identification of individuals with mental illnesses and understand potential judicial responses?
- Does a mental health court operate in your community? Are referral sources educated about eligibility criteria?
- Is the referral process to a mental health court in written form and shared with referral sources?
- Are judges aware of alternative sentencing options?
- Does probation offer a specialized caseload or specialized probation officers to be assigned to work with individuals with serious mental illness?
- Are mental health screens presented to the judge as part of the pre-sentence investigations?
- Is prescription continuity offered during incarceration while awaiting disposition?³⁹

RESOURCES

Other State and National Resources

Texas Office of Court Administration, [Guide for Addressing the Needs of Persons with Mental Illness in the Court System](#) (2018) (contains a wide range of justice system resources around recognizing mental illness, screening, and mental health court).

[Colorado SB18-251](#) to establish behavioral health court liaison program.

³⁹ See Arizona Rules of Criminal Procedure Rule 11; A.R.S. 13-4503.

[Multnomah County, Oregon Case Study](#) (2018), Using a Centralized Docket and Rapid Evaluation Process to Reduce Jail Time for Criminal Defendants Who are Deemed Incompetent to Aid and Assist in Their Defense.

The National Judicial College, [MENTAL COMPETENCY BEST PRACTICES MODEL](#), 2011-12.

Council of State Governments, [Judges and Psychiatrists Leadership Initiative](#)

SAMSHA GAIN's Center, [A Checklist for Implementing Evidence-Based Practices and Programs for Justice-Involved Adults with Behavioral Health Disorders](#) (2012).

Mental Health Courts

National Center for State Courts, [Mental Health Court Resource Guide](#)

Nicole L. Waters & Sarah Wurzberg, [State Standards: Building Better Mental Health Courts](#) (2016).

Nicole L. Waters, [Responding to the Need for Accountability in Mental Health Courts](#) (2011). Future Trends in State Courts; National Center for State Courts, Williamsburg, Va.

Council of State Governments Justice Center, [Developing a Mental Health Court: An Interdisciplinary Curriculum](#).

Council of State Governments, [A Guide to Mental Health Court Design and Implementation](#) (2005).

Sentencing

Council of State Governments, [Practical Considerations Related to Release and Sentencing for Defendants who have Behavioral Health Needs](#).

“Seven Habits of Highly Effective Assisted Outpatient Treatment (AOT) Judges” SAMMHS’s GAINS Center for Behavioral Health and Justice Transformation. Presented on April 30, 2018.

Court Liaison

Colorado SB18-251, <https://leg.colorado.gov/bills/sb18-251>, (creates a statewide behavioral health court liaison program).

Arizona-Specific Resources

Competency Determination/Proceedings (Rule 11)⁴⁰

A person is incompetent to stand trial if the person, as a result of a mental illness, defect or disability, is unable to understand the nature of the proceedings and assist in the defense. A

⁴⁰ A.R.S. §§ 13-4501 et seq. governs Rule 11 competency hearings.

person shall not be tried, convicted or sentenced if a court finds the person is incompetent. Rule 11 proceedings only apply for criminal cases.

Upon motion, a party can request the defendant be examined to determine competence. If found to be competent, the case proceeds. If found incompetent, and there is no substantial probability the defendant will regain competency, the court may:

- 1) Remand the defendant for civil commitment proceedings.
- 2) Appoint a guardian.
- 3) Release the defendant and dismiss the charges.

Recent changes to state law and court rule, limited jurisdiction courts may conduct Rule 11 hearings for misdemeanor cases arising out of their jurisdiction if given authority to do so by the presiding judge of the superior court in that county. Currently, only two municipal courts: Glendale City Court and Mesa Municipal Court, are authorized to hear Rule 11 proceedings.

Data provided by Glendale and Mesa have shown that conducting Rule 11 hearings at the local level has significantly decreased the amount of time to disposition. In addition, these courts have set aside facilities in the courthouse where a doctor can examine a defendant. This has sped up the process and reduced the failure to appear rate.

The Fair Justice Task Force's Subcommittee on Mental Health and the Criminal Justice System released a draft Administrative Order to authorize limited jurisdiction courts to conduct competency proceedings. The draft order can be found in Appendix A of their [final report](#).

Medicaid Benefits

AHCCCS Medicaid benefit suspension agreement with County: [sample](#).

Mental Health Courts

The AOC's Mental Health Court Advisory Committee, in collaboration with the National Center for State Courts, established the [Arizona Mental Health Standards](#). To date, there are 13 mental health courts in Arizona.⁴¹

Alternative Sentencing

[A.R.S. §§ 13-717](#). Authorized disposition for misdemeanor sentence. (Allows for sentencing to include community restitution, education, or treatment when defendant does not get probation or probations is revoked).

Some jurisdictions allow individuals who do not receive a Serious Mental Illness (SMI) designation from RHBA, but are found to have a General Mental Health (GMH) designation to participate in an alternative track of the mental health court, but without prospect of dismissed charges.

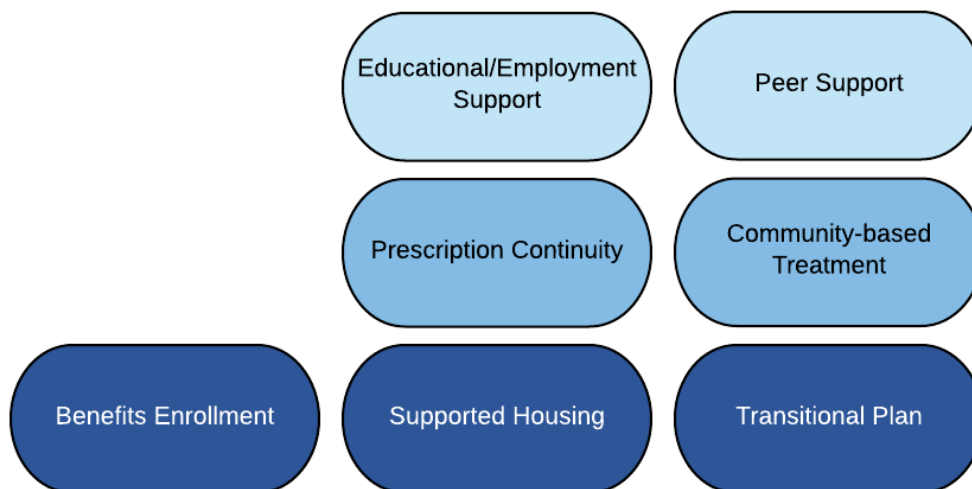
⁴¹See <https://www.azcourts.gov/Portals/74/TFFAIR/Subcommittee/FJ-MHCJ/Resources/List%20of%20Arizona%20Mental%20Health%20Court%20Programs.pdf>



INTERCEPT 4: RE-ENTRY

Supported re-entry establishes strong protective factors for justice-involved individuals with mental illness re-entering a community. Re-entry must be well-planned, resourced, and individual-centric to help set individuals up for success and avoid lapses and recidivism.

Figure 11. Building Blocks for Re-entry



Re-Entry intercept focuses on an individual's post-incarceration life. Transition plans offer an opportunity to establish holistic and multi-pronged approach to mental health wellness and pro-social activities. Coordination of benefits, medication, and treatment are critical to positioning an individual with mental illness for success. Support should also extend beyond traditional treatment and services to include life skills and peer support.

Benefits Enrollment: Benefit enrollment sustains an individual's access to medications and treatment that are critical to successful re-entry in the community. Enrollment can be facilitated by enrollment officers and case managers. AHCCCS works with Arizona's correctional system to enroll Medicaid-eligible persons before they are released from incarceration.

Supported Housing: Supported housing provides a key layer of stability for mental-health involved individuals. Individuals may seek different housing types; from group housing (supervised and unsupervised) to rental housing and home ownership. Supportive housing is a middle ground option that features independent living with the potential for support and intervention as needed.

Transitional Plan: Transitional plans offer guidance for community re-entry. A comprehensive plan identifies expectations, resources, and services to guide individuals towards independence. Individuals should play an active role in creating their transition plan.

Prescription Continuity: Prescription continuity ensures an individual can continue their medication and avoid adverse outcomes during transitional time periods. Continuity is also important as medications are necessary to maintain stability and/or competency and limit side

effects or interruptions in dosages. Prescription continuity also eases re-entry hurdles and disruption.

Community-based Treatment: Community-based treatment involves the broad spectrum of services and treatment an individual with mental and behavioral health needs may access. The goal is to connect individuals with the least restrictive setting in which to receive treatment services. Treatment offerings may vary by providers and co-location can facilitate retention of treatment participation. In areas with few to no treatment providers, remote services and treatment may become an option.

Educational/Employment Support: Educational and employment support further stabilizes individuals as they re-enter communities. Employment support might include resume preparation and interview guidance, coordination of skill classes, or coordinating transportation services to job sites. Educational support can vary greatly, from GED classes to ensuring appropriate accommodations. For this population, stakeholders should consider identification of volunteer opportunities as well as the more traditional employment paths.

Peer Support: Peers provide individualistic support to those re-entering a community. Sharing unique experiences and challenges is helpful in navigating attendant challenges. Moreover, peer support groups provide insight to identify potential triggers and relapses.

ASSESSMENT QUESTIONS

- Are individualized re-entry plans developed that include treatment and social services? Do individuals actively participate in the development of plans?
- What can be done to facilitate benefit enrollment upon re-entry?
- What community-based treatment resources are available to sustain long-term support for individuals with mental illness?
- What are potential remote service opportunities?
- What strategies and supports are available upon reentry to improve long-term outcomes (e.g., employment, education, peer support, or pro-social activities)?

RESOURCES

Other State and National Resources

National Alliance on Mental Illness, [Securing Stable Housing](#).

Mike L. Bridenback, [Study of State Trial Courts Use of Remote Technology](#), (April 2016).

National Association for Presiding Judges and Court Executive Officers (NAPCO).

[Fair and Just Prosecution, Highlight](#). Key principles for improving law enforcement approaches to mental health crisis, including diversion and reentry initiatives.

Global Institute for Emerging Healthcare Practices, [TeleServices for Better Health: Expanding the Horizons of Patient Engagement](#).

[Peer Support Toolkit](#), City of Philadelphia Department of Behavioral Health and Intellectual disAbility Services (2017).

Yuki Miyamoto and Tamaki Sono, [Lessons from Peer Support Among Individuals with Mental Health Difficulties: A review of the literature](#).

Arizona-Specific Resources

[Tucson and Pima County Collaboration](#) has numerous resources on finding housing, resources, etc. See specifically, 2018 Guidelines on Getting Out brochure.

Benefit Enrollment

The “Justice Initiative” is a collaborative effort where the Arizona Health Care Cost Containment System (AHCCCS) works with Arizona’s correctional system to enroll Medicaid-eligible persons before they are released from incarceration.

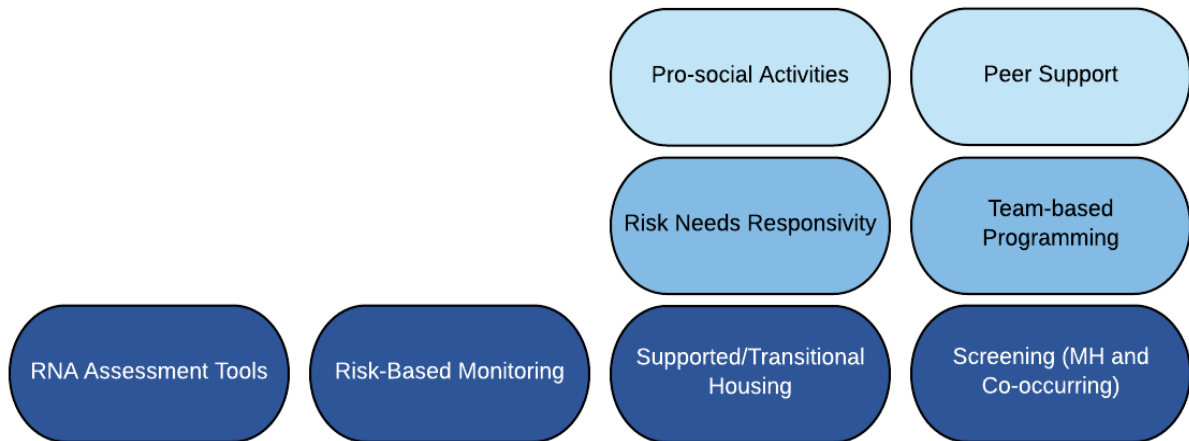
AHCCCS works with Arizona’s correctional system to enroll Medicaid-eligible persons before they are released from incarceration. Data sharing “Reach-in” program and “Enrollment Suspense” use data sharing to ensure either enrollment or reactivation. “Reach-In” is a program that strives to get people to get into treatment as quickly as possible upon re-entry. Through a data sharing agreement with the Arizona Department of Corrections and most counties, inmates can submit a pre-release application for Medical enrollment 30 days prior to release. “Enrollment Suspense” is a program where a person’s Medicaid benefits are suspended, rather than terminated, upon incarcerations. Through a data sharing agreement, incarceration facilities notify AHCCCS of a person’s release date, and their Medicaid benefits are reactivated.



INTERCEPT 5: PAROLE OR PROBATION

Parole and probation provide an opportunity to further supervise an individual’s transition back into the community. As an extension of the justice system, parole and probation can balance the accountability of the justice system with the necessary resource referrals and coordination of service agencies to ensure individual progress. Parole and probation are the final step before completing community integration and transition out of the criminal justice system.

Figure 12. Building Blocks for Parole or Probation



Parole and Probation intercept combines justice system monitoring with individual-focused service coordination to establish a safe and healthy post-criminal justice system lifestyle. Monitoring should be guided by Evidence Based Practices (EBPs) around the principles of risk, need, and responsivity. Team-based planning and supports should embrace known protective factors such as stable housing. Vigilant mental health awareness/screening embrace the dynamic nature of mental and behavioral illness while pro-social activities and peer support further support an individual on their journey to wellness.

RNA Assessment Tools: Risk and needs assessment in sentencing and parole/probation is a nationally accepted evidence-based practice. Assessments can be completed using a variety of tools, which should be validated for predictive soundness. Tools are generally administered by parole/probation officers in advance of sentencing. Even if a tool is not used for sentencing (most likely because of the level of the crime (felony/misdemeanor), it can be used to inform monitoring. Tools like the COMPAS and the LSI-R contain mental health domains on which individuals are assessed. The Offender Screening Tool (OST) is a statewide, validated tool approved by the Arizona AOC.

Risk-Based Monitoring: Risk-based monitoring tailors the monitoring intensity and frequency aligned with one's criminogenic risk. Widely accepted as a best practice, risk-based supervision should be used for individuals with mental illness to ensure the least restrictive monitoring appropriate to the individual. Professional administration of a validated risk assessment tool should determine individual risk.

Supported/Transitional Housing: Supported and transitional housing provides a key layer of stability for mental-health involved individuals on parole or probation. Individuals may transition to progressively less-restrictive housing as their treatment and re-entry progresses (e.g., from step down housing to supervised or unsupervised group homes to supportive rental housing). The goal is to avoid releasing someone into an unstructured or homeless setting where decompensation is likely.

Screening (Mental Health and Co-Occurring): Screening for mental and behavioral health disorders should be a priority throughout justice-system involvement to ensure appropriate system responses. Co-occurring mental and behavioral disorders are associated with worse outcomes and therefore require special and dynamic treatment strategies. Many screening tools now implicitly recognize the reality that mental health needs co-occur.

Risk Needs Responsivity: Risk and needs assessments provide the foundation for understanding an individual's risk needs responsivity score. Assessment tools identify needs, but it is the responsibility of parole or probation officers to identify resources and services that will be responsive to those needs. Coordination with providers and liaisons is key to understanding both service availability and fit.

Team-Based Programming: Team-based treatment models march hand in hand with case management teams. Assertive Community Treatment (ACT) is a treatment model that focuses solely on mental health responses and integrates a shared caseload approach to provide treatment within a community. This model does not refer individuals to other providers and, instead, provides treatment.

Pro-Social Activities: Pro-social activities challenge some persons with mental and behavioral issues. However, research has found that pro-social activities can mitigate negative effects of stress.⁴² Parole/probation offers an opportunity to develop pro-social activities in a community setting prior to releasing from supervision.

Peer Supports: Peers provide individualistic support to those re-entering a community. Sharing unique experiences and challenges is helpful in navigating attendant challenges. Moreover, peer support groups provide insight to identify potential triggers and relapses.

ASSESSMENT QUESTIONS

- What screening and treatment/service coordination is conducted by probation? Does probation have specialized units with probation officers trained to work with individuals with mental illnesses?
- What pro-social behaviors or wellness indicators are monitored by supervision agencies (e.g., housing, health, peer support)?
- What housing resources are available in the jurisdiction?
- Are parole/probation officers trained on risk/needs models and responsivity?

⁴² Raposa, Laws & Ansell, Prosocial Behavior Mitigates the Negative Effects of Stress in Everyday Life, 4 Clin. Psych. Sci. 691-98 (2016).

RESOURCES

Other State and National Resources

Jennifer K. Elek, Roger K. Warren, & Pamela M. Casey, [Using Risk and Needs Assessment Information at Sentencing: Observations from Ten Jurisdictions](#) (National Center for State Courts, 2015).

National Alliance on Mental Illness, [Securing Stable Housing](#).

Sarah Desmarais & Jay P. Singh, [Risk Assessment Instruments Validated and Implemented in Correctional Settings in the United States: An Empirical Guide](#) (2013).

U.S. Department of Health and Human Services, [Building Your Program: Assertive Community Treatment](#) (2008).

Council of State Governments Justice Center, [50-State Data on Public Safety, Arizona Workbook: Analyses to Inform Public Safety Strategies](#), 31 (March 2018) (outlining key questions about state data for public safety strategies).

Erika M. Kitzmiller, [IDS Case Study: Allegheny County, Allegheny County's Data Warehouse: Leveraging Data to Enhance Human Service Programs and Policies](#), (May 2014).

[Mobile Response Team \(MRT\)](#) or Mobile Intervention Services Team (MIST) see e.g., [Humboldt County](#) programs provide face-to-face interventions in the community when a crisis arises.

Arizona-Specific Resources

Pima County

For limited jurisdictions without probation officers, assigning behavioral health specialists or clinically trained individuals can help facilitate or navigate the justice system.

Appendix A. Arizona Statutes and Rules

A.R.S. §§ [36-3201 et seq.](#) (addresses health care and mental health care power of attorney).

Ariz. R. Crim. Procedure [11.2](#), [11.3](#), [11.4](#), [11.5](#), and [11.7](#) (competency determinations in criminal cases).

A.R.S. §§ [13-4501 et seq.](#) (governs Rule 11 competency hearings).

A.R.S. §§ [22-601](#), [22-602](#) (Establishment, eligibility, jurisdiction, and judicial authority of mental health courts).

A.R.S. §§ [13-717](#) (2018) (Allows for sentencing to include community restitution, education, or treatment when defendant does not get probation or probations is revoked).

Arizona [S.B. 1157](#) (2017) (Amends A.R.S. 13-4503 to codify competency hearing jurisdiction in a justice or municipal court).

Arizona [S.B. 1476](#) (Amends A.R.S. §13-1805 to allow for pre-arrest diversion when shoplifting occurs. Diversion is at the discretion of the merchant.).

Appendix B. Draft Invitation and Agendas Presiding Judge Letterhead

Dear _____,

As you might know, the Arizona Supreme Court, with the assistance of a State Justice Institute grant, developed *A Guide for Arizona Presiding Judges: Improving the Courts Response for Persons with Mental Illness*. The Guide recommends that each Presiding Judge convene and engage key community members in identifying strategies and ideas to improve our community responses to those with mental illness. This effort is very important to me because

_____.

You have been identified as/ I know you are an important person to involve in this effort and would make significant contributions given your

_____.

I am convening a first meeting of community members _____ at _____ am/pm at the _____ County Courthouse (Address) and I am hoping you can join me. Please RSVP to Court Administrator _____ at

_____.

Thank you for your consideration and please call me or the Court Administrator if we can answer any questions that you might have.

Sincerely,

Presiding Judge

CC: Court Administrator

Appendix B. Draft Invitation and Agendas

Sample Agenda for a First Meeting

Improving the Court and Community Response to Mental Illness

_____ County

[Date]

[Time]

[Location]

1. Welcome Remarks and Introductions

Hon. _____, Presiding Judge

(The Presiding Judge will welcome all the participants/stakeholders and describe the purpose of the effort and why it is important to the Presiding Judge. The Presiding Judge should convey the status of statewide efforts and the development of the Guide. Next, the Presiding Judge should ask each participant to introduce themselves and describe his or her role and responsibilities.)

2. Purpose of the Meeting/Committee/Task Force

Goal (The Presiding Judge and Court Administrator should articulate in writing a goal for the Meeting/Committee/Task Force and include it here.)

Invite Feedback (The Presiding Judge should engage the stakeholders in the purpose of the effort and invite their feedback.)

Anyone Missing? (The Presiding Judge should ask the stakeholders if any community members are missing and if any additional members should be added.)

3. How Should Our Work Be Organized?

Proposal (The Presiding Judge and Court Administrator should articulate in writing a proposed approach and strategy to move forward. Consider coordination/differentiation of related ongoing efforts. For example, is a separate mapping workshop advisable or can you build on prior mapping efforts? Is there already an established working group to improve responses to those with mental illness or some sort of multi-disciplinary workgroup that could be expanded?)

4. Moving Forward

(The Presiding Judge should lead a discussion about the frequency of meetings and a potential meeting schedule. Most importantly, the Presiding Judge should obtain a commitment from each stakeholder.)

Appendix B. Draft Invitation and Agendas

Sample Agenda for Subsequent Meetings

Improving the Court and Community Response to Mental Illness

_____ County

[Date]

[Time]

[Location]

1. Welcome Remarks and Introductions

Hon. _____, Presiding Judge

(A second and subsequent meeting agendas will vary depending upon the extent of community “mapping” that may have already occurred. Generally, either a separate Sequential Intercept Mapping (SIM) workshop will be scheduled or you will build upon prior mapping efforts.)

2. Mapping the System

(The “mapping exercise” facilitates collaboration and what is called cross-system communication. An experienced facilitator is recommended to promote communication and to strengthen local strategies. The mapping exercise is generally scheduled for at least a day if it has not been completed before.)

3. Prioritizing the Gaps and Opportunities

(As you “map” each of the Intercepts, you will identify gaps in the community and court response as you consider the protocols in the Guide. Talk about what ideas and strategies could be implemented in your community. Turn the gaps into opportunities based upon your discussions.)

4. Action Planning

(The action planning will identify both short- and long-range goals. Action plans will identify priority areas, strategic objectives, and action steps, and also identify the who and the when.)

5. Recommendations

(In addition to the action plans, the participants will identify next steps and other recommendations for moving forward. A summary of the mapping exercise and a list of participants is recommended to accurately document the workshop or planning activity.)

Appendix C. Checklist of Presiding Judge Action Steps

GETTING STARTED

- Review this Guide and talk with your court administrator.
- Together, discuss the status of your court and community response to those with mental illness.
- What is the status of any other prior efforts undertaken in your county?
- Who has been involved and provided leadership on key efforts in this area?

CONVENE STAKEHOLDERS

- Consider the many stakeholders who could be involved and identify stakeholders relevant to your jurisdiction. See the list of potential stakeholders included in this Guide.
- Plan a first meeting, create an agenda, and invite stakeholders. Sample agenda(s) are included in this Guide.
- Convene the workgroup of stakeholders to assist you in this important effort.

AT YOUR FIRST MEETING

- Engage your stakeholders; do a lot of active listening.
- Propose a “mapping process” with your stakeholders to understand where you are and where you need to go to improve court and community responses.
- If not already completed in your county, map to the Sequential Intercept Model (SIM). Recognize that completing the mapping process may take a number of meetings and effort by separate workgroups.
- Decide the frequency of agendas and meetings to lead change in your community.
- Create a communication plan for sustained collaboration with stakeholders.

ASSESS THE LANDSCAPE

- Using the SIM model, examine the existing responses at each intercept point; document those responses.
- Identify any gaps in the community and court processes for those with mental illness.

- Consider adapting protocols that have been developed in other counties and states to meet your needs.
- Develop protocols to address identified gaps.
- Solicit viewpoints and ensure “buy-in” of all stakeholders at every step.

COLLECT DATA

- Decide what data are important to collect to measure and assess effective responses.
- Identify which agency(cies) will be responsible for the collection of the data and reporting to the workgroup.
- Secure necessary data sharing agreements.
- Leverage technology whenever possible.


IMPLEMENT IMPROVED RESPONSES

- Develop an action plan, strategies, and timelines for implementation of responses.
- Identify plans to secure full leadership support.
- Identify strategies to overcome substantial barriers, including a need for financial support.
- Consider grant and funding opportunities to enable you to accomplish your goals and action plans.



SUSTAIN YOUR EFFORTS

- Conduct regular reviews through workgroup meeting agendas, adjust plans if necessary.
- Identify and implement outcome measures relevant to data collection
- Reach out to the community on an ongoing basis through an established communication plan.
- Continue to engage your stakeholders; regularly review list of stakeholders for additions/adjustments.
- Establish a regular schedule to assess and reassess your response efforts.
- Facilitate necessary training (and cross-training) for the workgroup members and others involved in improving responses.

Appendix D. Sample Planning Materials for Sequential Intercept Mapping

	SAMHSA'S GAINS Center for Behavioral Health and Justice Transformation	Planning for <i>Sequential Intercept Mapping Workshop</i>
GAINS Center Sequential Intercept Mapping Planning Kit		
<p>A successful <i>Sequential Intercept Mapping</i> program begins with the planning process. For maximum benefit, use this Planning Kit for suggestions, a checklist, and materials to help plan the entire program. The program consists of a pre-workshop consultation conference call, the workshop, and a summary report with recommendations. All aspects of the program are conducted by experts from SAMHSA's GAINS Center.</p>		
<hr/>		
<i>Sequential Intercept Mapping</i>		- 1 -
<i>Program Description: Sequential Intercept Mapping</i>		- 2 -
Specific Services Provided by SAMHSA's GAINS Center		- 4 -
Agency / Community Services		- 4 -
Planning for <i>Sequential Intercept Mapping</i>		- 5 -
<i>The Planning Group</i>		- 5 -
<i>The Consultation Call</i>		- 5 -
<i>Participants</i>		- 6 -
<i>The Space</i>		- 8 -
<i>Amenities</i>		- 10 -
<i>Additional Planning Issues</i>		- 10 -
Planning Checklist		- 11 -
Who to Invite.....		- 12 -
<i>Who to Invite – Sample Services and Roles</i>		- 14 -
Preparing for the <i>Sequential Intercept Mapping Workshop</i>		- 15 -
<i>Sequential Intercept Mapping Pre-Workshop Data Collection</i>		- 17 -
<i>Community Collaboration Questionnaire</i>		- 18 -
The Planning Tools		- 21 -
<i>Save the Date!</i>		- 22 -
<i>You are Cordially Invited</i>		- 23 -
<i>Reminder!</i>		- 24 -
<i>Press Release</i>		- 25 -

Appendix D. Sample Planning Materials for Sequential Intercept Mapping

Sequential Intercept Mapping Workshop

Yuma County, AZ
July 18, 2018



AGENDA

8:00	Registration and Networking
8:30	Openings <ul style="list-style-type: none"> ■ Welcome and Introductions ■ Overview of the Workshop ■ Workshop Focus, Goals, and Tasks ■ Collaboration: What's Happening Locally What Works! <ul style="list-style-type: none"> ■ Keys to Success The Sequential Intercept Model <ul style="list-style-type: none"> ■ The Basis of Cross-Systems Mapping ■ Six Key Points for Interception Cross-Systems Mapping <ul style="list-style-type: none"> ■ Creating a Local Map ■ Examining the Gaps and Opportunities Establishing Priorities <ul style="list-style-type: none"> ■ Identify Potential, Promising Areas for Modification Within the Existing System ■ Top Five List ■ Collaborating for Progress Wrap Up <ul style="list-style-type: none"> ■ Review ■ Setting the Stage for Day 2
4:00	Adjourn

There will be a 15 minute break mid-morning and mid-afternoon.

There will be break for lunch at approximately noon.

Appendix D. Sample Planning Materials for Sequential Intercept Mapping

Sequential Intercept Mapping Workshop

Yuma County, AZ
July 19, 2018

ACENDA

8:00	Registration and Networking
8:30	Opening <ul style="list-style-type: none"> ■ Remarks ■ Preview of the Day
	Review <ul style="list-style-type: none"> ■ Day 1 Accomplishments ■ Local County Priorities ■ Keys to Success in Community
	Action Planning
	Finalizing the Action Plan
	Next Steps
	Summary and Closing
12:00	Adjourn

There will be a 15 minute break mid-morning.



THE SEQUENTIAL INTERCEPT MODEL

Advancing Community-Based Solutions for Justice-Involved People with Mental and Substance Use Disorders

345 Delaware Avenue
Delmar, NY 12054
p. (518) 439-7415
e. pra@prainc.com
www.prainc.com

@PolicyResearch

/PolicyResearchAssociates/

Sequential Intercept Model as a Strategic Planning Tool

The **Sequential Intercept Model** is most effective when used as a community strategic planning tool to assess available resources, determine gaps in services, and plan for community change. These activities are best accomplished by a team of stakeholders that cross over multiple systems, including mental health, substance use, law enforcement, pretrial services, courts, jails, community corrections, housing, health, social services, people with lived experiences, family members, and many others. Employed as a strategic planning tool, communities can use the **Sequential Intercept Model** to:

1. Develop a comprehensive picture of how people with mental and substance use disorders flow through the criminal justice system along six distinct intercept points: (0) Community Services, (1) Law Enforcement, (2) Initial Detention and Initial Court Hearings, (3) Jails and Courts, (4) Reentry, and (5) Community Corrections
2. Identify gaps, resources, and opportunities at each intercept for adults with mental and substance use disorders
3. Develop priorities for action designed to improve system and service-level responses for adults with mental and substance use disorders

Policy Research Associates

Policy Research Associates, Inc. was founded in 1987 with the stated mission of “creating positive social change through technical assistance, research, and training for people who are disadvantaged.”

Beginning with one research project, we have grown in size and project diversity while maintaining our expertise in technical assistance, research, and behavioral health. PRA is composed of approximately 50 talented employees, dedicated to bettering the lives of underserved populations.

We are committed to giving back to our local community, and have developed a number of long-standing charitable giving campaigns and volunteer projects. Whether it be serving breakfast at our local homeless shelter or competing in a company-wide fundraising challenge, each staff member plays a part in serving our neighbors in need.

INTERCEPT 0

Expanding the Sequential Intercept Model to prevent criminal justice involvement



Crisis Response

Crisis response models provide short-term help to individuals who are experiencing behavioral health crisis and can divert individuals from the criminal justice system. Crisis response models include:

- Certified Community Behavioral Health Clinics
- Crisis Care Teams
- Crisis Response Centers
- Mobile Crisis Teams



Police Strategies

Proactive police response with disadvantaged and vulnerable populations are a unique method of diverting individuals from the criminal justice system. Proactive police response models include:

- Crisis Intervention Teams
- Homeless Outreach Teams
- Serial Inebriate Programs
- Systemwide Mental Assessment Response Team



Tips for Success

- Strong support from local officials
- Community partnerships
- Law enforcement training
- Behavioral health staff training

History and Impact of the Sequential Intercept Model

The Sequential Intercept Model (SIM) was developed over several years in the early 2000s by Mark Munetz, MD and Patricia A. Griffin, PhD, along with Henry J. Steadman, PhD, of Policy Research Associates, Inc. The SIM was developed as a conceptual model to inform community-based responses to the involvement of people with mental and substance use disorders in the criminal justice system.

After years of refinement and testing, several versions of the model emerged. The “linear” depiction of the model found in this publication was first conceptualized by Dr. Steadman of PRA in 2004¹ through his leadership of a National Institute of Mental Health-funded Small Business Innovative Research grant awarded to PRA. The linear SIM model was first published by PRA in 2005² through its contract to operate the GAINS Center on behalf of the Substance Abuse and Mental Health Services Administration (SAMHSA). The “filter” and “revolving door” versions of the model were formally introduced in a 2006 article in the peer-reviewed journal *Psychiatric Services* authored by Drs. Munetz and Griffin³. A full history of the development of the SIM can be found in the book *The Sequential Intercept Model and Criminal Justice: Promoting Community Alternatives for Individuals with Serious Mental Illness*⁴.

With funding from the National Institute of Mental Health, PRA developed the linear version of the SIM as an applied strategic planning tool to improve cross-system collaborations to reduce involvement in the justice system by people with mental and substance use disorders. Through this grant, PRA, working with Dr. Griffin and others, produced an interactive, facilitated workshop based on the linear version of the SIM to assist cities and counties in determining how people with mental and substance use disorders flow from the community into the criminal justice system and eventually return to the community.

During the mapping process, the community stakeholders are introduced to evidence-based practices and emerging best practices from around the country. The culmination of the mapping process is the creation of a local strategic plan based on the gaps, resources, and priorities identified by community stakeholders.

Since its development, the use of the SIM as a strategic planning tool has grown tremendously. In the 21st Century Cures Act⁵, the 114th Congress of the United States of America identified the SIM, specifically the mapping workshop, as a means for promoting community-based strategies to reduce the justice system involvement of people with mental disorders. SAMHSA has supported community-based strategies to improve public health and public safety outcomes for justice-involved people with mental and substance use disorders through SIM Mapping Workshop national solicitations and by providing SIM workshops as technical assistance to its criminal justice and behavioral health grant programs. In addition, the Bureau of Justice Assistance has supported the SIM Mapping Workshop by including it as a priority for the Justice and Mental Health Collaboration Program grants.

With the advent of Intercept 0, the SIM continues to increase its utility as a strategic planning tool for communities who want to address the justice involvement of people with mental and substance use disorders⁶.

1 Steadman, H.J. (2007). NIMH SBIR Adult Cross-Training Curriculum (AXT) Project – Phase II Final Report. Delmar, NY: Policy Research Associates. (Technical report submitted to NIMH on 3/27/07).

2 National GAINS Center. (2005). Developing a comprehensive state plan for mental health and criminal justice collaboration. Delmar, NY: Author.

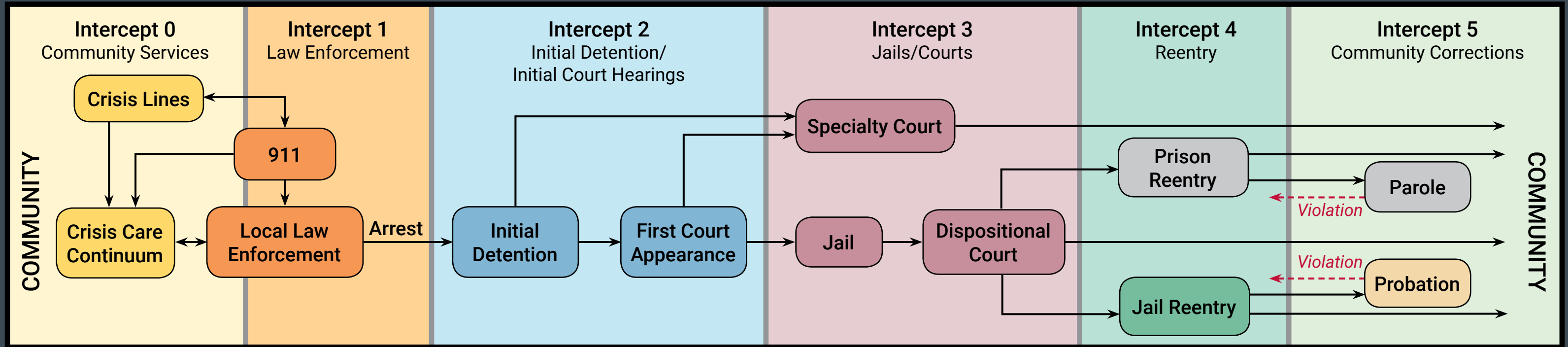
3 Munetz, M.R., & Griffin, P.A. (2006). Use of the sequential intercept model as an approach to decriminalization of people with serious mental illness. *Psychiatric Services*, 57, 544-549. DOI: 10.1176/ps.2006.57.4.544

4 Griffin, P.A., Heilbrun, K., Mulvey, E.P., DeMatteo, D., & Schubert, C.A. (Eds.). (2015). *The sequential intercept model and criminal justice: Promoting community alternatives for individuals with serious mental illness*. New York: Oxford University Press. DOI: 10.1093/med:psych/9780199826759.001.0001

5 21st Century Cures Act, Pub. L. 114-255, Title XIV, Subtitle B, Section 14021, codified as amended at 41 U.S.C. 3797aa, Title I, Section 2991

6 Abreu, D., Parker, T.W., Noether, C.D., Steadman, H.J., & Case, B. (2017). Revising the paradigm for jail diversion for people with mental and substance use disorders: Intercept 0. *Behavioral Sciences & the Law*, 35, 380-395. DOI: 10.1002/bsl.2300



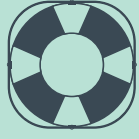


The Sequential Intercept Model



Key Issues at Each Intercept

<p>Intercept 0</p> <p>Mobile crisis outreach teams and co-responders. Behavioral health practitioners who can respond to people experiencing a behavioral health crisis or co-respond to a police encounter.</p> <p>Emergency Department diversion. Emergency Department (ED) diversion can consist of a triage service, embedded mobile crisis, or a peer specialist who provides support to people in crisis.</p> <p>Police-friendly crisis services. Police officers can bring people in crisis to locations other than jail or the ED, such as stabilization units, walk-in services, or respite.</p>	<p>Intercept 1</p> <p>Dispatcher training. Dispatchers can identify behavioral health crisis situations and pass that information along so that Crisis Intervention Team officers can respond to the call.</p> <p>Specialized police responses. Police officers can learn how to interact with individuals experiencing a behavioral health crisis and build partnerships between law enforcement and the community.</p> <p>Intervening with super-utilizers and providing follow-up after the crisis. Police officers, crisis services, and hospitals can reduce super-utilizers of 911 and ED services through specialized responses.</p>	<p>Intercept 2</p> <p>Screening for mental and substance use disorders. Brief screens can be administered universally by non-clinical staff at jail booking, police holding cells, court lock ups, and prior to the first court appearance.</p> <p>Data matching initiatives between the jail and community-based behavioral health providers.</p> <p>Pretrial supervision and diversion services to reduce episodes of incarceration. Risk-based pre-trial services can reduce incarceration of defendants with low risk of criminal behavior or failure to appear in court.</p>	<p>Intercept 3</p> <p>Treatment courts for high-risk/high-need individuals. Treatment courts or specialized dockets can be developed, examples of which include adult drug courts, mental health courts, and veterans treatment courts.</p> <p>Jail-based programming and health care services. Jail health care providers are constitutionally required to provide behavioral health and medical services to detainees needing treatment.</p> <p>Collaboration with the Veterans Justice Outreach specialist from the Veterans Health Administration.</p>	<p>Intercept 4</p> <p>Transition planning by the jail or in-reach providers. Transition planning improves reentry outcomes by organizing services around an individual's needs in advance of release.</p> <p>Medication and prescription access upon release from jail or prison. Inmates should be provided with a minimum of 30 days medication at release and have prescriptions in hand upon release.</p> <p>Warm hand-offs from corrections to providers increases engagement in services. Case managers that pick an individual up and transport them directly to services will increase positive outcomes.</p>	<p>Intercept 5</p> <p>Specialized community supervision caseloads of people with mental disorders.</p> <p>Medication-assisted treatment for substance use disorders. Medication-assisted treatment approaches can reduce relapse episodes and overdoses among individuals returning from detention.</p> <p>Access to recovery supports, benefits, housing, and competitive employment. Housing and employment are as important to justice-involved individuals as access to behavioral health services. Removing criminal justice-specific barriers to access is critical.</p>
---	---	---	--	---	--

Best Practices Across the Intercepts

 <p>Cross-systems collaboration and coordination of initiatives. Coordinating bodies improve outcomes through the development of community buy-in, identification of priorities and funding streams, and as an accountability mechanism.</p>	 <p>Routine identification of people with mental and substance use disorders. Individuals with mental and substance use disorders should be identified through routine administration of validated, brief screening instruments and follow-up assessment as warranted.</p>	 <p>Access to treatment for mental and substance use disorders. Justice-involved people with mental and substance use disorders should have access to individualized behavioral health services, including integrated treatment for co-occurring disorders and cognitive behavioral therapies addressing criminogenic risk factors.</p>	 <p>Linkage to benefits to support treatment success, including Medicaid and Social Security. People in the justice system routinely lack access to health care coverage. Practices such as jail Medicaid suspension vs. termination and benefits specialists can reduce treatment gaps. People with disabilities may qualify for limited income support from Social Security.</p>	 <p>Information-sharing and performance measurement among behavioral health, criminal justice, and housing/homelessness providers. Information-sharing practices can assist communities in identifying super-utilizers, provide an understanding of the population and its specific needs, and identify gaps in the system.</p>
--	--	---	--	---

Tab 6

Effective 5/13/2014

78A-7-301 Justice Court Technology, Security, and Training Account established -- Funding -- Uses.

There is created a restricted account in the General Fund known as the Justice Court Technology, Security, and Training Account.

- (1) The state treasurer shall deposit in the account money collected from the surcharge established in Subsection 78A-7-122(4)(b)(iii).
- (2) Money shall be appropriated from the account to the Administrative Office of the Courts to be used for audit, technology, security, and training needs in justice courts throughout the state.

Amended by Chapter 189, 2014 General Session

Rule 9-107. Justice court technology, security, and training account.

Intent:

To establish the process for allocation of funds from the Justice Court Technology, Security, and Training restricted account.

Applicability:

This rule shall apply to all applications for and allocations from the account.

Statement of the Rule:

(1) Any governmental entity that operates or has applied to operate a justice court may apply for funds from the account for qualifying projects. Local governmental entities may only use the funds for one-time purposes, and preference will be given to applications that propose to use the funds for new initiatives rather than for supplanting existing efforts.

(2) The Board of Justice Court Judges, through the Administrative Office of the Courts, may apply for funds from the account for qualifying projects.

(3) The Administrative Office of the Courts may apply for funds from the account for qualifying projects, and may use the funds for ongoing support of those projects.

(4) Qualifying projects are those that meet the statutory requirements for the use of the account funds.

(5) Funds will be distributed on or about July 1 of each year in which funds are available, and applications for those funds must be made by April 15 of the same year on forms available from the Administrative Office of the Courts. All applications for funds shall be first reviewed and prioritized by the Board of Justice Court Judges, and that recommendation, along with all timely applications shall then be forwarded to the Management Committee of the Judicial Council. The Management Committee will then make the final awards.

(6) An entity receiving funds shall file with the Board of Justice Court Judges an accounting, including proof of acquisition of the goods or services for which the award was granted. The accounting shall be filed no later than July 15 for activity during the previous fiscal year.

**Utah State Courts
Justice Court Technology, Security and Training Account
Funding Requests for FY20**

Requests for One-Time Funding

#	Requesting Entity	Description	Original Grant Request	Recommend Ongoing Grant Funds	Recommend One-Time Grant Funds	Notes
1	AOC/Information Technology	Programming and Help Desk Support for Justice Courts	\$235,551		\$228,806	Personnel costs attributable to Justice Courts for IT support
2	AOC/Information Technology	Google Accounts for Justice Court Judges and Clerks	\$22,500		\$22,500	500 licenses @ \$45 each
3	AOC/Information Technology	CORIS Infrastructure for Justice Courts	\$165,215		\$123,079	CORIS Infrastructure for Justice Courts
4	AOC/Judicial Institute (Education)	Management and Leadership Academy for Supervisory Clerks	\$10,426		\$0	Day-long training for current justice court clerks in management positions or clerks who want to move to management positions
5	AOC/Judicial Institute (Education)	Clerk Certification Program	\$5,000		\$5,000	Funding to develop and pilot a program to certify justice court clerks to perform the duties needed to perform their jobs
6	AOC/Judicial Institute (Education)	Presiding Judge Training	\$6,240		\$0	Funding for a one-day training for newly elected Presiding Judges
7	AOC/Judicial Institute (Education)	Judicial Decision Making (fka Law and Literature)	\$7,400		\$7,400	Funding for a 1.5 day program for 17 judges
8	AOC/Judicial Institute (Education)	New Clerk Orientation	\$10,750		\$10,750	Day-long skills workshop held twice a year on the day preceding the justice court clerks' conference
9	Board of Justice Court Judges	Trust and Confidence Committee	\$2,000		\$2,000	Travel for outreach/CLE presentations to build trust and confidence in Justice Courts
10	Board of Justice Court Judges	Computer Equipment for Judges	\$25,000		\$25,000	Funding for the cost of computer equipment for the judges
11	Board of Justice Court Judges	Online Learning System	\$18,000		\$0	Annual licenses for 100 judges and 400 clerks plus training
12	Board of Justice Court Judges	Out-of-State Training Fund	\$50,000		\$50,000	Funding for out-of-state training and educational opportunities
13	Board of Justice Court Judges	Financial Assistance for Active Senior Judges to Attend the Annual Conference	\$5,000		\$5,000	10 active senior judges @ \$500 each

#	Requesting Entity	Description	Original Grant Request	Recommend Ongoing Grant Funds	Recommend One-Time Grant Funds	Notes
14	Box Elder Justice Court	LiveScan Fingerprint Equipment	\$5,449		\$5,449	Funding to purchase and install a Livescan a fingerprint device
15	Daggett County Justice Court	Window Tinting	\$630		\$630	Funding to install window tinting on the glass for judge's office and jury room
16	East Carbon Justice Court	Computer, Printer and Scanner for the Courtroom	\$1,179		\$0	Funding to purchase a printer, computer, and scanner for the courtroom
17	Emery County Justice Court	TV, Stand and DVD Player	\$198		\$198	Funding to purchase a TV and DVD to show the Rights Videos to defendants
18	Holladay Justice Court	Fireproof Safe	\$435		\$0	Funding to purchase a safe to secure funds and receipt books as recommended by the AOC
19	Mantua Justice Court	Handheld Metal Detector	\$400		\$184	Funding to purchase a handheld metal detector and to train staff
20	North Salt Lake Justice Court	Laptop	\$1,060		\$0	Funding to purchase a laptop and security cameras for the baliff to be able to see outside the courtroom
21	Ogden Justice Court	Security Film for Windows Located at Court Security Station	\$3,440		\$3,440	Funding to purchase and install security film for court building windows
22	Parowan Justice Court	Security Cameras	\$3,220		\$1,500	Funding to purchase and install a security system for the court
23	Payson Justice Court	Security Upgrades	\$9,640		\$0	Funding to purchase swipe card for one restricted door and replace a keypad on another restricted door
24	Plain City Justice Court	Security Cameras	\$6,604		\$0	Purchase and install four security cameras for the courtroom
25	Riverdale Justice Court	Security Upgrades	\$4,451		\$2,500	Funding to purchase and upgrade court building stairs, create a seperate judge entrance, and apply
26	Roy/Weber Justice Court	Printer/Scanner for the Courtroom; Lockers	\$1,460		\$0	Funding for purchase of a wireless printer and scanner to print defendants orders and to purchase
27	Salt Lake City Justice Court	X-Ray Machine	\$20,000		\$0	Funding for the purchase and installation of a XIS 6040 X-ray machine
28	Salt Lake City Justice Court	Surface Tablets for Paperless Jury Process	\$5,694		\$0	Funding for purchase of six Surface Pro Tablets and hard cases
29	Salt Lake City Justice Court	Affirming Artwork	\$3,750		\$0	Funding for purchase and installation of new diverse artwork for the courthouse

#	Requesting Entity	Description	Original Grant Request	Recommend Ongoing Grant Funds	Recommend One-Time Grant Funds	Notes
30	Saratoga Springs Justice Court	Printer/Copier and Safe	\$10,248		\$0	Funding to purchase an updated printer/copier for the court
31	Saratoga Springs Justice Court	Bullet Resistant Materials for New Courthouse	\$19,740		\$0	Funding to purchase and install bulletproof glass for the courtroom
32	Saratoga Springs Justice Court	Security System for New Courthouse	\$29,884		\$0	Funding to purchase and intall security upgrades for the courthouse
33	South Ogden Justice Court	Court Recording Software Upgrade	\$4,189		\$1,000	Funding to replace sound system so it is compatible with the FTR system
34	South Weber Justice Court	Court Security Upgrades	\$1,500		\$1,500	Funding for security upgrades, alarms, window tinting and barriers
35	Sunset Justice Court	Handheld Metal Detector	\$184		\$184	Funding to purchase a handheld metal detector
36	Tremonton Justice Court	Bullet Resistant Materials for Courtroom	\$2,527		\$0	Funding to purchase and install bulletproof panels for the courtroom
37	Utah County Justice Court	Safe, Locking Cabinets, Tripods	\$1,124		\$0	Funding to purchase a safe, gun vault, and tripod
38	Washington County Justice Court	AED, Whiteboards and Projectors	\$1,965		\$0	Funding to purchase several items to enhance safety in the courtroom, see request
39	Wellington Justice Court	Computer, Printer and Scanner for the Courtroom	\$1,179		\$0	Funding to purchase printer, computer and scanner for the courtroom
40	West Jordan Justice Court	Dedicated Microsoft Tablet for the Courtroom	\$3,218		\$0	Funding to purchase a dedicated Microsoft tablet for the courtroom (priority 1)
41	West Jordan Justice Court	Court Computer Upgrades	\$4,000		\$0	Funding to upgrade computers for compatability of the new court FTR system

Total One-Time Grant Requests and Recommendations for FY20	\$710,450	\$496,120
---	------------------	------------------

Ongoing Funding

Requesting Entity	Description	Original Grant Request	Recommend Ongoing Grant Funds	Recommend One-Time Grant Funds	Notes
Board of Justice Court Judges (Unit 2711)	Online Legal Research for Justice Court Judges (ongoing from 2005 grant cycle)		\$20,000		Westlaw subscriptions
Information Technology (Unit 2712)	Vidyo Support and Inventory Management (ongoing from 2008 grant cycle)		\$20,200		
Judicial Institute (Unit 2713)	New Judge Orientation (ongoing from 2005 grant cycle)		\$3,500		
Judicial Institute (Unit 2713)	Justice Court Clerks' Conference (ongoing from 2005 grant cycle)		\$16,075		
Judicial Institute (Unit 2713)	Justice Court Judges' Conference (ongoing from 2005 grant cycle) and \$15,000 (ongoing from 2018 grant cycle) for Justice Court Educational programs		\$30,005		
Judicial Institute (Unit 2713)	Continuation of Utah Judicial Institute Staffing at Current Level (ongoing from FY2009 grant cycle)		\$104,200		Partial cost of Education Coordinators and Conference Coordinator
Judicial Institute (Unit 2713)	Clerks Conferences	\$55,000	\$0		New request
Judicial Institute (Unit 2713)	District Trainings	\$3,500	\$0		New request
AOC/Audit Department (Unit 2420)	Internal Audit Position Dedicated to the Justice Courts (ongoing from FY2012 grant cycle)		\$84,900		

Totals

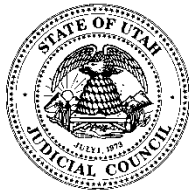
Total Ongoing Grant Funds	\$278,880
Total One-Time Grant Funds Recommended for FY20	\$496,120

Projected Revenue from FY19 **\$775,000**

Total Grant Awards	\$775,000
---------------------------	------------------

Difference Between Available Funding and Recommended Grant Awards **\$0**

Tab 7



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

MEMORANDUM

Hon. Mary T. Noonan
State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

To: Judicial Council
From: Nancy Sylvester *Nancy D. Sylvester*
Date: July 5, 2019
Re: Certification of Court Commissioners

The court commissioner evaluation and retention processes are governed by the following Utah Code of Judicial Administration rules:

- [Rule 3-111](#): governs court commissioner evaluations;
- [Rule 3-201](#): governs the retention of court commissioners.

During the Judicial Council's July meeting, the Council begins the process of recertifying for retention court commissioners whose terms expire December 31. The following court commissioners fall in that category:

Court Commissioners:

Last_Name	First_Name	Salute	Geographic_Division	Term_Start	Term_End
Conklin	Catherine S.	Commissioner	Second Judicial District	1/1/2016	12/31/2019
Morgan	Thomas R.	Commissioner	Second Judicial District	7/1/2016	12/31/2019
Sagers	Joanna B.	Commissioner	Third Judicial District	1/1/2016	12/31/2019
Wilson	Christina	Commissioner	Second Judicial District	10/17/2016	12/31/2019

A. CERTIFICATION PROCESS

You may consider the information regarding each court commissioner in an executive session, but your decision of whether to certify must be made at a public hearing.

If a court commissioner meets all of the certification standards, it is presumed that the Council will certify the individual for retention. If the court commissioner fails to meet all of the standards, it is presumed you will not certify the individual. However, the Council has the discretion to overcome a presumption against certification upon a showing of good cause. Before declining to certify a commissioner, you must invite him or her to meet with you to present evidence and arguments of good cause. If you decline to certify a court commissioner, the person will not be retained after the end of his or her term of office.

The mission of the Utah judiciary is to provide the people an open, fair, efficient, and independent system for the advancement of justice under the law.

Any court commissioner you certify will be sent to the judges of the commissioner's district for decision. Retention is automatic unless the judges decide not to retain.

B. PERFORMANCE STANDARDS FOR COMMISSIONERS

i. Attorney Survey of Court Commissioners

A satisfactory score for an attorney survey question is achieved when the ratio of favorable responses is 70% or greater. A court commissioner's performance is satisfactory if at least 75% of the questions have a satisfactory score; and the favorable responses when divided by the total number of all responses, excluding "No Personal Knowledge" responses, is 70% or greater.

ii. Cases Under Advisement

A case is considered to be under advisement when the entire case or any issue in the case has been submitted to the court commissioner for final determination. The Council shall measure satisfactory performance by the self-declaration of the court commissioner or by reviewing the records of the court.

A court commissioner in a trial court demonstrates satisfactory performance by holding:

- no more than three cases per calendar year under advisement more than 60 days after submission; and
- no case under advisement more than 180 days after submission.

iii. Education

Court commissioners must comply annually with judicial education standards, which is at least 30 hours of continuing education per year.

iv. Substantial Compliance with the Code of Judicial Conduct

A commissioner's performance is satisfactory if the commissioner's response in their self-declaration form demonstrate substantial compliance with the Code of Judicial Conduct, and if the Council's review of formal and informal sanctions leads you to conclude the commissioner is in substantial compliance with the Code of Judicial Conduct.

v. Physical and Mental Competence

If the response of the court commissioner demonstrates physical and mental competence to serve in office and if the Council finds the responsive information to be complete and correct, the commissioner's performance is satisfactory.

vi. Performance Evaluations of Commissioners

Performance evaluations are required annually for all court commissioners. The presiding judge is to provide a copy of each commissioner evaluation to the Judicial Council.

C. COMMISSIONER REAPPOINTMENTS

Commissioner Catherine Conklin's, Commissioner Thomas R. Morgan's, Commissioner Joanna B. Sagers's, and Commissioner Christina Wilson's terms of office will expire on December 31, 2019. The results of their most recent attorney surveys, their self-declarations, and their performance evaluations are attached. None of the commissioners has a complaint pending before the Commissioner Conduct Commission. Certification appears to be appropriate.

D. ANNUAL COMMISSIONER EVALUATIONS (NON-RETENTION)

Attached is **Commissioner Michelle Blomquist's** annual performance evaluation. I plan to provide the rest of the non-retention annual commissioner evaluations to the Council next month.

COURT COMMISSIONERS



Performance Evaluation Self Declaration Form

Catherine S. Conklin
Commissioner, Second Judicial District

From 1/1/2016, the start of your current term of office, to the present:				Yes	No		
(1) Have you held more than three cases per calendar year under advisement more than 60 days after submission?					X		
(2) Have you held any case under advisement more than 180 days after submission?					X		
(3) Are you in substantial compliance with the Code of Judicial Conduct?				X			
(4) Are you mentally and physically fit for office?				X			
(5) Do you have any disciplinary matters pending before the Judicial Council?					X		
(6) Do you have any disciplinary matters pending before the Court Commissioner Conduct Committee of which you are aware?					X		
(7) Please enter your education hours for the following calendar years.							
2016		2017		2018		2019	
34.25		31.75		32		24	
If you have fewer than 30 hours for the current year, list any course you plan to complete before the end of the year and the estimated number of hours associated with the course.							
Commissioners conference				6			
Fall judicial conference				13			

Date

6-13-19

Catherine S. Conklin

Commissioner, Second Judicial District

Please complete this form and return it no later than July 1, 2019 to:

Nancy J. Sylvester

P. O. Box 140241

Salt Lake City, Utah 84114-0241

FAX: 801-578-3843 Email: nancyjs@utcourts.gov



Performance Evaluation Self Declaration Form

Thomas R. Morgan
Commissioner, Second Judicial District

From 7/1/2016, the start of your current term of office, to the present:				Yes	No		
(1) Have you held more than three cases per calendar year under advisement more than 60 days after submission?					✓		
(2) Have you held any case under advisement more than 180 days after submission?					✓		
(3) Are you in substantial compliance with the Code of Judicial Conduct?				✓			
(4) Are you mentally and physically fit for office?				✓			
(5) Do you have any disciplinary matters pending before the Judicial Council?					✓		
(6) Do you have any disciplinary matters pending before the Court Commissioner Conduct Committee of which you are aware?					✓		
(7) Please enter your education hours for the following calendar years.							
2016		2017		2018		2019	
49+		31+		100		30+	
If you have fewer than 30 hours for the current year, list any course you plan to complete before the end of the year and the estimated number of hours associated with the course.							

2 July 2019

Date

T. R. Morgan

Thomas R. Morgan
Commissioner, Second Judicial District

Please complete this form and return it no later than July 1, 2019 to:

Nancy J. Sylvester
P. O. Box 140241
Salt Lake City, Utah 84114-0241
FAX: 801-578-3843 Email: nancyjs@utcourts.gov



Performance Evaluation Self Declaration Form

Joanna B. Sagers
Commissioner, Third Judicial District

From 1/1/2016, the start of your current term of office, to the present:				Yes	No		
(1) Have you held more than three cases per calendar year under advisement more than 60 days after submission?					X		
(2) Have you held any case under advisement more than 180 days after submission?					X		
(3) Are you in substantial compliance with the Code of Judicial Conduct?				X			
(4) Are you mentally and physically fit for office?				X			
(5) Do you have any disciplinary matters pending before the Judicial Council?					X		
(6) Do you have any disciplinary matters pending before the Court Commissioner Conduct Committee of which you are aware?					X		
(7) Please enter your education hours for the following calendar years.							
2016		2017		2018		2019	
34.25		44.75		38		11	
If you have fewer than 30 hours for the current year, list any course you plan to complete before the end of the year and the estimated number of hours associated with the course.							
Annual Bar Conference Judicial Conference Fall Forum							

6/26/19
Date

Joanna B. Sagers

Joanna B. Sagers
Commissioner, Third Judicial District

Please complete this form and return it no later than July 1, 2019 to:

Nancy J. Sylvester
P. O. Box 140241
Salt Lake City, Utah 84114-0241
FAX: 801-578-3843 Email: nancyjs@utcourts.gov



Performance Evaluation Self Declaration Form

Christina Wilson

Commissioner, Second Judicial District

From 10/17/2016, the start of your current term of office, to the present:				Yes	No		
(1) Have you held more than three cases per calendar year under advisement more than 60 days after submission?					X		
(2) Have you held any case under advisement more than 180 days after submission?					X		
(3) Are you in substantial compliance with the Code of Judicial Conduct?				X			
(4) Are you mentally and physically fit for office?				X			
(5) Do you have any disciplinary matters pending before the Judicial Council?					X		
(6) Do you have any disciplinary matters pending before the Court Commissioner Conduct Committee of which you are aware?					X		
(7) Please enter your education hours for the following calendar years.							
2016		2017		2018		2019	
30.5		43.75		30		2	
If you have fewer than 30 hours for the current year, list any course you plan to complete before the end of the year and the estimated number of hours associated with the course.							
National Council of Juvenile and Family Court Judges July 29-31 Conference - 10? Fall Judicial Conference - Sept. - 12 Commissioner retreat - Aug 19 - 5 Summer Bar conference July 6							

June 26, 2019
Date

Christina Wilson
Christina Wilson
Commissioner, Second Judicial District

Please complete this form and return it no later than July 1, 2019 to:

Nancy J. Sylvester

P. O. Box 140241

Salt Lake City, Utah 84114-0241

FAX: 801-578-3843 Email: nancyjs@utcourts.gov

ANNUAL PERFORMANCE EVALUATIONS

**UTAH STATE COURTS
COURT COMMISSIONER PERFORMANCE EVALUATION**

Court Commissioner: CATHERINE CONKLIN

District: SECOND DISTRICT

Presiding Judge: DAVID CONNORS

Evaluation Period: Ending May 2019

INSTRUCTIONS

Court commissioners shall be evaluated annually based on the sixteen performance criteria listed below, and provided with an overall rating for the review period. The presiding judge shall provide a rating and a written justification which summarizes the commissioner's performance on each of the criterion for the evaluation period. When rating a commissioner's performance, the presiding judge shall use the following scale:

- **Needs Improvement** – The commissioner does not meet expectations and requires improvement in the rating area as designated on the attached annual performance plan.
- **Meets Expectations** – The commissioner is performing at the expected level, and may periodically exceed expectations.
- **Exceeds Expectations** – The commissioner consistently exceeds expectations.

In evaluating the commissioner, the presiding judge may consider feedback from other members of the bench who work with the commissioner. The presiding judge should consider the objective data addressing the commissioner's performance provided by the TCE, and should review 5 of the commissioner's cases in conjunction with the performance evaluation.

PERFORMANCE CRITERIA

1. Demonstrates an Understanding of the Substantive Law and Relevant Rules of Procedure and Evidence

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

2. Is Attentive to the Factual and Legal Issues before the Court

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

3. Adheres to Precedent and Clearly Explains Any Departures from Precedent

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

4. Grasps the Practical Impact on the Parties of the Commissioner's Rulings, Including the Effect of Delay and Increased Litigation Expense

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

5. Writes Clear Judicial Opinions

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

6. Clearly Explains the Legal Basis for Judicial Opinions

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

7. Demonstrates Courtesy toward Attorneys, Court Staff, and Others in the Commissioner's Court

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

8. Maintains Decorum in the Courtroom

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

9. Demonstrates Judicial Demeanor and Personal Attributes that Promote Public Trust and Confidence in the Judicial System

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

10. Prepares for Hearings

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

11. Avoids Impropriety and the Appearance of Impropriety

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

12. Displays Fairness and Impartiality toward All Parties

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

13. Communicates Clearly and Explains the Basis for Written Rulings, Court Procedures, and Decisions

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

14. Manages Workload Appropriately

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

15. Shares Proportionally the Workload within the District

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

16. Issues Opinions and Orders without Unnecessary Delay

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

OVERALL PERFORMANCE RATING FOR EVALUATION PERIOD

Provide a cumulative rating of the court commissioner's performance for the designated evaluation period, reflective of the ratings for the sixteen performance criteria.

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification: Consistently exceeds expectations in all areas. The Second District judges join the chorus of those who feel she is the best commissioner in the state and should have long ago been appointed to fill a position on the district court bench. As presiding judge, I wholeheartedly agree. There is no doubt she should be retained.

COMMISSIONER COMMENTS

Please attach or include any comments provided by the court commissioner to the evaluation.

Commissioner Conklin indicates she loves her job and enjoys the people with whom she works.

CERTIFICATION

We have discussed this performance evaluation in detail and the court commissioner understands the evaluation. Future expectations are clear as the presiding judge has provided a new performance plan with clear objectives for the next evaluation period.

Court Commissioner Signature:

Date: 6-27-19

Presiding Judge Signature:

Date: 6-27-19

**UTAH STATE COURTS
COURT COMMISSIONER PERFORMANCE EVALUATION**

Court Commissioner: THOMAS R. MORGAN

District: SECOND DISTRICT

Presiding Judge: DAVID CONNORS

Evaluation Period: Ending May 2019

INSTRUCTIONS

Court commissioners shall be evaluated annually based on the sixteen performance criteria listed below, and provided with an overall rating for the review period. The presiding judge shall provide a rating and a written justification which summarizes the commissioner's performance on each of the criterion for the evaluation period. When rating a commissioner's performance, the presiding judge shall use the following scale:

- **Needs Improvement** – The commissioner does not meet expectations and requires improvement in the rating area as designated on the attached annual performance plan.
- **Meets Expectations** – The commissioner is performing at the expected level, and may periodically exceed expectations.
- **Exceeds Expectations** – The commissioner consistently exceeds expectations.

In evaluating the commissioner, the presiding judge may consider feedback from other members of the bench who work with the commissioner. The presiding judge should consider the objective data addressing the commissioner's performance provided by the TCE, and should review 5 of the commissioner's cases in conjunction with the performance evaluation.

PERFORMANCE CRITERIA

1. Demonstrates an Understanding of the Substantive Law and Relevant Rules of Procedure and Evidence

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

2. Is Attentive to the Factual and Legal Issues before the Court

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

3. Adheres to Precedent and Clearly Explains Any Departures from Precedent

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

4. Grasps the Practical Impact on the Parties of the Commissioner's Rulings, Including the Effect of Delay and Increased Litigation Expense

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

5. Writes Clear Judicial Opinions

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

6. Clearly Explains the Legal Basis for Judicial Opinions

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

7. Demonstrates Courtesy toward Attorneys, Court Staff, and Others in the Commissioner's Court

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

8. Maintains Decorum in the Courtroom

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

9. Demonstrates Judicial Demeanor and Personal Attributes that Promote Public Trust and Confidence in the Judicial System

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

10. Prepares for Hearings

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

11. Avoids Impropriety and the Appearance of Impropriety

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

12. Displays Fairness and Impartiality toward All Parties

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

13. Communicates Clearly and Explains the Basis for Written Rulings, Court Procedures, and Decisions

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

14. Manages Workload Appropriately

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

15. Shares Proportionally the Workload within the District

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

16. Issues Opinions and Orders without Unnecessary Delay

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

OVERALL PERFORMANCE RATING FOR EVALUATION PERIOD

Provide a cumulative rating of the court commissioner's performance for the designated evaluation period, reflective of the ratings for the sixteen performance criteria.

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification: Commissioner Morgan has satisfactory scores on all 16 of the required survey questions. Survey results indicate that he meets or exceeds expectations in all areas. Some of the comments from attorneys and the public express concern about judicial demeanor and temperament, but the broader survey results suggest those instances are aberrations rather than a general problem.

The judges of the Second District recommend retention. As presiding judge, I join that recommendation.

COMMISSIONER COMMENTS

Please attach or include any comments provided by the court commissioner to the evaluation.

Commissioner Morgan indicates he appreciates working with the staff and judges in the Second District. Based on the comments there a few areas he is trying to tweak to improve on.

CERTIFICATION

We have discussed this performance evaluation in detail and the court commissioner understands the evaluation. Future expectations are clear as the presiding judge has provided a new performance plan with clear objectives for the next evaluation period.

Court Commissioner Signature: *T.R. Morgan* Date: 27 June 2019

Presiding Judge Signature: *David McComas* Date: 6/27/19

UTAH STATE COURTS
COURT COMMISSIONER PERFORMANCE EVALUATION

Court Commissioner: *Joanna Sagers*
 District: *Third District*
 Presiding Judge: *Randall Stoney*
 Evaluation Period: *through May 2019*

INSTRUCTIONS

Court commissioners shall be evaluated annually based on the sixteen performance criteria listed below, and provided with an overall rating for the review period. The presiding judge shall provide a rating and a written justification which summarizes the commissioner's performance on each of the criterion for the evaluation period. When rating a commissioner's performance, the presiding judge shall use the following scale:

- **Needs Improvement** – The commissioner does not meet expectations and requires improvement in the rating area as designated on the attached annual performance plan.
- **Meets Expectations** – The commissioner is performing at the expected level, and may periodically exceed expectations.
- **Exceeds Expectations** – The commissioner consistently exceeds expectations.

In evaluating the commissioner, the presiding judge may consider feedback from other members of the bench who work with the commissioner. The presiding judge should consider the objective data addressing the commissioner's performance provided by the TCE, and should review 5 of the commissioner's cases in conjunction with the performance evaluation.

PERFORMANCE CRITERIA

1. Demonstrates an Understanding of the Substantive Law and Relevant Rules of Procedure and Evidence

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
 Justification:

2. Is Attentive to the Factual and Legal Issues before the Court

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
 Justification:

3. Adheres to Precedent and Clearly Explains Any Departures from Precedent

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
 Justification:

4. Grasps the Practical Impact on the Parties of the Commissioner's Rulings, Including the Effect of Delay and Increased Litigation Expense

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

5. Writes Clear Judicial Opinions

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

6. Clearly Explains the Legal Basis for Judicial Opinions

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

7. Demonstrates Courtesy toward Attorneys, Court Staff, and Others in the Commissioner's Court

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

8. Maintains Decorum in the Courtroom

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

9. Demonstrates Judicial Demeanor and Personal Attributes that Promote Public Trust and Confidence in the Judicial System

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

10. Prepares for Hearings

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

11. Avoids Impropriety and the Appearance of Impropriety

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

12. Displays Fairness and Impartiality toward All Parties

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

13. Communicates Clearly and Explains the Basis for Written Rulings, Court Procedures, and Decisions

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

14. Manages Workload Appropriately

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

15. Shares Proportionally the Workload within the District

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

16. Issues Opinions and Orders without Unnecessary Delay

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

OVERALL PERFORMANCE RATING FOR EVALUATION PERIOD

Provide a cumulative rating of the court commissioner's performance for the designated evaluation period, reflective of the ratings for the sixteen performance criteria.

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable


Justification:

COMMISSIONER COMMENTS

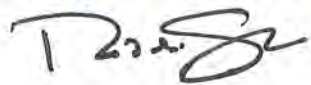
Please attach or include any comments provided by the court commissioner to the evaluation.

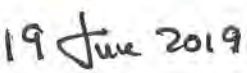
CERTIFICATION

We have discussed this performance evaluation in detail and the court commissioner understands the evaluation. Future expectations are clear as the presiding judge has provided a new performance plan with clear objectives for the next evaluation period.

Court Commissioner Signature: 

Date: 

Presiding Judge Signature: 

Date: 

**UTAH STATE COURTS
COURT COMMISSIONER PERFORMANCE EVALUATION**

Court Commissioner: CHRISTINA WILSON

District: SECOND DISTRICT

Presiding Judge: DAVID CONNORS

Evaluation Period: Ending May 2019

INSTRUCTIONS

Court commissioners shall be evaluated annually based on the sixteen performance criteria listed below, and provided with an overall rating for the review period. The presiding judge shall provide a rating and a written justification which summarizes the commissioner's performance on each of the criterion for the evaluation period. When rating a commissioner's performance, the presiding judge shall use the following scale:

- **Needs Improvement** – The commissioner does not meet expectations and requires improvement in the rating area as designated on the attached annual performance plan.
- **Meets Expectations** – The commissioner is performing at the expected level, and may periodically exceed expectations.
- **Exceeds Expectations** – The commissioner consistently exceeds expectations.

In evaluating the commissioner, the presiding judge may consider feedback from other members of the bench who work with the commissioner. The presiding judge should consider the objective data addressing the commissioner's performance provided by the TCE, and should review 5 of the commissioner's cases in conjunction with the performance evaluation.

PERFORMANCE CRITERIA

1. Demonstrates an Understanding of the Substantive Law and Relevant Rules of Procedure and Evidence

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

2. Is Attentive to the Factual and Legal Issues before the Court

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

3. Adheres to Precedent and Clearly Explains Any Departures from Precedent

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

4. Grasps the Practical Impact on the Parties of the Commissioner's Rulings, Including the Effect of Delay and Increased Litigation Expense

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

5. Writes Clear Judicial Opinions

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

6. Clearly Explains the Legal Basis for Judicial Opinions

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

7. Demonstrates Courtesy toward Attorneys, Court Staff, and Others in the Commissioner's Court

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

8. Maintains Decorum in the Courtroom

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

9. Demonstrates Judicial Demeanor and Personal Attributes that Promote Public Trust and Confidence in the Judicial System

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

10. Prepares for Hearings

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

11. Avoids Impropriety and the Appearance of Impropriety

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

12. Displays Fairness and Impartiality toward All Parties

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

13. Communicates Clearly and Explains the Basis for Written Rulings, Court Procedures, and Decisions

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

14. Manages Workload AppropriatelyRating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

15. Shares Proportionally the Workload within the DistrictRating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

16. Issues Opinions and Orders without Unnecessary DelayRating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

OVERALL PERFORMANCE RATING FOR EVALUATION PERIOD

Provide a cumulative rating of the court commissioner's performance for the designated evaluation period, reflective of the ratings for the sixteen performance criteria.

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

The judges in the Second District all support continued retention of Commissioner Wilson. As presiding judge I join in that recommendation. We recognize the significant progress the Commissioner has made and encourage her to continue to work on improvement as outlined in the performance plan.

I have spoken with the presiding judge in the First District, where Commissioner Wilson serves *two days* each week. Generally, the perception in the First District is that Commissioner Wilson has improved greatly in the past year and the judges there support her retention as a commissioner.

COMMISSIONER COMMENTS

Please attach or include any comments provided by the court commissioner to the evaluation. The Commissioner indicates a willingness to work on the performance plan as outlined below.

CERTIFICATION

We have discussed this performance evaluation in detail and the court commissioner understands the evaluation. Future expectations are clear as the presiding judge has provided a new performance plan with clear objectives for the next evaluation period.

Court Commissioner Signature:

Christina White

Date:

June 26, 2019

Presiding Judge Signature:

David McCann

Date:

6/26/19

Performance Plan

Based on the feedback from attorney surveys, public comments, staff comments, and comments from judges, the Commissioner would like to focus on the following areas, with help of mentors and other training as might be available:

1. Speak louder and/or learn to use microphone and court sound system more effectively (in Ogden, we need to upgrade the sound system when possible);
2. Maintain better control of the courtroom, including control of length of oral presentations or arguments made by counsel;
3. When possible, announce decisions more quickly.

JWC
CW

UTAH STATE COURTS
COURT COMMISSIONER PERFORMANCE EVALUATION

Court Commissioner: COMMISSIONER CHRISTINA WILSON
 District: FIRST
 Presiding Judge: ANGELA F. FONNESECK
 Evaluation Period: 2019

INSTRUCTIONS

Court commissioners shall be evaluated annually based on the sixteen performance criteria listed below, and provided with an overall rating for the review period. The presiding judge shall provide a rating and a written justification which summarizes the commissioner's performance on each of the criterion for the evaluation period. When rating a commissioner's performance, the presiding judge shall use the following scale:

- **Needs Improvement** – The commissioner does not meet expectations and requires improvement in the rating area as designated on the attached annual performance plan.
- **Meets Expectations** – The commissioner is performing at the expected level, and may periodically exceed expectations.
- **Exceeds Expectations** – The commissioner consistently exceeds expectations.

In evaluating the commissioner, the presiding judge may consider feedback from other members of the bench who work with the commissioner. The presiding judge should consider the objective data addressing the commissioner's performance provided by the TCE, and should review 5 of the commissioner's cases in conjunction with the performance evaluation.

PERFORMANCE CRITERIA

1. Demonstrates an Understanding of the Substantive Law and Relevant Rules of Procedure and Evidence

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
 Justification:

2. Is Attentive to the Factual and Legal Issues before the Court

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
 Justification:

3. Adheres to Precedent and Clearly Explains Any Departures from Precedent

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
 Justification:

4. Grasps the Practical Impact on the Parties of the Commissioner's Rulings, Including the Effect of Delay and Increased Litigation Expense

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

5. Writes Clear Judicial Opinions

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

6. Clearly Explains the Legal Basis for Judicial Opinions

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

7. Demonstrates Courtesy toward Attorneys, Court Staff, and Others in the Commissioner's Court

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

8. Maintains Decorum in the Courtroom

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

9. Demonstrates Judicial Demeanor and Personal Attributes that Promote Public Trust and Confidence in the Judicial System

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

10. Prepares for Hearings

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

11. Avoids Impropriety and the Appearance of Impropriety

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

12. Displays Fairness and Impartiality toward All Parties

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

13. Communicates Clearly and Explains the Basis for Written Rulings, Court Procedures, and Decisions

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

14. Manages Workload Appropriately

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

15. Shares Proportionally the Workload within the District

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

16. Issues Opinions and Orders without Unnecessary Delay

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

OVERALL PERFORMANCE RATING FOR EVALUATION PERIOD

Provide a cumulative rating of the court commissioner's performance for the designated evaluation period, reflective of the ratings for the sixteen performance criteria.

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

COMMISSIONER COMMENTS

Please attach or include any comments provided by the court commissioner to the evaluation.

CERTIFICATION

We have discussed this performance evaluation in detail and the court commissioner understands the evaluation. Future expectations are clear as the presiding judge has provided a new performance plan with clear objectives for the next evaluation period.

Court Commissioner Signature: *Christina L. White*

Date: *June 27, 2019*

Presiding Judge Signature: *Angela Farnesbeck*

Date: *June 27, 2019*



Nancy Sylvester <nancyjs@utcourts.gov>

Commissioner Wilson First District Evaluation Form

Judge Angela Fannesbeck <afannesbeck@utcourts.gov>

Mon, Jul 1, 2019 at 2:30 PM

To: Nancy Sylvester <nancyjs@utcourts.gov>

Cc: Brett Folkman <brettf@utcourts.gov>

Nancy,

Thank you for answering all of my questions last week.

Please find attached the completed Court Commissioner Performance Evaluation Form for Commissioner Christina Wilson from the First District Court.

I have had a great discussion with the Commissioner about this evaluation as well as her goals for moving forward. We are extremely pleased with the Commissioner and her performance here in our district. She is a valuable member of our team and we are honored to be working with her.

Please let me know if you have any questions or concerns.

Thank you,

AFF

Judge Angela F. Fannesbeck

First District Juvenile Court



Commissioner Wilson First District Evaluation.pdf

828K

**ANNUAL
COMMISSIONER
EVALUATIONS
(NON-RETENTION)**

UTAH STATE COURTS
 COURT COMMISSIONER PERFORMANCE EVALUATION

Court Commissioner: *Michelle Blomquist*
 District: *Third*
 Presiding Judge: *Randall N. Stacy*
 Evaluation Period: *2018-2019 (M2)*

INSTRUCTIONS

Court commissioners shall be evaluated annually based on the sixteen performance criteria listed below, and provided with an overall rating for the review period. The presiding judge shall provide a rating and a written justification which summarizes the commissioner's performance on each of the criterion for the evaluation period. When rating a commissioner's performance, the presiding judge shall use the following scale:

- **Needs Improvement** – The commissioner does not meet expectations and requires improvement in the rating area as designated on the attached annual performance plan.
- **Meets Expectations** – The commissioner is performing at the expected level, and may periodically exceed expectations.
- **Exceeds Expectations** – The commissioner consistently exceeds expectations.

In evaluating the commissioner, the presiding judge may consider feedback from other members of the bench who work with the commissioner. The presiding judge should consider the objective data addressing the commissioner's performance provided by the TCE, and should review 5 of the commissioner's cases in conjunction with the performance evaluation.

PERFORMANCE CRITERIA

1. Demonstrates an Understanding of the Substantive Law and Relevant Rules of Procedure and Evidence

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
 Justification:

2. Is Attentive to the Factual and Legal Issues before the Court

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
 Justification:

3. Adheres to Precedent and Clearly Explains Any Departures from Precedent

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
 Justification:

4. Grasps the Practical Impact on the Parties of the Commissioner's Rulings, Including the Effect of Delay and Increased Litigation Expense

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

5. Writes Clear Judicial Opinions

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

6. Clearly Explains the Legal Basis for Judicial Opinions

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

7. Demonstrates Courtesy toward Attorneys, Court Staff, and Others in the Commissioner's Court

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

8. Maintains Decorum in the Courtroom

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

9. Demonstrates Judicial Demeanor and Personal Attributes that Promote Public Trust and Confidence in the Judicial System

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

10. Prepares for Hearings

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

11. Avoids Impropriety and the Appearance of Impropriety

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

12. Displays Fairness and Impartiality toward All Parties

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

13. Communicates Clearly and Explains the Basis for Written Rulings, Court Procedures, and Decisions

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable
Justification:

14. Manages Workload Appropriately

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

15. Shares Proportionally the ~~Workload~~ within the District

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

16. Issues Opinions and Orders without Unnecessary Delay

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

OVERALL PERFORMANCE RATING FOR EVALUATION PERIOD

Provide a cumulative rating of the court commissioner's performance for the designated evaluation period, reflective of the ratings for the sixteen performance criteria.

Rating: Needs Improvement Meets Expectations Exceeds Expectations Not Applicable

Justification:

COMMISSIONER COMMENTS

Please attach or include any comments provided by the court commissioner to the evaluation.

She appreciates her colleagues and her workload and her opportunity to serve the public.

CERTIFICATION

We have discussed this performance evaluation in detail and the court commissioner understands the evaluation. Future expectations are clear as the presiding judge has provided a new performance plan with clear objectives for the next evaluation period.

Court Commissioner Signature: *Walt P. Bil* Date: 19 June, 2019

Presiding Judge Signature: *TJR* Date: 20 June 2019

Tab 8



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Utah Department of Corrections

Division of Adult Probation and Parole

Region IV – Provo Office

MIKE HADDON
Executive Director

JAMES HUDSPETH
Deputy Director

DAN BLANCHARD
Division Director

000167

Date: March 20, 2019
RE: Yogi Bear
Offender #: 123456
Sentencing Date: April 22, 2019

Fourth District Court, Spanish Fork
Case #: 190000001
Judge: Jared Eldridge

Your Honor,

The above individual was referred to Adult Probation and Parole for a pre-sentence investigation or supervision. Results of the Level of Service / Risk, Need, Responsivity (LS/RNR) places this individual in a low risk category (conducted on March 20, 2019). Pursuant to U.C.A. § 77-18-1(3) the department will not provide pre-sentence investigations or supervision to low risk individuals:

“The department shall establish supervision and presentence investigation standards for all individuals referred to the department based on:

- (i) the type of offense;*
- (ii) the results of a risk and needs assessment;*
- (iii) the demand for services;*
- (iv) the availability of agency resources;*
- (v) public safety; and*
- (vi) other criteria establish by the department to determine what level of services shall be provided.”*

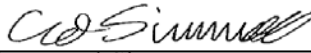
The LS/RNR is a validated actuarial risk and need assessment to assist in determining a level of service and factors to address in case plans. It is based on statistical probabilities and is not intended to establish a just penalty in criminal sentencing, nor to predict specific risk to the community.

Assessment Summary:

Criminal History	Low	Companions	Low
Education / Employment	Low	Alcohol / Drug Problems	Medium
Family / Marital	Low	Attitude / Orientation	Low
Leisure / Recreation	Low	Antisocial Pattern	Low

This individual may be placed under the jurisdiction of the court with reviews, if deemed appropriate U.C.A. § 77-18-1(2)(b)(iv). Individuals identified as low risk are generally not appropriate for supervised probation, either by AP&P or another supervising agency (2017 Adult Sentencing & Release Guidelines, p. 12).

Respectfully submitted,


Agent Ed Simmons
Adult Probation and Parole, Region IV

CC: Defense Attorney: Kyle Dart

County Attorney: Ana Burgi

PAGE 2**PRESENTENCE/POSTSENTENCE REPORT**

DRAFT REVISION (CLASS A VERSION) – 05/21/2019

Intervention Goals (case action plan / interventions, foundation of initial CAP)***Accountability Conditions (guidelines, victim, etc, should be relevant to offense)***

<i>Develop and comply with a Case Action Plan during supervision to address risk factors. CAP may be adjusted upon reassessment. Initial goals and actions may include:</i>	Pay restitution in the amount of...
<ul style="list-style-type: none"> • Intervention goals based on highest risk categories... 	Serve a jail sentence of...
<ul style="list-style-type: none"> • 	

EVALUATIVE SUMMARY: *(include brief summary if AP&P recommendation departs from guideline)*

Level of Services / Risk, Need, Responsivity (LS/RNR) Category:

Date:

Criminogenic Needs

<i>Category (Big 4)</i>	<i>Level</i>	<i>Summary</i>	<i>Intervention Goal</i>
Procriminal Attitude		<i>(summary from risk / need assessment categories)</i>	<i>(goal to address criminogenic need)</i>
Companions			
Criminal History			
Antisocial Pattern			
<i>Category (Mod 4)</i>	<i>Level</i>	<i>Summary</i>	<i>Intervention Goal</i>
Family/Marital			
Education/Employment			
Leisure/Recreation			
Substance Abuse			
<i>Other Factors</i>		<i>Summary</i>	
Specific Risk/Need Factors			
Other Issues			
Responsivity Considerations			

The LS/RNR is a validated actuarial risk and need assessment to assist in determining a level of service and factors to address in case plans. It is based on statistical probabilities and is not intended to establish a just penalty in criminal sentencing, nor to predict specific risk to the community.

ADDITIONAL SCREENINGS OR ASSESSMENTS: *(DORA, ACE, sex offender or others if available)*

<i>Instrument</i>	<i>Date</i>	<i>Result</i>	<i>Interpretation</i>
None			

PAGE 3

PRESENTENCE/POSTSENTENCE REPORT

DRAFT REVISION (CLASS A VERSION) – 05/21/2019

OFFENSE:

SUMMARY OF OFFENSE (*this section is derived from police and investigative reports related to this case and may contain information not included as part of the determination of guilt*):

*(BRIEF summary)***CUSTODY STATUS:**

<i>Location</i>	<i>Reason</i>	<i>Start</i>	<i>End</i>	<i>Days Count</i>

Secure Setting: *(days total)*
(total days in secure custody)

Alternative Release: *(days total)*
(total days on supervised release or alternative incarceration)

VICTIM IMPACT STATEMENT AND RESTITUTION:*(narrative, victim impact)*

<i>Name</i>	<i>Description</i>	<i>Co-Defendant</i>	<i>Amount</i>	<i>Court Case</i>

CRIMINAL HISTORY:**JUVENILE RECORD:**

<i>Offense Date</i>	<i>Agency</i>	<i>Offense</i>	<i>Disposition</i>

ADULT RECORD:

<i>Offense Date</i>	<i>Agency</i>	<i>Offense</i>	<i>Disposition</i>

PROBATION / PAROLE HISTORY (Juvenile and Adult):*(brief summary or table for known or reported information)*

Respectfully Submitted,

Approved,

 KYLA BUNNELL, INVESTIGATOR

 VIDA BETTS SUPERVISOR

Attachments: Form 5 – Misdemeanor Matrix

DRAFT REVISION (FULL VERSION)**PROTECTED**

STATE OF UTAH
 ADULT PROBATION AND PAROLE
 UDC A.P.& P. ADMIN
 14717 S MINUTEMAN DRIVE
 DRAPER, UT 84020
 Telephone: (801) 545-5500

PRESENTENCE/POSTSENTENCE REPORT

Date Due: 10/28/2018
 Sentencing Date: 11/01/2018

JUDGE JUSTICE JUSTICE, FIRST DISTRICT - LOGAN COURT

LOGAN CACHE ,UTAH
 (CITY) (COUNTY)

KYLA BUNNELL, INVESTIGATOR

NAME:	BEAR, YOGI	OFFENDER #:	215915
AKA'S:	NONE	PROS. ATTY:	DAVID O. LEAVITT
ADDRESS:	2 RURAL ROUTE 2 CACHE VALLEY FOREST, UT 84000	DEF. ATTY:	THOMAS H. MEANS
BIRTH DATE	02/11/1960	AGE: 58	INTERPRETER: NONE
		LANGUAGE:	ENGLISH
		CODEFENDANTS:	CINDY BEAR

COURT			CONV
CASE	OFFENSE	JUDGMENT	DATE

RECOMMENDATION: *(guidelines, AP&P recommendation)*

Utah Sentencing Guidelines:

Jail Guidelines:

Supervision Length Guidelines:

Adult Probation and Parole Recommendation: *(intervention goals and accountability conditions)*

Interstate Compact: If the defendant currently resides out of state, or later requests to reside out of state, they must abide by the terms of the Interstate Compact while under supervision. The rules apply to any offender with non-monetary conditions that require monitoring by AP&P, court, private, or county probation. Utah Code 77-28c.

PAGE 2**PRESENTENCE/POSTSENTENCE REPORT**

DRAFT REVISION (FULL VERSION) – 05/21/2019

Intervention Goals (case action plan / interventions, foundation of initial CAP)***Accountability Conditions (guidelines, victim, etc, should be relevant to offense)***

<i>Develop and comply with a Case Action Plan during supervision to address risk factors. CAP may be adjusted upon reassessment. Initial goals and actions may include:</i>	Pay restitution in the amount of...
<ul style="list-style-type: none"> Intervention goals based on highest risk categories... 	Serve a jail sentence of...

EVALUATIVE SUMMARY: *(include brief summary if AP&P recommendation departs from guideline)*

Level of Services / Risk, Need, Responsivity (LS/RNR) Category:

Date:

Criminogenic Needs

<i>Category (Big 4)</i>	<i>Level</i>	<i>Summary</i>	<i>Intervention Goal</i>
Procriminal Attitude		<i>(summary from risk / need assessment categories)</i>	<i>(goal to address criminogenic need)</i>
Companions			
Criminal History			
Antisocial Pattern			
<i>Category (Mod 4)</i>	<i>Level</i>	<i>Summary</i>	<i>Intervention Goal</i>
Family/Marital			
Education/Employment			
Leisure/Recreation			
Substance Abuse			
<i>Other Factors</i>		<i>Summary</i>	
Specific Risk/Need Factors			
Other Issues			
Responsivity Considerations			

The LS/RNR is a validated actuarial risk and need assessment to assist in determining a level of service and factors to address in case plans. It is based on statistical probabilities and is not intended to establish a just penalty in criminal sentencing, nor to predict specific risk to the community.

ADDITIONAL SCREENINGS OR ASSESSMENTS: *(DORA, ACE, sex offender or others if available)*

<i>Instrument</i>	<i>Date</i>	<i>Result</i>	<i>Interpretation</i>
None			

PAGE 3
PRESENTENCE/POSTSENTENCE REPORT
 DRAFT REVISION (FULL VERSION) – 05/21/2019

OFFENSE:

PLEA AGREEMENT:

<i>Count(s)</i>	<i>Original Charge / Degree</i>	<i>Final Charge / Degree</i>	<i>Judgment Type</i>

Comments: *(additional details from any plea agreement)*

SUMMARY OF OFFENSE *(this section is derived from police and investigative reports related to this case and may contain information not included as part of the determination of guilt):*

(BRIEF summary)

DEFENDANT'S STATEMENT:

(include verbatim statement as provided by defendant OR as attachment)

CUSTODY STATUS:

<i>Location</i>	<i>Reason</i>	<i>Start</i>	<i>End</i>	<i>Days Count</i>

Secure Setting: *(days total)*
(total days in secure custody)

Alternative Release: *(days total)*
(total days on supervised release or alternative incarceration)

VICTIM IMPACT STATEMENT AND RESTITUTION:

(narrative)

<i>Name</i>	<i>Description</i>	<i>Co-Defendant</i>	<i>Amount</i>	<i>Court Case</i>

CRIMINAL HISTORY:

JUVENILE RECORD:

<i>Offense Date</i>	<i>Agency</i>	<i>Offense</i>	<i>Disposition</i>

ADULT RECORD:

<i>Offense Date</i>	<i>Agency</i>	<i>Offense</i>	<i>Disposition</i>

PROBATION / PAROLE HISTORY (Juvenile and Adult):

(brief summary or table for history)

PAGE 4
PRESENTENCE/POSTSENTENCE REPORT
 DRAFT REVISION (FULL VERSION) – 05/21/2019

OVERVIEW OF DEFENDANT’S CURRENT SITUATION: *(table information rather than narrative)*

HOUSING:

<i>Current or Future Address</i>	<i>Duration</i>

EDUCATION:

<i>Type</i>	<i>Name</i>	<i>Grade / Degree / License</i>	<i>Date</i>

EMPLOYMENT:

<i>Current Employer</i>	<i>Job Title</i>	<i>Wage</i>	<i>Status</i>	<i>Start</i>	<i>End</i>

MILITARY SERVICE:

<i>Branch</i>	<i>Rank</i>	<i>Status</i>	<i>Discharge</i>	<i>Start</i>	<i>End</i>
None					

INSURANCE PROVIDER:

<i>Provider</i>	<i>Policy #</i>	<i>Policy Group</i>	<i>Policy Holder</i>	<i>Start</i>

HEALTH:

<i>Condition</i>	<i>Onset</i>	<i>Status</i>	<i>Physician</i>

SUBSTANCE USE:

<i>Substance</i>	<i>Age of First Use</i>	<i>Last Date Used</i>	<i>Frequency of Use</i>

Respectfully Submitted,

Approved,

 KYLA BUNNELL, INVESTIGATOR

 VIDA BETTS SUPERVISOR

Attachments: Form 1 - General Matrix
 Form 4 - Jail as Initial Condition of Probation Matrix

Effective 5/14/2019**77-18-1 Suspension of sentence -- Pleas held in abeyance -- Probation -- Supervision -- Presentence investigation -- Standards -- Confidentiality -- Terms and conditions -- Termination, revocation, modification, or extension -- Hearings -- Electronic monitoring.**

(1) On a plea of guilty or no contest entered by a defendant in conjunction with a plea in abeyance agreement, the court may hold the plea in abeyance as provided in Chapter 2a, Pleas in Abeyance, and under the terms of the plea in abeyance agreement.

- (2)
- (a) On a plea of guilty, guilty with a mental illness, no contest, or conviction of any crime or offense, the court may, after imposing sentence, suspend the execution of the sentence and place the defendant:
 - (i) on probation under the supervision of the Department of Corrections except in cases of class C misdemeanors or infractions;
 - (ii) on probation under the supervision of an agency of local government or with a private organization; or
 - (iii) on court probation under the jurisdiction of the sentencing court.

- (b)
- (i) The legal custody of all probationers under the supervision of the department is with the department.
 - (ii) The legal custody of all probationers under the jurisdiction of the sentencing court is vested as ordered by the court.
 - (iii) The court has continuing jurisdiction over all probationers.
 - (iv) Court probation may include an administrative level of services, including notification to the court of scheduled periodic reviews of the probationer's compliance with conditions.
- (c) Supervised probation services provided by the department, an agency of local government, or a private organization shall specifically address the offender's risk of reoffending as identified by a validated risk and needs screening or assessment.

- (3)
- (a) The department shall establish supervision and presentence investigation standards for all individuals referred to the department based on:
 - (i) the type of offense;
 - (ii) the results of a risk and needs assessment;
 - (iii) the demand for services;
 - (iv) the availability of agency resources;
 - (v) public safety; and
 - (vi) other criteria established by the department to determine what level of services shall be provided.
 - (b) Proposed supervision and investigation standards shall be submitted to the Judicial Council and the Board of Pardons and Parole on an annual basis for review and comment prior to adoption by the department.
 - (c) The Judicial Council and the department shall establish procedures to implement the supervision and investigation standards.
 - (d) The Judicial Council and the department shall annually consider modifications to the standards based upon criteria in Subsection (3)(a) and other criteria as they consider appropriate.
 - (e) The Judicial Council and the department shall annually prepare an impact report and submit it to the appropriate legislative appropriations subcommittee.

- (4) Notwithstanding other provisions of law, the department is not required to supervise the probation of an individual convicted of a class B or C misdemeanor or an infraction or to conduct presentence investigation reports on a class C misdemeanor or infraction. However, the department may supervise the probation of a class B misdemeanor in accordance with department standards.
- (5)
- (a) Before the imposition of any sentence, the court may, with the concurrence of the defendant, continue the date for the imposition of sentence for a reasonable period of time for the purpose of obtaining a presentence investigation report from the department or information from other sources about the defendant.
 - (b) The presentence investigation report shall include:
 - (i) a victim impact statement according to guidelines set in Section 77-38a-203 describing the effect of the crime on the victim and the victim's family;
 - (ii) a specific statement of pecuniary damages, accompanied by a recommendation from the department regarding the payment of restitution with interest by the defendant in accordance with Chapter 38a, Crime Victims Restitution Act;
 - (iii) findings from any screening and any assessment of the offender conducted under Section 77-18-1.1;
 - (iv) recommendations for treatment of the offender; and
 - (v) the number of days since the commission of the offense that the offender has spent in the custody of the jail and the number of days, if any, the offender was released to a supervised release or alternative incarceration program under Section 17-22-5.5.
 - (c) The contents of the presentence investigation report are protected and are not available except by court order for purposes of sentencing as provided by rule of the Judicial Council or for use by the department.
- (6)
- (a) The department shall provide the presentence investigation report to the defendant's attorney, or the defendant if not represented by counsel, the prosecutor, and the court for review, three working days prior to sentencing. Any alleged inaccuracies in the presentence investigation report, which have not been resolved by the parties and the department prior to sentencing, shall be brought to the attention of the sentencing judge, and the judge may grant an additional 10 working days to resolve the alleged inaccuracies of the report with the department. If after 10 working days the inaccuracies cannot be resolved, the court shall make a determination of relevance and accuracy on the record.
 - (b) If a party fails to challenge the accuracy of the presentence investigation report at the time of sentencing, that matter shall be considered to be waived.
- (7) At the time of sentence, the court shall receive any testimony, evidence, or information the defendant or the prosecuting attorney desires to present concerning the appropriate sentence. This testimony, evidence, or information shall be presented in open court on record and in the presence of the defendant.
- (8) While on probation, and as a condition of probation, the court may require that a defendant perform any or all of the following:
- (a) provide for the support of others for whose support the defendant is legally liable;
 - (b) participate in available treatment programs, including any treatment program in which the defendant is currently participating, if the program is acceptable to the court;
 - (c) if on probation for a felony offense, serve a period of time, not to exceed one year, in a county jail designated by the department, after considering any recommendation by the court as to which jail the court finds most appropriate;

- (d) serve a term of home confinement, which may include the use of electronic monitoring;
 - (e) participate in compensatory service restitution programs, including the compensatory service program provided in Section 76-6-107.1;
 - (f) pay for the costs of investigation, probation, and treatment services;
 - (g) make restitution or reparation to the victim or victims with interest in accordance with Chapter 38a, Crime Victims Restitution Act; and
 - (h) comply with other terms and conditions the court considers appropriate to ensure public safety or increase a defendant's likelihood of success on probation.
- (9) The department shall collect and disburse the accounts receivable as defined by Section 77-32a-101, with interest and any other costs assessed under Section 64-13-21 during:
- (a) the parole period and any extension of that period in accordance with Subsection 77-27-6(4); and
 - (b) the probation period in cases for which the court orders supervised probation and any extension of that period by the department in accordance with Subsection (10).
- (10)
- (a)
 - (i) Except as provided in Subsection (10)(a)(ii), probation of an individual placed on probation after December 31, 2018:
 - (A) may not exceed the individual's maximum sentence;
 - (B) shall be for a period of time that is in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law; and
 - (C) shall be terminated in accordance with the supervision length guidelines established by the Utah Sentencing Commission under Section 63M-7-404, to the extent the guidelines are consistent with the requirements of the law.
 - (ii) Probation of an individual placed on probation after December 31, 2018, whose maximum sentence is one year or less may not exceed 36 months.
 - (iii) Probation of an individual placed on probation on or after October 1, 2015, but before January 1, 2019, may be terminated at any time at the discretion of the court or upon completion without violation of 36 months probation in felony or class A misdemeanor cases, 12 months in cases of class B or C misdemeanors or infractions, or as allowed pursuant to Section 64-13-21 regarding earned credits.
 - (b)
 - (i) If, upon expiration or termination of the probation period under Subsection (10)(a), there remains an unpaid balance upon the accounts receivable as defined in Section 77-32a-101, the court may retain jurisdiction of the case and continue the defendant on bench probation for the limited purpose of enforcing the payment of the account receivable. If the court retains jurisdiction for this limited purpose, the court may order the defendant to pay to the court the costs associated with continued probation under this Subsection (10).
 - (ii) In accordance with Section 77-18-6, the court shall record in the registry of civil judgments any unpaid balance not already recorded and immediately transfer responsibility to collect the account to the Office of State Debt Collection.
 - (iii) Upon motion of the Office of State Debt Collection, prosecutor, victim, or upon its own motion, the court may require the defendant to show cause why the defendant's failure to pay should not be treated as contempt of court.
 - (c)

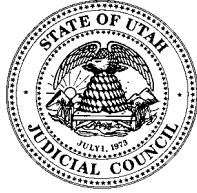
- (i) The department shall notify the court, the Office of State Debt Collection, and the prosecuting attorney in writing in advance in all cases when termination of supervised probation is being requested by the department or will occur by law.
 - (ii) The notification shall include a probation progress report and complete report of details on outstanding accounts receivable.
- (11)
- (a)
 - (i) Any time served by a probationer outside of confinement after having been charged with a probation violation and prior to a hearing to revoke probation does not constitute service of time toward the total probation term unless the probationer is exonerated at a hearing to revoke the probation.
 - (ii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation does not constitute service of time toward the total probation term unless the probationer is exonerated at the hearing.
 - (iii) Any time served in confinement awaiting a hearing or decision concerning revocation of probation constitutes service of time toward a term of incarceration imposed as a result of the revocation of probation or a graduated sanction imposed under Section 63M-7-404.
 - (b) The running of the probation period is tolled upon the filing of a violation report with the court alleging a violation of the terms and conditions of probation or upon the issuance of an order to show cause or warrant by the court.
- (12)
- (a)
 - (i) Probation may be modified as is consistent with the supervision length guidelines and the graduated sanctions and incentives developed by the Utah Sentencing Commission under Section 63M-7-404.
 - (ii) The length of probation may not be extended, except upon waiver of a hearing by the probationer or upon a hearing and a finding in court that the probationer has violated the conditions of probation.
 - (iii) Probation may not be revoked except upon a hearing in court and a finding that the conditions of probation have been violated.
 - (b)
 - (i) Upon the filing of an affidavit, or an unsworn written declaration executed in substantial compliance with Section 78B-5-705, alleging with particularity facts asserted to constitute violation of the conditions of probation, the court shall determine if the affidavit or unsworn written declaration establishes probable cause to believe that revocation, modification, or extension of probation is justified.
 - (ii) If the court determines there is probable cause, it shall cause to be served on the defendant a warrant for the defendant's arrest or a copy of the affidavit or unsworn written declaration and an order to show cause why the defendant's probation should not be revoked, modified, or extended.
 - (c)
 - (i) The order to show cause shall specify a time and place for the hearing and shall be served upon the defendant at least five days prior to the hearing.
 - (ii) The defendant shall show good cause for a continuance.
 - (iii) The order to show cause shall inform the defendant of a right to be represented by counsel at the hearing and to have counsel appointed if the defendant is indigent.
 - (iv) The order shall also inform the defendant of a right to present evidence.
 - (d)

- (i) At the hearing, the defendant shall admit or deny the allegations of the affidavit or unsworn written declaration.
 - (ii) If the defendant denies the allegations of the affidavit or unsworn written declaration, the prosecuting attorney shall present evidence on the allegations.
 - (iii) The persons who have given adverse information on which the allegations are based shall be presented as witnesses subject to questioning by the defendant unless the court for good cause otherwise orders.
 - (iv) The defendant may call witnesses, appear and speak in the defendant's own behalf, and present evidence.
- (e)
- (i) After the hearing the court shall make findings of fact.
 - (ii) Upon a finding that the defendant violated the conditions of probation, the court may order the probation revoked, modified, continued, or reinstated for all or a portion of the original term of probation.
 - (iii)
 - (A) Except as provided in Subsection (10)(a)(ii), the court may not require a defendant to remain on probation for a period of time that exceeds the length of the defendant's maximum sentence.
 - (B) Except as provided in Subsection (10)(a)(ii), if a defendant's probation is revoked and later reinstated, the total time of all periods of probation the defendant serves, relating to the same sentence, may not exceed the defendant's maximum sentence.
 - (iv) If a period of incarceration is imposed for a violation, the defendant shall be sentenced within the guidelines established by the Utah Sentencing Commission pursuant to Subsection 63M-7-404(4), unless the judge determines that:
 - (A) the defendant needs substance abuse or mental health treatment, as determined by a validated risk and needs screening and assessment, that warrants treatment services that are immediately available in the community; or
 - (B) the sentence previously imposed shall be executed.
 - (v) If the defendant had, prior to the imposition of a term of incarceration or the execution of the previously imposed sentence under this Subsection (12), served time in jail as a condition of probation or due to a violation of probation under Subsection (12)(e)(iv), the time the probationer served in jail constitutes service of time toward the sentence previously imposed.
- (13) The court may order the defendant to commit the defendant to the custody of the Division of Substance Abuse and Mental Health for treatment at the Utah State Hospital as a condition of probation or stay of sentence, only after the superintendent of the Utah State Hospital or the superintendent's designee has certified to the court that:
- (a) the defendant is appropriate for and can benefit from treatment at the state hospital;
 - (b) treatment space at the hospital is available for the defendant; and
 - (c) individuals described in Subsection 62A-15-610(2)(g) are receiving priority for treatment over the defendants described in this Subsection (13).
- (14) Presentence investigation reports are classified protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act. Notwithstanding Sections 63G-2-403 and 63G-2-404, the State Records Committee may not order the disclosure of a presentence investigation report. Except for disclosure at the time of sentencing pursuant to this section, the department may disclose the presentence investigation only when:
- (a) ordered by the court pursuant to Subsection 63G-2-202(7);

- (b) requested by a law enforcement agency or other agency approved by the department for purposes of supervision, confinement, and treatment of the offender;
 - (c) requested by the Board of Pardons and Parole;
 - (d) requested by the subject of the presentence investigation report or the subject's authorized representative;
 - (e) requested by the victim of the crime discussed in the presentence investigation report or the victim's authorized representative, provided that the disclosure to the victim shall include only information relating to statements or materials provided by the victim, to the circumstances of the crime including statements by the defendant, or to the impact of the crime on the victim or the victim's household; or
 - (f) requested by a sex offender treatment provider who is certified to provide treatment under the program established in Subsection 64-13-25(3) and who, at the time of the request:
 - (i) is providing sex offender treatment to the offender who is the subject of the presentence investigation report; and
 - (ii) provides written assurance to the department that the report:
 - (A) is necessary for the treatment of the offender;
 - (B) will be used solely for the treatment of the offender; and
 - (C) will not be disclosed to an individual or entity other than the offender.
- (15)
- (a) The court shall consider home confinement as a condition of probation under the supervision of the department, except as provided in Sections 76-3-406 and 76-5-406.5.
 - (b) The department shall establish procedures and standards for home confinement, including electronic monitoring, for all individuals referred to the department in accordance with Subsection (16).
- (16)
- (a) If the court places the defendant on probation under this section, it may order the defendant to participate in home confinement through the use of electronic monitoring as described in this section until further order of the court.
 - (b) The electronic monitoring shall alert the department and the appropriate law enforcement unit of the defendant's whereabouts.
 - (c) The electronic monitoring device shall be used under conditions which require:
 - (i) the defendant to wear an electronic monitoring device at all times; and
 - (ii) that a device be placed in the home of the defendant, so that the defendant's compliance with the court's order may be monitored.
 - (d) If a court orders a defendant to participate in home confinement through electronic monitoring as a condition of probation under this section, it shall:
 - (i) place the defendant on probation under the supervision of the Department of Corrections;
 - (ii) order the department to place an electronic monitoring device on the defendant and install electronic monitoring equipment in the residence of the defendant; and
 - (iii) order the defendant to pay the costs associated with home confinement to the department or the program provider.
 - (e) The department shall pay the costs of home confinement through electronic monitoring only for an individual who is determined to be indigent by the court.
 - (f) The department may provide the electronic monitoring described in this section either directly or by contract with a private provider.

Amended by Chapter 28, 2019 General Session
Amended by Chapter 429, 2019 General Session

Tab 9



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

June 25, 2019

Hon. Mary T. Noonan
Interim State Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Management Committee

FROM: Tom Langhorne, Director of Judicial Education

RE: Filling Standing Education Committee's vacancy

Per Rule 1-205, the standing committee on judicial branch education shall be populated in part by, "...one juvenile court probation representative...".

The previous juvenile court probation representative on the standing committee was promoted to a Trial Court Executive position, thereby rendering her ineligible to serve on the committee.

To render interest in filling the vacancy, Tom collaborated with Neira Siaperas, Juvenile Court Administrator. After consulting with Ms. Siaperas, she canvassed all Chief Probation Officers to seek individuals' interest in applying for the vacancy. One person expressed interest in serving.

Specifically, Megan Haney, Chief Probation Officer for the Third Judicial District, submitted her letter expressing interest and bio, both of which are attached.

For several years, I have personally collaborated with Ms. Haney on various judicial branch education projects. I can unreservedly attest to her passion for the field and exceptional ability. She brings years of juvenile probation service experience and, in her current possession, considerable leadership abilities as well.

I wholeheartedly endorse her selection for this Standing Committee's vacancy.

Respectfully,

Tom Langhorne
Director, Judicial Education

**The mission of the Utah judiciary is to provide an open, fair,
efficient, and independent system for the advancement of justice under the law.**

Megan G. Haney

Megan Haney

535 Pitford Drive
Centerville, UT 84014

801.915.8860
mghaney@gmail.com

Skills

Exceptional communication skills. Effective presenter of ideas, facts, recommendations and statistical reports. Unique ability to communicate with various populations including colleagues, youth, parents, therapists, Judges, school officials and allied agencies. Ability to understand, interpret, explain and apply policies and regulations as they apply to the function of specific department and personnel practices. Strong ability to guide, organize and coordinate the work of line staff; establish and maintain effective working relationships with Court personnel, community partners, public officials, private agencies and the general public.

Professional Experience

Third District Juvenile Court / Chief Probation Officer

2013 - Present

Oversees administrative functions of multiple probation units to ensure compliance with policies and procedures. Actively participate in the selection and performance management process that includes recognizing staff achievements, mentoring, developing, and coaching staff in overcoming performance or skill deficiencies. Provide and facilitate trainings to enhance the knowledge, skills, and abilities of staff in support of the probation career tracks. Participate in regular management meetings. Maintain a positive environment, coordinate and fosters positive and productive relationships that is responsive to the needs of court personnel, patrons, and community partners. Review and approve assigned billings and work with appropriate parties to develop and oversee state supervision contracts.

Third District Juvenile Court / Probation Supervisor

2011 - 2013

Oversee the operations of a team of Juvenile Probation Officers. Support all functions of the probation team including scheduling, training, case-management, team goals and work standards. Evaluate performance and conduct based on team & departmental goals, policies, and performance standards. Provide counsel regarding work performance and career development, work closely with other Court personnel and community partners.

Third District Juvenile Court / Mentor Program Coordinator

2009 - 2011

Engage and recruit prospective volunteers willing to work with at risk youth. Conduct in-depth interviews to determine candidates appropriateness. Facilitate selection and matching of mentors and mentees. Provide volunteers with trainings which include program policies and procedures. Provide ongoing support and training as needed, develop group mentor programs, place referred youth in group mentor programs that best meet their needs. Prepare reports to the Court regarding youth's progress, communicate with probation officers and community support members.

Third District Juvenile Court / Probation officer

2005 - 2009

Supervise youth in the community to ensure compliance with Court orders and probation rules, conduct preliminary inquiry interviews with youth and families using motivational interviewing skills, complete risk assessments to determine youth's risk factors and need for interventions. Prepare accurate Court reports with specific recommendations that incorporate evaluations, risk assessments, and community safety, enforces orders of the Court, develop supervision plans, make referrals to community partners, respond to concerns of youth and families.

Education

Weber State University / Bachelor of Science ~ Psychology/Criminal Justice

2002-2005, Ogden, UT

Undergraduate Group Research Project selected to present at National Undergraduate Research Symposium.

Boise State University / Health Science ~ Psychology

1998-2001, Boise, ID

Accomplishments & Memberships

- CARE, WORD, Excel, PowerPoint, GOOGLE Docs, FINET
- Certified in case planning skills and motivation interviewing techniques
- Successful completion of the MSU Judicial Administration Program
- Successful completion of the 40-hour Basic Mediation Training
- Successful completion of the 40-hour NCTI facilitator training
- Committee member of the Language Access Committee
- Committee Chair of the Statewide Juvenile Probation Forms Committee

- Member of the Tangible Incentives workgroup
 - Member of the Probation Officer Retention and Compression workgroup
 - Prior co-chair of the Statewide Juvenile Probation Response Matrix and Toolkit Committee
 - Previous member of the Community Advisory Board (CAB), Project IMPACT committee, Probation Workload Committee, MAYSI-II workgroup, Third District Wellness Counsel, Utah Mentor Partnership
 - Previous involvement with SHOCAP, Gang Intel, and CJC
 - Presenter on Evidence Based Practices for the Judges Orientation and Probation Officer Academy
 - Presenter at Utah Youth Village, SLCC, and Jordan, Granite and Salt Lake School District Leadership Conferences and Trainings
 - Presenter at the 2018 Legislative Update West Jordan Roadshow
 - Presenter at the 2013 Salt Lake City Gang Conference
-



Megan G. Haney

Megan Haney

535 Pitford Drive
Centerville, UT 84014

801.915.8860
mghaney@gmail.com

Skills

Exceptional communication skills. Effective presenter of ideas, facts, recommendations and statistical reports. Unique ability to communicate with various populations including colleagues, youth, parents, therapists, Judges, school officials and allied agencies. Ability to understand, interpret, explain and apply policies and regulations as they apply to the function of specific department and personnel practices. Strong ability to guide, organize and coordinate the work of line staff; establish and maintain effective working relationships with Court personnel, community partners, public officials, private agencies and the general public.

Professional Experience

Third District Juvenile Court / Chief Probation Officer

2013 - Present

Oversees administrative functions of multiple probation units to ensure compliance with policies and procedures. Actively participate in the selection and performance management process that includes recognizing staff achievements, mentoring, developing, and coaching staff in overcoming performance or skill deficiencies. Provide and facilitate trainings to enhance the knowledge, skills, and abilities of staff in support of the probation career tracks. Participate in regular management meetings. Maintain a positive environment, coordinate and fosters positive and productive relationships that is responsive to the needs of court personnel, patrons, and community partners. Review and approve assigned billings and work with appropriate parties to develop and oversee state supervision contracts.

Third District Juvenile Court / Probation Supervisor

2011 - 2013

Oversee the operations of a team of Juvenile Probation Officers. Support all functions of the probation team including scheduling, training, case-management, team goals and work standards. Evaluate performance and conduct based on team & departmental goals, policies, and performance standards. Provide counsel regarding work performance and career development, work closely with other Court personnel and community partners.

Third District Juvenile Court / Mentor Program Coordinator

2009 - 2011

Engage and recruit prospective volunteers willing to work with at risk youth. Conduct in-depth interviews to determine candidates appropriateness. Facilitate selection and matching of mentors and mentees. Provide volunteers with trainings which include program policies and procedures. Provide ongoing support and training as needed, develop group mentor programs, place referred youth in group mentor programs that best meet their needs. Prepare reports to the Court regarding youth's progress, communicate with probation officers and community support members.

Third District Juvenile Court / Probation officer

2005 - 2009

Supervise youth in the community to ensure compliance with Court orders and probation rules, conduct preliminary inquiry interviews with youth and families using motivational interviewing skills, complete risk assessments to determine youth's risk factors and need for interventions. Prepare accurate Court reports with specific recommendations that incorporate evaluations, risk assessments, and community safety, enforces orders of the Court, develop supervision plans, make referrals to community partners, respond to concerns of youth and families.

Education

Weber State University / Bachelor of Science ~ Psychology/Criminal Justice

2002-2005, Ogden, UT

Undergraduate Group Research Project selected to present at National Undergraduate Research Symposium.

Boise State University / Health Science ~ Psychology

1998-2001, Boise, ID

Accomplishments & Memberships

- CARE, WORD, Excel, PowerPoint, GOOGLE Docs, FINET
- Certified in case planning skills and motivation interviewing techniques
- Successful completion of the MSU Judicial Administration Program
- Successful completion of the 40-hour Basic Mediation Training
- Successful completion of the 40-hour NCTI facilitator training
- Committee member of the Language Access Committee
- Committee Chair of the Statewide Juvenile Probation Forms Committee

- Member of the Tangible Incentives workgroup
 - Member of the Probation Officer Retention and Compression workgroup
 - Prior co-chair of the Statewide Juvenile Probation Response Matrix and Toolkit Committee
 - Previous member of the Community Advisory Board (CAB), Project IMPACT committee, Probation Workload Committee, MAYSI-II workgroup, Third District Wellness Counsel, Utah Mentor Partnership
 - Previous involvement with SHOCAP, Gang Intel, and CJC
 - Presenter on Evidence Based Practices for the Judges Orientation and Probation Officer Academy
 - Presenter at Utah Youth Village, SLCC, and Jordan, Granite and Salt Lake School District Leadership Conferences and Trainings
 - Presenter at the 2018 Legislative Update West Jordan Roadshow
 - Presenter at the 2013 Salt Lake City Gang Conference
-
-





Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

June 12, 2019

Hon. Mary T. Noonan
Interim State Court Administrator
Ray Wahl
Deputy Court Administrator
Catherine J. Dupont
Deputy Court Administrator

MEMORANDUM

TO: Management Committee / Judicial Council

FROM: Keisa Williams

RE: Standing Committee on Pretrial Release and Supervision
New Member Appointments

Name of Committee: Standing Committee on Pretrial Release and Supervision

Reason for Vacancies:

- Utah Association of Counties – Adam Trupp resigned from the Committee
- Justice Court Judge – Judge Sessions is now a member of the Judicial Council

Eligibility requirements: Each of these vacancies are required pursuant to CJA 1205(1)(B)(xiii)

Current committee member list:

LAST NAME	FIRST NAME	ROLE
Carlos	Wayne	Commercial Surety Agent
Crandall	Kimberly	Prosecutor
Eddington	Hon. Keith	Juvenile Court Judge
Harmond	Hon. George	District Court Judge (Chair)
Hillyard	Lyle	State Senator
Hutchings	Eric	State Representative
Johnson	Brent	Court's General Counsel
Kendall	Hon. William	District Court Judge
Kiddle	Lt. Corey	Representative of County Sheriff
Kimball	Pat	Representative of County Pretrial Services Agency
Mauro	Rich	Representative of Indigent Defense Commission
McCullagh	Hon. Brendan	Justice Court Judge

The mission of the Utah judiciary is to provide an open, fair, efficient, and independent system for the advancement of justice under the law.

Stringham	Reed	Utah Insurance Department
Tangaro	Cara	Defense Attorney
Thompson	Marshall	Commission on Criminal and Juvenile Justice
Vacant		Representative of Utah Association of Counties
Vacant		Justice Court Judge

Description of recruitment process: The Board of Justice Court Judges nominated Judge Jeanne Robison to be their representative, and the Utah Association of Counties nominated Commissioner Lorene Kamalu to replace Adam Trupp.

List of names for consideration:

- Utah Association of Counties
 - Commissioner Lorene Kamalu (Davis County)
- Justice Court Judge
 - Jeanne Robison (Salt Lake City Justice Court)

Brief bios are attached

Commissioner Lorene Kamalu
Davis County Commission



Prior to being elected as a Davis County Commissioner, Lorene Miner Kamalu (kuh-MAH-loo) served over four years as a Kaysville City Planning Commissioner. While working in her city, she discovered a passion for planning, policy and citizen engagement and decided to pursue a Master of Public Administration degree. Lorene graduated at the top of her University of Utah executive class in August 2018.

Lorene's prior experience is in business. She holds a Bachelor of Science degree in Human Resources from Brigham Young University, worked in public relations before having children, then worked from home for over 20 years to grow a sales team of 320 consultants with Creative Memories. Lorene excelled as an entrepreneur, earning national awards and training both regionally and corporately. She worked briefly as a management consultant before turning to public service.

Lorene is proud of her Utah pioneer roots and also values having grown up in Indiana from kindergarten through high school where her father was a university foreign language professor and her mother a musician. She is married to Layne Kamalu, who is part Hawaiian and pursued a medical career. They served as an Air Force active duty family from 1993-2000, stationed first at Scott and then at Hill Air Force Base. When the time came to settle, the Kamalus chose to stay in Davis County because it is an ideal place to raise a family and to enjoy a variety of outdoor recreation. Lorene and Layne are the parents of five grown children and grandbabies are starting to join the family. She runs, cycles, lifts weights and practices yoga.

Judge Jeanne Robison
Salt Lake City Justice Court



Judge Jeanne Robison has served the Salt Lake City Justice Court since 2005.

Prior to taking the bench, Judge Robison worked as an assistant city prosecutor for Salt Lake City from 1995 through 2005. She earned a bachelor's degree in Political Science from Brigham Young University in 1986 and a J.D. from the University of Utah College of Law in 1994. Judge Robison has been an adjunct professor for the University of Utah and University of Phoenix. She has served as a member of the Utah State Bar's Needs of Children Committee and the Board of Directors of the Multi-Cultural Legal Center.

Tab 10

Judicial Council Grant Application Proposal Code of Judicial Administration 3-411

FEDERAL GRANTS

Contact Person/Phone: Nini Rich 801 578-3982 Date: 6/12/2019

Judicial District or Location: AOC/ADR

Grant Title Child Access Visitation Grantor: US Administration for Children and Families

Grant type (check one); New Renewal Revision

Grant Level (check one); Low Med. High.
Under \$1,000,000 \$1,000,000 to \$10,000,000 Over \$10,000,000

Issues to be addressed by the Project: The Co-Parenting Mediation Program provides mediation services to help disputing parents increase visitation between their children and the non-custodial parent

Explanation of how the grant funds will contribute toward resolving the issues identified: The Co-parenting Mediation Program gives parents the opportunity to resolve differences in a safe environment with the assistance of a trained mediator. Parents have the opportunity to discuss parenting issues and the needs of their children. This allows parent-time plans to be individualized to maximize the non-custodial parent's access to the children.

Fill in the chart(s) for estimated state fiscal year expenditures for up to three years:

Total Funding Sources

		(PROVIDE EXPLANATION OF ALL MATCHES IN THE COMMENTS SECTION)						
		MATCHING STATE DOLLARS						
		Other Matching Funds from Non-State Entities	General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort	Total Funds
CASH MATCH	Grant Amount							
State Fiscal Year								
FY2020	\$100,000		\$11,111					\$111,111
FY2021	\$100,000		\$11,111					\$111,111
FY2022	\$100,000		\$11,111					\$111,111

		(PROVIDE EXPLANATION OF ALL MATCHES IN THE COMMENTS SECTION)						
		MATCHING STATE DOLLARS						
		Other Matching Funds from Non-State Entities	General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort	Total Funds
IN-KIND MATCH	Grant Amount							
State Fiscal Year								
FY								\$0
FY								\$0
FY								\$0

Comments: _____

Will additional state funding be required to maintain or continue this program or its infrastructure when this grant expires or is reduced? Yes No If yes, explain: Yes, but this block grant has been in place for over 18 years and we don't anticipate that the grant will expire or be reduced

Will the funds to continue this program come from within your exiting budget: Yes No N/A

How many additional permanent FTEs are required for the grant? None Temp FTEs: None

This proposal has been reviewed and approved by the following:
The court executives and judges in the affected district(s).
The Grant Coordinator and the Budget Manager at the Administrative Office of the Courts.
The affected Board(s) of Judges.

Approved by the Judicial Council / / 2019
Date Court Administrator

Copy forwarded to Legislative Fiscal Analyst _____
date

**Judicial Council Grant Application Proposal
Code of Judicial Administration 3-411**

FEDERAL GRANTS

Contact Person/Phone: Stacey Snyder Date: May 28, 2019

Judicial District or Location: 020 2890 GAL/CASA

Grant Title: National CASA Awareness Grant Grantor: National CASA

Grant type (check one): New Renewal Revision

Grant Level (check one): Low Med. High.
Under \$1,000,000 \$1,000,000 to \$10,000,000 Over \$10,000,000

Issues to be addressed by the Project: Grant opportunity for states to use the National CASA media campaign in major metropolitan areas. Use for billboards, social media, radio and TV advertisement for awareness of the CASA program. Also used for recruitment.

Explanation of how the grant funds will contribute toward resolving the issues identified: Allows the current media campaign's to run for longer periods.

Fill in the chart(s) for estimated state fiscal year expenditures for up to three years:

Total Funding Sources

		(PROVIDE EXPLANATION OF ALL MATCHES IN THE COMMENTS SECTION)					
		MATCHING STATE DOLLARS					
		General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort	Total Funds
CASH MATCH	Other Matching Funds from Non-State Entities						
State Fiscal Year	Grant Amount						
FY							\$0
FY							\$0
FY							\$0

IN-KIND MATCH

		(PROVIDE EXPLANATION OF ALL MATCHES IN THE COMMENTS SECTION)					
		MATCHING STATE DOLLARS					
		General Fund	Dedicated Credits	Restricted Funds	Other (Write In)	Maintenance of Effort	Total Funds
IN-KIND MATCH	Other Matching Funds from Non-State Entities						
State Fiscal Year	Grant Amount						
FY							\$0
FY							\$0
FY							\$0

Comments: _____

Will additional state funding be required to maintain or continue this program or its infrastructure when this grant expires or is reduced? Yes _____ No If yes, explain: One time funds for media campaigns.

Will the funds to continue this program come from within your exiting budget: Yes _____ No N/A _____

How many additional permanent FTEs are required for the grant? 0 Temp FTEs? 0

This proposal has been reviewed and approved by the following:
The court executives and judges in the affected district(s).
The Grant Coordinator and the Budget Manager at the Administrative Office of the Courts.
The affected Board(s) of Judges.

Approved by the Judicial Council _____ by _____
Date Court Administrator

Copy forwarded to Legislative Fiscal Analyst _____
date



Stacey Snyder <staceys@utcourts.gov>

N CASA Awareness Grant

1 message

Melanie Speechly <melaniems@utcourts.gov>

Fri, May 3, 2019 at 4:04 PM

To: Stacey Snyder <staceys@utcourts.gov>

Hi Stacey,

Today I was on a webinar with National CASA and they are rolling out a grant opportunity for states to use the new media campaign they have had developed. The intent is to run campaigns in states at the same time their national campaign is running. It is for the major metropolitan area of states that apply. I have asked Heather to assist me with this since her area will benefit, but also to give her experience in grant writing.

We will ask for somewhere between 65-75k. The money can only be used on billboards, social media, radio, TV, and campaign materials. It will be used for awareness of the CASA program and also for recruiting of CASA volunteers. The application is due May 21st and if awarded, funds will be distributed by June 17th. The period to use the one-time use funds from National CASA is June-Sept 30th, unless they allow an extension. We will plan on using the funds to provide two more months of billboard advertising in the Salt Lake area and Davis County. No additional state funding or match dollars are required. We will be required to report on our website traffic and inquiries from the ads at the end. It is mostly for brand awareness since we have very little at this point.

So, if you approve, we will move forward. Also, do we need Judge Noonan's approval again?

Thanks!

--

Melanie Speechly
Statewide CASA Program Administrator
Utah Administrative Office of the Courts
Office: 801-447-3942 Mobile: 801-502-9636

Visit us at UtahCASA.org

Tab 11



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

June 28, 2019

Hon. Mary T. Noonan
Interim State Court Administrator
Ray Wahl
Deputy Court Administrator

MEMORANDUM

TO: Members of the Judicial Council Management Committee

FROM: Neira Siaperas
Utah Juvenile Court Administrator

DATE: June 28, 2019

RE: Proposed Probation Policies for Review and Approval

The Board of Juvenile Court Judges has proposed revisions of the following policies which are now advanced to Management Committee for review and consideration. Additionally, I seek placement on the Judicial Council's consent agenda for July 18, 2019.

Section 5.1, Probation Searches [Recommendation to Approve]

This policy was last updated on August 1, 2001. The purpose of the policy is to provide direction to probation department staff when conducting searches. Changes in the policy were made to update the conditions under which probation staff conduct searches and include reference to Local Security Plans and the Work Crew Deputy Probation Officers' Operating Manual in regards to administrative searches.

Section 5.3, Continuum of Force [Recommendation to Approve]

This policy was last updated on November 1, 2001. The purpose of the policy is to establish guidelines for probation staff when responding to individuals who may cause physical injury to themselves or others. Changes were made to align the policy with the current Utah State Juvenile Court Probation Officer Safety Training curriculum, Natural Response Control Tactics.

I will be available to respond to questions during your meeting on July 9, 2019.

Thank you.

cc:

Honorable James R. Michie, Jr., Chair-Board of Juvenile Court Judges

**The mission of the Utah judiciary is to provide an open, fair,
efficient, and independent system for the advancement of justice under the law.**

POLICY 5.1 Probation Searches

5.1 Probation Searches

Policy:

This policy provides direction to probation department staff when conducting searches.

Scope:

This policy applies to all probation department staff of the Utah State Juvenile Court.

Authority:

- Legal Counsel Opinion - Search & Seizure

Reference:

- [Probation Policy 5.2 Transporting a Minor in Custody](#)
- [Probation Policy 5.7 Transporting a Minor Not in Custody](#)
- [Work Crew Deputy Probation Officers Operating Manual](#)

Procedure:

1. The probation officer shall adhere to the *Local Security Plan, Work Crew Deputy Probation Officers Operating Manual* and probation policy when searching individuals entering probation properties and vehicles.
2. The probation officer shall only conduct searches of dwellings and property under the following conditions:
 - 2.1. when there is a court order requiring a search; or
 - 2.2. when there is a court order allowing a search and reasonable suspicion of illegal activity exists.
 - 2.2.1. Reasonable suspicion includes but is not limited to:
 - 2.2.1.1. Information reported from a reliable source that the minor may have violated the law or their court order(s).
 - 2.2.1.2. Observable physical indicators that the minor is under the influence of illegal substances.
 - 2.2.1.3. Observable environmental indicators that the minor may be in possession of illegal or restricted items.

3. The probation officer shall refer to [Probation Policy 4.16 - Confiscated Property](#) when illegal or restricted items are discovered during a search.

4. The probation officer shall not conduct a search if the individual in control of the property refuses to allow the search. The probation officer shall staff the situation with their supervisor and consult the noncompliant matrix to determine the appropriate response to the refusal.

Addendum 5.1.1 Legal Counsel Opinion - Search & Seizure

History:

Effective August 1, 2001

Update Approved for Comment by BJCJ January 11, 2019

Approved by Chiefs May 8, 2019

Approved by JTCEs June 6, 2019



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

Richard H. Schwermer
State Court Administrator
Ray Wahl
Deputy Court Administrator

January 3, 2019

MEMORANDUM

TO: Juvenile Trial Court Executives and Probation Chiefs
FROM: Brent M. Johnson
RE: Search and Seizure

The following is an updated version of my memorandum issued in July 2000.

It has been suggested that I put together a memorandum clarifying the courts' policies on search and seizure by juvenile court probation officers.

Supreme Court Decision

In 2002, the Utah Supreme Court issued an opinion holding that juveniles do not have an expectation of privacy when they are on probation and the probation order states that the juvenile will be subject to random searches. See State ex. rel. A.C.C., 2002 UT 22, 44 P.3d 708. The Supreme Court decision reversed a decision by the Utah Court of Appeals. The court stated: "We conclude that a juvenile probationer who is subjected to a probation condition authorizing random searches has no reasonable expectation of privacy because such an expectation is inconsistent with the fundamental objective of Utah's juvenile probation." Random searches are thus allowed. But the courts may choose a more restrictive policy if they choose.

Search and Seizure Policy

There are generally four types of searches of interest to juvenile court probation officers: 1) random searches, 2) reasonable suspicion searches, 3) consent searches, and 4) administrative/security searches. I will discuss each of these in turn.

The mission of the Utah judiciary is to provide an open, fair,
efficient, and independent system for the advancement of justice under the law.

A. *Random searches.* As the name indicates, individuals in certain situations can be subjected to searches that occur at any time, without notice. As noted in the Supreme Court opinion, random searches of juveniles are permitted when the probation order states that a juvenile may be subject to random searches. The primary consideration for random searches is ensuring that the person or area is lawfully subject to search. A juvenile subject to random searches can be searched through reasonable means, such as a patdown or taking a urine or blood sample. The areas that can be searched are those over which the juvenile has control, such as the juvenile's bedroom. A juvenile's car can be searched if the juvenile has possession and control of that vehicle. Backpacks and purses can be searched. Again, these can be conducted without warning and at any time.

B. *Reasonable suspicion.* The juvenile courts could adopt a policy requiring reasonable suspicion searches rather than random searches. A search of a juvenile probationer, or a juvenile probationer's property may be conducted if a probation officer has "reasonable suspicion" of illegal activity. The Utah Court of Appeals has described reasonable suspicion as follows:

Reasonable suspicion requires no more than that the authority acting be able to point to specific and articulable facts that, taken together with rational inferences from those facts, reasonably warrant a belief that a condition of probation has been or is being violated. However, a probation search cannot be based upon a mere hunch without factual basis, nor upon casual rumor, general reputation, or mere whim. To determine whether the facts known to the officers legitimately gave rise to a reasonable suspicion, we do not address each fact in isolation, but instead view them in their totality.

State v. Hyatt, 965 P.2d 525 (Utah App. 1988).

Reasonable suspicion is based on specific facts and not on hunches and reputation. Examples of the types of facts that would support reasonable suspicion include:

- A juvenile probationer who smells of marijuana smoke would justify a search of the person and the items that the person is carrying, such as a backpack.
- Locating drug paraphernalia in plain view in a probationer's bedroom would justify a search for drugs in other areas of the bedroom.
- Information from a reliable informant that a probationer is carrying a weapon would justify a search of the probationer for that weapon.

There are several important considerations involving reasonable suspicion searches. First, the area to be searched must have a relationship to the facts that support reasonable suspicion. For instance, information from a reliable informant that indicates a probationer has a weapon in a car would not automatically support a search of the probationer's bedroom. Second, the past history of a probationer does not in and of itself support reasonable suspicion. For instance, a probationer's history of carrying a weapon does not support subsequent searches of the probationer without additional facts that the probationer may then be carrying a weapon. Third,

nervous behavior in and of itself does not support reasonable suspicion searches. There must be other specific facts, in conjunction with the nervous behavior, that would support such a search.

C. *Consent searches.* Searches may be conducted with the consent of a person who has ownership or control over the property to be searched. In order for the consent to be valid, the consent must be given at the time of the search, the consent must be knowing and informed and cannot be coerced, and the consent must be specific to the area to be searched.

Consent searches are a very valuable tool for juvenile court probation officers because consent can often be obtained from a juvenile's parent. As long as the parent has ownership and/or access to the area to be searched, the parent can give consent, even if the juvenile has refused to give consent to the search. Parents typically have access to their kids' bedrooms and areas within the bedrooms such as closets, dresser drawers, and possibly backpacks, and can give consent for those areas to be searched. A probation officer should make certain that the area to be searched is one for which the person can give consent before commencing the search.

D. *Administrative/security searches.* In almost all of the court sites and probation offices, searches are conducted when persons enter the premises to ensure that those persons are not carrying a weapon. These searches are valid as legitimate administrative and security concerns. The most important aspect for these searches is that the person subject to the search be provided notice that these searches may be conducted. This is most often accomplished by posting written notice at the entrance of a building or office that all persons entering the building or office are subject to a search for security purposes. Because these searches are for the purpose of determining whether a person carries a weapon, these searches can be no more intrusive than is necessary to determine whether a weapon is present. If a magnetometer is available, the magnetometer should be used and additional searches of the person may not be conducted unless the magnetometer reveals items that are suspicious.

Juvenile court work crews are permitted to conduct administrative/security searches as a part of their work detail. Juveniles who are a part of these work crews should be given written notice that they will be subject to searches upon reporting for work and upon entering the van at the end of a work detail. Again, these types of searches must be no more intrusive than is necessary to determine the presence of weapons.

Conclusion

This memorandum is simply a brief description of the types of searches that are possible. In some instances, these issues can become fairly complicated and as questions arise the questions can be directed to my office. Training can also be arranged on the legal issues involved with searches as well as the proper methods and considerations for searches.

COMMENTS ON
POLICY 5.1 Probation Searches

Proposed Policy Update to 5.1 Probation Searches

Comment Themes:

- Can probation officers still conduct consent searches without a court order when a youth is on formal probation? x2
- Does this policy still allow for search of a minor when getting into a work crew van as part of a work crew assignment?
- I was gratified to read that the Utah State Supreme Court decision State of Utah in the interest of A.C.C. was cited in reference to policy and procedure for probation searches.
- Is the 4th Amendment of the US Constitution and Article 1 Section 14 of the Utah State Constitution the correct authority for this policy, or should it be the State of Utah in the interest of A.C.C. and other court decisions in the body of law that pertain to probation searches and individuals under supervision?
- I would suggest that bullet point 4 should be amended to include that such a refusal should, by default, be considered a SERIOUS level of non-compliance.

Response to questions:

- When a youth is placed on formal probation, there are a few standard orders the judge could choose to order, including that the youth may be searched as a condition of their probation. If the search condition is included in the youth's order when placed on formal probation, the probation officer has the ability to conduct a search if reasonable suspicion ALSO exists. If the judge opts not to order the search condition when placing a youth on probation (intake or formal), probation may not conduct a search even if the parents or youth consent to it and reasonable suspicion exists. (This is not applicable to instances where the Local Security Plan or participation in a program (i.e. work crew) allows for searches by probation). If this standard condition is ordered when a youth is placed on formal probation, this is a court order. For more information about this please see the legal counsel opinion on search and seizure- Policy Addendum 5.1.1.

Policy Workgroup Decisions:

- Removed the 4th Amendment of the US Constitution and Article 1 Section 14 of the Utah State Constitution as authorities to the policy.
- Updated #1 to include adherence to the *Work Crew Deputy Probation Officers Operation Manual* and probation policy when searching individuals entering probation offices, and also added vehicles to the sentence.
- Added references to the policy that include the transportation policies and work crew manual so the probation officer would have a quick link if question came up while reviewing the search policy.
- Declined to change #4 to reflect that declining a search should be a serious level of non-compliance. It was determined that the reasons/circumstances surrounding a youth declining a search may not always arise to a serious level of non-compliance and probation officers should continue to be allowed the discretion to consult the matrix based on those variables to determine their response.

5.1 Probation Searches

Policy:

This policy provides direction to probation department staff when conducting searches. The probation department may conduct administrative searches of individuals who enter probation offices for the detection of weapons. The probation department may conduct a search when there is reasonable suspicion that the probationer has violated the law or terms of probation.

Scope:

This policy applies to all juvenile court personnel **probation department staff** of the Utah State Juvenile Court.

Authority:

- ~~United States Constitution – 4th Amendment~~
- ~~Utah Constitution – Article I Section 14~~
- ~~Opinion for Court Administration Legal Counsel **Opinion - Search and Seizure** dated July 10, 2000~~

Reference:

- [Probation Policy 5.2 Transporting a Minor in Custody](#)
- [Probation Policy 5.7 Transporting a Minor Not in Custody](#)
- [Work Crew Deputy Probation Officers Operating Manual](#)

Procedure:

1. ~~Search of Individuals Entering Probation Offices:~~ **The probation officer shall adhere to the *Local Security Plan, Work Crew Deputy Probation Officers Operating Manual* and probation policy when searching individuals entering probation properties.**
 - 1.1. ~~4.1 Each district office shall address the "Search of Individuals Entering the Probation Offices" through the district security plan or district policy & procedures. This shall include reporting incidents as outlined in Section 5.6 – Critical Incident Reporting.~~
2. ~~Search of Probationers' Dwellings and Property shall require reasonable suspicion or consent of the individual who has control of the premises. **The probation officer shall only conduct searches of dwellings and property under the following conditions:**~~

- 2.1. Reasonable Suspicion includes but is not limited to: **when there is a court order requiring a search; or**
- 2.2. **when there is a court order allowing a search and reasonable suspicion of illegal activity exists.**
 - 2.2.1. **Reasonable suspicion includes but is not limited to:**
 - 2.2.1.1. Information reported from a reliable source that the probationer **minor** may have violated the law or **their court order(s)**, the conditions of his/her probation.
 - 2.2.1.2. Observable physical indicators that the probationer **minor** is under the influence of illegal substances.
 - 2.2.1.3. Observable environmental indicators that the probationer minor may be in possession of contraband, weapons, or illegal substances **or restricted items.**
- 2.3. ~~Where reasonable suspicion does not clearly exist, consent of the individual who has control of the dwelling or living space must be obtained prior to a search. A consent for search form will be used stating the general area to be searched and that the individual has the right to refuse permission to search.~~
 - 2.3.1. ~~Consent will be valid if it appears that the individual has the age, education, and intelligence to understand the issues to which he/she is giving consent.~~
 - 2.3.2. ~~The probation officer should be prepared to articulate that the individual understood the concept of consent.~~
 - 2.3.3. ~~Permission must be specific to each occasion when a consent search is requested by probation.~~
 - 2.3.4. ~~If the request to search is refused, no search shall take place and the refusal shall not be construed as reasonable suspicion.~~
- 2.4. ~~Where reasonable suspicion does not clearly exist, consent from the individual who owns the vehicle must be obtained prior to a search. A consent for a search form will be used stating the general area to be searched and that the individual has the right to refuse permission to search.~~
 - 2.4.1. ~~Consent will be valid if it appears that the individual has the age, education, and intelligence to understand the issues to which he/she is giving consent.~~
 - 2.4.2. ~~The probation officer should be prepared to articulate that the individual understood the concept of consent.~~
 - 2.4.3. ~~Permission must be specific to each occasion when a consent search is requested by probation.~~
 - 2.4.4. ~~Ownership is a factor to consider, but the most important factor is who has control and access of the vehicle.~~
 - 2.4.5. ~~If the request to search is refused, no search shall take place and the refusal shall not be construed as reasonable suspicion.~~
- 2.5. ~~Where reasonable suspicion does not clearly exist, consent from the individual who owns the property or who has possession of the property~~

~~must be obtained prior to a search. A search form will be used stating the general area to be searched and that the individual has the right to refuse permission to search.~~

- ~~2.5.1. Consent will be valid if it appears that the individual has the age, education, and intelligence to understand the issues to which he/she is giving consent.~~
- ~~2.5.2. The probation officer should be prepared to articulate that the individual understood the concept of consent.~~
- ~~2.5.3. Permission must be specific to each occasion when a consent search is requested by probation.~~
- ~~2.5.4. Ownership is a factor to consider, but the most important factor is who has control and access of the property.~~
- ~~2.5.5. If the request to search is refused, no search shall take place and the refusal shall not be construed as reasonable suspicion.~~

~~3. If weapons, illegal drugs, or other contraband is discovered during a search, law enforcement shall be notified to take possession of the items, to investigate and to refer charges to the prosecutor.~~

- 3. **The probation officer shall refer to Probation Policy 4.16 - Confiscated Property when illegal or restricted items are discovered during a search.**
- 4. **The probation officer shall not conduct a search if the individual in control of the property refuses to allow the search. The probation officer shall staff the situation with their supervisor and consult the noncompliant matrix to determine the appropriate response to the refusal.**

Addendum 5.1.1 Legal Counsel Opinion Search & Seizure

History:

Effective August 1, 2001

Update Approved by BJCJ January 11, 2019

Approved by Chiefs May 8, 2019

Approved by JTCEs June 6, 2019

MEMORANDUM

To: Juvenile Trial Court Executives
 From: Brent Johnson, General Counsel
 Re: Search and Seizure
 Date: July 10, 2000

I have been receiving feedback that there still might be confusion about the impact of the recent Utah Court of Appeals' decision on searches by juvenile court probation officers. It has been suggested that I put together a memorandum clarifying the courts' policies on search and seizure by juvenile court probation officers.

Impact of Utah Court of Appeals Decision

The Court of Appeals' decision did not have, and should not have, any impact on our existing policies concerning juvenile court probation officer searches. Our policy, as will be explained below, has always been that juvenile probationers and their property can only be searched based upon consent or reasonable suspicion of illegal activity. The Court of Appeals' decision was based on a test case to determine whether searches could occur under circumstances other than reasonable suspicion or consent. The argument in the case was that juvenile probationers, because of their status as minors, should not have a reasonable expectation of privacy in their person or property and therefore could be searched at any time, for any reason. The argument was based on a theory that society has a compelling interest in rehabilitating juveniles and this compelling interest overcomes any expectation of privacy by the juveniles. The Court of Appeals rejected this test argument and stated that juvenile probationers essentially have the same rights as adult probationers. Because this was a test case, it did not have any impact on the way our juvenile court probation officers should have been doing business. In fact, a conscious decision had been made to await the Court of Appeals decision before making any changes to our search and seizure policy. Based on the decision, no changes are necessary.

Search and Seizure Policy

There are generally three types of searches of concern to juvenile court probation officers: 1) reasonable suspicion searches, 2) consent searches, and 3) administrative/security searches. I will discuss each of these in turn.

A. Reasonable suspicion. A search of a juvenile probationer, or a juvenile probationer's property may be conducted if a probation officer has "reasonable suspicion" of illegal activity. The Utah Court of Appeals has described reasonable suspicion as follows:

Reasonable suspicion requires no more than that the authority acting be able to point to specific and articulable facts that, taken together with rational inferences from those facts, reasonably warrant a belief that a condition of probation has been or is being violated. However, a probation search cannot be based upon a mere hunch without factual basis, nor upon casual rumor, general reputation, or mere whim. To determine

whether the facts known to the officers legitimately gave rise to a reasonable suspicion, we do not address each fact in isolation, but instead view them in their totality.

State v. Hyatt, 965 P.2d 525 (Utah App. 1998).

Reasonable suspicion is based on specific facts and not on hunches and reputation. Examples of the types of facts that would support reasonable suspicion would include:

- A juvenile probationer who smells of marijuana smoke would justify a search of the person and the items that the person is carrying, such as a backpack.
- Locating drug paraphernalia in plain view in a probationer's bedroom would justify a search of other areas of the bedroom for drugs.
- Information from a reliable informant that a probationer is carrying a weapon would justify a search of the probationer for that weapon.

There are several important considerations involving reasonable suspicion searches. First, the area to be searched must have a relationship to the facts which support reasonable suspicion. For instance, information from a reliable informant which indicates that a probationer has a weapon in a car would not automatically support a search of the probationer's bedroom. Second, the past history of a probationer does not in and of itself support reasonable suspicion. For instance, a probationer's history of carrying a weapon does not support subsequent searches of the probationer without additional facts that the probationer may then be carrying a weapon. Third, nervous behavior in and of itself does not support reasonable suspicion searches. There must be other specific facts, in conjunction with the nervous behavior, that would support such a search.

B. Consent Searches. Searches may be conducted with the consent of a person who has ownership or control over the property to be searched. In order for the consent to be valid, the consent must be given at the time of the search, the consent must be knowing and informed and cannot be coerced, and the consent must be specific to the area to be searched. A probation agreement in which a probationer consents to be searched at any time is not valid for consent searches.

Consent searches are a very valuable tool for juvenile court probation officers because consent can often be obtained from a juvenile's parent. As long as the parent has ownership and/or access to the area to be searched, the parent can give consent, even if the juvenile has refused to give consent to the search. Parents typically have access to their kid's bedrooms and areas within the bedrooms such as closets, dresser drawers, and possibly backpacks and can give consent for those areas to be searched. A probation officer should make certain that the area to be searched is one for which the person can give consent before commencing the search.

C. Administrative/Security Searches. In almost all of the court sites and probation offices searches are conducted when persons enter the premises to ensure that those persons are not carrying a weapon. These searches are valid as legitimate administrative and security concerns. The most important aspect for these searches is that the persons subject to the search be provided notice that these searches may be


conducted. This is most often accomplished by posting written notice at the entrance of a building or office that all persons entering the building or office are subject to a search for security purposes. Because these searches are for the purpose of determining whether a person carries a weapon, these searches can be no more intrusive than is necessary to determine whether a weapon is present. If a magnetometer is available, the magnetometer should be used and additional searches of the person may not be conducted unless the magnetometer reveals items that are suspicious.

Our juvenile court work crews are subject to administrative/security searches as a part of their work detail. Juveniles who are a part of these work crews should be given written notice that they will be subject to searches upon reporting for work and upon entering the van at the end of a work detail. Again, these types of searches must be no more intrusive than is necessary to determine the presence of weapons.

Conclusion

This memorandum is simply a brief description of the types of searches that are possible. In some instances, these issues can become fairly complicated and as questions arise the questions can be directed to my office. Training can also be arranged on the legal issues involved with searches as well as the proper methods and considerations for searches.

Addendum 5.1.2 Court of Appeals of Utah, Probation Search

- [Court of Appeals of Utah ♦ Probation Search](#) —  PDF

POLICY 5.3 Continuum of Force

5.3 Continuum of Force

Policy:

This policy establishes guidelines for responding to individual(s) who may cause physical injury to themselves or others.

Scope:

This policy applies to all probation department staff of the Utah State Juvenile Court.

Authority:

- [UCA 76-2-402 \(1\)](#)
- [UCA 78A-6-112](#)
- [Utah State Juvenile Probation Officer Natural Response Control Tactics Training Curriculum](#)

Procedure:

1. Probation officers shall employ the lowest level of force necessary to contain the situation and ensure the safety of themselves or others (see Addendum 5.3.1 Use of Force Continuum).
2. Probation officers shall disengage, when possible, from situations that have the potential to escalate to a level where physical force is imminent.

Addendum 5.3.1 Use of Force Continuum

History:

Effective November 1, 2001

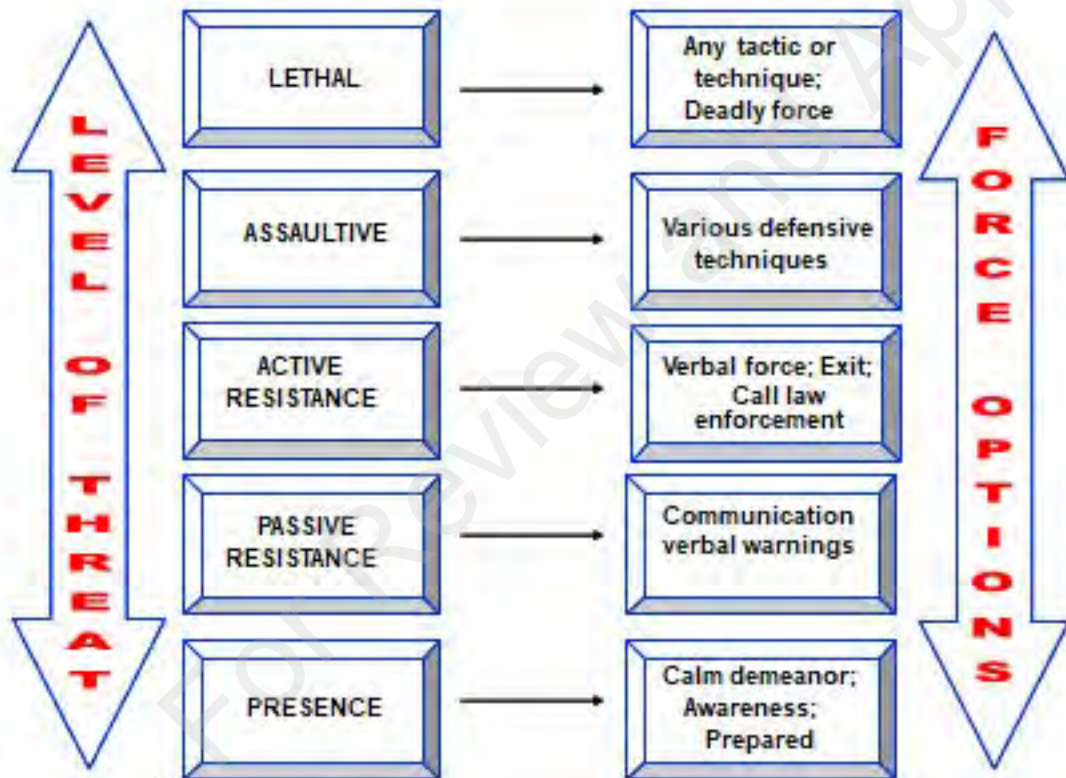
Update Approved for Comment by BJCJ January 11, 2019

Approved by Chiefs May 8, 2019

Approved by JTCEs June 6, 2019

USE OF FORCE CONTINUUM

000220



Remember: at each level of threat, all force options for lesser levels of threat are still options, if viable

COMMENTS ON
POLICY 5.3 Continuum of Force

Proposed Policy Update to 5.3 Continuum of Force

Comment Themes:

- Is the Natural response Control Tactics Training Curriculum readily accessible to the districts so that a probation staff member can access this if they have questions?

Response to questions:

- Yes, it has been added to the Probation Resources page under the PO Safety section, and will also be linked in the policy.

Policy Workgroup Decisions:

NA

5.3 Continuum of Force

Policy:

This policy ~~is to establish~~**es** guidelines for response **responding** to a client or other individual(s) that are creating a situation that **who** may cause physical injury to **themselves** or the court worker, client or others.

Scope:

This policy applies to all probation department staff of the Utah State Juvenile Court.

Authority:

- UCA 76-2-402 (1)
- UCA 78A-6-112
- ~~Utah Rules of Juvenile Procedure – Rule 7~~
- Utah State Juvenile Probation Officer **Natural Response Control Tactics** Training Curriculum

Procedure:

1. Probation officers ~~will always use~~ **shall employ** the lowest level of force deemed necessary to ~~control~~ **contain a the situation and ensure the safety of themselves or others (see Addendum 5.3.1 Use of Force Continuum).**
2. Probation officers **shall** ~~will withdraw~~ **disengage, when possible**, from situations that have the potential to escalate to a level where physical force is imminent.
3. ~~When the use of force is necessary, the lowest level of force should be used to contain the situation and insure the safety of staff or others~~
4. ~~The Use of Force Continuum levels from least to most severe is are as follows:~~
 - ~~4.1 Presence of worker – This level should be used when the subject is cooperative with minimal to no direction. The worker's stance and body language should be used to convey the need for compliance by the aggressor.~~
 - ~~4.2 Verbal Persuasion – This level should be used when the subject's compliance is responsive to verbal direction. The worker's should use the skills of:~~
 - ~~persuasion~~

- questioning
 - advise with light control
 - verbal warning with heavy control and
 - Instruction.
- 4.3 Soft hand control (Handcuffing) – This level should be used when the subject is resistive to verbal persuasion and the subject's behavior appears to be escalating.
 - 4.4 O.C. Spray – This level should be used when a staff member or other individual(s) is threatened with imminent danger. If possible, the worker should give verbal warning to gain compliance prior to use of the O.C. spray. (Section 5.5 O.C. Spray).
 - 4.5 Hard (Empty) hand control – This level should be used when the subject's actions are openly aggressive and may cause physical injury. The worker's should use the skills and training of:
 - self defense,
 - arrest and control techniques.
5. An employee may use necessary force to protect themselves from serious injury or death.

Addendum 5.3.1 Use of Force Continuum

History:

Effective November 1, 2001

Update Approved for Comment by BJCJ January 11, 2019

Approved by Chiefs May 8, 2019

Approved by JTCEs June 6, 2019

Tab 12



Administrative Office of the Courts

Chief Justice Matthew B. Durrant
Utah Supreme Court
Chair, Utah Judicial Council

Hon. Mary T. Noonan
Interim State Court Administrator

Ray Wahl
Deputy Court Administrator

MEMORANDUM

TO: Judicial Council Members

FROM: Michael C. Drechsel, Associate General Counsel – AOC

DATE: Monday, July 1, 2019

RE: CJA 4-103 – Civil calendar management – For Public Comment

As part of the annual review of the Code of Judicial Administration required by CJA 2-207, Policy and Planning observed that one subsection in CJA 4-103 (Civil calendar management) creates some confusion. Policy and Planning initially recommended that the Judicial Council make revisions to this rule at the Council’s May 20 meeting. At that meeting, the proposed rule was pulled from consideration so that Policy and Planning could spend additional time considering case law related to the language in the rule.

In particular, subsection (3) was added to CJA 4-103 in November 2017 as a result of Holmes v. Cannon, 2016 UT 42 (attached). In that case, the Utah Supreme Court identified that both CJA 4-103 and URCP 41(b) (attached) permit a court to dismiss an action. URCP 41(b) notes that a dismissal under URCP 41(b) “operates as an adjudication on the merits” (meaning with prejudice) “unless the dismissal order otherwise states.” Prior to 2017, CJA 4-103 didn’t require that dismissals under CJA 4-103 “otherwise state” (to use the parlance of URCP 41(b)). To bring clarity to the issue that arose in Holmes v. Cannon, the Judicial Council enacted CJA 4-103(3), which requires a court to include “without prejudice” language any time a case is dismissed under CJA 4-103.

That said, the specific language used in CJA 4-103(3) created confusion. The current use of “Pursuant to Rule 41 of the Utah Rules of Civil Procedure” language is what has caused confusion, as Rule 41 doesn’t actually require “without prejudice” language. Making the revisions proposed by Policy and Planning will eliminate the confusion without sacrificing the mandate that avoids the issue raised in Holmes v. Cannon.

Policy and Planning is recommending to the Judicial Council that CJA 4-103(3) be amended. To accomplish that purpose, CJA 4-103 should be published for public comment.

**The mission of the Utah judiciary is to provide an open, fair,
efficient, and independent system for the advancement of justice under the law.**

1 **Rule 4-103. Civil calendar management.**

2 **Intent:**

3 To establish a procedure that allows the trial courts to manage civil case processing.

4 To reduce the time between case filing and disposition.

5 **Applicability:**

6 This rule shall apply to the District Court.

7 **Statement of the Rule:**

8 (1) If a default judgment has not been entered by the plaintiff within 60 days of the availability
9 of default, the clerk will mail written notification to the plaintiff stating that absent a
10 showing of good cause by a date specified in the notification, the court will dismiss the
11 case without prejudice for lack of prosecution.

12 (2) If a certificate of readiness for trial has not been served and filed within 330 days of the
13 first answer, the clerk will mail written notification to the parties stating that absent a
14 showing of good cause by a date specified in the notification, the court will dismiss the
15 case without prejudice for lack of prosecution.

16 (3) ~~Pursuant to Rule 41 of the Utah Rules of Civil Procedure, all Orders orders~~ of dismissal
17 entered under this rule must contain the language “without prejudice.”

18 (4) Any party may, pursuant to the Utah Rules of Civil Procedure, move to vacate a dismissal
19 entered under this rule.

20 *Effective November 1, 2019*

[Print Version \(https://www.utcourts.gov/resources/rules/urcp/urcp041.html\)](https://www.utcourts.gov/resources/rules/urcp/urcp041.html)

Previous PageFile uploaded: 10/31/2016

Rule 41. Dismissal of actions.

(a) Voluntary dismissal; effect.

(a)(1) By the plaintiff.

(a)(1)(A) Subject to Rule [23\(e\)](#) and any applicable statute, the plaintiff may dismiss an action without a court order by filing:

(a)(1)(A)(i) a notice of dismissal before the opposing party serves an answer or a motion for summary judgment; or

(a)(1)(A)(ii) a stipulation of dismissal signed by all parties who have appeared.

(a)(1)(B) Unless the notice or stipulation states otherwise, the dismissal is without prejudice. But if the plaintiff previously dismissed any federal- or state-court action based on or including the same claim, a notice of dismissal operates as an adjudication on the merits.

(a)(2) By court order. Except as provided in paragraph (a)(1), an action may be dismissed at the plaintiff's request by court order only on terms the court considers proper. If a defendant has pleaded a counterclaim before being served with the plaintiff's motion to dismiss, the action may be dismissed over the defendant's objection only if the counterclaim can remain pending for independent adjudication by the court. Unless the order states otherwise, a dismissal under this paragraph is without prejudice.

(b) Involuntary dismissal; effect. If the plaintiff fails to prosecute or to comply with these rules or any court order, a defendant may move to dismiss the action or any claim against it. Unless the dismissal order otherwise states, a dismissal under this paragraph and any dismissal not under this rule, other than a dismissal for lack of jurisdiction, improper venue, or failure to join a party under Rule [19](#), operates as an adjudication on the merits.

(c) Dismissal of counterclaim, crossclaim, or third-party claim. This rule applies to the dismissal of any counterclaim, crossclaim, or third-party claim. A claimant's voluntary dismissal under paragraph (a)(1) must be made before a responsive pleading is served or, if there is no responsive pleading, before evidence is introduced at a trial or hearing.

(d) Costs of previously-dismissed action. If a plaintiff who previously dismissed an action in any court files an action based on or including the same claim against the same defendant, the court may order the plaintiff to pay all or part of the costs of the previous action and may stay the proceedings until the plaintiff has complied.

(e) Bond or undertaking to be delivered to opposing party. If a party dismisses a complaint, counterclaim, crossclaim, or third-party claim, under paragraph (a)(1) after a provisional remedy has been allowed the party, the bond or undertaking filed in support of the provisional remedy must be delivered to the party against whom the provisional remedy was obtained.

[Advisory Committee Notes](#)

Effective November 1, 2016.

Tab 13

This is a private record.

Name

Address

City, State, Zip

Phone

Check your email. You will receive information and documents at this email address.

Email

I am Plaintiff/Petitioner Defendant/Respondent
 Plaintiff/Petitioner's Attorney Defendant/Respondent's Attorney (Utah Bar #: _____)
 Plaintiff/Petitioner's Licensed Paralegal Practitioner
 Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

Plaintiff/Petitioner

v.

Defendant/Respondent

**Declaration of Jurisdiction and
Grounds for Divorce**

(Utah Code 30-3-4 and Utah Rule of Civil Procedure 104)

Case Number

Judge

Commissioner (domestic cases)

1. My name is: _____.
2. Petitioner Respondent was a resident of _____ county, Utah for at least three months immediately before the Petition for Divorce was filed on _____ (date).
3. Petitioner Respondent and I were married on _____.

_____ (date), in
_____ (county and state).

- 4. We separated on _____ (date).
- 5. The grounds for divorce are stated in the Petition for Divorce.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____

Printed Name _____

Certificate of Service

I certify that I filed with the court and am serving a copy of this Declaration of Jurisdiction and Grounds for Divorce on the following people.

Person's Name	Service Method	Service Address	Service Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

_____ Signature ► _____
 Date _____ Printed Name _____

This is a private record.

Name

Address

City, State, Zip

Phone

Check your email. You will receive information and documents at this email address.

Email

I am Plaintiff/Petitioner Defendant/Respondent
 Plaintiff/Petitioner's Attorney Defendant/Respondent's Attorney (Utah Bar #: _____)
 Plaintiff/Petitioner's Licensed Paralegal Practitioner
 Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

Plaintiff/Petitioner

v.

Defendant/Respondent

Income Verification

(Utah Code 78B-12-203(5))

**and Statement of Compliance
with Child Support Guidelines**

(Utah Code 78B-12-201 et seq.)

Case Number

Judge

Commissioner

Proof of income

(You are required to provide the court proof of income for both parties.)

- Year-to-date pay stubs or employer statements for petitioner:
 are attached and the party's social security number has been blacked out.
 have already been submitted.

are not attached because:

2. Year-to-date pay stubs or employer statements for respondent:

are attached and the party's social security number has been blacked out.

have already been submitted.

are not attached because:

3. The most recent tax returns for petitioner:

are attached and the party's social security number has been blacked out.

have already been submitted.

are not attached because:

4. The most recent tax returns for respondent:

are attached and the party's social security number has been blacked out.

have already been submitted.

are not attached because:

Child support worksheets (If applicable.)

5. The following worksheet, which is filed or attached, was used to determine the child support amount:

sole physical custody worksheet

joint physical custody worksheet

split custody worksheet

Compliance with child support guidelines (If applicable.) (Utah Code 78B-12-202)

- 6. The child support amount is based on the Uniform Child Support Guidelines
- The child amount is not based on the Uniform Child Support Guidelines.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____

Printed Name _____

Certificate of Service

I certify that I filed with the court and am serving a copy of this Income Verification and Statement of Compliance with Child Support Guidelines on the following people.

Person's Name	Service Method	Service Address	Service Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

_____ Signature ► _____
 Date _____ Printed Name _____

This is a private record

Name

Address

City, State, Zip

Phone

Check your email. You will receive information and documents at this email address.

Email

I am Petitioner

Respondent

Petitioner's Attorney

Respondent's Attorney (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

<p>_____ Petitioner</p> <p>v.</p> <p>_____ Respondent</p>	<p>Motion for Orders Regarding Relocation (Utah Code 30-3-37)</p> <p>Hearing Requested</p> <p>_____ Case Number</p> <p>_____ Judge</p> <p>_____ Commissioner</p>
---	--

1. **Notice of Relocation** (Choose one.)

I am planning to relocate. I have provided the other party my Notice of Relocation and I request a hearing (attach a copy of the Notice of Relocation).

I have received the petitioner's respondent's Notice of Relocation. I request a hearing regarding the move (attach a copy of the Notice of Relocation).

I have not received the other parent’s Notice of Relocation, but have been told the other parent plans to move more than 150 miles from my residence. I request a hearing regarding the move.

2. **I am not the parent relocating and:**
(changing previous 3-6 to a-e under paragraph 2)

a. I disagree with the other parent’s plans to move with the child(ren), and I want the court to revisit custody because (Attach additional pages if needed.):

I ask the court for the following custody order (Attach additional pages if needed.):

b. I disagree with the other parent’s proposed parent-time schedule because (Attach additional pages if needed.):

I ask the court for the following parent-time schedule (Attach additional pages if needed.):

c. I disagree with the other parent’s proposed division of costs for parent-time transportation because (Attach additional pages if needed.):

I ask the court for the following order dividing parent-time transportation costs (Attach additional pages if needed.):

d. I disagree with the other parent’s proposed reimbursement schedule for transportation costs because (attach additional pages if needed):

I ask the court for the following order on the reimbursement schedule (attach additional pages if needed):

e. I ask the court for the following additional orders regarding the move (attach additional pages if needed):

3. I am the parent who is relocating and I ask the court to approve my plan to relocate with the children and make appropriate orders regarding parent-time, transportation costs and reimbursement of transportation costs.

I want an order on these issues:

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____

Printed Name _____

Notice to responding party

You have a limited amount of time to respond to this motion. In most cases, you must file a written response with the court and provide a copy to the other party:

- within 14 days of this motion being filed, if the motion will be decided by a judge, or
- at least 14 days before the hearing, if the motion will be decided by a commissioner.

In some situations a statute or court order may specify a different deadline.

If you do not respond to this motion or attend the hearing, the person who filed the motion may get what they requested.

See the court's Motions page for more information about the motions process, deadlines and forms:

www.utcourts.gov/howto/filing/motions

Finding help

The court's Finding Legal Help web page (www.utcourts.gov/howto/legalassist/) provides information about the ways you can get legal help, including the Self-Help Center, reduced-fee attorneys, limited legal help and free legal clinics.

Aviso para el demandado (o acusado)

Su tiempo para responder a esta moción es limitado. En la mayoría de casos deberá presentar una respuesta escrita con el tribunal y darle una copia de la misma a la otra parte:

- dentro de 14 días del día que se presenta la moción, si la misma será resuelta por un juez, o
- por lo menos 14 días antes de la audiencia, si la misma será resuelta por un comisionado.

En algunos casos debido a un estatuto o a una orden de un juez la fecha límite podrá ser distinta.

Si usted no responde a esta moción ni se presenta a la audiencia, la persona que presentó la moción podría recibir lo que pidió.

Vea la página del tribunal sobre Mociones para encontrar más información sobre el proceso de las mociones, las fechas límites y los formularios:

www.utcourts.gov/howto/filing/motions

Cómo encontrar ayuda legal

La página de la internet del tribunal Cómo encontrar ayuda legal (www.utcourts.gov/howto/legalassist/) tiene información sobre algunas maneras de encontrar ayuda legal, incluyendo el Centro de Ayuda de los Tribunales de Utah, abogados que ofrecen descuentos u ofrecen ayuda legal limitada, y talleres legales gratuitos.

Certificate of Service

I certify that I filed with the court and am serving a copy of this Motion for Orders Regarding Relocation on the following people.

Person's Name	Service Method	Service Address	Service Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

_____ Signature ► _____
 Date _____ Printed Name _____

This is a private record

Name

Address

City, State, Zip

Phone

Check your email. You will receive information and documents at this email address.

Email

I am Plaintiff/Petitioner Defendant/Respondent
 Plaintiff/Petitioner's Attorney Defendant/Respondent's Attorney (Utah Bar #: _____)
 Plaintiff/Petitioner's Licensed Paralegal Practitioner
 Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

<p>_____ Plaintiff/Petitioner</p> <p>v.</p> <p>_____ Defendant/Respondent</p>	<p>Motion for Leave to Amend (Utah Rule of Civil Procedure 15)</p> <p>_____ Case Number</p> <p>_____ Judge</p> <p>_____ Commissioner (domestic cases)</p>
---	--

1. I ask the court for permission to amend my
 _____ (name of document).
2. I make this request because more than 21 days have passed since I was served with the other party's answer, counterclaim, or motion to dismiss the document named in paragraph 1.
3. The other party agrees with this motion and a stipulation is being filed.
4. I have attached a copy of the amended document.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date

Signature ► _____

Printed Name _____

Notice to responding party

You have a limited amount of time to respond to this motion. In most cases, you must file a written response with the court and provide a copy to the other party:

- within 14 days of this motion being filed, if the motion will be decided by a judge, or
- at least 14 days before the hearing, if the motion will be decided by a commissioner.

In some situations a statute or court order may specify a different deadline.

If you do not respond to this motion or attend the hearing, the person who filed the motion may get what they requested.

See the court's Motions page for more information about the motions process, deadlines and forms:

www.utcourts.gov/howto/filing/motions

Finding help

The court's Finding Legal Help web page (www.utcourts.gov/howto/legalassist/) provides information about the ways you can get legal help, including the Self-Help Center, reduced-fee attorneys, limited legal help and free legal clinics.

Aviso para el demandado (o acusado)

Su tiempo para responder a esta moción es limitado. En la mayoría de casos deberá presentar una respuesta escrita con el tribunal y darle una copia de la misma a la otra parte:

- dentro de 14 días del día que se presenta la moción, si la misma será resuelta por un juez, o
- por lo menos 14 días antes de la audiencia, si la misma será resuelta por un comisionado.

En algunos casos debido a un estatuto o a una orden de un juez la fecha límite podrá ser distinta.

Si usted no responde a esta moción ni se presenta a la audiencia, la persona que presentó la moción podría recibir lo que pidió.

Vea la página del tribunal sobre Mociones para encontrar más información sobre el proceso de las mociones, las fechas límites y los formularios:

www.utcourts.gov/howto/filing/motions

Cómo encontrar ayuda legal

La página de la internet del tribunal Cómo encontrar ayuda legal

(www.utcourts.gov/howto/legalassist/) tiene información sobre algunas maneras de encontrar ayuda legal, incluyendo el Centro de Ayuda de los Tribunales de Utah, abogados que ofrecen descuentos u ofrecen ayuda legal limitada, y talleres legales gratuitos.

Certificate of Service

I certify that I filed with the court and am serving a copy of this Motion for Leave to Amend on the following people.

Person's Name	Service Method	Service Address	Service Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

_____ Signature ► _____
 Date _____ Printed Name _____

This is a private record.

Name

Address

City, State, Zip

Phone

Check your email. You will receive information and documents at this email address.

Email

I am Plaintiff/Petitioner Defendant/Respondent
 Plaintiff/Petitioner's Attorney Defendant/Respondent's Attorney (Utah Bar #: _____)
 Plaintiff/Petitioner's Licensed Paralegal Practitioner
 Defendant/Respondent's Licensed Paralegal Practitioner (Utah Bar #: _____)

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

Plaintiff/Petitioner

v.

Defendant/Respondent

Certification of Readiness for Trial
(Utah Rule of Civil Procedure 16)

Request for Pretrial Conference

Case Number

Judge

Commissioner (domestic cases)

I certify the following:

1. This case is ready for trial.
2. **Pretrial conference.** (Required in districts 1-4; optional in districts 5-8.)
 I request a pretrial conference.
 I do not request a pretrial conference.
3. **Pleadings.** All required pleadings have been filed.

4. **Discovery.** All required discovery has been completed. (Utah Rule of Civil Procedure 26, 26.1, 26.2 and 26.3, as applicable.)

5. **Mediation.**

All required mediation has been completed, or

mediation has been excused, or

mediation is not required in this case.

Paragraphs 6 and 7 apply in domestic cases only.

6. **Divorce education requirement.** (Choose all that apply.)

I have attended the required divorce education classes.

the other party has attended the required divorce education classes.

or

the divorce education requirement has been waived for

petitioner respondent

or

there are no children of this marriage.

or

this is not a divorce case.

7. **Notice to Office of Recovery Services** (Utah Code 78B-12-113)
(Applicable in domestic cases in which a party received public assistance.)

I have notified the Office of Recovery Services about this case, or

notice to the Office of Recovery Services is not required.

I declare under criminal penalty under the law of Utah that everything stated in this document is true.

Signed at _____ (city, and state or country).

Date
Signature ► _____
Printed Name _____

Certificate of Service

I certify that I filed with the court and am serving a copy of this Certification of Readiness for Trial on the following people.

Person's Name	Service Method	Service Address	Service Date
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		
	<input type="checkbox"/> Mail <input type="checkbox"/> Hand Delivery <input type="checkbox"/> E-filed <input type="checkbox"/> Email <input type="checkbox"/> Left at business (With person in charge or in receptacle for deliveries.) <input type="checkbox"/> Left at home (With person of suitable age and discretion residing there.)		

_____ Signature ► _____
 Date _____ Printed Name _____

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

<p>_____</p> <p>Petitioner</p> <p>v.</p> <p>_____</p> <p>Respondent</p>	<p style="text-align: center;">Trial Issues – Domestic Cases</p> <p>_____</p> <p>Case Number</p> <p>_____</p> <p>Judge</p> <p>_____</p> <p>Commissioner (domestic cases)</p>
---	---

I am the [] plaintiff/petitioner [] defendant/respondent.

The unresolved issues are stated below.

Issue	My Position	
Children	Child's full name	Birthdate
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
	_____	_____
Child Custody	Legal custody: Physical custody:	

Issue	My Position
Child Support	Child support amount \$ _____ (attach child support worksheet) Petitioner's gross monthly income \$ _____ Sources: Respondent's gross monthly income \$ _____ Sources:
Parent-time	Parenting plan? (Required if requesting joint legal or joint physical custody) <input type="checkbox"/> Yes (already filed, or attached) <input type="checkbox"/> No
Child Care	
Health Insurance	
Life Insurance	
Taxes	
Restraining Orders	
Other	
Other	

Divorce Issues Only

Issue	My Position
Marriage	Date of marriage: Date of separation:
Real Property	
Vehicles	
Personal Property	
Financial Accounts	
Debts	
Retirement Money	
Alimony	
Name Change	
Other	
Other	
Other	

Send this to the other party only. Do not file it with the court.

You may be required to bring a copy to court.

Date

Signature ► _____

Printed Name _____

In the District Court of Utah

_____ Judicial District _____ County

Court Address _____

<p>_____</p> <p>Plaintiff/Petitioner</p> <p>v.</p> <p>_____</p> <p>Defendant/Respondent</p>	<p>Trial Issues</p> <p>_____</p> <p>Case Number</p> <p>_____</p> <p>Judge</p>
---	--

I am the [] plaintiff/petitioner [] defendant/respondent.

The unresolved issues are stated below.

Issue	My Position

Send this to the other party only. Do not file it with the court.

You may be required to bring a copy to court.

_____ Date
Signature ► _____
Printed Name _____