



**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>	27
<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	18
<i>Public Health</i>	18
<i>Intercept 0: Community Supports and Services</i>	21
<i>Intercept 1: Contact with Law Enforcement</i>	27
<i>Intercept 2: Initial Detention and Court Hearings</i>	30
<i>Intercept 3: After Incarceration</i>	34
<i>Intercept 4: Re-Entry</i>	39
<i>Intercept 5: Parole or Probation</i>	41
Appendix A. Arizona Statutes and Rules	45
Appendix B. Draft Invitation and Agendas	46
Appendix C. Checklist of Presiding Judge Action Steps	49
Appendix D. Sample Planning Materials for Sequential Intercept Mapping	51

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-MH/CJ/Resources/Report042618TFFAIRMHJCJ.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

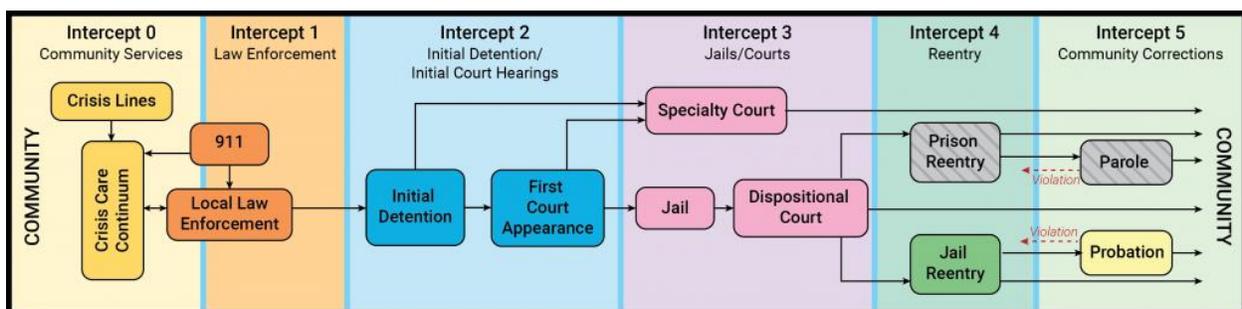
How to Use This Guide

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



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.praire.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/>.

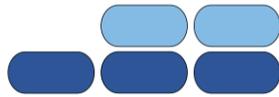
¹⁰ COSCA Policy Paper, *supra* note 2 at 2.

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);

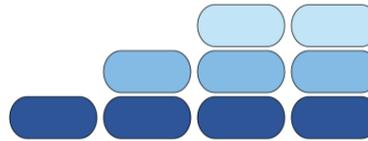
Figure 2. Protocol Building Blocks, by Intercept



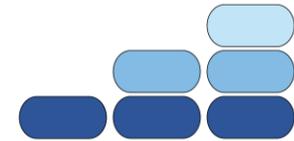
Public Health



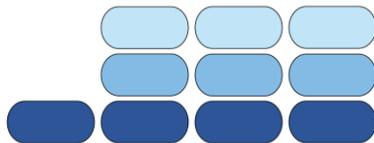
Intercept 0: Community Supports and Services



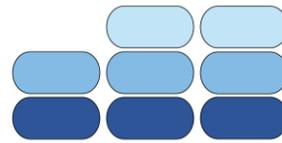
Intercept 1: Contact with Law Enforcement



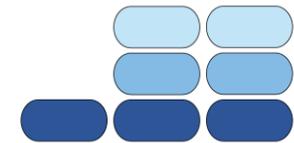
Intercept 2: Initial Detention and Court Hearings



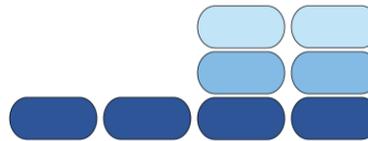
Intercept 3: After Incarceration



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

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)?
- 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

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

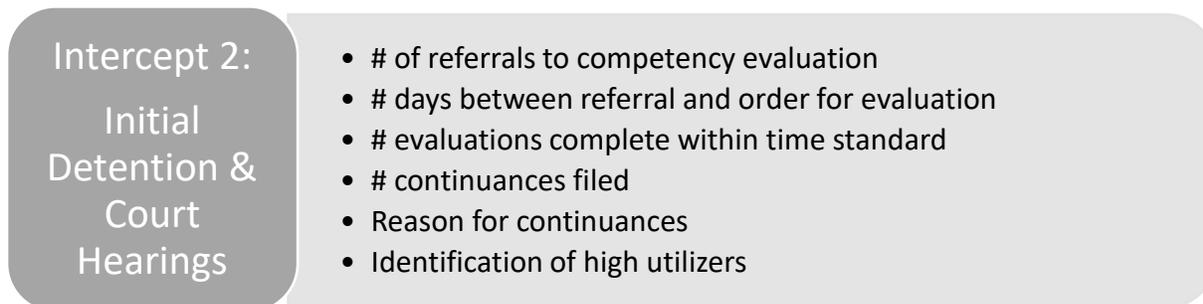
¹⁸ The Justice for All Strategic Action Planning guidance materials, developed in 2016 to help courts and other access to justice stakeholders meaningfully assess their access to justice ecosystem provides templates and questions that help drive a quality-driven inquiry. See Justice for All Guidance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

<http://www.ncsc.org/~media/Microsites/Files/access/Justice%20for%20All%20Guidance%20Materials%20Final.aspx>. 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).

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 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.

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

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. 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.

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).

- 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.

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

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

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>.

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

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

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>

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.

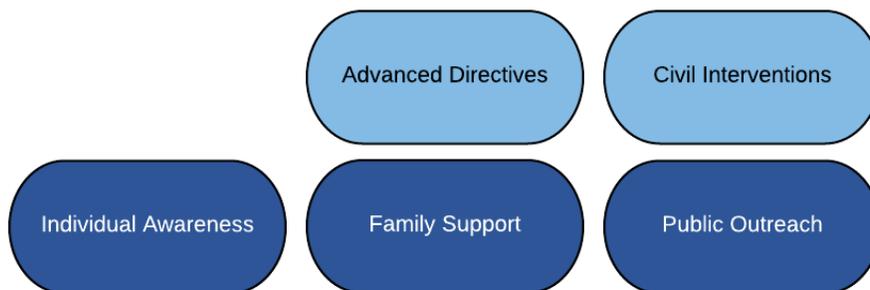
The protocol building blocks are intended to be comprehensive, but additional building blocks may be identified depending on the needs of the individual jurisdiction. Several building blocks apply across intercepts; these building blocks are cross-referenced at each intercept.



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.

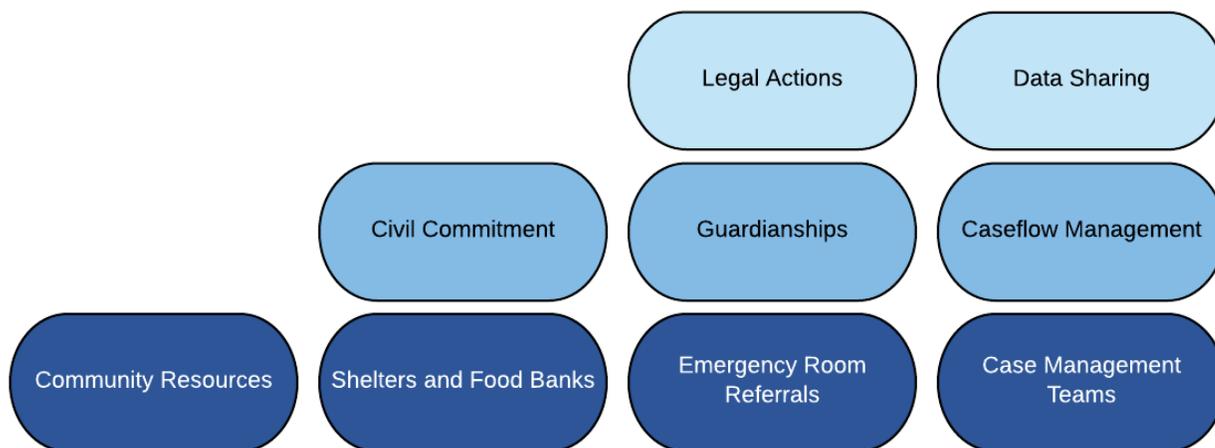
³² <https://www.azag.gov/seniors/life-care-planning>

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

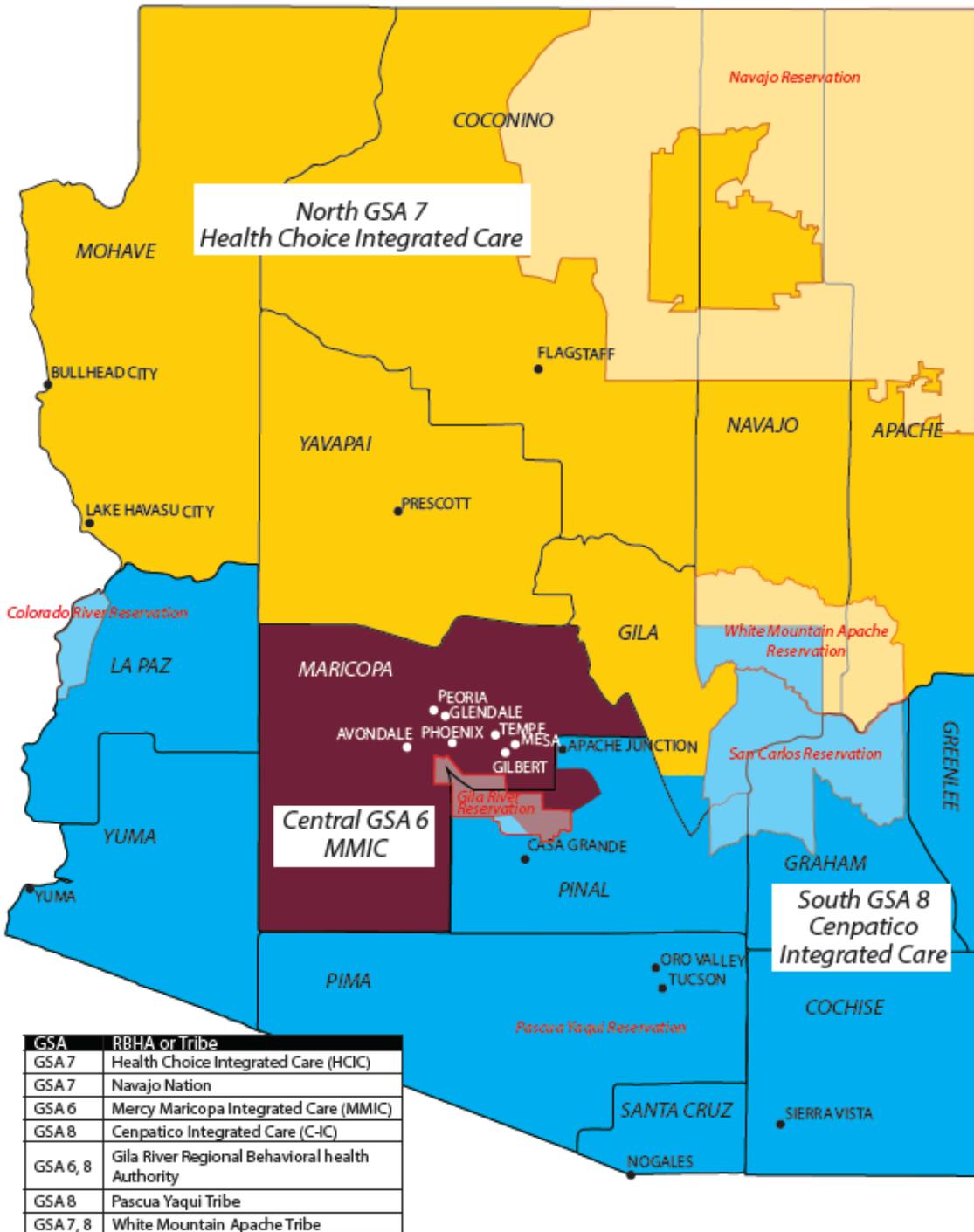
AHCCCS, [Tribal Court Procedures for Involuntary Commitment](#)

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

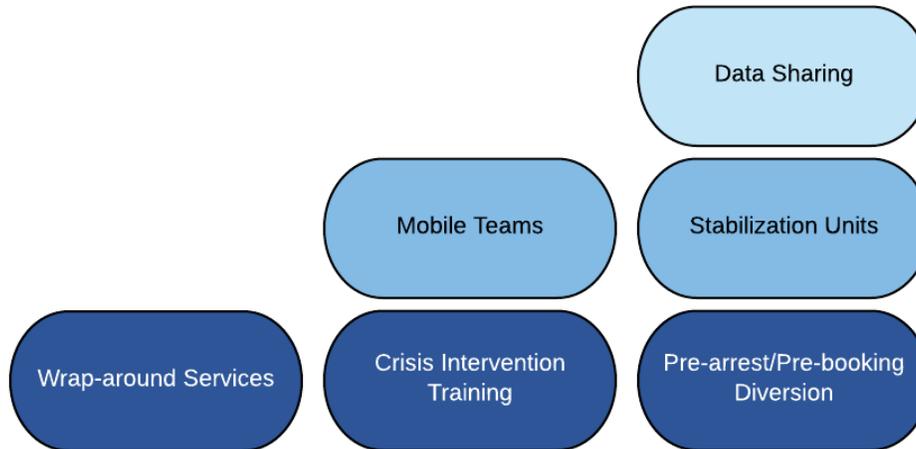




INTERCEPT 1: CONTACT WITH LAW ENFORCEMENT

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.

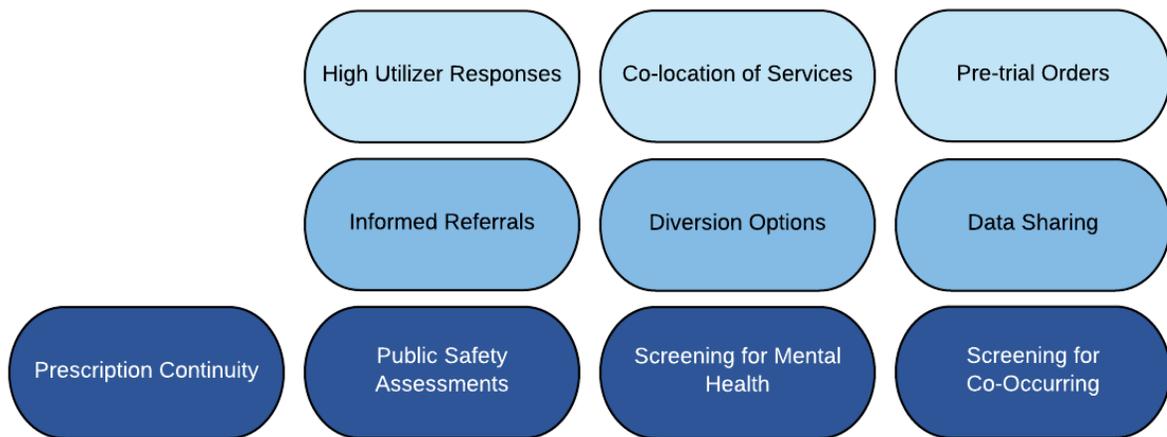
Pima County has a co-located crisis response and center before booking. See National Association of Counties, [Mental Health and Criminal Justice Case Study: Pima County](#).



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

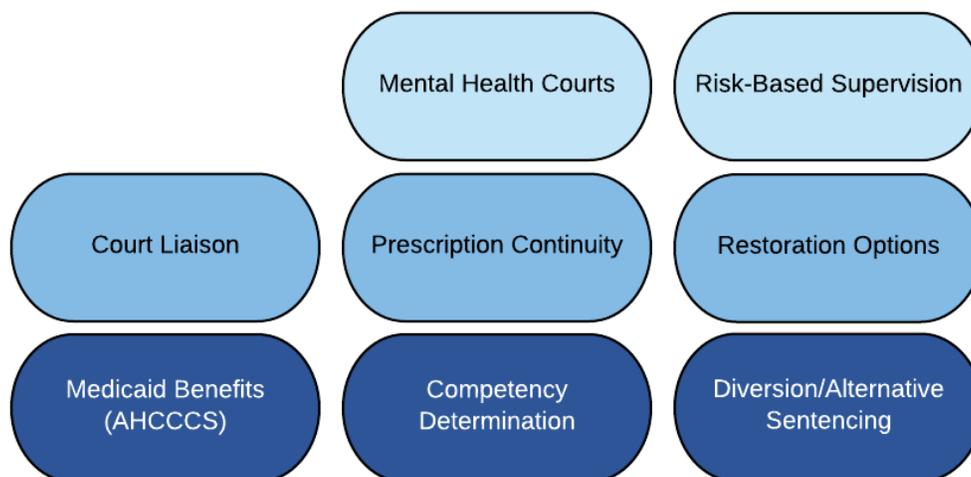
The Arizona legislature recently passed [S.B. 1476](#) which amends A.R.S. §13-1805 to allow for pre-arrest diversion when shoplifting occurs. Diversion is at the discretion of the merchant.



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.

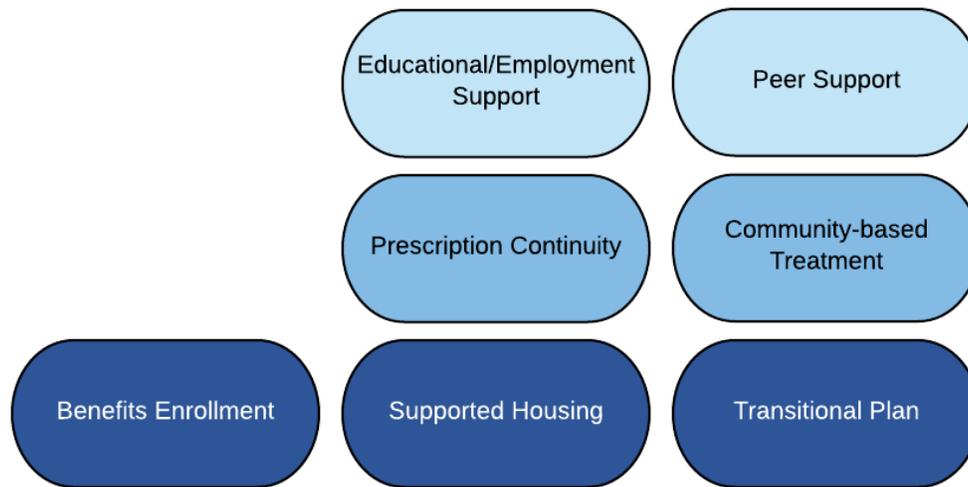
⁴¹See <https://www.azcourts.gov/Portals/74/TFFAIR/Subcommittee/FJ-MHCJ/Resources/List%20of%20Arizona%20Mental%20Health%20Court%20Programs.pdf>



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.

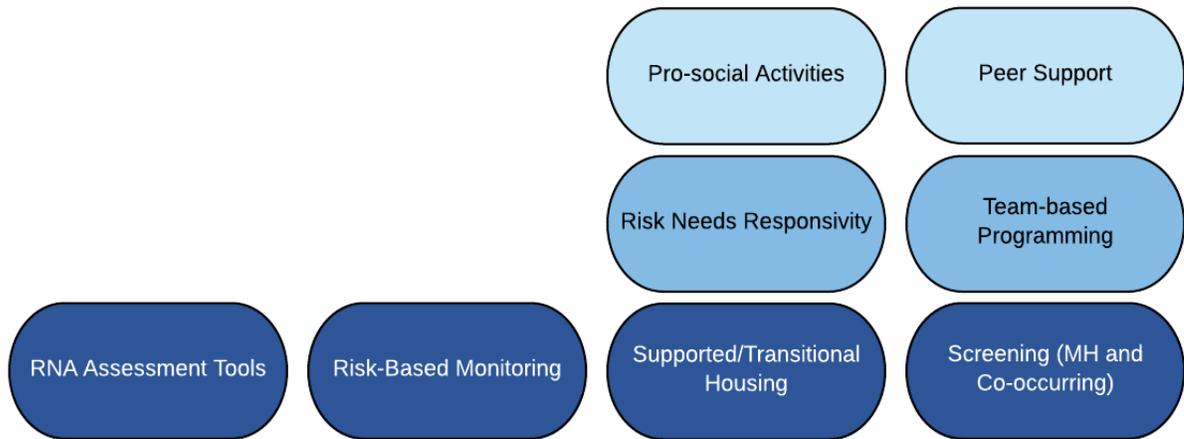
AHCCCS works with Arizona’s correctional system to enroll Medicaid-eligible persons before they are released from incarceration. Data sharing “Reach-in” program and “Enrollment Suspense” use data sharing to ensure either enrollment or reactivation. “Reach-In” is a program that strives to get people to 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.

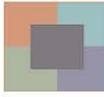
IMPLEMENT IMPROVED RESPONSES

- 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 *Sequential Intercept Mapping Workshop*

GAINS Center Sequential Intercept Mapping Planning Kit

A successful *Sequential Intercept Mapping* 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.

<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

 **SAMHSA's GAINS
CENTER**

 **SAMHSA**
Substance Abuse and Mental Health Services Administration
www.samhsa.gov • 1-877-SAMHSA • (1-877-724-6729)

Sequential Intercept Mapping Workshop

Yuma County, AZ
July 19, 2018

AGENDA

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.