

Committee on Mental Health and the Justice System

AGENDA

Monday, December 17, 2018

10:00 a.m. – 3:00 p.m.

State Courts Building • 1501 W. Washington St. • Phoenix, Arizona • Conference Room 119 A/B

REGULAR BUSINESS

10:00 a.m.	Welcoming Remarks	Mr. Kent Batty, <i>Chair</i>
10:10 a.m.	Approval of Minutes <input type="checkbox"/> Formal Action	Mr. Batty
10:15 a.m.	Discussion: Housing and Mental Health <ul style="list-style-type: none">• Housing and Vulnerable Populations• AHCCCS• Mercy Care	Michael Traylor, DES Director Joshua Crites, AHCCCS Housing Administrator Andrea Bell, Mercy Care Housing Integration Administrator
12:00 p.m.	LUNCH	
12:30 p.m.	Committee Process & Formation of Additional Workgroups	Mr. Batty
1:00 p.m.	Key Issues Workgroup Report	James McDougall All
1:45 p.m.	What Can We Learn from High Profile Cases?	Mr. Batty
2:15 p.m.	Committee Questions for ASH, January 24	Mr. Batty
2:30 p.m.	Summit Prep/Save the Date: March 26-27, 2019	Theresa Barrett, AOC
2:45 p.m.	2019 Meeting Dates (all dates 10:00am-3:00pm) <ul style="list-style-type: none">• January 24• February 27• March 20• April 29• May 20• June 26• July 22	Mr. Batty

Committee on Mental Health and the Justice System

AGENDA

2:50 p.m. **Good of the Order/Call to the Public** Mr. Batty

3:00 **Adjourn** Mr. Batty

Next Meeting: January 24, 2019

10:00 a.m. to 3:00 p.m.

Room 329/330; State Courts Building; 1501 W Washington Street, Phoenix AZ

All times are approximate and subject to change. The committee chair reserves the right to set the order of the agenda. For any item on the agenda, the committee may vote to go into executive session as permitted by Arizona Code of Judicial Administration §1-202. Please contact Stacy Reinstein at (602) 452-3255 with any questions. Any person with a disability may request a reasonable accommodation, such as auxiliary aids or materials in alternative formats, by contacting Angela Pennington at (602) 452-3547. Requests should be made as early as possible to allow time to arrange the accommodation.

Committee on Mental Health and the Justice System

Draft Minutes

Tuesday, October 30, 2018

10:00 a.m. – 3:00 p.m.

State Courts Building • 1501 W. Washington St. • Phoenix, Arizona • Conference Room 119 A/B

Present: Kent Batty (Chair), Mary Lou Brncik, Brad Carlyon, Amelia Cramer, Shelley Curran, Jim Dunn, Chief Kathleen Elliott, Judge Elizabeth Finn, Judge Michael Hintze, Josephine Jones, Dianna Kalandros, Judge Cynthia Kuhn, Chief Chris Magnus, James McDougall, Dr. Carol Olson, Ronald Overholt, Captain David Rhodes, Michal Rudnick, Commissioner Barbara Spencer, Judge Christopher Staring, Paul Thomas

Telephonic: Patti Tobias, Principal Management Consultant, National Center for State Courts

Absent/Excused: Dr. Michael S. Shafer, Fanny Steinlage

Guests/Presenters: Robin Hillyard, Arizona County Board of Supervisors; Don Jacobsen, AOC Senior Special Projects Consultant; Josh Sprunger, Magellan Complete Care of Arizona; Mamuna Ahmad, M.D. (with Dr. Olson)

Administrative Office of the Courts (AOC) Staff: Jennifer Albright, Theresa Barrett

Regular Business

Welcome and Opening Remarks

Mr. Kent Batty (Chair), introduced himself and asked that members give a brief introduction of themselves. Guests and observers were also asked to identify themselves. The Chair then provided reminders on parking, lunch cost, and use of microphones.

Approval of Minutes

Members were asked to review minutes, noting they were in the meeting packet and provided electronically in advance of the meeting. The Chair asked if there were any changes or amendments. A member sought a change, which was noted and read back by staff. A motion to approve the minutes as amended was made by Mr. Overholt and seconded by Chief Elliott. Motion was approved unanimously.

Business Items and Potential Action Items

Status Report on the Implementation of Certain Recommendations of the Subcommittee on Mental Health and the Criminal Justice System

Don Jacobson, AOC Consultant gave a presentation on what has been referred to as the model protocol guide to assist County Presiding Judges in addressing locally the issues identified by this committee and its predecessor. He shared a document titled *Fair Justice for Persons with Mental Illness: Improving the Court's Response*. Mr. Jacobson recounted the history of the Fair Justice For All task Force and its Subcommittee on Mental Health and the Criminal Justice System recommendations that were informative of the protocol guide effort. Mr. Jacobson shared that the Arizona Judiciary, with the assistance of the National Center for State Courts (NCSC) had applied for a grant to assist in statewide efforts to roll-out the guide. A statewide

summit in the spring of 2019 to kick off the roll-out process is in the beginning stages of planning.

AOC staff Theresa Barrett and Jennifer Albright informed the members that a central database for Rule 11 documents and court to court sharing was not yet in development but was among the list of projects for the AOC ITD department. Currently, there are only two municipal courts conducting Rule 11 matters and there was a workable manner of sharing documents. Once more municipal courts are handling Rule 11 cases or as other higher priority projects are addressed, ITD would revisit the request for a central database for Rule 11 documents.

Staff also shared the following:

- there were no updates on the topic of NICS Rule 11 reporting by municipal courts,
- If the committee identified a workgroup of subject matter experts, work to develop materials for the AZHelp.org website on Title 36 and possibly Mental Health Advance Directives could begin,
- Similarly, a workgroup of the committee to assist in developing RTC best practices and in reassessing evaluator training was needed, and
- Finally, the Education Services Unit of the AOC was seeking input from the Committee on topics and content for judicial training related to mental health matters.

Establishing Workgroups

The Chair, Mr. Batty, led a discussion on the formation of workgroups during the tenure of the committee to tackle various goals of the committee. Discussion was had on potential workgroups and the topics they might address.

Using SIM to Structure Issues Discussions

Mr. Batty shared that he had thought through a suggestion that the committee utilize the SIM to structure its work. He expressed concern that such a model for structuring the committee's work, due to the vastness of topics to address, may mean the committee could get bogged down in the issues concomitant to a single intercept. He suggested that as the committee in this meeting and the next few meetings narrowed in on topics to tackle in light of the committee's charge, that the members keep the SIM in mind as they worked through various aspects of any given topic.

Input on Topics for Consideration by Committee for Future Action

The committee spent significant time discussing topics for consideration for action by the committee. The discussion involved members sharing ideas in varying degrees of detail as well as discussing whether those ideas were (a) within the scope of the committee's charge and ((b) whether they were topics wholly within the judiciary's purview or topics of significant merit that extend beyond the judiciary's control into the other aspects of the system or into the community.

Two members had drafted detailed lists and proposals on topics. Those lists were reviewed and discussed by all members. At the end of the discussion it was determined that an additional

workgroup to address continuity of care-related topics would be created. In addition, the topic of housing and its impact on mental health treatment as well as its impact on the courts was identified as an item to place on the November meeting agenda. Staff to the committee will arrange presentations from subject matter experts.

During the discussion on topics that merit action by the committee, it was agreed the first workgroup to be formed would be focused on several topics that involve statutory or rule changes. Mr. McDougall agreed to lead the workgroup and members interested in participating identified themselves.

Preparation for the Next Meeting, Next Steps of the Committee

Staff will work with Mr. McDougall on getting the workgroup started. Staff will also assist in identifying potential presenters for the November meeting.

Other Business

Good of the Order / Call to the Public

No comments from the public.

Adjournment

The meeting was adjourned at 2:26 p.m. by order of the Chair.

Next Meeting: **November 29, 2018**
 10:00 a.m. – 3:00 p.m.
 Arizona State Courts Building
 Conference Room

111th Arizona Town Hall – Criminal Justice in Arizona
Highlights: Prepared for Mental Health and the Justice System Committee

Town Hall Main Page: aztownhall.org/111_Town_Hall

Mental Health and the Justice System Highlights

(NOTE: The following text is taken directly from the final recommendations report)

Principal Goals for Arizona’s Criminal Justice System:

Arizona must address deterrence through early intervention, education, evidence-based practices and data-driven decision making during all interactions throughout the criminal justice process. Treatment and services for mental health and substance abuse issues should be incorporated into broader issues of economic disparities and criminal justice reform. Economically disadvantaged communities should be provided the resources necessary to access treatment services.

For those who are incarcerated, Arizona should provide programs and services, including, but not limited to, drug and addiction rehabilitation services, mental health treatment that meets community standards, family support, workforce training, and all levels of education, with the goal of reducing the costs associated with prolonged incarceration and recidivism. When releasing inmates back into society, Arizona and its communities must be responsible for ensuring a focus on quantifiably successful rehabilitation and reintegration.

The Impacts of Substance Abuse and Mental Illness

Substance abuse and mental illness significantly impact Arizona’s criminal justice system. Substance abuse and mental illness are often co-occurring conditions—and each needs to be addressed with evidence-based and data-driven early intervention and treatment options. Arizona has failed to adequately address substance abuse and mental health issues in the public health arena. Often, these issues fall by default to the criminal justice system. Arizona needs to make a clear delineation between public health issues and the criminal justice system and provide for medical and behavioral health intervention separate from the criminal justice system.

Substance abuse and mental health issues need to be treated as public health issues and require appropriate intervention. Both are societal problems that impact the community and Arizona should aggressively address these issues proactively and should take steps to keep individuals from ending up in the criminal justice system.

Arizona needs to increase funding for public health programs that address early intervention and treatment options.

We should conduct a comprehensive review of the appropriate level of criminalization of drug and alcohol-related offenses. And, we should identify and provide treatment options to discourage recidivism among this population. Substance abuse impacts the criminal justice system in many ways. Significant resources are used to prosecute drug-related offenses. Twenty-one percent of people incarcerated with the Arizona Department of Corrections are incarcerated as a result of drug possession or drug sale offenses. Seventy-eight percent of those incarcerated in Arizona’s Department of Corrections have substance abuse issues, even though they may be incarcerated for other offenses. Mental health issues significantly impact Arizona’s criminal justice system, with a major portion of Arizona’s incarcerated community members suffering from an untreated mental health

condition.

For those with substance abuse and mental health issues who do end up in the criminal justice system, we need to expand the use of specialty courts, such as drug, mental health, veterans, and homeless courts, diversion programs, and comprehensive treatment programs.

Arizona should re-evaluate the goals and standards for competency to stand trial proceedings and utilize appropriate services so that the proper treatment is administered, not only to restore competency, but to ensure that defendants are given the best treatment options for the best health outcomes.

Intervention or diversion pre-arrest into treatment or mental health programs would result in fewer arrests and less charging. Mental health facilities must be available to individuals to receive appropriate, long-term treatment. This includes providing adequate funding to ensure that there are inpatient programs available to defendants, regardless of socioeconomic status or geography.

For those deemed seriously mentally ill, Arizona must make certain that there are mental health facilities available to ensure these individuals receive appropriate, long-term treatment. This includes providing adequate funding to ensure that there are inpatient programs available to defendants, regardless of socioeconomic status. This also could include giving judges discretion to impose new options to pre- and post-trial incarceration, such as a variety of community-based treatment facilities with various levels of security. Electronic monitoring is a possible alternative under appropriate circumstances.

We should also engage our community partners, such as non-profits, faith-based programs, and social service organizations, to provide wraparound services and treatment for mental health and substance abuse issues once a person leaves the criminal justice system and re-enters society.

This is not to say that those who suffer from mental illness and/or substance abuse issues should not be held accountable for offenses committed, but the focus should be on treatment and rehabilitation and not solely on punishment.

Criminal Charging Process

Everyone involved in the criminal justice system, including defendants, victims, and their families need to be aware of how to access community resources such as, but not limited to, crisis services, advocacy, housing, food, transportation, healthcare, and justice involved navigators. Expanded funding of these services would decrease criminal justice system involvement. Everyone working in the criminal justice system including, but not limited to, 911 operators, attorneys, and police officers, should be trained on how to work with people with mental health and substance abuse issues and refer them to appropriate response teams.

We need to focus on root causes including adverse childhood experiences, homelessness, poverty, substance abuse, and mental health and invest in programs that address these underlying causes outside of the criminal justice system. Trauma-informed, evidence-based approaches need to be expanded. For example, sequential intercept mapping is needed in all counties—identifying intercept points (e.g., initial contact with police, public health, etc.) and looking for areas to improve diversion from the criminal justice system.

Defendants Waiting for Trial

Defendants waiting for trial should be allowed to remain as members of the Arizona Health Care Cost Containment System (AHCCCS).

Mental health and drug treatment services and prescription drugs, as needed, to treat other health conditions should be provided to those defendants who need treatment. Early intervention should be available so that electronic monitoring, specialty courts, social services assessments, and case management can provide successful interventions and reduce the pipeline to prison.

Completion of Sentence

Innovative programs which encourage offender/victim dialogues should be expanded. The public behavioral health system should be accountable for housing AHCCCS-eligible individuals who are diagnosed as seriously mentally ill.

Actions to Be Taken

We recommend that the following actions be taken to ensure that Arizona's criminal justice system meets the needs of its citizens. Arizona should:

- Aggressively address the root causes of crime, including substance abuse, mental health issues, homelessness, poverty, disparate educational opportunities, generational family dynamics, and bias based on race, ethnicity, gender, and historical conditions that result in disproportionate impacts on the criminal justice system on tribal communities and racial/ethnic groups.
- Focus on evidence-based, data-driven decision making and utilize tools such as sequential intercept mapping to focus on diverting individuals at risk from engaging in criminal activity to obtain appropriate early interventions prior to entering the criminal justice system.
- Assess and fund both public and private inpatient and outpatient treatment programs and facilities for individuals suffering from mental illness and/or substance abuse/addiction.
- Engage with various private-sector employers to de-stigmatize the hiring of ex-offenders.
- Work to de-stigmatize the status of persons affected by contact with the criminal justice system, whether by arrest, conviction, incarceration, probation, as a victim, or as a family member of such persons, by treating all persons with respect and dignity including in the terminology used to refer to such persons.
- Create and fund: (1) an adequate number of quality inpatient treatment facilities; and (2) new community-based outpatient treatment facilities with varying levels of security to give judges alternatives to pre- and post-trial incarceration. Electronic monitoring could be one security option considered.
- Call on the Legislature to establish a committee to coordinate with the Arizona Criminal Justice Commission, Arizona Attorneys for Criminal Justice, and the Arizona Supreme Court's Fair Justice for All Task Force to produce annual reports on the strengths and weaknesses of Arizona's criminal justice system.
- Require the Legislature to reform bail, sentencing laws, civil commitment options and Arizona's laws to ensure the appropriate level of criminalization of some drug offenses.

- Encourage the Legislature to reinstate laws requiring cost comparisons between private prisons and Arizona Department of Corrections' prisons. The comparison should also include infractions, i.e., positive drug tests.
- Give judges greater discretion to terminate sex offender registration.
- Expand community partnerships with federal, state, and local government agencies, non-profits and community-based health care, housing, workforce development, and social service organizations to provide services to inmates, victims, and their families to ensure they are able to be productive members of our communities.
- Increase mental health and substance abuse disorder training for first responders, with programs such as Mental Health First Aid.
- Increase availability to, and effectiveness of, crisis response options.
- Increase innovative solutions for dispatching appropriate emergency services, to include crisis services, for people experiencing a behavioral health crisis.
- Ensure probation, parole and community supervision is fully-funded and held accountable for the successful re-entry of offenders into society through proactive case management.
- Encourage the Legislature to consider the enactment of expungement laws and sentencing reform, as well as simplifying the process for the restoration of civil rights (excluding gun rights) and the automatic restoration of voting rights after the successful completion of sentence.
- Acknowledge victims and their families and their need to overcome the trauma they have experienced during all aspects of the criminal justice system.
- Invest in early intervention programs to end the multi-generational impact of criminality on families, youth, and the community.
- Require its elected officials to attend training on the criminal justice system sponsored by the Arizona Supreme Court.
- Ensure that prosecutorial and defense agencies, as well as victim rights groups, receive sufficient funding and access to the Legislature to ensure fairness in any criminal justice reform measures.
- Establish a statewide taskforce to determine the best practices—both evidence-based and data-driven—with regard to diversion, problem-solving courts and re-entry programs.
- Fully-fund transition and re-entry programs and resources to successfully integrate formerly incarcerated community members.

**Committee on Mental Health & the Justice System
Key Issues Workgroup**

#	Key Issue	Status	Additional Notes
1	Expanded definition of “Mental Disorder”	In progress	Review and begin work – 12/4, 12/10 KI Workgroup meetings; Title 36 – Task Force Recommendation
2	New Statute: Determination and Order for Enhanced Services	In progress	Review – 12/10 KI Workgroup meeting; Title 36 – Mandated services and oversight for identified repeaters
3	Amended definition of Persistently or Acutely Disabled (PAD)	In progress	Clarifying that potential for danger to others is included; Overlap with ER Hospitalization
4	Incompetent Not Restorable (INR): Expand Options for MH Treatment	In progress	Title 13/Title 36 – LJC Rule 11 INR issues included