

# Committee on Mental Health and the Justice System

## AGENDA

Monday, April 20, 2020

10:00 a.m. – 11:20 a.m.

State Courts Building

### REGULAR BUSINESS

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10:00 a.m.	<b>Welcoming Remarks and Roll-Call</b>	Mr. Kent Batty, <i>Chair</i>
10:10 a.m.	<b>Approval of March 23, 2020 Minutes</b> <input type="checkbox"/> <b>Formal Action: Vote to Approve</b>	Kent Batty
10:15 a.m.	<b>National Center for State Courts: Mental Health Update</b>	Patti Tobias
10:30 a.m.	<b>Mental Health/Justice Training Initiative</b>	Stacy Reinstein
10:40 a.m.	<b>Competency Practices Workgroup Recommendations</b> <input type="checkbox"/> <b>Formal Action: Vote to Approve</b>	Dianna Kalandros
10:55 a.m.	<b>Key Issues Workgroup Update</b>	Jim McDougall
11:05 a.m.	<b>Committee News/Updates</b>	Kent Batty All
11:20 a.m.	<b>Call to the Public</b>	Kent Batty
11:25 a.m.	<b>Adjourn</b>	

#### Next Meeting:

#### 2020 Meeting Schedule:

**May 18, 2020**

July 27

October 19

August 24

November 16

September 21

December 14

#### **\*\*NOTICE\*\***

The Arizona Supreme Court and Administrative Office of the Courts are taking the necessary steps to protect its employees and partners, and help prevent the spread of the Coronavirus in the community. Per the most recent guidelines by the federal government that no more than 10 people should be gathered in a room at the same time, Committee meeting will be held via phone conference. Members of the public who wish to submit comments on any item on the April 20, 2020 Committee on Mental Health and the Justice System agenda, should direct comments to [mhjscommitteestaff@courts.az.gov](mailto:mhjscommitteestaff@courts.az.gov). Additional guidelines for the public are listed on the Committee website at: [azcourts.gov/cscommittees/Mental-Health-and-the-Justice-System](http://azcourts.gov/cscommittees/Mental-Health-and-the-Justice-System).

*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 Diana Tovar at (602) 452-3449. 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

**Monday, March 23, 2020**

Telephonic meeting  
10:00 a.m. – 11:00 a.m.

**Present (telephonically):** Kent Batty (Chair), Mary Lou Brncik, Brad Carlyon, Amelia Cramer, Jim Dunn, Hon. Elizabeth Finn, Hon. Michael Hintze, Josephine Jones, Natalie Jones, Dianna Kalandros, Cynthia Kuhn, Jason Winsky (Proxy for Chief Chris Magnus), James McDougall, Kristin McManus, Dr. Carol Olson, Ronald Overholt, Beya Thayer (Proxy for Chief Deputy David Rhodes), J.J. Rico, Hon. Barbara Spencer, Hon. Christopher Staring, Hon. Fanny Steinlage

**Absent/Excused:** Shelley Curran, Dr. Michael Shafer, Paul Thomas

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**Guests/Presenters:** Beth Broeker, Cathleen Cole, Alex Demyan, Jen Martin

**Administrative Office of the Courts (AOC) Staff:** Theresa Barrett, Don Jacobson, Mark Meltzer, Stacy Reinstein, Diana Tovar

## **Regular Business**

### **Welcome and Opening Remarks**

Mr. Kent Batty (Chair) shared some etiquette regarding the virtual meeting and asked committee members and guests to respond via roll call.

### **Approval of Minutes**

Members were asked to approve minutes from February 24, 2020, noting they were in the meeting packet and provided electronically in advance of the meeting. A motion to approve the minutes was made. Motion was approved unanimously.

### **Agency News and Updates**

Mr. Batty shared with the committee that all meetings through at least May 1<sup>st</sup> would be virtual. Mr. Batty noted other cancellations including the Mental Health Summit will be postponed to a later date. Ms. Reinstein mentioned that the House and Senate are trying to pass a skinny budget bill that will be just enough to continue state agencies through FY21. She also mentioned that the other mental health bills that were introduced are stuck with one exception: mental health parity bill (Senate Bill 1523) which has been approved.

### **Committee Discussion – Current Events**

Mr. Batty opened discussion to the committee to share current events happening in their local communities/courts/hospitals that are impacted by the COVID-19 pandemic health crisis.

Members shared information from their courts and precautions that staff have been taking to reduce large group contact. These steps include eliminating as many non-essential hearings as possible, working with court staff to move to virtual hearings when possible, and granting motions to continue as much as possible and where appropriate.

Dr. Olson shared that Valley Wise has been continuing operations as usual, but they are trying to move to telephonic as allowed by level of patient care needed.

Dianna Kalandros noted the county attorney and sheriffs in Pinal County are opening conversations about releasing non-violent defendants as much as possible to get the jail populations down.

In addition, Jim McDougall noted that the Governor and DES have funded the 2-1-1 phone number through Crisis Response Network and it has been running as a designated Coronavirus resource and information center for Arizonans.

Judge Hintze asked the committee to consider making a recommendation for the need to be proactive with sharing information, resources, and services such as hospital bed availability for people experiencing mental health conditions and homelessness. Judge Hintze also suggested the prospect to utilize judges with expertise in mental health hearings, by making them available across jurisdictions. He also mentioned that the AZ Court Care brochure has been a great resource to people in need.

All current changes to how court are functioning can be found on the AOC website: [azcourts.gov/covid19](https://azcourts.gov/covid19).

### **Good of the Order / Call to the Public**

Cathleen Cole requested any information regarding the notary requirement, particularly for the Title 36 forms. Alex Demyan from AHCCCS will respond to Ms. Cole about her question.

Mr. Batty reminded the committee that the next meeting on April 20, 2020 will also be virtual.

### **Adjournment**

The meeting was adjourned at 11:05 a.m. by order of the chair.

## **Committee on Mental Health and the Justice System – Competency Workgroup Telehealth Infrastructure for Mental Health Proceedings**

In its 2019 interim report and recommendations, the Committee on Mental Health and the Justice System recommended that the AOC and individual Courts “Explore opportunities for creating or expanding a telehealth infrastructure for the courts and other justice system partners to increase access to services for people with mental health conditions who have contact with the criminal justice system, including:

- a. Provide a telehealth option for competency evaluations.
- b. Evaluate the feasibility of the use of telehealth for mental health assessments in jails; crisis consultations for law enforcement; crisis response for people who have encounters with law enforcement; probation mental health services; and, jail mental health services.

The Committee’s Competency workgroup has conducted research and discussed the standards and criteria that need to be established for these specific evaluations, including language, development of best practices, and how to ensure access to the best options to achieve an equal standard of care and administration of justice, particularly in rural communities.

Overall, the research concludes that conducting videoconference evaluations does not produce meaningful different outcomes compared to in-person evaluations. Furthermore, utilizing video conferencing offers jurisdictions who are located far from providers a more cost effective and safe option compared to transporting forensic psychiatric patients securely and timely. Researchers indicate that the telehealth options also present the opportunity to improve the procedural justice of examinations by increasing access to mental health evaluators with forensic expertise.

Furthermore, the National Center for State Courts formed a Focus Group this year centered around Competency Practices. This work has also concluded that telehealth for competency proceedings is necessary to ensure administration of justice to individuals, particularly in rural areas that do not have access to evaluators in their communities, as well as for larger jurisdictions with a high number of defendants/patients but a low number of evaluators.

Due to the COVID-19 pandemic emergency, Arizona’s courts have acted to protect the health and safety of the public and court employees, while ensuring constitutional and statutory obligations are met. The pandemic presents an opportunity for Courts to move some hearings and requirements to a virtual platform. While a virtual environment is not always ideal in all mental health related court proceedings, the Competency workgroup maintains that utilizing tele-health for mental health evaluations and restoration to competency education are a recommended practice for the Courts, provided the defendant is given access to technology and the following practices are in place:

- Language is aligned with national best practices/standards for competency and mental health evaluations and implemented as an alternative to in-person examinations under a defined set of circumstances.

## Committee on Mental Health and the Justice System – Competency Workgroup Telehealth Infrastructure for Mental Health Proceedings

- Access to standards of care and administration of justice, including: time requirements; geographic differences; and the standards/requirements for the person who may be accompanying the defendant in the room during the evaluation.
- Timely access to medical records for attorneys and evaluators.

One example in Arizona where this is already in place and working well is Graham County. As a rural community, it is cost prohibitive for the County to transport defendants to another jurisdiction – out of County – to receive their competency evaluation and restoration to competency education, or to set up an in-custody program. To ensure access to justice for defendants in these matters, Graham County contracts with a psychologist who conducts the restoration sessions remotely.

As a result of the COVID-19 pandemic, in order to ensure access to justice, other courts have begun to conduct mental health evaluations remotely. The workgroup recommends that these practices continue, and that teleconferencing for both mental health evaluations and restoration to competency be authorized as a statewide practice.

In order to implement these practices, the workgroup strongly encourages the AOC and courts take action on the following:

- Embed the revised guidelines and templates/forms for mental health evaluators into practice;
- Adopt the recommended best practices for restoration to competency into practice;
- Communicate the revised guidelines, templates/forms and best practices to all current practitioners/mental health evaluators; and
- Create an intermediary, required training for practitioners in advance of the next Legal Competency and Restoration Conference.<sup>1</sup>

After hearing from experts in the forensic psychiatry and psychology field who are currently practicing today, the workgroup also recommends that the AOC and courts reconsider the current rates of the mental health experts' contracts. Doing so will enhance access to mental health experts who may not currently engage with the courts due to the current low rates.

In addition, Workgroup members and AOC staff have been involved in discussions with the AOC Adult and Juvenile Probation Services Division regarding the development of a Teleservice Request for Quotation (RFQ) for providers contracted with the AOC to deliver specific teleservices ranging from assessments to treatment, individual to group, evaluations and screenings, group work and education for services particular to mental health, family counseling, DUI/SUD, sex offender counseling, crisis intervention, and more. After the establishment of those contracts, each county/court/department under AOC can create their own accounts with the chosen service provider(s) for payment. The hope is that the more the teleservice providers are utilized, other jails and agencies will enter into their own contracts

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<sup>1</sup> Please see Competency Workgroup recommendations on Practice Improvement via a University Partnership for further enhancements to the training and education for mental health evaluators.

**Committee on Mental Health and the Justice System – Competency Workgroup  
Telehealth Infrastructure for Mental Health Proceedings**

for their population’s needs. The Competency workgroup recommends that this RFQ and future RFP incorporate the above noted considerations, specific to mental health and competency evaluation tele-health services related to language, best practices, access to standards of care, and timely access to records.

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**Committee on Mental Health and the Justice System – Competency Workgroup  
Telehealth Infrastructure for Mental Health Proceedings**

**Resources:**

- American Psychological Association:
  - Medicare and Medicaid's expanded telehealth coverage and more. Link: [www.apaservices.org/practice/reimbursement/government/medicare-updates-covid-19](http://www.apaservices.org/practice/reimbursement/government/medicare-updates-covid-19)
  - Neuropsychology via telehealth: Guidance on CPT codes, technical requirements and more. Link: [www.apaservices.org/practice/reimbursement/health-codes/testing/teleneuropsychology-resources](http://www.apaservices.org/practice/reimbursement/health-codes/testing/teleneuropsychology-resources)
  - New APA COVID-19 tele-assessment principles. Link: [www.apaservices.org/practice/reimbursement/health-codes/testing/tele-assessment-covid-19](http://www.apaservices.org/practice/reimbursement/health-codes/testing/tele-assessment-covid-19)
- Epstein Becker Green. 50 State Survey of Telemental/Telebehavioral Health (2017). Link: [www.ebglaw.com/content/uploads/2017/10/EPSTEIN-BECKER-GREEN-2017-APPENDIX-50-STATE-TELEMENTAL-HEALTH-SURVEY.pdf](http://www.ebglaw.com/content/uploads/2017/10/EPSTEIN-BECKER-GREEN-2017-APPENDIX-50-STATE-TELEMENTAL-HEALTH-SURVEY.pdf)
- National Center for State Courts:
  - *Lights, Camera, Motion!* - A timely primer on how to implement remote judicial hearings. Webinar, April 7, 2020.
  - *State Court Judges Embrace Virtual Hearings as Part of the New Normal*. Link: [ncsc.org/Newsroom/Public-health-emergency/Stories/Videoconferencing.aspx](http://ncsc.org/Newsroom/Public-health-emergency/Stories/Videoconferencing.aspx)
- Professional Psychology Research and Practices. Luxton and Lexcen. *Forensic Competency Evaluations via Videoconferencing: A Feasibility Review and Best Practice Recommendations*. 2018.
- Psychiatric Services. Luxton et al. *Use of video conferencing for psychiatric and forensic evaluations*. 2006.
- Psychology, Crime and Law. Batastini, Pike, Thoen, Jones, Davis and Escalera. *Perceptions and use of videoconferencing in forensic mental health assessments: A survey of evaluators and legal personnel*. 2019. Link: [doi.org/10.1080/1068316X.2019.1708355](https://doi.org/10.1080/1068316X.2019.1708355).
- Telemedicine and E-health. *Implementation and Evaluation of Videoconferencing for Forensic Competency Evaluation*. Link: [www.liebertpub.com/doi/abs/10.1089/tmj.2019.0150](http://www.liebertpub.com/doi/abs/10.1089/tmj.2019.0150).
- The Telemedicine and Teleconsultation System Application in Clinical Medicine. Link: [ieeexplore.ieee.org/document/1403953](http://ieeexplore.ieee.org/document/1403953).

## Committee on Mental Health and the Justice System – Competency Workgroup

In its 2019 interim report and recommendations, the Committee on Mental Health and the Justice System recommended “the development of a university-court partnership to provide continuous training and best practices in competency evaluation and methodology for mental health evaluators, judges and other practitioners.” The Committee noted that this partnership is intended to increase the pipeline of forensic psychiatrists and psychologists and members of the legal community who are educated in current law, methodology and best practices around competency and forensic mental health services.

The Competency workgroup has discussed this opportunity with partners in the university community and recommends that the Administrative Office of the Courts (AOC) move forward in building this three-tier partnership, as outlined below.

- A. Postdoctoral Fellowship: 2-year postdoctoral training program in Forensic Psychological Science to develop future forensic psychological scientists while satisfying training needs in practice. This fellowship will increase the pool of highly-qualified forensic clinicians in Arizona and will help build Arizona’s reputation as a desirable place for skilled and well-trained forensic mental health professionals to work.
  - a. 50% science training and experiences, including conducting research and a small teaching component.
  - b. 50% professional training experiences (to be designed based on Arizona statute), including supervised forensic mental health assessment cases to earn licensure eligibility and high-quality forensic mental health training.
    - i. The cases will come from a strategic partnership with the Arizona Supreme Court/AOC.
- B. Certification Process: Forge strategic partnership/contract with the Arizona Supreme Court/AOC to develop and manage a new evidence-based certification process for the state that will enhance standards of practice and quality control in forensic mental health services.
  - a. This partnership could involve ASU, University of Arizona Medical School, and NAU.
  - b. See successful model examples in: Virginia, Massachusetts, Oregon.
- C. Training Center: Disseminate scientific and evidence-based information relevant to professional judgments in forensic mental health, forensic science, and the law. Much of this training can be made available online, and offer professional education credits for mental health professionals, medical professionals, forensic science professionals, and legal professionals.

The workgroup also recommends that the university partnership incorporate a cooperative research opportunity between social work, counseling, psychology, and criminal justice programs to explore the clinical liaison model and make recommendations for further expansion of this position as a best practice.

## Committee on Mental Health and the Justice System – Competency Workgroup

The workgroup recommends that the following components also be pursued by the AOC in advance of the next Legal Competency and Restoration Conference, either on its own or in partnership with a team of subject matter experts, including the university partnership:

- Develop an accompanying practice guide for mental health experts of the guidelines and standardized forms to be used throughout the competency evaluation process by mental health experts in Criminal Rule 11 competency evaluations.
- Communicate these revised guidelines and forms to mental health experts in advance of next Legal Competency and Restoration Conference.
- Incorporate enhanced training in the next Conference, including writing the mental health expert report with a feedback workshop.
- Ensure psychiatrists are included in the Conference.
- Amend Rule 11.3a(5)(C) to include “Trained every 3 years” and specific annual review criteria to be overseen by the AOC, such as the development of a quality control mechanism for mental health evaluators through the training process such as inclusion of a written exam and required annual recertification training.

### Additional resources:

- Massachusetts: [www.umassmed.edu/psychiatry/law-psychiatry/training-and-education/](http://www.umassmed.edu/psychiatry/law-psychiatry/training-and-education/)
- Oregon: [www.ohsu.edu/school-of-medicine/psychiatry-education-and-training/forensic-psychiatry-fellowship](http://www.ohsu.edu/school-of-medicine/psychiatry-education-and-training/forensic-psychiatry-fellowship)
- Virginia: [www.ilppp.virginia.edu/](http://www.ilppp.virginia.edu/)