



Fair Justice Task Force
Mental Health and Criminal Justice
Subcommittee
March 21, 2018

Fair Justice Subcommittee on Mental Health and the Criminal Justice System

REVISED AGENDA

Thursday, March 21, 2018; 10:00 a.m. – 2:00 p.m.

Conference Room 101

State Courts Building, 1501 W. Washington, Phoenix, AZ 85007

[Click Here for Subcommittee Web Page](#)

Time*	Agenda Items	Presenter
10:00 a.m.	Welcome	<i>Kent Batty, Chair</i>
10:05 a.m.	Approval of Minutes from February 12, 2018 meeting <input type="checkbox"/> Formal Action/Request	<i>Kent Batty</i>
10:15 a.m.	Update on SB1195	<i>Jim McDougall Frazer, Ryan, Goldberg & Arnold</i>
10:45 a.m.	Review of Settlement Agreement in <u>Arnold v. Sarn</u>	<i>Charles Arnold Frazer, Ryan, Goldberg & Arnold</i>
<hr/> Lunch (\$5.00) <hr/>		
12:00 p.m.	Discussion of Subcommittee’s Final Report to the Fair Justice Task Force	<i>Kent Batty</i>
1:00 p.m.	Discussion of a recommendation to the Arizona Psychological Association to study and create RTC program guidelines that include evaluation tools and programming <input type="checkbox"/> Formal Action/Request	<i>Lisa Surhio Pima County Asst. P.D.</i>
1:00 p.m.	Good of the Order/Call to the Public Adjournment	<i>Kent Batty</i>

Next Meeting:

April 10, 2018

Conference Room 119B

Arizona State Courts Building

Fair Justice Task Force

Subcommittee on Mental Health and the Criminal Justice System

DRAFT

Thursday, February 12, 2018
Conference Room 119
Arizona State Courts Building
1501 West Washington Street
Phoenix, AZ 85007

Present: Kent Batty, Chair, Susan Alameda, Dr. Tommy Begay, John Belatti, Mary Lou Brncik, Chris Driscoll (proxy for Nancy Rodriguez), Jim Dunn, Josephine Jones, Judge Joe Mikitish, Dr. Dawn Noggle, Dr. Carol Olson, Judge Susan Shetter, Commissioner Barbara Spencer, Judge Chris Staring, Lisa Surhio, Sabrina Taylor, Paul Thomas, Juli Warzynski

Appearing Telephonically: Vicki Hill

Absent/Excused: Detective Kelsey Commisso, India Davis, Dr. Michael Schafer, Mary Ellen Sheppard, Danna Whiting

Administrative Office of the Courts (AOC) Staff: Theresa Barrett, Jodi Jerich, Sabrina Nash, Angela Pennington

Guest Speakers: Chief Deputy David Rhodes, Yavapai County Sheriff's Office

Welcome, opening remarks, and approval of minutes

The February 12, 2018 meeting of the Fair Justice Task Force Subcommittee on Mental Health and the Criminal Justice System was called to order at 10:05 a.m. by Kent Batty, Chairman. The Chairman thanked the members for their attendance and officially welcomed John Belatti, Mesa City Prosecutor, to the Subcommittee. Mr. Belatti was appointed to replace Kathleen Mayer, Deputy Pima County Attorney.

The draft minutes of the January 18, 2018 meeting were presented for approval.

Motion: To approve the January 18, 2018 minutes. **Action:** Approve. **Moved by:** Dr. Dawn Noggle. **Seconded by:** Jim Dunn. Motion passed unanimously.

Review of survey results

At the last meeting, the Chairman directed staff to develop a survey for members to select their top two priorities. The members could select from a list of five topics or write in their own issue. The survey results would be used to direct the future work of the Subcommittee.

The Chairman shared the results of the survey. He reported that only about half of the members completed the survey and that several members who did answer the survey wrote in their preferences. In sum, the survey results showed that members have an interest in a wide variety of topics related to how the court may better address persons with mental illness.

Discussion ensued. A judicial member emphasized the importance of mapping the Sequential Intercept Model (SIM). She noted that a well-mapped SIM identifies services at any point along the five intercepts so stakeholders can identify treatment services and prevent a person's deeper involvement in the criminal justice system. Members commented that there need to be ongoing efforts to make sure the criminal justice and behavioral health stakeholders who have already mapped their community's SIM are able to apply their plan as well as update it as needed.

A member from the medical community noted the benefit of better data collection by the courts when it diverts a person out of the justice system and into treatment. Members discussed that the court isn't the only intercept point where there is an opportunity to divert a person into treatment. A law enforcement member stated that in 2017 in Maricopa County, law enforcement diverted approximately 23,000 people who were identified as having mental illness or a mental illness with a co-occurring substance abuse disorder. These people were either helped by a mobile mental health crisis team or were sent to a sub-acute facility or a detox center. The members concurred technology has advanced in recent years so that it is more feasible than ever to collect data from a variety of sources.

Next, additional discussion turned to additional training for judges. One judicial member stated that he never had a Title 36 matter when he was in private practice. When he became a judge, he received limited training in Title 36 court-ordered mental health treatment statutes and court procedures. He suggested that the courts provide more in-depth training of Title 36 for new judges and offer continued training at the annual Judicial Conference. Building on those comments, another judicial member stated there is no Bench Book for Rule 11 hearings or restoration to competency proceedings.

Other members raised issues regarding a review of relevant statutes or retention schedules for Rule 11 proceedings held in limited jurisdiction courts (LJCs).

Presentation by Yavapai County Sheriff's Office on its efforts to identify and divert mentally ill persons out of the criminal justice system

David Rhodes, Chief Deputy for the Yavapai County Sheriff's Office (YCSO), reported on the YCSO's efforts to address the disproportionate number of mentally ill persons in Yavapai County's criminal justice system. He detailed the YCSO's work with several other local criminal justice and behavioral health stakeholders to develop pre-arrest diversion strategies. He also detailed the YCSO's "Reach Out" post-arrest program that evaluates the mental healthcare needs for persons upon entering the Yavapai County jail, provides care to persons while they are in custody, and coordinates a treatment plan for mentally ill inmates upon reentry into the community after completing their sentences.

Chief Deputy Rhodes reported that in the beginning, Yavapai County law enforcement had little training on how to handle a call that involved a person who appeared to have a mental health issue. The situation often ended with an arrest. Mentally ill persons were over-represented in the jails, typically could not afford bail, and were more likely than others to remain in custody until their hearing. The YCSO observed that many people with untreated mental healthcare needs kept returning to the jail, typically for misdemeanors or low-level felonies. He noted that the jails and other components of the criminal justice system were not created to address the underlying mental health issues that were causing the repetitive criminal behavior.

In response to the public's growing frustration, the YCSO began to develop a plan to address these problems. The YCSO received training on the SIM and joined the national "Stepping Up" Initiative. It required its officers to be trained in mental health first aid and crisis intervention. Additionally, the YCSO began working with others in the criminal justice and behavioral health systems to develop a pre-arrest strategy. Together, they formed the Yavapai County Mental Health Coalition (YCMHC) that consists of representatives from the Yavapai County Board of Supervisors, the YCSO and other law enforcement agencies, local public defenders and prosecutors, mental health care treatment providers, and superior court. The YCMHC developed a mobile crisis intervention team (MCIT) that was first piloted in the Verde Valley. The MCIT provided assistance to police in the field when they were called to a scene that involved a person who appeared to be in a mental health crisis. The MCIT gave police the option to address the situation in a way that did not end up with the person being arrested. Chief Deputy Rhodes reported that in the pilot program's first year of operation, the MCIT was called out on 560 calls and of those calls, only 7 people were taken to jail.

Building upon the success of the MCIT, the West Yavapai Guidance Clinic opened a crisis stabilization unit to offer mental health treatment. Like the MCIT, the Clinic provided another pre-arrest option for police. Now, law enforcement can transport persons to the Clinic for treatment instead of taking them to jail.

In addition to its pre-arrest diversion efforts, the YCSO developed the "Reach Out" program. "Reach Out" provides services to people when they come into the jail and links people to treatment services upon leaving the jail. As part of the "Reach Out" program, the YCSO created

a behavioral health unit in the jail. A behavioral health treatment provider evaluates people as soon as they enter the jail and provides treatment for those who are identified as having mental health needs. Chief Deputy Rhodes noted that approximately 90% of people in the county jail are AHCCCS eligible. The “Reach Out” Program helps enroll AHCCCS eligible persons. At release, the goal is to get the person to a treatment provider as soon as possible.

Chief Deputy Rhodes observed that there are more people in Arizona’s jails than in its prisons. Reentry programs targeted for the jail population can have a significant impact on recidivism rates. He noted that through the YCSO’s efforts, there has been a 40% reduction in recidivism for persons who have gone through the YCSO’s post-arrest diversion program. There has been a 51% reduction in the average length of stay in jail for persons in the post arrest diversion program.

Finally, Chief Deputy Rhodes informed members the YCSO is working with a vendor to develop a database to track the participants in the “Reach Out” Program. The database will assist with the collection of data to determine the Program’s impact. His goal is to establish baseline data to show that early intervention reduces recidivism and that the YCSO’s model could be expanded to other counties.

The members noted the work done to date by the YCSO and the YCMHC and thanked Chief Deputy Rhodes for his presentation.

Informational guide for the public detailing the Title 36 civil commitment process

At the January meeting, the Subcommittee agreed to form a workgroup with staff to develop an informational document that will provide information to the public on how to navigate the Title 36 civil commitment process. MaryLou Brncik, Dr. Carol Olson, Lisa Surhio, and Juli Warzynski agreed to work with staff to create this document. This group looked at different options and ultimately decided that a guide should be modeled after a website developed by the Minnesota Department of Public Health. Staff was directed to look into how the Administrative Office of the Courts could develop a similar guide. Staff then showed the members the Minnesota website and provided an overview of what the site contained and how it functioned.

Discussion ensued. Members agreed that providing this information would be an important service to the public. An attorney member noted that the most valuable information would be how a person starts the civil commitment process and what information is needed to fill out the Application for Court Ordered Evaluation. People do not know where to go when their friend or family member needs mental health care. There is often confusion about where to take a person who needs such care. This confusion routinely results in delay. Oftentimes, people will unnecessarily linger in hospital emergency rooms while awaiting the appropriate mental health care. An attorney member noted the evaluation process differs among the counties because of the different resources available. The Subcommittee directed staff to include county-specific information in the development of the guide.

Advance directives

The Chairman stated that while advance directives can provide a useful alternative to court-ordered mental health treatment, the public is largely unaware of them. An advance directive allows a person to authorize another to make health care or mental health care decisions on their behalf if they become incapacitated. The Subcommittee noted that the Secretary of State permits persons to register their medical healthcare power of attorney, mental healthcare power of attorney, and living will with her office. Persons are given a unique log-in to view their individual advance directive. Additionally, their health care providers may be given access to view the advance directives as well.

The Chairman asked the members to think about how the courts could better inform people about the benefits of advance directives and to be prepared to share those ideas at the March meeting.

Call to the public

No members of the public addressed the Subcommittee in response to a call to the public.

Adjournment

The meeting adjourned at approximately 1:20 p.m.

AZ SUPERIOR COURT TITLE 36 PETITIONS AND TREATMENT ORDERS

Calendar Years 2015, 2016, 2017

COUNTY	PETITIONS FOR MH EVAL				TREATMENT ORDERS				
	2015	2016	2017	TOTAL PETITIONS	2015	2016	2017	TOTAL TREATMENT ORDERS	
APACHE	8	7	9	24	APACHE	2	3	2	7
COCHISE	77	76	149	302	COCHISE	44	56	74	174
COCONINO	243	226	293	762	COCONINO	4	7	10	21
GILA	16	20	35	71	GILA	8	10	18	36
GRAHAM	6	6	5	17	GRAHAM	8	10	7	25
GREENLEE	0	0	0	0	GREENLEE	2	1	1	4
MARICOPA	4321	5783	7350	17454	MARICOPA	2542	2519	3184	8245
MOHAVE	79	72	98	249	MOHAVE	64	76	67	207
NAVAJO	56	92	69	217	NAVAJO	11	8	5	24
PIMA	1935	2243	2494	6672	PIMA	1716	1940	2305	5961
PINAL	219	217	184	620	PINAL	114	126	95	335
SANTA CRUZ	2	9	10	21	SANTA CRUZ	6	7	7	20
YAVAPAI	19	44	45	108	YAVAPAI	39	47	52	138
YUMA	191	265	322	778	YUMA	79	100	129	308
LA PAZ	0	0	0	0	LA PAZ	0	0	0	0
			<u>TOTAL</u>	<u>27295</u>			<u>TOTAL</u>	<u>15505</u>	



MENTAL HEALTH AND THE CRIMINAL JUSTICE SYSTEM

A SUBCOMMITTEE OF THE FAIR JUSTICE TASK FORCE

SEPTEMBER 12, 2017



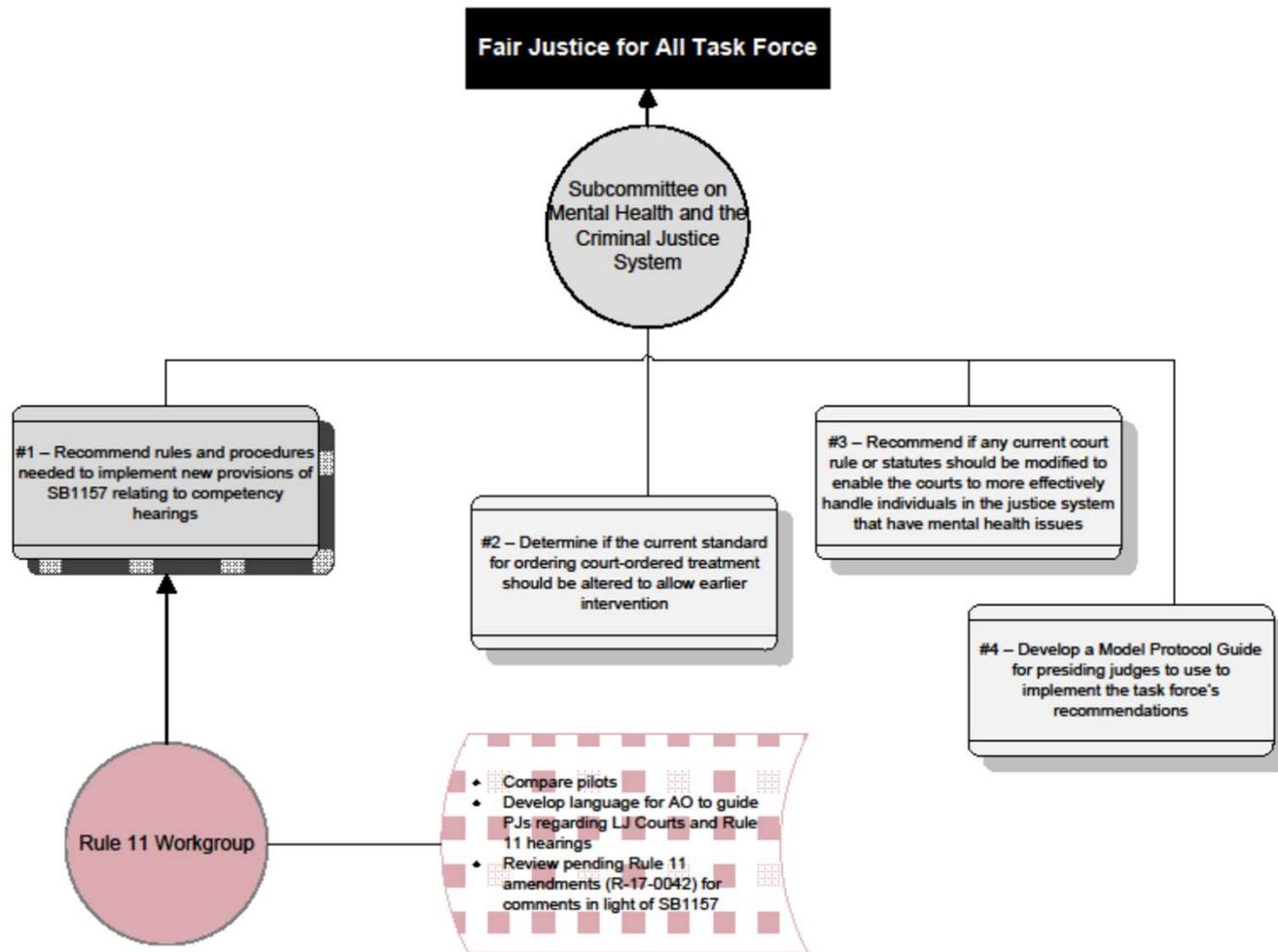
Charge of the Subcommittee

- Recommend rules and procedures needed to implement new provisions of SB1157 competency hearings.
- Determine if the current standard of ordering court-ordered treatment should be altered to allow for earlier intervention.
- Recommend if any current court rule or statutes should be modified to enable the courts to more effectively handle individuals in the justice system that have mental health issues.
- Develop a Model Protocol Guide for Presiding Judges to use to implement the Task Force's recommendations.



Fair Justice Task Force Recommendations

- #33. Coordinate where possible with the local RBHAs to assist the court or pretrial services in identifying defendants who have previously been diagnosed as mentally ill.
- #34. Review mental health competency statutes for expediting mental competency proceedings for misdemeanor cases.
- #35. Bring together criminal justice and mental health stakeholders in larger jurisdictions to adopt protocols for addressing people with mental health issues who have been brought to court.
- #36. Consider the use of specialty courts and other available resources to address a defendant's treatment and service needs, as well as risk to the community, when processing cases involving persons with mental health needs or other specialized groups.



Work to date of the Fair Justice Subcommittee on Mental Health and the Criminal Justice System

1. Approve a model administrative order and a policies and procedures document for presiding judges to use as a guide when authorizing limited jurisdiction courts to conduct Rule 11 proceedings. The AOC provided these documents to the presiding judges through a Statewide Memorandum issued on December 28, 2017.
2. Recommend changes to the Arizona Rules of Criminal Procedure to permit Rule 11 limited jurisdiction courts to order restoration treatments if the court finds the defendant to be incompetent but restorable. A Rule Petition amending Rules 11.5 and 11.6 was filed on January 10, 2018. Under the current Rule, a limited jurisdiction court must transfer the case to the superior court for such a determination.
3. Make several recommendations regarding how to improve the court's administration of justice for those persons with mental illness:
 - a. Recommend that judges and court staff receive training on the Sequential Intercept Model (SIM) and other mental health evaluation tools in order to help them recognize the behavioral health needs of persons who come to court and direct them to appropriate treatment when possible.
 - b. Recommend that the AOC develop a central repository for courts that conduct Rule 11 proceedings to be able to access prior Rule 11 and Title 36 records from other courts.
 - c. Recommend that the AOC develop a process for limited jurisdiction court to report the outcomes of competency hearings as required by ARS § 13-609.
 - d. Recommend that the Fair Justice Task Force consider changes to the statutory definition of "mental disorder" to expand the population of those persons who may be considered having a "mental disorder" for the purposes of receiving treatment under Title 36.
 - e. Recommend that the courts identify locations that make it easier for defendants to get to court ordered mental competency evaluations and restoration programs. Access to public transportation should be a key consideration and the courts should consider making space available at the courthouse where doctors can conduct evaluations.
4. Develop a guide to be made available on court self-service websites that educate persons about the civil commitment process. (This is still under development)

Other Work associated with advancing the strategic agenda relating to how the courts dispense justice to those with mental illness.

- A. AOC will provide additional training for psychiatrists so they may be eligible to perform competency and restoration evaluations in Rule 11 proceedings.
- B. Submit a successful proposal for the AOC to be awarded a \$50,000 grant from the State Justice Institute so the AOC may engage the National Center for State Courts (NCSC) in developing a model protocols for presiding judges to improve the justice system's response to those individuals with serious or persistent mental health illness.
- C. Using the Pinal County forms as a model, create a packet of forms and instructions for use by self-represented litigants to petition the court for the guardianship of an adult. The AOC restyled these forms and instructions for clarity, ease of use, and to reflect current changes to state law.