ELIMINATE the WAIT

What's My Role to Eliminate the Wait for Competency Restoration Services?

Local Mental Health and Behavioral Health Authorities, Local Intellectual and Developmental Disability Authorities, and other Behavioral Health Treatment Providers

Behavioral health treatment providers are the frontline in reducing the number of people with a mental health (MH), substance use disorder (SUD), or an intellectual and developmental disability (IDD) who become involved in the criminal justice system. These efforts include offering timely crisis response and pre-arrest diversion programs, providing quality community-based services, and establishing positive relationships with criminal justice partners to facilitate a collaborative approach. By connecting people to care outside of the criminal justice system, behavioral health treatment providers can reduce the number of people in need of competency restoration services. If a person is found incompetent to stand trial, providing alternatives to inpatient competency restoration can prevent a person from waiting in jail for an available inpatient bed.

1. Expand Crisis Response and Pre-Arrest Diversion Options

- ☐ Do I offer a range of crisis services?
  - ☐ Do I offer services that are accessible at the earliest signs of crisis, such as walk-in appointments and telehealth, if permitted?
  - ☐ Do I offer a range of services for people experiencing acute crisis, such as round-the-clock mobile crisis teams and short-term crisis stabilization services?
  - ☐ Do I offer follow up services after a crisis care episode that ensure ongoing access to care such as care coordination?
- ☐ Do I have pre-arrest diversion programs and partnerships in place in all counties in my local service area that focus on preventing criminal justice involvement of people with MH, SUD, or IDD, as described in Tex. Health & Safety Code §§ 533.0354 and 533.108?
  - ☐ Do I deploy a full range of public safety responses, including partnering with emergency medical services?
  - ☐ Do I provide crisis response support to law enforcement through co-response or virtual co-response?
- ☐ Have I developed a shared understanding with local law enforcement officers on the scope of their discretion and responsibilities for an emergency detention without a warrant under Tex. Health & Safety Code § 573.001?[1]
- ☐ Do I have a range of easy access drop-off options for all counties in my local service area for people who need immediate crisis support?

2. Promote Alternatives to Inpatient Competency Restoration

- ☐ Do I offer outpatient competency restoration (OCR) and/or jail-based competency restoration (JBCR) to provide an alternative to inpatient competency restoration services? If not, have I explored these options?
- ☐ Do I have a process in place for actively monitoring persons under a Code of Criminal Procedure 46B commitment order based on Form Z, the Forensic Clearinghouse Waitlist Template?

3. Provide Services that Reduce Justice-Involvement and Ensure Continuity of Care

- ☐ If a person has been identified to be incarcerated through the continuity of care query (CCQ), do I have an outreach plan in place with my jail?[2]
- ☐ Do I offer contracted jail-based treatment services?
- ☐ Are my staff educated on justice-responsive programs and interventions, such as cognitive behavioral treatment targeted to criminogenic risk, motivational interviewing, forensic intensive case management, and critical time intervention?
- ☐ Are my staff educated on criminogenic risk and need factors that contribute to recidivism?

ELIMINATE the WAIT

4. Lead Through Partnership

- ☐ Do I coordinate, communicate, and collaborate with criminal justice partners?
- ☐ Do I have representation from criminal justice partners on my advisory board, including police departments, sheriffs' offices, and courts?
- ☐ Do I, or staff, participate in local planning boards and workgroups focused on issues at the intersection of behavioral health and criminal justice?
- ☐ Are criminal justice partners educated on diversion programs available through my organization, including the crisis hotline, mobile crisis response, mental health deputies, co-responder teams, and other like programs?
- ☐ If I provide OCR and/or JBCR services, do I provide education to defense attorneys, prosecutors, and judges on these programs as alternatives to inpatient competency restoration?
- ☐ Do I actively promote my organization's diversion programs with criminal justice partners?
- ☐ Do I offer training to criminal justice partners on Mental Health First Aid?
- ☐ Are policies, procedures, and/or processes in place for diversion programs that clarify and outline the roles, responsibilities, and actions of my staff and those of our criminal justice partners?
- ☐ Do I or my leadership team have a direct connection or relationship with each of my criminal justice partners, including law enforcement, jail administration, and the judiciary for each county in my service area?
- ☐ Do I understand the challenges experienced by criminal justice partners in working with my organization as well as in utilizing my crisis and diversion programs?

Texas Council of Community Centers

TEXAS Health and Human Services™

JCMH Texas Judicial Commission on Mental Health

Additional Resources:

- Principles of Community-based Behavioral Health Services for Justice-involved Individuals: A Research-based Guide | SAMHSA Publications and Digital Products
- Tailoring Crisis Response and Pre-Arrest Diversion Models for Rural Communities | SAMHSA Publications and Digital Products
- Forensic Assertive Community Treatment (FACT): A Service Delivery Model for Individuals with Serious Mental Illness Involved with the Criminal Justice System | SAMHSA
- How to Successfully Implement a Mobile Crisis Team | Council of State Governments Justice Center
- Building a Comprehensive and Coordinated Crisis System | Council of State Governments Justice Center
- Justice and Mental Health Collaboration Program Implementation Science Checklist Series | Council of State Governments Justice Center
- Roadmap to the Ideal Crisis System: Essential Elements, Measurable Standards, and Best Practices for Behavioral Health Crisis Response | National Council for Behavioral Health
- Cops, Clinicians, or Both? Collaborative Approaches to Responding to Behavioral Health Emergencies | National Association of State Mental Health Program Directors
- Data Collection Across the Sequential Intercept Model: Essential Measures | SAMHSA

This document is not intended to expand the requirements in the Statement of Work of the LMHA/LBHA's Performance Agreement with HHSC.

[1] Tex. Health & Safety Code Section 573.001 provides peace officers with broad discretion to make a warrantless apprehension of a person with mental illness, regardless of age, when the officer has reason to believe and does believe that because of the mental illness "there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained." This belief may be based on information provided by a credible person, the apprehended person's conduct; or the circumstances under which the apprehended person is found. If a warrantless apprehension is made, peace officers must:

Transport the individual to the nearest appropriate inpatient mental health facility or a mental health facility deemed suitable by the local mental health authority, if an appropriate inpatient mental health facility is not available OR Transfer the apprehended person to emergency medical services personnel of an emergency medical services provider in accordance with a memorandum of understanding executed under Texas Health & Safety Code 573.005 for transport to the nearest appropriate mental health facility or, if one is not available, to a mental health facility deemed suitable by the local mental health authority.

Pursuant to Texas Health & Safety Code Section 573.002, give notice of detention to the facility using *Notification of Emergency Detention* form; without notice, the facility may not hold the person involuntarily.

[2] When a person is processed into correctional institutions, facility personnel run a CCQ and receive an alert which identifies if the individual has a history of receiving mental health services from state-funded mental health programs.