



Committee on Mental Health and the Justice System Interim Report and Recommendations | October 2019

The Court recognizes that cases involving individuals with mental health issues have posed challenges to the justice system, as well as to the persons involved and their families. – Administrative Order 2018-71

Created by Arizona Supreme Court [Administrative Order 2018-71](#), the Committee on Mental Health and the Justice System is tasked with researching and addressing ways for the courts and other stakeholders to more effectively address how the justice system responds to people with mental health conditions. Utilizing the influence of the judiciary as a convening force, Arizona is well-positioned to create a cross-system approach to significantly improve outcomes for people in need of behavioral health services and supports.¹

The Committee's interim recommendations focus on these improvement opportunities:

- [Identify Mental Health Issues Early](#)
- [Expand Opportunities to Divert Individuals from the Criminal Justice System](#)
- [Ensure Access to Appropriate Services and Fair Justice](#)
- [Shift Costs Toward High Needs Individuals](#)
- [Hold the System Accountable](#)

Findings

- The civil and criminal justice systems require additional procedures and resources to **identify, as early as possible**, mental health conditions in those who come into contact with the justice system.
- While options to **divert individuals** from the civil or criminal justice systems are statutorily authorized, these options are not available or are underutilized across the state, often due to a real or perceived lack of resources.
- People who have been identified as having mental health conditions are more likely to be detained pretrial and to stay longer in detention due to the lack of sufficient inpatient treatment and community-based outpatient treatment options. In some jurisdictions, these individuals are released without a **full continuum of treatment care options** and, consequently, often return to the justice system.
- Individuals, families and communities are not currently able to **access adequate behavioral health services in times of need** that would allow for an appropriate level of care along a continuum of services ranging from no justice involvement to diversion, and from the justice system to inpatient, secure care.
- Arizona must **address the unique needs and challenges its rural communities** face in providing services and treatment for those with mental health conditions who come into contact with the justice system.

¹ Full Report: azcourts.gov/csccommittees/Mental-Health-and-the-Justice-System

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Summary of Recommendations

Legislation, Policy and Procedure

- Amend the definition of “mental disorder” to include neurological and psychiatric disorders, substance use disorders which co-occur with other mental health conditions, along with mental conditions resulting from injury, disease, and cognitive disabilities for the purpose of being eligible to receive mental health services pursuant to Title 36 civil commitment statutes (§36-501(25)).
- Permit judges to enter an “enhanced services” order to a mental health treatment agency to provide services to a person whose history shows that they cannot or will not adhere to treatment and who poses a substantial risk of harm to themselves or others (A.R.S. §36-540).
- Clarify the definition of persistent or acute disability (PAD) to include a substantial probability of causing harm to self or others as a possible consequence of the condition not being treated (A.R.S. §36-501). Amend the emergency hospitalization standard to include PAD or grave disability, allowing screeners and evaluators to immediately hospitalize a person if the standard is met (A.R.S. §§36-524; 36-526).
- Amend statute in both Title 13 and Title 36 to address the gap between the criminal justice system and the civil mental health treatment system that allows defendants who are mentally ill and dangerous, and who are repeatedly found incompetent and not restorable (INR), to be returned to the community.
- Encourage courts to use standardized templates for the Guidelines and Forms used by Mental Health Evaluators in Rule 11 Competency Proceedings.
- Continue to address improvements to the implementation of changes to A.R.S. §13-4503(E) and Rule 11.2, that impact cases involving misdemeanor defendants in limited jurisdiction court competency proceedings.
- Review Statutes and Rules that impact mental health proceedings to identify possible changes and to clarify and simplify language.

Training and Education

- Ensure adequate training for judges and court staff in the areas of behavioral health and crisis response, including an understanding of oversight mechanisms in Titles 13, 36 and 14 proceedings.
- Embed the Committee’s recommendations for standardized Guidelines and Forms in the *Legal Competency & Restoration Conference* – the AOC training required by statute and rule.
- Explore 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.
- Finalize website content that provides information to the public on the involuntary treatment process and the use of advanced health care directives.

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Data Resources and Analysis

- Create a mechanism for judges and attorneys involved in Rule 11, Title 36 or Title 14 proceedings to access remotely the basic information on a defendant's involvement in other mental health proceedings, including current location, findings, or pending proceedings in another court.

Court Improvement

- Review Mental Health Court standards and develop a continuum of options for courts and local communities to address behavioral health treatment and service needs.
- Support local courts' development and implementation of mental health protocols by providing leadership and expertise, and through resource mapping and training.
- Establish a clear, workable mechanism to transfer a misdemeanor defendant between criminal and civil courts in a timely fashion when the originating case is at the Limited Jurisdiction Court level.
- Partner with AHCCCS to ensure its Justice Liaisons and Court Coordinators are utilized by courts statewide and explore expanding their capacity.

Community Services and Supports

- Address the lack of housing and behavioral health treatment space statewide by increasing the number of inpatient, secure beds; community-based, secure residential placements; and community-based supportive housing.
- Expand the use of peer supports and navigators within the crisis response delivery system and throughout an individual's involvement with the justice system.

Diversion and Early Intervention Programming and Partnerships

- Support improvements that strengthen the ability of law enforcement to identify mental health conditions, safely address crisis situations, and understand diversion options, including a process to connect people with mental health services when they are released from jail.
- Explore and expand existing models for courts to support early intervention, crisis response and enhanced treatment in partnership with law enforcement, behavioral health and community stakeholders.
- Support expansion of the "Arizona Model" of crisis services statewide particularly in rural communities and for youth, including community-based, mobile crisis teams and alternative drop-in centers for law enforcement.

Access to Technology

- Explore opportunities for creating or expanding telehealth services, particularly in rural areas. Services may include ad hoc crisis consultations with a provider for law enforcement and other first responders, competency evaluations, mental health assessment in jail, probation and jail-based mental health services.