
PATHWAYS TO CARE AND SAFETY:

**A ROADMAP FOR REDESIGNING THE CRIMINAL JUSTICE SYSTEM
PROCESSES TO PRODUCE BETTER OUTCOMES FOR CJ INVOLVED
INDIVIDUALS WITH MH AND SUD CONDITIONS**

BACKGROUND – OUR CURRENT SYSTEM NEEDS TO CHANGE

MH AND SUD NEEDS ARE AN EXPECTATION IN CRIMINAL JUSTICE

- 70% of individuals in jail have at least one mental illness or substance use disorder (MI/SUD)
- People with MH/SUD needs are more likely to have longer stays and higher recidivism

YET OUR CJ SYSTEM IS DESIGNED AS IF MH & SUD ARE RARE

- Most jurisdictions try to find extra resources to set up special programs (e.g., drug or MH courts) which apply “therapeutic justice” principles to serve a small percentage of the population
- Persons with more severe MI/SUD often find themselves placed in the competency restoration loop, which spends a lot of money without addressing the individual's treatment need or criminogenic prognosis
- The vast majority of people with MH/SUD are in “traditional” CJ pathways that do not meet their needs.

AS A RESULT, WE SPEND LOTS OF MONEY ON “TRADITIONAL” INTERVENTIONS WITH POOR RESULTS

- US spends over \$1 trillion per year for direct and indirect costs of maintaining the largest incarcerated population in the world
- Recidivism rates reflect the negative outcomes of the justice system, with over 80% of those exiting jails and prisons rearrested or reincarcerated within 9 years of release

HOW CAN WE REDESIGN THE CJ SYSTEM TO GET BETTER RESULTS?

- **Step 1: Move away from seeking extra money just to workaroud a dysfunctional system, and develop a new system design based on expectation of MH/SUD needs in the MAJORITY of dockets**
- **Step 2: Apply what we already know works to improve both public safety outcomes and individual recovery outcomes, and incorporate what we know into standard procedures, using base resources.**
- **Step 3: Design CJ pathways that are matched to the relevant CJ and BH variables that affect public safety and successful outcomes for individuals. THAT'S THE FOCUS OF THIS PRESENTATION.**
- **Step 4: Work in partnership with the civil system to facilitate transition from the CJ system to the civil system for people who would have better results with civil supervision.**
- **Step 5: Work in partnership with MH/SUD services to improve outcomes and efficiency for both the BH system and the CJ system**

WHAT ARE THE QUESTIONS WE NEED TO ANSWER TO DECIDE WHICH PATHWAY A PERSON WITH MH/SUD SHOULD BE IN?

- What are the person's **criminogenic risks and needs**? To what degree did those needs contribute to the crime?
- What are the individual's **mental health needs**? How acute and severe are they? Did they contribute to the crime? To what degree?
- Does the individual have a **substance use disorder**? How active and severe? Did it contribute to the crime? To what degree?
- Are there **I/DD, brain injury, or neurodiversity issues** present? How severe? What was their contribution to the crime?
- What **traumas** has the individual experienced? How severe? What contribution to the crime is there?
- How should these experiences affect the delivery of treatment and related services?
- Is there a significant **state interest in prosecution**? Will incarceration improve desired outcomes?

SCREENING TOOLS & DECISION MAKING

- Mental Health Screening
 - Mental Health Screening Form-III (MHSF-III)
 - K6 and K10 Scales
 - Brief Jail Mental Health Screen
 - Correctional Mental Health Screen (CMHS)
- Criminogenic Risk Screening
 - The Level of Service Inventory–Revised (LSI-R)
 - Ohio Risk Assessment System (ORAS)
 - Correctional Offender Management Profiling for Alternative Sanctions (COMPAS)
 - Risk and Needs Triage (RANT)
- Trauma Screening
 - Trauma Screening Questionnaire (TSQ)
 - PTSD Checklist – Civilian Version (PCL-C)

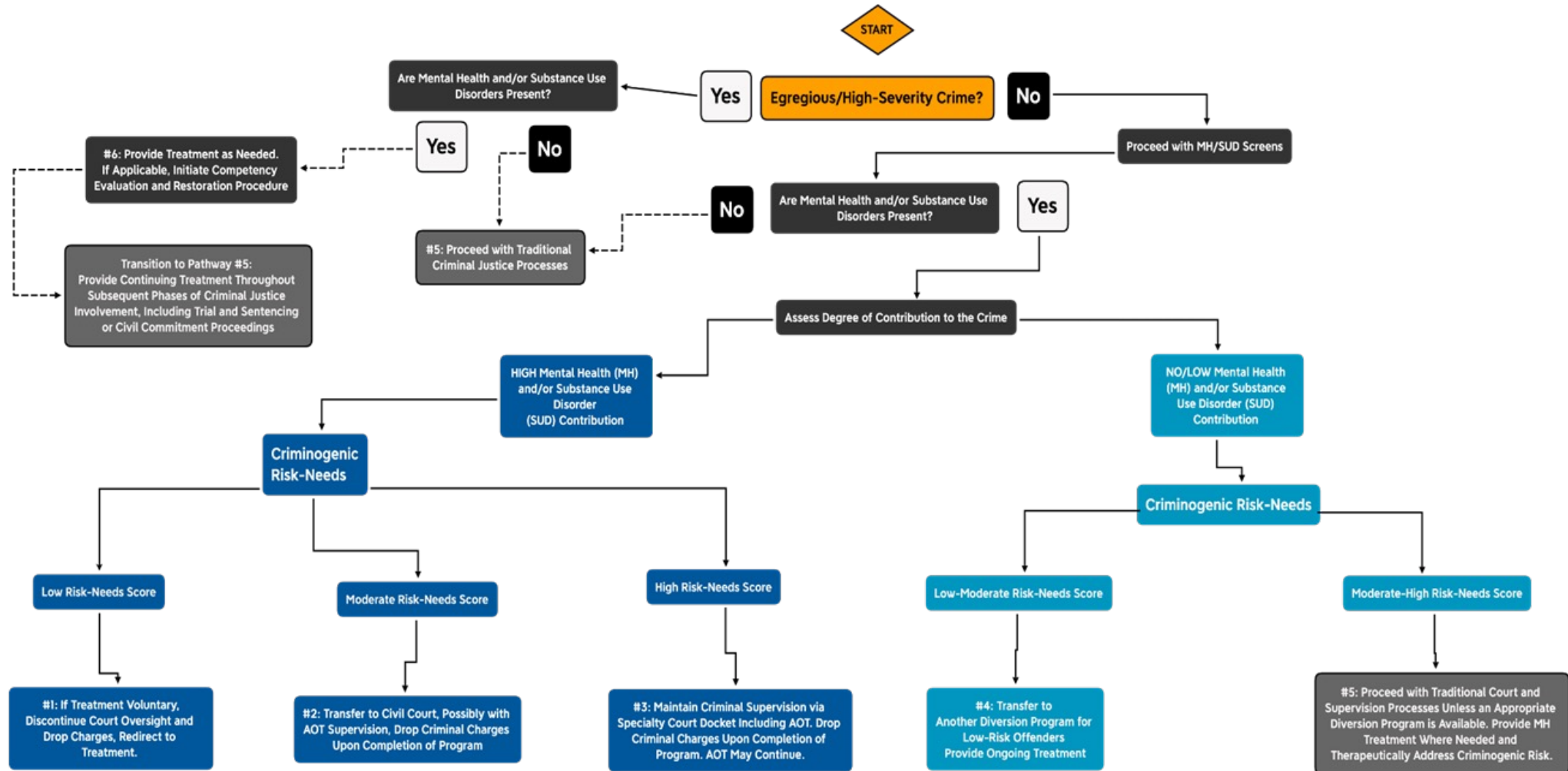
RESPONSE PROCEDURES

- Any peace officer, correctional officer, or other justice system/detention staff person should have the discretion and incentive to initiate a screening and assessment procedure at any appropriate point in the process.
- Once screening and assessment take place there need to be procedures designed to ensure that the results of the screening are communicated to the appropriate entities so that – when indicated – appropriate case redirection and treatment coordination can begin.
- • Every individual screened and identified for therapeutic intervention through this process should be provided with appropriate case management services, including linkages to appropriate community treatment and support based on results of the screenings. These processes could be incorporated into existing functions, such as probation or pretrial services, and could be termed “community management services.”

WHAT HAPPENS AFTER SCREENING?

- In the redesigned CJ System, the results of screening lead each person to be assigned to one of six pathways.
- Each pathway is designed to produce better public health and public safety outcomes, using existing resources as much as possible
- The court should allocate resources based on the expected volume of individuals in each pathway.
- Some courts will continue to find value in having dockets for high volume or specialized issues like DUI, domestic violence, veterans, but most cases can be assigned based on screening-determined pathways.
- There are **SIX PATHWAYS** proposed.

Criminal Justice Redirection Framework Decision Tree



PATHWAY I: MINIMIZE COURT INTERVENTION AND CONNECT TO TREATMENT

- Eligibility: High mental illness and/or substance use disorder contribution, low criminogenic risk and need, low severity crime, participation must be voluntary.
- Pathway:
 - Complete transition to treatment system with needed care and no further criminal justice oversight.
 - May still require a future check-in with a judge to ensure ultimate compliance.
 - Charges dropped or held in abeyance, pending compliance and successful participation

MI/ SUD Contribution	Criminogenic Risk	Needs	Severity	Participation
High	Low	Low	Low-Mod	Voluntary

PATHWAY 2: CONNECT TO CIVIL SYSTEM FOR SOME SUPERVISION AND TREATMENT

- **Eligibility:** High mental illness and/or substance use disorder contribution, low-moderate risk, moderate-high needs, low-moderate severity crime. Participation may be voluntary or involuntary (civil commitment) though often participation is “chosen” only because of the more coercive nature of the alternative.
- **Pathway:**
 - Immediately transfer to civil court with petition for AOT supervision, civil commitment or other civil treatment hearings.
 - Civil Court should be engaged in ongoing oversight, with gradually diminishing involvement, and the option to increase court involvement or transfer to criminal court as a consequence of non-adherence.
 - Treatment plan to include therapeutic interventions responsive to criminogenic risk factors.
 - Charges dropped upon completion of the program.

MI/ SUD Contribution	Criminogenic Risk	Needs	Severity	Participation
High	Moderate	Moderate	Low-Mod	Voluntary or Involuntary

PATHWAY 3: SUPERVISION AND TREATMENT MANAGED BY CRIMINAL COURTS; STEP-DOWN TO CIVIL

- **Eligibility:** High mental illness and/or substance abuse contribution, moderate-high risk, moderate-high needs, moderate severity crime. May also include high severity if jurisdiction deems appropriate. May be voluntary or involuntary participation.
- **Pathway:**
 - Maintain criminal justice supervision in a courtroom engaging in treatment court principles such as a mental or behavioral health court, or a court with a dedicated mental health docket.
 - Step down civil commitment as needed to either inpatient or assisted outpatient (AOT).
 - Treatment plan to include therapeutic interventions responsive to criminogenic risk factors.
 - Charges frequently dismissed when the person has adhered to the court ordered conditions and has shown improvement.

MI/ SUD Contribution	Criminogenic Risk	Needs	Severity	Participation
High	High	High	Low-Mod	Voluntary or Involuntary

PATHWAY 4: “TRADITIONAL” PATHWAY WITH ONGOING TREATMENT

- **Eligibility:** Has a mental illness or substance use disorder with little or no contribution to the crime, low-moderate risk, low-moderate needs, low-moderate severity crime. Participation in diversion should be voluntary.
- **Pathway:**
 - Coordinate referrals to treatment in the community. Therapies must include those targeted to criminogenic risk.
 - Include ongoing treatment and provide resources to meet identified needs, including any criminogenic risk factors or other unmet needs.
 - Because the mental illness did not significantly contribute to the crime, it would be inappropriate to resume prosecution for a failure to comply with or otherwise participate in recommended behavioral health treatment.

MI/ SUD Contribution	Criminogenic Risk	Needs	Severity	Participation
Low/ No MI or SUD	Low-Mod	Low-Mod	Low-Mod	Voluntary Diversion

PATHWAY 5: “TRADITIONAL” CRIMINAL JUSTICE PATHWAY WITH ONGOING TREATMENT

- **Eligibility:** Has a mental illness or substance use disorder with little or no contribution to the crime (may have a co-morbid cognitive disorder), moderate-high risk and need, low-moderate severity crime.
 - OR: No mental illness or substance use disorder present. No impairment preventing the individual from understanding the charges brought against him or her. Significant state interest in prosecuting and/or egregious charges with no opportunity for diversion to treatment.
- **Pathway:**
 - Consider other deferred prosecution or diversion program eligibility. Diversion should be voluntary. This is unrelated to the individual’s mental illness or substance use disorder.
 - Proceed with traditional court processes but order ongoing therapeutic interventions if incarcerated, including interventions specifically addressing criminogenic risk and needs.
 - Supervised probation and/or court monitoring recommended according to risk.
 - Incorporate ongoing risk/needs-responsive supports during incarceration and upon release, as applicable and needed.
 - Generally, criminogenic risk-needs should still be addressed.

MI/ SUD Contribution	Criminogenic Risk	Needs	Severity	Participation
Low/ No MI or SUD	Mod-High	Mod-High	Low-Mod or Significant State Interest	Voluntary or Involuntary

PATHWAY 6: COMPETENCY RESTORATION – USE SPARINGLY

- Eligibility: Should be limited to those cases for which the state has a significant interest in prosecuting particularly egregious crimes and there is a significant ongoing impairment or inability to participate in court proceedings.
- Pathway:
 - Proceed with competency evaluation, restoration, and trial, only as appropriate
 - There still may be an opportunity for civil interventions, and those should be considered

MI/ SUD Contribution	Criminogenic Risk	Needs	Severity	Participation
MI/SUD Present	High	Any	High & Sig. State Interest	N/A

TRANSITION PLANNING: PUBLIC SAFETY AND COURTS

- Based on the treatment needs identified through assessments, the likelihood of compliance with court directives (based on the level of criminogenic risk), and the responsivity needs of the defendant (including mental illness and trauma history), the program team, including the prosecutors and other criminal justice professionals, should consider:
 - Dismissal of charges with referral to treatment
 - Pre-plea diversion or contingent dismissal, dependent on compliance with court ordered treatment and supervision conditions
 - Pre-plea diversion to a court-supervised civil option, such as Assisted Outpatient Treatment
 - Post-plea diversion or contingent dismissal, dependent on compliance with court ordered treatment and supervision conditions
 - Pre- or post-plea referral to an appropriate problem-solving court

TRANSITION PLANNING: HEALTH CARE

- If approved for redirection to the civil system or supervised community integration:
 - All appropriate counselors and case workers will be assigned, will design the transition plan, and will obtain the individual's consent to treatment and to the release of records and other information.
 - APIC Model
 - Medical clearance is completed, and a supply of medication is provided.
 - A Peer Specialist will provide services upon release from jail including a “warm handoff” and ongoing support in the community.
 - Designated staff gather data to ensure compliance with the transition plan.

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