



State Courts' Responsibility to Convene, Collaborate, and Identify Individuals Across Systems*

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Collaborative efforts among justice, mental-health, and public-health systems are essential to respond to individuals who frequently cycle through systems. Court leaders are well positioned to convene stakeholders to implement effective responses to reduce the negative impacts on the nation's courts.

* Promising practices included in this article were informed by interviews with jurisdictions in six states, as well as from workshops and webinars highlighting current efforts in responding to the needs of individuals with serious mental illnesses (SMIs) and substance use disorders (SUDs) in their jurisdictions.

Who Frequently Cycles Through Systems?

Across the country, there have been systemic failures in how communities and the justice system respond to those with serious mental illness (SMI), creating a revolving door through which vulnerable individuals cycle continuously (Fuller, Sinclair, and Snook, 2017). Examples include rigid legal standards for involuntary commitment (Conference of Chief Justices, 2006) and gaps in competency evaluation and restoration services, producing unethical delays that have led to litigation against various government entities across the United States (Fuller et al., 2017). Community members who cycle through jails, hospitals, mental- and behavioral-health facilities, and other social-service programs strain community resources (National Association of Counties, 2016). In Miami-Dade County, Florida, deplorable conditions for those with SMI involved in the justice system led the Honorable Steve Leifman to work with community stakeholders to implement solutions through the Eleventh Judicial Circuit Criminal Mental Health Project (for more information, see <https://tinyurl.com/snuess7>). Data-collection and data-matching efforts there showed that 97 high-service-utilizing-individuals with SMI cost taxpayers \$13 million in criminal justice costs over a five-year period (Mental Health Institute, 2010).

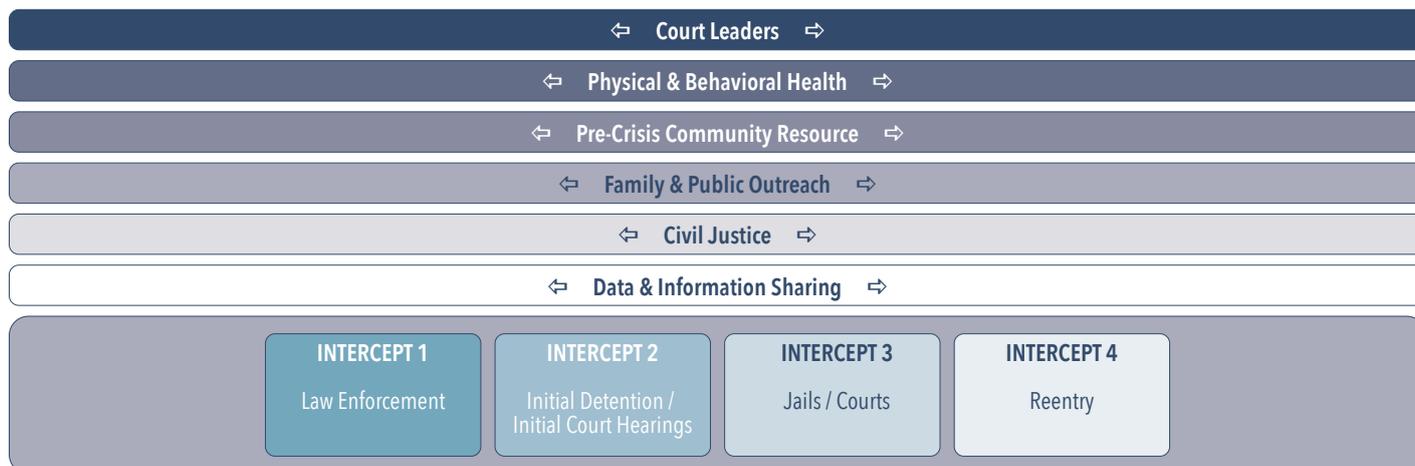
The health-care field has offered early efforts to identify individuals who cycle through various social systems, focusing primarily on medical services and emergency departments. However, research has indicated that community leaders overlook the role of SMI when examining frequent utilization of services (Fuller, Sinclair, and Snook, 2017). The intersection of SMI and the justice system has brought the issue

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of frequent utilization to the forefront for many judges and jurisdictions. To examine the issue, some jurisdictions focus on frequent utilization of multiple social systems within their jurisdiction. Examining data from multiple sources, such as behavioral-health services, homeless services, and jail or court records, creates a robust profile of individuals cycling through these systems. While many jurisdictions focus mainly on the criminal justice system (CJS), there are civil justice issues as well, including involuntary civil commitments or orders for assisted outpatient treatment (AOT). Initiatives to share and examine data to identify and respond to frequent utilization begin for various reasons but should center on better serving individuals who cycle through various social systems.

The figure below depicts the Sequential Intercept Model (SIM; available at <https://www.prainc.com/sim/>) and additional areas of focus, a conceptual model to inform community-based responses to system use by individuals with SMI, substance use disorders (SUDs), or both. This model highlights points of contact as intercepts, which are intervention points to keep an individual from further penetrating the CJS.

The Sequential Intercept Model (SIM) and Additional Areas of Focus for Coordinated Court and Community Responses. <http://apps.ncsc.org/MHBB>



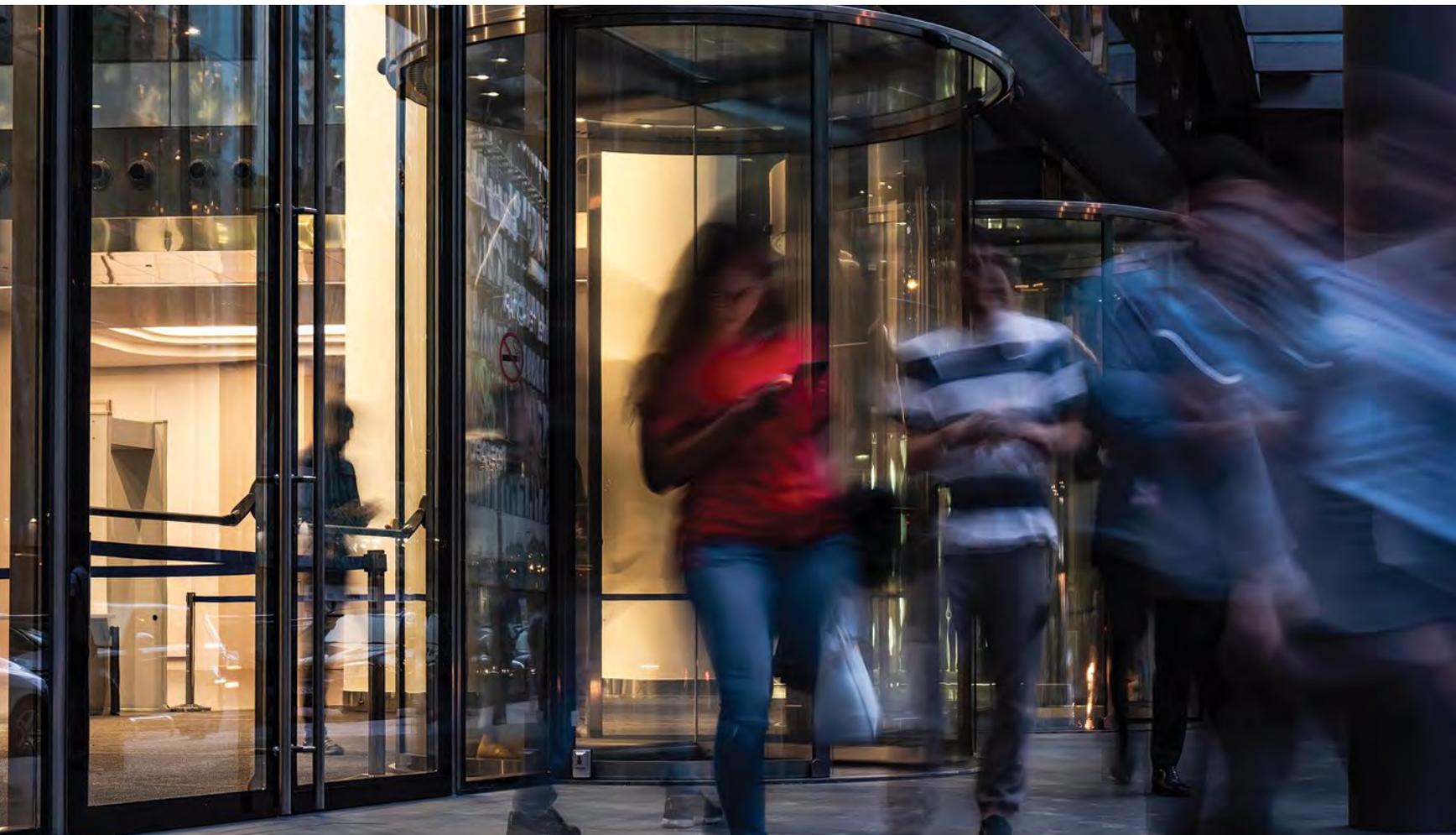
Managing Frequent Utilization Through Data

Data and information sharing span all the SIM intercepts, which inform a range of efforts, including pre- or post-booking diversion, services provided in custody, creative sentencing options, and reentry efforts emphasizing referrals and warm handoffs to community-based services. The ways in which communities define and identify an individual who cycles through various social systems vary greatly and often relate to which entity is inquiring about utilization. For example, jurisdictions may define this population as the top 100, or 5 to 10 percent of individuals who utilize services the most, or those who were arrested more than four times in 12 months. The first step is for the community to agree upon the criteria for identification. The community should regularly reevaluate these criteria to ensure relevance to the shifts in the population served across mental- and public-health systems over time.

Screening for SMI and SUDs in the custody of law enforcement is a best practice to identify individual needs and provide appropriate services. Data-sharing and data-matching efforts between jails and community-based behavioral-health providers are useful in coordinating and providing continuity of care when

individuals are in custody and upon their release into the community. Ultimately, these efforts can facilitate a move upstream to incorporate proactive approaches offering outreach and providing services, rather than reactive responses, after a crisis or an interaction with the CJS. Some examples of efforts to address the needs of individuals who cycle through various services are outlined below:

- Lake County, Illinois identifies frequent utilizers of the jail (individuals who were booked three or more times over 12 months), screens for SMI, and connects individuals to community service providers for intensive case management and to a peer specialist, who assists with individual needs.
- Fairfax County, Virginia examines 9-1-1 and call-for-service data to identify which individuals use first-responder systems the most and to identify individuals who can be provided with community outreach, including a peer specialist on the outreach team.
- Johnson County, Kansas uses outreach efforts and referrals based on screenings conducted at the jail, as well as previous use of county services. Additionally, a collaboration with Carnegie Mellon University uses predictive analytics to determine which individuals may have an adverse interaction with law enforcement. This list is sent to the mental-health center every month for outreach efforts.



What Is the Role of the Courts?

While the Conference of Chief Justices passed a resolution in 2006 outlining the need for court leadership to address the impact of mental illness on the court system, much work still needs to be done. A recent policy paper from the Conference of State Court Administrators calls on judges to collaborate within their communities, engage with policymakers to correct problems, and develop better tools for addressing mental-health issues (Mack, 2016).

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Be advocates and leaders of change:

Judges are in a unique position to gather stakeholders and facilitate cross-system change. A common notion expressed across jurisdictions was that addressing frequent utilization would not be possible without the support of judicial leadership and, in some cases, the initiation of change efforts by judges. Court leaders have a responsibility to reduce the reach of the CJS to individuals with SMI, SUD, and co-occurring disorders (CODs). The National Center for State Courts (NCSC) has created a national guide (2019) to help judges and judicial officers cultivate community change in addressing mental-health issues. The national guide lays out steps for beginning the movement toward change in the court and community’s response to mental health and CODs, by inviting stakeholders (see table below) to participate in commencing and sustaining responses for long-term impact. An additional NCSC resource is the “Data Governance Policy Guide” (Robinson and Gibson, 2019), which provides guidance for courts on how to convene stakeholders to discuss storing, sharing, and managing data.

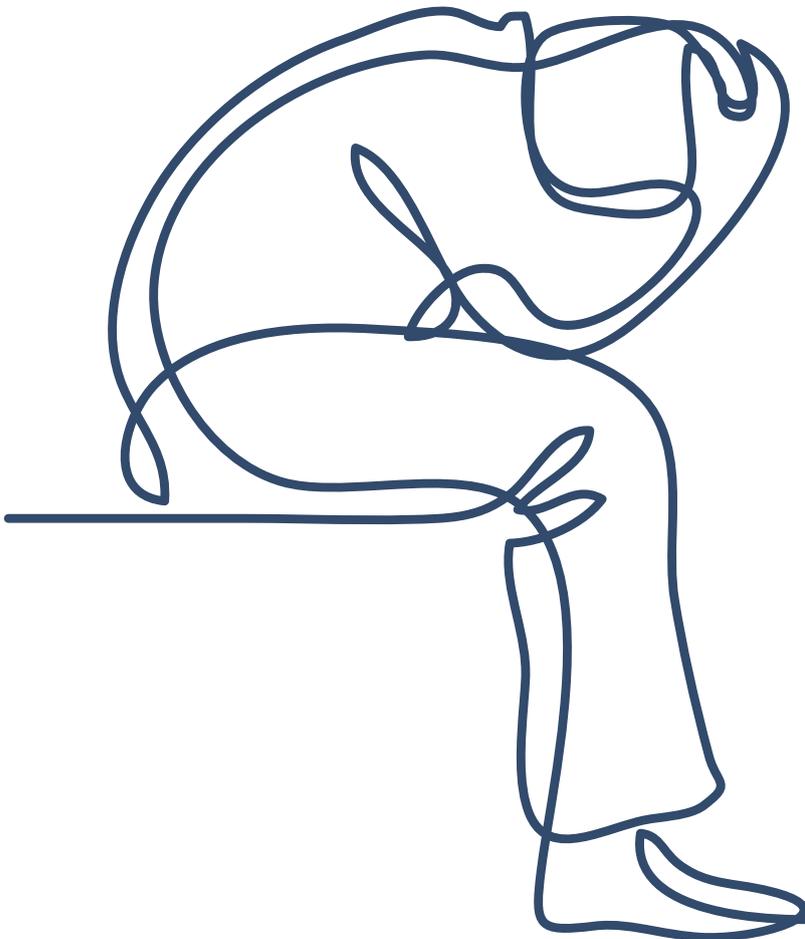
Potential Stakeholders

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|---------------------------------------------------------------------|------------------------------------------------|
| Judges | Probation and Parole Officers |
| Court Administrators | Pretrial Officers |
| Law Enforcement (Sheriff, Local Police) | Disability / Physical Brain Disorder Advocates |
| Bailiffs | Civil Commitment Personnel |
| Prosecutors | Mobile Crisis Units |
| County Attorneys | Crisis Units |
| Private Counsel | Benefits Representatives |
| Public Defenders | Tribal Representatives |
| Former System-Involved Individuals / Persons with Lived Experiences | Competency Evaluators |
| City Councils | Competency Restoration Treatment Providers |
| County Board / Board of Supervisors Members | Disability Law Groups |
| School Board Members | Social Security / Disability Representatives |
| Criminal Justice Commissions | Faith-Based Organizations |
| Legislators | Emergency Room Personnel |
| Family Members | Emergency Medical Technicians |
| Direct Treatment Providers (Public and Private) | Public Advocate / Public Fiduciaries |
| National Alliance on Mental Illness | Pediatricians and Physicians |
| Psychiatrists | Project Coordinators |
| Supported Employment Specialists | Local Business Leaders |
| Housing Specialists | Local Researchers and Academics |
| Peer and Self-Advocacy Organizations | Data Quality and Integrity Contacts |
| Jail Administrators | Victims’ Rights Advocates |
| Domestic Violence Services | Guardianship and Conservatorship Groups |
| Mental-Health Hotlines | Food Banks |
| Residential Unit Staff | Transportation Services |
| Mental-Health Boards | Community Foundations |
| Jail Mental-Health Staff | Substance Use Treatment and Services |

Recognize opportunities for growth and improvement:

While no jurisdiction wants a systematic failure to be publicly highlighted in their community, these events provide an opportunity to reexamine how various systems address the needs of vulnerable community members. Communities that identify individuals who cycle through various social systems and target responses across the justice system not only can stop a vicious cycle for individuals and affected families, but also save resources significantly across these systems.

Judges have become more creative in approaches to populations with complex needs and have embraced therapeutic justice versus adversarial approaches.



Be receptive to innovation and change:

Court leaders should embrace data, listen to stakeholders who outline issues that may need to be addressed, and be open to the interpretation of data that uncovers issues. Data, information from programs and stakeholders, and feedback loops should spur innovation. Court leaders should empower system actors to innovate, rather than become embattled in adversarial approaches. For example, in Milwaukee County, judges received trauma-informed training as part of their dedication to determine better solutions to serve justice-involved individuals with mental illness. Court leaders should use data strategically to effect meaningful change.

Court leaders can begin by tracking and extracting data to enable the community to understand the current system within their jurisdiction. An example of innovation is the Jail Diversion Program in Miami-Dade County, where individuals are diverted from the justice system into treatment, and their legal charges may be dismissed in accordance with treatment engagement. These approaches not only provide connections to services but also reduce the negative impact of the justice system on those suffering from SMIs, SUDs, and CODs.

Establish relationships with service providers in the jurisdiction:

Court leaders can collaborate across their jurisdictions. For example, problem-solving courts recognize that there are treatment aspects to individuals who appear in court and whose cases involve multiple social determinants of poor health. Many individuals need flexible, person-centered care to effectively address their complex circumstances. Judges have become more creative in approaches to populations with complex needs and have embraced therapeutic justice versus adversarial approaches. Judges in many jurisdictions consider leveraging treatment options rather than incarceration if an individual fails to comply with a court order due to symptoms of SMI, SUD, or COD.

What Advice Can Jurisdictions from Around the Country Share with Court Leaders?

Begin change efforts:

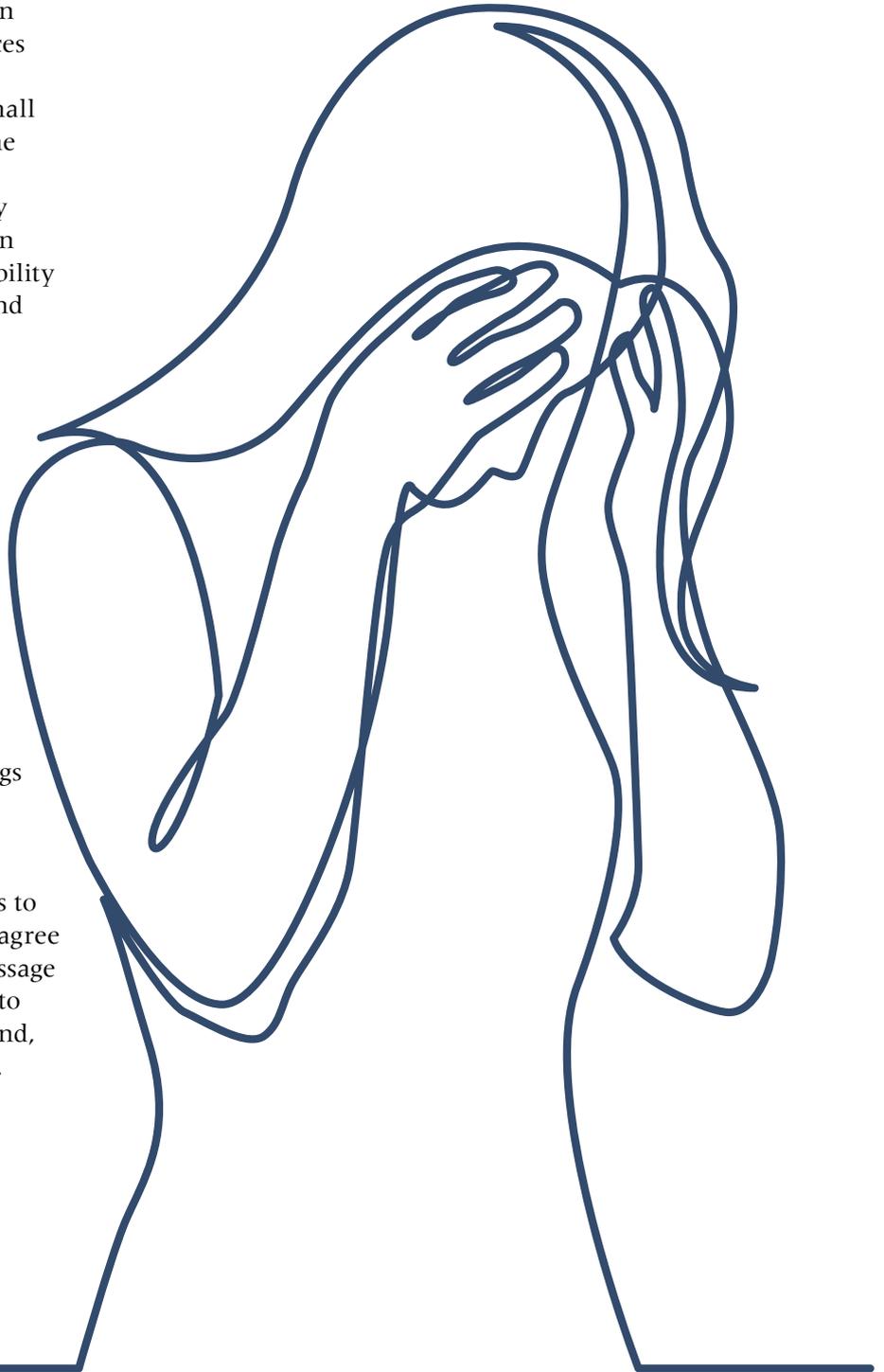
Some jurisdictions suggest starting with large, inclusive efforts inviting various stakeholders to collaborate and creating topic-specific workgroups. Conversely, some jurisdictions suggest starting with available data to demonstrate the ability to answer programmatic questions with data, and then utilize that success to fuel further efforts. Where and how a jurisdiction begins their efforts will likely depend on resources and existing partnerships within a community. Whether efforts begin with a large group or a small task force, it is crucial to gather data, agree on the definitions, and create meaningful responses. Additionally, it is essential to include community members to create awareness of the issues, obtain community buy-in, and create mutual accountability among stakeholders. As leaders of their courts and communities, judges are in a unique position to begin, expand, and improve these efforts.

Break down silos:

Judges should move away from siloed, adversarial approaches to seek collaborative solutions. Organizations should understand that there is no specific entity overseeing comprehensive services and continuity of care for individuals. In fact, many individuals use several services simultaneously, underscoring the need to coordinate responses. Working groups should create data-sharing and data-privacy agreements and memorandums of understandings (MOUs) to outline the expectations of involved organizations. Stakeholders should share their knowledge, listen and compromise when faced with opposing viewpoints, and propose solutions to multi-system issues. While stakeholders may disagree on some topics, it is valuable to reinforce the message that everyone is working toward common goals to address issues that impact community systems and, most importantly, individuals and their families.

Establish support from leadership:

It is imperative during reform to secure the support of leaders across systems. By engaging cross-system leadership, a culture of change can flow downstream through organizations. A successful model for innovative problem-solving communities is through a champion of the effort who commits to finding solutions addressing the root causes of problems. A champion such as a judge can convene stakeholders, overcome barriers, and maintain a sustained level of dedication among stakeholders.



Ensure the right people are in the right roles:

Cross-system data are messy and often dissimilar by definition and format. Such data are best understood by individuals with intimate knowledge of the community, its history, and services. Therefore, many jurisdictions voiced the importance of having dedicated individuals who are familiar with data as point people. Moreover, information technology staff play an important part in collecting, integrating, housing, and extracting data from various systems in a sustainable, secure, and accessible way. It may be beneficial to house these data experts centrally in the courts.

Create a coordinating council:

A coordinating council, oversight committee, or similar working group dedicated to convening stakeholders and outlining avenues of future work is important for the success, sustainability, and collaborative nature of efforts. A coordinating council can serve as a neutral group where stakeholders collaborate and share ideas related to the development and implementation of effective policies and practices. Additionally, existing councils and committees that judges may already lead can be a starting point and backbone support for efforts.

Anticipate challenges:

The issues leading to change are multifaceted; therefore, sustained efforts to implement meaningful changes will not occur overnight. Common hurdles that jurisdictions face when sharing data across systems are the Health Insurance Portability and Accountability Act (HIPAA; for more information, please visit <https://www.hhs.gov/hipaa/index.html>), which outlines what personal health information can be shared and under what circumstances, as well as Title 42 of the Code of Federal Regulations (42 CFR), part 2 of which relates to personal SUD information (for more information, please visit <https://tinyurl.com/ybl9vz72>). While questions and common misconceptions regarding HIPAA and 42 CFR 2 pose challenges to data sharing, it should not deter jurisdictions from understanding how data can be used to better serve individuals. Jurisdictions should work closely with legal counsel and HIPAA compliance officers to understand the intricacies of sharing individual-level data across systems. In some cases, an MOU or data-sharing agreement may not be sufficient, and jurisdictions will need to consider obtaining individual consent for the release of information.

Make data-driven decisions:

Data can inform how to save, reinvest, and target resources to reach people more effectively. Data should be utilized to educate individuals, inform programs and policies, and serve as neutral evidence of the need for the creation or expansion of services. For example, data matching regarding those with SMI and individuals who engage with other community systems will help courts understand if specialized dockets are being utilized by their target populations. In Seattle, for example, data revealed that treatment courts were only serving about 8 percent of frequent utilizers.

Seek academic or research partnerships:

There are limitations in what judges or organizations have the capacity to do on their own. Recognizing these limitations and calling on various organizations, such as local research or academic institutions, can bridge the gap between internal capacities and project goals. These can be low- or no-cost partnerships that create a synergy around problem solving, research, data analysis, and program evaluation. Jurisdictions may also consider partnering with the National Association of Counties through the Data Driven Justice Initiative, which assists communities in addressing the needs of individuals who cycle through various social systems (National Association of Counties, 2016), and partnering with agencies to conduct Sequential Intercept Mapping workshops (Policy Research Associates, 2017).

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Incorporate peer services and supports:

Jurisdictions around the country, including Miami-Dade County and Lake County, embrace the idea of using services that connect individuals to peer specialists. Peer specialists have lived experiences, which make them uniquely qualified to assist individuals with community reentry and engagement in treatment and services. Peer services are not detrimental to care quality and result in at least equivalent clinical outcomes to usual care or services by non-peer staff, as well as positive impacts on clients' levels of hope, empowerment, and quality of life (Bellamy, Schmutte, and Davidson, 2017).

Conclusion

The need to better identify and effectively serve individuals who frequently access and engage with various social systems relates not only to the justice system but also to important issues concerning public health and social justice. Courts have a duty not only to focus on the cost of addressing the needs of individuals who cycle through various community systems but also to respond to the core issues contributing to frequent utilizers. Judges have an important role in leading change in the justice system and identifying effective community responses to individuals with behavioral health needs. An example of this judicial leadership is how the Honorable Steve Liefman spearheaded efforts in Miami-Dade County. Enhancing the justice system and community solutions for individuals with SMI, SUDs, and CODs can seem like a lofty goal, but efforts around the country have shown that these endeavors are not only necessary but also achievable and sustainable.

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