

Innovative Caseflow Management Practices: Improving Outcomes for Persons with Mental Illness



STATE JUSTICE INSTITUTE IMPROVING THE JUSTICE SYSTEM RESPONSE TO MENTAL ILLNESS

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Strengthening the Impact of Serious Mental Illness on Caseflow Management: Innovative Practices

Improving caseflow management of court cases involving someone with a mental illness or co-occurring disorder is a key element of the National Initiative. Whether someone with mental illness is charged with a criminal offense, involuntarily committed, subject to an assisted outpatient treatment order, subject to guardianship or conservatorship, or languishing in jail awaiting competency evaluation or restoration treatment, courts are interested in developing best practices for timely and effective resolution of cases which involve persons with behavioral health disorders.

Building on extensive research and findings from a four-year effort by the National Center for State Courts (NCSC) to determine the best way to conduct criminal case management, the Effective Criminal Case Management project which will be released in 2020, and CourTools, a way to measure a court's performance, <http://courtools.org/>, we are exploring how principles of caseflow management can be applied to and integrated with the behavioral health population.

This is an identified priority of the National Initiative. The ability to integrate caseflow management and behavioral health is being explored through site and video visits to identify innovative and promising practices, development of behavioral health data elements and performance measures, and how they can be used with different case types and audiences. Innovative and promising practices are needed to provide options and alternatives

for trial courts across the country to address the difficulty often experienced in reaching a just resolution of cases involving persons with mental illness.

During 2020, it is proposed that our efforts be focused on four caseflow areas: criminal caseflow management; one-day competency evaluations and centralized assignments of cases involving fitness to proceed; coordinated criminal and civil case management; and expedited mental health dockets and mental health courts. It is recommended that multiple sites be identified for each caseflow area and that a variety of urban, mid-sized, and rural



jurisdictions are utilized to document innovative and promising practices that are useful for all courts. Site visits and/or video conferences will be conducted to learn about and verify the innovative or promising practice. Some of the promising practices and best practices include court behavioral health specialists, use of social workers in public defender offices, telehealth connections to timely psychiatric consultations, expanded use and sharing of behavioral health screening and assessment tools, and the expanded use of caseflow management and other behavioral health data to manage dockets and timely access to treatment. Once information has been collected and analyzed for each caseflow area, a court behavioral health brief will be disseminated describing the caseflow area and examples of innovative or promising practices based on the identified sites. At least four court behavioral health briefs will be produced in 2020, with more produced in 2021.

Caseflow Areas

- 1. Criminal Caseflow Management.** In coordination with the *Stepping up Initiative* and the Council of State Government Justice Center, NCSC is examining effective criminal caseflow management practices and use of jail and court data to improve responses to persons with mental illness. NCSC is collecting and analyzing data to further examine the effectiveness of improved identification and processing. A focus is placed on what courts can do to reduce the “length of stay” for those with mental illness and co-occurring disorders. The first site was selected, and a site visit was conducted with Johnson County, Kansas in March 2020. Efforts to obtain data from the county jail and court system is ongoing. A second site will be selected from one of the other *Stepping Up Initiative* Innovator Counties as they currently identify people in their jails with serious mental illness, collect and share data, and use this information to inform local policies and practices.
- 2. One-Day Competency Evaluations/Centralized Assignments of Cases Involving Fitness to Proceed.** The current policies and processes used to ensure defendants are competent to stand trial often lead to unjust outcomes for individuals with behavioral health needs and significant costs to the public. Despite the money and effort being expended in competency systems for individuals to participate in the legal process, states continue to face challenges and extend the time a person remains in the criminal justice system awaiting competency services. Innovative practices that address the lack of state beds, long wait lists for restoration, and a lack of resources such as clinicians to conduct the evaluations are crucial. We will focus efforts to find courts that effectively provide one-day competency evaluations to reduce the time someone is in custody, courts that coordinate cases for fitness, and courts that rethink what types of cases (misdemeanor or felony, type of charge) should proceed to a competency determination to ensure that the right people are receiving services provided by the state and which people can receive services in the community. This effort will be coordinated closely with other work underway addressing the delays and deficiencies of competency proceedings.
- 3. Coordinated Civil and Criminal Case Management.** Civil cases and criminal cases are often not coordinated within a justice system which can lead to extra court dates and contradictory court orders. We will identify courts which coordinate civil and criminal cases for persons with a mental illness to emphasize effective and informed case processing.
- 4. Expedited Mental Health Dockets/Mental Health Courts.** Innovative practices will be identified which expedite or improve services for persons with mental illness within the courts. An example is embedding behavioral health specialists within a docket to ensure that anyone with a mental health need can better access services, receive continuity of care, and have an expedited resolution of their case. Separate and additional work is proposed relating to mental health courts and the development of improved standards and practices.

While the initial focus in 2020 is proposed to be on criminal cases and civil interventions, in 2021, the focus should expand to child welfare case management practices, eviction and housing cases, and family law cases involving those with mental illness and/or involved children who need access to mental health treatment.