

State Court Behavioral Health Data Elements Interim Guide



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State Court Behavioral Health Data Elements Interim Guide

This guide provides a starting place for state courts to consider when reviewing or enhancing key behavioral health data elements. These elements will enable state court leaders to exploit data as one of its most valuable assets by informing decision making regarding justice-impacted persons with mental health, substance use, or co-occurring disorders (hereafter called behavioral health needs).

On March 30, 2020, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) established a resolution calling for a National Judicial Task Force to Examine State Courts’ Response to Mental Illness. In this resolution, CCJ and COSCA acknowledge that trial courts have increasingly become the default system for addressing the needs of those with mental and behavioral health issues.

Nationally, the statistics are compelling: 64 percent of people in local jails suffer from mental illness.¹ The rate of serious mental illness is four to six times higher in jail than in the general population,² and the rate of substance use disorders is seven times higher among those in jail than in the general population.³ Failure to respond to these issues invites a continuing public health crisis and the continued criminalization of mental health that has devastating effects on individuals, families, and society.

Mental health advocate Judge Steve Leifman claims that the “justice system is a repository for most failed public policy.”⁴ Over 57 percent of adults with mental illness did not receive mental health treatment in the previous year.⁵ Without access to social services, the answer to a mental health crisis is often police and justice- system involvement, which can have broad-reaching and lasting implications. Incarceration negatively affects mental health outcomes, housing stability, employment, and community integration. A robust community response can prevent justice-system involvement, recidivism, and the associated negative outcomes for many individuals with mental health issues. As leaders of their courts and communities, judges are in a unique position to expand and

“What you learn after several years on the bench is that the criminal justice system is the repository for most failed public policy. And there is no greater failed public policy than our treatment towards people with mental illnesses.”

- Judge Steve Leifman

¹ The White House, Fact Sheet: Launching the Data-Driven Justice Initiative: Disrupting the Cycle of Incarceration (June 30, 2016) <https://obamawhitehouse.archives.gov/the-press-office/2016/06/30/fact-sheet-launching-data-driven-justice-initiative-disrupting-cycle>.

² Vera Institute of Justice, Incarceration’s Front Door: The Misuse of Jails in America (February, 2015), <http://www.safetyandjusticechallenge.org/wp-content/uploads/2015/01/incarcerations-front-door-report.pdf>.

³ The Council of State Governments Justice Center, Health, Mental Health, and Substance Use Disorders FAQs, <https://csgjusticecenter.org/substance-abuse/faqs/#q2>.

⁴ Judge Steve Leifman is an associate administrative judge on the county criminal division of the Eleventh Judicial Circuit Court of Florida and is the Special Advisor on Criminal Justice and Mental Health Reform for the Supreme Court of Florida, <https://www.judicourts.org/Judge-Details?judgeid=735§ionid=97>.

⁵ National Alliance on Mental Illness, Mental Illness Statistics (2017), https://www.nimh.nih.gov/health/statistics/mental-illness.shtml#part_154787.

improve the response to individuals with mental illness.⁶ For decades, courts have gained experience in convening diverse stakeholders to tackle complex problems both within and outside of the justice system. From the evolution of problem-solving courts to dependency dockets, courts are often at the vanguard of responding to societal issues. This reality has paved the way for an independent but involved judiciary. At the national level, state court leadership has recognized the important role courts play in addressing the mental health crisis. The Conference for State Court Administrators (COSCA) has adopted the stance that “court leaders can, and must, . . . address the impact of the broken mental health system on the nation’s courts—especially in partnership with behavioral health systems.”⁷

This *State Court Behavioral Health Data Elements Interim Guide* outlines ideal state court data elements to collect across the *Leading Change Models* as well as elements to collect in coordination with other systems. There are four key steps to begin this process.

1. Using this *Data Elements Guide* as a starting point, a workgroup should prioritize which data elements are important for your jurisdiction to collect to measure and assess effective responses.
2. Identify which agency(ies) will be responsible for the collection of the data and reporting to the workgroup.
3. Secure necessary data-sharing agreements.
4. Leverage technology whenever possible.

The following set of recommended data elements will assist state courts in understanding how people flow through behavioral health, community, and justice systems. To effectively address the behavioral health needs of justice-involved persons, a collaborative systems effort is necessary. The collection of these data elements must be informed by various system partners (behavioral health, corrections, emergency rooms/crisis services, housing, employment, medical, and more) within the jurisdiction to fully understand what is most helpful to addressing the needs of people with behavioral health disorders. Interagency and cross-systems collaborations and knowledge-transfers are essential elements of addressing the unique and complex needs of justice-involved persons with behavioral health needs. Having multiple stakeholder perspectives will better inform the data elements that are collected and establish data-driven solutions across multiple systems. As data becomes more consistent across these systems, a more complete picture of patterns and outcomes can be brought into the conversation to inform policy development for both leaders in state behavioral health and justice agencies. Ideally, for

⁶ Recent conferences have focused on providing leadership training and resources for judges. See National Association for Presiding Judges and Court Executive Officers, 2017 Leadership Conference, <http://napco4courtleaders.org/2017-conference/>.

⁷ Conference of Chief Justices, Resolution 11: In Support of the Judicial Criminal Justice/Mental Health Leadership Initiative, 2006, <https://ccj.ncsc.org/~media/Microsites/Files/CCJ/Resolutions/ou82006-In-Support-of-the-Judicial-Criminal-Justice-Mental-Health-Leadership-Initiative.ashx>.

⁸ See the Leading Change Model in *Leading Change: The Court and Community’s Response to Mental Health and Co-Occurring Disorders*, 2019. <https://www.ncsc.org/~media/Files/PDF/Topics/Court%20Management/Leading-Change-Guide.pdf>

state leaders to answer programmatic utility or evaluation questions, these data would be available for an equivalent comparison group.

When available and accessible, the scope of the data should be statewide. When statewide systems are not possible, jurisdictional and/or local level data should be considered. When accessing data from state court system partners, consideration should be made on whether to receive data from within the locality, jurisdiction, or statewide. It is important to keep in mind that some of the data elements require individual-level data, while others require averages or other aggregate information. Additionally, concerns may arise about the often-dissimilar definitions and formats of cross-system data. However, these concerns can be mitigated when individuals with thorough knowledge of the jurisdiction, its history, and services are involved to best understand such data and ensure accurate and efficient data collection practices. A data dictionary should be developed by stakeholders to recognize common definitions that will be used for each data element within each system and across the jurisdiction. Additionally, the expertise of information technology staff represents an important aspect of collecting, integrating, housing, and extracting data from various systems in a sustainable, secure, and accessible way. Furthermore, data system structures may impact the scope of the data, where data is collected from, and how it is collected. For further guidance on data governance, see the National Center for State Courts' (NCSC) [Data Governance Policy Guide](#).

Careful attention should be given to the Health Insurance Portability and Accountability Act ([HIPAA](#)) 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 which relates to personal substance use disorder information. While questions and common misconceptions regarding HIPAA and 42 CFR 2 may pose challenges, it should not deter states from understanding how data can be used as tools to better serve individuals.

This *Data Elements Guide* incorporated national data collection recommendations and highlights which data elements are recommended as a core set of behavioral health data.^{9,10} Case processing times for each data element may not be explicitly noted but these times are always implied. When possible, these data elements should be collected for both people with behavioral health needs and people without for comparison purposes.

1. Civil commitments:
 - a. Number of petitions filed
 - i. By type (e.g. voluntary, involuntary, assisted outpatient treatment, etc.)
 - b. Number of civil commitment hearings

⁹ The methodology for identifying the data elements herein included consulting various national data collection efforts, such as: the [National Open Court Data Standards](#), the Effective Criminal Case Management Project, the Justice Center at Council of State Governments, Stepping Up \the National Association of State Mental Health Program Directors. For more information on these sources, please see the endnotes.

¹⁰ For a full list of ideal data elements to collect, see [Appendix A](#).

- c. Outcomes of civil commitment hearings (e.g. assisted outpatient treatment, inpatient commitment, no treatment ordered, case dismissed)
 2. Competency hearings, evaluations, restorationsⁱⁱ
 - a. Number of referrals (motions filed) for competency evaluations
 - b. Outcomes of competency hearings (e.g. fit to stand trial, unfit to stand trial (including admission to state psychiatric hospital, if unfit was a less restrictive restoration method used such as outpatient fitness restoration)
 - i. Number of cases where individual is found incompetent to proceed and in need of restoration
 - ii. Type of restoration ordered (e.g. state hospital, community restoration)
 - c. Excluded time flag
 - i. Excluded time can be due to factors such as psychological evaluation, active duty military, or awaiting action by another court (e.g. make the case inactive by virtue of competency needing to be restored)
 3. Behavioral health flag and severityⁱⁱⁱ
 - a. Previously received behavioral health treatment
 - b. Behavioral health diagnosis (when available)
 - c. Meets criteria for serious mental illness (SMI), substance use disorder (SUD), or co-occurring disorder (COD) or does not meet criteria for SMI, SUD, or COD
 4. Case processes for justice-involved individuals with behavioral health needs^{i, ii}
 - a. Beginning of case, start date
 - b. End (or end pending) of the case, disposition date
 - c. Sentence type (e.g. death penalty, life in prison, state prison, county jail, probation, fines, restitution, community service)
 - d. Manner of disposition (e.g. jury trial, bench trial, guilty plea, diverted, etc.)
 - i. If applicable diversion program/problem-solving court type and entry date
 - e. Result of disposition (e.g. conviction, acquittal, diverted to problem-solving court)
 - i. Acquittal by reason of mental illness
 5. Pretrial release by bail/bond for people with behavioral health needs^{ii, iii, iv}
 - a. Percentage of individuals with SMI, SUD, or COD who were eligible for bail
 - b. Average time between when bail was set and when bail was posted for individuals with SMI, SUD, or COD

- c. If a person with behavioral health needs is eligible for bail, the bail amount set
 - d. Percentage of individuals with mental illnesses who were bail eligible and made bail
6. Recidivism of people with behavioral health needs^{iii, iv}
- a. Number of cases involving a person with behavioral health needs who were rearrested

Once a collaborative systems effort is established and data sharing agreements are developed, state courts should encourage the following data elements to be tracked when available by law enforcement, jail, community supervision, mental health, or other systems in which the data may be collected and stored:^{iv, v, vi, vii, viii}

Law Enforcement

1. The number of behavioral health calls for service received by 911 dispatch
2. The outcome of behavioral health call (e.g. situation resolved at the scene, transported the individual to a mental health facility, diverted, arrested)

Jail Data

3. The number of people who screened positive for behavioral health disorders according to a validated behavioral health screening
4. The number of people who were confirmed as having behavioral health disorders through a clinical assessment at the jail or as a result of data matching with state or local behavioral health systems
5. The number of people who have behavioral health needs and assessed as low, medium, and high for pretrial risk
6. The average length of stay for people who have behavioral health needs by classification and release type (including pretrial population, sentenced population, bail/bond release)
7. The percentage of people who have behavioral health needs that are connected to community-based behavioral health services upon release by release type
8. The percentage of people with behavioral health needs who failed to appear in court and/or were arrested while on pretrial release
9. The total number of people who have behavioral health needs and prior jail admissions

Community Supervision Data

10. The percentage of people who have behavioral health needs on community supervision by release type
 - a. Total number of people on community supervision
11. The percentage of people with behavioral health needs who receive technical violations while serving a sentence to community supervision
12. The percentage of people with behavioral health needs who are charged with a new criminal offense while serving a sentence to community supervision

Behavioral Health Data

13. The number of individuals served at community behavioral health facility that also interacted with the justice system. Alternatively, the number of individuals in the justice system indicating behavioral health needs that have not received treatment at community behavioral health center
14. The percentage of individuals indicating they experienced homelessness in the year before receiving treatment at the community behavioral health center that also interacted with the justice system
15. The percentage of clients at the community behavioral health center who also interacted with the justice system with reported diagnoses of SMI, SUD, or COD
16. The percentage of clients at the community behavioral health center that also interacted with the justice system that indicated receiving prior behavioral health treatment.

Tracking data through these complex systems is difficult work, but the results can provide invaluable information to better inform decision making regarding justice-impacted persons with mental health, substance use, or co-occurring disorders. As you use this guide, please [let us know](#) your experiences, recommendations for the inclusion of additional data elements, reports and measures that you find useful for tracking and analyzing these data elements, and any other feedback or questions.

Appendix A: Ideal State Court Behavioral Health Data Elements April 23, 2020

Data elements that are **bolded** represent the core list of recommended data elements.

1. Civil commitments:
 - a. **Number of civil commitment petitions filed**
 - i. **By type** (e.g. voluntary, involuntary, assisted outpatient treatment, etc.)
 - b. **Number of civil commitment hearings**
 - c. **Outcomes of civil commitment hearings** (e.g. assisted outpatient treatment, inpatient commitment, no treatment ordered)
 - d. Advocates/representation
 - i. Advocate/attorney name, firm name
 - ii. Advocate/attorney entry date
 - iii. Representation end date
 - iv. Limited scope
 - v. Advocate/attorney type
2. Competency hearings, evaluations, restorationsⁱⁱ
 - a. **Number of referrals (motions filed) for competency evaluations**
 - b. Number of competency hearings
 - c. Number of evaluations filed
 - d. Number of days between referral and order for evaluation
 - e. Number of days between order for evaluation and evaluation filed
 - f. Number of days between order of hospitalization or community restoration and date restoration began
 - g. Date that restoration report was filed
 - h. Dates for review of competency
 - i. Dates of court hearings on the recommendation of the evaluation doctor as to fitness to proceed or not (may be multiple review dates)
 - i. Number of days between evaluation and competency hearing/competency disposition
 - j. **Outcomes of competency hearings** (e.g. fit to stand trial, unfit to stand trial, if unfit was a less restrictive restoration method used such as outpatient fitness restoration, admission to state psychiatric hospitals)
 - i. **Number of cases where individual is found incompetent to proceed and in need of restoration**
 - ii. **Type of restoration ordered** (e.g. state hospital, community restoration)
 - k. **Excluded time flag**

- t. State firearm restrictions
- 6. Charge information for justice-involved individuals with behavioral health needs^{i, ii}
 - a. Arrest date
 - b. Charge filing date
 - c. Charge filed by (e.g. prosecutor, law enforcement, attorney general, petitioner, etc.)
 - d. Filing charge degree and description
 - i. Felony, misdemeanor
 - ii. Statute number
 - iii. Filing charge modifiers (e.g. domestic violence, use of a dangerous weapon, etc.)
 - e. Charge disposition date
 - f. Disposition charge degree and description
 - i. Felony, misdemeanor
 - ii. Statute number
 - iii. Disposition charge modifiers
- 7. Case processes for justice-involved individuals with behavioral health needs^{i, ii}
 - a. **Beginning of case, start date**
 - b. **End (or end pending) of the case, disposition date**
 - c. Number of continuances
 - i. Time between original scheduled hearing and continued hearing
 - ii. Continuance/postponement reason
 - iii. Average number of continuances per case
 - d. Number of hearings
 - i. Hearing reason
 - ii. Average number of hearings per case
 - e. Event type
 - i. Initial hearing, status conference, sentencing, etc.
 - f. Event date
 - g. Event outcome
 - h. Prosecutor, defense counsel
 - i. Judicial officer
 - j. Warrant information
 - i. Date warrant issued
 - ii. Reason for warrant
 - iii. Date warrant returned
 - k. Sentencing information for individuals with behavioral health needs

- i. **Sentence type** (e.g. death penalty, life in prison, state prison, county jail, probation, fines, restitution, community service)
 - ii. Sentence length
 - iii. Sentence conditions
 - iv. Concurrent/consecutive sentence
 - v. Time served credit length
 - vi. Fine amount
 - vii. Fees/costs amount
 - viii. Restitution amount
 - l. **Manner of disposition** (e.g. jury trial, bench trial, guilty plea, diverted, etc.)
 - m. **Result of disposition** (e.g. conviction, acquittal – including acquittal by reason of mental illness, diverted to problem-solving court)
 - n. Interpreter flag
- 8. Pretrial release by bail/bond for people with behavioral health needs^{ii, iii, iv}
 - a. Number of pretrial assessments for individuals with behavioral health needs
 - i. Number of all pretrial assessments (for comparison)
 - b. Percentage of individuals with SMI, SUD, or COD who were eligible for bail**
 - i. Pretrial release decision date
 - 1. Average time between when bail/bond was set and when bail/bond was posted for individuals with SMI, SUD, or COD**
 - ii. Pretrial release date
 - 1. Average time between release decision date and release date
 - c. Type of bail/bond
 - i. If a person with behavioral health needs is eligible for bail, the bail amount set**
 - ii. Percentage of individuals with mental illnesses who were bail/bond eligible and made bail**
 - d. Bail/bond determination (e.g. statute, local court order, etc.)
 - e. Conditions of release
 - f. Pretrial release revocation date
 - i. Revocation reason
 - ii. Revocation charge (e.g. technical violation, misdemeanor or felony)
 - iii. People with behavioral health needs who failed to appear in court and/or were arrested while on pretrial release

1. Average length of time between referral to problem-solving court assessment
- iv. Time from Assessment to Admission
 1. The average length of time between assessment for problem-solving court and when a participant was accepted to the program
- v. Total Time in Program
 1. Average length of time between participant's admission to problem-solving court and permanent exit
- h. Collaboration
 - i. Team Collaboration
 1. Percentage of time that information relevant for discussion at the pre-docket meeting is available to the team
 2. Percentage of time that each team is present at staffing
 3. Percentage of time each team member is present at court
 - ii. Agency Collaboration
 1. Percentage of time that a treatment representative was notified within 24 and 48 hours that a participant in the program was arrested
 2. Percentage of time agency provides staffing report before staffing
- i. Individualized and Appropriate Treatment
 - i. Need-Based Treatment and Supervision
 1. Assessment Need
 2. Percentage of participants who receive the highest (and lowest) level of services and supervision and whether those are the same participants who are designated as having the highest (and the lowest) needs
- j. Procedural Fairness
 - i. Participant-Level Satisfaction
 1. Perceived fairness of program by a participant as expressed in 5-question validated survey following procedural fairness points
- k. Aftercare/Post-Exit Transition
 - i. Participant Preparation for Transition
 1. Percent of correct responses by participant identifying sources of assistance to be used after exiting the program
 2. Wellness Recovery Action Plan or Relapse Prevention Plan exists at time of exit

ii. Post-Program Recidivism

1. Percentage of participants who reoffended within two years after exiting the problem-solving court
10. Recidivism of people with behavioral health needs^{iii, iv}
- a. **Number of cases involving a person with behavioral health needs who were rearrested after serving a jail sentence**
 - b. Charge information (e.g. ordinance, traffic, felony, misdemeanor, etc.)

Once a collaborative systems effort is established and data sharing agreements are developed, state courts should encourage the following data elements to be tracked when available by law enforcement, jail, community supervision, mental health, or other systems in which the data may be collected and stored:^{iv, v, vi, vii, viii}

Law Enforcement

1. **The number of behavioral health calls for service received by 911 dispatch**
2. The number of calls that police respond to that involve persons with behavioral health needs.
3. **The outcome of behavioral health call** (e.g. situation resolved at the scene, transported the individual to a mental health facility, transported person to substance use treatment arrested)

Jail Data

4. Number of people booked into jail
5. Percentage of people screened for behavioral health disorders at intake
6. **The number of people who screened positive for behavioral health disorders according to a validated behavioral health screening**
7. **The number of people who were confirmed as having behavioral health disorders through a clinical assessment at the jail or as a result of data matching with state or local behavioral health systems**
8. **The number of people who receive a risk and need assessment during the pretrial stage**
9. **The number of people who have behavioral health needs and assessed as low, medium, and high for pretrial risk**
10. **The average length of stay for people who have behavioral health needs by classification and release type** (including pretrial population, sentenced population, bail/bond release)
11. **The percentage of people who have behavioral health needs that are connected to community-based behavioral health services upon release by release type**
12. **The percentage of people with behavioral health needs who failed to appear in court and/or were arrested while on pretrial release**
13. **The total number of people who have behavioral health needs and prior jail admissions**

Community Supervision Data

- 14. The percentage of people who have behavioral health needs on community supervision by release type**
 - a. Total number of people on community supervision
- 15. The percentage of people with behavioral health needs who receive technical violations while serving a sentence to community supervision**
- 16. The percentage of people with behavioral health needs who are charged with a new criminal offense while serving a sentence to community supervision**

Behavioral Health Data

- 17. The number of individuals served at community behavioral health facility that also interacted with the justice system. Alternatively, the number of individuals in the justice system indicating behavioral health needs that have not received treatment at community behavioral health center**
- 18. The percentage of individuals indicating they experienced homelessness in the year before receiving treatment at the community behavioral health center that also interacted with the justice system**
- 19. The percentage of clients at the community behavioral health center who also interacted with the justice system with reported diagnoses of SMI, SUD, or COD**
- 20. The percentage of clients at the community behavioral health center that also interacted with the justice system that indicated receiving prior behavioral health treatment. From that population, information on:**
 - a. Diagnoses
 - b. Type of service received (e.g. inpatient, outpatient, medication, primary care, formal community behavioral health services, psychiatric services in general hospitals, specialist services, etc.)
 - c. Number of individuals who attend services
 - d. Number of attendances
 - e. Intervention used
 - f. Length of consultation
 - g. List of available psychotropic medication
 - h. Number of admissions, length of admission
 - i. Health status at time of discharge
 - j. Number of referrals to and from other sectors (e.g. health, human services, etc.)
 - k. Patient identifiers and demographic info
 - i. Name, DOB, age, gender, marital status, current employment status, housing/living arrangements, education, citizenship, language, religion
 - l. Administrative data
 - i. Admission and discharge dates

- ii. Usual address
- m. If there was a legal basis for admission
- n. Clinical data
 - i. Prior receipt of care
 - ii. Medical history
 - iii. Presenting problems
 - iv. Discharge diagnosis
- o. Discharge data
 - i. Date and time of the event
 - ii. Event type
 - iii. Place of service
 - iv. Patient involvement
 - v. Event program
- 21. Number of beds available
- 22. Number of unique patients served (number inpatient, outpatient, SMI, SUD, COD, referrals to other services)

Other

- 23. Identification of people frequently cycling through the various systems, including emergency response, hospitals, jails, courts, social services, and behavioral health facilities (sometimes referred to as “frequent utilizers”, “super-utilizers”, or “high-systems utilizers”)

i Data elements informed by [National Open Court Data Standards](#) from the National Center for State Courts.

ii Data elements informed by [Effective Criminal Case Management Project](#) from the National Center for State Courts.

iii Data elements informed by [Improving Outcomes for People with Mental Illnesses Involved with New York City’s Criminal Court and Correction Systems](#) from the Justice Center at Council of State Government.

iv Data elements informed by [Collecting and Analyzing Baseline Data](#) from the Stepping Up Initiative.

v Data elements informed by [Mental Health Court Performance Measures](#) from the National Center for State Courts.

vi Data elements informed by [2017 Mental Health Client-Level Data \(MH-CLD\) Annual Report](#) from the Substance Abuse and Mental Health Services Association.

vii Data elements informed by [Mental Health Information System](#) from the World Health Organization.

viii Data elements informed by [Behavioral Health and Criminal Justice Systems: Identifying New Opportunities for Information Exchange](#) from the National Association of State Mental Health Program Directors.