

# ELIMINATE the WAIT

## What's My Role to Eliminate the Wait for Competency Restoration Services?

### PRETRIAL SERVICES & PROGRAMS

*Pretrial Officers play a critical role in helping to eliminate the wait for competency restoration (CR) services. If appropriate, diversion and connection to treatment is ideal to reduce further penetration into the criminal justice system and the need for CR services. Provision of mental health (MH) services and medications while a person is incarcerated may increase the likelihood that the person's symptoms improve, reducing the likelihood that the person is found incompetent to stand trial (IST), or leading to the immediate restoration of a person previously found incompetent to stand trial.*

#### 1. Identify and Meet Mental Health and IDD Needs at the Earliest Point

- ☐ Do I suspect MH or IDD issues while interviewing the defendant? Have I noted this in the file? Have I brought this to the attention of the Magistrate Judge or defense attorney? Do I take this into account when making recommendations?
- ☐ Am I using a validated risk and needs assessment developed for pretrial supervision populations?
- ☐ Does the Magistrate Judge order a 16.22 Interview if reasonable cause is found? Does the Magistrate Judge send the Pretrial Office a copy of the Collection of Information Report (16.22 Report) in a timely manner?
- ☐ Is there a mechanism in place for the 16.22 reports to be maintained and then sent to the trial court and defense attorney once they are assigned? [CCP art. 16.22\(b-1\)](#).
- ☐ Do I understand that people impacted by the criminal legal system have higher rates of trauma, victimization, poverty, mental health challenges, and substance use disorders? Am I integrating trauma-informed practices into my work?
- ☐ Have I been trained in motivational interviewing to increase participation in and completion of treatment?
- ☐ If I suspect MH or IDD issues, do I discuss this with the friends or family listed as references? Do the references have important information such as medications that have worked previously for past diagnoses?

#### 2. Connect to Treatment

- ☐ Have I considered a defendant's 16.22 report and risk assessments in my recommendations about bail, jail diversions, treatment, and community supervision? [Tex. Code Crim. Proc. \(CCP\) art. 16.22\(c\)\(1\) - \(5\)](#).
- ☐ Can I recommend bond conditions to connect the defendant to community-based treatment programs, rehabilitative services, recovery supports, or restorative justice programs? Or for a non-violent offense/prior, a personal bond? [CCP art. 17.032; 17.03](#).
- ☐ Do I consult with experts in the LMHA/LIDDA about the specific needs of this Defendant and relay those to the court, counsel, or probation when making the above recommendations?
- ☐ Does our Pretrial Services Program have specialized units for MH or IDD where staff has been trained on the signs and symptoms of mental illnesses, effective communication strategies, and community supports?
- ☐ Does my Pretrial Program allow for officers handling MH or IDD cases to have smaller caseloads?

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## 3. Share Appropriate Information

- ☐ Have I shared appropriate information with jail officials to:
  - Identify defendants in need of detoxification or other medical services?
  - Provide a foundation for the jail's own risk assessment and classification?
- ☐ Have I shared appropriate information with judicial officers and court staff to:
  - Help set conditions of release?
  - Enforce compliance with conditions of nonfinancial release?
  - Help identify defendants eligible for diversion programs and for special dockets (e.g., drug court, driving while intoxicated (DWI) court, domestic violence court, Mental Health court or docket)?
  - Link defendants with needed medical and social services?
  - Help shape early case dispositions (especially when no separate presentence investigation report will be prepared)?
- ☐ Have I shared appropriate information with probation departments to:
  - Avoid duplication of work in obtaining basic background information needed for preparation of presentence investigation reports?
  - Learn about performance on pretrial release to help shape recommendations for presentence investigation reports?
- ☐ Have I shared appropriate information with police departments to:
  - Locate defendants wanted on warrants issued for failure to appear and other offenses?
  - Monitor the activities of medium- to high-risk defendants on pretrial release, using information about their residence and the conditions imposed by the courts?

## 4. Create Education and Awareness

- ☐ Have I been trained on best practices for cases where a defendant has MI or IDD including identification, interaction, protections in Texas law, and diversion options?
- ☐ Does my office actively discuss educational resources, community resources, and court practices and procedures for individuals with MI or IDD?
- ☐ Am I communicating with my office about my successes in connecting individuals with MI or IDD to community-based treatment?
- ☐ Do I receive training from my LMHA/LBHA on their resources including Mental Health First Aid, a national program to teach the skills to respond to the signs of mental illness and substance use?

## 5. Lead Through Partnerships

- ☐ Do key stakeholders including Pretrial Services meet regularly to improve communication regarding defendants with MH or IDD?
- ☐ Has my community planned and established co-located services?
- ☐ Are the agencies and individuals listed in [Health & Safety Code § 614.017 Exchange of Information](#) accepting and disclosing information about defendants with mental health/IDD challenges, including jails, LMHAs, attorneys, judges, probation, TDCJ, and others?

## Additional Resources

- The Council of State Governments Justice Center, *Improving Responses to People with Mental Illness at the Pretrial Stage: Essential Elements* (2015), [https://csgjusticecenter.org/wp-content/uploads/2020/02/Improving\\_Responses\\_to\\_People\\_with\\_Mental\\_Illnesses\\_at\\_the\\_Pretrial\\_Stage\\_Essential\\_Elements.pdf](https://csgjusticecenter.org/wp-content/uploads/2020/02/Improving_Responses_to_People_with_Mental_Illnesses_at_the_Pretrial_Stage_Essential_Elements.pdf).
- National Institute of Justice, U.S. Dept. of Justice, *Pretrial Services Programs: Responsibilities and Potential* (March 2001) <https://pretrial.harriscountytexas.gov/Library1/Pretrial%20Services%20Programs%20-%20Responsibilities%20and%20Potential.pdf>.
- Judicial Commission on Mental Health, *Texas Mental Health and Intellectual Disabilities Law Bench Book* (3d Ed. 2021-2022), <http://texasjcmh.gov/media/lbrdg1tk/jcmh-adult-bench-book-3rd-edition.pdf>