



**Delaware Supreme Court
Task Force on
Criminal Justice
and
Mental Health
2014 Status Report**

December 2014

**DELAWARE SUPREME COURT TASK FORCE
ON CRIMINAL JUSTICE AND MENTAL HEALTH**

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Education, Prevention, and Victim's Rights Subcommittee

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Identification, Assessment, and Treatment Subcommittee

Chair: Carol A. Tavani, MD, MS, DLFAPA
Executive Director, Christiana Psychiatric Services

Juvenile Subcommittee

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Mental Health Courts Subcommittee

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I. Introduction

In 2008, Delaware was one of four states selected by the Council of State Governments to participate in the Chief Justices' Criminal Justice/Mental Health Leadership Initiative. The purpose of the initiative was to better understand and effectively address mental illness in the criminal justice system through treatment and diversion when appropriate. To lead this effort, the Delaware Supreme Court formed the Task Force on Criminal Justice and Mental Health. The Task Force brought together representatives of the judicial, legislative, and executive branches of state government with community leaders and nonprofit organizations. The Task Force was charged with the following mission:

[T]o develop recommendations to policymakers to improve early identification, prevention and system-wide responses to persons with mental illness involved in the entry into the criminal justice system or re-entry into the community through inter-branch communication, collaboration and allocation of resources for the education of the criminal justice community, the identification of juvenile and adult defendants in need of mental health treatment, the enhancement of victim's rights and the referral, when appropriate, of defendants with mental illness to Mental Health Courts established in each county for judicially supervised community-based treatment.

To carry out the work of the Task Force, the following subcommittees were established:

- Communications, Collaboration, and Resource Allocation Subcommittee
- Education, Prevention, and Victim's Rights Subcommittee
- Identification, Assessment, and Treatment Subcommittee
- Juvenile Subcommittee
- Mental Health Courts Subcommittee

The Task Force completed an Interim Report in June 2009 which described its efforts to raise awareness of the issue of justice-involved individuals with mental illnesses, and the actions taken to gather more information about the issue. Preliminary recommendations were also developed

to address mental illness within the criminal justice system.

Building off of its findings in the Interim Report, the Task Force developed a strategic plan in 2010 (the “Plan”). By applying the Sequential Intercept Model developed by Mark R. Munetz, M.D. and Patricia A. Griffin, Ph.D., the Plan identified a number of intercept points in the Delaware criminal justice system as opportunities for linking people to appropriate services and preventing further involvement with the criminal justice system. The Plan also set specific objectives to guide the subcommittees’ work and recommended that each objective be evaluated at regular intervals to identify obstacles, successes, and areas for improvement.¹ In accordance with the Plan’s recommendation for regular evaluation, the subcommittees submitted the Updated Status Report in March 2013 (“March 2013 Report”). The March 2013 Report identified areas of progress and additional recommendations for the next steps in the areas of concern assigned to each subcommittee.

II. 2014 Status Report

After submitting the March 2013 Report, the subcommittees continued to work towards accomplishing both newly developed and longstanding goals of the Task Force. In the spring of 2014, the Task Force’s Co-Chairs asked the subcommittees to once again report on their progress. The subcommittees’ reports are set forth below.

A. Communications, Collaboration and Resource Allocation Subcommittee

Achievements:

- (1) A Medication Transfer Worksheet is now available in the majority of courtrooms in New Castle County.

¹ Delaware Supreme Court Task Force on Criminal Justice and Mental Health: A Strategic Plan for Delaware (the “Plan”) is attached as Exhibit A.

- (2) All Superior Court Mental Health Courts and all Court of Common Pleas Mental Health Courts have successfully implemented a diversion track.
- (3) Crisis Intervention Training is now held annually for all law enforcement individuals. Efforts are underway to hold Crisis Intervention Training twice a year beginning in 2015.
- (4) Delaware now has a baseline for assessing recidivism. A report studying the recidivism rate of prisoners released in 2008 and 2009 was completed by the Criminal Justice Council in 2013.
- (5) A peer support program is active in the Superior Court's Mental Health Court in New Castle County. Peer support programs are also active in each Veterans Treatment Courts.

Recommendation: The establishment of a working group to create a mental health file in DELJIS continues to be a recommendation. DHSS information needs to be loaded into DELJIS for the purposes of issuing a gun permit and for SWAT situations. The working group should consist of the Director of the Division of Substance Abuse and Mental Health and/or Marc Richman, Debbie Gottschalk, Ilona Kirshon and DELJIS staff.

Recommendation: The subcommittee continues to explore Medicaid payment for peer supports. Currently, Medicaid will not pay for peer support.

Recommendation: Forming a subcommittee to develop a resource toolkit for Mental Health Court participants upon graduation continues to be a recommendation. President Judge Jurden and Georgiana Staley were the initially recommended subcommittee chairs, but Ms. Staley has since retired. New subcommittee chairs need to be identified.

Recommendation: Providing access to JIC's Case Management System to the Justice of the Peace Court Judges continues to be a recommendation the Justice of the Peace Court is attempting to achieve. Mental Health Court and problem-solving courts information could provide critical information to the Judges when making bail decisions. Additionally, early identification of potential mental health issues is important as the defendant proceeds through the system.

Recommendation: Complete recidivism studies for problem-solving courts and the peer support program with the assistance of the Delaware Statistical Analysis Center or some other research organization.

Recommendation: The Justice of the Peace Court should consider using the Information Sharing Order.

B. Education, Prevention and Victim's Rights Subcommittee

Achievements:

- (1) Engaged in productive discussions about this subcommittee's overly broad focus area. The subcommittee agreed that a more targeted focus should be employed to educate the public about the problem-solving approach currently taken through the various court programs (i.e., the problem-solving courts).
- (2) Made early recommendations to the Task Force that problem-solving court data could be pulled to determine how their programs were being used to 1) educate the general public on mental illness as a medically treatable illness, 2) educate victims in the ability to access mental health treatment services; and 3) educate individuals on the dangers of use of drugs and alcohol with mental health issues.
- (3) Four subcommittee chairs met to coordinate goals and ensure alignment between our respective subcommittee goals and the coordination thereof.
- (4) Joshua Thomas-Acker, Ph.D., Executive Director of National Alliance on Mental Illness (NAMI) joined as a member of the subcommittee.

Recommendation: To educate the general public in conjunction with the findings and recommendations of the newly formed Criminal Justice Council of the Judiciary (CJC Committee) regarding the problem-solving courts.

Mental Health Courts have expanded to include programs in the Superior Court, the Court of Common Pleas, and the Family Court, with programs that also include specialized subsets such as, but not limited to, the Veterans and Re-entry Courts in the Superior Court, the Trauma Informed Probation program in the Court of Common Pleas and the Gun Court in the Family Court. Through Administrative Directive 186, the Criminal Justice Council of the Judiciary has been formed to perform a comprehensive review of all problem-solving court programs and is expected to make findings regarding the efficacy, efficiency, standards, protocols, and so on for these various programs that often address the mental health needs of their participants. Any efforts to educate the public on how the courts are taking trauma-informed approaches to address such mental health issues should be guided by the work of the CJC Committee.

Recommendation: Invite the Chairs of the CJC Committee (President Judge Jurden and Judge Carpenter) to provide updates to the overall Task Force and make recommendations on how the Task Force can assist in their efforts.

Recommendation: Given the work of the CJC Committee and their comprehensive review of the problem-solving courts, the subcommittee believes that renaming the subcommittee to "Education of Access to Mental Health Courts Subcommittee" will allow the group to focus on this educational component and dovetails consistently with the subcommittee's original mandate

of educating the general public on mental illness and how the courts work with victims to access mental health treatment services.

C. Identification, Assessment, and Treatment Subcommittee

Achievements:

- (1) A comprehensive screening instrument for sentenced inmates is being utilized, although at this time the screening instrument is not being used for detentioners.
- (2) Jim Welch, RN, HNB-BC, Bureau Chief of the Department of Correction Health Services Team has joined as a member of the subcommittee.
- (3) The four subcommittee chairs have agreed to meet periodically to coordinate goals and compare tasks and current status.

Recommendation: The formularies at both the Department of Correction and the Division of Substance Abuse and Mental Health were reviewed and found to differ. The subcommittee's recommendation to have the Department of Correction formulary identical with that of Medicaid remains.

Recommendation: Educate the medical community and the public about issues facing justice-involved individuals with mental illness.

Recommendation: Increase information sharing between the Mental Health Court Subcommittee and the Identification, Assessment, and Treatment Subcommittee, as well as enhance information sharing between and amongst the Department of Correction, the judiciary, and outside providers.

Recommendation: Invite the Connections CSP psychiatrist to join as a member of the subcommittee.

D. Juvenile Subcommittee

Achievements:

- (1) Crisis Intervention Training includes modules on juveniles and developmental disabilities.
- (2) The Department of Services for Children, Youth, and their Families (DSCYF) and the Governor have created the Education Re-Entry Task Force which addresses the issue of the lack of services for young adults (ages 16-21) who transition into the adult system paying particular attention to youth with disabilities in this population.

Priority Recommendation: Including a representative from the Division of Substance Abuse and Mental Health (DSAMH) to the subcommittee continues to be a priority recommendation.

Recommendation: The subcommittee continues to work to improve communication between the DSCYF, the Department of Correction (DOC), the Department of Health and Social Services (DHSS), and the courts in an effort to better improve the transfer of records when children transition from the youth correctional/mental health system to the adult correctional/mental health system.

- Explore creating a memorandum of understanding between these agencies to address this issue.

Recommendation: The subcommittee continues its efforts to improve communication and collaboration with the Department of Education (DOE) – to improve responses by school and court to justice-involved youth with mental health issues. To further these efforts, the subcommittee will convene a meeting with representatives from the DOE to identify a designated transition team for youth who are transitioning into adult court.

Recommendation: Meeting with the Division of Developmental Disabilities Services (DDDS) to discuss services available for justice-involved youth with mental health issues remains a recommendation. Before meeting with the DDDS, the subcommittee will review the 2007 Memorandum of Understanding the DSCYF, the Division of Child Mental Health Services, and the Division of Family Services (DFS) signed with the DHSS and the DDDS with the purpose of delineating responsibilities of the respective agencies with regard to youth with developmental disabilities.

Recommendation: Studying and identifying a comprehensive screening and assessment that can be used statewide for developmental disabilities continues to be a recommendation. To achieve this recommendation, members of the subcommittee will:

- Research what screening tools are currently used by state agencies.
- Drs. Gallucci and Mensch will request assistance from Dr. Aileen Fink in developing a comprehensive screening and assessment tool that is well-defined with appropriate metrics.

Recommendation: Invite Drew Fennell, the Governor’s Deputy Chief of Staff, to join the Mental Health Task Force and Juvenile Subcommittee.

E. Mental Health Courts Subcommittee

Achievements:

- (1) Mental Health Court programs have expanded statewide to the Superior Court, the Court of Common Pleas, and the Family Court. Additionally, Veterans Court, which is a

specialized derivative of Mental Health Court, expanded to each county in Superior Court.

- (2) Individuals are now identified earlier in the criminal justice system as appropriate for participation in Mental Health Court programs, and each program has established a procedure to transfer individuals identified in one program to a more appropriate program in another court or county. The programs can also flag and follow a mentally ill litigant through the system by using DELJIS tags. Referrals are made to the Attorney General's Office and the Office of the Public Defender in an effort to streamline the process.
- (3) All of the Mental Health Court programs collect data and anecdotal evidence to enable analysis on the issue of recidivism. The Administrative Office of the Courts has received grant funding to enhance an existing data base for use by participating problem-solving courts to measure program efficiencies and progress.
- (4) Subcommittee members have assisted in training on mental illness, the criminal justice system and Mental Health Courts, and met with community groups and law-makers to highlight our programs.
- (5) Subcommittee members have attended conferences and met with officials and staff from the Department of Health and Social Services and the Department of Correction to learn about various programs and provide feedback on their success.

Recommendations: Participate in the creation of rehabilitation programs implemented by other state agencies that are useful to Mental Health Court programs.

Recommendation: Continue to promote models for Mental Health Courts that use the Best Practices and most current information and technology. Participate in national projects, such as the National Conference of Commissioners on Uniform State Laws' effort to draft a Model Veterans Courts Act.

Recommendation: Continue to collaborate with state agencies and courts to obtain grants for Mental Health Court programs.

Recommendation: Continue to facilitate membership in the Mental Health Courts Subcommittee that promotes its goals.

III. Conclusion

The Task Force has made significant policy recommendations which have been implemented. The hard work of the subcommittees, as demonstrated by their recent reports, brings Delaware closer to achieving the important goals stated in the charge of the Task Force.