

Diversion & Competency Workflow

Law Enforcement Role

Jail Role

Court Role

LMHA/LBHA Role

State Hospital Role

START HERE

Law Enforcement (LE) interaction with a person who may have mental illness (MI), substance use disorder (SUD) or intellectual and developmental disability (IDD)
What programs exist to support crisis response and/or diversion in your community (e.g., Mobile Crisis Outreach Team, Mental Health (MH) Deputies, Co-Responder Team, CIT Training for LE, etc.)?

LE determine whether an individual is eligible for diversion under CCP 16.23

Individual is diverted to treatment or issue is resolved on scene
What are the existing diversion options in your community (e.g., transport to a walk-in clinic, drop-off center, emergency department, etc.)? How are LE educated on diversion and service options? Are there regular meetings between LE, the Local Mental Health Authority (LMHA) or Local Behavioral Health Authority (LBHA) and other stakeholders?

Jail medical or MH provider connects with the LMHA, LBHA, LIDDA, or State Hospital (SH) to determine past MI and IDD history, medication, treatment plan, etc.
Who does the jail contact when there is a CCQ match? What information is collected?

Individual is booked into jail and Texas Law Enforcement Telecommunication System Continuity of Care Query (TLETS CCQ) is run, per 37 Tex. Admin. Code (TAC) § 273.5
Is the TLETS CCQ run at every booking to determine MH history or IDD? Who runs the query?

If MI or IDD identified, jail informs Magistrate per CCP 16.22 of MI or IDD
Who sends the 16.22 reports for the jail? Who is on the receiving list? How does this report inform post-booking diversion and other legal options in your county? Is the 16.22 process used for both individuals with MI and IDD? Does your county consider opportunities to connect with defense counsel both prior to and after a 16.22 report is completed?

Jail assesses MI and IDD needs, per 37 TAC § 273.5
Who conducts the initial screenings? Does the jail screen for MI, SUD, and IDD? What screening tools are used? If an individual screened positive, are additional assessments conducted? If yes, by whom and what tools?

No further action needed at this time.

Outpatient Civil Commitment (OCC) option with ability to dismiss upon completion per CCP 16.22(c)(5)
Which court handles OCCs? Is Assisted Outpatient Treatment (AOT) utilized? What are the eligibility criteria? Are risk assessments used to determine eligibility? Who are the treatment and service providers?

Mental Health Court Docket
Who is the presiding judge? What are the eligibility criteria? Are risk assessments used to determine eligibility? Who are the treatment and service providers? What is the program's capacity? What outcomes are you measuring to determine program success?

Bond determination, per CCP 17.032
Does your county utilize MH PR bonds? What types of bond conditions are imposed? Who performs the examination required under CCP 17.032(b)(2)?

Other diversion options
What are the other post-booking diversion and treatment options available in your county?

Released on MH PR bond with possible bond conditions
Is dismissal of charges considered if defendant is complying with bond conditions?

Bond determination, continued

Staying in jail
What are the behavioral health services and supports available to the person inside the jail?

COMPETENCY RESTORATION SERVICES

Issue of competency can be raised at any point after charges have been filed. Steps below may apply to individuals who the court has determined are incompetent and likely to restore to competency in the foreseeable future (within timeframe allowed by Subchapter D).

Defendant is committed to appropriate facility for Inpatient, Jail-Based, or Outpatient Competency Restoration per CCP 46B.0711, 46B.072, 46B.073, 46B.091
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Outpatient Competency Restoration (OCR)
If your county has OCR, who are the key partners? What are the eligibility criteria? What services are provided? What opportunities exist to increase utilization of the program if underutilized or increase restoration rates? If your county does not have OCR, what would you need to make a case for piloting a program for your community?

Jail-Based Competency Restoration (JBCR)
If your county has JBCR, who are the key partners? What are the eligibility criteria? What services are provided? What opportunities exist to increase utilization of the program if underutilized or increase restoration rates? If your county does not have JBCR, what would you need to make a case for piloting a program for your community?

Inpatient Competency Restoration
Are you closely monitoring people waiting in jail for inpatient admission? Are they taking medication? If not, have you considered court-ordered medications (COMs)? Upon admission, are you communicating with the state hospital to receive updates on the patient? Do the prosecutor and defense counsel work on the case while waiting for a patient to restore to competency?

DATA & INFORMATION SHARING
 Does your county utilize [Health and Safety Code section 614.017](#) to facilitate information sharing across stakeholders? Do you utilize MOUs to share data? Have you contemplated aggregate information sharing to track county trends as well as individual level data to support continuity of care?

WAITLIST MONITORING MEETINGS
 Do you have a system to regularly monitor the status of all individuals who have been found IST, in jail, out on bond, or receiving restoration services through OCR, JBCR, or inpatient. Many counties facilitate weekly meetings with jail medical, jail admin, the LMHA or LBHA, courts, and others to discuss cases. Topics include health and case updates, potential evidence of restoration, medication compliance and OCR or JBCR eligibility.

RESTORED

NOT RESTORED

Court proceeds with criminal case
Does the court set cases preferentially when an individual has been restored per CCP, Art. 32A.01? If the individual is returned to the jail, does the jail work with the SH to determine treatment and medications necessary to maintain competency until court hearing?

Court discharges defendant and charges dismissed
Is this option utilized for individuals who may not be likely to restore or have a traumatic brain injury or neurocognitive disorder with no co-occurring MI? Does the court/jail coordinate with the LMHA or LBHA for reentry services? Is there any in-reach by the LMHA or LBHA before the individual is released? What reentry services are available?

Proceed under CCP Ch. 46B, Subchapter E: criminal court conducts commitment hearing and charges remain pending
Does the court consider whether outpatient mental health services may be appropriate? Does the county utilize CCP Art. 46B.1055 to modify the inpatient order to an outpatient treatment program? Does the LMHA or LBHA collaborate with the SH on 46B.1055 modifications? Does the court collaborate with the LMHA or LBHA and SH to determine what services and supports are needed to release the individual back to the community? If the individual no longer meets civil commitment criteria does the court release the individual to the community?

Proceed under CCP Ch. 46B, Subchapter F: criminal court dismisses charges and if evidence of MI or IDD, transfers case to the appropriate court for civil commitment
Is this option utilized in your county? Does the criminal court coordinate transfer with the probate court? If the individual is being released back to the community, does the court/jail coordinate with the LMHA or LBHA for reentry services? Is there any in-reach by the LMHA or LBHA before release? What reentry services are available prior to commitment and admission to outpatient or inpatient mental health services?

ACRONYM GUIDE

- AOT:** Assisted Outpatient Treatment
- CCP:** Code of Criminal Procedure
- CCQ:** Continuity of Care Query
- CIT:** Crisis Intervention Team
- COMs:** court-ordered medications
- IDD:** Intellectual and Developmental Disabilities
- IST:** Incompetent to Stand Trial
- JBCR:** Jail-Based Competency Restoration
- LE:** Law Enforcement
- LIDDA:** Local Intellectual & Developmental Disability Authority
- LBHA:** Local Behavioral Health Authority
- LMHA:** Local Mental Health Authority
- MI:** Mental Illness
- MH:** Mental Health
- OCC:** Outpatient Civil Commitment
- OCR:** Outpatient Competency Restoration
- PR:** Personal Recognizance
- SH:** State Hospital
- SUD:** Substance Use Disorder
- TAC:** Texas Administrative Code
- TLETS:** Texas Law Enforcement Telecommunications System



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