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Diversion Opportunities and Considerations Across Texas

**Ashleigh Walton, Director, Forensic and Jail Diversion
Services**

Behavioral Health Services

Texas Health and Human Services

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Agenda

- “Diversion” as a Term
- Misconceptions About Diversion Services
- Sequential Intercept Model
- Mental Health-Focused Diversion Programs and Tools
- Additional Considerations
- Funding Sources and Opportunities
- Questions



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“**Diversion**” as a **Term**

- The word diversion may be applied with variance across professions, entities and individual people.
- The Texas Health and Human Service Commission primarily focuses on the concept of diversion as it applies to people with mental health needs, substance use disorders, intellectual or developmental disorders (IDD) or any combination of the three, at the intersection of the justice system, or hospitalization and emergency room usage.
- “Any of a variety of programs that implement strategies seeking to avoid the formal processing of an offender by the criminal justice system.”*
- Justice-focused diversion programs may serve people pre- or post-arrest.



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Misconceptions About Diversion Services

Adjudication tracks without diversion outcomes

- Specialty courts or adjudication tracks must include reduced time spent in custody, direct connection to needed services or both.

Placing people in standard probation

- Traditional supervision, without preventing further justice involvement, does not meet the definition of diversion.

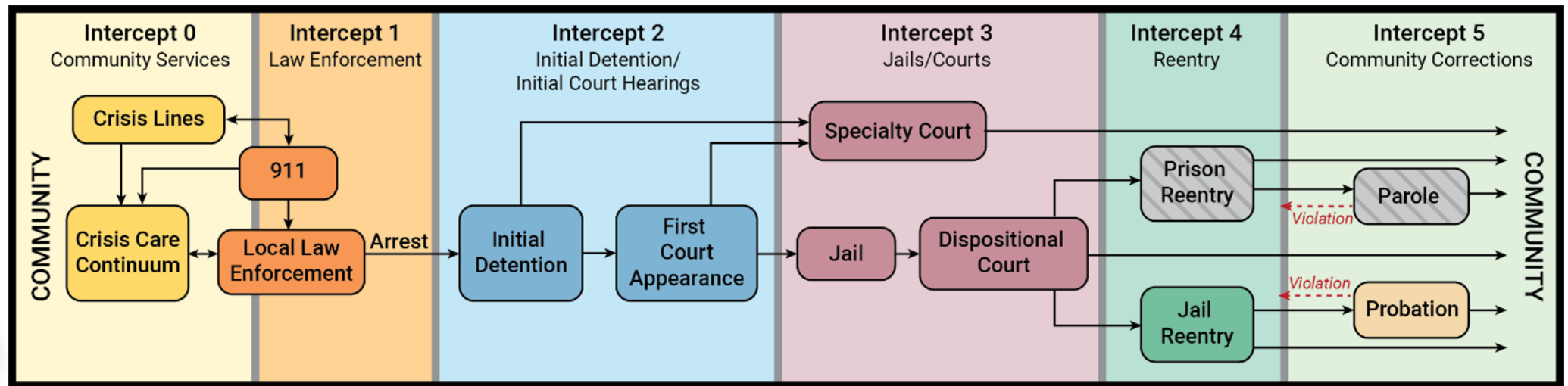
Using a one-time intervention

- A single crisis response or service referral does not replace the need for coordinated, ongoing support that diverts people from system involvement.



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Sequential Intercept Model



Abreu, D., Parker, T. W., Noether, C. D., Steadman, H. J., & Case, B. (2017). Revising the paradigm for jail diversion for people with mental and substance use disorders: Intercept 0. *Behavioral Sciences & the Law*, 35(5-6), 380-395. <https://doi.org/10.1002/bsl.2300>
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Mental Health Focused Diversion Programs and Tools (1 of 7)

Mental Health Deputy (MHD) and Co-Responders Programs

- MHD programs use peace officers with specialized training in crisis intervention to help people experiencing a mental health crisis receive appropriate treatment.
- Co-responder programs pair MHDs or mental health officers with trained mental health professionals to help people experiencing a mental health crisis receive appropriate treatment.
- Both programs typically focus on using formal diversion programs, direct connection to appropriate treatment, de-escalating people in crisis or any combination of the three to avoid an arrest from occurring.



Mental Health Focused Diversion Programs and Tools (2 of 7)

Code of Criminal Procedure (CCP)

[Article 16.23](#) – Diversion of Persons Suffering Mental Health Crisis or Substance Abuse Issue.

- a) Each law enforcement agency **shall** make a good faith effort to divert a person suffering a mental health crisis or suffering from the effects of substance abuse to a proper treatment center in the agency's jurisdiction if:
 - 1) There is an available and appropriate treatment center in the agency's jurisdiction to which the agency may divert the person;
 - 2) It is reasonable to divert the person;
 - 3) The offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence; and
 - 4) The mental health crisis or substance abuse issue is suspected to be the reason the person committed the alleged offense.
- b) Subsection (a) does not apply to a person who is accused of an offense under [Section 49.04](#), [49.045](#), [49.05](#), [49.06](#), [49.061](#), [49.065](#), [49.07](#), or [49.08](#), Penal Code.



Mental Health Focused Diversion Programs and Tools (3 of 7)

Diversion Centers, Extended Observation Units and Crisis Respite Units

Diversion Center	Extended Observation Unit	Crisis Respite Unit
Provides law enforcement and emergency departments with an appropriate drop-off location for people with immediate mental health needs as an alternative to arrest.	Provides treatment to people who are at high risk of harm to self or others in a secure environment for up to 48 hours.	Provides short-term crisis services in a home-like environment for people at low risk of harming themselves or others.
Reduce the time law enforcement spends when compared to taking people to private psychiatric hospitals or emergency rooms.	Reduce unnecessary admission to hospitals while providing a safe and supervised setting.	Reduce unnecessary admission to hospitals.

Mental Health Focused Diversion Programs and Tools (4 of 7)

Mental Health Dockets and Courts

Mental health dockets offer a judiciary process for people experiencing serious mental illness (SMI) that focuses on appropriate connections to treatment and resources, as deemed appropriate, during charge adjudication.

- Dockets typically consist of specific judicial and prosecutorial appointments who meet regularly with other partners (e.g., local mental health authority [LMHA] or local behavioral health authority [LBHA] staff, pre-trial services) involved with the defendant to gain a clearer picture of what drove the alleged offense and what outcomes may prevent future justice involvement while keeping the community safe.

Mental health courts use assessments, individualized personalized treatment plans and judicial monitoring to concurrently address both the participant's mental health needs and concerns for public safety.

- Texas Government Code Chapter 125 sets out the statutorily required characteristics for mental health court programs.



Mental Health Focused Diversion Programs and Tools (5 of 7)

Outpatient Competency Restoration (OCR)

- OCR programs provide court-ordered competency restoration services in a community-based setting, typically through the LMHA or LBHA, to people determined incompetent to stand trial by the court.
- The OCR program must comply with Texas [CCP Chapter 46B](#), Incompetency to Stand Trial.
- OCR is not a traditional diversion program. However, a court order to participate in OCR can offer access to bond, community services and the potential for increased stabilization, that would not be available in a jail setting. Subsequently, these outcomes may impact charge adjudication to the defendant's benefit.



Mental Health Focused Diversion Programs and Tools (6 of 7)

Jail Navigators and Jail Continuity of Care Liaisons

- Professionals with specialized training who conduct screenings and assessments to appropriately connect people to necessary resources, services or both while in custody at a county jail, or during a period of re-entry to the community post-release.
- These programs support diversion by contributing to robust discharge planning and potentially ongoing oversight in the community, which may allow for additional consideration from the courts for bonds, deferred adjudication or other favorable outcomes.
- Jail navigator programs support, identify and connect people with mental health needs to services and reduce the risk of decompensation in jail.
- Using these programs may also play a role in a reduction in recidivism through service connection and support.



Mental Health Focused Diversion Programs and Tools (7 of 7)

Assertive Community Treatment (ACT) and Forensic Assertive Community Treatment (FACT) Teams

- ACT programs:
 - ▶ Use an integrated services approach to merge clinical and rehabilitation staff expertise (e.g., psychiatric, substance use, employment and housing); and
 - ▶ Provide services through a mobile service delivery team that partners with the person in recovery from his or her home.
- FACT programs:
 - ▶ Deliver ACT services to people with current or recent involvement in the criminal justice system.
 - ▶ Ensure fidelity to the ACT model with adaptations to address criminogenic risks and needs.
 - ▶ Are designed to reduce recidivism, divert people needing treatment from the criminal justice system and increase public safety.
 - ▶ May also serve people on a 46B.102 outpatient commitment.

Additional Considerations (1 of 2)

- Diversion programs can be highly effective investments to communities, but these programs alone are unlikely to address the totality of needs a person may have to prevent justice involvement across time.
- Early intervention programs such as the 988 Suicide and Crisis Lifeline and mental health crisis hotlines (operated by LMHAs and LBHAs) may contribute to diversion before the potential for justice involvement even arises.
- Judges, prosecutors and defense counsel can directly improve short and long-term outcomes for some justice-involved people by incorporating holistic approaches during charge adjudication when possible.



Additional Considerations (2 of 2)

Literature across the mental health field asserts that numerous factors contribute to reducing justice involvement for people with SMI, beyond access to mental health treatment*. Some examples include:

- Safe and stable housing
- Consistent access to affordable health care
- Ability to obtain and maintain access to social welfare benefits and identification documents
- Access to reliable transportation
- Methods of communication (e.g., internet, phone service)
- Affordable and comprehensive substance use treatment
- Emotional support

*Sources: [National Library of Medicine](#), [Psychiatry Online](#)



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Funding Sources and Opportunities

State Funding

- [Texas Health and Human Services, Request For Applications](#)
- [Texas Health and Human Services, Open Enrollments](#)
- [Electronic State Business Daily](#)

Federal Funding

- [Grants.gov](#)
- [Department of Justice, Community Oriented Policing Services](#)
- [Department of Justice, Office of Justice Programs](#)
- [Substance Abuse and Mental Health Services](#)



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Questions?



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Thank you!

hhsforensicsandjaildiversionservices@hhs.texas.gov