



NATIONAL JUDICIAL TASK FORCE TO EXAMINE STATE COURTS' RESPONSE TO MENTAL ILLNESS

# Report to Conference of Chief Justices and Conference of State Court Administrators

## 2021 Mid-Year Meetings

February 2021



# Conference of Chief Justices

## Conference of State Court Administrators

### NATIONAL JUDICIAL TASK FORCE TO EXAMINE STATE COURTS' RESPONSE TO MENTAL ILLNESS

January 20, 2021

Dear friends and colleagues:

On behalf of the members of the Executive Committee of the National Judicial Task Force to Examine State Courts' Responses to Mental Illness, we are pleased to provide you with this update of our activities.

The Task Force was created by action of the CCJ and COSCA Boards of Directors last March. In April, we were selected as the Co-chairs and the members of our Executive Committee were appointed. In May we approved the Task Force structure to include three Work Groups – Criminal Justice, Civil and Family, and Education and Partnerships – each co-chaired by a member of CCJ and COSCA. Thirty additional Task Force members from across the nation, including trial judges, court administrators, physicians, researchers, academicians, and other behavioral health professionals, accepted our invitation to join and were assigned to one of the Work Groups. They are a diverse and extremely accomplished group and are already contributing to the achievement of the goals that we have adopted.

Not surprisingly, our early work has been focused on court responses to the added difficulties presented by the pandemic when dealing with cases involving individuals with serious mental illness. This work has been done with the support of and in collaboration with the CCJ/COSCA Rapid Response Team. In this report we have provided you with descriptions and links to those resources and commend them to you. They include reports on courts that have developed successful responses and many promising practices. We are also focused on the problem of the significant mental health impacts on our judicial branch employees, those that were present prior to the pandemic and having been exacerbated by it. This is an extremely important issue for judicial branch leaders in every state and territory.

In all of our work we are also intent on being sensitive to the issues of racial bias and systemic racism. Our goal is to ensure that we utilize a lens of racial justice for those with serious mental illness and examine what system changes are needed as we consider new and improved judicial responses.

Just last month we formalized the adoption of our Work Plan, which sets out the tasks, goals, and activities that we propose to address and accomplish over the next two years. Our main goal is focused on the development of resources, policies and recommendations that will assist and improve the state courts; and there is much work to be done. We also recognize, however, that behavioral health issues extend far beyond the jurisdiction and direct authority or responsibility of the courts. We hope to investigate areas where we can encourage and support the 'convening' authority of judges at the local, state and national level to support efforts to improve community behavioral health practices and





responses, especially when the problems and deficiencies in systems outside the judicial branch have negative impacts on our courts.

All of this work has been supported by the generous financial assistance provided by the State Justice Institute. We know that you join us in gratitude for the important role they continue to play in the improvement of our state judicial systems. In the report that follows we have provided more detail about the Work Plan, our future activities, resources that have already been developed and are available for your use, and ways in which members of CCJ and COSCA can engage in our work. We are honored that we were selected to lead the Task Force and are hopeful that these efforts can increase our understanding, improve our practices, and bring real and lasting change as we work to develop the policies, resources, tools and changes that we need to create a more effective, fair and timely judicial response for all of those with serious mental illness.

Very truly yours,

Chief Justice Paul L. Reiber  
Task Force Co-Chair

Chief Administrative Judge Lawrence K. Marks  
Task Force Co-Chair



# NATIONAL JUDICIAL TASK FORCE TO EXAMINE STATE COURTS' RESPONSE TO MENTAL ILLNESS

*On March 30, 2020, the Conference of Chief Justices and Conference of State Court Administrators established the National Judicial Task Force to Examine State Courts' Response to Mental Illness with a charge to "assist state courts in their efforts to more effectively respond to the needs of court-involved individuals with serious mental illness." The Task Force is continuing the work of the National Center for State Courts' Mental Health Initiative which began in 2019 with financial support from the State Justice Institute.*

## Primary Issues and Focus of the Task Force

**"Responding effectively to the needs of court-involved individuals with serious mental illness remains a grave national issue and pressing concern.... It is the role of the Conference of Chief Justices and Conference of State Court Administrators to lead the state court community in prompting changes to state court policies and practices that will lead to fairer, timelier justice for [those] with serious mental illness...."<sup>1</sup>**

The prevalence of mental illness is greatly impacting the U.S., our states, and our communities and has a disproportionate effect on our courts and justice system. State courts are too often the primary point of intersection between the community and those with behavioral health issues. Local jails and detention centers are the largest providers of mental health services – for both adults and children – in the country. The Task Force will provide leadership for the state courts by thoroughly examining the mental health crisis and developing the policies, resources, tools, and other practices needed to create a more effective, fair, and timely judicial response.

The state laws and procedures involving competency to stand trial require attention. Tens of thousands of defendants charged with misdemeanors or non-violent felonies are languishing in jail while awaiting a state hospital bed or community restoration, often waiting longer than if sentenced for the original crime. Similarly, revision of state legal standards and processes for civil commitment and expanded use of Assisted Outpatient Treatment are needed.

The level and quality of behavioral health treatment available to state courts is lacking in many communities, as well as opportunities to divert cases involving individuals with serious mental illness. The expansion and strengthening of court-based programs, such as mental health and other problem-solving courts, is also an important priority.

More timely and efficient caseload management for the cases involving parties with behavioral health needs and the use of technology to increase speed and expand access are of critical importance.

Promoting education to equip state court judges and professionals with the knowledge, data, and resources they need to improve the courts' responses and the development of a national education and training curriculum to support that effort are required.

Finally, there is need for a thorough review of all state court interactions with individuals who have serious mental illness and of all future work and activities of the Task Force through the lens of and concern for racial justice.



## Task Force Activities



A transition report, **The Future is Now: Decriminalization of Mental Illness**, published in May 2020, documents the work of the NCSC Mental Health Initiative.

A guide for court leaders enables courts, utilizing the Sequential Intercept Model, to lead their communities in an examination of the issues and needs of those with mental illness and the effective utilization of community resources to improve and create new and more successful responses.



The **Behavioral Health Resource Hub** for courts has been developed with information, research, tools,

best practice recommendations, and other materials designed to assist judges and state court professionals.



An online newsletter, **Behavioral Health Alerts**, is published semi-monthly to share the latest data, research, and informative resources related to the intersection of behavioral health and the courts.

As the Task Force continues its work, information about new activities, tools, and resources can be found at [www.ncsc.org/mentalhealth](http://www.ncsc.org/mentalhealth).

<sup>1</sup> CCJ-COSCA Resolution 3, In Support of Establishing a National Judicial Task Force (2020).

## Task Force Executive Committee



Nancy Cozine  
State Court Administrator, OR



Honorable Richard Robinson  
Chief Justice, CT



Honorable Loretta H. Rush  
Chief Justice, IN



Honorable Paul L. Reiber  
Chief Justice, VT  
Task Force Co-chair



Honorable Lawrence K. Marks  
Chief Administrative Judge, NY  
Task Force Co-chair



Tonnya K. Kohn  
State Court Administrator, SC



Honorable Robert Brutinel  
Chief Justice, AZ



Marcia M. Meis  
Director, Administrative Office  
of the Illinois Courts

## Task Force Work Groups

### Criminal Justice Co-chairs

Hon. Richard Robinson (CT)  
Nancy Cozine (OR)

### Members

Hon. Paula Carey (MA)  
Terrance Cheung (AZ)  
Jerry Clayton (MI)  
Hon. Matthew D'Emic (NY)  
Tim DeWesse (KS)  
Travis Finck (ND)  
Simarjit Gill (UT)  
Dr. Debra Pinals (MI)  
Dr. Kenneth Rogers (SC)  
Hon. John Stegner (ID)  
Walter Thompson (FL)  
Hon. Nan Waller (OR)

### Civil, Probate & Family Justice Co-chairs

Hon. Robert Brutinel (AZ)  
Tonnya K. Kohn (SC)

### Members

Kent Batty (AZ)  
Rachel Bingham (KY)  
Hon. Theresa Dellick (OH)  
Judy Harris (MD)  
Constance Holloway (SC)  
Joseph Homlar (CO)  
Hon. Milton Mack (MI)  
Hon. Kathleen Quigley (AZ)  
Neira Siaperas (UT)  
Hon. Sheldon Spotted Elk (CO)  
Dr. Linda Teplin (IL)  
Dr. Sarah Vinson (GA)

### Education & Partnerships Co-chairs

Hon. Loretta H. Rush (IN)  
Marcia M. Meis (IL)

### Members

Hon. James Bianco (CA)  
Janice Calvi-Ruimerman (CT)  
Dr. Michael Champion (HI)  
Paul DeLosh (VA)  
Russell Deyo (NJ)  
Sonja Gaines (TX)  
Hon. Christopher Goff (IN)  
Hon. Steve Leifman (FL)  
Dr. Kenneth Minkoff (AZ)  
Gary Raney (ID)  
Hon. Kathryn Zenoff (IL)

For questions or additional information about the work of the Task Force, contact: James D. Gingerich, Project Director, [jgingerich@ualr.edu](mailto:jgingerich@ualr.edu) or Patti Tobias, NCSC Mental Health Team Lead and Senior Advisor, [ptobias@ncsc.org](mailto:ptobias@ncsc.org).



# Behavioral Health and the Courts



## Pandemic-Related Resources

February 2021

*In collaboration with the CCJ-COSCA Rapid Response Team, early Task Force work focused on court responses to the added difficulties presented by the pandemic when dealing with cases involving individuals with serious mental illness. The following pandemic-related resources were developed in 2020-2021 for the state courts with links provided for your convenience.*

### [Providing Court-Connected Behavioral Health Services During the Pandemic: Remote Technology Solutions](#)

This brief provides an overview of telehealth resources and options as they pertain to criminal justice related behavioral health interventions, including teleservices to provide behavioral health screening and assessment, behavioral health treatment, and competency evaluation and restoration.

### [Supporting Vulnerable Populations: Civil Interventions and Diversion for Those with Mental Illness](#)

This brief describes non-criminal justice interventions that have been shown to be effective in increasing public safety while providing effective interventions for those in need. It discusses ways in which courts can play a role in diverting people in crisis from entering or penetrating the criminal justice system. While no community has all of these alternative strategies and resources in place, now is the time to explore which of these short-term improvements might be implemented now, and which longer-term strategies can be explored further.

### [Addressing Court Workplace Mental Health and Well-being in Tense Times – Webinar](#)

In collaboration with the National Association of Presiding Judges and Court Executive Officers (NAPCO), Rhode Island Congressman (Ret.) Honorable Patrick Kennedy and Garen Staglin, President, ONE MIND AT WORK, highlighted that the mental health issues triggered by the pandemic will overwhelm the health care industry and that it is more important than ever to address the well-being of judges and court employees.

## **[The Crisis Care Continuum: Resources for Courts During and After the COVID-19 Pandemic](#)**

This brief acquaints court leaders with the opportunities to influence change in the courts and communities during these difficult times and to implement practices that will result in better outcomes for those with serious mental illnesses. Links to research and resources are provided at each stage of the crisis care continuum. The system disruptions caused by the COVID-19 pandemic provide an immediate and unique opportunity to engage in meaningful system change, at a time when that change is needed most. Courts can and should be part of leading that change.

## **[Addressing the Mental Health and Well-Being of Judges and Court Employees](#)**

This resource acquaints court leaders with the importance of promoting the mental health and well-being of judges and court employees during and after the pandemic, offers some tips and best practices, and provides helpful resources and research.

## **[Improving Outcomes for People with Behavioral Health Needs: Diversion and Case Processing Considerations During a Pandemic](#)**

The purpose of this brief is to acquaint court leaders with opportunities to influence change in their courts and communities during these difficult times and to implement practices that will result in better outcomes for those with behavioral health needs. The National Center for State Courts joined the Council of State Governments Justice Center in leading a virtual peer learning collaborative consisting of three sessions on how to improve criminal case processing for defendants with behavioral health needs. This brief reflects the recommended best practices and innovations developed through the peer learning collaborative.

## **[Listening to the Field: Observation and Recommendations to Reduce Jail Population During a Pandemic](#)**

This brief describes lessons learned by four communities as they respond to the pandemic and its effects on individuals with significant behavioral health needs in the criminal justice system, particularly in jail. What emerges from listening sessions conducted with these sites are unanticipated problems, useful data and innovative practices that inform strategies that all criminal justice systems should embrace during and after the pandemic.





## Current Resources Available

*Many resources have already been developed for the national court community. We hope you will share all of these with the judges and court administrators across your respective states.*

### Behavioral Health Alerts

Behavioral Health Alerts are published on the 1<sup>st</sup> and 15<sup>th</sup> of each month and is the best way for you and the national state court community to stay abreast of Task Force activities, research and resources relating to the intersection of behavioral health and the courts.

All judges and court personnel are encouraged to sign up for this valuable resource [here](#).

### Behavioral Health and the Courts Website

This [website](#) is robust and includes outstanding resources for you and the courts in your state, such as:

- The [Behavioral Health and the Courts Hub](#) is organized by topics including the Sequential Intercept Model, the Leading Change Framework, Judicial Leadership and more.
- As state courts improve their responses to mental illness, co-occurring disorders and substance use disorders, state court innovations are being added to the site.
- The [Future is Now Decriminalization of Mental Illness](#) Transition Report summarizes the many publications and resources developed in 2019-2020.
- The Task Force is redesigning and updating this site on an ongoing basis so that all resources relating to behavioral health can be found on the [website](#).

### Addressing Competency Delays and Deficiencies

In the fall of 2019 NCSC convened eight trial judges from around the country as a focus group to analyze the current competency process. Shortly thereafter the Council for State Governments brought together a broadly representative group of judges, psychiatrists, legislators, and other policy makers for the same purpose. Out of these gatherings emerged two policy papers, the NCSC brief [Competence to Stand Trial](#), and CSG Justice Center's [Just and Well, Rethinking How States Approach Competence to Stand Trial](#).

The National Judicial Task Force to Examine State Courts' Response to Mental Illness Criminal Justice Workgroup also identified competence to stand trial issues as their first priority for examination, and they created a subcommittee to immediately identify and advance best practices that would provide states with tools to reform a system that by most accounts is broken now. Those tools will be available this summer.





## **Task Force Work Plan**

*During the past three months the members of the Task Force have been engaged in a process to examine and decide the overall goals and objectives for the project and the specific tasks and activities to be included in the work of the Task Force during the next two years. Over 100 items are now included in the project plan. Following is a brief description of the primary areas of emphasis:*

### **Criminal Justice Work Group**

- Develop and Recommend State and Local Implementation Strategies to Improve Competency
- Examine Court and Community Case Management Protocols for Persons with Serious Mental Illness and Recommend System Improvements
- Promote, Develop, and Recommend Diversion to Treatment Alternatives and System Improvements
- Develop Policies, Practices, and Recommendations to Implement, Strengthen, and Expand Mental Health Courts
- Identify and Promote Effective Systems of Pre-Trial and Re-Entry and Community Supervision for Persons with Serious Mental Illness and Recommend Local, State, and National System Improvements
- Explore Other Criminal Justice System Issues with Disproportionate Impact on Persons with Serious Mental Illness

### **Civil, Probate and Family Work Group**

- Examine Civil Commitment and Assisted Outpatient Treatment Laws, Policies, and Procedures and Recommend System Improvements
- Examine Court Case Management Involving Persons with Serious Mental Illness and Make Recommendations
- Promote Diversion and Treatment at Each Point of Prevention and Intervention and Make Recommendations for System Improvements
- Develop and Recommend Trauma-Informed and Trauma-Responsive Court and Judicial Practices
- Explore Other Civil, Probate, and Family Court Issues Related to Persons with Serious Mental Illness and Make System Improvement Recommendations

### **Education and Partnerships Work Group**

- Improve the Education and Training of the National Court Community on Serious Mental Illnesses and State Courts' Improved Responses
- Enhance the Behavioral Health and the Courts Website and Resources for the National Court Community
- Develop Strategic Partnerships with National Organizations and Foundations to Improve the State Courts' Response to Serious Mental Illnesses
- Develop a Governmental Relations Strategy in Collaboration with the CCJ/COSCA/NCSC Governmental Relations Committee and Office to Support State Courts' Efforts to Examine and Improve State Courts' Response to Mental Illness



## Working With Other National Partners

*Much impressive work related to the needs of individuals with serious mental illness and other behavioral health issues is already being done by many agencies and organizations across the country. The members of the Task Force are committed to working with others who are involved in these issues to maximize resources and avoid the duplication of effort. One initial effort has been to build a network of partner organizations to identify common goals, available resources and opportunities for collaboration.*

### Convenings of National Organizations and Foundations During 2020

[American Bar Association's Criminal Justice and Mental Health Committee](#) Co-Chairs Virginia Murphrey and Guy Arcidiacono

[Center for Court Innovation](#) – Executive Director Courtney Bryan

[Corporation for Supportive Housing](#) - President and CEO Deborah De Santis

[Council of State Governments Justice Center](#) (CSG-JC) – Director Megan Quattlebaum

[Council on Criminal Justice](#) – President and CEO Adam Gelb

[Group for the Advancement of Psychiatry](#) – Co-Chairs Dr. Jacqueline Feldman and Dr. Ken Minkoff

[Judges and Psychiatrists Leadership Initiative](#) – Justice Kathryn Zenoff, , Dr. Michael Champion, Dr. Sarah Vinson

[Matthew Ornstein Memorial Foundation](#) – President Judith Harris Ornstein

[Meadows Mental Health Policy Institute](#)- President and CEO Andy Keller, Senior Executive VP of Policy John Petrla

[Mental Health Colorado/Equitas Foundation](#) – President and CEO Vincent Atchity

[National Association of Counties](#) – Executive Director Matthew Chase

[National Association of Drug Court Professionals](#) (NADCP) – Chief Operating Officer Terrance Walton

[National Association of State Mental Health Program Directors](#) (NASMHPD) – Executive Director Dr. Brian Hepburn

[National Conference of State Legislatures](#) – Ms. Amber Widgery, Program Principal, Criminal Justice Program and Michael Hartman, Research Analyst, Civil and Criminal Justice

[National Governor's Association](#) – Policy Analyst, Public Safety and Legal Counsel Program, David Engleman

[Pew Foundation](#) – Senior Director, Government Performance Yolanda Lewis, Project Director, Mental Health and Justice Tiffany Russell

[Philanthropy Roundtable](#) – Director of Health Programs Anna Bobb

[Policy Research Associates](#) – Travis Parker, Program Area Director

[S2i Mental Health Strategic Impact Initiative](#) - New York University Furman Center Professor Ken Zimmerman

[Sozosei Foundation](#) – CEO Dr. William Carson, Executive Director Melissa Beck

[State Justice Institute](#) – Executive Director Jonathan Mattiello, Senior Policy Advisor Michelle White



## Upcoming Activities of Special Interest to CCJ/COSCA

### Regional Summits

In 2019, the NCSC National Initiative began a process of hosting regional summits in each of the CCJ/COSCA regions in which state multi-disciplinary teams, selected by the court leaders in each state, participated. The events included educational sessions and opportunities for each state team to meet and create a state action plan. With additional funding provided by the State Justice Institute, grants and technical assistance were made available to assist in the implementation of state plans. Two summits were completed prior to the limitations created by the pandemic, the first in the Western Region, held in Sun Valley, ID, followed by a second in the Mid-West Region, held in Deadwood, South Dakota. Many of the states from these regions have continued to make great progress in the implementation of their state team priorities. States have created state-level task forces and commissions, hosted state mental health summits, engaged in state surveys, and facilitated sequential intercept mapping exercises. One excellent example is the [Illinois Virtual Summit Series](#).

- Strategies of Mental Health and Law Enforcement Collaboration to Prevent Justice Involvement
- Mental Health Diversions from the Justice System
- Learning from the Voices of Lived Experience: Informing Change
- How Mental Illness and Trauma Affect Quality of Life
- Illinois' Path to Improving the Court and Community Responses to Persons with Mental Illness: Bringing the Community Together in One Voice and Common Mission
- Documentary Screening "The Definition of Insanity" and Family Panel

***The Task Force will continue to support future summits in the three remaining CCJ/COSCA Regions as soon as in-person meetings are again possible. All states will be invited to designate and send a team, including the Chief Justice and State Court Administrator. Following the summits, technical assistance funds will be made available to support implementation of state plans. Stay tuned for a future announcement about the date and location of the summit in your region!***

### Partnership with SAMHSA – Virtual Regional Gatherings

The Substance Abuse and Mental Health Services Administration is the federal agency focused on behavioral health issues and the manager of extensive block grants and targeted grants to states in support of addiction and mental health services. The Task Force has met with the (now former) Assistant Secretary of SAMHSA, who has officially designated a senior medical staff officer as the agency liaison to the Task Force. In addition, meetings with the Directors of each of the 10 SAMHSA Regions has led to an agreement to jointly host a series of virtual meetings in each of the regions. The meeting will be co-hosted by the SAMHSA Regional Director and a member of the Task Force Executive Committee. Invitees will include the Chief Justice, State Court Administrator and Director of the State Mental Health Agency from each of the states and territories within the SAMHSA Region.

***These meetings are likely to begin during the spring of 2021. Each CCJ and COSCA member will receive additional information and an invitation to participate.***