

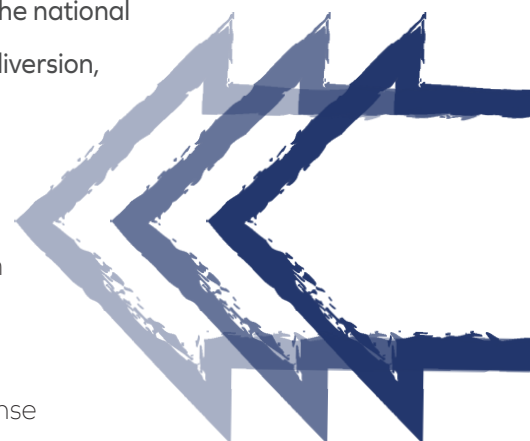


National Diversion Landscape SURVEY SUMMARY

This State Court Leadership Brief summarizes the findings of the first ever National Diversion Landscape survey issued in June-July 2021 and again in October-November 2021. Forty of the fifty-six states and territories responded (71.4%). The survey was issued by the National Judicial Task Force to Examine State Courts' Response to Mental Illness to State Court Administrators and Court Behavioral Health Administrators, often with assistance by State Behavioral Health Authorities. The survey results describe the national landscape and continuum of behavioral health deflection, diversion, and practices for adults.

COURT LEADERSHIP

State courts have increasingly become the default system for addressing the needs of those with behavioral health issues. As leaders of their courts and communities, judges are in a unique position to expand and improve the response to individuals with mental illness. For decades, courts have gained experience in convening diverse stakeholders to tackle complex problems both within and outside the justice system. From the evolution of problem-solving courts to dependency dockets, courts are often at the vanguard of responding to societal issues. This reality has paved the way for an independent but involved judiciary. In their unique position as respected leaders, judges are optimal conveners of these diverse stakeholders. The [Leading Change Guide for State Court Leaders](#) and [Leading Change: Improving the Court and Community's Response to Mental Health and Co-Occurring Disorders](#) are two guides that will help judges and court administrators start or advance processes for collaboration and to improve responses for persons with mental illness.



CONTINUUM OF BEHAVIORAL HEALTH DIVERSION

States and communities provide different types of resources, services, and treatment practices for individuals with behavioral health needs. The complete range of programs and services is referred to as the continuum of care. A continuum of care uses an interdisciplinary approach to provide opportunities for patient care through partnerships in community programs and services. These diverse community programs and services are necessary to provide appropriate treatment in the community and diversion opportunities from the justice system. The continuum of care provides the basis for the Continuum of Behavioral Health Diversion and has been divided into five areas based on where in the behavioral health and justice system a person is located. Every jurisdiction has different resources, services, and programs in their state and community, and how a state or community develops their behavioral health diversion continuum may vary, as may the terminology that is used. Importance is placed on having a robust set of services and diversion opportunities across the continuum that meet the needs of individuals with behavioral health needs.



SURVEY OBSERVATIONS

Several observations and trends were identified in the survey which are listed below based on diversion area. For a complete list of responses, please refer to the full National Diversion Landscape survey results.

IDEAL BEHAVIORAL HEALTH SYSTEM

- States were most likely to have outpatient mental health and substance use disorder treatment, followed by cognitive behavioral therapy and intensive outpatient substance use disorder treatment. States were least likely to have assertive community treatment and certified peer support.
- When it came to secondary behavioral health services and other supports, states were most likely to have medication assisted treatment, supported housing, case management teams, and recovery supports. States were least likely to have use of psychiatric advance directives, assisted outpatient treatment, and co-location of behavioral health and other services.
- Although the services noted were in available states, respondents noted that many services were not widely accessible across their state, especially in rural areas; there were often waiting lists, a shortage in the behavioral health workforce, lack of services for those in need of the highest level of care such as Forensic Assertive Community Treatment (FACT), case management services, and peer lead services such as Club Houses.
- When asked if telehealth had improved access to services, most states reported that due to the pandemic, teleservices were approved and/or increased; and although many states also noted that telehealth services overcome barriers such as transportation, employment, and sometimes waitlists, there is not a clear picture that jurisdictions will continue to utilize teleservices.

IDEAL BEHAVIORAL HEALTH CRISIS SYSTEM

- States were most likely to have 24-hour crisis lines, acute psychiatric hospital units, and crisis stabilization units. States were least likely to have living room/peer run crisis centers, crisis residential services, and partial or day hospitals.
- Courts have recognized the need to develop collaborations, programs, and linkages to crisis services for those individuals who are likely to become justice involved. States identified the need for crisis stabilizations, mobile crisis teams, and partnerships with community behavioral health providers.

PRE-ARREST DEFLECTION AND DIVERSION

- States were most likely to have police response/CIT training and mobile crisis teams. States were least likely to have co-responder teams and identification of high utilizers.
- Similar challenges were identified in this area including behavioral health workforce shortages, appropriate services for pre-arrest diversion, access to services across the state, and lack of housing/supported housing.

PRE-ADJUDICATION DIVERSION

- States were most likely to have prosecutor-led diversions, pretrial release resources, treatment courts, and recovery peer specialists. States were least likely to have data matching between the jail and behavioral health providers, court liaisons/navigators, and structured warm handoffs between the jail and community providers.
- When asked about assessments, states were most likely to have assessments for substance use disorders, followed by mental health, and criminogenic risk. Assessments were more likely to be done by pretrial staff than jail staff. States were least likely to have assessments for trauma utilized for pre-adjudication diversion programs.
- When asked about challenges, states identified the need for data to support programs, court liaisons/navigators, not enough services for diversion, and difficulty in ensuring equal access to diversion options.

POST-ADJUDICATION DIVERSION

- States were most likely to have treatment courts and alternative to incarceration sentencing. States were least likely to have specialized behavioral health community supervision caseloads and benefits enrollment.
- Identified challenges included housing, lack of services in rural communities, and lack of transition planning.

CONCLUSION

To address behavioral health needs in our states and communities and the overrepresentation of individuals with behavioral health needs in local courts and jails, community resources and diversion pathways and practices must be available, accessible, and used. To reduce unnecessary involvement, support those who need services, and promote fairness throughout the criminal justice system, judges and other behavioral health and criminal justice partners must come together to create a system that will improve outcomes for all. Every community will be at a different place with diversions practices. Consider your own state or community and the best way to build a structure of support for behavioral health needs within it.

This document was developed under the Mental Health Initiative: Phase II Grant #SJI-20-P-054 from the State Justice Institute and approved by the Task Force Executive Committee. The points of view expressed do not necessarily represent the official position or policies of the State Justice Institute.

