Collaborative Court and Community Diversion for Individuals with Behavioral Health Needs

June 21, 2021

An Interim Report

STATE DIVERSION SURVEY RESULTS

The Conference of Chief Justices and Conference of State Court Administrators National Judicial Task Force to Examine State Court's Response to Mental Illness conducted a survey to create a picture of the national landscape regarding adult behavioral health diversions and practices available in each state. The survey was completed by State Court Administrators or State Court Behavioral Health Administrators and often times in conjunction with input from State Behavioral Health Departments. The survey results provide a national landscape that will help inform the work of the Task Force and provide more helpful resources to courts going forward. An initial selection of the state survey results can be found in Appendix A, which will be updated as more complete information becomes available and has been further synthesized.

INTRODUCTION

Serious mental illness has become so prevalent in the United States corrections system that jails and prisons are now commonly called "the new asylums." "[T]he Los Angeles County Jail, Chicago's Cook County Jail, and the New York's Riker's Island Jail Complex each hold more mentally ill inmates than any remaining psychiatric hospital in the United States. Overall, approximately 20% of inmates in jails and 15% of inmates in state prisons are now estimated to have a serious mental illness. Based on the total inmate population, this means approximately 383,000 individuals with severe psychiatric disorders were behind bars in the United States in 2014 or nearly 10 times the number of patients being treated in the nation's state psychiatric hospitals."[1] In addition, "an astonishing number of inmates in the

This report was developed and approved by the Criminal Justice Work Group of the National Judicial Task Force to Examine State Courts' Response to Mental Illness in June 2021 and is pending action by the Task Force Executive Committee. Reactions, comments and suggestions to the report are welcome. It is anticipated that a final version of this report and related recommendations will be adopted and published by the Task Force prior to the Annual Meeting of the Conference of Chief Justices and Conference of State Court Administrators in August 2022.

States are incarcerated on non-violent drug related charges. Of the 2.3 million inmates currently serving sentences in American prisons, more than 50% have a history of substance abuse and drug addiction."[2]

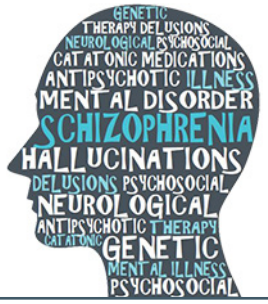
The increasing number of individuals with mental health and substance use disorders in the criminal justice system has enormous fiscal, health, and human costs. This practice of incarcerating individuals with behavioral health disorders, creates a revolving door where we release individuals back into our communities with the same underlying issues they came into the system with, without any services, and expect a different result. We need to rethink the criminal justice system and how we treat individuals with behavioral health needs and develop a sustainable, appropriate continuum of community-based resources that provide diversions from the criminal justice system for the court and community. Most importantly, effective court and community responses require interventions prior to engagement in the criminal justice system. Diverting individuals with mental health and substance use disorders away from jails and prisons and toward more appropriate and culturally competent community-based mental health care is an essential component of national, state, and local strategies to provide individuals the supports they need and to eliminate unnecessary involvement in the criminal justice system.

In order to address behavioral health needs in our communities, community resources must be available, accessible in the community, and used as diversion pathways for courts. To reduce criminal justice 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.

The following

GUIDING PRINCIPLES

serve as the foundation of our ongoing work to reexamine and redefine diversion for individuals with behavioral health needs.



1. The ultimate goal of behavioral health diversion is to divert individuals with behavioral health needs from the criminal justice system through identification of who can be diverted to treatment both before and after involvement in the justice system and what treatment and level of treatment can be provided to address individual needs to prevent deeper penetration into the justice system, all towards the goal of supporting recovery, ensuring public safety, and decreasing recidivism.

2. A model behavioral health continuum of diversion will ensure that diversion alternatives are available and that the alternatives meet the needs of the individual, community, and justice system.

3. Cross system, interdisciplinary collaboration and coordination of initiatives should be at the core of all diversion opportunities in order to prioritize efforts, share resources, develop sustainable funding streams, improve outcomes, and promote accountability.

4. Diversion programs should be evidence-based, data-driven, and trauma-informed.

Guiding Principles (cont.)

5. Opportunities to reduce stigma and increase the acceptance of behavioral health disorders should be promoted at every step of the continuum.

6. Diversion programs should identify, measure, and proactively address issues of explicit and implicit bias, disproportionate access to resources, and systemic racism.

7. Universal screening and assessment should be utilized for the early identification of behavioral health and criminogenic risk needs in order to identify who to divert and where to divert them.

8. Diversion programs and treatment approaches should be holistic, therapeutic, person-centered, and strength-based which will ensure accessibility to services and builds upon choice and respect, positive reinforcement, and compassion that fosters options and flexibility of treatment.

9. Procedural justice principles of respect, voice, and neutrality should be incorporated into all interactions in a way that engenders trust in the justice system and allows for meaningful choice in recovery.

10. Screening, assessment, and re-evaluation should be an ongoing process throughout the diversion and treatment continuum.

11. Consistent data collection should occur to ensure the effectiveness of diversion programs and to measure the effect of disproportionality.

12. Information sharing and performance measurement among behavioral health systems, justice systems, and community services is crucial to identify gaps in systems and provide accountability.

13. All collaborative diversion models should provide for accountability, public safety, and improved treatment outcomes by adhering to defined performance measures.

14. Training for judges and other court personnel should be developed with a focus on evidence-based behavioral health best practices and available community resources.

15. Judges should use their leadership role as convenors to foster collaborative community and court strategies to promote community safety and improve outcomes for individuals with behavioral health needs.

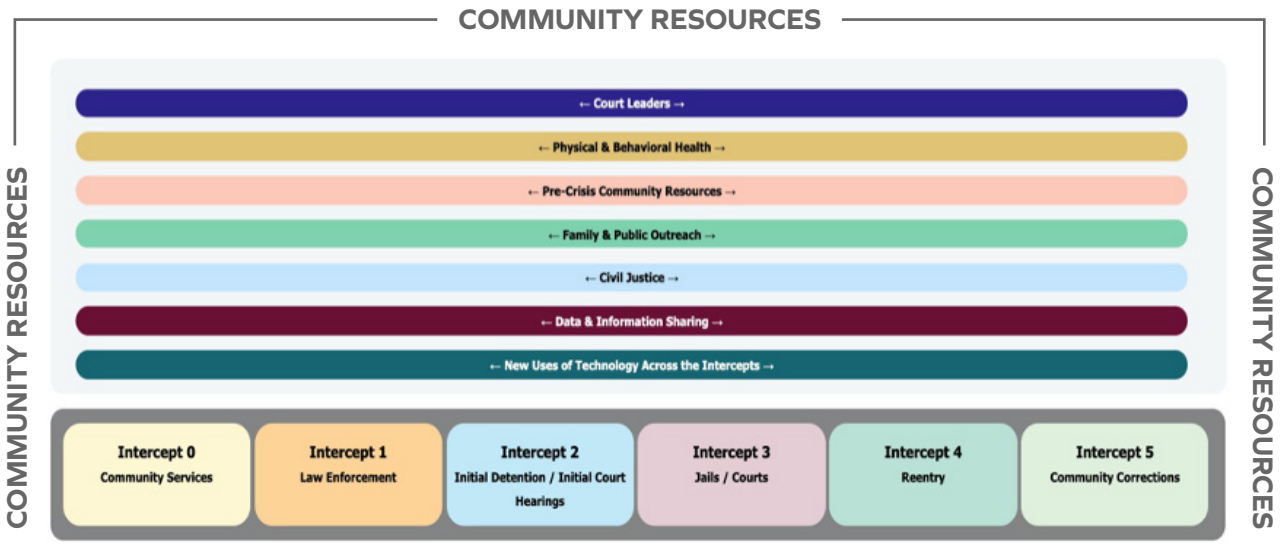
Leading Change Guide

The Leading Change Guide[3] and Leading Change Guide for State Court Leaders serves as a foundation for developing a collaborative court and community behavioral health continuum of diversion. The Leading Change Guide builds on the Sequential Intercept Model (SIM),[4] which identifies appropriate responses at particular intercepts that can keep an individual with behavioral health needs from penetrating or continuing to penetrate the criminal justice system. The Leading Change Guide describes the important steps for court leaders to convene stakeholders, assess the behavioral health landscape in the community, and implement court and community responses and strategies.

The Leading Change Guide is intended to be a practical tool for convening stakeholders across systems and developing a plan to address behavioral health needs in the community. Most importantly, effective court and community responses require interventions prior to engagement in the criminal justice system. In additional to SIM, the Leading Change Guide highlights several additional areas of focus that, if engaged in proactively, can create a necessary support structure and prevent justice system involvement for those with behavioral health disorders. These additional practices address court leaders, physical behavioral health needs, pre-crisis community resources, family and public outreach, civil justice needs, data and information sharing, and new uses of technology across the intercepts. Additional information can be found on the Behavioral Health Resource Hub.

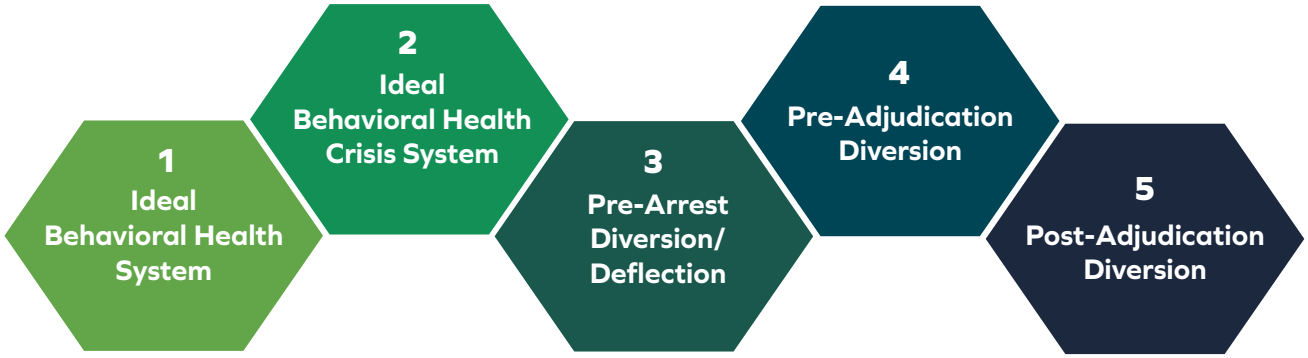
Finally, meaningful system change requires judicial leadership. Courts, and judges in particular, are in a unique position to convene stakeholders and to lead such a group to consensus and action. This begins with leading change resources specifically designed for judges.

The Leading Change Model Provides a Framework



Continuum of Behavioral Health Diversion

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. This Continuum of Behavioral Health Diversion has been divided into five areas based on where in the behavioral health system and justice system a person is located. Every jurisdiction has different resources, services, and programs in their community and how a community develops their behavioral health diversion continuum may vary, as may the terminology that is used. The 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.



In order to identify and provide the appropriate services, screening and assessment should be conducted throughout the continuum of care and diversion. Every community will be at a different place with each of these diversions and practices. As you look through the various recommendations, consider your own community and the best way to use these tools to build a structure of support for behavioral health needs within it. Your community may require additional practices or approaches not listed in the following tables. Additional information about these and other resources can be found on the Behavioral Health Resource Hub.[5]

IDEAL BEHAVIORAL HEALTH SYSTEM

Behavioral Health Care	Treatment for mental health and substance use disorders has been demonstrated to be extremely effective. Factors that lead to better treatment outcomes include early identification and intervention, accurate assessment, availability of a full continuum of treatment options, and the use of evidence-based treatment programs (e.g., cognitive behavioral therapy, exposure therapy, assertive community treatment, dialectical behavior therapy, and mental health medications).
Screening and Assessment	Screening for behavioral health disorders should be a priority throughout points of contact within a community, including by pediatricians, teachers, and emergency room practitioners. Early identification of mental health issues and trauma can help individuals more effectively manage their mental health issues and create appropriate treatment plans.
Strength-Based Case Management	This model is a recovery-oriented, evidence-based case management model designed to help individuals identify meaningful and important recovery goals and then mobilize highly individualized strengths to achieve them. The model has a solid research base demonstrating improved outcomes in the areas of decreased hospitalization, increased competitive employment, increased post-secondary education, independent living, and other quality of life indicators.
Case Management Teams	Case management teams are collaborations among local agencies that help provide a more holistic response to behavioral health needs. Specialized staff can ensure services across domains (e.g., housing, employment, life skills, etc.) that consider and respond to the full spectrum of an individuals' needs. Team members also ensure that traditional information silos are broken down to best serve their client and position them for success.

Medication-Assisted Treatment	Medication-assisted treatment (MAT) is the use of medications, in combination with counseling and behavioral therapies, to provide a "whole-patient" approach to the treatment of substance use disorders. Medications used in MAT are approved by the Food and Drug Administration (FDA) and MAT programs are clinically driven and tailored to meet each patient's needs. Research shows that a combination of medication and therapy can successfully treat these disorders, and for some individuals struggling with addiction, MAT can help sustain recovery. MAT is also used to prevent or reduce opioid overdose.
Certified Community Behavioral Health Clinic	Certified Community Behavioral Health Clinics are designed to provide a community with an all-inclusive range of substance use and mental health disorder services, especially for individuals who have the most complex needs. The CCBHC criteria require CCBHCs to provide consumers a continuum of services. While many of the required services must be provided by the certified community behavioral health clinic itself, other services can be provided by a designated contracting organization.
Access to Recovery Supports, Benefits, Housing, and Competitive Employment	Access to complimentary services is necessary for successful outcomes and recovery.
Co-Location of Services	Service co-location eases the burden of seeking and providing behavioral health treatment for detained individuals. Even for individuals released from jail on their own recognizance, service co-location provides an answer to transportation and resource barriers that behavioral health-involved individuals often experience. Service co-location also increases the likelihood of participation and service retention rates, while reducing rates of failure to appear.
Family and Peer Support	Often family or friends are the first to respond to a crisis for a loved one and are relied upon for support before and after mental health crisis.

Physical Health Care	Access to physical health care is integral to help individuals with the physical health issues that often occur alongside mental health issues. Individuals in the midst of a mental health crisis may neglect their physical health which can lead to long-term health concerns. Affordable and accessible medical treatment, including dental care, can help ensure better long-term outcomes. In addition, early identification of mental health disorders or trauma by medical professionals, including pediatricians, can help individuals effectively manage their mental health.
Schools and Education	Early identification and intervention in schools can provide for better long-term outcomes for those with mental health issues or who have experienced or are experiencing trauma. Half of those who will develop mental health disorders show symptoms by age 14. Therefore, early identification of risk factors or signs of adjustment difficulties provide an opportunity to intervene before problems develop into more significant and costly impairments. A continuum of school mental health resources leads to better educational and mental health outcomes.
Community Services	Robust community resources can provide a lifeline to individuals with mental health issues. Access to services can greatly improve long-term outcomes, even in the absence of treatment. Public and private human and social services agencies often directly provide meaningful programs, coordinate with other service providers, and provide referrals to other external resources. Religious, service-based, and other philanthropic organizations also provide valuable outreach and resources.
Housing	Supported housing provides a key layer of stability for individuals with behavioral health issues. Individuals may seek different housing types from group housing (supervised and unsupervised) to rental housing and home ownership. Supportive housing is a middle ground option that features independent living with the potential for support and intervention as needed.

Employment	Supported employment refers to service provisions wherein individuals with disabilities, including intellectual disabilities, mental health, and traumatic brain injury, among others, are assisted with obtaining and maintaining employment.
Food	Food insecurity decreases quality of life and can force tough decisions, like whether to spend money on food or medication. Food banks or pantries can help provide stability, increase self-sufficiency, and provide support. In addition to offering food, food banks often offer co-located services, like supported employment, educational information, civil and criminal legal aid, and information about other community resources.
Psychiatric Advance Directives	Psychiatric Advance Directives (PADs) are legal tools that allow individuals with mental health issues to articulate their treatment preferences prior to a mental health crisis. PADs can also be used to facilitate guardianship appointment, which allows an agent to give consent or make decisions on an individual's behalf concerning medical, mental health, and financial issues. When used appropriately, PADs and guardianships protect the autonomy and preferences of individuals with mental health issues.
Civil Interventions	Civil interventions refer to legal processes by which individuals other than the person with mental illness can initiate treatment (e.g., civil commitment, court-ordered treatment, assisted outpatient treatment). Civil legal aid services can help individuals access government benefits, healthcare, housing, disability, and employment services. Guardianships give court designated individuals responsibility over a range of personal care decisions on behalf of someone the court determines is incapacitated.

IDEAL BEHAVIORAL HEALTH CRISIS SYSTEM[6]

Warm Lines/Peer Warm Lines	A call line that provides opportunities for talking, receiving support, and referrals.
24-Hour Crisis Lines (Telephone, Text, or Chat)	A communication system that provides screening, assessment, preliminary counseling, and resources for referrals for mental health and substance use services and suicide prevention pathways.
Mobile Crisis Teams	A response system that utilizes behavioral health professionals to navigate within a region and at the scene of a crisis to complete mental health and substance use assessments or connect a person in crisis with services.
Crisis Intervention Teams (CIT)	Specially trained law enforcement officers who have undergone designated CIT training, adhere to policies for CIT officers, and are linked to behavioral health designated crisis drop off points of access of care.
Co-Response Team	Coordinated behavioral health professionals and law enforcement teams who respond to emergency calls for emotional disturbances in the community together.
Crisis Hubs/Crisis Centers/ Coordinated Community Response Center	Locations and systems that provide immediate in-person attention to any level of urgent to emergent need for mental health and substance use disorders and may include call centers, drop-in, and drop off sites.
Psychiatric Urgent Care	Clinics with screening, assessment, brief intervention, and prescribing capabilities that operate for walk-in visits with no appointment needed for immediate mental health and substance use support during day hours and limited weekends.
Transition or Bridge Clinics	Clinical therapeutic and medication management services made available for individuals moving from one level of care to the next (e.g., emergency department to long-term supports, or inpatient to community).
Crisis Stabilization Units and Extended Observation Units	Brief, time limited (usually up to 23 to 72 hours), medically monitored or supervised, observation units that provide care to assist with deescalating the severity of a crisis and/or need for urgent care.

Crisis Residential Services	Services where individuals in crisis can voluntarily reside for brief periods (usually up to 14 days) and receive behavioral health supports in a less intensive setting than inpatient level of care.
Living Room/Peer Run Crisis Center	Comfortable non-clinical space that provides an alternative to emergency rooms for adults for short-term stays where individuals have available recovery support staff such as peers to help resolve crises.
In-Home Supports/Family-Based Home-Based Supports/Respite Services	Short-term intensively supported services where individual may stay with their own family or other qualified local family or provider-based locations with add-on supports.
Emergency Rooms with or without Dedicated Behavioral Health Sections	Embedded hospital-based service for medical emergencies, including psychiatric emergencies, especially where safety related to psychiatric illness, medical management of substance use, or medical co-occurrence may be an immediate concern.
Partial or Day Hospitals	Community-based day mental health services with full multidisciplinary team with groups, therapies, medically monitored, and access to prescribers who can adjust medications while the individual resides at home.
Acute Psychiatric Hospital Units	Hospital level of 24-hour care for psychiatric illnesses for a person who needs intensive, multi-disciplinary treatment with medically managed intensive and round-the-clock nursing, usually addressing safety and complex care-management needs.
Post-Crisis Care	Post-crisis wraparound services are essential to ensure that patients are successfully linked to long-term treatment and avoid reutilization of crisis and other acute services. These services can be provided by behavioral health programs (e.g., peer navigators), law enforcement-based case management, or a combination of both. In addition, community paramedicine approaches deploy paramedics to check on frequent 9-1-1 callers, some of whom have behavioral health needs. In each model, the goal is for crisis services to connect individuals to treatment and address the social determinants of health (e.g., housing, transportation, food) with the goal of preventing future encounters with law enforcement.

PRE-ARREST DIVERSION/DEFLECTION

Dispatcher Training	Behavioral health trained dispatchers can identify behavioral health crisis situations and pass that information along so that Crisis Intervention Team officers can respond to the call.
First Responder Training	First responder training includes dispatcher training, specialized police response, mental health first aid, and training for EMTs and other first responders. An example is Crisis Intervention Training (CIT). CIT focuses on identifying signs of mental health disorders, de-escalating a situation that involves those signs, and connecting individuals to treatment. The importance of crisis training has increased in recent years as a way to avoid escalation into the use of force.
Police Responses	Police officers can learn how to interact with individuals experiencing a behavioral health crisis and build partnerships between law enforcement and the community.
Mobile Crisis Teams	A response system that utilizes behavioral health professionals to navigate within a region and at the scene of a crisis to complete mental health and substance use assessments or connect a person in crisis with services.
Identification of High-Utilizers and Providing Follow-Up After the Crisis	Police officers, crisis services, and hospitals can reduce super-utilizers of 911 and emergency department services through specialized responses.
Screening for Mental and Substance Use Disorders	Brief screens can be administered universally by non-clinical staff at jail booking, police holding cells, court lock ups, and prior to the first court appearance.

Access to Behavioral Health Services	A diverse set of treatment modalities reflect an understanding that effective treatment for individuals in the criminal justice system requires a blend of traditional behavioral health treatment services and services tailored to the relevant criminogenic risks and needs of the individual. They will typically have a diverse range of behavioral health, criminogenic, case management, and social support needs that require different screening and assessment, more coordination among service providers, and a broader range of complimentary services. The accepted model for conceptualizing this constellation of needs and services is the risk need responsivity (RNR) model.
Screening and Assessment at Jail or Pretrial	Specific screening and assessment are critical once an individual has contact with the justice system to ensure the system's treatment and supervision responses are tailored to the individual's criminogenic risks and needs. All individuals coming into the jail should be screened for mental health and substance use disorders using an evidence-based tool validated for the population that is screened. Then, if indicated by the screening instrument, an appropriate assessment should follow. Risk and needs screening and assessment should also be done at all stages of the criminal justice process.
Pretrial Release	Pretrial release decisions are particularly impactful on arrestees with behavioral health needs. Incarceration, even for a short period of time, can have disproportionately negative consequences for this population. Pretrial release without incarceration also represents an important opportunity for connecting individuals with behavioral health needs to services. Pretrial risk assessments can be one component of a pretrial decision-making process.

Data Matching Initiatives Between Jail and Community-Based Behavioral Health Providers	Data-driven indicators measure the effectiveness of behavioral health interventions and allow adjustments to be made to increase the effectiveness of those interventions. Data can also measure the cost effectiveness of behavioral health programs and allow policy makers to allocate resources more effectively. Coordinating data offers an opportunity to identify high cross-system utilizers. Data should be collected about individuals' progress and needs, responses to those needs, and efforts to improve mental health responses. Systems and processes can be used to help collect, share, and use data on individuals who come into contact with the justice and human services systems, including those with behavioral health needs. A jurisdiction can use these systems and processes to inform policy and funding priorities to better identify individuals with mental health treatment needs and connect them to services. Some specifics include an information management system, resource connections, jail screening, community connections and outreach, and predictive analysis.
Prosecutor-Led Diversion	Prosecutors traditionally serve as gatekeepers to the criminal justice system and they often decide who goes into the system and who gets a second chance. Prosecutors have discretion to make charging decisions, bail and pretrial release recommendations, plea bargain offers, and sentence recommendations. They have a responsibility to use limited public resources wisely with the goals of promoting public safety and reducing harm. Their position in the justice system gives prosecutors the opportunity to provide leadership in the community to address the needs of those with mental health issues. Prosecution can create special units within their office to handle cases involving individuals with mental health issues, implement diversion programs, change their own office policies and approaches, and play a leadership role systemwide to address issues of mental illness. Policy decisions should be established to provide consistency in decision-making and reduce bias of individual decision-making. Collaborative decision-making processes should be explored and implemented.

Court Diversions	Court-based behavioral health diversion interventions focus on connecting individuals with needed community-based care, usually after someone with mental illnesses, substance use disorders, or both, is booked into jail. These connections can be provided at a person's initial court appearance or at subsequent court appearances. While the diversity of diversion programs across the U.S. makes conclusive statements about outcomes difficult, research has shown that court-based diversion can shorten average length of jail stays and increase connections to treatment and supports without additional risk to public safety. Some programs have also been shown to reduce future criminal justice involvement. There are also studies showing how diversion programs can potentially save the criminal justice and behavioral health systems money.
Pretrial Supervision and Diversion Services to Reduce Episodes of Incarceration	Risk-based pretrial services can reduce incarceration of defendants with low risk or criminal behavior or failure to appear in court.
Treatment Courts	Treatment courts or specialized dockets can be developed (e.g., mental health courts, adult drug courts, and veterans courts). These courts embrace a non-adversarial, problem-solving approach with a focus on treatment and individualized case plans. Resolution of cases can be done with successful completion of the program, including treatment, and dismissal of the case.
Jail-Based Behavioral Health Treatment and Health Care Services	Jail healthcare providers are constitutionally required to provide behavioral health and medical services to detainees needing treatment.
Collaboration with Veterans Justice Outreach Specialist from the Veterans Health Administration	The mission of the Veterans Justice Programs is to identify justice-involved Veterans and contact them through outreach, in order to facilitate access to VA services at the earliest possible point. Veterans Justice Programs accomplish this by building and maintaining partnerships between VA and key elements of the criminal justice system.
Transition Planning by the Jail or In-Reach Providers	Transition planning improves reentry outcomes by organizing services around an individual's needs in advance of release.

Psychotropic Medication and Prescription Access	Inmates should be provided access to their prescriptions while in custody and should be provided with a minimum of 30 days medication at release and have prescriptions in hand upon release.
Structured Warm Hand-Offs (Jail to Community Treatment)	Case managers that pick an individual up and transport them directly to services will increase positive outcomes.
Recovery Peer Specialists	Peer support workers are individuals who have been successful in the recovery process who help others experiencing similar situations. Through shared understanding, respect, and mutual empowerment, peer support workers help individuals become and stay engaged in the recovery process and reduce the likelihood of relapse. Peer support services can effectively extend the reach of treatment beyond the clinical setting into the everyday environment of those seeking a successful, sustained recovery process.
Competency and Restoration	There is a growing consensus that because of the likelihood of an increased length of incarceration and confinement, the competency process should be reserved for defendants who are charged with serious crimes, and others, especially those charged with misdemeanors, should be diverted to treatment.
Court Liaisons/Navigators	Court liaisons, also referred to as boundary spanners or court navigators, provide a vital link between behavioral health service providers and the court. Liaisons are typically clinically trained and connected either with a behavioral health provider or with the court. They are trained to conduct assessments and are adept at providing program and treatment coordination and linkages.

POST-ADJUDICATION DIVERSION

Post-Adjudication Diversion and Alternative Sentencing	Post-adjudication diversion and alternative sentencing options provide opportunities to direct individuals to rehabilitation-focused interventions that balance the interest of justice with treatment. They avoid incarceration for individuals who meet certain sentencing conditions. Often involving suspended sentences and/or probation, alternative sentences can be as creative and flexible as a judge and community resources will allow. Examples of sentencing include community service, assisted outpatient treatment, and other required participation in appropriate treatment.
Specialized Behavioral Health Community Supervision Caseloads	This probation model is typically characterized by small caseloads (less than 100 individuals), sustained officer training in mental health, officer coordination of and direct involvement in probationers' treatment, and reliance on collaborative problem-solving approaches.
Treatment Courts	Treatment courts or specialized dockets can be developed (e.g., mental health courts, adult drug courts, and veterans courts). These courts embrace a non-adversarial, problem-solving approach with a focus on treatment and individualized case plans.
Benefits Enrollment	Health and behavioral health benefits enrollment sustains an individual's access to medications and treatment that are critical to successful reentry into the community. Enrollment can be facilitated by enrollment officers and case managers.
Linkage to Housing	Individuals with criminal records face significant barriers to housing. Housing is a critical component to successful reentry into the community. A range of housing options need to be available to meet the needs of individuals with behavioral health needs.
Transition Plans	Transition plans offer guidance for community reentry. A comprehensive plan identifies expectations, resources, and services to guide individuals toward independence. Individuals should play an active role in creating their transition plan.
Peer Support/Support Groups	Peers provide individualized support to those re-entering a community. Sharing unique experiences and challenges is helpful in navigating common challenges. Moreover, peer support groups can provide insight to identify potential triggers and relapses.

CONCLUSION

In order to address behavioral health needs in our 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.

The Criminal Justice Diversion Subcommittee will review the information provided by states which provides an initial picture of the national diversion landscape to inform their continued work. The subcommittee is planning future deliverables to include a checklist for steps on how courts and communities get started with behavioral health diversion, a self-assessment for states and communities to inventory behavioral health diversion, steps for actions planning, steps on how to develop diversion programs, and recommended processes for continuous quality improvement.

APPENDIX A

State Diversion Survey Results (As of 6-11-21)

The Conference of Chief Justices and Conference of State Court Administrators National Judicial Task Force to Examine State Court's Response to Mental Illness conducted a survey to create a picture of the national landscape regarding adult behavioral health diversions and practices available in each state. The survey was completed by State Court Administrators or State Court Behavioral Health Administrators and often times in conjunction with input from State Behavioral Health Departments. The survey results provide an initial national landscape that will help inform the work of the Task Force and provide more helpful resources to courts going forward. The survey results will be updated based on additional state responses and synthesis of information. A selection of the current state survey results follows.

Respondents

Twenty-three surveys from twenty-two states and territories were completed and submitted.

Respondents were asked to answer questions at each of the five areas of the Continuum of Behavioral Health Diversion: Ideal Behavioral Health System, Ideal Behavioral Health Crisis System, Pre-Arrest Diversion/Deflection, Pre-Adjudication Diversion, and Post-Adjudication Diversion. In addition to the specific questions regarding diversions and practices at each of the five areas, respondents were also asked to share diversions and practices they would want highlighted and to list any specific challenges for that area of the Continuum of Behavioral Health Diversion. More information about the specific highlights and challenges will be included in upcoming reports.

1. Behavioral Health Services and Supports Availability

Respondents were asked to indicate the behavioral health services and supports that are available in their state, and what percentage of counties in their state had these services.

Figure 1: Availability of Behavioral Health Services and Supports

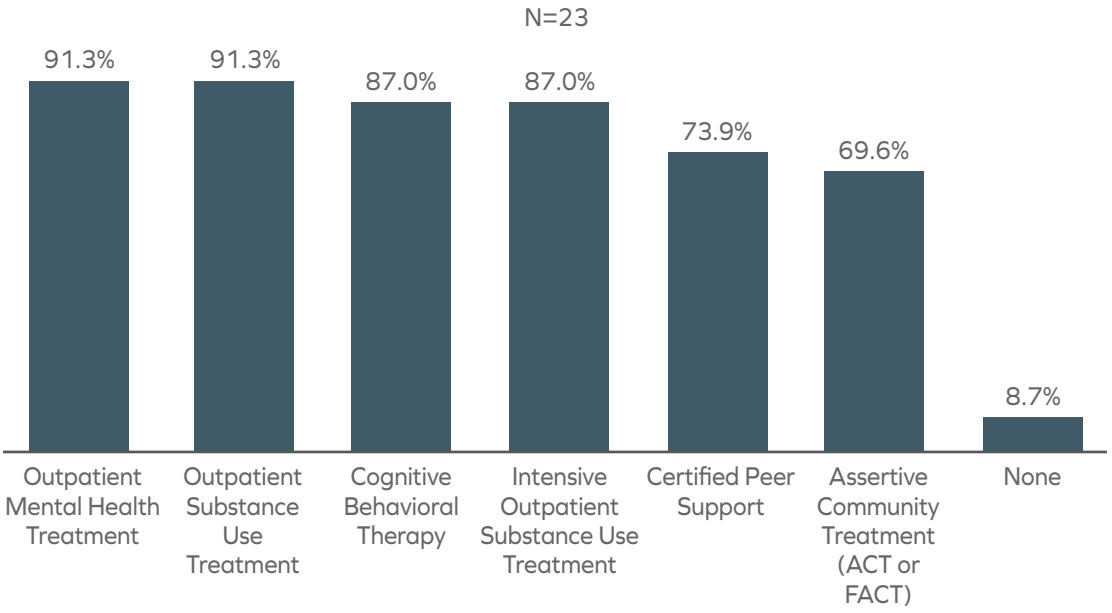
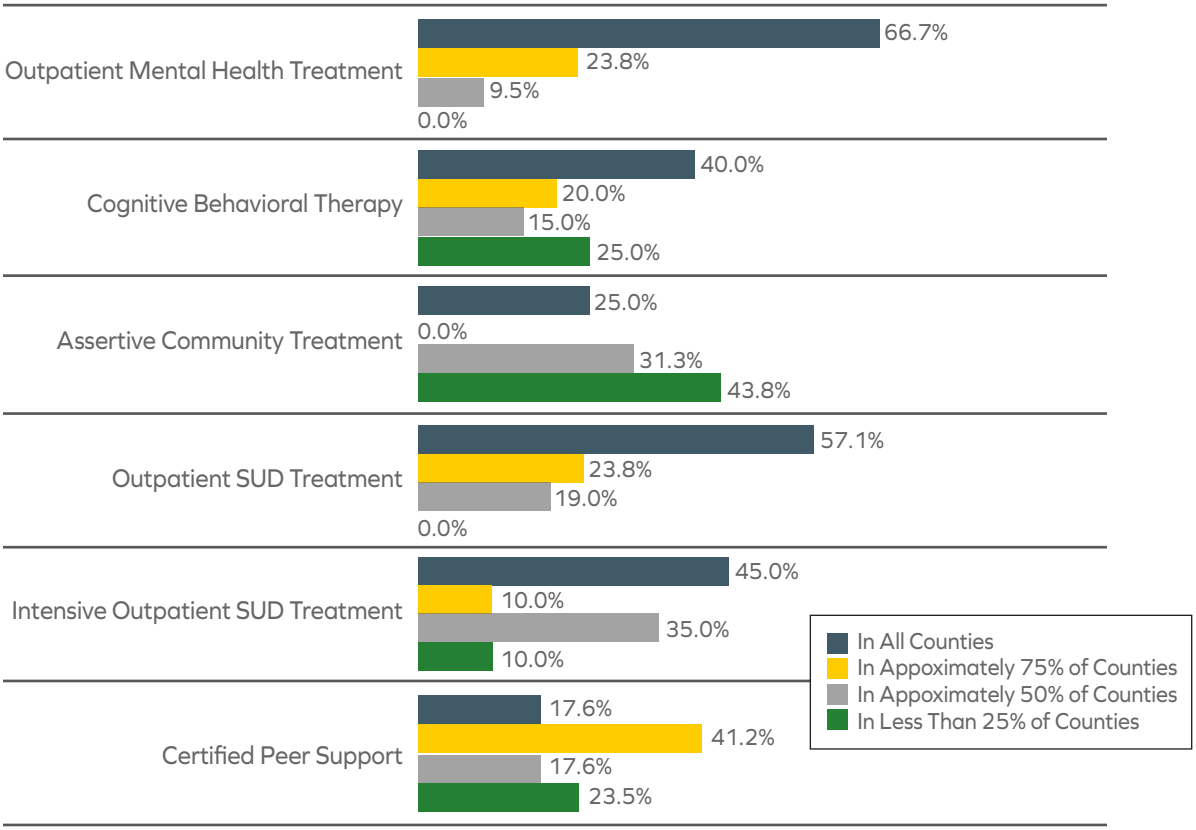


Figure 2: Percentage of Counties with the Available Behavioral Health Service



A second question asked about additional supports and services.

Figure 3: Availability of Additional Behavioral Health Services and Supports

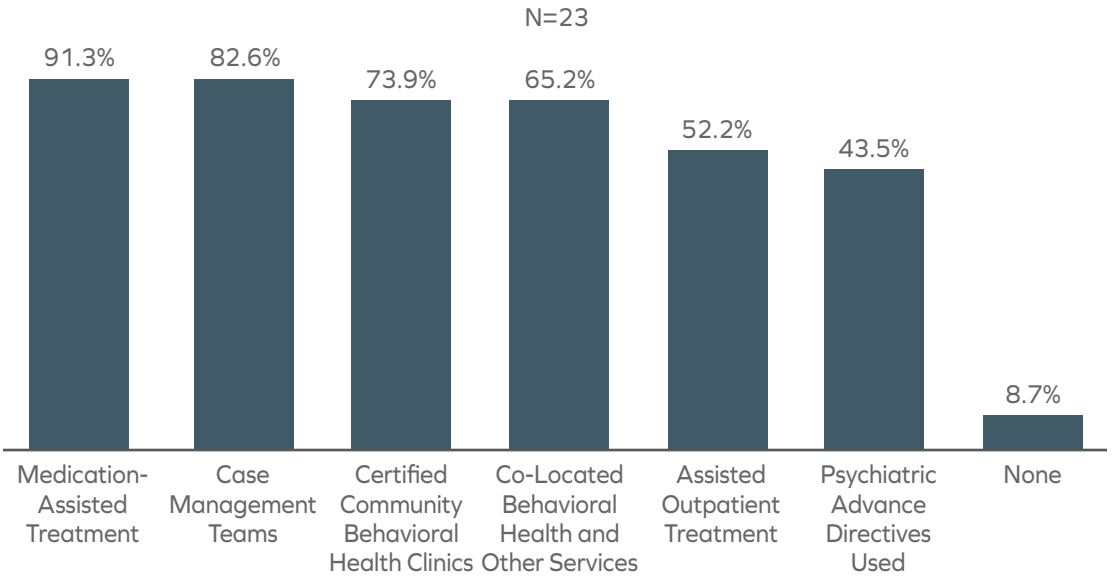
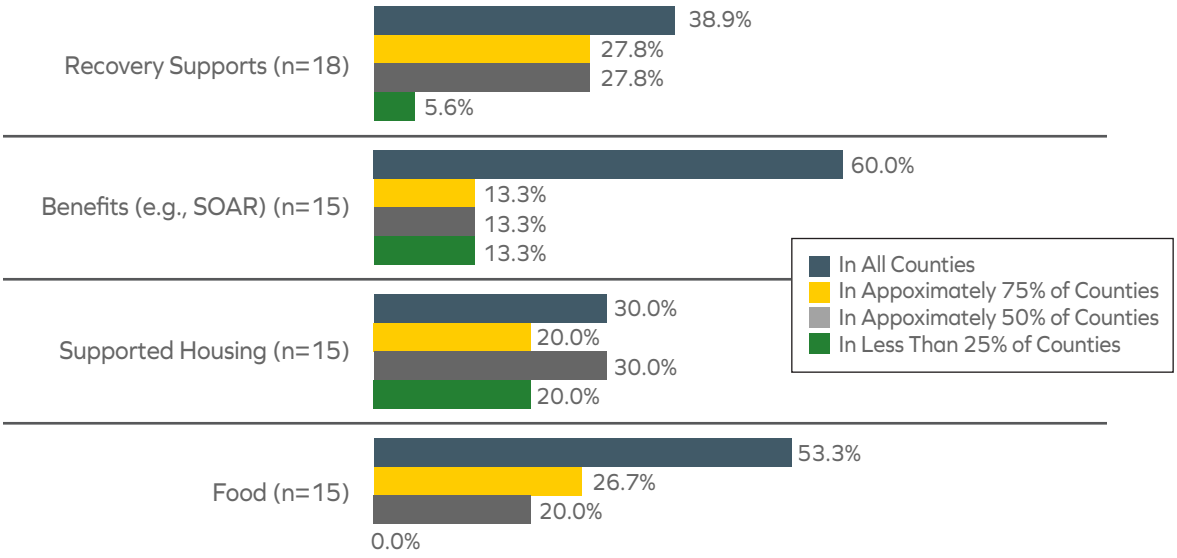


Figure 4: Percentage of Counties with the Additional Available Behavioral Health Service



Accessibility of In-Person Services and the Affect of Teleservices

Respondents were also asked to describe the accessibility of in -person services and how teleservices have increased access to services in their state or territory. More information will be available in upcoming reports.

2. Ideal Behavioral Health Crisis System

Availability

Participants were asked to identify crisis related behavioral health services and supports in their state, and how prevalent they are in their counties.

Figure 5: Availability of Crisis Services and Supports

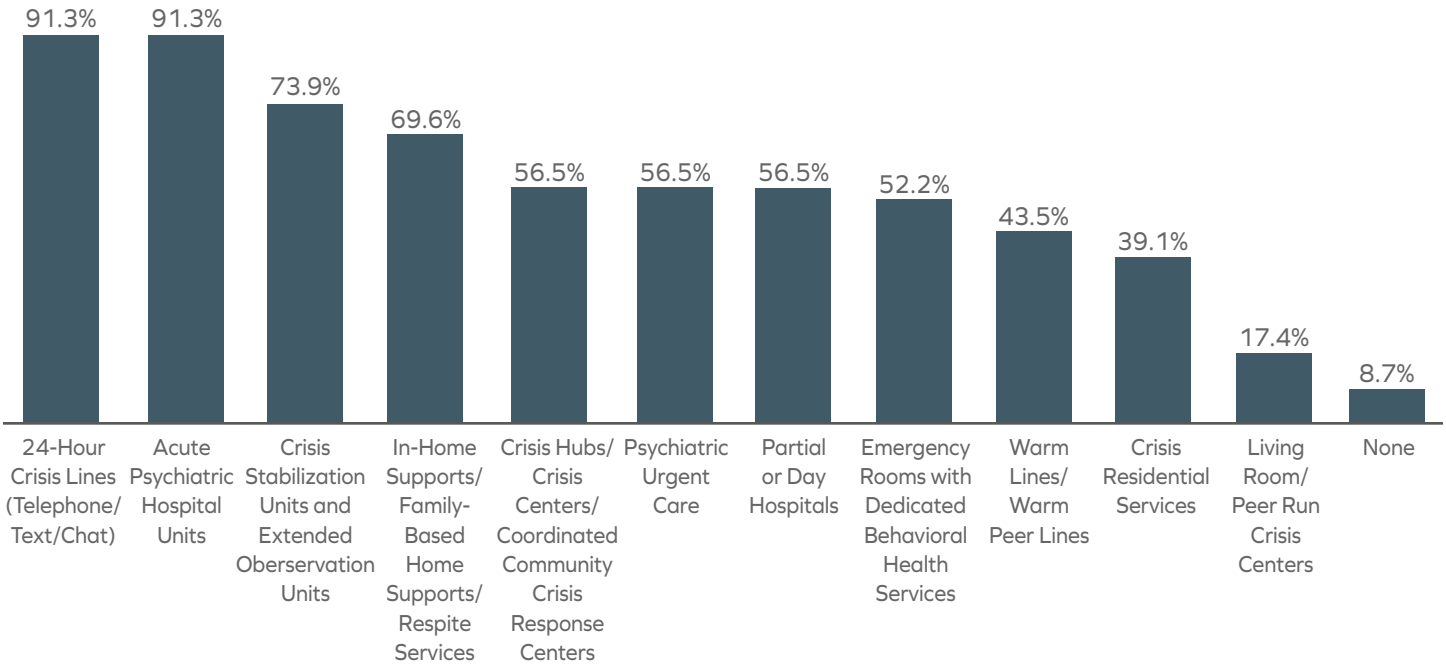
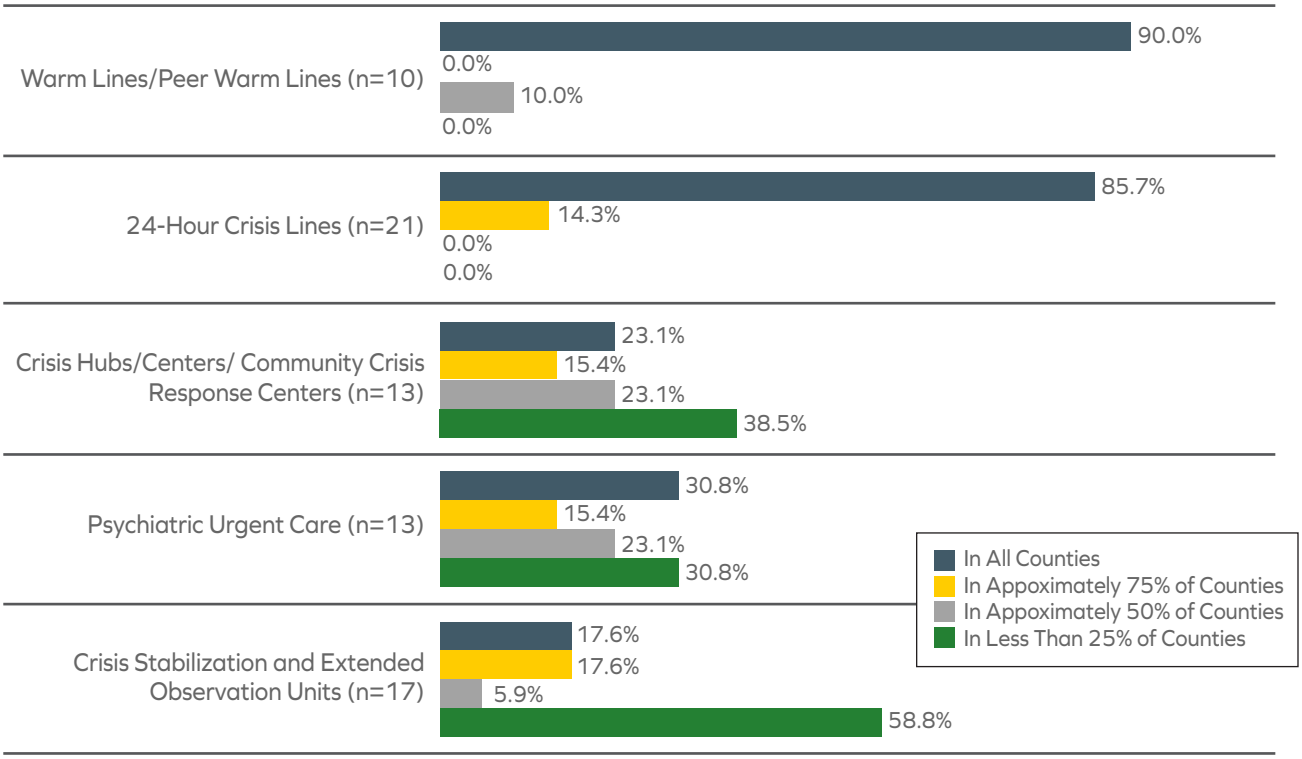
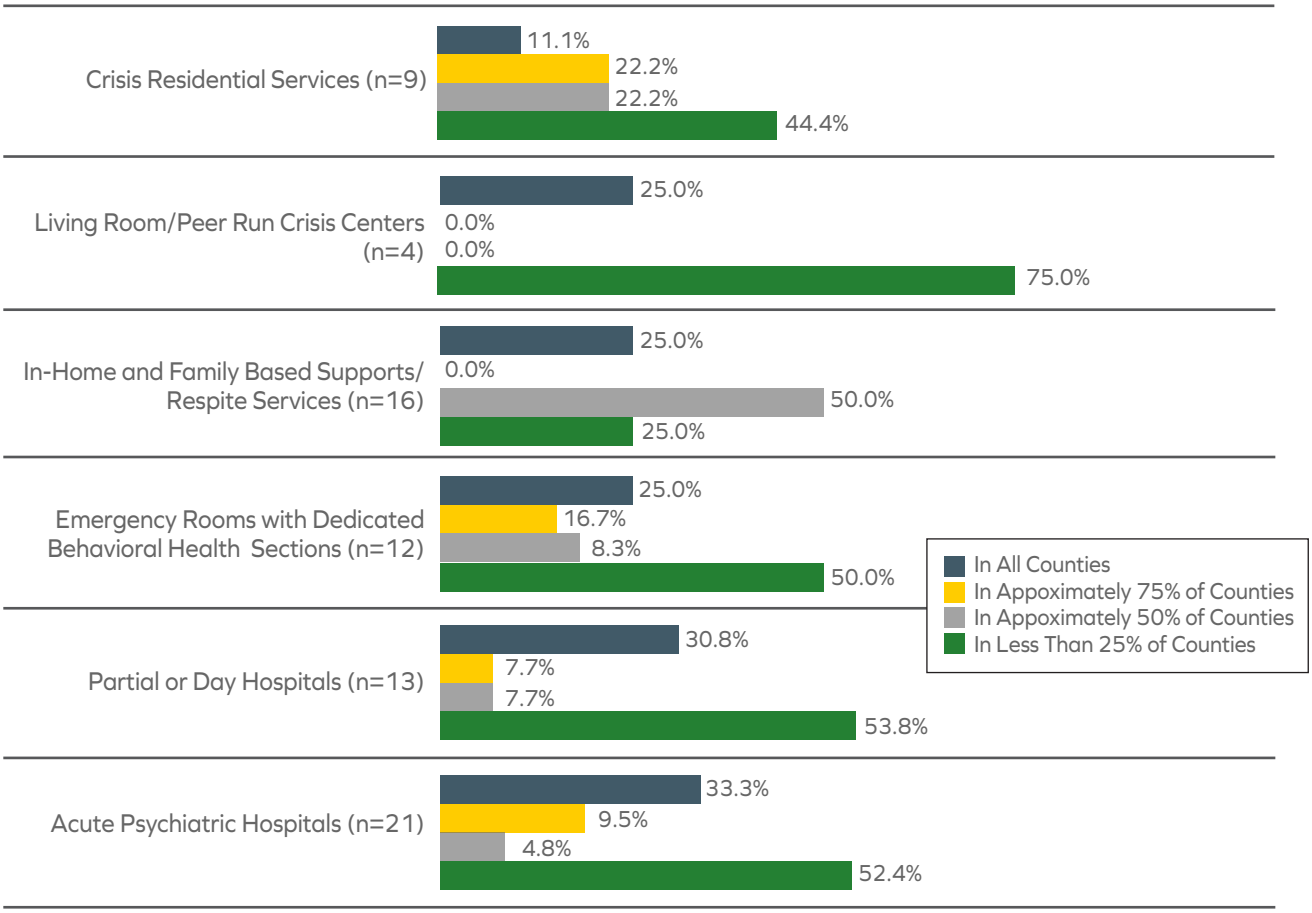


Figure 6: Percentage of Counties with the Available Crisis Service and Supports





Court-Crisis Linkages

Twenty-one of twenty-three respondents indicated that their courts have linkages to crisis services for individuals involved in their justice system. A description of those court-crisis linkages will be described in upcoming reports.

3. Pre-Arrest Diversion and Deflection Availability

Participants were asked to identify pre-arrest diversion and deflection programs in their state, and how prevalent they are in their counties.

Figure 7: Availability of Pre-Arrest Diversion and Deflection Programs

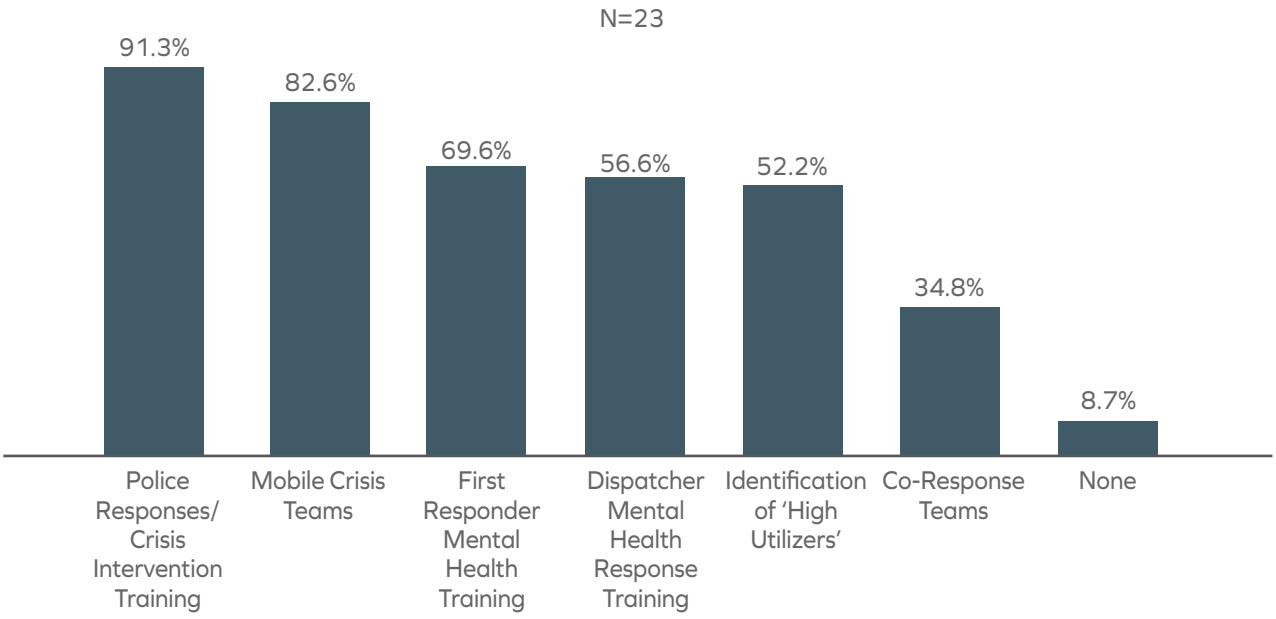
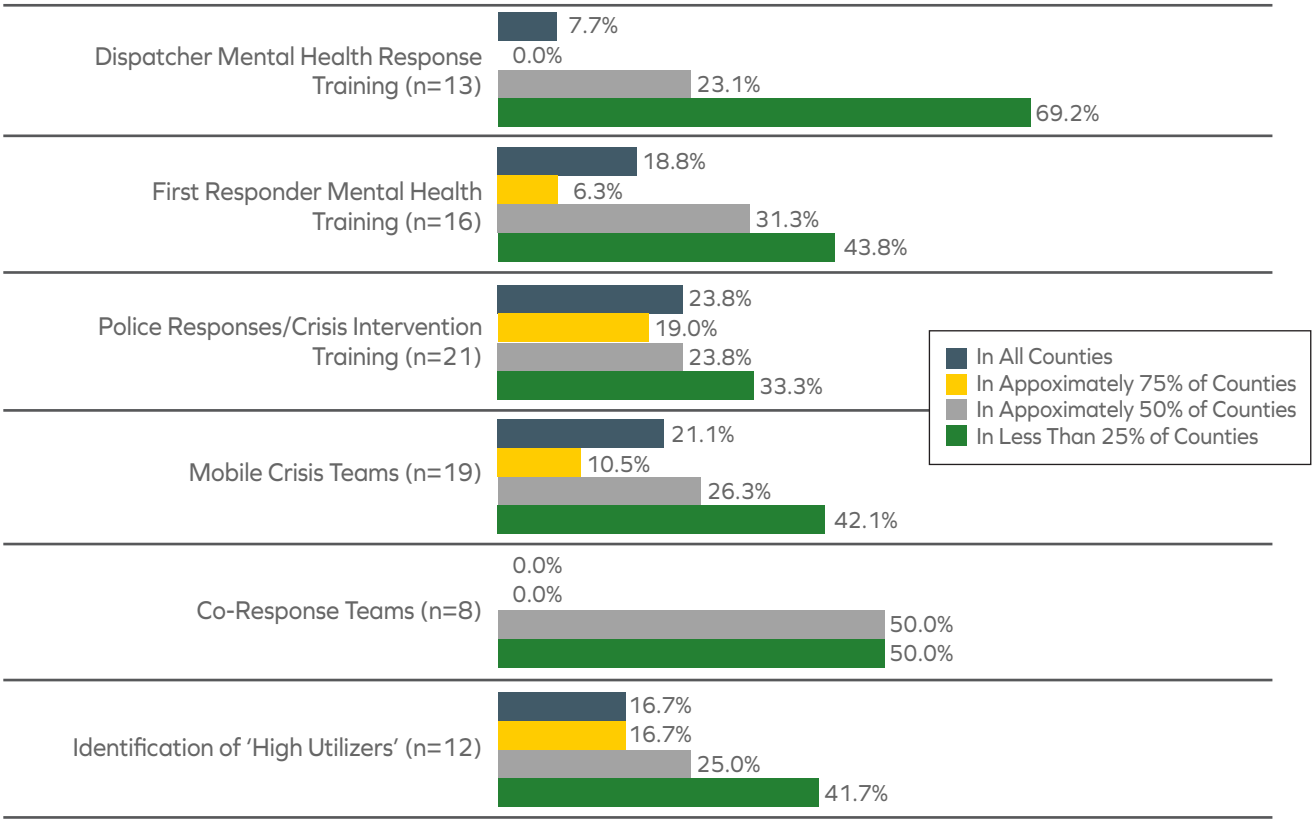


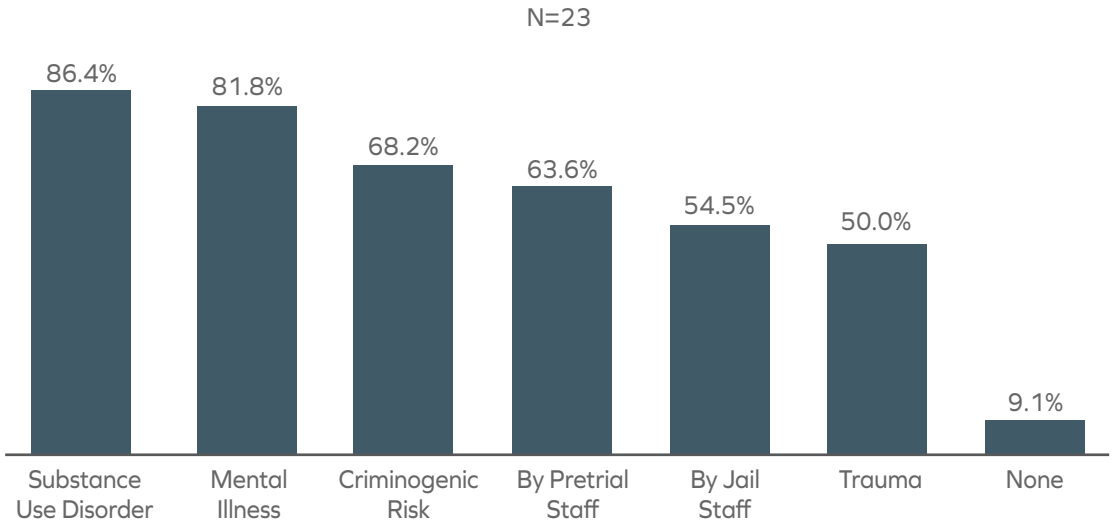
Figure 8: Percentage of Counties with the Available Crisis Service and Supports



4. Pre-Adjudication Diversion Availability

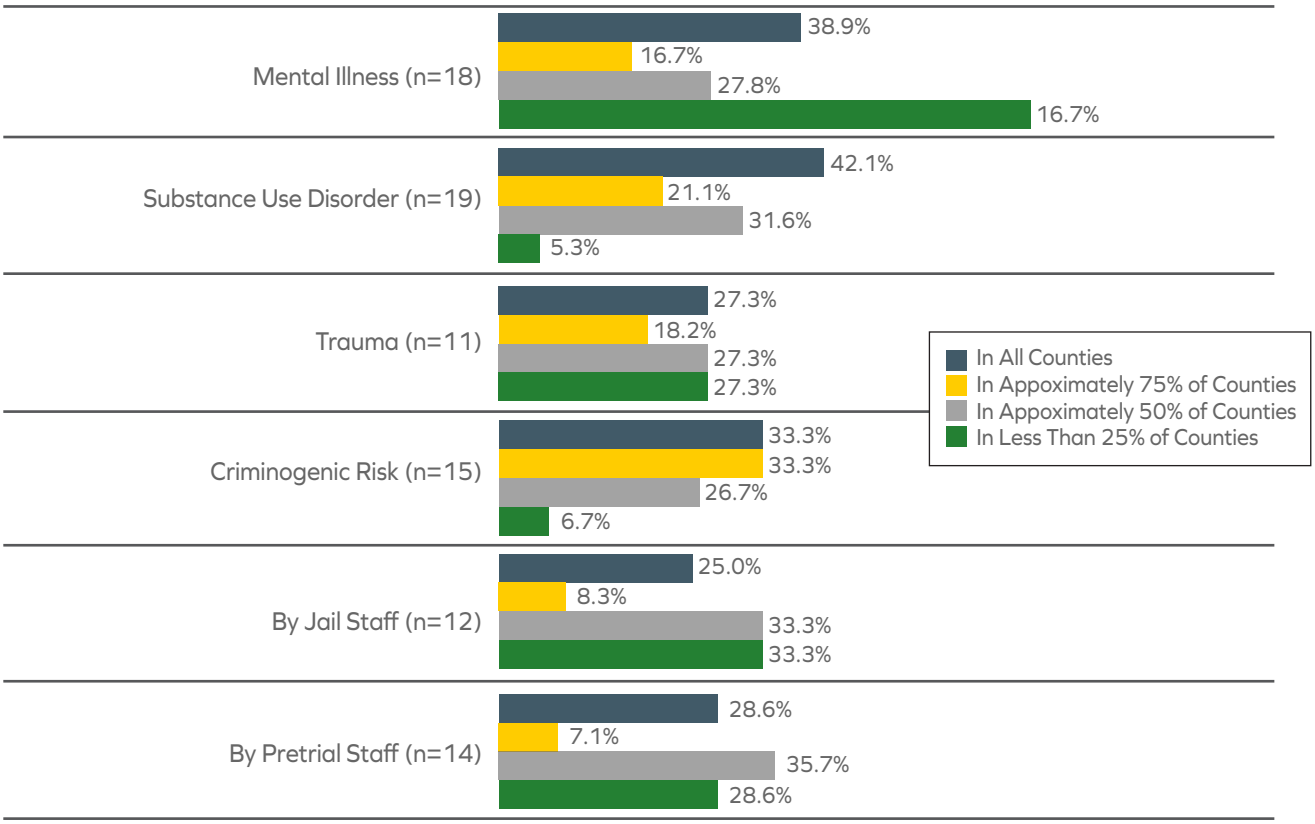
Respondents were asked what pre-adjudication screening and assessment they do, and at what point (pretrial or in the jail).

Figure 9: Availability of Pre-Adjudication Diversion Screening



Respondents also indicated the percentage of counties in which these pre-adjudication screenings are done.

Figure 10: Availability of Pre-Adjudication Diversion Programs



Respondents noted what pre-adjudication diversion programs are available in their state.

Figure 11: Pre-Adjudication Diversion Program Availability

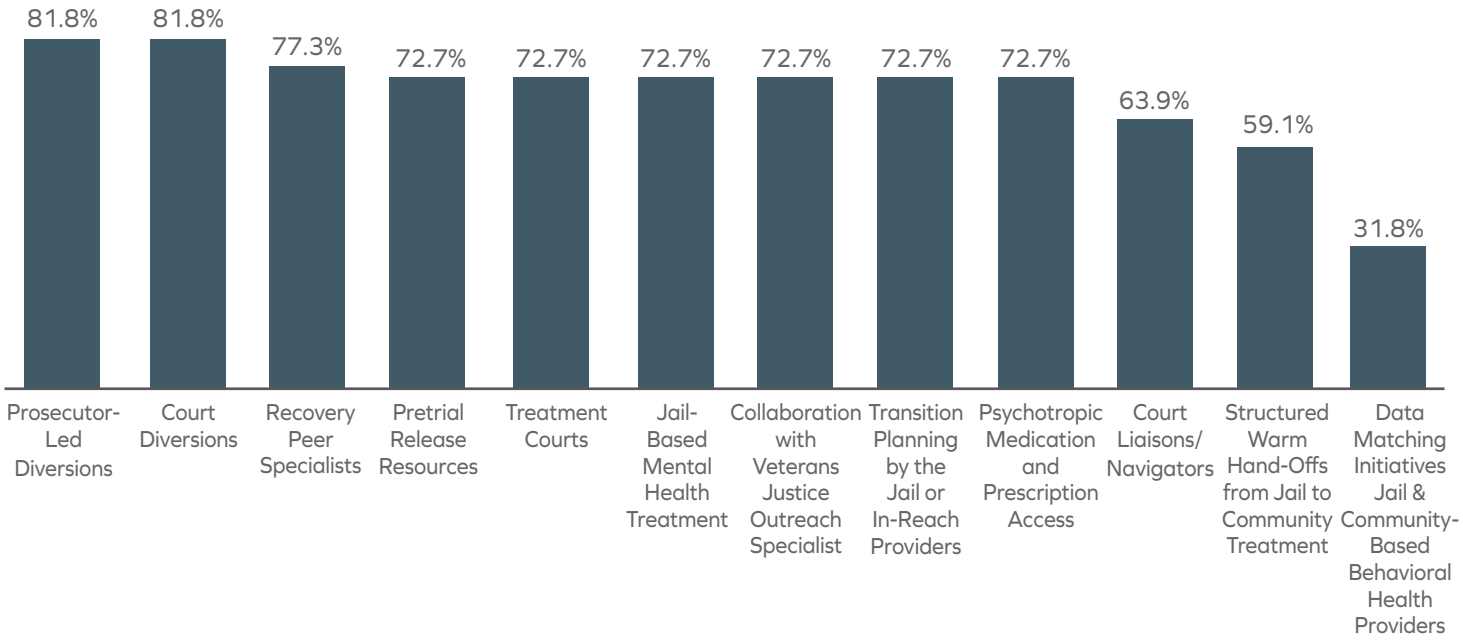
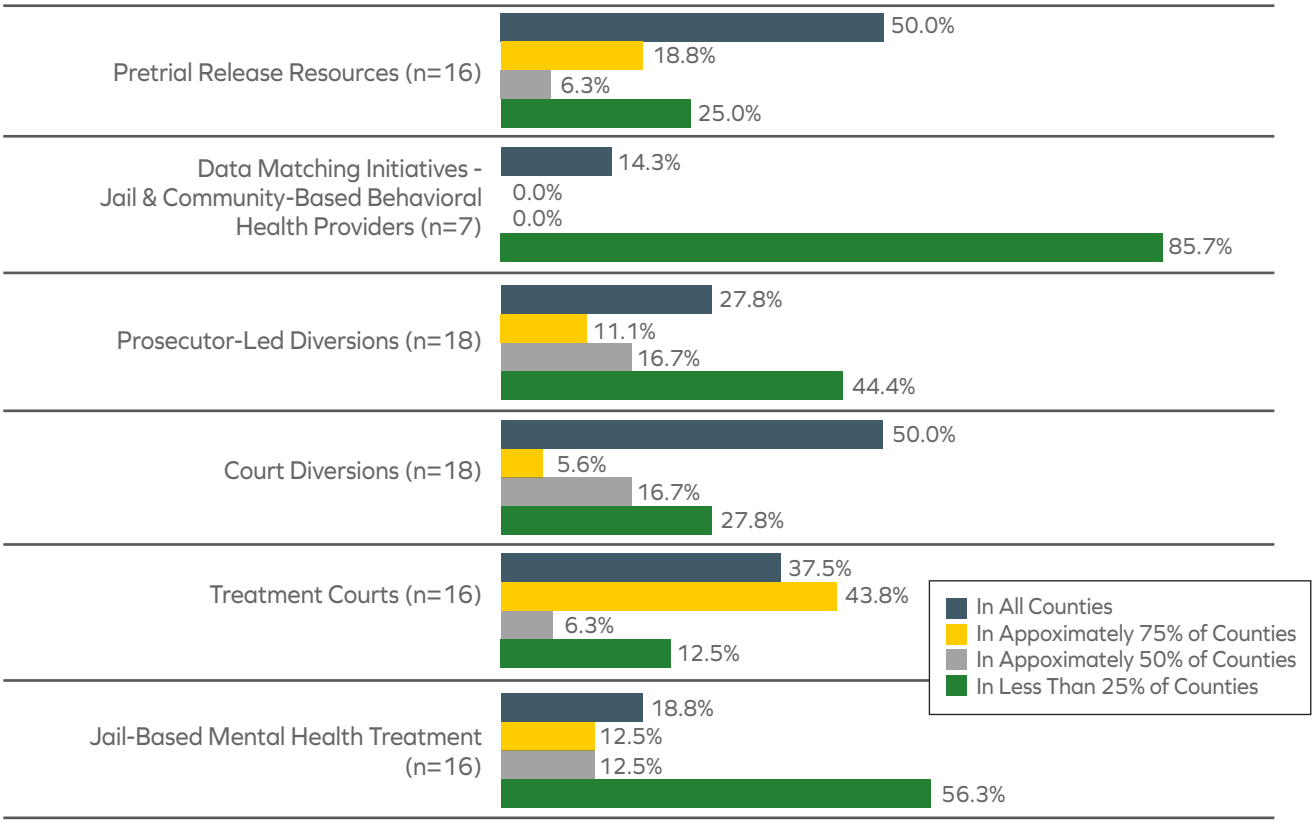
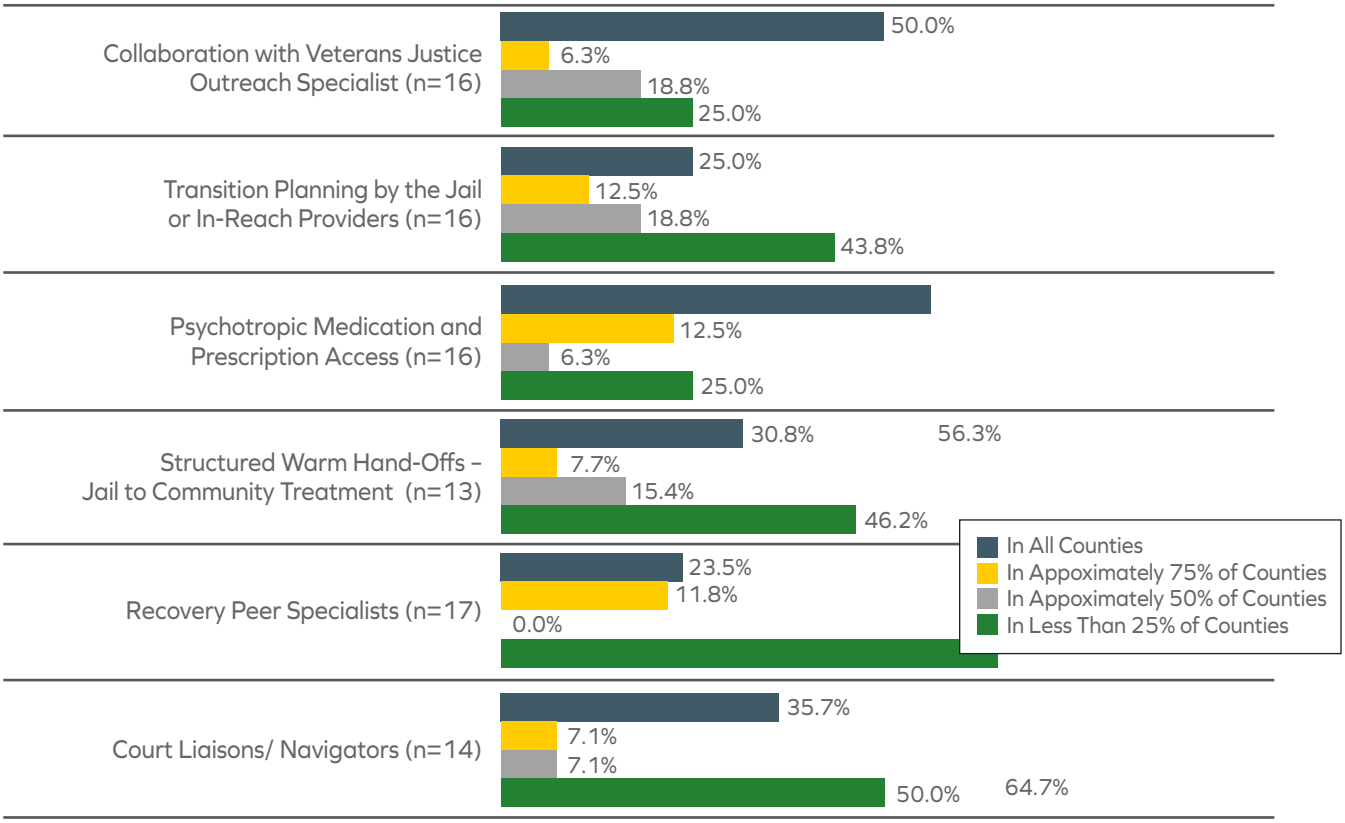


Figure 12: Percentage of Counties with Pre-Adjudication Diversion Programs

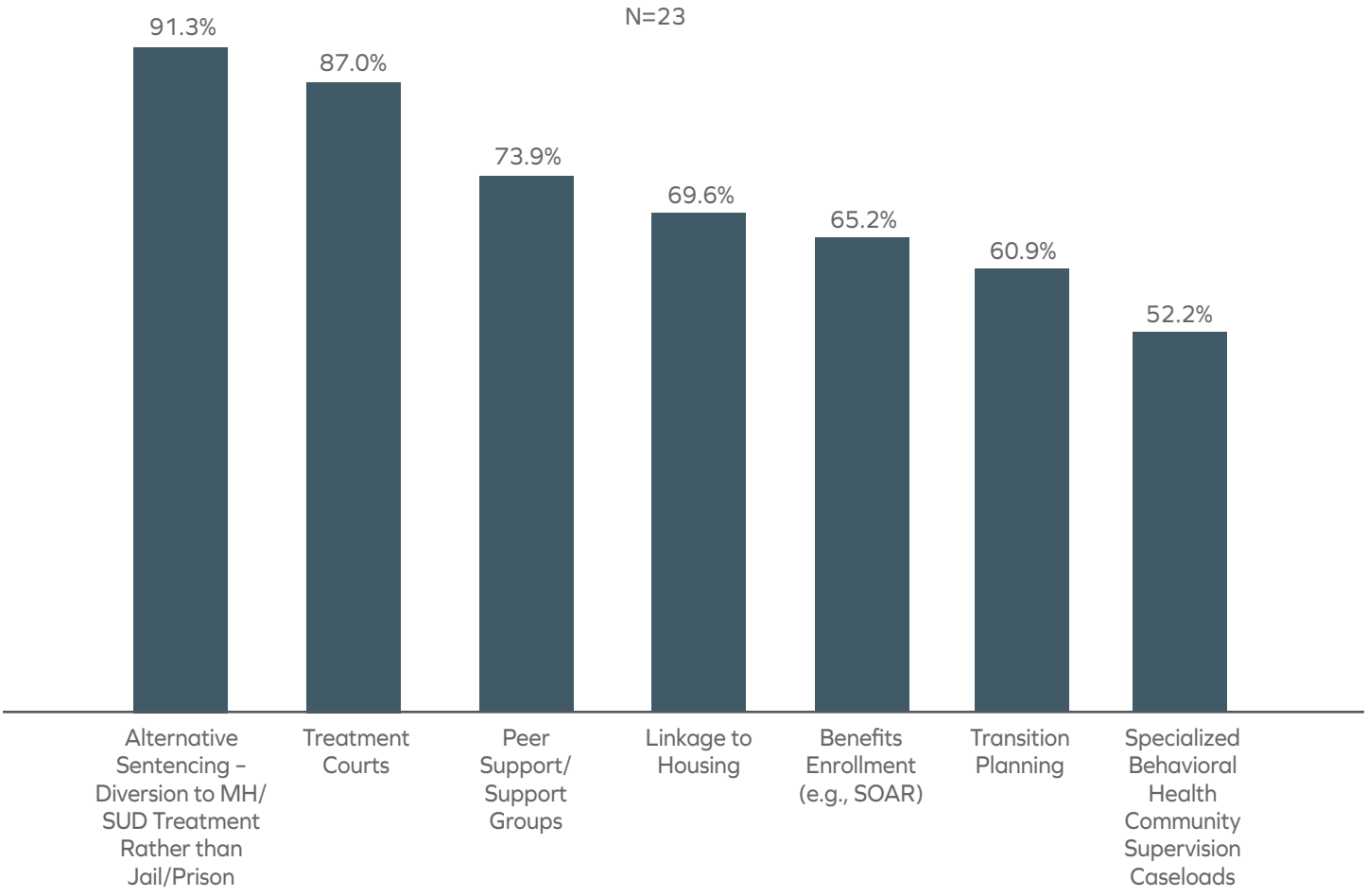



Collaboration with Veterans Justice Outreach Specialist (n=16)
50.0%
6.3%
18.8%
25.0%
Transition Planning by the Jail or In-Reach Providers (n=16)
25.0%
12.5%
18.8%
43.8%
Psychotropic Medication and Prescription Access (n=16)
12.5%
6.3%
25.0%
Structured Warm Hand-Offs – Jail to Community Treatment (n=13)
30.8%
56.3%
7.7%
15.4%
46.2%
Recovery Peer Specialists (n=17)
23.5%
11.8%
0.0%
Court Liaisons/ Navigators (n=14)
35.7%
7.1%
7.1%
50.0%
64.7%
In All Counties
In Appoximately 75% of Counties
In Appoximately 50% of Counties
In Less Than 25% of Counties

5. Post-Adjudication Diversion Availability

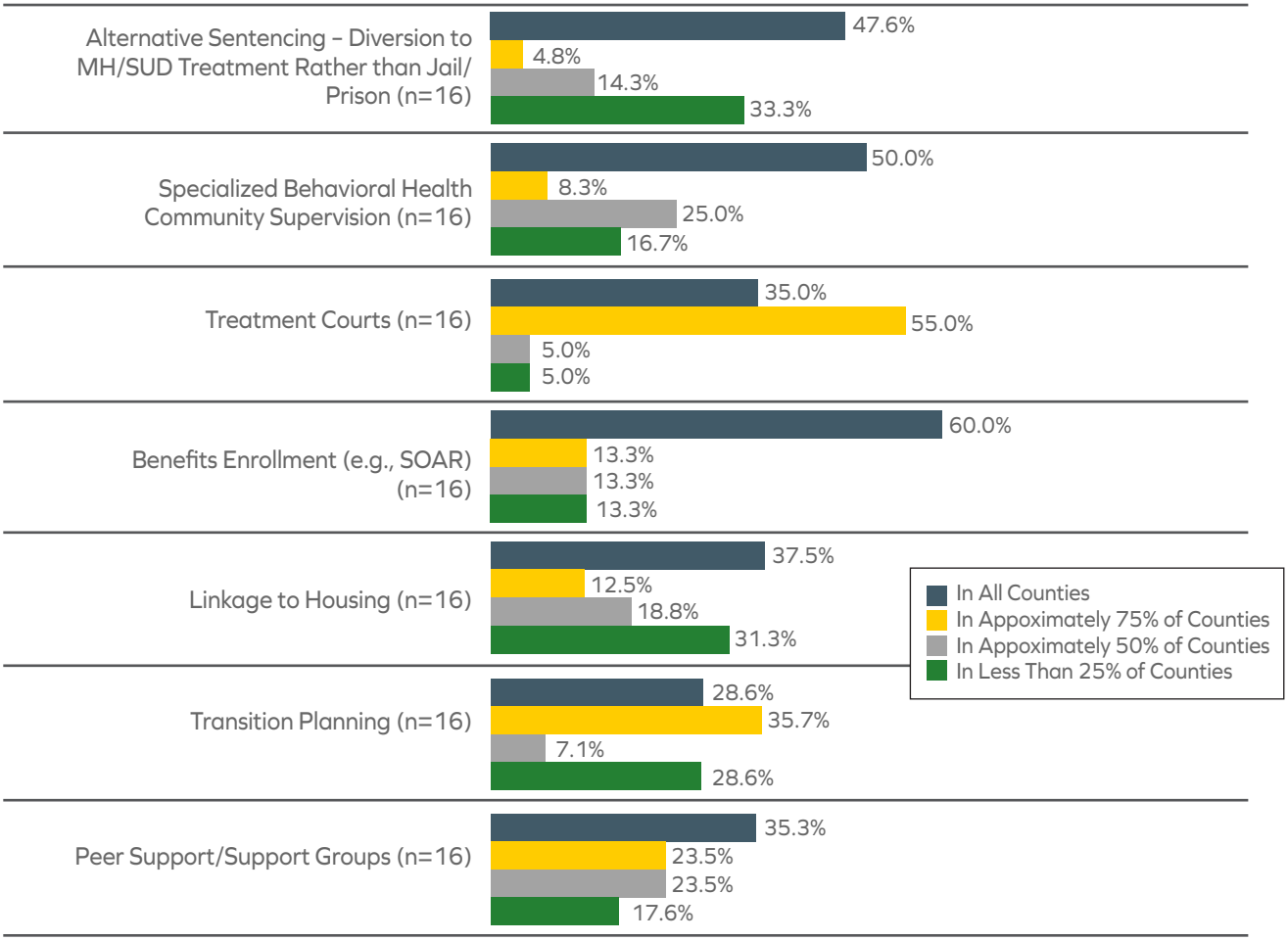
Participants were asked to identify post-adjudication diversion programs in their state, and how prevalent they are in their counties.

Figure 13: Availability of Post-Adjudication Diversion Programs



Respondents also indicated the percentage of counties in which these pre-adjudication screenings are done.

Figure 14: Percentages of Counties with Post-Adjudication Diversion Programs



ACKNOWLEDGMENTS

Task Force Members

Hon. Chief Justice Paula Carey
Hon. Nan Waller
Terrance Cheung
Tim DeWeese
Walter Thompson
Jerry Clayton

Liaison Members

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Justin Bingham
Susan Marcus

ENDNOTES

1. Treatment Advocacy Treatment Center, Serious Mental Illness (SMI) Prevalence in Jails and Prisons, https://www.treatmentadvocacycenter.org/storage/documents/backgrounders/smi-in-jails-and-prisons.pdf
2. Recovery First Treatment Center, Drug Addiction in Prison, https://recoveryfirst.org/blog/drug-addiction-in-prison/
3. National Center for State Courts, Leading Change: Improving the Court and Community's Response to Mental Health and Co-Occurring Disorders, https://www.ncsc.org/__data/assets/pdf_file/0024/36492/Leading_Change_Guide_Final_4.27.20.pdf
4. Policy Research Associates, Inc., Sequential Intercept Model, https://www.prainc.com/sim/
5. Behavioral Health Resource Hub, https://mhbb.azurewebsites.net/
6. National Association of State Mental Health Program Directors, Crisis Services: Meeting Needs, Saving Lives, https://www.nasmhpd.org/sites/default/files/2020paper1.pdf