

Bureau of Justice Assistance (BJA)
Comprehensive Opioid, Stimulant, and Substance Abuse Program (COSSAP)
Jail Diversion Models: Part I

Mental health and substance use disorders are overrepresented, and undertreated, in the criminal justice system. This has prompted widespread responses in the past several decades, particularly in the formation of interventions to divert adults with serious mental illness (SMI), substance use disorders (SUDs), or co-occurring disorders (CODs) into appropriate, evidence-based community care. Hundreds of diversion programs to address the needs of justice-involved adults with mental health and substance use disorders have proliferated across the United States, and jurisdictions can have trouble parsing the many options available to them. This first article of a two-part series will provide an overview of these programs, including information about



when people may be introduced to them, how they work, and what resources are available to programs interested in beginning or modifying a diversion system. The second article will highlight specific challenges and best practices from case studies across various settings.

Mental and Behavioral Health in the Criminal Justice System

Adults with mental, substance use, and co-occurring disorders are substantially overrepresented in the criminal justice system. In 2019, past-year SUDs were reported by 7.7 percent of adults in the United States, and co-occurring SUDs and SMIs by 1.4 percent.¹ In contrast, in 2010 an estimated 65 percent of inmates in the U.S. prison population had an active SUD,^{2;3} and in 2020 an estimated 12 percent of males and 24 percent of females in the criminal justice system had CODs.^{4;5} Justice-involved adults with SMIs, SUDs, or CODs are at high risk of various adverse outcomes—including homelessness, violence, victimization, hospitalization, and rearrest.^{6;7;8}

Despite the significant treatment needs of this vulnerable population, jail-based barriers often prevent adequate provision and continuity of care.

For example, a recent National Academy of Sciences report showed that in jail and prison settings, only five percent of people with opioid use disorders receive medication treatment.⁹ The insufficient capacity of jails to provide adequate behavioral health treatment during incarceration is due, in part, to a lack of resources or—frequently—short or variable lengths of stay that hamper treatment delivery. This situation is exacerbated by limited coordination with community care providers upon release, resulting in critical gaps in continuity of care.¹⁰

Jail Diversion Models

The purpose of the jail diversion model is to circumvent the revolving doors of the criminal justice and mental health systems by **identifying and diverting adults with SMIs, SUDs, and CODs to evidence-based treatment and supports in the community.** The diversion process may be initiated at varying points in the criminal justice system, termed “exit points” by the Prison Policy Initiative.¹¹ In this section, we highlight three such exit points—pre-arrest, pre-charges, and pre-sentencing stages—and provide relevant examples and resources. In 2020, nearly two-thirds of COSSAP grantees reported that they had conducted activities in these three areas.

Pre-Arrest

Pre-arrest diversion programs provide a means for behavioral health treatment and service providers to collaborate with law enforcement agencies to divert people experiencing behavioral health crises into treatment and services at the time of an encounter with a law enforcement officer, as an alternative to arrest. Encounters with first responders, including law enforcement officers, often occur during a crisis, such as criminal violations driven by SMIs, SUDs, both, or by an overdose. A pre-arrest diversion program provides one or more pathways to first responder diversion, which can be broadly categorized into police-based

specialized response, mental health-based specialized response, or co-response programs.

Police-based specialized response programs are intended to facilitate diversion by law enforcement officers at the time of the encounter. Examples include crisis intervention teams (CITs), in which police officers are provided specialized training to recognize and respond to someone experiencing a mental illness crisis and law enforcement-assisted diversion (LEAD), which entails a collaborative agreement between law enforcement agencies, behavioral health providers, prosecutors, and community partners to redirect people with SMIs, SUDs, or CODs to community-based services.

Mental health-based specialized response programs primarily comprise mobile emergency response services, such as mobile crisis teams, assigned to ensure that trained providers are part of the first response. These teams are typically managed by community organizations rather than by law enforcement agencies, but they still involve communication between groups. For example, 911 dispatchers may be trained to triage emergency calls and direct cases to mobile crisis teams, or officers may be trained to call the mobile unit when appropriate.

Co-responder programs involve partnerships between law enforcement agencies and behavioral health providers, such that clinicians and law enforcement officers respond together in appropriate cases. Examples of these programs include law enforcement and behavioral health partnerships for early diversion (Early Diversion) and mental health investigative support teams.

Pre-Charges

The next opportunity to divert people to treatment programs comes after someone has been arrested but before charges are filed. During this period, the offender may be taken into custody and to jail, where

their SMI and SUD needs are acknowledged. At that point, instead of being booked, the offender is diverted to a pre-charge program at a separate facility, where he or she may be required to begin or complete a treatment program. If the program is successfully completed, no charges are filed, and the person avoids a criminal record.

Post-Charges

The final opportunity for diversion arises after charges are filed but before the offender is sentenced to incarceration. Post-charge jail diversion programs may be jail-based, court-based, or part of a specialty court program.

Jail-based post-booking diversion primarily relies on specialized staff members at the jail to assess detainees to identify those eligible for treatment. Diversion into a program at this point is also more complicated and requires consent of the prosecutor, defense lawyer, and judge. These programs may be similar to pre-charge programs; however, even if the program is completed and charges are dismissed, a record of the incident remains. The consequences of an arrest record can be grave, including difficulty getting a job and a reduction in lifetime earnings.¹²

Court-based post-booking diversion is conducted by mental health clinicians based in the courthouse. These clinicians conduct assessments and work with the prosecutor, defense lawyer, and judge to release the client on probation or to suspend charges on the condition of engaging the client in community-based treatment.

Specialty court programs, such as mental health, veterans, drug, or DUI court, have a dedicated docket of cases involving court staff trained in working with adults with SMIs, SUDs, or CODs and in linking people to appropriate treatment and supports. Enrollment is voluntary but frequently chosen by the accused in exchange for a reduced or dismissed charge. Frequent

status hearings are conducted as a condition of the court. Specialty courts vary widely in their practices and procedures, from eligibility (e.g., which charges are accepted) to use of sanctions. Some jurisdictions offer separate recovery courts—for example, drug treatment courts for families, adults, and youth, or mental health court. Some drug court programs are designed for offenders in the pretrial stage and others for those who have been convicted. Some jurisdictions may offer only one type of program; others make several available.

Suggested Resources

Pre-Trial

- ◀ Police-based specialized response:
 - The National Alliance on Mental Illness provides an overview of Crisis Intervention Team Programs: [https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-\(CIT\)-Programs](https://www.nami.org/Advocacy/Crisis-Intervention/Crisis-Intervention-Team-(CIT)-Programs).
 - The Police-Mental Health Collaboration (PMHC) Toolkit (<https://bja.ojp.gov/program/pmhc/learning>) explains the benefits of collaboration, which include improved safety, increased access to behavioral health care, decreased repeat encounters with the criminal justice system, reduced costs, and improved community relations. Additional resources are provided for each topic.
- ◀ In the area of mental health-based specialized response programs, The Justice Center offers a brief on successfully implementing a mobile crisis team: https://csgjusticecenter.org/wp-content/uploads/2021/04/Field-Notes_Mobile-Crisis-Team_508FINAL34.pdf.
- ◀ Among co-responder programs, the TASC Center for Health and Justice has created Pathways to Diversion. For an overview, see https://www.cossapresources.org/Content/Documents/BriefingSheets/BJA_COAP_Law_Enforcement_First_

[Responder_Diversion.pdf](#).¹³ Briefs focused on [Self-Referral](#), [Naloxone Plus](#), and [Officer Intervention](#) detail how the pathway works and what critical elements to consider when designing programs along the pathway, as well as a case study.

Pre-Charges

The Behavioral Care Center Davidson County, Nashville, Tennessee, is a short-term residential treatment facility attached to the jail: <https://sheriff.nashville.gov/behavioral-care-center-bcc/>

Specialty Court Programs

- ◀ The National Drug Court Resource Center website provides many resources for implementing drug courts and grant solicitations: <https://ndcrc.org/what-are-drug-courts/>
- ◀ The Bureau of Justice Assistance (BJA) and National Institute of Justice (NIJ) collaborated to identify seven program design features of effective drug court programs:¹⁴ <https://www.ojp.gov/pdffiles1/nij/248701.pdf>

Next Steps

COSSAP supports implementation or enhancement of jail diversion models among grantees to promote public safety and increase treatment access. However, even with an understanding of various program models, the process of turning an idea into reality can

be overwhelming. A variety of resources and trainings are available to facilitate this process. For example, the Sequential Intercept Model (SIM) provides a framework for interactions between the criminal justice system and service providers.¹⁵ The SIM defines six “intercepts” (starting with 0; Figure 1).

These intercepts are similar to the “exit points” described by the Prison Policy Initiative. The SIM can help you conceptualize where diversion programs may be integrated into your local justice system. Use it as a mapping tool to visualize and develop a local strategic plan to divert adults with SMI, SUD, and COD into treatment programs.

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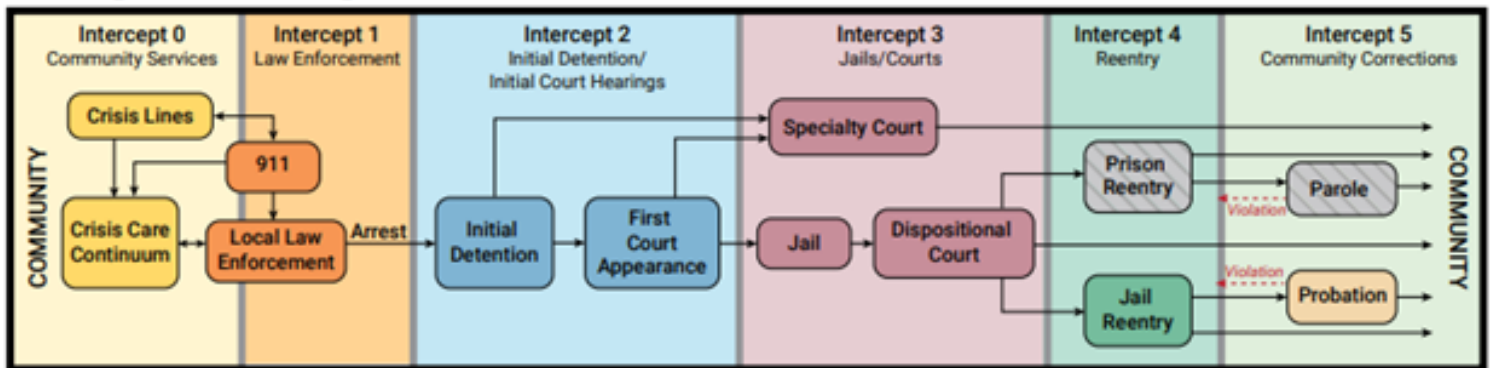


Figure 1. Sequential Intercept Model

Source: Policy Research Associates, <https://www.prainc.com/wp-content/uploads/2018/06/PRA-SIM-Letter-Paper-2018.pdf>

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