



NEW MEXICO
Sentencing
Commission

Competency Evaluations and Behavioral Health in New Mexico

Presented by:

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&

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Welcome!

Outline for today's presentation:

Introduction

- 1) Angelica Gurule
 - Competency Assessments Results for FY 2019
- 2) Scott Patterson
 - Behavioral Health in New Mexico
- 3) Examples of National Institute of Justice rated Mental Health Programs

Discussion and Questions



• Mental Illness and Competency

- Competency:

- Is whether a defendant understands the nature and significance of the proceedings, has factual understanding of charges and is able to assist defense counsel in ¹

- Incompetency is distinct from insanity

- Insanity is a defendant's mental state at the time the offense was committed¹

- Due process requires incompetent defendant to be treated differently¹

Competency Assessment Results for FY 2019

Examine competency process and identify significant differences:

- Custody status, competency finding, judicial district, type of case and demographic variables
- Implementation of new rules

Methods:

- Data provided by NM Behavioral Health Collaboratives database
- 1,528 evaluations. 1,418 individuals represented
- Cross referenced data provided by the Judicial Division of the Supreme Court

Findings

Median Length of Time Between Each Dated Events

- Custody status and Competency finding (In custody 105.5 vs 45 and out of custody 130 vs 39)

Competency Evaluation and Determination of Competency by Judicial District

- Varied across districts
- Times for those out of custody was generally longer

Competency Findings by Judicial District

- Most judicial districts found majority of defendants incompetent

Table 2. Median Number of Days between Order for Competency Evaluation to Competency Report by Judicial Districts, Custody Status, and Competency Finding

District (Total cases)	Median	In Custody		Out of Custody	
		Competent	Not Competent	Competent	Not Competent
1st District (117)	43	56	39.5	39.5	35.5
2nd District (408)	75	51	52	43.5	34
3rd District (138)	64	52	58.5	70	69
4th District (56)	45	45	37	45	51
5th District (228)	73	53	75	57.5	82
6th District (33)	51	97	61	99	40
7th District (51)	41.5	44	22	46.5	57.5
8th District (45)	81	83	62	128	36.5
9th District (41)	42.5	38.5	33	65.5	56
10th District (15)	37	50	23	38	32
11th District (168)	48.5	33.5	49.5	57	47
12th District (38)	40	45.5	29.5	48	43.5
13th District (80)	60.5	74	49	84	93
Metro (229)	28	19	23.5	33.5	31

Findings

Rule Change

- Decreased number of days from order to report after rule change
- No evidence the percentage of individuals in custody or percentage found competent changed after rule

Competency

- No evidence Custody status or gender affect competency finding
- Majority of individuals were found not competent

Competency and Type of Case

- Over 60% of the evaluations were felony cases
- Defendants with misdemeanor cases were more likely to be found incompetent

Race and Competency

- Race unknown in 25.5% of cases
- Both Native Americans and African Americans were more likely to be found not competent

Findings

Competency and Age

- Defendants 35-44 were more likely to be found not competent
- Highest age range for competency request 25-34

Competency and Prior Assessments

- Defendants 25-34 were more likely to have a prior evaluation
- Defendants with prior assessment were more likely to be found not competent

Competency and Medical Record

- Custody Status did not affect whether medical records were reviewed

Competency and Psychiatric Diagnosis

- Only 6% of Defendants had no psychiatric diagnosis
- Defendants with psychotic or neuro disorders were more likely to be found not competent

Our Guest,

Scott J. Patterson, MA, LPCC, LADAC

Scott is the Statewide Behavioral Health Manager for the New Mexico Administrative Office of the Courts. His work focuses on modeling and supporting best practices for anyone involved in the criminal justice system with a goal of improving outcomes by increasing trauma-informed and trauma-responsive engagement. Scott is currently involved in multiple initiatives aimed at improving outcomes for justice-involved individuals to include providing a deeper understanding of the Sequential Intercept Model framework to teams in all 33 counties, addressing gaps in treatment connections for individuals with competency related issues and providing behavioral health support for treatment court programs statewide. Scott is licensed as an LPCC and LADAC and has worked in the behavioral health field in New Mexico for the past 20 years.



• What is Health

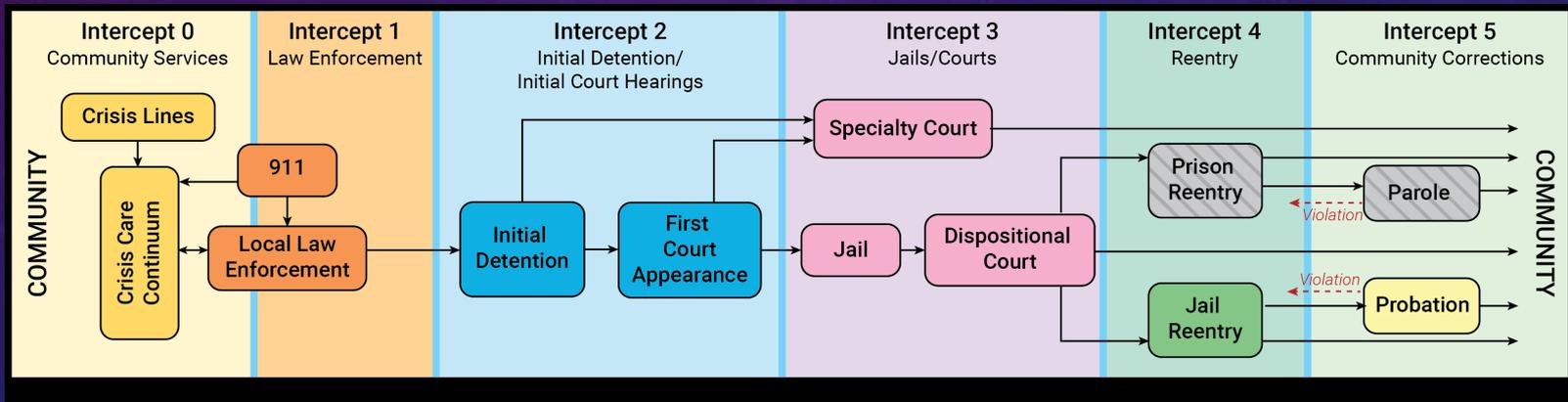
- The state of being free from illness or injury. – Oxford English Dictionary
- Complete physical, mental and social well-being and not merely the absence of disease or infirmity. – World Health Organization
- A state of balance, an equilibrium that an individual has established within her/himself and between her/himself and her/his social and physical environment. – Norman Sartorius
- The promotion of mental health, resilience and wellbeing - SAMHSA



- **What is Trauma**

- Individual trauma results from an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or life threatening and that has lasting adverse effects on the individual's functioning and mental, physical, social, emotional, or spiritual well-being. - SAMHSA

SEQUENTIAL INTERCEPT MODEL





SEQUENTIAL INTERCEPT MODEL

- Community-Based Solutions
- Cross-System Collaboration
- Reduced CJ Involvement for Individuals with MI & SA
- Community Mapping Framework

SIM BEST PRACTICES

Intercept 0

- Mobile Crisis Outreach Teams & Co-Responders
- Emergency Department Diversion
- Police Friendly Crisis Services

Intercept 1

- Dispatcher Training
- Specialized Police Responses
- High-Utilizer Specific Intervention & Follow-up



SIM BEST PRACTICES

Intercept 2

- Screening for Mental Health and Substance Use Disorders
- Data Matching Initiatives Between the Jail and Community-Based Behavioral Health Providers
- Pretrial Supervision and Diversion Services to Reduce Episodes of Incarceration

Intercept 3

- Treatment Courts for High-Risk/High-Need Individuals
- Jail-Based Programming and Health Care Services
- Collaboration with the Veterans Justice Outreach (VJO) Specialist from the Veterans Health Administration



SIM BEST PRACTICES

Intercept 4

- Transition Planning by the Jail or In-Reach Providers
- Medication and Prescription Access Upon Release from Jail or Prison
- Warm Hand-Offs from Corrections to Providers Increases Engagement in Services

Intercept 5

- Specialized Community Supervision Caseloads of People with Mental Health Disorders
- Medication-Assisted Treatment for Substance Use Disorders
- Access to Recovery Supports, Benefits, Housing and Competitive Employment



Treatment Courts

- Developed in response to the over representation of people with mental illness and substance abuse issues in the criminal justice system
- Treatment courts divert select individuals with mental illness into judicially supervised, community-based treatment
- Those who agree to the terms and conditions of community-based supervision, a team of court staff, social services, and mental health professionals works together to develop treatment plans and supervise participants in the community
- Approximately 54 Treatment Courts currently in operation throughout the state



Treatment Court Types

- Adult Drug Court – A treatment based program for adults charged with certain felony crimes and facing criminal prosecution
- DWI Drug Court – A distinct post-conviction court program dedicated to assisting participants in changing the behavior that resulted in a Driving While Impaired (DWI) arrest
- Family Dependency Court – A juvenile or family court aimed at aiding parents in providing safe, nurturing and permanent homes for children while simultaneously providing parents with support and services to become abstinent from drugs and alcohol
- Juvenile Drug Court – A treatment based program for juveniles identified as having problems with alcohol and/or drugs



Treatment Court Types - Continued

- Juvenile Drug Court – A treatment based program for juveniles identified as having problems with alcohol and/or drugs
- Mental Health or Treatment Court - A treatment based program similar to Adult Drug Court that seeks to divert select defendants with mental illness into judicially supervised, community based treatment
- Veterans Treatment Court – A treatment based program similar to Adult Drug Court that seeks to divert select veteran defendants with mental illness or substance misuse issues into judicially supervised, community based treatment



Competency Pilot Projects

- *Second Judicial District Competency Pilot Project*

- Reduction in backlog of competency cases
- Utilizes Post-Doctoral Fellows and mid-level practitioners
- Cross system education component

- *Metro Forensic Navigation Pilot Project*

- Connection to services
- Collaboration among cross-system partners
- Reduction of system involvement through engagement to appropriate services



BEHAVIORAL HEALTH SUMMIT

- Summit on Improving the Court and Community Response to Those with Mental Illness in New Mexico
 - October 27, 2021 through October 29, 2020
 - Pre-Summit Webinar on Competency – June 22, 2021
 - Pre-Summit Webinar on SIM 4-5 – September 15, 2021

Questions

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Some of the National Institute of Justice rated Mental Health programs:

Program Profile: Mental Health Services Continuum Program (Calif.)⁴

- The Mental Health Services Continuum Program was designed to reduce the symptoms of mental illness among parolees, by providing timely, cost-effective mental health services that enhance parolees' level of individual functioning in the community.
- The overall goal is to reduce recidivism of mentally ill parolees and improve public safety.

Mentally Ill Offender Community Transition Program (Washington)⁵

- Program is targeted at individuals whose mental illnesses are seen as instrumental in their offenses, and who are likely to qualify for and benefit from publicly supported treatment in the community.
- Overall goal is to reduce recidivism for these individuals.

Program Profile: Modified Therapeutic Community for Offenders with Mental Illness and Chemical Abuse (MICA) Disorders⁶

- This program is an adaptation of the therapeutic community models used with offenders who have co-occurring drug abuse problems and mental health disorders.
- It offers a more flexible, more personalized, and less intense approach to achieve greater reductions in substance use and recidivism.

Program Profile: Offender Reentry Community Safety Program⁷

- The Offender Reentry Community Safety (ORCS) Program, formerly called the Dangerous Mentally Ill Offender Program, provides up to 5 years of reentry planning and services to mentally ill offenders released from prisons in Washington State.

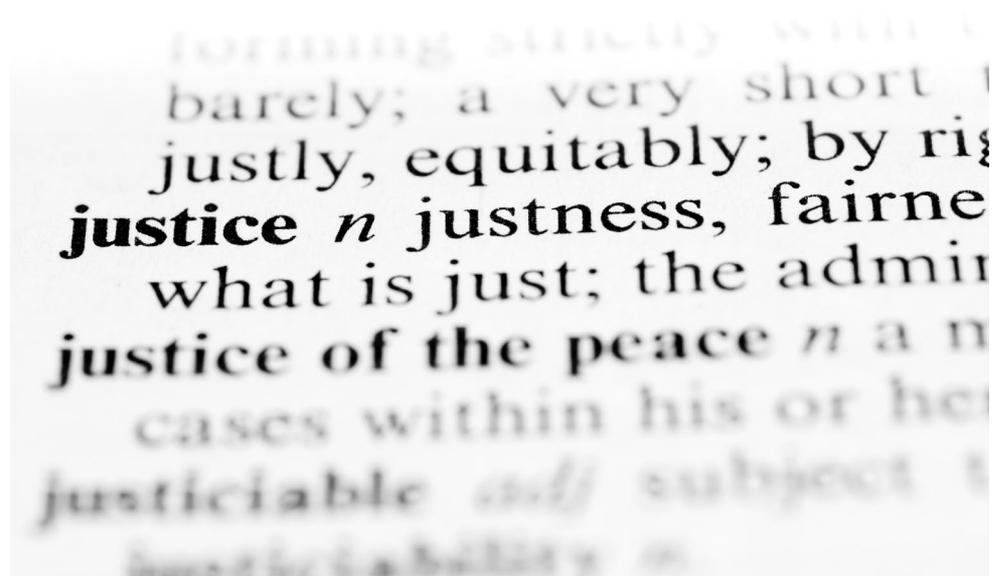
Thank you!

Questions?

If you have not already, please enter any questions into the Q&A box.

Please register for our next webinar on June 23:
The lessons learned and opportunities from the COVID-19 pandemic and the criminal justice sector

<https://nmsc.unm.edu/nmsc-education-series-webinars.html>



Citations

1. *2019 New Mexico Statutes :: Chapter 31 - Criminal Procedure :: Article 9 - Mental Illness and Competency :: Section 31-9-1 - Determination of competency; raising the issue.* Justia Law. (2019). <https://law.justia.com/codes/new-mexico/2019/chapter-31/article-9/section-31-9-1/>.
2. Competency Assessment Results For FY 2019. (2020, August). Retrieved from <https://nmsc.unm.edu/reports/2020/nm-competency-assessment-results-fy19.pdf>
3. Problem Solving Courts: Mental Health or “Treatment” Court. (2005). Retrieved from <https://treatmentcourts.nmcourts.gov/program-types/>
4. Program Profile: Mental Health Services Continuum Program (Calif.). (2016, January 26). Retrieved from <https://crimesolutions.ojp.gov/>
5. Program Profile: Mentally Ill Offender Community Transition Program (Washington). (2017, September 25). Retrieved from <https://crimesolutions.ojp.gov/ratedprograms/567#ar>
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7. Program Profile: Offender Reentry Community Safety Program. (2016, November 16). Retrieved from <https://crimesolutions.ojp.gov/ratedprograms/438>