

## **CBHC BOARD POSITION STATEMENT 10.0:**

### *Criminal Justice System Transformation*

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#### **Position Statement**

Colorado must commit to criminal justice systems reform that leverages collaboration with behavioral health systems to divert individuals living with mental health and substance use disorders into treatment and out of the justice system as early as possible.

#### **Background**

On any given day, there are approximately **10,000 adult inmates in Colorado jails**, with an estimated **minimum of 35% suffering from a serious and persistent mental health disorder** (CHI, 2016). Nationally, **53% of inmates in state prisons and 68% of individuals in jails have a document substance use disorder** (SAMHSA, 2016). Criminal justice (CJ) systems across the nation are facing common difficulties in managing record high numbers of individuals with mental health and substance use disorders. The crisis has been recognized nationally, and policy and legislative reform has occurred on multiple levels to address the issue. CBHC is dedicated to working on policy, legislation, and initiatives that help fill gaps in the system, leverage existing resources, and ensure individuals with mental health and substance use disorders have access to treatment, ending communities' reliance on CJ systems. CBHC uses the *GAINS Center Sequential Intercept Model* (Appendix A) as a guiding tool for developing partnerships with criminal justice system entities.

Due to gaps in resources, communities across Colorado are too often faced with challenges when placing and treating individuals who are experiencing mental health crises. Until recently, Colorado was one of only seven states in the nation that allow individuals on a mental health hold to be held in a jail or correctional facility without any criminal charges. Often, due to the over-reliance on peace officers to manage these encounters, individuals in crisis are at risk to penetrate the legal system, overburden the criminal justice system, and jeopardize their personal liberties. In 2017, CBHC was a leader in passing legislation that ends the practice of placing individuals in need of an M-1 hold in jails and correctional facilities as a first step towards decriminalizing mental illness in our state. This law goes into effect May of 2018.

CBHC is committed to shifting the management of behavioral health crises back to healthcare providers. Through this, we will begin to correct course and ensure that Colorado is expanding pathways to treatment services and preventing the funneling of individuals into the CJ system. By building on prevention and diversion efforts already ongoing across our membership, we can ensure that individuals are set on the right trajectory for recovery, with a clean legal record, and avoid the life-long burden of criminal justice involvement. Across every region of the state, and at every step of the Sequential Intercept Model, CBHC's members are treating high risk and justice-involved individuals and leveraging partnerships with local entities to address community-specific challenges.

As we continue our work in criminal justice system reform, we focus our efforts on policies and legislation that promote early intervention and diversion and ensure access to treatment prior to initial CJ contact.

## Policy Priorities

### 10.1 Prevention and Early Diversion

Throughout our work in criminal justice systems reform, we focus our efforts on policies and legislation that promote early intervention and diversion and ensure access to treatment prior to or during the first contact.

- ❖ CBHC supports policies that increase access to treatment and develop responsive community healthcare systems that support individuals as they build their own resiliency, as a means to avoid reliance on down-stream interventions such as in the criminal justice system.
  - Public education campaigns and collaborations to increase resilience in youth and adults, promote community wellness, and implement protective factors.
  - Collaboration between systems to increase access to care and treatment at early stages of identification.
- ❖ CBHC supports policies that increase first responder system preparedness to manage behavioral health crises, such as:
  - The promotion of Crisis Intervention Training (CIT), Mental Health First Aid (MHFA), and other training programs for first responders.
  - Co-location of behavioral health providers in first responder and dispatch systems.
  - Collaboration with Emergency Medical Services (EMS), fire department, transportation and other systems that commonly interact with the Severe and Persistent Mentally Ill (SPMI) and otherwise high-risk populations.
- ❖ CBHC supports policies that direct individuals away from charges, booking, and other CJ records. To that end, we support:
  - Promotion of collaborative co-responder programs that leverage joint ownership of operations by community providers and law enforcement.
  - Collaboration with the judicial system and jails to implement post-arrest diversion prior to the filing of charges.
  - Programs that focus on triage and diversion to treatment for high-risk or high-utilizer individuals, such as Law Enforcement Assisted Diversion (LEAD) models.

### 10.2 School-to-Prison Pipeline

To ensure positive outcomes for Colorado's youth, it is important that systems are equipped to promote psychosocial protective factors such as dedicated education, and appropriate discipline strategies.

- ❖ CBHC supports policies that modernize disciplinary strategies at early education centers such as:
  - Removal of expulsion as a disciplinary option for students up to the age of entry into middle school.
  - Promotion of alternative disciplinary strategies that leverage strengths, are responsive to a youth's unique needs and minimize stigma.
  - Training for educators and school systems on culturally-responsive discipline methods.

### 10.3 Juvenile Services

When youth in our communities fall through the cracks of our community systems and are in need of juvenile supervision and correction services, we focus on policies that prioritize rehabilitation, treatment, and restorative justice.

- ❖ CBHC supports treatment focused juvenile offender systems that prioritize education, rehabilitation, treatment, skills-development, and reintegration into community of choice.

## 10.4 No-Plea Problem Solving Courts

To ensure the best possible outcomes for individuals with behavioral health conditions, it is important to focus on Social Determinants of Health such as housing and employment. Criminal convictions and charges are a common, and often impassible, barrier to achieving recovery and community integration.

- ❖ CBHC does not support the requirement for a guilty-plea to participate in problem-solving, mental health, drug treatment, and other specialty courts.
  - Criminal records are a massive barrier to recovery for many individuals with behavioral health disorders, and should be avoided as appropriate.
  - Data suggests that most individuals in these systems are facing charges for minor crimes, and a criminal record may not be necessary for public safety.
- ❖ CBHC supports collaborative programming between judicial systems and community providers that leverages relationships between providers, district attorneys, public defenders, judges, and law enforcement.
  - Best practices indicate that co-location, co-ownership, and other strategies that promote every level of the organizations working collaboratively are effective in creating long lasting change and positive programs.

## 10.5 Outpatient Community-Based Restoration Services

Competency restoration services are most effective when provided in tandem with behavioral health treatment as necessary. A whole person approach to restoration should be prioritized.

- ❖ CBHC supports the promotion of outpatient community-based restoration services.
  - Judicial authority and education to prioritize outpatient restoration as appropriate.
  - Collaboration between criminal justice partners and community providers to ensure that outpatient services are, when possible, part of a whole-person treatment plan.
- ❖ CBHC does not support policies that increase the criminal justice systems reliance on competency to proceed.
  - Programs or initiatives that divert individuals with mental illnesses into treatment too late, or past the point where in competency has been raised and are not effective.
- ❖ CBHC supports the standardization of the competency restoration process in Colorado, both for outpatient and inpatient services.
  - Development of a state certification for competency restoration service providers.
  - Manualizing the intervention as appropriate, with room for clinical flexibility.

## 10.6 Behavioral Health Treatment in Correctional Facilities

For those individuals who live with a mental health or substance use disorder and have been found guilty of a crime warranting a correctional level of supervision, a rehabilitative approach should be prioritized.

- ❖ CBHC supports policies and funding mechanisms, such as the Jail Based Behavioral Services (JBBS) program, to leverage partnerships between community providers and criminal justice systems.
  - Reliance on partnerships for treatment to facilitate smooth connections to community providers, treatment, and supervision.
  - Leveraging of partnerships to maximize connection to coverage as appropriate (e.g.; Suspended Medicaid Status).
- ❖ CBHC supports prioritization of rehabilitative practices within correctional facilities such as:
  - Access to treatment, skill building groups, and release planning.

- Medication supervised by external psychiatrists, especially if administrated involuntarily.
- Minimal reliance on solitary confinement for individuals experiencing mental health crises.
- ❖ CBHC supports policies that leverage partnerships between criminal justice systems and community providers to increase efficacy and education.
  - Mental Health First Aid, and other educational initiatives, for correctional workforce.

## **10.7 Re-Entry Supports and Services**

In preparation for and during the process of release from correctional supervision it is critical that an individual's multi-faceted needs are met with a collaborative approach.

- ❖ CBHC supports policies that promote partnerships between community behavioral health providers and criminal justice systems to prepare for re-integration into community living.
  - Partnership with release planning teams within facilities to facilitate proactive appointments, care coordination, medication management, and other critical preparations.
  - Partner with community supervision to navigate Social Determinants of Health (e.g.; housing initiatives) that promote individual wellness and reduce risk of recidivism.

## **10.8 Community Corrections**

Community Corrections provides a setting for low-risk populations to receive supervision while engaging in community activities (e.g.; employment and family duties) and preparing for full re-integration. This level of care is most effective when collaboration with community behavioral health systems is in place.

- ❖ CBHC supports appropriate partnerships between community behavioral health and Community Corrections to facilitate care coordination and promote successful re-entry.
  - Collaboration between case management and care coordination teams across systems.
  - Formalized partnerships that leverage joint resources.

## **10.9 A Public Health Approach to Substance Use Disorders**

Individuals who are living with substance use disorders are at a greater risk of becoming involved in the justice system due to the criminalization of illicit substances. To promote an understanding of substance use disorders within the realm of healthcare, a public health approach and understanding is necessary.

- ❖ CBHC supports policies and legislation that decriminalize substance use disorders.
  - Appropriate examination of scheduling and sentencing regarding illicit substances.
  - Clear avenues for discretion or diversion for individuals, when substance use disorder is a primary factor in their criminal activity.

### **Effective Period**

The Colorado Behavioral Healthcare Council (CBHC) Board of Directors approved this policy on 01/18/2018. It is reviewed as required by the Public Policy Advisory Committee.

### **Policy Updated**

Updates to this policy position were approved by the CBHC Board of Directors on 01/18/2018.

**Expiration: 01/18/2020**

**Citations:**

Colorado Health Institute. Criminal Justice Population Presents Complex Challenges. Denver, Colorado, 2016.

Substance Abuse and Mental Health Services Administration. Guidelines for Successful Transition of People with Mental or Substance Use Disorders from Jail and Prison: Implementation Guide. (SMA)-16-4998. Rockville, MD: Substance Abuse and Mental Health Services Administration, 2017.

# APPENDIX A: GAINS Center Sequential Intercept Model.

## The Sequential Intercept Model

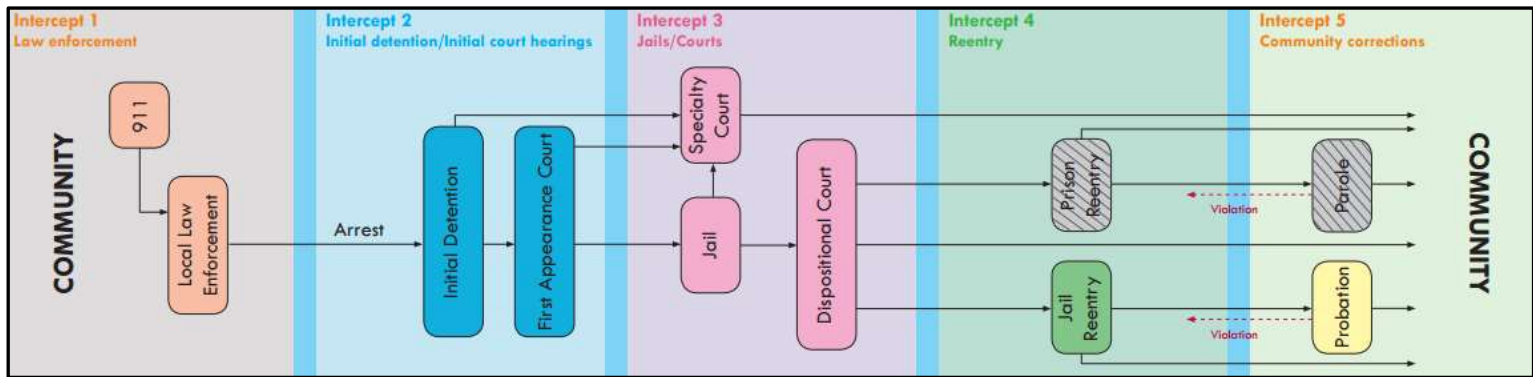
Developed by Mark R. Munetz, MD, and Patricia A. Griffin, PhD, in conjunction with the GAINS Center, the Sequential Intercept Model provides a conceptual framework for communities to organize targeted strategies for justice-involved individuals with behavioral health disorders. Within the criminal justice system there are numerous intercept points — opportunities for linkage to services and for prevention of further penetration into the criminal justice system.

The Sequential Intercept Model has been used as a focal point for states and communities to assess available resources, determine gaps in services, and plan for community change. These activities are best accomplished by a team of stakeholders that cross over multiple systems, including mental health, substance abuse, law enforcement, pre-trial services, courts, jails, community corrections, housing, health, social services, peers, family members, and many others.

## The GAINS Center

SAMHSA’s GAINS Center for Behavioral Health and Justice Transformation serves as a resource and technical assistance center for policy, planning, and coordination among the mental health, substance abuse, and criminal justice systems. The GAINS Center’s initiatives focus on the transformation of local and state systems, jail diversion policy, and the documentation and promotion of evidence-based and promising practices in program development. The GAINS Center is funded by the Substance Abuse and Mental Health Services Administration. It is operated by Policy Research Associates, Inc., of Delmar, NY

## Model Excerpt



## Source

GAINS center, (2009). *Developing a comprehensive plan for mental health and criminal justice collaboration: the sequential intercept model* <https://www.prainc.com/wp-content/uploads/2015/10/SIMBrochure.pdf>