

# ELIMINATE the WAIT

## What's My Role to Eliminate the Wait for Competency Restoration Services?

### POLICE

*Police officers are the gatekeepers of the criminal justice system. Texas law has granted peace officers discretion in diverting people with a mental illness (MI), substance use disorder (SUD), or an intellectual or developmental disability (IDD) from the criminal justice system without arrest, when appropriate. By doing this, peace officers help ensure that criminal justice system resources are focused on people who truly pose a threat to public safety, thus decreasing the number of people who enter the criminal justice system and reducing demand for inpatient competency restoration services.*

#### 1. Plan for a Pre-Arrest Diversion and Crisis Response

- Have I identified pre-arrest diversion and crisis response models that will work for my agency and community (e.g., Crisis Intervention Team training; law enforcement and mental health co-response; clinician and officer remote evaluation programs; or other interdisciplinary mobile crisis response teams) and developed policies and procedures to support the implementation of these models?
- Do I have a single representative (ideally senior level) that is responsible for overseeing and managing pre-arrest diversion and/or crisis response programs?
- Are policies and procedures in place for crisis responses that clarify and outline the roles, responsibilities, and actions of my staff and those of our behavioral health partners?
- Do I have inter-agency memoranda of understanding, policies, procedures, and/or agreements to help guide referrals from my agency to local behavioral health providers?
- Do I collect data to help improve pre-arrest and crisis response programs?

#### 2. Create a Culture of Diversion First

- Do I communicate to my officers the importance of diverting people with MI, SUD, or IDD, when appropriate, from the criminal justice system and connecting them to treatment?
- Do I have an agency policy for interactions with people who have MI, SUD or IDD?
- Per [Tex. Code Crim. Proc. Art.16.23\(a\)](#), are my officers aware that they **must** make a good-faith effort to divert a person (1) suffering a mental health crisis or (2) suffering from the effects of substance abuse to a proper treatment center in the agency's jurisdiction if:
  - 1) there is an available and appropriate treatment center in the department's jurisdiction to which the agency may divert the person;
  - 2) it is reasonable to divert the person;
  - 3) the offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence; and
  - 4) the mental health crisis or substance abuse is suspected to be the reason the person committed the alleged offense.
- Per [Tex. Code Crim. Pro. Art. 14.035](#), are my officers aware of the alternative to arrest release locations for an individual with IDD?
- Are my officers aware of the scope of their discretion and responsibilities for an emergency detention without a warrant under [Tex. Health & Safety Code § 573.001](#)?
- Do I actively work across my organization and with local partners to troubleshoot and address barriers to diversion?



# ELIMINATE the WAIT

- Per [CCP 14.035](#), are my officers aware that they may release a person with IDD who resides in a group home or intermediate care facility to that residence if the officer believes that: (1) incarceration is unnecessary to protect the person and the other residents, and (2) the officer made reasonable efforts to consult with the person and the staff at the residence regarding that decision?

### 3. Lead Through Partnerships

- Does my agency coordinate, communicate, and collaborate with behavioral health partners?
- Do I or my staff participate in local planning boards and workgroups focused on issues at the intersection of behavioral health and criminal justice?
- Am I aware of diversion programs available through my Local Mental Health Authority (LMHA), Local Behavioral Health Authority (LBHA), and Local Intellectual and Developmental Disability Authority (LIDDA), including crisis hotlines, mobile crisis response, mental health deputies, co-responder teams, and other similar programs?
- Have I developed relationships with a broad range of behavioral health partners, including service providers, advocates, substance use treatment providers, housing officials, hospital and emergency room administrators, and other criminal justice personnel?
- Have I explored options at the point of 911 call-taking and dispatch to support pre-arrest diversion and improve behavioral health crisis response?
- Do I receive training from my LMHA, LBHA, or LIDDA on Mental Health First Aid, a national program to teach the skills to respond to the signs of mental illness and substance use?
- Do I or my leadership team have a direct connection or relationship with my LMHA, LBHA, or LIDDA leadership and other local behavioral health experts?
- Do I understand the challenges experienced by behavioral health treatment providers in working with my agency?

### Additional Resources:

- [Request Technical Assistance through the Council for State Governments Justice Center: Law Enforcement-Mental Health Learning Site Program](#)
- [Police-Mental Health Collaboration \(PMHC\) Toolkit | Bureau of Justice Assistance](#)
- [Mental Health | International Association of Chiefs of Police](#)
- [Law Enforcement Mental Health Support Center | Council of State Governments Justice Center](#)
- [Police Mental Health Collaboration Self-Assessment Tool | Council of State Governments Justice Center](#)
- [Sharing Behavioral Health Information within Police-Mental Health Collaborations | Council of State Governments Justice Center](#)
- [Police-Mental Health Collaborations: A Framework for Implementing Effective Law Enforcement | Council of State Governments Justice Center](#)
- [Responses for People Who Have Mental Health Needs | Council of State Governments Justice Center](#)
- [Cops, Clinicians, or Both? Collaborative Approaches to Responding to Behavioral Health Emergencies | National Association of State Mental Health Program Directors](#)
- [Data Collection Across the Sequential Intercept Model: Essential Measures | Substance Abuse and Mental Health Services Administration](#)

Tex. Health & Safety Code Section 573.001 provides peace officers with broad discretion to make a warrantless apprehension of a person with mental illness, regardless of age, when the officer has reason to believe and does believe that because of the mental illness “there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained.” This belief may be based on information provided by a credible person, the apprehended person’s conduct; or the circumstances under which the apprehended person is found. If a warrantless apprehension is made, peace officers must:

- Transport the individual to the nearest appropriate inpatient mental health facility or a mental health facility deemed suitable by the local mental health authority, if an appropriate inpatient mental health facility is not available  
OR
- Transfer the apprehended person to emergency medical services personnel of an emergency medical services provider in accordance with a memorandum of understanding executed under Texas Health & Safety Code 573.005 for transport to the nearest appropriate mental health facility or, if one is not available, to a mental health facility deemed suitable by the local mental health authority.

Give notice of detention to the facility using *Notification of Emergency Detention* form; without notice, the facility may not hold the person involuntarily.