

# Texas Mental Health Law – What You Need to Know

November 10, 2020



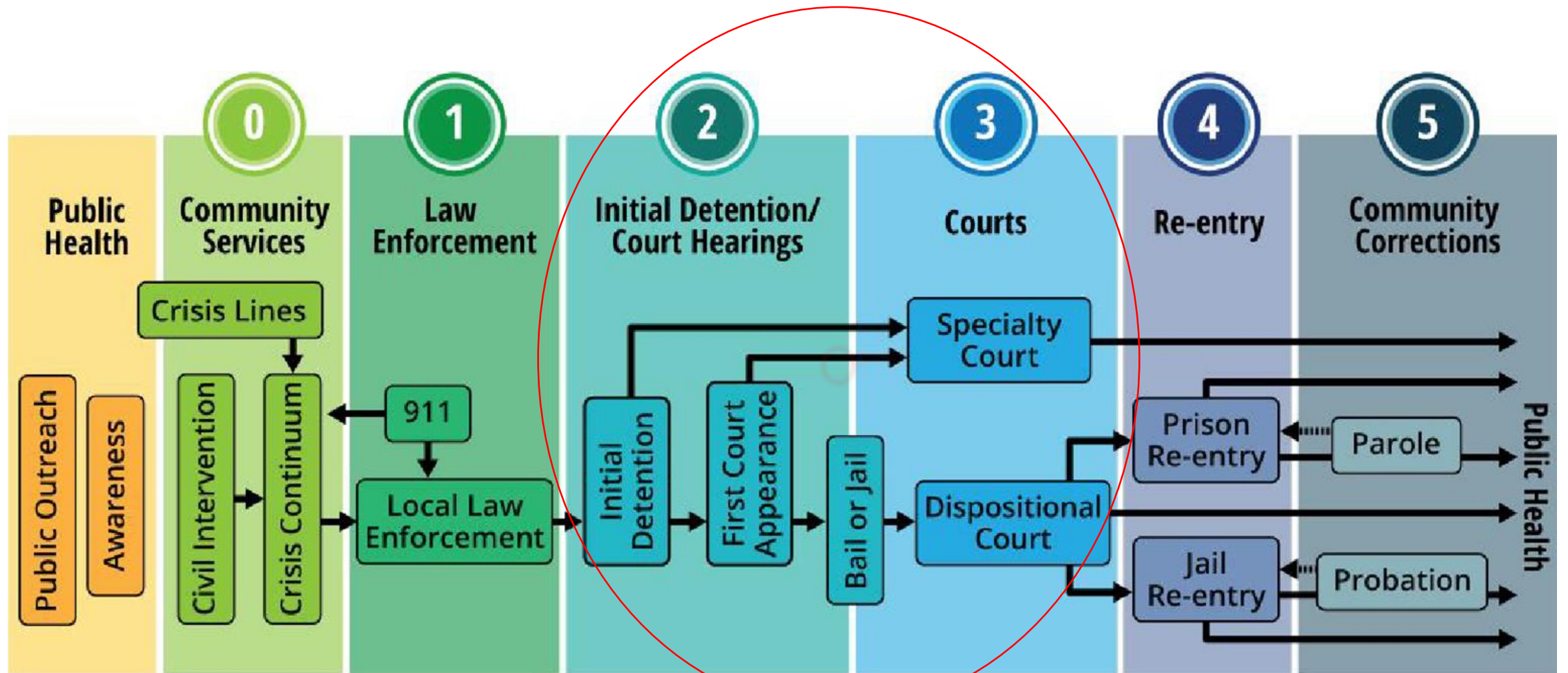
TEXAS TECH UNIVERSITY  
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# Intercepts 2 & 3: Courts



# Tex. Code Crim. Proc. 16.22: Scope & Application

- Notice
- Screening Interview
- What to do with the report?

**COLLECTION OF INFORMATION FORM FOR  
MENTAL ILLNESS AND INTELLECTUAL DISABILITY**  
AUTHORITY: Texas Code of Criminal Procedure art. 16.22; Texas Health and Safety Code § 614.0032  
Approved by the Texas Correctional Office on Offenders with Medical or Mental Impairments (TCOOMMI)

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**SECTION I: DEFENDANT INFORMATION**  
Defendant Name (Last, First): \_\_\_\_\_ Offense: \_\_\_\_\_  
Date of Birth: \_\_\_\_\_ CARE Identification # (If available): \_\_\_\_\_ SID or CID # (If available): \_\_\_\_\_  
Last Four Digits of Social Security Number: \_\_\_\_\_  
Current County or Municipality of Incarceration: \_\_\_\_\_ Date of Magistrate Order: \_\_\_\_\_

**SECTION II: PREVIOUS HISTORY**  
Has the defendant been determined to have a mental illness or to be a person with an intellectual disability within the last year?  
 Yes  No  Unknown  
Date of Previous Written Report of Collected Information (if applicable): \_\_\_\_\_  
Previous Mental Health and/or Intellectual Disability Information (if available): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SECTION III: CURRENT INFORMATION**  
Most Recent Diagnosis(es) and Date(s) (if available): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

At time of the collection of information or as indicated on the jail screening form for suicide and medical/mental/developmental impairments, is the defendant acutely decompensated, suicidal, or homicidal according to self-report?  
 Yes- Circle Above  No  Not Applicable- Reason \_\_\_\_\_  
Other relevant information pertaining to mental health and intellectual disability history and/or previous treatment or service recommendations:  
\_\_\_\_\_  
\_\_\_\_\_

**Observations and Findings Based on Information Collected:**  
 Defendant is a person who has a mental illness.  Defendant is a person who has an intellectual disability.  
 There is clinical evidence to support the belief that the defendant may be incompetent to stand trial and should undergo a complete competency examination under Subchapter B, Chapter 46B, Code of Criminal Procedure.  
 Any appropriate or recommended treatment or service:  
\_\_\_\_\_  
\_\_\_\_\_  
 None of the above.

**Procedures Used to Gather Information:**  
\_\_\_\_\_  
\_\_\_\_\_

**SECTION IV: INFORMATION OF PROFESSIONAL SUBMITTING FORM**  
Name, Credentials & Organization of Person Submitting Form: \_\_\_\_\_ Date of Submission: \_\_\_\_\_  
This form and the contents herein may only be shared in accordance with Texas Health and Safety Code § 614.017 and Texas Code of Criminal Procedure article 16.22(f). This form and its contents are otherwise confidential and not subject to disclosure under Chapter 552 of the Government Code.

# 16.22 Reports: Opportunities

- **17.032 Personal Bonds with Treatment Conditions**
- **16.22(c)(5) – Diversion Roadmap for Transfer**
  - **Does the offense “involve an act, attempt, or threat of serious bodily injury to another person”?**



# Describing Your Local Article 16.22 Process

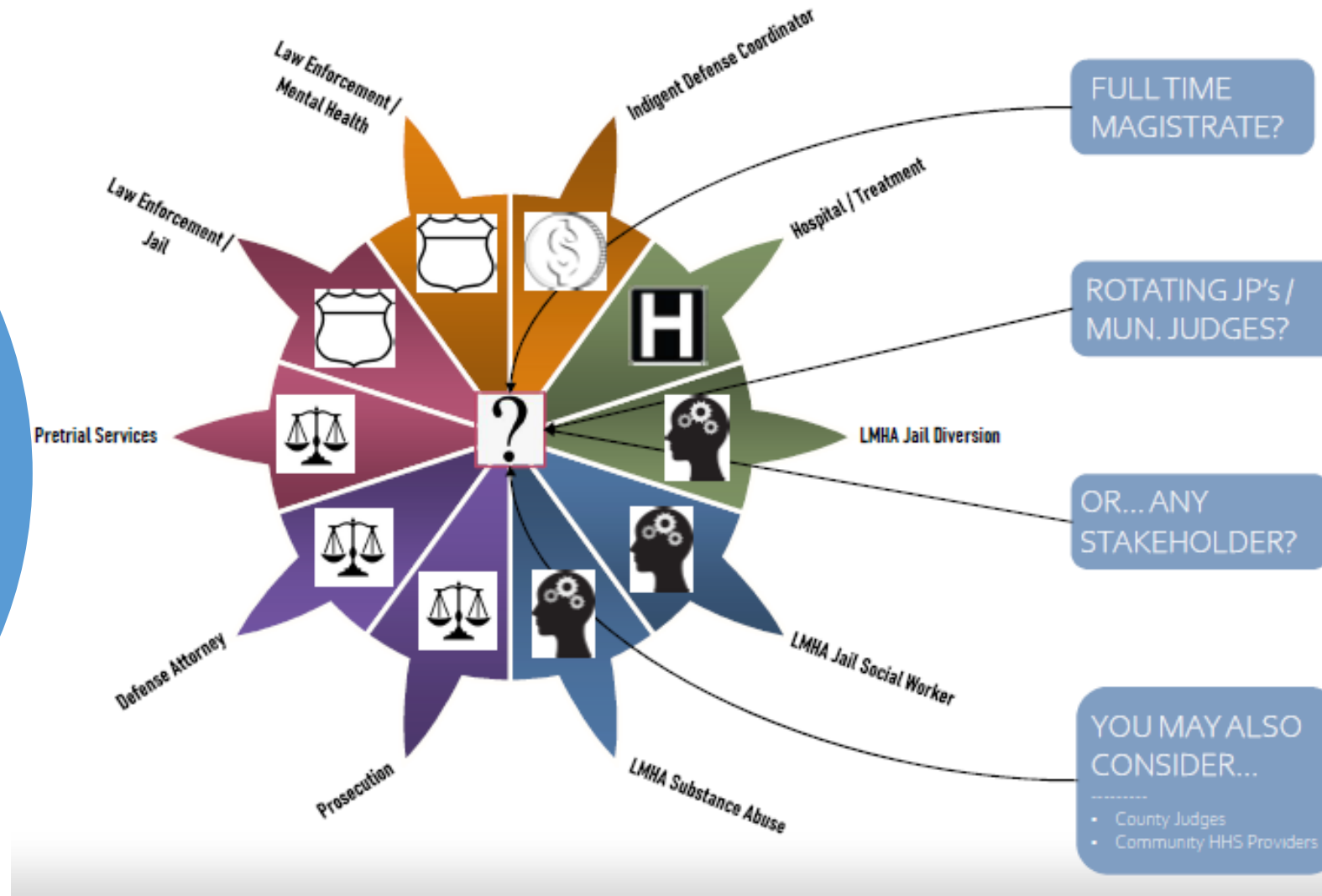
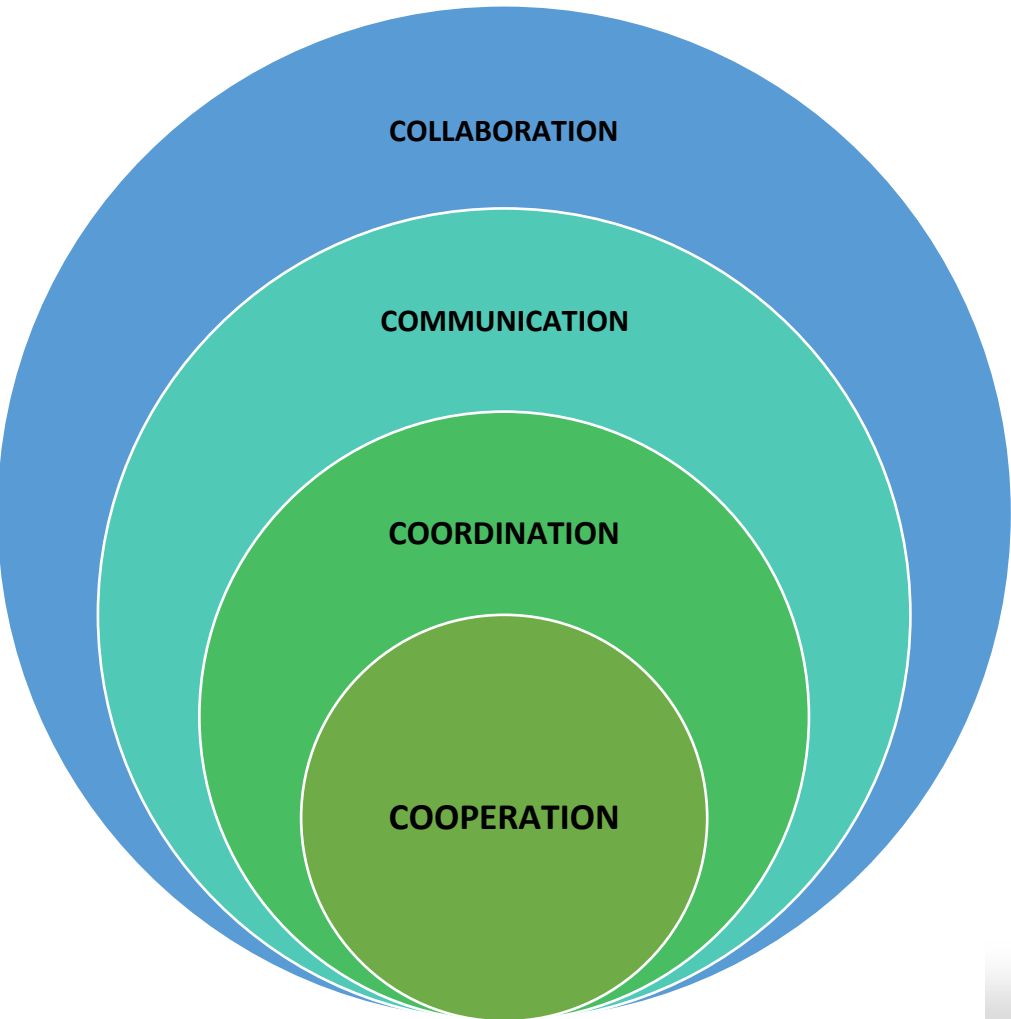
Illustration A:  
“The Ideal”



Illustration B:  
“Um, well, it’s not Illustration A”



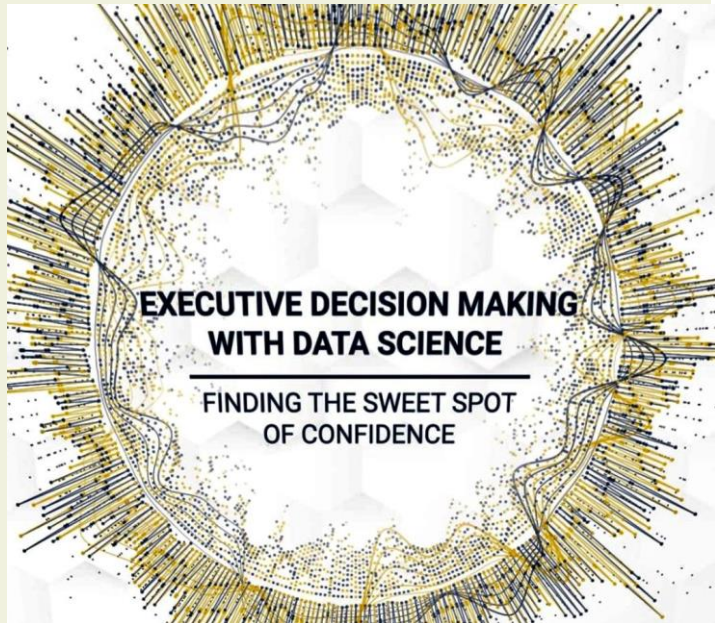
# Four C's, One Wheel (and One Question): The 16.22 Process



**Who is the “Hub” of the Stakeholder Wheel in Your Locality?  
If There is No Consensus, It’s Time For Collaboration.**



# The Three D's Data, Diversion, and Dismissal



**THE RECORDER**  
THE JOURNAL OF TEXAS MUNICIPAL COURTS

August 2020

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**CLASS C MISDEMEANORS, COMPETENCY, AND CONTINUITY OF CARE**

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Collaboration is critical to addressing the national and statewide mental health crisis. In the 2020 edition of *Trends in State Courts*, the National Center for State Courts calls collaboration essential, saying state courts have a responsibility to convene, collaborate, and identify individuals across justice, mental-health, and public-health systems.<sup>1</sup>

This was the premise for the creation of the Texas Judicial Commission on Mental Health (JCMH) by the Supreme Court of Texas and the Texas Court of Criminal Appeals in 2018. In their first-ever joint hearing, the Courts found that through collaboration among the judiciary, policymakers, and mental health experts, the JCMH could help the courts better serve Texans with mental health issues.<sup>2</sup>

This was also the premise for development of the sequential intercept model (SIM) in the early 2000s. Developed over several years in multiple versions, the SIM is an applied strategic planning tool to improve collaboration between the behavioral health and criminal justice systems to reduce involvement in the justice system by people with mental and substance use disorders.<sup>3</sup> The federal Substance Abuse and Mental Health Services Administration (SAMHSA) uses this model in workshops as a tool to help communities create local strategic plans based on the gaps, resources, and priorities identified by community stakeholders. At each "intercept"

Class C Misdemeanors continued on pg. 3

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- Article 16.22 “Early Identification” Means Restoring the Sandra Bland Act to Give Magistrates Clear Authority to Get Assistance for All Criminal Defendants Including Those Arrested and Jailed for Class C Misdemeanors
- Diversion and Access to Treatment: Municipal and Justice Courts Need Statutory Guidance to Protect Defendants Who May Not be Fit to Proceed in Court

# The Judge's Role(s) in MH cases:

- **Diversion gatekeeper**
- **The court as a convener!**
- **Competency determinations, if needed**
- **Know the alternatives**
- **Move the docket**





# Competency Restoration – if needed

- Critically review expert qualifications and reports.
- Competency restoration process ≠ mental health treatment, per se. Especially for low-level offenses, a court should consider diversion or dismissal instead.
- Chapter 46B includes possibilities for inpatient, outpatient (OCR), and jail-based competency restoration (JBCR)

# Other Tips for Success

- Who is the liaison with the LMHA and vice-versa?
- Do you meet regularly?
- Who should be there?