

**ST. CLAIR COUNTY COMMUNITY MENTAL HEALTH AUTHORITY**

**BOARD POLICY**

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<b>CHAPTER</b> Service Delivery	<b>CHAPTER</b> 03	<b>SECTION</b> 001	<b>SUBJECT</b> 0085
<b>SECTION</b> Treatment	<b>SUBJECT</b> Jail Diversion		
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I. APPLICATION:

- SCCCMA Board
- SCCCMA Providers & Subcontractors
- Direct Operated Programs
- Community Agency Programs
- Residential Programs
- Specialized Foster Care

II. POLICY STATEMENT:

It shall be the policy of St. Clair County Community Mental Health Authority (SCCCMHA), by delegation from Region 10 PIHP, shall ensure compliance to the Michigan Department of Health and Human Services (MDHHS) 'Jail Diversion Practice Guideline' by ensuring jail diversion services are available, when appropriate, to persons who have a serious mental illness, serious emotional disturbance, co-occurring substance use disorder, and/or intellectual developmental disability as an alternative to being charged with a misdemeanor or non-violent felony and incarcerated in the county jail or municipal facility.

III. DEFINITIONS:

- A. Arrestment: The stage in the court process where the adult is formally charged and enters a plea of guilty or not guilty.
- B. Booking: The stage in the law enforcement custody process following arrest, when processed for formal admission to jail.
- C. Co-Occurring Disorder: A dual diagnosis of a mental health disorder and a substance use disorder.
- D. Disposition (juveniles only): The orders of the Court given following the adjudication of a minor or at the time of a minor's review hearing.
- E. In-Jail Services: Programs and activities provided in the jail to address the needs of people with serious mental illness, including those with a co-occurring substance use disorder, or an intellectual developmental disability. These programs or activities vary across the state and may include crisis intervention, screening, assessment, diagnosis, evaluation, case management, psychiatric consultation, treatment, medication monitoring, therapy, education and training. Services delivered are based on formal or informal agreements with the justice system.

- F. Jail Diversion Training: Cross training of law enforcement, court, substance use and mental health personnel on the diversion system and how to recognize and treat individuals exhibiting behavior warranting jail diversion intervention.
- G. Jail Diversion: The process that diverts individuals with serious mental illness (and often co-occurring substance use disorder) or Intellectual/Development Disabilities (I/DD) in contact with the justice system from custody and/or jail and provide linkages to community-based treatment and support services. When appropriate, the individual avoids or spends a significantly reduced time period in jail and/or lockups on the current charge. Depending on the point of contact with the justice system at which diversion occurs, the process may be either a **pre-booking or post-booking** diversion process. Jail diversion processes are intended for individuals alleged to have committed misdemeanors or certain, usually non-violent, felonies, and who voluntarily agree to participate in the diversion process.
- H. Juvenile Diversionary Activity: Activity provided that is intended to divert youth with serious emotional disturbance (SED), Intellectual/Development Disabilities (I/DD) and/or substance use disorders from any involvement or into less intensive involvement with the juvenile justice system.
- I. Post-booking Diversion: Diversion occurs after the individual has been booked and is in jail, out on bond, or in court for arraignment. Often located in local jails or arraignment courts, post-booking jail staff work with stakeholders such as prosecutors, attorneys, community corrections, parole and probation officers, mental health court staff, community-based mental health and substance use providers and the courts to develop and implement a plan that will produce a disposition outside the jail. The individual is then linked to an appropriate array of community-based mental health and substance use treatment services. Note: the booking process applies only to the adult system.
- J. Pre-booking Diversion: Diversion occurs at the point of the individual's contact with law enforcement officers before formal charges are brought and relies heavily on effective interactions between law enforcement officers and community mental health, Mobile Crisis Unit and substance use services. SCCCMHA has designated the Mobile Crisis Unit Team to provide assistance with pre-booking options. The individual is then linked to an appropriate array of community-based mental health and substance use treatment services as an alternative to incarceration. Note: the booking process applies only to the adult system.
- K. Screening: For purposes of this policy, screening means evaluating a person involved with the criminal justice system to determine whether the person may have a serious mental illness, serious emotional disturbance, co-occurring substance use disorder, or an intellectual/developmental disability, and would benefit from a more comprehensive mental health evaluation and possible mental health services and supports in accordance with established standards and local jail diversion agreements.

#### IV. STANDARDS:

- A. Each CMHSP shall comply with Section 207 of the Mental Health Code (Act 258 of the Public Acts of 1974 as amended) which requires all CMHSPs to provide services designed to divert persons with serious mental illness, serious emotional disturbance, or intellectual/developmental disability from possible jail incarceration when appropriate. Such services are to be consistent with policy established by the PIHP and MDHHS.
- B. Region 10 shall manage and provide oversight to the jail diversion process for the provider network in accordance with the terms of its MDHHS/PIHP contract. At the service level,

however, Region 10 shall consider jail diversion as a program-level delegation, to each CMHSP as part of Region 10/CMH contract service provision requirements. As such, each affiliate CMHSP shall provide jail diversion activities in accordance with this Policy guideline and in accordance with MDHHS Jail Diversion Practice Guideline.

- C. Offenses considered appropriate for jail diversion shall be negotiated at the local level between each CMH and their respective law enforcement agencies.
- D. Eligibility for jail diversion services shall be restricted to those individuals suspected of having a serious mental illness, a co-occurring substance use disorder, serious emotional disturbance, or an intellectual developmental disability. Additionally, the jail diversion process shall be intended for individuals:
  - 1. Alleged to have committed misdemeanors or certain, usually non-violent felonies; and
  - 2. Who voluntarily agree to participate in the diversion.
- E. Each CMH shall have a uniquely identifiable jail diversion process, which has a pre-booking component, and a post-booking component. The CMH jail diversion is detailed below:
  - 1. Overall Jail Diversion Requirements:
    - a. Restrict eligibility to individuals who have or are suspected of having a serious mental illness, including those with a co-occurring substance use disorder, and/or an intellectual developmental disability, who have committed a minor or serious offense that would likely lead to arrest/charge, or have been removed from a situation that could potentially lead to arrest/charge.
    - b. Have a diversion mechanism or process that clearly describes the means by which an individual is identified at some point in the arrest process and diverted into mental health services. Specific pathways in the pre-booking and post-booking jail diversion shall be described in an inter-agency agreement for diversion.
    - c. Assign specific staff to the pre-booking and post-booking components to serve as liaisons to bridge the gap between mental health, substance use, and criminal justice systems, and to manage interaction between these systems. (Note: It is important to have a strong leader with good communication skills and understanding of the systems involved and the informal networks needed to put the necessary systems in place.)
    - d. Outline the jail diversion and related processes in a written inter-agency agreement with every law enforcement agency in the CMH's designated service area (Note: If the Agreement is not yet finalized, then the CMH must document its efforts to establish an interagency agreement). Interagency Agreements shall include, but is not limited to the following information:
      - (1) Identification of the target population(s) for pre-booking and post-booking jail diversion;
      - (2) Identification of the staff and their respective responsibilities;
      - (3) The annual plan for cross-system training of mental health and criminal justice staff;
      - (4) Specific pathways for the jail diversion process;
      - (5) Description of the specific responsibilities/services of the participating agencies at each point in the pathway;
      - (6) Data collection and reporting requirements of each system; and
      - (7) Processes for regular communication, including regularly scheduled meetings.

- e. Provide cross training for, and actively promote attendance of law enforcement and mental health personnel, which may include the Medical Director, nurses, and caseholders on the pre-booking and post-booking jail diversion components; including but not limited to:
  - (1) Target groups for diversion;
  - (2) Specific pathways for diversion;
  - (3) Key players and their responsibilities;
  - (4) When and how to complete the Jail Diversion contact note and
  - (5) Other information necessary to facilitate an effective diversion process.
  
- f. Maintain a management information system that is HIPAA compliant and that can identify individuals brought or referred to the mental health agency as a result of a pre-booking or post-booking diversion. The Information System shall include:
  - (1) Unique individual ID, as assigned by the CMHSP;
  - (2) The date of the diversion screening;
  - (3) The date of the diversion;
  - (4) The type of offense (crime);
  - (5) The consumer's primary diagnosis.

The consumer unique ID can be used to link to the encounter data to obtain information regarding services, including billings. The CMH must be prepared to share its jail diversion data with the department upon request.

## 2. Additional Pre-Booking Process Component Requirements:

- a. The CMH shall have a diversion mechanism (or process) that clearly describes the means by which an individual is identified at some point in the arrest process and diverted into mental health services. Specific pathways of the pre-booking diversion process must be defined, and then included in the inter-agency agreement for diversion.

## 3. Additional Post-Booking Process Component Requirements:

- a. The CMH shall have a clearly described mechanism to evaluate jail detainees for the presence of a serious emotional disturbance, serious mental illness, co-occurring substance use disorder, or an intellectual developmental disability within the first 24-48 hours of detention. The CMH process shall include:
  - (1) Linking eligible jail detainees to the array of community based mental health and substance use services available.
  
- b. The CMH shall establish regular meetings among key players, including police/sheriffs, court personnel, prosecuting attorneys, judges, pretrial staff and CMH representatives to encourage coordination of services and sharing of information.
  
- c. The CMH shall include case managers and other clinical staff who have experience in both the mental health and criminal justice systems whenever possible. If this not possible, documentation of recruitment efforts must be documented, and an intensive training program with specific criminal justice focus must be in place for case managers. Case managers and other clinical staff must provide care in a culturally competent manner.

V. PROCEDURES:

**SCCCMHA staff**

1. Mobile Crisis Unit, CMH staff and Mental Health Court (MHC) staff will take lead on identifying and screening individuals who may be eligible for a pre or post-booking diversion and proceed with the diversion as appropriate and agreed upon by the individual served.
2. Staff will collaboratively work with area law enforcement and judicial staff to divert persons into the mental health system and make post-booking referrals to Mental Health Court as appropriate.
3. The Mobile Crisis Unit and CMH representative staff will work to continue ongoing support, collaboration and maintain interaction between mental health and criminal justice systems. Trainings and collaborative meetings will be held to exchange information and address/support ongoing diversion efforts.
4. CMH staff will complete the Jail Diversion note when they divert an individual to community-based treatment and support services.
5. CMH representative jail contact will help facilitate discharge appointments with Corizon and CMH community providers.

**CMH Representative Staff/Mobile Crisis Unit**

1. Outline the jail diversion process in a written inter-agency agreement with every law enforcement agency in the SCCCMHA's service area with the standards outlined in Standard 4.
2. Offer and attend cross training and actively promote attendance of law enforcement and mental health personnel, which may include the Medical Director, nurses and caseholders, on pre-booking and post-booking diversion as identified in Standard 5.

VI. REFERENCES:

PIHP/CMH Contract FY 20

VII. EXHIBITS:

VIII. REVISION HISTORY:

Dates issued 03/05; 11/05; 05/08; 10/11; 05/13; 07/14; 07/15; 11/16; 11/17; 11/18.