



CALIFORNIA NETWORK OF MENTAL HEALTH CLIENTS

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POLICY RECOMMENDATIONS FOR SUPPORTING CLIENTS' DIGNITY, WELLNESS AND RECOVERY IN MENTAL HEALTH COURTS

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CNMHC's purpose in providing these recommendations is to give concrete guidance to county mental health departments, criminal justice system staff, mental health court judges, attorneys, and advocates and the legislature in order to create consistent protocols for each mental health court in operation as well as to maximize the experience of clients served by mental health courts.

Each principle provides recommendations from the CNMHC which will achieve the above purpose.

The California Network of Mental Health Clients recognizes the existence of 39 mental health courts or court programs operating in the state of California. CNMHC takes the position of being willing to have mental health courts included in the jail diversion continuum in counties in California ONLY if the criteria noted in the categories below are met.

Operating Principles

1. Voluntary Participation of Clients in Mental Health Courts
2. Pre-booking Diversion Part of Central Mission of Mental Health Courts
3. Mental Health Courts Maintain Clients' Rights
4. Categories of Clients Considered for Service by Mental Health Courts
5. Sentences and Probation in Mental Health Courts consistent with Criminal Charges
6. Advocacy Provided for Clients of Mental Health Courts
7. Training for Mental Health Court Staff
8. Cultural Competency of Mental Health Court Staff
9. Mental Health Court Inclusion in Larger Plan for Counties
10. Oversight of Mental Health Courts

Principle I - Voluntary Participation of Clients in Mental Health Courts

Jail Diversion and Mental Health Courts should provide clients with:

- Informed consent prior to making decisions about participation in a mental health court. All available options, choices, and outcomes are to be discussed with the client prior to booking in the presence of a mental counselor/advocate.
- Substantial input into the writing of their individual treatment plan which will focus on recovery and choice and may include: mental and physical healthcare, case management, housing, self-help, supportive education, supportive employment, substance abuse treatment, and psychological services in the least restrictive environment.
- An individual plan which focuses on outcomes which indicate success in wellness and recovery not just treatment compliance.

- The ability to clearly define what constitutes “successful outcomes” including deadlines with the assistance of the counselor/advocate and defense counsel so when goals are reached everyone knows it.
- The right to always refuse any and all treatment and require course corrections as needed.

Principle II - Diversion as Part of Central Mission of Mental Health Courts

Jail Diversion and Mental Health Courts should:

- Maintain the key objective of preventing incarceration by developing meaningful diversion programs. Pre-booking diversion should be offered to all persons.
- Ensure that if charges must be filed, criminal proceedings are deferred for up to a year with dismissal upon completion of successful program as identified by the client in conjunction with the mental health court staff.
- Assure that mental health courts are not used for misdemeanor crimes for which others may not be subjected to arrest such as crimes of survival or nuisance crimes.
- Minimize wait time or avoid incarceration prior to diversion or booking if at all possible.

Principle III – Mental Health Courts Maintain Clients’ Rights

Mental Health Courts should:

- Operate with policies and procedures that protect the individual client’s due-process rights.
- Not expect defendants to plead “guilty” or “no contest” or give up other due process rights before entering a mental health court.
- Allow clients to retain their ability to withdraw from mental health court program without penalty as well as retain the ability to return if criminal court finds against him/her.
- Comply with all ADA requirement concerning reasonable accommodations.
- Provide defense counsel with sufficient time to spend with defendants for excellent representation.
- Ensure client confidentiality is maintained by having rules that limit judges’ and prosecutors’ access to specific information that is needed to make decisions.
- Provide automatic expungement upon successful completion of treatment course without the individual having to apply for it. (See Principle I above)
- Not apply sanctions (no time added--incarceration or probation) for treatment lapses because treatment is totally voluntary and clients have the right to stumble in their recovery with a modification of treatment plan without being penalized.

Principle IV – Categories of Clients Considered for Service by Mental Health Courts

Mental Health Courts should:

- Offer services to those who by self-disclosure of lived experience or have been diagnosed with a mental illness, co-occurring disorders or head injuries, and special needs populations with combined substance abuse, mental retardation, and/or physical disabilities.

Principle V – Sentences and Probation in Mental Health Courts Consistent with Criminal Charges

Mental Health Courts should:

- Assure that individual duration in a MH court program does not exceed the maximum sentence plus probation or parole.
- Not remand clients who opt out of mental health court without opportunity to post bail.
- Give sentences that are comparable to those imposed for the alleged crime in the criminal court.
- Not increase an individual's time if relapses happen during the course of treatment and count the time during the relapse as real days in the program.

Principle VI - Advocacy Provided for Clients of Mental Health Courts

Mental Health Courts should:

- Provide each mental health court client with an experienced counselor or advocate of their own choosing.
- Provided counselors/advocates who are trained peers or another non-lawyer chosen by the client who are paid by an independent agency for pro bono services.
- Provide advocacy for clients during *all* phases of the court proceedings.
- Allow mental health court clients to retain the right to refuse their counsel/advocacy services with the option to replace them with another peer or counselor.

Principle VII – Training for Mental Health Court Staff

Mental Health Courts should:

- Provide mental health client-led training to public defenders, law enforcement, prosecutors, judges, and advocates.
 - These trainings for MH court staff must be developed by, coordinated, and presented by mental health clients and focus on effective options for alternatives to arrest, involuntary psychiatric holds, and incarceration.
- Assure that the defense counsel has a background or training in mental health issues including:
 - Communicating with individuals who may be in crisis,
 - Understanding the operations of local MH systems, and awareness of client culture,
 - Available resources to assist in the development of an individual treatment plan, and
 - Legal resources to challenge a treatment plan when it conflicts with a client's wishes.

Principle VIII – Cultural Competency of Mental Health Court Staff

Mental Health Courts should:

- Assure that necessary translation services are available to all mental health court clients during all phases of the process.
- Research documented disparities in arrests, convictions and sentencing based on race, ethnicity, religion, nationality, culture, gender and/or sexual minority status, for charges facing clients who are referred to mental health court.
- Track this data among clients who are referred to the mental health court and measure such disparities in the court's jurisdiction, report this data to the local mental health board and the State Department of Mental Health Quality Improvement Council.

- Work in collaboration with local cultural brokers, clients and one or more agencies that are independent of law enforcement and the criminal justice system (such as a mental health board, police review or human rights commission) to ensure that local criminal justice system disparities data is made available to the public in annual written reports.
- Work to better identify, address and eliminate such disparities in the mental health court, law enforcement and the criminal justice system.

Principle IX – Mental Health Courts Inclusion in Larger Plan for Counties

Mental Health Courts should:

- Not operate in isolation but act as an integral part of local mental health systems and the priority gateway through which people who seek specific types of services can receive them by ensuring resources leading to services are available in the local mental health system.
- Be an important part of systems' change by initiating collaboration with other bridging service agencies to assure a link to services that the client requests.
- Assure that the necessary services and supports to enable clients to live in the community are available. NOTE: No services and supports should be taken from others in need and redirected to clients in mental health courts.
- Ensure self-help, holistic, and alternative treatments are included in the array of services made available to mental health court clients.
- Assure that community housing options are available to reduce unnecessary institutionalization by eliminating penalty for incarceration.
- Assure a reduction in practices which cause clients to have difficulty finding housing, employment, health care, and retaining their benefits when attempting community integration.
- Have power to ensure that service providers are delivering appropriate services according to the clients they serve by utilizing court's contempt powers, writs of mandamus or control over funds.
- Make every effort to assist people diagnosed with serious mental illnesses before they come to the attention of law enforcement and to identify and address system failures that result in the inappropriate arrest or incarceration for minor offenses (The Bazelon Center for Mental Health Law).

Pre-booking diversion is part of law enforcement's responsibility when the client doesn't meet criteria.

Community based organizations working in conjunction with the mental health court should add peer staff to perform the peer bridging function. Peer bridgers "bridge the gap" between peers in locked institutions and the outside community.

Principle X – Oversight of Mental Health Courts

Mental Health Courts should:

- Assure that mental health court processes and client outcomes are consistently evaluated by an independent, third-party, client-run organization including clients' satisfaction with services provided, and degree of support offered to clients, according to client self-reported evaluation.
- Assure that coalitions of planning groups and other mental health advocacy organizations work together to ensure that mental health courts do not lead to greater criminalization, stigma, and fragmentation of the mental health system as they provide oversight of mental health courts by

creating a mental health court advisory council including the above stakeholders to review outcomes, etc.

- Assure that these coalitions train and include clients and family members as part of the oversight processes.

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