

Commission on Mental Health & Competency

New Mexico Supreme Court



Mission of Commission

We are on a mission to improve outcomes for individuals experiencing behavioral health and cognitive challenges by:

- 1) Inspiring collaborative change across systems;**
- 2) Ensuring access to services and treatment; and**
- 3) Ending stigma and discrimination.**

Teams

The voting commission members convened in May 2023 to develop a vision and strategic plan to guide the work of the commission. The plan created the following teams:

- ▶ **Competency Diversion Pilot Project Team**
- ▶ **Education, Training, and Outreach Team**
- ▶ **Juvenile and Youth Team**
- ▶ **Behavioral Health System Team**
- ▶ **Ad hoc (Competency Statute Work Group)**
- ▶ **Previously: States Supporting Familiar Face**

Cross-Collaboration

- ▶ **Judges**
- ▶ **Legislators**
- ▶ **Executive Branch**
- ▶ **Attorneys (DA, PD, Civil)**
- ▶ **Advocates**
- ▶ **Behavioral Health**
- ▶ **Representative with lived experience**
- ▶ **Law Enforcement**
- ▶ **Forensic Psychologists**
- ▶ **Representatives who work in juvenile justice system**
- ▶ **School Mental Health Providers**
- ▶ **New Mexico Behavioral Health Institute (NMBHI)**
- ▶ **Representatives/Advocates for Housing**
- ▶ **Other stakeholders and parties of interest**

Strategic Plan Priorities

- 1. Recommendations for Statutory/Rule Changes**
- 2. Competency Diversion Pilot Project**
- 3. Long Term Vision for individuals with Severe Mental Illness (SMI)**
- 4. Education, Training & Public Outreach**
- 5. Juvenile and Youth Competency Issues**
- 6. Inform the Development of a Forensic Behavioral Health System**

Why the interest in criminal competency?

- ▶ **Shared experience among stakeholders with defendants who suffer from severe mental illness and have a history of involvement with the criminal competency process.**
- ▶ **Why bother with this small group of defendants?**

Public Safety

- ▶ **Small group of defendants have a significant number of cases.**
- ▶ **What we have been doing for decades has not been working.**



Equality, Equity, Justice



Technical Assistance

The Commission received technical assistance from the following organizations in (1) implementing the pilot project and (2) drafting proposed amendments to statute

- ▶ **Council of State Governments (CSG) Justice Center**
- ▶ **CSG States Supporting Familiar Faces**
- ▶ **SAMHSA GAINS Competency Policy Academy**
- ▶ **Policy Research Associates (PRA)**



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Current Misdemeanor

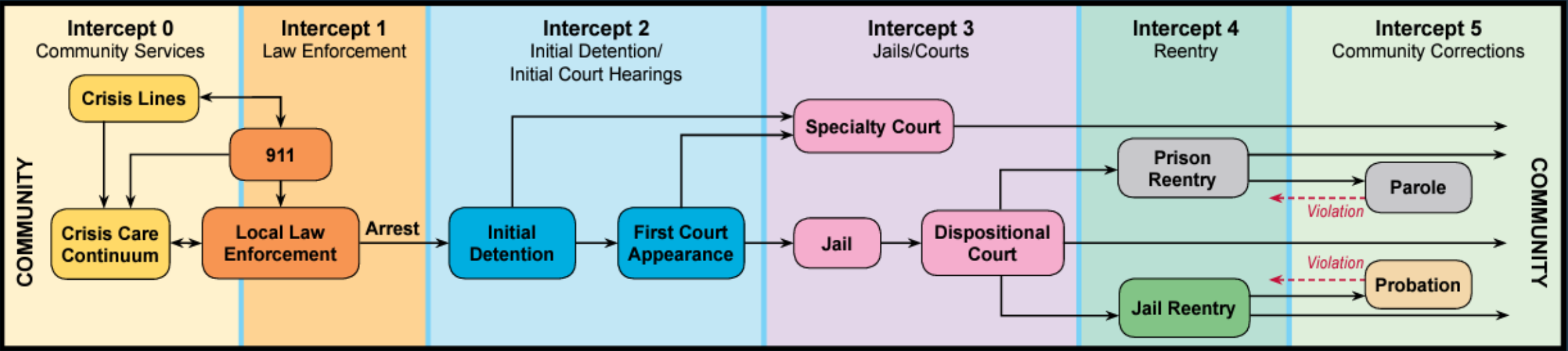
Competency Court Process

- **Competency is raised by defense attorney, prosecutor or court;**
- **Normal criminal process is suspended (case stayed);**
- **Judge orders a competency evaluation.**
- **If the defendant is found incompetent, all misdemeanors are dismissed.**
- **If the defendant is found competent, the stay is lifted and the case proceeds as any other criminal case.**
- **The current process does not divert defendants to treatment or services.**



Vision for Diversion

The Sequential Intercept Model



Competency Diversion Pilot Project Team

Team Objectives:

- ▶ **Implement forensic navigators into the justice system;**
- ▶ **Pilot diversion program for misdemeanor cases at first court appearance;**
- ▶ **Implement universal, validated screening tool;**
- ▶ **Require clinical assessment by licensed professional**
- ▶ **Create centralized system for data sharing.**

Competency Diversion Pilot Project

Diversion Pathway

Step 1:

The defendant is screened shortly after arrest and prior to first court setting. This screening determines whether the person has a likelihood of severe mental illness and history of competency.

- ▶ If these two elements are present, the person is eligible for competency diversion and the attorneys are notified.
- ▶ If just one of these two elements is absent, then the person is not eligible and the case proceeds as it normally would.

Competency Diversion Pilot Project

Diversion Pathway

Step 2:

If eligible and the parties agree, a forensic navigator is assigned to the case. The case is stayed, and the defendant is not required to go through the traditional competency evaluation process.

Competency Diversion Pilot Project

Diversion Pathway

Step 3:

The participant completes a bio-psycho social **clinical assessment** with a licensed behavioral health provider to determine their needs and levels of care. If the participant fails to complete an assessment, they will be unable to participate in the diversion program

Competency Diversion Pilot Project

Diversion Pathway

Step 4:

Using the clinical assessment recommendations, and in collaboration with the participant, the forensic navigator will create a navigation plan.

The navigation plan can address the following: housing, food, medical, medication, benefits, employment, education, and other recommended behavioral health treatments.

Competency Diversion Pilot Project

Pilot Sites include:

- **3rd Judicial District (Dona Ana County)**
- **4th Judicial District (Mora & San Miguel Counties)**
- **12th Judicial District**
- **Fourth site is pending: Possibly Albuquerque or Santa Fe**

Timeline for implementation: approximately one year for pilot sites



Funding of Pilot Project

This Pilot Project is funded by a special legislative appropriation granted to the Administrative Office of the Courts in 2023.

Part of this appropriation is being used to fund the following:

- At least six forensic navigators for at least a year**
- Database for pilot project;**
- Clinical assessments for participants who are uninsured**

Statutory/Rule Amendments

NOTE: NOT A JUDICIARY BILL

Current Focus: Criminal Competency

Creating Pathways to Treatment and Services

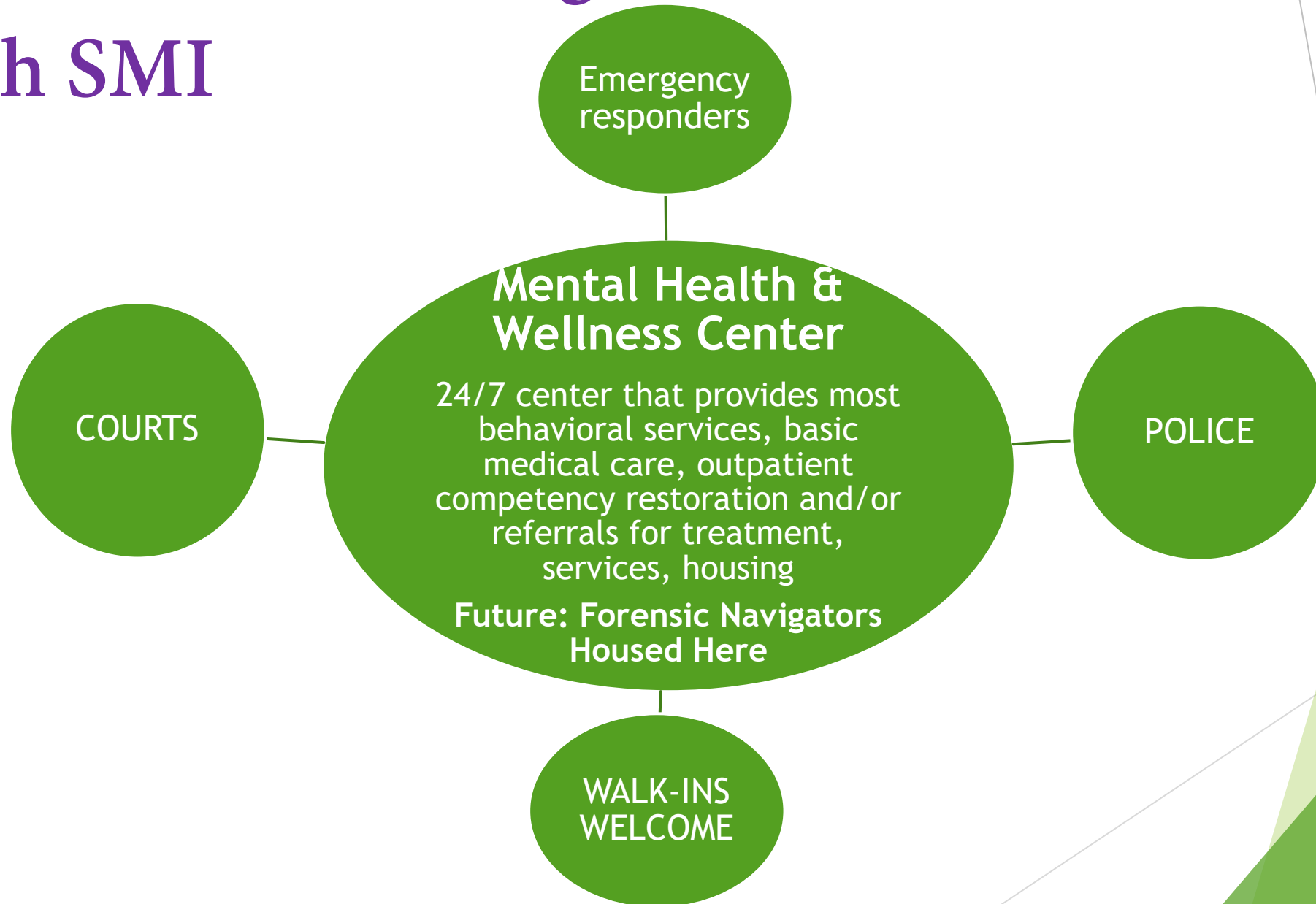
- **PRIOR TO** determination of competency → **Diversion to treatment in Criminal Case or Diversion to Assisted Outpatient Treatment prior to competency evaluation ordered and shortly after arrest**
- **AFTER** defendant found incompetent → **Diversion or AOT instead of competency restoration**
- **Note: stakeholders agree that law enforcement diversion and other pre-prosecution diversion is also beneficial**

Statutory/Rule Amendments

Alternatives to NMBHI for Competency Restoration

- ▶ **AFTER** defendant found incompetent and court determines they need to be restored (Note: Restoration is not treatment as we commonly think of it)
- ▶ **Alternatives to NMBHI would be:**
 - ▶ **Outpatient competency restoration;**
 - ▶ **Residential competency restoration;**
 - ▶ **Combination of restoration services;**
- ▶ **Shorten amount of time for competency restoration.**

Commission's Long Term Vision for Individuals with SMI



QUESTIONS?



Juvenile and Youth Competency Issues

- ▶ **Team is exploring national best practices as they pertain to juvenile and youth mental health and competency matters.**
- ▶ **Team was selected to join a national learning collaborative with the SAMHSA GAINS Center focused on solutions for justice involved, transition-aged youth called the Transition Aged Youth (TAY) Diversion and Supports Learning Collaborative.**

Education, Training, and Public Outreach

This diverse team spearheads training, education, and outreach initiatives including:

- ▶ **Informational brochures and pamphlets for defendants, families of defendants and the general public;**
- ▶ **Compilation of Evidence Based Practices in Competency;**
- ▶ **Presentations at Judicial Conclave and conferences, UNM School of Law, and UNM School of Medicine.**
- ▶ **Future Goal: Speak to high school and college students about forensic mental health and the law**



Education & Training

- ▶ **Current focus is on criminal competency as it relates to individuals with severe mental illness.**
- ▶ **Future areas of training may include:**
 - ▶ **Collecting data about evidence-based practices for supporting individuals who have developmental or intellectual disabilities, acquired brain injuries and traumatic brain injuries.**
 - ▶ **Highlighting the experience and perspective of persons with lived experience and their families.**

Inform the Development of a Forensic Behavioral Health System

- ▶ **Research other state's behavioral health systems for the purpose of identifying best practices and emerging ideas.**
- ▶ **Explore opportunities to enhance and expand the statewide behavioral health workforce.**
- ▶ **Connect and collaborate with other partners to identify opportunities for improvement.**