

# Recovery-Oriented Systems of Care: Needs and Opportunities for Kentucky's Court System

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### ABOUT THE CRIME AND JUSTICE INSTITUTE AT COMMUNITY RESOURCES FOR JUSTICE

The Crime and Justice Institute (CJI), a division of Community Resources for Justice, bridges the gap between research and practice with data-driven solutions that drive bold, transformative improvements in adult and youth justice systems. With a reputation built over many decades for innovative thinking, a client-centered approach, and impartial analysis, CJI assists agency leaders and practitioners in developing and implementing effective policies that achieve better outcomes and build stronger, safer communities. CJI works with local, state, tribal, and national justice organizations, providing nonpartisan policy analysis, implementation consulting, capacity-building assistance, and research services to advance evidence-based practices and create systems-level change. For more information, please visit: <https://www.cjinitiative.org/>.

## EXECUTIVE SUMMARY

In 2019, 61.2 million Americans had either a mental illness, substance use disorder, or both.<sup>1</sup> Many individuals with substance use and co-occurring disorders enter into the court system, prompting a need for courts to respond to behavioral health concerns. To improve responses to individuals affected by substance use and co-occurring disorders, Kentucky's Court of Justice (KCOJ) is exploring a philosophical shift from a sanction-based, compliance court model to a Recovery-Oriented System of Care (ROSC) court model. An ROSC court model would streamline service connections, provide opportunities to divert individuals to treatment, and maximize the use of natural supports and settings by partnering with community providers.

The Crime and Justice Institute (CJI) conducted a qualitative assessment of the opportunities and challenges that judges, other court personnel, prosecutors, and defense counsel experience when trying to connect defendants and sentenced individuals with services. The needs assessment focused on perceived challenges to access and availability of behavioral health services as they relate to the tenets of the ROSC model for those involved in the court process in Kentucky as well as opportunities to connect individuals to evaluation and treatment. The needs assessment looked specifically at two populations: individuals involved in the adult justice system through Pretrial Services and Specialty Courts, and individuals involved in the civil court system through dependency, neglect, and abuse cases. Specialty Courts includes mental health courts, drug courts, and veterans' courts. The following is a list of findings from the needs assessment and recommendations based on these findings that will allow the KCOJ to move towards becoming an ROSC court model through the work of the Administrative Office of the Courts (AOC).

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### FINDINGS

- There are challenges in coordinating care between courts and treatment providers and different expectations about the roles of courts and treatment providers, making efficient and effective service delivery difficult.
- Each direct service department within the AOC operates independent court programs and collaborates on joint projects, but they have not yet established a shared definition, vision, and approach to recovery. Differences in perspectives towards recovery result in different uses of program conditions.
- The collaboration among the Cabinet for Health and Family Services' (CHFS) Department of Behavioral Health, Developmental and Intellectual Disabilities (DBHDID), and Department of Community Based Services (DCBS), and the AOC has strengthened in the past six years. In family

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<sup>1</sup> [SAMHSA-nsduh2019](https://www.samhsa.gov/data/sites/default/files/reports/rpt29392/Assistant-Secretary-nsduh2019_presentation/Assistant-Secretary-nsduh2019_presentation.pdf), accessed at:

[https://www.samhsa.gov/data/sites/default/files/reports/rpt29392/Assistant-Secretary-nsduh2019\\_presentation/Assistant-Secretary-nsduh2019\\_presentation.pdf](https://www.samhsa.gov/data/sites/default/files/reports/rpt29392/Assistant-Secretary-nsduh2019_presentation/Assistant-Secretary-nsduh2019_presentation.pdf)

law and juvenile cases, efforts to move towards a system of care for families can provide a roadmap to developing a similar approach within the adult court system.

- Certain courts, DBHDID, and DCBS are already implementing ROSC principles, including person-centered care, timely and equitable access to services, and use of natural supports.
- Treatment availability improved with Medicaid expansion and recent changes allowing service provision via telehealth to be billable, but challenges persist, such as transportation, limited provider office hours, stigma, and lack of resources to access telehealth services.
- Essential services to coordinate care for individuals involved in the court and behavioral health systems do not have adequate funding, which has caused some communities to rely on short-term grants to fill in gaps. Without a long-term sustainability plan, the care coordination services will disappear when grant periods end.
- Courts and communities have increased their awareness of substance use and recovery but would benefit from ongoing education to increase collaboration, awareness of community-based resources, and appropriate advocacy for recovery-oriented responses to substance use and mental health.
- Programs specifically designed to target people with substance use issues and connect them to treatment are underutilized because of a perception among some system stakeholders that diversion and deferred prosecution programs are too lenient. A lack of meaningful participant incentives prevents some specialty courts from operating at full capacity.

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## RECOMMENDATIONS

- **Convene an AOC Working Group to develop definitions, goals, values, and vision for a Recovery-Oriented System of Care court model.** It is critical to explore internal barriers to serving individuals and families involved in multiple systems. Establishing a shared vision and principles can help Kentucky prepare to develop achievable action steps with realistic timeframes to transform its court system and increase consistency between different courts.
- **Form a statewide Transformation Steering Committee to understand the gaps between the current system and the vision and goals outlined by the AOC Working Group.** The Steering Committee, which should include a wide variety of stakeholders, can develop a conceptual framework to implement a Recovery-Oriented Systems of Care court system. ROSCs require multiple systems to align their policies and administrative and fiscal practices both internally and with others, and the Steering Committee can identify and navigate potential barriers to implementation.
- **Identify key areas of the state in which to pilot local Recovery-Oriented System of Care efforts.** While the Transformation Steering Committee can help judicial circuits and districts build statewide cross-agency relationships, local planning is needed to personalize each community's model. The Steering Committee can select local areas to pilot ROSC

implementation. Selected communities should complete a capacity inventory and create resource maps and action plans to address identified gaps.

## BACKGROUND

### PROBLEM STATEMENT

Over 20 million Americans over the age of 11 had a substance use disorder (SUD) in 2019, including alcohol use disorder, illicit drug use disorder, or both.<sup>2</sup> Substance use disorders can contribute to significant academic, familial, and other life challenges; mask or aggravate mental health conditions; increase the risk of injury and exposure to violence; and lead to involvement with the child welfare and youth and adult justice systems. It is well known that justice-involved individuals have a higher prevalence of SUDs than the general population.<sup>3</sup> Programs such as drug court are a firm acknowledgment of the prevalence of SUDs in the justice system and provide an innovative attempt to integrate the mutually reinforcing goals of public safety and accountability with individuals' recovery.

Court involvement presents a unique opportunity to engage with individuals who have a substance use or co-occurring disorder and to promote long-term care and recovery. While substance use is primarily a behavioral health problem, the judiciary can play a critical role in addressing substance use and other behavioral health disorders by strengthening its approach to connecting individuals involved in the system with needed services. The justice and behavioral health systems have different policies, authority, and functions that can at times be in conflict, but have the potential to complement each other and work together toward outcomes that are beneficial for individuals.

### KENTUCKY'S DESIRE TO MOVE TO A RECOVERY-ORIENTED SYSTEM OF CARE COURT MODEL

Kentucky's Court of Justice (KCOJ) recognizes the prevalence of substance use disorders among court-involved individuals and the opportunity that the court has to intervene and encourage treatment and recovery. The KCOJ's vision for a Recovery-Oriented System of Care (ROSC) court model involves providing a holistic "no wrong door" approach to individuals with substance use or co-occurring disorders. Creating a holistic model would require the court system to operate under a shared approach to recovery, including clear definitions of roles and responsibilities and coordination. The KCOJ would like to see individuals involved in the court system assessed for behavioral health needs and connected to treatment services and recovery supports as early as possible regardless of their stage of court involvement. Its aim is to ensure that judges and court personnel at all points in the system have the knowledge and resources to refer an individual for assessment if they believe the individual would benefit from treatment at the earliest possible contact with the court system or upon identifying a potential substance use or mental health condition. The courts can serve as a central system to help

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<sup>2</sup> Substance Abuse and Mental Health Services Administration. (2020). Key substance use and mental health indicators in the United States: Results from the 2019 National Survey on Drug Use and Health (HHS Publication No. PEP20-07-01-001, NSDUH Series H-55). Rockville, MD: Center for Behavioral Health Statistics and Quality, Substance Abuse and Mental Health Services Administration. Accessed at: <https://www.samhsa.gov/data/report/2019-nsduh-annual-national-report>

<sup>3</sup> [NIJ's Drugs and Crime Research: Arrestee Drug Abuse Monitoring Programs | National Institute of Justice \(ojp.gov\)](https://nij.ojp.gov/topics/articles/nij-drugs-and-crime-research-arrestee-drug-abuse-monitoring-programs#data), accessed at: <https://nij.ojp.gov/topics/articles/nij-drugs-and-crime-research-arrestee-drug-abuse-monitoring-programs#data>

court personnel identify whether individuals are touching multiple points within the legal system and streamline their service approach.

The KCOJ hopes to achieve the following goals by adopting an ROSC court model:

- Ensure adequate screening is done to ensure individuals are referred for assessments;
- Examine the shift from a sanction-based, compliance court model to a Recovery-Oriented System of Care court model to address substance use disorders (including co-occurring disorders);
- Leverage resources to achieve better outcomes for people with substance use and or mental health disorders, including by expanding the services provided and matching services *provided* with services individuals *need*;
- Consider the continuum of needs/recovery pathways to ensure staff understand how individuals can navigate their recovery; and
- Work to enhance recovery capital by removing barriers and connecting individuals to services available through other agencies, including childcare, housing, transportation, and employment assistance.

## RECOVERY-ORIENTED SYSTEMS OF CARE

Recovery-Oriented Systems of Care are “networks of organizations, agencies, and community members that coordinate a wide spectrum of services to prevent, intervene in, and treat substance use problems and disorders.”<sup>4</sup>

The Center for Substance Abuse Treatment (CSAT) within the Substance Abuse and Mental Health Services Administration (SAMHSA) prioritizes developing systems and services centered on recovery. In 2005, CSAT held a National Summit on Recovery. During that Summit, a group of substance use and recovery leaders expressed a shared desire to break down barriers that exist in the current treatment model, which centered on the delivery of treatment services. To do this, the stakeholders who participated in the Summit proposed shifting to a community-based model, where services are available in communities that need them most, and family and peers are involved in the recovery process along with treatment professionals.

The ideals of ROSC also reflect a shift from recovery as a *goal* to recovery as a *process*. At the 2005 Summit, stakeholders created 12 guiding principles and 17 essential elements of ROSC. The principles and elements serve as a framework to create systems centered on the individuals in or moving toward recovery and provide services that are flexible to the evolving needs of individuals, families, and communities.

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<sup>4</sup> Sheedy C. K., and Whitter M., Guiding Principles and Elements of Recovery-Oriented Systems of Care: What Do We Know from the Research? HHS Publication No. (SMA) 09-4439. Rockville, MD: Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration, 2009. [Guiding Principles and Elements of Recovery-Oriented Systems of Care: What do we know from the research? - August 2009 \(naadac.org\)](https://www.naadac.org/assets/2416/sheedyckwhitterm2009_guiding_principles_and_elements.pdf), accessed at: [https://www.naadac.org/assets/2416/sheedyckwhitterm2009\\_guiding\\_principles\\_and\\_elements.pdf](https://www.naadac.org/assets/2416/sheedyckwhitterm2009_guiding_principles_and_elements.pdf)

The 12 guiding principles are:

1. There are many pathways to recovery.
2. Recovery is self-directed and empowering.
3. Recovery involves a personal recognition of the need for change and transformation.
4. Recovery is holistic.
5. Recovery has cultural dimensions.
6. Recovery exists on a continuum of improved health and wellness.
7. Recovery emerges from hope and gratitude.
8. Recovery involves a process of healing and self-redefinition.
9. Recovery involves addressing discrimination and transcending shame and stigma.
10. Recovery is supported by peers and allies.
11. Recovery involves (re)joining and (re)building a life in the community.
12. Recovery is a reality.

The 17 essential elements are:

1. **Person-centered** – An ROSC uses language that puts the person experiencing substance use or mental health conditions first rather than their illness (e.g., “people experiencing substance use disorders” rather than “addicts”). An ROSC offers choice in treatment, recognizes individual potential, and is responsive to a person’s overall wellbeing rather than only their addiction.
2. **Inclusive of family and other ally involvement** – An ROSC encourages family and peer supports to play important roles in people’s recovery from mental illness or substance use disorders.
3. **Individualized and comprehensive services across the lifespan** – An ROSC encourages and supports individuality and focuses on the goals and needs of the person who is experiencing addiction throughout various stages of life and throughout the cycle of addiction. An ROSC recognizes there is no one treatment that is appropriate for everyone.
4. **Systems anchored in the community** – An ROSC increases the chances of successful and maintained recovery and wellness through strengthening support networks in the communities where people in recovery live.
5. **Continuity of care** – An ROSC ensures that individuals have appropriate services available to them at every step in the recovery journey.
6. **Partnership-consultant relationships** – An ROSC values collaboration, particularly between provider and client, over hierarchy.
7. **Strength-based** – An ROSC emphasizes the positives, strengths, and self-determination of the individuals involved in the system.
8. **Culturally responsive** – An ROSC recognizes that various cultures may have different needs in the recovery process, and cultural customs may impact the effectiveness and outcomes of treatments.
9. **Responsiveness to personal belief systems** – An ROSC recognizes that individual beliefs may influence the treatment and recovery process.



10. **Commitment to peer recovery support services** – An ROSC recognizes the value of lived experience and encourages peers to assist others in their recovery.
11. **Inclusion of the voices and experiences of recovering individuals and their families** – In an ROSC, all community stakeholders have something to contribute and should be part of the system’s design and implementation.
12. **Integrated services** – An ROSC provides treatment for individuals with substance use disorders as well as mental illness in an integrated way.
13. **System-wide education and training** – An ROSC ensures values and concepts associated with ROSCs are learned through the entire system.
14. **Ongoing monitoring and outreach** – In an ROSC, stakeholders assess treatment plans and services on an ongoing basis, and make changes as needed to ensure the plan and services continue to meet the person’s needs. ROSCs recognize that recovery is not a linear process.
15. **Outcomes driven** – An ROSC develops performance measures with all stakeholders and measures individual as well as community wellness.
16. **Research-based** – An ROSC places value on research already conducted and encourages additional research on relevant topics and treatment methods.
17. **Adequately and flexibly financed** – An ROSC permits all individuals to be able to pay for needed treatment along a continuum of services.<sup>5</sup>

Several states and communities have made or are making the transition to ROSC using the above guiding principles and essential elements. Ohio started its ROSC process by designing a stakeholder assessment tool to examine the extent to which state and local behavioral health systems were recovery-oriented and to identify opportunities to improve these systems.<sup>6</sup> Connecticut and Maine encouraged providers to collect input from individuals in recovery and their family members and to adjust their care and practices based on feedback received and self-assessment results.<sup>7</sup> Michigan started its transformation process by convening community members such as people in recovery, family members, providers, and coordinating agencies to create a shared vision and implementation plan that emphasized that changes in attitudes and beliefs must go along with changes in practice and policy. The state formed a Steering Committee to lead the transformation, which incorporated the following in its vision: integrating strategies to prevent new substance use disorders, reducing harm from addiction, helping people

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<sup>5</sup> Sheedy C. K., and Whitter M., *Guiding Principles and Elements of Recovery-Oriented Systems of Care: What Do We Know from the Research?* HHS Publication No. (SMA) 09-4439. Rockville, MD: Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration, 2009. [Guiding Principles and Elements of Recovery-Oriented Systems of Care: What do we know from the research? - August 2009 \(naadac.org\)](https://www.naadac.org/assets/2416/sheedyckwhitterm2009_guiding_principles_and_elements.pdf), accessed at: [https://www.naadac.org/assets/2416/sheedyckwhitterm2009\\_guiding\\_principles\\_and\\_elements.pdf](https://www.naadac.org/assets/2416/sheedyckwhitterm2009_guiding_principles_and_elements.pdf)

<sup>6</sup> [Ohio ROSC Report 2019](https://www.oacbha.org/docs/ROSC_State_Report.pdf), accessed at: [https://www.oacbha.org/docs/ROSC\\_State\\_Report.pdf](https://www.oacbha.org/docs/ROSC_State_Report.pdf)

<sup>7</sup> [Practice Guidelines for Recovery-Oriented Care for Mental Health and Substance Use Conditions, Connecticut Department of Mental Health and Addiction Services \(2008\)](https://portal.ct.gov/-/media/DMHAS/Recovery/practiceguidelines2pdf.pdf), accessed at: <https://portal.ct.gov/-/media/DMHAS/Recovery/practiceguidelines2pdf.pdf>; [Mental Health Services: Practice Guidelines for Recovery Oriented Care \(Maine, 2011\)](https://www.maine.gov/dhhs/samhs/mentalhealth/wellness/recovery/documents/recovery-guidelines.pdf), accessed at: <https://www.maine.gov/dhhs/samhs/mentalhealth/wellness/recovery/documents/recovery-guidelines.pdf>

transition from brief to sustained recovery, promoting quality of life, and improving health and wellness for all.<sup>8</sup>

Kentucky appears to be the first state court system to move toward an ROSC. While examples of other state systems that have transitioned to ROSC are helpful to consider in moving towards an ROSC, there is no exact roadmap to follow to transform the state's court system. However, Kentucky can learn from the steps that states like Ohio, Connecticut, Maine, and Michigan have taken in first understanding their own systems and identifying needs and opportunities. This report marks the beginning of that process and outlines recommendations for how Kentucky's court system can start moving towards becoming a Recovery-Oriented System of Care.

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<sup>8</sup> [Michigan's ROSC Implementation Plan](https://www.michigan.gov/documents/mdch/ROSC_Implementation_Plan_357360_7.pdf), accessed at:  
[https://www.michigan.gov/documents/mdch/ROSC\\_Implementation\\_Plan\\_357360\\_7.pdf](https://www.michigan.gov/documents/mdch/ROSC_Implementation_Plan_357360_7.pdf)

## METHODOLOGY

SAMHSA recommends that agencies complete a needs assessment to develop an ROSC plan to inform stakeholders about the extent of substance use problems, gaps in services and support, and community and organizational strengths.<sup>9</sup> To complete the needs assessment, CJI began by reviewing the following documents to identify steps Kentucky could take to move to an ROSC court system:

- Relevant statutes and administrative rules for Pretrial Services, Specialty Courts, and Family Court
- Relevant Supreme Court rules
- Policy and procedure manuals
- Staff training and orientation materials
- Screening and eligibility assessment tools
- Program eligibility criteria
- Participant agreements
- Performance measures
- Program statistics and fact sheets
- Outcome evaluations
- Annual reports

Next, CJI spoke with the following stakeholders representing various geographic regions of the state, including rural, suburban, and urban areas, either one-on-one or through focus groups:

- Chief Justice of Kentucky's Supreme Court (1)
- Circuit, District and Family Court Judges (13)
- AOC Leadership (3)
- Pretrial Services Managers (2)
- Specialty Court Managers (2)
- Pretrial Services Supervisors (4)
- Pretrial Officers (8)
- Specialty Court Supervisors (5)
- Specialty Court Case Specialists (6)
- DBHDID Leadership (3)
- Community Mental Health Center and Treatment Program Directors (8)
- DCBS Regional Administrators and Family Services Office Supervisors (9)
- DCBS Social Workers (5)
- Probation and Parole Leadership (2)
- Prosecutors (3)
- Defense Attorneys (7)

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<sup>9</sup> [Recovery-Oriented Systems of Care \(ROSC\) Resource Guide](https://www.samhsa.gov/sites/default/files/rosc_resource_guide_book.pdf), accessed at: [https://www.samhsa.gov/sites/default/files/rosc\\_resource\\_guide\\_book.pdf](https://www.samhsa.gov/sites/default/files/rosc_resource_guide_book.pdf)

- Law Enforcement (1)

Finally, CJJ created a survey that an additional seven treatment providers completed.

This report articulates the findings from the document review and discussions with stakeholders, and includes recommendations for the KCOJ.

## FINDINGS

### COLLABORATION, COMMUNICATION, COORDINATION

#### FINDING 1

**There are challenges in coordinating care between courts and treatment providers and different expectations about the roles of courts and treatment providers, making efficient and effective service delivery difficult.**

Together, Kentucky's courts and behavioral health systems value the collaboration they experienced through recent grant opportunities funded through SAMHSA, such as the Kentucky Opioid Response Effort (KORE) and the Responsive Education to Support Treatment in Opioid Recovery Efforts (RESTORE) Initiative. However, stakeholders noted challenges involving care coordination, the expectations about the courts and treatment providers' roles, collaboration, competition, and data sharing.

#### *Care Coordination*

Treatment providers noted challenges with coordinating care for individuals, particularly those who do not have a designated case manager, social worker, or probation or parole officer. They also expressed that having individuals set up services independently in times of stress can be difficult and confusing. Information sharing is a critical component of cross-system collaboration, and many courts and treatment providers lack a consistent communication structure. The communication structure is very different based on the type of program and geographic location. Smaller jurisdictions tend to have closer relationships and more frequent contact with providers than jurisdictions in larger urban areas.

Generally, Pretrial Officers give individuals a resource list and tell them to call providers to set up appointments. When individuals initially reach out to service providers, they are frequently unclear about what the courts expect of their participation with the provider. Sometimes they are required to complete treatment, while other times they only have to complete an assessment to determine whether the provider recommends treatment participation. Due to caseload size and staffing, Pretrial Services lacks staff capacity to provide stronger links to services.

The Pretrial Assisted Reentry Treatment Services (PARTS) program is an exception; its coordinator communicates directly with service providers to connect individuals to services and provides ongoing case management to program participants.<sup>10</sup> Another program that facilitates connections to services during the pretrial phase is the Department of Public Advocacy's (DPA) Alternative Sentencing Worker (ASW) Program.<sup>11</sup> Pretrial Officers who work closely with the social workers from this program have

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<sup>10</sup> Multiple stakeholders spoke highly of the PARTS Program's ability to engage and support participants through ongoing case management.

<sup>11</sup> Through a referral process, DPA attorneys and ASWs identify individuals who suffer from substance abuse and/or mental health disorders, offering alternative options to the court, in lieu of incarceration. More information at: [Alternative Sentencing Workers - Department of Public Advocacy \(ky.gov\)](https://dpa.ky.gov/who_we_are/ASW/Pages/default.aspx), accessed at: [https://dpa.ky.gov/who\\_we\\_are/ASW/Pages/default.aspx](https://dpa.ky.gov/who_we_are/ASW/Pages/default.aspx)

found ASWs to be helpful in initiating care; however, not all Pretrial Officers are aware of or utilizing them as a resource and the ASWs cannot provide ongoing monitoring and support for individuals once a court approves the plan. To ensure continuity of care, it is important to connect people to ongoing case management in addition to treatment services.

Once Pretrial Officers refer individuals to services, they reported having infrequent contact with service providers. They receive participation verification at intake and discharge only. In the PARTS program, the coordinator maintains regular contact with treatment providers and notifies courts upon treatment program completion.

Specialty courts generally do not report concerns with care coordination, except in cases where providers are understaffed. Specialty courts outline communication and reporting expectations in Memorandums of Agreement with their contracted providers. Specialty court staff and treatment providers both participate on the treatment court team and problem solve care coordination issues as they arise during staffing.

Family Courts primarily receive treatment information through DCBS social workers. DCBS staff receive monthly updates from providers and include treatment participation information in their reports to the court. DCBS staff articulated challenges with receiving information from some service providers. In many cases, individuals do not sign releases of information for DCBS to receive treatment information, and providers cannot share treatment information without a signed release due to HIPAA. In turn, DCBS cannot share treatment engagement and progress with the courts. Social workers also reported that even with a signed release, they do not always receive consistent treatment participation information, particularly from medications for opioid use disorder providers. Despite those challenges, DCBS staff reported having strong relationships and regular communication with Community Mental Health Centers (CMHCs).

#### *Expectations about the roles of the courts and treatment providers*

Throughout the state, courts and behavioral health providers have varied understanding of their roles and expectations of one another. Some courts view their role as screening and connecting individuals to resources and providing structure and accountability, but rely on treatment providers to determine the appropriate level of care and responses to individuals' needs. Other courts recommend specific treatment responses for individuals with substance use and other behavioral health conditions before receiving input from providers. Treatment providers view the courts as a significant referral source and a screening and entry point, and prefer to recommend service plans based on the results of their clinical assessment of each person's needs. The level of collaboration between systems correlates to the courts'

#### **ROSC Elements in Action in Kentucky**

##### *Integrated services:*

In Eastern Kentucky, Help End Addiction for Life (HEAL) was formed in 2018 by a local doctor, a hospital CEO, and a local treatment provider. Through HEAL, courts in Letcher county developed stronger connections to treatment providers, and they now have a Community Mental Health Center provide screening and assessments to individuals released directly from jail. HEAL focuses on prevention, education, treatment, and recovery.

relationships with specific providers and the level of trust between courts and programs in their communities.

In some jurisdictions, courts ask providers to attend court to screen and assess individuals. Other courts ask treatment providers to be available to assess individuals presenting to court on an on-call basis. Although immediate assessment facilitates access to services for those in the court systems, many providers cannot accommodate those requests without grant funding.

Courts and behavioral health providers recognize opportunities to increase understanding of each system to leverage their strengths. Judges expressed that they would like to learn more about available community-based case management services to ensure adequate referrals to services based within their communities for all individuals not engaged in specialty courts. This would allow them to effectively utilize community resources while reserving court-based case management capacity for high-risk/high-needs individuals through specialty courts. Behavioral health providers expressed an interest in learning how to become more involved in expediting entry into services for those involved in the court system.

Stakeholders identified ways in which the courts communicate with other agencies, including providers, to strengthen relationships. Treatment providers found education sessions with judges about the use of drug testing to improve therapeutic responses have been productive. Both systems would benefit from educating one another about processes and approaches to recovery to improve coordination. Specialty court supervisors reported participating in boards such as the Agency for Substance Abuse Policy Board to develop relationships with providers within their communities.<sup>12</sup> In some jurisdictions, DCBS supervisors meet quarterly with judges to identify areas for improvement, and staff expressed that those meetings are productive and improve communication between systems.

### *Competition*

The court system is a significant referral source for behavioral health treatment programs, and competition for referrals exists among some providers. Certain courts have close relationships with specific programs, while others do not. Access to long-term recovery support services for those who need them is not equitable throughout the state, and existing referral patterns do not always ensure that individuals are matched with the best treatment modality to meet their needs.

In addition to concerns about referrals and access, stakeholders acknowledged that there are different perspectives within the provider community about best practices for treating substance use disorders. In a truly Recovery-Oriented System of Care, clinical behavioral health treatment is one of many pathways to recovery. ROSCs make space for a variety of services and place equal value in each pathway to recovery. However, the different pathways are not always equally accessible to consumers.

Understanding the challenges with entry into different treatment and recovery services as well as how competition among providers impacts collaboration is important to building a robust system. ROSCs

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<sup>12</sup> [KY Agency for Substance Abuse Policy - Office of Drug Control Policy](https://odcp.ky.gov/About/Pages/History.aspx), accessed at: <https://odcp.ky.gov/About/Pages/History.aspx>

value both licensed and peer-led options for individuals seeking recovery, so exploring and navigating these differences in services and approaches to recovery will be crucial to creating a system where individuals seeking recovery have multiple options available to meet their needs.

#### *Data integration/information sharing*

The behavioral health system has worked towards data integration with the courts for several years. DBHDID wants to track incarceration data and court case outcomes. DBHDID has made progress with the Department of Corrections and can track individuals after release to see if they went to the emergency room within a certain number of days. However, behavioral health cannot currently get similar data to track outcomes from the courts due to confidentiality concerns. Although DBHDID can access court data, the data systems do not talk to each other, and the data are not integrated.

Treatment providers indicated that the release of information, which the individual signs during intake, determines the information they share with the court. Providers emphasized the importance of basing that information sharing on individual preferences. However, court staff suggested that individuals generally agree to share all information the court requests regardless of their personal comfort level due to the courts' power. It is critical to consider the type and degree of treatment information providers share with the courts and how they use that information. Providers have an obligation to protect the therapeutic alliance, which is an essential component of positive recovery outcomes. Therefore, courts and providers need to develop a clear understanding of the purpose of sharing treatment information.

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## FINDING 2

**Each direct service department within the AOC operates independent court programs and collaborates on joint projects, but they have not yet established a shared definition, vision, and approach to recovery. Differences in perspectives towards recovery result in different uses of program conditions.**

#### *Approach to recovery and the roles of courts and service providers*

The AOC oversees three distinct direct service departments: Pretrial, Family and Juvenile Services, and Specialty Courts. Generally, there is little cross-training or collaboration among AOC departments, although all three are now providing training to new staff on racial disparities and are in the process of developing an SUD overview training for all new employees. Throughout the AOC, staff indicated that individuals, families, and staff are involved in multiple aspects of the court system (e.g., criminal, child welfare, civil). This highlights the need for a shared understanding of and approach to behavioral health. All three departments have trained staff, judges, and other justice stakeholders on substance use disorders, primarily through the RESTORE Initiative.<sup>13</sup> Stakeholders spoke highly about the RESTORE summits and expressed interest in receiving more training on behavioral health topics. Staff from

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<sup>13</sup> [RESTORE Summary Booklet](https://operationunite.org/wp-content/uploads/2019/04/RESTORE-pamphlet-4-11-19.pdf), accessed at: <https://operationunite.org/wp-content/uploads/2019/04/RESTORE-pamphlet-4-11-19.pdf>



various departments within the AOC highlighted the importance of engaging in more collaboration to streamline obligations that individuals and families may have in different courts and systems.

Although there is consensus among stakeholders that substance use affects approximately 90 percent of cases throughout the court system, they shared different perspectives about substance use. The majority of stakeholders mentioned that relapse is part of recovery; however, they continually used language conveying the perspective that substance use is an acute condition that only treatment can address. This perspective is contrary to an ROSC, which views substance use as a chronic condition and recognizes that one can achieve recovery through many pathways, including treatment.<sup>14</sup>

### *Screening tools*

Each direct service department within the AOC relies on a separate screening tool and process to identify individuals with substance use and mental health needs. Screening provides the foundation for identification and placement into treatment interventions, and research shows that the use of comprehensive screening and assessment for substance use and mental health conditions improves outcomes for individuals involved in the justice system.<sup>15</sup> Without a shared approach to screening and referring individuals, the courts may miss opportunities to connect people to services. Information sharing barriers within the adult justice system also result in individuals having to answer similar questions multiple times. For example, jail staff initially screen individuals during booking, but they do not share that information with Pretrial Services staff.<sup>16</sup> Some judges reported that the pretrial screening tool does not provide enough information about substance use and mental health to aid their decision making and suggested that jails share behavioral health information with Pretrial Services to inform the courts. They did not explain how they intended to use that information to make decisions about pretrial release or conditions, and there would likely need to be training and policy on this as the information could be used differently by different judges (e.g., used as a reason to detain or a reason to connect to community based services).

To identify individuals with potential substance use treatment needs, Pretrial Services checks the criminal history to see whether the individual has three or more alcohol or other substance abuse charges within the past five years.<sup>17</sup> Pretrial Services collects data on drug charges as part of the screening process but recognizes that those charges are not a valid indicator of substance use among individuals screened pretrial.<sup>18</sup> In the interview, pretrial officers ask each defendant, “Do you feel that you have a substance abuse problem?”<sup>19</sup> Stakeholders mentioned that individuals’ willingness to

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<sup>14</sup> [Mental Health Services: Practice Guidelines for Recovery Oriented Care \(Maine, 2011\)](https://www.maine.gov/dhhs/samhs/mentalhealth/wellness/recovery/documents/recovery-guidelines.pdf), accessed at: <https://www.maine.gov/dhhs/samhs/mentalhealth/wellness/recovery/documents/recovery-guidelines.pdf>

<sup>15</sup> [Screening and Assessment of Co-occurring Disorders in the Justice System \(samhsa.gov\)](https://store.samhsa.gov/sites/default/files/d7/priv/pep19-screen-codjs.pdf), accessed at: <https://store.samhsa.gov/sites/default/files/d7/priv/pep19-screen-codjs.pdf>

<sup>16</sup> Email received from Tara Blair, Executive Officer of Pretrial Services, received 9/15/20.

<sup>17</sup> Pretrial Release Information Management Technical Guide

<sup>18</sup> Email from Michael Thacker, Risk Assessment Coordinator for Pretrial Services, received 10/5/20

<sup>19</sup> Pretrial Release Information Management Technical Guide

respond to that question depends on how staff ask it and whether they communicate the purpose of collecting that information. Pretrial Services does not screen specifically for mental health conditions.<sup>20</sup>

Judges, prosecutors, and defense attorneys generally identify specialty court candidates and refer individuals for an eligibility assessment, which AOC staff complete.<sup>21</sup> The assessment results create a risk score, which helps the judge and specialty court team make an acceptance decision. The judge makes the final acceptance decision considering the current charges and convictions, past convictions, eligibility assessment results, victim information, willingness to participate, and other factors.<sup>22</sup> The specialty court eligibility assessment process includes mental health as well as substance use information, and is extensive and includes some duplicative questions. Some of the information staff collect during the assessment is not needed to make program eligibility determinations as it is typically used by clinicians for diagnostic and treatment planning purposes.<sup>23</sup>

In Family Court, DCBS staff screen individuals for substance use and mental health treatment needs and refer them to treatment providers or assessment centers such as the Targeted Assessment Program (TAP) for clinical assessments. DCBS focuses on whether a parent or guardian's substance use interferes with their ability to care for their children and whether a sober adult is available to step in and care for the children if a parent becomes impaired. The DCBS screening is brief, and in some Family Courts, service providers attend court to complete assessments with families in need of services. Stakeholders find this practice beneficial in linking families to treatment when they are interested in participating in services.

#### *Use of Program Conditions*

Courts vary in their use of program conditions and responses to violations of conditions, both within and among direct service departments. Pretrial Services Regional Supervisors consult with local judges to develop a written protocol to guide communication about program violations.<sup>24</sup> The amount of discretion provided to Pretrial Services to respond to violations without court intervention varies considerably. If the pretrial screening indicates the presence of recent and relevant substance use disorder risk factors, courts may order release conditions such as drug testing, additional assessment, and treatment or recovery program participation based on assessment results.<sup>25</sup>

Stakeholders indicated that courts tailor release conditions to the individual or the current charge. Some judges order more conditions than others do for similarly situated cases. For example, some judges order individuals to obtain employment or work towards getting a General Equivalency Diploma (GED)

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<sup>20</sup> Pretrial Services is in the process of selecting a standardized screening tool.

<sup>21</sup> The specialty court assessment process consists of the Addiction Severity Index Lite, the Ohio Risk Assessment System Pretrial Assessment Tool and the Ohio Risk Assessment System Community Supervision Tool, the Texas Christian University TCUDS-5 for substance use disorder identification, and the Mental Health Form III for a history of mental health issues, including history of suicidality and traumatic experiences.

<sup>22</sup> Supreme Court Administrative Procedures 2016

<sup>23</sup> Specialty Court Assessment, Version 1.0, September 23, 2019

<sup>24</sup> Pretrial Services Administrative Policies (Amended 6/2018)

<sup>25</sup> KRS 431.518 and Pretrial Training and Resource Guide

to provide daily structure and help them become more financially stable, while other judges limit the conditions they impose because of transportation and financial barriers that impact compliance. In addition to differing views on pretrial release conditions, judges also expressed different views on the value of individuals meeting with pretrial officers, the use of Monitored Conditional Release (MCR), home incarceration, and electronic monitoring. Some judges rely on MCR, which can include home incarceration with a condition of release to attend treatment for individuals they do not feel comfortable releasing on their recognizance, to limit their movement while remaining in the community. Other judges expressed that some treatment providers will not accept individuals on home incarceration and avoided its use to remove that barrier to accessing services.

Specialty court conditions also vary by program, particularly those related to employment and education requirements. Some courts require individuals to attend an employment search group each day they remain unemployed, and certain courts require participants to obtain a GED before graduating. Some courts do not allow individuals to complete the program until they have paid all of their court costs, which keeps participants in the program long after they have finished all other requirements. Courts also do not employ a consistent approach to the use of medications for opioid use disorder (MOUD). Some judges expressed concerns about its use and potential for abuse and did not support individuals receiving MOUD, while others discussed its benefit in treating opioid use disorders.

Family Court conditions vary across the state. Some courts defer to the needs identified by DCBS staff, while others use their own assessment of families' needs and challenges to determine conditions. The court and DCBS determine what activities will be included in the case plan at the disposition hearing. Families and supports play a role in shaping their case plan goals and activities to the extent they wish to participate. DCBS also makes recommendations based on collateral contacts with community partners, and the judge often orders individuals to comply with those recommendations.

### *Drug Testing*

Courts hold differing views on the purpose, utility, and role of drug testing people on pretrial release. To begin with, each type of court takes a different approach to ordering drug testing as a condition. In pretrial supervision circumstances, participants only need to complete drug testing when it is court-ordered.<sup>26</sup> In specialty court, each phase has a specific drug testing frequency to which all participants must adhere. Family Court orders most parents involved in dependency, neglect, and abuse cases to complete drug testing. Individuals on pretrial supervision and in Family Court are responsible for paying for drug testing costs, unless a court orders CHFS to pay for those involved in dependency, neglect, and abuse cases. Individuals in specialty courts do not have to pay for drug testing. Individuals pay for additional testing costs to challenge positive test results, with the exception of specialty court participants.<sup>27</sup> <sup>28</sup> Some judges order drug testing as a condition while others avoid requiring individuals

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<sup>26</sup> Monitored Conditional Release Supervision Manual

<sup>27</sup> Monitored Conditional Release Supervision Manual

<sup>28</sup> In dependency, neglect, and abuse cases, individuals are required to pay for drug testing unless the judge explicitly orders the Cabinet for Health and Family Services to pay testing fees. At times, judges weigh drug test results more heavily than treatment engagement and participation in making decisions about visitation.

to complete drug testing due to financial barriers. Overall, stakeholders identified drug testing as the condition with which participants struggle most.

Since many treatment providers also drug test participants, not all courts order drug testing as a separate condition from treatment participation. In many courts, judges receive drug test results from the treatment providers. Pretrial staff indicated that allowing treatment providers to conduct the drug testing reduced individuals' barriers to compliance with release conditions.

Responses to positive drug tests also vary throughout the court system. Some courts confer with treatment providers when deciding how to respond to positive drug test results, while others do not. Judges often want to see people back in court if they test positive. At times, judges use these contacts to arrange for the person to get to treatment, but in other cases, the judge orders individuals into custody for a violation of program conditions. In some courts, individuals receive a misdemeanor charge for testing positive while on pretrial release.

When individuals test positive, some courts forward that information to the county attorney's office to see whether they would like to file a motion to revoke the person's bond.

Some judges and Pretrial Services staff indicated that many courts excuse the first drug test if the person informs staff that the result will be positive, and some courts allow a period for substance concentration levels to decrease if the person opts to pay for the test to go to the lab for further analysis. Although courts generally give individuals an initial grace period, that rarely extends beyond the beginning of supervision. If an individual experiences a recurrence or returns to use after a period of sobriety, courts tend to view a positive test result as a failure and an indication of noncompliance regardless of any incremental progress made in other areas. Specialty courts, however, understand that individuals may experience a recurrence or return to use and adjust participant progress through program phases accordingly. Participants must remain drug-free for a minimum of 180 days to complete specialty court.

### **ROSC Elements in Action in Kentucky**

#### *Ongoing monitoring and outreach:*

The Pretrial Assisted Reentry Treatment Services (PARTS) program views drug testing while a person is involved in treatment as part of the therapeutic process rather than an indication of compliance with pretrial release conditions. Treatment professionals may make therapeutic adjustments to the person's care plan in response to positive test results. However, the providers do not share drug test results with the court, and those results do not impact the person's court case or status in the PARTS program.

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### **FINDING 3**

**The collaboration between the Cabinet for Health and Family Services' DBHDID and DCBS, and the AOC has strengthened in the past six years. In family law and juvenile cases, efforts to move towards a system of care for families can provide a roadmap to developing a similar approach within the adult court system.**

The courts and CHFS have navigated communication challenges by creating formal structures to support collaboration.

### *Communication and structure*

In 2014, Chief Justice Minton created a communication plan that includes quarterly meetings between high-level representatives from KCOJ, the Cabinet for Health and Family Services, and the Justice and Public Safety Cabinet. The group focuses on working better together on issues affecting children and families in the courts. They discuss legislative changes but do not address issues related to criminal cases. The group also has subgroups, including a judicial engagement workgroup. Chief Justice Minton's leadership has been critical to increasing judges' awareness and education about substance use and mental health. Many stakeholders indicated his support for education offered through the RESTORE Summits was very influential in generating buy-in from the courts. Chief Justice Minton noted that Kentucky has some background in implementing systemic change to the court system at the statewide level through its experience with specialty courts, bail reform, and the Family Court model. He expressed that the experience gained from those prior efforts, combined with Kentucky's desire to better address behavioral health conditions for those involved in the court system, prepare the state to take on the transition to an ROSC court model.

The AOC, DBHDID, and DCBS all participate in the State Interagency Council for Services to Children and Transition-age Youth, a statutorily mandated group.<sup>29</sup> Participation in the council created more formal connections between behavioral health and the court system on substance use and mental health; this group serves as a system of care entity. In addition to the state-level work, Regional Interagency Councils coordinate services locally to support families. Behavioral health leaders indicated that the collaboration between their system and Juvenile and Family Services is much farther along than collaboration within the adult system. The partnership between systems is evident through the prevention programs offered in Family Court that help families resolve issues either without getting involved in the courts or minimizing court system involvement while keeping families intact.<sup>30</sup>

Frequent turnover in the Cabinet for Health and Family Services presents a challenge to sustaining improvements. Changes in vision and direction can easily derail prior efforts to improve systems, and collaboration requires strong relationships. Staff turnover also contributes to a lack of institutional knowledge and understanding of policies and processes within the court, behavioral health, and child welfare systems. It is important to establish communication structures and coordination at multiple levels within agencies to create the consistency needed to build trust and sustain change. The various coordination levels established between systems serving families can inform the adult criminal court system's transition to an ROSC court model.

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<sup>29</sup> [Kentucky Cabinet for Health and Family Services](http://dbhdid.ky.gov/dbh/siac.aspx), accessed at: <http://dbhdid.ky.gov/dbh/siac.aspx>

<sup>30</sup> [Prevention Services Description and Eligibility Criteria](https://manuals.sp.chfs.ky.gov/Resources/Related%20Resources%20Library/Prevention%20Services%20Description%20and%20Eligibility%20Criteria.pdf), accessed at: <https://manuals.sp.chfs.ky.gov/Resources/Related%20Resources%20Library/Prevention%20Services%20Description%20and%20Eligibility%20Criteria.pdf>

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## FINDING 4

### **Certain courts, DBHDID, and DCBS are already implementing ROSC principles, including person-centered care, timely and equitable access to services, and use of natural supports.**

Although the courts and the Cabinet for Health and Family Services, including DBHDID and DCBS, have distinct roles and responsibilities, all systems embrace a shared understanding of the impact of substance use on individuals and families. Stakeholders expressed a need to better support individuals with substance use and other behavioral health conditions through swift and uncomplicated access to individualized services.

#### *Person-centered planning*

In courts and treatment programs, individuals provide input into their case and treatment plans. There are varying degrees to which people involved with the courts can choose their goals. Still, case managers generally try to individualize plans to the extent possible. Case and treatment plans often include goals related to basic needs such as transportation, stable housing, and employment, which are all crucial components of their recovery capital.<sup>31</sup> Goals include incremental action steps and evolve as each person progresses in the program. Treatment providers reported that they determine the individual's stage of change and adapt their engagement strategies to meet each person where they are.<sup>32</sup> Providers use motivational interviewing and the American Society of Addiction Medicine (ASAM) criteria to inform their treatment recommendations.<sup>33</sup> CMHC Directors stated that they take a broad perspective on individuals' success and measure progress towards recovery as developing a healthy mind, body, and spirit.

#### *Exit and annual surveys*

Some courts and treatment providers solicit feedback from participants to identify areas for improvement. Specialty courts conduct exit surveys with those participants who successfully complete the program. While this is important, the courts may be missing opportunities to understand gaps by not gathering information from individuals who do not complete it. Pretrial Services and Family Court do not have a consistent mechanism to collect recommendations for improvements from individuals, although staff informally ask them about their experiences. All licensed treatment facilities are required to provide a survey to anyone involved in treatment at the time of the annual survey, and the Kentucky Treatment Outcome Study reflects those survey results.<sup>34</sup> Some providers use information obtained through exit surveys to drive changes to their programming and services.

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<sup>31</sup> [2008Recovery:SystemsPerspective \(ky.gov\)](#) Presentation from the Southeast Addiction Technology Transfer Center (ATTC) provided to Kentucky Department for Behavioral health, Developmental and Intellectual Disabilities, accessed at:

<http://dbhdid.ky.gov/dbh/documents/ksaods/2017/RecoveryOrientedSystemsofCare.pdf?t=23425306122018>

<sup>32</sup> [Stages of Change](#), accessed at: <https://tnchildren.org/wp-content/uploads/2014/11/Stages-of-Change.pdf>

<sup>33</sup> [About the ASAM Criteria](#), accessed at: <https://www.asam.org/asam-criteria/about>

<sup>34</sup> [2020 KTOS Fact Sheet](#), accessed at: [https://cdar.uky.edu/KTOS/KTOS\\_2020\\_Fact\\_Sheet.pdf](https://cdar.uky.edu/KTOS/KTOS_2020_Fact_Sheet.pdf)

### *Use of peer supports*

The courts value services provided by peer supports—individuals with lived experience in recovery. Some courts have arranged with service providers to have a peer support specialist attend court to help individuals learn more about treatment and recovery support services. Courts have accomplished this without grant funding through relationship building and find peer supports beneficial to increasing engagement. The Cabinet for Health and Family Services also incorporates peer support specialists for some eligible court cases.

#### **ROSC Elements in Action in Kentucky**

##### *Commitment to peer recovery support services:*

In the Sobriety Treatment and Recovery Team (START) Program, parents who have navigated the child welfare system offer support to parents/guardians involved in dependency, neglect, and abuse cases. The courts consider their services invaluable.

DBHDID also relies on peer support specialists to engage and provide recovery support to individuals involved in the behavioral health system. Peer supports facilitate connections to services through quick response teams that respond to overdoses. They also establish rapport with individuals in jails. Peer supports work at federally qualified health centers and connect people to primary care and syringe exchanges. Community Mental Health Centers frequently hire peer support specialists and employ individuals with lived experience in recovery in case manager and supervisor positions. Behavioral health leaders expressed an interest in hiring more peers with justice system experience, but indicated that barriers prevent some justice-involved and formerly justice-involved individuals from interacting with those with felony convictions. Some individuals bypassed this restriction by having their records expunged. DBHDID would like to see those opportunities expand.

### *Community representation and advisory groups*

Courts and treatment providers acknowledge the importance of partnering with community groups to improve responses to substance use. Hardin County’s drug court grew out of a local community grassroots effort, although the AOC currently oversees program operation.

Family Court judges and staff currently participate in specialized training based on a community strengths-based, holistic model that focuses on building community involvement and gaining a full understanding of available social services. Some specialty courts involve a community representative on their teams, such as the YMCA, Chamber of Commerce, or other similar entities, to serve as an additional resource to programs. In addition to court-community partnerships, some

#### **ROSC Elements in Action in Kentucky**

##### *Culturally responsive:*

One Family Court established Hardin County’s Minority Advisory Council to educate the courts on cultural issues to understand how culture affects parenting and increase the courts’ responsiveness to families of different cultures.

behavioral health providers partner with mutual aid groups to link individuals to long-term community supports.

## ACCESS & AVAILABILITY

### FINDING 5

**Treatment availability improved with Medicaid expansion and recent changes allowing service provision via telehealth to be billable, but challenges persist, such as transportation, limited provider office hours, stigma, and lack of resources to access telehealth services.**

#### *Transportation*

In rural areas of Kentucky, where there is an absence of public transit, many individuals struggle to get to treatment, drug testing appointments, job sites, educational opportunities, or other appointments. Stakeholders identified transportation as the most significant barrier to individuals receiving services.<sup>35</sup> Many individuals do not have access to a car, the financial resources to purchase a vehicle, or the ability to drive, often due to a suspended driver's license. Although some transportation assistance is available through Medicaid, several hurdles and eligibility requirements make access to transportation difficult.<sup>36 37</sup> Stakeholders in all roles shared that they felt the many court-related requirements combined with the lack of access to transportation set individuals up for failure.

**ROSC Elements in Action in Kentucky**  
*Systems Anchored in the Community:*  
Addiction Recovery Care (ARC), a local provider in Eastern Kentucky, transports individuals with substance use disorders directly from jail to treatment, which the courts find extremely helpful. This collaboration alleviates the barrier of lack of transportation for consumers.

#### *Scheduling and Employment*

In addition to transportation barriers, individuals struggle to maintain employment and keep up with drug testing requirements while on pretrial release or while involved in other court programming. Stakeholders shared that in some areas of the state where drug testing is only available for limited hours each week, many individuals work later shifts so that they can make it to the allotted time for drug testing. Employment opportunities are already limited for those with prior records, so limiting the shifts people can work may further impact their employment prospects. Local employers who are willing to hire individuals who are actively on pretrial supervision or involved in a specialty court are aware of drug

<sup>35</sup> In addition to posing a barrier to accessing services, access to transportation is an eligibility factor for some specialty courts.

<sup>36</sup> [Medical Transportation - Cabinet for Health and Family Services \(ky.gov\)](https://chfs.ky.gov/agencies/dms/dpo/bpb/Pages/transportation.aspx), accessed at: <https://chfs.ky.gov/agencies/dms/dpo/bpb/Pages/transportation.aspx>

<sup>37</sup> DOC secured funding to support transportation for individuals on probation in some areas of the state, and contracts services through Medicaid transportation brokers.



testing times and provide their employees flexibility to attend appointments. However, this is not the case for all court-involved individuals, and often random or scheduled drug testing can interfere with employment, education, or other opportunities for self-improvement. Pretrial supervisors highlighted the benefit of viewing drug testing as part of treatment rather than as a separate release condition. Treatment providers can still provide test results to the court if required, eliminating additional costs and time for participants and reducing duplication of services for those currently being tested through multiple entities.<sup>38</sup>

Many court-involved individuals lack family support, making it challenging to prioritize treatment. Some areas of the state lack vital child care services, preventing some individuals with parental responsibilities from complying with various conditions. Many individuals also begin their court involvement unaccustomed to living with a structured schedule, and therefore struggle with attending court and other appointments. Keeping a highly structured schedule is especially difficult for individuals whose families have dealt with substance use and other behavioral health conditions for multiple generations. Since court programs require participants to juggle several competing priorities at once with limited support, courts have tried to assist individuals with meeting their court obligations such as providing text reminders notifying them about upcoming court dates. This approach has proven successful in other jurisdictions, including Hennepin County, Minnesota<sup>39</sup>, and Nebraska<sup>40</sup>.

#### *Geographic variability*

Like many states, Kentucky spans rural, urban, and suburban areas, and stakeholders have identified differential availability of services depending on geographic location. One service that is lacking in many rural areas is sober or recovery housing. People face long wait times for program admittance in rural areas, and not every county has a drug testing facility. These limitations present barriers to successful participation in programming for individuals who live in remote areas. Stakeholders from Pretrial Services indicated they have struggled to find providers in Eastern Kentucky that take Medicare. Some programs offer services outside of regular business hours to accommodate those that work during the day, but this availability is largely dependent on grant funding in other areas. Certain areas of the state have minimal flexibility with drug testing times, which results in individuals having difficulties meeting their appointments for testing. Similarly, rural counties lack resources for treatment and struggle to add programming because they cannot justify expanding services without having a guaranteed population to participate in the service. To pay staff to run groups, they need a certain number of participants to justify the cost of providing those services. Rural areas also face challenges in providing treatment

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<sup>38</sup> Individuals can be tested through several agencies at the same time, such as treatment providers, probation and parole, pretrial services, specialty courts, and under a court order.

<sup>39</sup> [Hennepin County Court eReminders Project September 2019](https://www.mncourts.gov/mncourtsgov/media/fourth_district/documents/Research/Hennepin-County-Court-eReminders-Project-September-2019.pdf), accessed at: [https://www.mncourts.gov/mncourtsgov/media/fourth\\_district/documents/Research/Hennepin-County-Court-eReminders-Project-September-2019.pdf](https://www.mncourts.gov/mncourtsgov/media/fourth_district/documents/Research/Hennepin-County-Court-eReminders-Project-September-2019.pdf)

<sup>40</sup> [Reducing Courts' Failure to Appear Rate: A Procedural Approach \(ncjrs.gov\)](https://www.ncjrs.gov/pdffiles1/nij/grants/234370.pdf), accessed at: <https://www.ncjrs.gov/pdffiles1/nij/grants/234370.pdf>

options that are responsive to individuals' needs, such as gender-specific, LGBTQIA, and culturally-responsive programs.

In addition to the availability of services varying throughout the state, programs have significant operational variation.<sup>41</sup> For example, specialty courts may have different eligibility criteria depending on the jurisdiction. Stakeholders shared that differences in eligibility to participate in specialty courts and attend treatment exist based on risk score and criminal charge.

### *Capacity*

A key component of understanding whether treatment services are accessible and available is a capacity assessment or resource mapping.<sup>42</sup> Stakeholders held different views about the availability of treatment and recovery support resources in their area. Some noted a lack of services, while others, mainly court officials and providers, indicated that the lack of services is primarily a perception issue. Stakeholders reported that the wait for residential treatment is typically one to two weeks, depending on the program. While individuals face waiting periods for services, service providers try to ensure that individuals can meet multiple needs while attending treatment. Several communities have co-located physical health clinics so that individuals can move towards improving their quality of life in areas beyond behavioral health.

### *Insurance*

Medicaid expansion became effective in Kentucky on January 1, 2014. Several stakeholders expressed that additional treatment options became available in the state after this. Between the fall of 2013 and July 2018, the state experienced an increase of 643,807 individuals covered by Medicaid or the Kentucky Children's Health Insurance Program (CHIP) and a 62% reduction in its uninsured rate from 2013 to 2017.<sup>43</sup> The 1115 waiver is a part of Medicaid expansion and specifically targets people who are justice-involved, allowing Kentucky to improve substance use disorder treatment, including using evidence-based practices, increasing provider capacity, and improving care coordination and transitions between levels of care. Even with the increase in treatment centers and programs throughout the state, access and availability issues remain.

Although coverage has dramatically improved for Kentucky residents, stakeholders indicated that the average length of stay in treatment covered by insurance is inadequate to meet many individuals' needs. Jail stays also impact individuals' ability to receive treatment funding through Medicaid. The longer people are in jail, the less likely it is that insurance would deem them medically in need of treatment. Some judges expressed the importance of having individuals released from jail to treatment

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<sup>41</sup> Misdemeanor diversions are available in some but not all counties (about 30 of 120). To operate a misdemeanor diversion program, the county attorney and judge develop an agreement and submit local court rules to the Supreme Court for approval. Individuals do not plead guilty and the court dismisses the case if they successfully completed the terms of the diversion.

<sup>42</sup> [Asset Mapping](https://healthpolicy.ucla.edu/programs/health-data/trainings/Documents/tw_cba20.pdf), accessed at: [https://healthpolicy.ucla.edu/programs/health-data/trainings/Documents/tw\\_cba20.pdf](https://healthpolicy.ucla.edu/programs/health-data/trainings/Documents/tw_cba20.pdf)

<sup>43</sup> [Kentucky and the ACA's Medicaid expansion](https://www.healthinsurance.org/kentucky-medicaid/), accessed at: <https://www.healthinsurance.org/kentucky-medicaid/>

as quickly as possible to remain eligible for treatment, and that jail can be a strategic access point if people gather information quickly and develop connections to services. Medicaid has strict approval guidelines and often does not accept findings of professionals and their recommendations, so individuals may be approved for outpatient services only, even though professionals are recommending inpatient. To navigate Medicaid's tier approval process, individuals may attend multiple treatment interventions before receiving coverage for the appropriate level of care. Other challenges present barriers to accessing services. In terms of home incarceration, stakeholders shared that some treatment programs will not accept individuals serving this kind of sentence. Although the Department of Corrections has contracted residential treatment beds, they are unavailable to individuals who are not on probation or parole. Certain treatment programs do not accept Medicare, while others only take Medicare recipients or private insurance, all of which pose a barrier to some individuals referred to treatment.

### *Financial*

A substantial barrier to accessing treatment and recovery support services is financial. Individuals struggle to pay for costs associated with their court involvement, such as court fees and some drug testing and treatment services. Kentucky does not have statewide guidance about drug testing for individuals involved in dependency, neglect, and abuse cases, so local protocols and practices set standards for the approach to drug testing. Pretrial Services' list of approved drug testing providers requires providers to offer a sliding fee scale; however, that financial obligation is still difficult for many individuals to meet. It is possible for legal representation to file a motion for the court to waive drug testing fees, but it is unclear how often this happens and what the standards or rules are. Although there are no guidelines for attorneys to help their clients reduce drug testing fees, courts in various jurisdictions found ways to reduce costs, such as using a sliding scale or waiving fees altogether prompted by verbal requests from counsel. Whether individuals have access to that relief varies considerably among courts.

Individuals facing DUI charges typically have to pay for ignition interlock devices, which can pose a financial burden, even with the sliding scale fee system. Stakeholders shared that GPS monitoring is cost-prohibitive, and as a result, rarely used. Although specialty court participants do not have to pay for drug testing, they must afford transportation to attend all required appointments. Some treatment providers require individuals to pay for assessments and treatment sessions, and parents may have to pay for child care to attend appointments. Failure to meet these financial obligations can prevent individuals from completing all of their court requirements, which can make them appear non-compliant.

In addition to paying for services or fees related to court involvement and substance use or mental health treatment, stakeholders expressed that some individuals do not wish to attend residential treatment because they cannot afford to be out of work while in treatment. In some cases, the individual with a substance use or mental health disorder is the primary breadwinner for their family, prompting them to leave residential treatment early or not attend at all.

## *Stigma*

Another significant barrier to equitable access to treatment is cultural dynamics, resulting in contrasting views of effective approaches to substance use and mental health across the state. Cultural influences impact justice stakeholders and community members. Stakeholders acknowledged that attitudes towards marijuana use have changed over time and that courts generally understand substance use as a behavioral health issue. However, at times they also framed substance use as a lifestyle and behavior choice rather than a chronic behavioral health condition. In addition to differences in perspectives about substance use, stakeholders also expressed varied views about particular types of treatment and the role of medication in treating opioid use disorders. Court officials and providers indicated that the perception of a lack of services might be related to community stigma towards individuals receiving behavioral health services. Community stigma may lead people not to take advantage of some of the resources available in their communities.

### **ROSC Elements in Action in Kentucky**

#### *System-wide education and training:*

A community theater group in the southeastern part of Kentucky called Higher Ground, performed *Needlework*, a play that tackled issues such as harm reduction and needle exchange in ways that were accessible and educational for communities.

In addition to societal stigma, individuals face familial and internalized stigma, impacting their ability to work towards recovery. Stakeholders indicated that individuals often lack family support because they have burned bridges with family members due to ongoing issues related to substance use. The lack of support can affect individuals' engagement in treatment if they feel hopeless. Stigma can also affect an individual's employment opportunities, further affecting their ability to meet basic needs and preventing full or successful engagement with treatment.

## *Telehealth*

Prior to the COVID-19 pandemic, Kentucky had many restrictions on delivering services through telehealth. The state lifted many of those restrictions to continue service provision while also keeping individuals, families, and communities safe during the COVID-19 pandemic, but stakeholders shared their fears that the restrictions will return. Treatment providers are advocating for telehealth remaining as an option for individuals who have difficulty attending groups and accessing services otherwise. The provision of services via telehealth during the COVID-19 pandemic has increased individuals' ability to access services. However, there are many individuals, particularly in rural areas of the state, that lack the technology or service connection necessary to utilize services this way. Stakeholders pointed to churches and other community organizations that have helped individuals use Wi-Fi to participate in treatment and meetings, which has mitigated this barrier for some.

## FINDING 6

**Essential services to coordinate care for individuals involved in the court and behavioral health systems do not have adequate funding, which has caused some communities to rely on short-term grants to fill in gaps. Without a long-term sustainability plan, the care coordination services will disappear when grant periods end.**

Stakeholders identified many needed services that do not have a secure and stable funding source, including court-run and behavioral health programs. Courts struggle to fund certain Specialty Court programs without grants, and Pretrial Services lacks funding to expand its PARTS program. In some cases, services have a funding source but a low reimbursement rate relative to the value they provide, particularly peer supports. Behavioral health service providers mentioned several ways in which they rely on grants to provide after-hours services and some jail-based programs.

*Non-reimbursable treatment and recovery support services*

Providing adequate and timely screening is a critical step towards identifying and responding to individuals with substance use and other behavioral health conditions. Both courts and treatment providers identified challenges with screening. Community Mental Health Centers cannot go into jails to assess individuals without grant funding, although they see the benefit of reaching people before they return to their communities. Multiple courts have set up informal networks to quickly assess and refer individuals to services, as judges generally feel that this practice eliminates barriers to accessing services. However, some providers cannot afford to place staff at courts since it is cost-prohibitive unless they receive a certain number of service referrals each day. Some of these efforts are grant-funded, while others are not.

Care coordination is another significant component of a Recovery-Oriented System of Care. Treatment providers indicated that care coordination, particularly between physical and behavioral health, is not reimbursable. ROSCs aim to improve all aspects of health; physical, mental, and emotional health are all part of well-being. Court staff and treatment providers struggle to link individuals to all appropriate services while avoiding over conditioning. Pretrial Officers cannot provide the level of care coordination needed due to high caseloads and a limited budget.

Recovery-Oriented Systems of Care promote the use of natural supports. For many individuals involved in the court system, family members are a significant source of their recovery support. Treatment providers highlighted the value in providing education to help family members understand substance use and mental health and learn strategies to support their loved ones in recovery. However, they indicated that family engagement and education of family members is not reimbursable through Medicaid, although family therapy is covered.

Behavioral health treatment providers, DCBS, and court staff all indicated that sharing information and attending meetings together strengthens their collaboration, but those interactions are not billable.

Treatment providers see the benefits of educating courts regularly about behavioral health but lack the capacity to provide these extra services without steady funding sources to support the work.

### *Grant-funded programs*

Pre-arrest diversion to behavioral health services is one way that the justice system can respond to behavioral health needs while preventing individuals from court-involvement or incarceration. Currently, pre-arrest diversion opportunities are limited in Kentucky. Louisville Metro Police Department piloted a federal grant-funded Law Enforcement Assisted Diversion (LEAD) program that connected individuals with substance use disorders or mental health issues to treatment, but the program closed in 2019 due to a lack of funding.<sup>44</sup> Grant funding availability also affects Kentucky's specialty courts. Several stakeholders mentioned court programs that no longer exist because grant periods ended, and others noted they were seeking grant funding to start new specialty courts.

Federal grants support jail-based programs that some CMHCs provide. These programs include parenting classes, case management, and referrals to substance use services. When funding is available, treatment programs use grants to provide prevention programs such as educational programming about SUD treatment for families.

## EDUCATION

### FINDING 7

**Courts and communities have increased their awareness of substance use and recovery. They would benefit from ongoing education to increase collaboration, awareness of community-based resources, and appropriate advocacy for recovery-oriented responses to substance use and mental health.**

Stakeholders indicated that the courts and communities at large have become more aware of the prevalence of substance use and the need to provide services to individuals with behavioral health conditions. This awareness, in combination with opportunity and leadership, has led to positive changes in the courts and communities. One area where educational opportunities have influenced the courts' responses is learning about the use of Medications for Opioid Use Disorder (MOUD) in treating opioid use disorders. In addition to that effort, the RESTORE Initiative provided the courts with much-needed information about substance use and recovery. Some judges indicated that the summits were the first time they fully understood their role in connecting individuals to services and their available options. However, long-standing beliefs are hard to change; stigma continues to impact communities' and courts' perceptions towards individuals with substance use and co-occurring disorders. Ongoing training is essential to ensure that systems understand and apply the complex values and concepts associated with

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<sup>44</sup> [Louisville budget cuts force Centerstone's Living Room to close \(courier-journal.com\)](https://www.courier-journal.com/story/news/local/2019/06/27/louisville-budget-cuts-force-centerstone-living-room-to-close/1576260001/), accessed at: <https://www.courier-journal.com/story/news/local/2019/06/27/louisville-budget-cuts-force-centerstone-living-room-to-close/1576260001/>

Recovery-Oriented Systems of Care. While training and education alone are not sufficient for action and change to occur, they are a necessary component of systems transformation.

ROSCs involve multiple aspects of health and wellness. They are culturally responsive, integrated, and include the voices of individuals in recovery in planning, implementation, and evaluation. Many of these behavioral health concepts are new to the courts and represent a significant philosophical shift in perception of substance use and recovery. To aid systems in responding to substance use as a chronic behavioral health condition, stakeholders would benefit from education about evidence-based treatment approaches, ASAM criteria for determining appropriate levels of care, and the role of natural supports and mutual aid groups in supporting recovery. Increasing ongoing training between courts, DBHDID, and DCBS can increase capacity to accurately identify service needs during brief screenings and allow multiple systems to establish communication and information sharing protocols.

Many stakeholders explained the influence of community attitudes towards substance use and mental health on court operations, particularly in areas where the community expects a punitive response towards substance-related charges from the courts. Elected officials may respond in a more punitive manner because of community demands. In smaller jurisdictions, justice stakeholders may interact with the same people multiple times due to the chronic nature of substance use and mental health disorders. This repeated engagement can influence beliefs that people can change and affect their ability to offer diversion or treatment opportunities.

The behavioral health system has also recognized the impact of stigma on treatment engagement and has worked to reduce stigma in some communities. Since ROSCs are anchored in the community, collaborating with community groups and individuals to challenge stigma is an important step toward increasing awareness and understanding about substance use and recovery. Greater community understanding can increase support for valuing a treatment response over incarceration for individuals impacted by substance use and other behavioral health conditions.

## RESOURCE ALLOCATION AND UTILIZATION

### FINDING 8

**A perception among some system stakeholders that diversion and deferred prosecution programs are too lenient results in underutilization of programs specifically designed to target people with substance use issues and connect them to treatment. A lack of meaningful participant incentives prevents some specialty courts from operating at full capacity.**

Although Kentucky statutes created specific programs to respond to those charged with drug possession and drug-related offenses, many areas of the state underutilize the programs. The way a community views behavioral health and the stigma attached to it impacts the extent to which prosecutors are willing to offer diversion and deferred prosecutions. Many consider these options too lenient and believe that victims would be upset with the outcome. Prosecutors tend to use pretrial diversion for

individuals with drug charges and other substance-use-related offenses due to the supervision provided and the monitoring period length; pretrial diversions can last up to five years.

Discretion to defer prosecution for individuals, which allows them to avoid pleading guilty and have their charges dismissed upon successful completion, is up to the commonwealth attorney's recommendation. Prosecutors do not feel that deferred prosecution cases are monitored as closely as diversion agreements, which probation and parole monitors. They expressed resistance to offering deferred prosecution in many areas of the state because of a lack of monitoring. Kentucky did not invest resources to support case coordination or monitoring for deferred prosecution agreements. Fayette County, which has an active deferred prosecution program, incorporates recovery-oriented conditions.

Despite their reservations about deferred prosecution and diversion, prosecutors are willing and interested in placing individuals in specialty court programs due to the structure and intensity of services offered. However, many stakeholders reported low participant numbers and suggested that most people choose diversion given a choice between diversion and specialty courts. Before Medicaid expansion, specialty courts provided opportunities for treatment that were not otherwise available. However, now with diversion, individuals still have access to treatment services and avoid the strict program conditions in specialty courts. Individuals in jail often only hear from individuals who have not successfully completed specialty courts. As a result, they may only be aware of the programs' negative aspects and decide not to participate. In addition to diversion being a less restrictive option than specialty courts, those who participate in diversion or simply plead guilty may also serve less time in jail than specialty courts in some cases. To ensure that specialty courts use their resources for maximum benefit, they may need to consider providing more incentives to increase participation. Although some participants who graduate from specialty courts can complete their probation terms early, this does not apply to all participants, and programs lack formal incentive structures for successful completion beyond graduation.



## RECOMMENDATIONS

Transitioning to a Recovery-Oriented System of Care court model will require coordinated efforts in three main areas:

- 1) within Kentucky's court system,
- 2) at the state level between the court system and CHFS, including DBHDID and DCBS, and
- 3) within local communities.

Each level of coordination requires a working group or committee to take responsibility for improving responses to individuals with substance use and other behavioral health conditions. Although these recommendations call for multiple groups, each focusing on different aspects of transitioning to an ROSC, these groups can simultaneously work on their specific priorities while also maintaining communication with the other groups.

## COORDINATION WITHIN THE COURT SYSTEM

### RECOMMENDATION: CONVENE AN AOC WORKING GROUP TO DEVELOP DEFINITIONS, GOALS, VALUES, AND VISION OF A RECOVERY-ORIENTED SYSTEM OF CARE COURT MODEL

To effect system change, stakeholders need to ensure they are operating under a shared set of definitions, goals, values, and vision. ROSCs are principle and values-driven; building consensus around shared values is essential to system transformation.<sup>45</sup> Developing a shared vision of the courts' role in supporting those with behavioral health conditions will help cultivate relationships, build trust among key partners, and serve as a needed first step to inform stakeholders about the shift in response to these individuals.<sup>46</sup> It is essential to include judges in this effort because of their significant influence on how individuals move through the court system.

The AOC working group should start by engaging in the following activities to transition to an ROSC:

- Identify key definitions for concepts like recovery, recovery management, and Recovery-Oriented Systems of Care;
- Ensure adopted definitions are consistent with those used in the behavioral health system;<sup>47</sup>

<sup>45</sup> Sheedy C. K., and Whitter M., Guiding Principles and Elements of Recovery-Oriented Systems of Care: What Do We Know from the Research? HHS Publication No. (SMA) 09-4439. Rockville, MD: Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration, 2009. [Guiding Principles and Elements of Recovery-Oriented Systems of Care: What do we know from the research? - August 2009 \(naadac.org\)](https://www.naadac.org/assets/2416/sheedyckwhitterm2009_guiding_principles_and_elements.pdf), accessed at: [https://www.naadac.org/assets/2416/sheedyckwhitterm2009\\_guiding\\_principles\\_and\\_elements.pdf](https://www.naadac.org/assets/2416/sheedyckwhitterm2009_guiding_principles_and_elements.pdf)

<sup>46</sup> Using person-first language of recovery already utilized in the behavioral health field also helps stakeholders understand behavioral health conditions, including substance use, as chronic conditions requiring ongoing support and management.

<sup>47</sup> [2008Recovery:SystemsPerspective \(ky.gov\)](http://dbhdid.ky.gov/dbh/documents/ksaods/2017/RecoveryOrientedSystemsofCare.pdf?t=23425306122018) Presentation from the Southeast Addiction Technology Transfer Center (ATTC) provided to Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities, accessed at: <http://dbhdid.ky.gov/dbh/documents/ksaods/2017/RecoveryOrientedSystemsofCare.pdf?t=23425306122018>

- Identify recovery-oriented values and principles for the court system to adopt;
- Establish an initial vision and goals for an ROSC court system; and
- Identify funding sources to support the work.

Since the AOC consists of three distinct departments that administer statewide programs to support court operations, it is critical to explore internal barriers to serving individuals and families involved in multiple systems. Establishing a shared vision and principles can help Kentucky prepare to develop achievable action steps with realistic timeframes to transform its court system and increase consistency between different courts. Creating a shared vision and approach to substance use and co-occurring disorders will be particularly useful in jurisdictions where judges have multiple types of dockets, such as a criminal docket and a specialty court docket.

The AOC working group should consider focusing on the following recommended activities to create a more holistic court model.

#### RECOMMENDED ACTIVITIES FOR THE AOC WORKING GROUP

##### **1. Streamline the screening process to identify individuals in need of services (including insurance and housing).**

Individuals entering the court system are frequently overwhelmed by challenges. They may be in custody, face criminal charges or removal of their children, and have to navigate the complex court and behavioral health systems to comply with court requirements. They may be involved in court-related issues in multiple counties, and may be detoxing from substances or experiencing a crisis at the time of screening. An ROSC court system would provide a “no wrong door” approach to screen and refer individuals and families to services that address their complex needs and meet their court obligations.

ROSCs seek to provide uncomplicated entry into services. To avoid individuals having to answer the same or similar questions multiple times while navigating systems, courts should investigate using a system-wide screening tool. The screening tool can determine who to refer for mental health and substance use assessments and facilitate connections to multiple service needs. Data systems should track referrals to inform staff whether an individual has already been recommended for or connected to resources by another part of the court system to streamline access to services. In addition to increasing efficiency, using the same screening tool throughout the system can ensure substance use information is collected consistently and simplify staff training on the purpose and role of screening.

Courts would also benefit from clarifying roles and responsibilities in responding to individuals with substance use and other behavioral health service needs. The courts’ role should be limited to identifying individuals who would benefit from services, screening for substance use and other basic needs such as insurance, and making referrals for clinical assessments to be completed by providers in the community.

## **2. Ensure that all courts expand eligibility to individuals who would benefit from treatment and recovery support services.**

Certain eligibility criteria, outlined through statute or program policies and procedures, may result in courts missing opportunities to engage and respond to individuals affected by substance use and/or mental health. For example, the majority of cases referred for pretrial diversion in Kentucky are drug possession charges, although stakeholders acknowledged the connection between substance use and other charges. Pretrial diversion is available to individuals charged with a Class D felony (and Class C felony with court approval) and those whose criminal, medical, or mental health record indicates a present need for or potential benefit from substance use disorder treatment.<sup>48</sup> However, some individuals would still benefit from treatment but may not have been previously flagged in one of these ways. Charges are not a reliable indicator of a substance use service need. In addition, individuals convicted of a felony within the ten years preceding the current charge, and those who have received pretrial diversion within five years, are ineligible to participate in pretrial diversion.<sup>49</sup>

The Pretrial Substance Abuse Program (PSAP), operated by the Department of Corrections, provides comprehensive services, including treatment, to individuals during incarceration. PSAP accepts individuals referred to the program under the pretrial diversion statutes, and those whose criminal record indicates a history of recent and relevant substance abuse.<sup>50</sup> Some Pretrial Officers indicated that they check whether an individual has had three or more drug or alcohol charges within the past five years to screen for potential PSAP referrals, which may exclude potential participants who have a recent use history but do not have the criminal record that staff are looking for. It is important to note that people can return to substance use at any point and may benefit from treatment services while in custody, regardless of their recent criminal history.

Substance use is a chronic behavioral health condition, so programs may benefit from considering whether the courts and Department of Corrections could modify eligibility criteria to better serve individuals with substance use and other behavioral health treatment needs. Part of their consideration may be assessing the number of individuals deemed ineligible.

## **3. Create structure and accountability for diversion programs to increase consistency and access throughout the state.**

In interviews, prosecutors reported underutilizing the deferred prosecution program due to concerns about a lack of monitoring and accountability. However, the deferred prosecution program offers significant benefits to participants working towards recovery. Participants in this program can avoid criminal charges and have their records sealed if they successfully complete the program.<sup>51</sup> This benefit

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<sup>48</sup> KRS 533.251, accessed at: <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=20088>

<sup>49</sup> KRS 533.250, accessed at: <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=44797>

<sup>50</sup> KRS 431.518, accessed at: <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=18630>

<sup>51</sup> KRS 218A.14151, accessed at: <https://apps.legislature.ky.gov/law/statutes/statute.aspx?id=40911>

is key, as avoiding conviction has been shown to significantly increase employment opportunities, reduce barriers to obtaining housing, and increase the chances an individual can secure student loans.<sup>52</sup>

Tracking the extent to which various jurisdictions offer diversion opportunities can also help to increase their consistent use. Ensuring that individuals have equitable access and opportunity to participate in deferred prosecution and diversion requires a shared understanding of these programs' use, benefits, and expectations.

Stakeholders could take the following steps to increase the use of diversion programs:

- Clarify deferred prosecution and diversion eligibility to create consistency within the court system, and ensure individuals with similar charges and circumstances are provided the same opportunities;
- Establish standard hearing and reporting guidelines for deferred prosecution cases, so prosecutors have more information about each person's progress towards their goals;
- Seek funding to support monitoring to address prosecutors' concerns about a current lack of monitoring in the program; and
- Consider best practices for appropriate term lengths for pretrial diversion and deferred prosecution.

The National Association of Pretrial Services Agencies (NAPSA) recommends that programs establish time limits for participation in pretrial diversion programs, which should be no longer than needed to predict someone's future law-abiding behavior.<sup>53</sup> In one survey, pretrial diversion programs from across the country reported median lengths of six months for misdemeanor charges and twelve months for felony charges.<sup>54</sup>

#### **4. Build capacity for judges and court staff to identify and respond to behavioral health needs.**

Stakeholders expressed interest in building on training opportunities offered through the RESTORE Initiative about substance use and recovery. To further move towards creating an ROSC court model, courts should consider identifying and implementing ongoing training opportunities.

Given the prevalence of trauma among people involved in the justice system, and particularly noting the connection between substance use and trauma, courts should consider implementing training on this topic, such as Trauma Training for Criminal Justice Professionals.<sup>55</sup>

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<sup>52</sup> [Welcome to the NICCC | National Inventory of Collateral Consequences of Criminal Conviction \(nationalreentryresourcecenter.org\)](https://nationalreentryresourcecenter.org/#about), accessed at: <https://niccc.nationalreentryresourcecenter.org/#about>

<sup>53</sup> [DIVERSION INTERVENTION STANDARDS 2008.doc](https://netforumpro.com/public/temp/ClientImages/NAPSA/2bf61b50-6b7d-4292-8837-e6b48a1b2a7a.pdf), accessed at: <https://netforumpro.com/public/temp/ClientImages/NAPSA/2bf61b50-6b7d-4292-8837-e6b48a1b2a7a.pdf>

<sup>54</sup> [Pretrial Diversion in the 21st Century](https://netforumpro.com/public/temp/ClientImages/NAPSA/18262ec2-a77b-410c-ad9b-c6e8f74ddd5b.pdf), accessed at: <https://netforumpro.com/public/temp/ClientImages/NAPSA/18262ec2-a77b-410c-ad9b-c6e8f74ddd5b.pdf>

<sup>55</sup> [Trauma Training for Criminal Justice Professionals | SAMHSA](https://www.samhsa.gov/gains-center/trauma-training-criminal-justice-professionals), accessed at: <https://www.samhsa.gov/gains-center/trauma-training-criminal-justice-professionals>

Another topic that courts may want to explore is Motivational Interviewing (MI) training. MI is a technique frequently used by counselors and corrections professionals to help people with substance use and other behavioral health conditions enhance their readiness for change by exploring and resolving their ambivalence. Research has found that the practice of MI can increase treatment retention and motivation to change.<sup>56</sup> Stakeholders who use MI also noted the approach encourages more honest responses to questions which helps providers assess an individual's needs more accurately. Thus, establishing a shared understanding of MI techniques could help the courts employ a more consistent approach to interacting with individuals with behavioral health conditions.

Whichever curriculums the AOC Working Group selects, it may consider implementing the training(s) through a train-the-trainer model, which would allow the court system to build in-house expertise without relying on external providers. In this model, once a select group of judges participate in a train-the-trainer, they can train other judges as well as court personnel.

#### **5. Provide meaningful incentives to promote program participation.**

Although Kentucky courts offer various programs for individuals impacted by substance use, not all programs are used consistently throughout the state. Several stakeholders indicated that their specialty court programs were not operating at capacity and attributed low participation rates to individuals pursuing other opportunities, such as pretrial diversion, instead of specialty court. Courts identified that specialty court programs have several built-in incentives, such as priority placement in treatment programs and phase advancement. However, the programs are also rigorous, and individuals lacking financial resources and/or family support may struggle to comply with all program requirements.

In many cases, those who successfully complete specialty court while on probation do not have their probation terms shortened; they are usually placed on unsupervised probation for the remainder of their supervision terms. Those who complete pretrial diversion must return to court 60 days after graduation to have their records expunged. The courts should consider ways to incentivize participation through court rules or policies to allow automatic access to expungement so individuals can navigate housing and employment barriers more easily, and consider shortening probation terms for those who successfully complete programs while on community supervision.

#### **6. Develop structure and consistency for the use of court-ordered conditions.**

To achieve equitable outcomes, Kentucky must create a shared structure to guide the use of conditions throughout the state, particularly drug testing. Research has not demonstrated a clear connection

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<sup>56</sup> McMurrin, M. (2009). Motivational interviewing with offenders: A systematic review. Division of Psychiatry, Section of Forensic Mental Health, University of Nottingham, Nottingham UK. *Legal and Criminological Psychology*, 83-100. [Motivational interviewing with offenders: A systematic review](http://23.29.59.141/assets/document-library/archive/library/forensics/of0%20-%20ebp%20motivational%20interviewing%20with%20offenders%202009.pdf), accessed at: <http://23.29.59.141/assets/document-library/archive/library/forensics/of0%20-%20ebp%20motivational%20interviewing%20with%20offenders%202009.pdf>

between drug testing programs and pretrial outcomes.<sup>57</sup> Courts need to explore the potential inequitable impact of imposing costly pretrial conditions, including testing and electronic monitoring, on pretrial defendants.<sup>58</sup> Currently, court expectations and use of conditions vary significantly, resulting in inequitable access or ability to complete requirements successfully across the state.

Over-conditioning and failing to tailor conditions to individuals' specific risks and needs can increase an individual's risk of failure. Finding the balance between providing structure and consistency while also taking individuals' circumstances into account is key to implementing an ROSC. The AOC Working Group would benefit from building consensus around the appropriate use of conditions through a recovery-oriented lens.

It is also important to note that Recovery-Oriented Systems of Care do not view the absence of clinical symptoms or substance use as recovery; successful outcomes include a broad range of measures such as employment, social relationships, and community engagement.<sup>59</sup> To reinforce prosocial behaviors, courts should also identify ways to reward incremental progress towards personalized goals. To aid this effort, courts would benefit from creating a shared structure to guide their decisions while allowing for individual risks, needs, and priorities to inform their approach to individuals.

## COORDINATION AT THE STATE LEVEL BETWEEN COURT AND BEHAVIORAL HEALTH SYSTEMS

### RECOMMENDATION: FORM A STATEWIDE TRANSFORMATION STEERING COMMITTEE TO UNDERSTAND THE GAPS BETWEEN THE CURRENT SYSTEM AND THE VISION AND GOALS OUTLINED BY THE AOC WORKING GROUP

Although each state has different needs, ROSCs generally require organization on two parallel tracks; developing the framework and vision at a state-level, and coordinating care at a local level.<sup>60</sup> CJJ recommends creating a statewide Transformation Steering Committee to fulfill the first of those tracks.

The AOC Working Group should identify key partners to include in this Steering Committee to shape Kentucky's system transformation. Strong leadership is essential to drive organizational and systems change; individuals involved in the Steering Committee need to have the capacity to commit their

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<sup>57</sup> [Research On the effectiveness of pretrial Support and Supervision services \(unc.edu\)](https://cjlil.sog.unc.edu/wp-content/uploads/sites/19452/2020/05/Research-on-the-Effectiveness-of-Pretrial-Support-Supervision-Services-5.28.2020.pdf), accessed at: <https://cjlil.sog.unc.edu/wp-content/uploads/sites/19452/2020/05/Research-on-the-Effectiveness-of-Pretrial-Support-Supervision-Services-5.28.2020.pdf>

<sup>58</sup> [NAPSA Standards on Pretrial Release, 2020 Edition \(1\) \(1\).pdf](https://drive.google.com/file/d/1edS2bltwfNROieGeu1A6qKluTfzqop92/view), accessed at: <https://drive.google.com/file/d/1edS2bltwfNROieGeu1A6qKluTfzqop92/view>

<sup>59</sup> [Recovery Standards for Behavioral Healthcare \(williamwhitepapers.com\)](http://www.williamwhitepapers.com/pr/ROSC%20Practice%20Guidelines%20CT%202006.pdf), accessed at: <http://www.williamwhitepapers.com/pr/ROSC%20Practice%20Guidelines%20CT%202006.pdf>

<sup>60</sup> Sheedy C. K., and Whitter M., Guiding Principles and Elements of Recovery-Oriented Systems of Care: What Do We Know from the Research? HHS Publication No. (SMA) 09-4439. Rockville, MD: Center for Substance Abuse Treatment, Substance Abuse and Mental Health Services Administration, 2009. [Guiding Principles and Elements of Recovery-Oriented Systems of Care: What do we know from the research? - August 2009 \(naadac.org\)](https://www.naadac.org/assets/2416/sheedyckwhitterm2009_guiding_principles_and_elements.pdf), accessed at: [https://www.naadac.org/assets/2416/sheedyckwhitterm2009\\_guiding\\_principles\\_and\\_elements.pdf](https://www.naadac.org/assets/2416/sheedyckwhitterm2009_guiding_principles_and_elements.pdf)

organizations to the transformation effort. The statewide Transformation Steering Committee needs to include all relevant stakeholders, including, but not limited to:

- Judges;
- Court personnel;
- Department of Corrections/Probation and Parole;
- Prosecutors;
- Department of Public Advocacy;
- Law enforcement;
- Division of Community Based Services;
- Department for Behavioral Health, Developmental and Intellectual Disabilities;
- Treatment providers (public and private);
- Prevention and education programs;
- Housing providers;
- Employment services and local and statewide employers; and
- Community members such as people in recovery and their family members.

The AOC Working Group can create the initial list of definitions, principles and values, and vision for an ROSC court system, but the Steering Committee should refine and finalize them. The Steering Committee should ensure that a variety of perspectives are included in developing the vision will promote buy-in and collaboration among participants. A broad group can also ensure that recovery principles are reflected throughout the framework and help raise awareness and visibility of the transformation. The AOC should consider applying for technical assistance to help convene stakeholders and lead implementation efforts. A technical assistance provider can help with developing state and organization-level implementation plans and act as a neutral facilitator to support the consensus-building process.<sup>61</sup> Technical assistance providers can also identify important members to include in the process and share lessons learned from other states.

After clarifying the vision, the next step towards operationalizing a Recovery-Oriented System of Care is to create a conceptual framework.<sup>62 63 64 65</sup> Recovery-Oriented Systems of Care require multiple systems

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<sup>61</sup> [Recovery-Oriented Systems of Care \(ROSC\) Resource Guide, September 2010 \(samhsa.gov\)](https://www.samhsa.gov/sites/default/files/rosc_resource_guide_book.pdf), accessed at: [https://www.samhsa.gov/sites/default/files/rosc\\_resource\\_guide\\_book.pdf](https://www.samhsa.gov/sites/default/files/rosc_resource_guide_book.pdf)

<sup>62</sup> [expert-panel-05222012.pdf \(samhsa.gov\)](https://www.samhsa.gov/sites/default/files/expert-panel-05222012.pdf), accessed at: <https://www.samhsa.gov/sites/default/files/expert-panel-05222012.pdf>

<sup>63</sup> [Recovery-Core Values \(ct.gov\)](https://portal.ct.gov/DMHAS/Initiatives/Recovery/Recovery-Core-Values), accessed at: <https://portal.ct.gov/DMHAS/Initiatives/Recovery/Recovery-Core-Values>

<sup>64</sup> [A Recovery Revolution in Philadelphia \(williamwhitepapers.com\)](http://pop.williamwhitepapers.com/pr/2007ARecoveryRevolutioninPhiladelphia.pdf), accessed at: <http://pop.williamwhitepapers.com/pr/2007ARecoveryRevolutioninPhiladelphia.pdf>

<sup>65</sup> [Pennington County, South Dakota Behavioral Health Continuum of Care](https://mylrc.sdlegislature.gov/api/Documents/122821.pdf#:~:text=PENNINGTON%20COUNTY,%20SOUTH%20DAKOTA%20BEHAVIORAL%20HEALTH%20CONTINUUM%20OF,to%20develop%20a%20conceptual%20framework%20and%20key), accessed at: <https://mylrc.sdlegislature.gov/api/Documents/122821.pdf#:~:text=PENNINGTON%20COUNTY,%20SOUTH%20DAKOTA%20BEHAVIORAL%20HEALTH%20CONTINUUM%20OF,to%20develop%20a%20conceptual%20framework%20and%20key>

to align their policy, administrative, and fiscal practices both internally and with others.<sup>66</sup> Both court systems and behavioral health systems can be siloed, making it challenging to integrate substance use and mental health care. For example, DBHDID's Division of Behavioral Health consists of four separate branches; each branch has its own programs, services, and potential funding sources.<sup>67</sup> A conceptual framework will need to outline the necessary changes within and between systems to align policies and administrative and fiscal practices to promote recovery. Including a wide variety of stakeholders in this process will ensure the Steering Committee includes individuals with in-depth knowledge of the necessary areas to identify needed changes and ensure all partners develop complementary definitions and practices.

It is important to note that system change is a process, not an event, and it takes time. States take years to develop recovery-oriented outcome measures. For example, Connecticut started its ROSC journey in 2000 with a policy statement from its behavioral health commissioner, and the state continues to refine its efforts.<sup>68</sup> Michigan began its system transformation process by scheduling dialogue and visioning sessions to create a shared understanding of the goals of moving towards a Recovery-Oriented System of Care.<sup>69</sup> Although each state approaches the process based on its own needs, building the foundation of shared language is critical to identifying a framework and implementation plan towards transitioning to an ROSC.

Organizations typically go through multiple stages when implementing new policies and practices:

1. First, organizations enter the *exploration* stage. They explore barriers and potential roadblocks and identify funding sources and other needed materials to support the new interventions or policies.
2. Next, organizations progress to the *installation* stage. They develop new policies, train staff to implement the approach, and develop performance measures to monitor progress.
3. Third, organizations enter *initial implementation*, when they start using the new policies and practices and start monitoring quality and progress.
4. Finally, organizations move to *full implementation*, in which the new policies and procedures become fully operational. During this time, organizations continue to monitor performance and make needed changes to ensure that the practices are sustainable.

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<sup>66</sup> [Operationalizing ROSC SAMHSA 2012.pdf \(oacbha.org\)](https://www.oacbha.org/docs/Operationalizing_ROSC_SAMHSA_2012.pdf), accessed at: [https://www.oacbha.org/docs/Operationalizing\\_ROSC\\_SAMHSA\\_2012.pdf](https://www.oacbha.org/docs/Operationalizing_ROSC_SAMHSA_2012.pdf)

<sup>67</sup> [Kentucky Cabinet for Health and Family Services](https://dbhdid.ky.gov/dbh/default.aspx), accessed at: <https://dbhdid.ky.gov/dbh/default.aspx>

<sup>68</sup> [Practice Guidelines for Recovery-Oriented Care for Mental Health and Substance Use Conditions, Connecticut Department of Mental Health and Addiction Services \(2008\)](https://portal.ct.gov/-/media/DMHAS/Recovery/practiceguidelines2pdf.pdf), accessed at: <https://portal.ct.gov/-/media/DMHAS/Recovery/practiceguidelines2pdf.pdf>

<sup>69</sup> Interview with Deborah Hollis, Director, Office of Recovery Oriented Systems of Care, Michigan. White, W. (2014), accessed at: [https://www.opioidlibrary.org/wp-content/uploads/2019/08/2014\\_Deborah\\_Hollis\\_ROSC\\_in\\_Michigan2.pdf](https://www.opioidlibrary.org/wp-content/uploads/2019/08/2014_Deborah_Hollis_ROSC_in_Michigan2.pdf)



Implementation scientists generally say implementation of anything takes between two to four years from exploration to full implementation;<sup>70</sup> however, transitioning to a Recovery-Oriented System of Care court model will take longer because multiple systems need to change.

Organizations often create implementation plans to aid in the implementation process, identify key policy change areas, and designate parties responsible for carrying out the work. The Steering Committee should create a statewide conceptual framework to inform the implementation process and provide a solid starting point for agencies to identify and understand their roles and responsibilities to move towards building an ROSC court model.

The Steering Committee should also consider focusing on the following recommended activities in this section to increase access to and availability of recovery services and supports.

## RECOMMENDED ACTIVITIES FOR THE STATEWIDE TRANSFORMATION STEERING COMMITTEE

### **1. Identify policy and practice changes required to improve access and availability of needed services.**

As previously outlined, access and availability of services are limited or hindered in many areas throughout the court and behavioral health treatment systems. The Steering Committee can identify where the limits or hindrances are and develop policy and practice changes to overcome them. This work should include the following:

1. Track length of time between initial screening to engagement in services and work to reduce inequities in access.
2. Track why referrals are not admitted to behavioral health and court programs to help each program determine how to increase capacity.
3. Find ways to solicit feedback from individuals involved in Pretrial Services, Specialty Courts, and Family Court to inform program modifications.
4. Assess the use of Medications for Opioid Use Disorder (MOUD) and ensure all courts allow MOUD as an option.

Medicaid reimbursement is one specific area Kentucky could focus on to affect policy change. Courts would benefit from understanding Medicaid reimbursement to ensure a robust array of services and supports are available to those in the court system. The Steering Committee should conduct this research and investigate the possibilities of modifying Medicaid policies to provide the following services:

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<sup>70</sup> [Implementation Research: A Synthesis of the Literature](https://www.activeimplementation.org/wp-content/uploads/2018/11/FixsenEtAl-ImplementationResearch-ASynthesisOfTheLiterature-2005.pdf), accessed at: <https://www.activeimplementation.org/wp-content/uploads/2018/11/FixsenEtAl-ImplementationResearch-ASynthesisOfTheLiterature-2005.pdf>

- Continued use of telehealth
- Medicaid transportation<sup>71</sup>
- Family education and engagement
- Care coordination (physical/mental health)
- Dental services (particularly dentures)

## **2. Identify needed resources and work to secure funding to expand care coordination.**

Stakeholders shared that there are services and resources necessary to individuals' success that are not reimbursable through Medicaid and therefore require other forms of funding. Coordinating care between physical and behavioral health systems is essential to ROSC's goal of enhancing quality of life. Care coordination is an integral part of providing care, but it is often unfunded, leaving agencies to provide the services without adequate funding. The Steering Committee and localities piloting Recovery-Oriented Systems of Care efforts should investigate alternative ways of funding these services so individuals have the best possible opportunity for recovery. The following are examples of steps that the Steering Committee could take toward increasing funding for necessary services:

1. Consider securing funding to provide participants with technology (such as smartphones or phone minutes) so they can attend groups and appointments electronically.
2. Investigate ways to obtain additional funding for the Department of Public Advocacy's Alternative Sentencing Workers to continue linking individuals to community resources.
3. Secure funding to collaborate with behavioral health on developing a peer support program for all types of courts, including identifying necessary policy changes, processes, and how Medicaid could pay for needed services.
4. Assist with the hand-off to resources. Ensure AOC and DCBS staff are aware of local resources, and designate a staff person at each office to be the main point of contact for community providers. Create and update resource lists regularly and ensure Pretrial Officers know enough about available resources to connect individuals with a provider that meets their needs.
5. Provide a liaison to service providers, so individuals who are referred by the courts but not connected to a specialty court case manager, probation and parole officer, or DCBS social worker have a point of contact within the courts to clarify referrals, expectations, and provide ongoing case management and support.
6. Look for funding to expand the PARTS pilot program. Consider designating Pretrial Officers in multiple offices to act as the liaison between courts and treatment, and modify the program to meet individuals assessed for various levels of care, not just residential treatment.

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<sup>71</sup> [Human Services Transportation | KYTC](https://transportation.ky.gov/TransportationDelivery/Pages/Human-Services-Transportation.aspx), accessed at: <https://transportation.ky.gov/TransportationDelivery/Pages/Human-Services-Transportation.aspx>

### **3. Increase use of peer supports with lived experience in the justice system.**

Recovery-Oriented Systems of Care recognize the value of lived experience in assisting individuals in their recovery. While there are peer supports employed currently throughout the court and treatment systems in Kentucky, the state could increase the number of peer supports available and ways in which peer supports support individuals in their recovery. Stakeholders expressed that individuals who are incarcerated often only hear from others about the negative aspects of participating in specialty courts. Increasing the use of peer supports with lived experience in the justice system could allow potential participants to hear more success stories and increase trust in the court system. Developing trusting relationships with peer supports could increase participation as well as success rates.

The Steering Committee should examine peer support models and a process to identify the best place to house peer supports, whether in the DBHDID or the court system. There will likely be legal barriers to navigate to hire individuals with a history of incarceration. Stakeholders should identify those barriers and modify restrictions that would prevent them from interacting with other people incarcerated or charged with felonies. It may take time to certify peer supports with lived experience in the justice system. Change takes time; while there is an urgent need for change, it is important to spend time assessing and planning so that when the new policy or practice is implemented, it can be effective.

Policy Research Associates has created a resource that would be useful in implementing this recommendation. The resource, “Peer Support Roles Across the Sequential Intercept Model,” outlines ways in which peer supports can be utilized at every intercept in the criminal justice system, including prior to law enforcement interaction and post-incarceration.<sup>72</sup> The resource also provides specific and concrete examples of how other localities across the United States have used peer supports.

### **4. Navigate barriers to identifying and collecting information about individuals and families involved in multiple aspects of the court and behavioral health systems.**

Information sharing is critical to implementing an ROSC court model. Individuals and families frequently touch multiple aspects of court and behavioral health systems. Information sharing across behavioral health and justice systems is needed to reduce the number of incarcerated individuals with substance use and other behavioral health conditions. Having accurate and available information about each person’s health and treatment history can improve recovery outcomes; however, barriers currently exist to sharing that information.<sup>73</sup> Programs use different data systems and often focus exclusively on the presenting case without identifying additional cases or service referral needs. Separate data systems present one barrier, but there are also privacy and consent concerns with sharing information.

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<sup>72</sup> [Peer Support Roles Across the Sequential Intercept Model \(prainc.com\)](https://www.prainc.com/wp-content/uploads/2020/08/PeersAcrossSim_PRA-508.pdf), accessed at: [https://www.prainc.com/wp-content/uploads/2020/08/PeersAcrossSim\\_PRA-508.pdf](https://www.prainc.com/wp-content/uploads/2020/08/PeersAcrossSim_PRA-508.pdf)

<sup>73</sup> [Point-of-service Information Sharing Between Criminal Justice and Behavioral Health Partners: Addressing Common Misconceptions - Policy Research Associates \(prainc.com\)](https://www.prainc.com/point-of-service-information-sharing-criminal-justice-behavioral-health-partners-addressing-common-misconceptions/), accessed at: <https://www.prainc.com/point-of-service-information-sharing-criminal-justice-behavioral-health-partners-addressing-common-misconceptions/>

Although there are challenges to sharing information within and across systems, the benefits of doing so are significant. A working group that explored information sharing between justice and behavioral health systems noted that information sharing can increase the accessibility of information, reduce staff time and costs, and enable more effective continuity of care.<sup>74</sup> The Steering Committee should identify the challenges with data integration and information sharing to ensure that data systems can and do talk to each other while complying with all legal requirements.

## COORDINATION WITHIN LOCAL COMMUNITIES

### RECOMMENDATION: IDENTIFY KEY AREAS OF THE STATE IN WHICH TO PILOT LOCAL RECOVERY-ORIENTED SYSTEM OF CARE EFFORTS

Statewide ROSC efforts often include two parallel tracks; a state-level transformation and oversight committee articulating a value-driven framework and a local action planning component.<sup>75</sup> While the statewide Transformation Steering Committee can help judicial circuits and districts build statewide cross-agency relationships, local planning is needed to personalize the model for each community. ROSCs require coordination and trust-building between courts and criminal justice agencies, behavioral health treatment providers, community resource providers, and individuals in recovery and their family members. Trust-building requires participants to know one another and work towards a shared vision; thus, it often works better when localized. Certain courts have already developed close relationships with local treatment providers, and in some cases, recovery collaboratives.<sup>76</sup> Those relationships can be leveraged to build support for transitioning to an ROSC.

ROSCs work to complement the natural support that communities already provide. To effectively build upon those natural supports, Recovery-Oriented Systems of Care have to incorporate a local component to increase individuals' connections to their communities and promote opportunities for long-term recovery.<sup>77</sup>

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<sup>74</sup> [Opportunities for Information Sharing to Enhance Health and Public Safety Outcomes \(urban.org\)](http://www.urban.org/sites/default/files/publication/23466/412788-Opportunities-for-Information-Sharing-to-Enhance-Health-and-Public-Safety-Outcomes.PDF), accessed at: <http://www.urban.org/sites/default/files/publication/23466/412788-Opportunities-for-Information-Sharing-to-Enhance-Health-and-Public-Safety-Outcomes.PDF>

<sup>75</sup> Interview with Deborah Hollis, Director, Office of Recovery Oriented Systems of Care, Michigan. White, W. (2014), accessed at: [https://www.opioidlibrary.org/wp-content/uploads/2019/08/2014\\_Deborah\\_Hollis\\_ROSC\\_in\\_Michigan2.pdf](https://www.opioidlibrary.org/wp-content/uploads/2019/08/2014_Deborah_Hollis_ROSC_in_Michigan2.pdf)

<sup>76</sup> [HEAL](https://www.healky.org/?fbclid=IwAR3DtXNDBUigSA5FqthIPV61PpSjAmI_ShmSxqP5GyDHBdm76i-r6DQthig), accessed at: [https://www.healky.org/?fbclid=IwAR3DtXNDBUigSA5FqthIPV61PpSjAmI\\_ShmSxqP5GyDHBdm76i-r6DQthig](https://www.healky.org/?fbclid=IwAR3DtXNDBUigSA5FqthIPV61PpSjAmI_ShmSxqP5GyDHBdm76i-r6DQthig)

<sup>77</sup> Interview with Mark Witte, Planning Director of Network 180, and Kevin McLaughlin, Executive Director of Recovery Allies of West Michigan. White, W. L. (2014), accessed at: <http://www.williamwhitepapers.com/pr/2014%20Mark%20Witte%20and%20Kevin%20McLaughlin.pdf>

Research shows that the use of community resources maximizes recovery outcomes. Individuals with strong community ties and support are more likely to sustain their recovery, so collaborating a system of care at a local level increases positive outcomes.<sup>78</sup>

The statewide Transformation Steering Committee should pilot a Recovery-Oriented System of Care court system in local communities by taking the following steps:

- Identify local champions for recovery efforts and start in judicial circuits or districts where courts are closely connected to treatment providers;
- Convene community stakeholders (including those who use services and their family members, service providers, community leaders, businesses, law enforcement, criminal justice partners, faith-based and veterans organizations, as well as other social, health, and human services partners);<sup>79</sup> and
- Secure resources to support Sequential Intercept Mapping (SIM), a process to help communities identify resources and gaps in services to connect individuals with mental health and substance use disorders to services at various points throughout the criminal justice system.<sup>80</sup>

## RECOMMENDED ACTIVITIES FOR LOCAL PILOT SITES

### 1. Engage in Sequential Intercept Mapping to identify intervention points, gaps in services, and available resources.

Once the statewide Steering Committee selects pilot sites and each site has convened stakeholders, they should consider starting with Sequential Intercept Mapping (SIM). Since Kentucky does not have many pre-arrest diversion programs, the state may benefit from exploring options to link and refer individuals to treatment at all contact points within the criminal justice system, including prevention services to keep people out of the justice system.

The SIM process can help communities complete a capacity inventory and create a custom resource map and action plan to address identified gaps.<sup>81</sup> Progressing through SIM can help clarify key action

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<sup>78</sup> Litt, M. D., Kadden, R. M., Kabela-Cormier, E., & Petry, N. (2007). Changing network support for drinking: Initial findings from the Network Support Project. *Journal of Consulting and Clinical Psychology, 75*(4), 542–555. <https://doi.org/10.1037/0022-006X.75.4.542>, Accessed at:

[Litt et al 2007 Net Supp Initial Findings JCCP.pdf \(d1wqtxts1xzle7.cloudfront.net\)](#)

<sup>79</sup> [ROSC In Ohio Recovery is Beautiful 2014.pdf](#), accessed at:

<http://www.williamwhitepapers.com/pr/ROSC%20In%20Ohio%20Recovery%20is%20Beautiful%202014.pdf>

<sup>80</sup> [The Sequential Intercept Model \(SIM\) | SAMHSA](#), accessed at: <https://www.samhsa.gov/criminal-juvenile-justice/sim-overview>

<sup>81</sup> [Leading Change Guide Final 4.27.20.pdf \(ncsc.org\)](#), accessed at:

[https://www.ncsc.org/\\_\\_data/assets/pdf\\_file/0024/36492/Leading\\_Change\\_Guide\\_Final\\_4.27.20.pdf](https://www.ncsc.org/__data/assets/pdf_file/0024/36492/Leading_Change_Guide_Final_4.27.20.pdf)

steps to work towards a Recovery-Oriented System of Care.<sup>82</sup> Each community will have distinct priorities based on its assets, needs, and priorities. In addition to identifying gaps and strengths in local communities, SIM can help identify what data should be collected to monitor the impact of the program. The process can also help tackle any associated privacy concerns to ensure that information is shared and complies with the Health Insurance Portability and Accountability Act (HIPAA), which can aid in transforming to an ROSC court model.<sup>83</sup>

## **2. Engage local recovery groups as part of the ROSC transformation process.**

ROSCs are consumer-driven, and local pilot sites should ensure that individuals in recovery and recovery groups are included in their design, implementation, and evaluation. In addition to helping with ROSC design, recovery groups can also help courts combat stigma towards those with behavioral health conditions. Stigma can impact individuals' ability to meaningfully engage in services and develop strong ties to their communities,<sup>84</sup> so it is crucial that ROSCs address stigma to empower individuals in recovery and ensure that their communities can support them. Anti-stigma efforts can also educate broader communities on how stigma poses a barrier to individuals involved in the court system. The pilot sites should work to develop and support anti-stigma campaigns to increase the likelihood that individuals will avail themselves of available recovery support resources.<sup>85</sup>

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<sup>82</sup> [CreatingaRecovery-OrientedSystemofCareinFlorida-2017.pdf \(flgov.com\)](https://www.flgov.com/wp-content/uploads/childadvocacy/CreatingaRecovery-OrientedSystemofCareinFlorida-2017.pdf), accessed at: <https://www.flgov.com/wp-content/uploads/childadvocacy/CreatingaRecovery-OrientedSystemofCareinFlorida-2017.pdf>

<sup>83</sup> [Data Collection Across the Sequential Intercept Model: Essential Measures](https://store.samhsa.gov/sites/default/files/d7/priv/pep19-sim-data.pdf), accessed at: <https://store.samhsa.gov/sites/default/files/d7/priv/pep19-sim-data.pdf>

<sup>84</sup> [Practice Guidelines for Recovery-Oriented Care for Mental Health and Substance Use Conditions, Connecticut Department of Mental Health and Addiction Services \(2008\)](https://portal.ct.gov/-/media/DMHAS/Recovery/practiceguidelines2pdf.pdf), accessed at: <https://portal.ct.gov/-/media/DMHAS/Recovery/practiceguidelines2pdf.pdf>

<sup>85</sup> [Anti-Stigma Toolkit: A Guide to Reducing Addiction-Related Stigma](https://attcnetwork.org/sites/default/files/2019-04/Anti-Stigma%20Toolkit.pdf), accessed at: <https://attcnetwork.org/sites/default/files/2019-04/Anti-Stigma%20Toolkit.pdf>

## CONCLUSION

Kentucky's Court of Justice recognizes that while substance use and co-occurring disorders present significant challenges for those involved in the court system, individuals can and do recover. The court setting presents unique opportunities to identify and connect individuals with behavioral health conditions to needed services and supports. KCOJ is committed to improving responses to individuals affected by substance use and co-occurring disorders, and to that end is interested in transformation from a sanction and compliance-focused court model to a Recovery-Oriented System of Care court model. Through intentional collaboration within the KCOJ, at the state-level between the courts and behavioral health systems, and within local communities, Kentucky's court system can begin the process of moving towards this new model.