

Judicial Task Force on Mental Illness

FIRST ANNUAL REPORT AND RECOMMENDATIONS OF THE NEW YORK STATE JUDICIAL TASK FORCE ON MENTAL ILLNESS

Respectfully submitted,

Hon. Cheryl Roberts
Hon. Matthew J. D'Emic
Co-chairs

February 1, 2025

Members of the New York State Judicial Task Force on Mental Illness

Hon. Jacqueline Sisson co-chair (resigned 12/31/24)

Hon. Cheryl Roberts, co-chair (appointed 1/2/25)

Hon. Matthew J. D’Emic, co-chair

Hon. Tamiko Amaker

Hon. Ross P. Andrews

Alexander Sasha Bardey, M.D.

Chelsea Barrett

Hon. Ellen Biben

Kristila Brace, Psy. D.

Alison Burke

Hon. F. Scott Carrigan

Hon. Jordan M. Dressler

Christine Edwards, Esq.

Virginia Fineran, Ph.D.

Carol Fisler, Esq.

Elizabeth Fortino, Esq. (appointed 1/30/25)

Rabiah Gaynor

Tricia George

Hon. Doris M. Gonzalez

Peter D, Guarino, LCSW

Hon. David J. Gugerty

Grace Hennessy, M.D.

Patricia Hernandez, LCSW

Hon. Marcia Hirsch

Sadie Ishee, Esq. (appointed 1/30/25)

David Kelly, Esq.

Colleen A. King, Esq.

Leanne Lapp, Esq.

Li-Wen Lee, M.D.

Joan Levenson, Esq.

Deanna Logan, Esq.

Ann-Marie Louison, LCSW

Hon. Janet Malone

Hon. Juan Merchan

Hon. Anne E. Minihan

Hon. Valentina Morales

Ruth O’Sullivan, LCSW

Hon. Seth Peacock

Hon. James Ritts

Merrill Rotter, M.D.

Hon. Keri E. Savona

Hon. Toko Serita

Hon. Carol Sharpe

Sheila Shea, Esq. (retired 10/24)

Lisa C. Smith, Esq.
Brian Stettin, Esq.
Hon. Jack Stoller
Theresa Tobin, Ph.D.
Hon. Damaris E. Torrent
Hon. Kelly Vacco
Kimberly VanCamp
Hon. John Zhou Wang
Patricia Warth, Esq.

FIRST ANNUAL REPORT AND INITIAL RECOMMENDATIONS OF THE NEW YORK STATE JUDICIAL TASK FORCE ON MENTAL ILLNESS

I. Introduction

The New York State Judicial Task Force on Mental Illness is pleased to submit its initial report and recommendations to Chief Judge Rowan D. Wilson, Chief Administrative Judge Joseph A. Zayas and the Administrative Board of the Courts.

In March 2020, the Conference of Chief Justices (CCJ) and Conference of State Court Administrators (COSCA) established the National Judicial Task Force to Examine State Courts' Response to Mental Illness to "assist state courts in their efforts to more effectively respond to the needs of court involved individuals with severe mental illness".

The October 2022 report of the National Task Force, *State Courts Leading Change*, observed:

"Court leaders cannot solve the chaos and heartbreak of mental health in America. Court leaders can, and must, however, address the impact of the broken mental health system on the nation's courts-especially in partnership with behavioral health systems. The broken system too often negatively impacts court cases involving those with mental illness, especially in competency proceedings, criminal and juvenile cases, civil commitment cases, guardianship proceedings for adults and juveniles, civil commitment cases, and family law cases. Each state court, as well as CCJ and COSCA, are urged to initiate a thorough examination of the mental health crisis and its impact on fair justice."

Heeding this call, Acting Chief Judge Anthony Cannataro called for the creation of this Task Force which was launched by Chief Judge Rowan D. Wilson and Chief Administrative Judge Joseph A. Zayas by Administrative Order dated January 23, 2024.

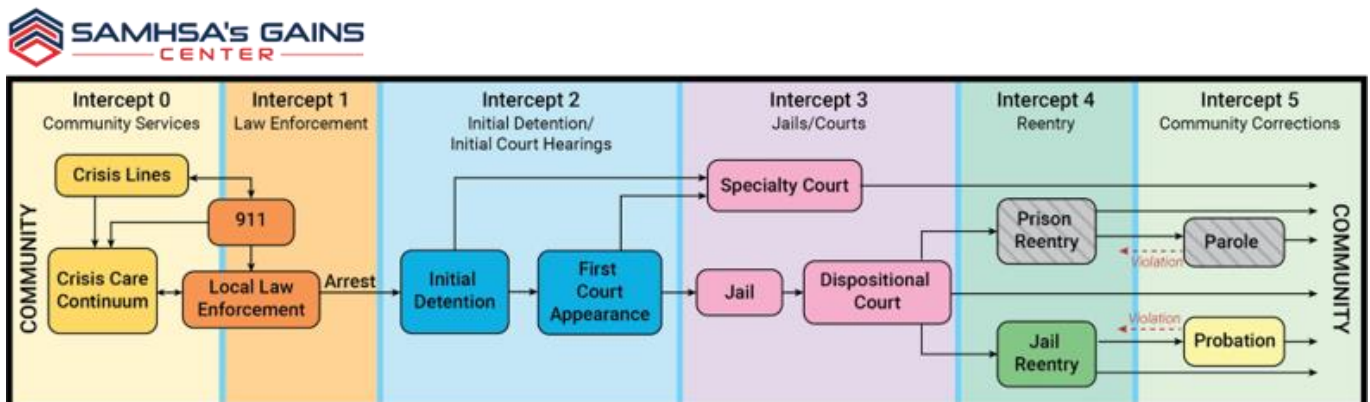
That Administrative Order directed the Task Force to, among other things, "examine best practices, identify collaborative solutions with other government entities" and to "report to the Chief Judge, Chief Administrative Judge, and the Administrative Board of the Courts...no less than annually, regarding the activities and accomplishments of the Task Force...".

II. Organization

Pursuant to its mandate to meet at least four times a year, the Task Force, consisting of 49 members from every area of the state and multiple disciplines and state, city, and county agencies, held its first annual hybrid meeting on January 24, 2024, with all members in attendance.

It was decided that the Task Force would be organized best by forming sub-committees roughly in line with the Sequential Intercept Model (see illustration). Subsequent full Task Force meetings were held on April 11, May 23, October 24 and December 12, at which each sub-committee reported on its progress, meetings, discussions, consultants and recommendations. At the November meeting, Richard Schwermer of the National Center for State Courts presented on the work of other states and jurisdictions and answered questions from Task Force members. (A list of sub-committee members and chairs is annexed as Appendix 1). A brief description of each sub-committee and its relevant activities and recommendations follow.

The Sequential Intercept Model (SIM)



Abreu, D., Parker, T. W., Noether, C. D., Steadman, H. J., & Case, B. (2017). Revising the paradigm for jail diversion for people with mental and substance use disorders: Intercept 0. *Behavioral Sciences & the Law*, 35(5-6), 380-395. <https://doi.org/10.1002/bsl.2300>
© 2022 Policy Research Associates, Inc.

III. Subcommittee meetings, collaboration, and initiatives

1. Pre-court responses and deflection

Where appropriate, deflecting individuals (as opposed to diverting) in a mental health crisis from criminal appearance and prosecution is a more just, efficient, and humane way to connect them to treatment. Two approaches identified by this sub-committee to promote pre-court deflection are increased awareness and use of the 988 hotline as a means of seeking urgent responses and intervention to address mental health crises in the community and implementation of a priority dispatch system for 911 calls.

The 988 hotline is a New York State operated line that provides a 24-hour connection to trained crisis counselors. It is suggested that the Office of Court Administration partner with the Office of Mental Health and local county mental health agencies to take an active role in the promotion of 988 and mobile crisis teams. OCA can also monitor the work of the State's Daniel's Law Task Force in studying the landscape of mobile intervention services in the state to make recommendations as to best practices.

2. Court-based diversion

The court-based diversion sub-committee undertook a comprehensive 62 county survey to determine where mental health courts exist, which jurisdictions would benefit from a mental health court and challenges to the establishment and operation of such courts because of a lack of services and potential participants. The potential initiatives identified by this sub-committee are (a) the creation of statewide and local working groups to improve diversion opportunities for individuals with severe mental illness, (b) creation of a centralized team of clinical professionals to address the needs of mental health courts, (c) collaboration with other agencies to increase the availability of residential programs for incarcerated individuals to be safely and effectively

diverted, (d) development of universal behavioral health screening at arraignments and e) creation of regional mental health courts. A more detailed recommendation of this last proposal is contained later in this report.

3. Competency

In New York State Article 730 of the *Criminal Procedure Law* codifies procedures for determining fitness to proceed or competency. This sub-committee has examined the processes for competency determination and restoration and identified immediate reforms to streamline and improve processing of these cases.

A review of the form order used statewide by judges could be improved to include more information to guide evaluators and more efficiently start the process. The sub-committee also partnered with UCS' Division of Technology and Court Research (DoTCR) to create a prototype data dashboard to track and monitor the progress of cases where a fitness evaluation has been ordered.

It is recommended that the dashboard be brought on-line as a means of identifying bottlenecks and delays and to better track these cases. A more detailed recommendation of these two items are contained later in this report.

The sub-committee will continue to explore whether courts in New York State should adopt “competency dockets” for more efficacy and efficiency.

4. Mandated Treatment, Civil Commitment and Guardianship

The portfolio of this sub-committee is broad and discussions of subjects such as mandated commitment and utilization of psychiatric nurse practitioners' testimony remains on-going. Currently, the sub-committee is recommending collaborating with the work of OCA's Guardianship Advisory Committee, Guardianship Roundtable and Guardianship Advisory of

New York regarding the complex details of a potential publicly funded and administered guardianship program.

The sub-committee also recommends, a two-year pilot program in one or more New York counties to implement an assisted out-patient treatment (AOT) model with ongoing judicial involvement to evaluate whether that model leads to greater success. A more detailed recommendation regarding this proposal is included later in this report.

5. Family, Matrimonial, Child Welfare and Juvenile Justice

This sub-committee recommends that mental health courts be established in Family Court to better address the needs of justice-involved youth with mental illness currently handled in JD and Youth Parts and in custody and visitation matters where mental health challenges are present but removal of the child is unwarranted. A more detailed recommendation regarding this proposal is contained later in this report.

6. Reentry and Housing

Perhaps the greatest challenge to successful deflection and diversion of those who live with serious mental illness is access to safe and affordable housing. This committee has divided its recommendations into short-term, medium-term and long-term goals which will be detailed in a report later this year. Short-term goals are expected to include access and training to court staff in the Coordinated Assessment and Placement System (CAPS) where available and development of referral pathways to supportive housing. Medium-term goals are expected to include calls for the establishment of court-based navigators to support judges and diversion efforts and involving peer navigators as anchors for program participants as they reintegrate in their communities. One expected long-term goal is improvement of integration of care to those individuals experiencing serious mental illness and substance use disorder by both OMH and OASAS.

7. Judicial and Court Staff Training and Wellbeing

The success of any reforms proposed by the Task Force to improve our courts' response to individuals living with mental illness is best assured if court personnel – from judges to clerks to court officers to interpreters – understand how to address and respond to the needs of this population. To facilitate this process, Judges Hirsch and Merchan along with Dr. Merrill Rotter presented training to judges at the summer seminars. In October, they presented training to the New York State Magistrates' Association and on January 6, 2025, presented at the new judges training.

The sub-committee also met with representatives from court officers, clerks and interpreters to discuss current training on the subject and explore other training opportunities. The sub-committee represented the Task Force in trainings in several judicial districts and in co-sponsoring statewide presentations with New York State Judicial Wellness Coordinator Dan Lukasik for National Mental Health Awareness Month, National Suicide Awareness Month and National Depression Awareness Month.

The Task Force recommends continued programs for judges and court staff, especially frontline clerks who work directly with the public, as well as ongoing well-being programs. Of importance is finding ways to advance programs for court interpreters.

8. Equity and Person-Centered Justice

This sub-committee is exploring the potential contributions of peers in mental health courts.

IV. Recommendations

Each sub-committee has considered several recommendations for implementation by the Office of Court Administration. For this initial report, however, the Task Force is limiting its submission to five initial proposals that can be implemented solely within the court system this

year. As the Task Force continues its work throughout the coming year, it will present additional proposals to you for consideration.

RECOMMENDATION 1: Establish a two-year pilot program in one or more New York counties implementing an Assisted Out-Patient Treatment (AOT) model with on-going judicial involvement.

The Task Force recommends that the Office of Court Administration, in cooperation with the New York State Office of Mental Health, establish a two-year pilot program in one or more counties to implement an AOT model with ongoing judicial involvement. Such a pilot approach will enable the court system and its partners to empirically evaluate whether assisted outpatients who participate under this model are more successful in avoiding hospitalization, criminalization and homelessness than those who receive AOT as currently practiced, and whether the investment of judicial resources to maintain this model is cost effective.

New York's "Kendra's Law" (MHL 9.60) authorizes court-ordered assistant outpatient treatment for individuals with histories of mental illness and non-adherence to prescribed treatment which has led to multiple hospitalizations or violence. Since its enactment in 1999, AOT has become a fixture of county operated mental health systems across the state. Typically, the role of the judge and the court in administering these programs has been limited to the statutory function of conducting hearings to determine whether the respondent meets the criteria for AOT, and, if so, whether the treatment plan is narrowly tailored to meet the respondent's mental health needs. In many counties the respondent's appearance is waived for these proceedings and there is no interaction between the judge and the participant, leaving encouragement to remain engaged to clinical professionals.

This contrasts with the design of a significant number of AOT programs in other states, which operate under a model derived from criminal diversion "problem-solving" courts. In these

AOT programs (with notable examples including Summit County, Ohio, Bexar County, Texas, Dona Ana County, New Mexico and Orleans Parish, Louisiana) the judge endeavors at the initial AOT hearing to forge a personal connection with the respondent inquiring about their immediate and longer-term life goals. They also hold periodic status conferences to review progress in treatment and quality of life. The theory behind this (sometimes called the “black robe effect”) is that a caring, involved judge is uniquely positioned to inspire a person to maintain treatment engagement. To date, no study has addressed the important question of whether more judicial involvement adds value to AOT programs by improving outcomes for participants.

Accordingly, we recommend that OCA and OMH establish a two-year program to implement and study this model.

RECOMMENDATION 2: Begin a one-year planning process to establish Mental Health Courts in Family Court.

The teenage population in the United States has seen a dramatic increase in mental health problems over the last several years. There is a clear need for court involvement to address those problems. To that end, the Task Force recommends that the court system implement a project to establish mental health courts in Family Court. The project would focus on (i) justice-involved youth, and (ii) custody and visitation cases where mental health challenges are present but removing the child is not warranted. The project would aim to address (i) youth presenting with mental health issues in the JD and Youth Parts, and (ii) families with mental health issues in the custody and visitation parts.

It is expected that this would improve outcomes for those young people already involved in the criminal justice system, albeit as juveniles. Moreover, judges would be provided with more information when they are adjudicating custody and visitation cases where the mental health of any of the litigants is unclear.

The Office for Justice Initiatives, Division of Policy and Planning, together with the Statewide Coordinating Judge for Family Court can plan the implementation as in so many other successful projects with outside stakeholders and partnerships, and strict but workable protocols.

RECOMMENDATION 3: Establish Regional Mental Health Courts.

The Task Force recommends establishing regional mental health courts in low-volume counties by using statutory removal of cases to adjacent counties and sharing mental health resources.

Creating regional mental health courts would improve access to diversion opportunities for defendants with mental illness in rural counties in New York State. By pooling resources and expertise, regional courts can better access mental health services. Jurisdictional transfer of cases can be consistent with procedures in place for veterans and trafficking courts (CPL 170.15 and 230.15) and allows for more efficient management of resources and better diversion opportunities for defendants in counties without an existing mental health court.

As with recommendation 2, the Office for Justice Initiatives, Division of Policy and Planning and Statewide Coordinating Judge for Problem-Solving Courts would plan the structure and implementation of these courts as in so many other projects with stakeholders.

RECOMMENDATION 4: Develop an internal dashboard to improve tracking and management of competency (fitness to proceed) cases.

The National Task Force's report highlights the myriad problems surrounding defendants' competency and fitness to proceed. Delays from conducting evaluations and providing reports to ordering commitment and removal from jail into therapeutic facilities exist in many jurisdictions. New York, although reportedly better than most, still can do better in managing these timelines. To this end, the Task Force recommends development of a dashboard to track competency

caseloads within the court system which would allow collaboration with our partners to identify areas that need improvement and potential system changes at both the state and local level. It would further allow judges and staff to monitor and manage competency caseloads.

RECOMMENDATION 5: Update the Article 730 Evaluation Order Form

The Task Force recommends updating the CPL Article 730 examination order form to use a appropriate psychological terminology and gender-neutral verbiage, (Appendix 2).

V. Conclusion

The New York State Judicial Task Force on Mental Illness' inaugural year resulted in many more ideas, recommendations, and proposals than are contained in this report. As mentioned earlier, it is expected that additional recommendations will be forthcoming.

The Task Force met earlier this year, with the next hybrid meeting expected in the spring.

Each of its members remains committed to the task before us and prepared to continue to assist and support the Unified Court System and the people it serves.

Dated: Brooklyn, NY
February 1, 2025

Appendix 1: Subcommittee Chairs and Members

1. Pre-Court Responses and Deflection

Ann-Marie Louison, LCSW (*Chair*), Chief Impact Officer, CASES
Chief Theresa Tobin, Ph. D., Chief of Interagency Operations, New York Police Department (retired)
Colleen A. King, Esq., Supervising Attorney, Mental Health Team, Brooklyn Defender Services
David Kelly, Esq., Chief, Mental Health Unit, Office of the Kings County District Attorney
Kimberly VanCamp, Statewide Mental Health Court Project Director, Office for Justice Initiatives, Division of Policy and Planning
Merrill Rotter, M.D., Senior Forensic Advisor to the Commissioner, New York State Office of Mental Health
Patricia Warth, Esq., Director, New York State Indigent Legal Service
Tricia George, Director, Diversion Center, Division of Forensic Services, NYS Office of Mental Health
Rabiah Gaynor, Associate Commissioner, Criminal Justice Division, NYS Office of Addiction Services and Supports

2. Court-Based Diversion

Hon. Toko Serita (*Chair*), OCA Statewide Coordinating Judge for Problem-Solving Courts (retired) Judge of the NYC Criminal Court, Queens County
Alison Burke, Vice-President of Regulatory and Professional Affairs, Greater New York Hospital Association
Ann-Marie Louison, LCSW, Chief Impact Officer, CASES
Carol Fisler, Esq., Consultant on Criminal Justice and Mental Health Collaborations
Christine Edwards, Esq., Chief Counsel, Office for Justice Initiatives, Division of Policy and Planning
Hon. F. Scott Carrigan, Acting County Court Judge, Suffolk County
Hon. James Ritts, District Attorney, Ontario County
Hon. John Zhuo Wang, Judge, New York City Criminal Court
Hon. Juan Merchan, Acting Supreme Court Justice, New York County
Hon. Marcia Hirsch, Acting Supreme Court Justice, Queens County
Hon. Seth Peacock, Presiding Judge, Ithaca Wellness and Recovery Court
Joan Levenson, Esq., Special Counsel to Supreme Court Justice Deborah Kaplan
Kimberly VanCamp, Statewide Mental Health Court Project Director, Office for Justice Initiatives, Division of Policy and Planning
Leanne Lapp, Esq., Ontario County Public Defender
Ruth O'Sullivan, LCSW, Senior Director of Clinical Practice, Center for Justice Innovation
Alexander Sasha Bardey, M.D., President, Fifth Avenue Forensics and Director of Forensic Psychiatry, Nassau County Department of Health, Chemical Dependency and Intellectual Disabilities

Tricia George, Director, Diversion Center, Division of Forensic Services, NYS Office of Mental Health

Grace Hennessy, M.D., Associate Chief of Addiction Psychiatry, NYS Office of Addiction Services and Supports

David Kelly, Esq., Chief, Mental Health Unit, Office of the Kings County District Attorney

Kerry Rowe, Esq., Deputy Unit Chief at the Kings County District Attorney's Office

Eric S. Fieldman, Esq., Principal Court Attorney to the Hon. Toko Serita, AJSC

Hon. Jordan M. Dressler, NYC Housing Court

Jennifer Dunn, MA, MHC, Principal Court Analyst, Office for Justice Initiatives, Division of Policy and Planning

3. Competency

Hon. Tamiko Amaker (*Co-Chair*), Administrative Judge for New York City Supreme Criminal Court

Li-Wen Lee, M.D. (*Co-Chair*), Associate Commissioner, Division of Forensic Services, NYS Office of Mental Health

Brian Stettin, Esq., Senior Advisor on Severe Mental Illness, Office of the New York City Mayor

Sadie Ishee, Esq., Deputy Chief Attorney, Mental Hygiene Legal Services, First Department

Carol Fisler, Esq., Consultant on Criminal Justice and Mental Health Collaborations

Colleen A. King, Esq., Supervising Attorney, Mental Health Team, Brooklyn Defender Services

David Kelly, Esq., Chief, Mental Health Unit, Office of the Kings County District Attorney

Hon. David J. Gugerty, Justice of the Supreme Court, Nassau County

Hon. James Ritts, District Attorney, Ontario County

Kristila Brace, Psy.D., Acting Assistant Commissioner, Bureau of Health Promotion for Justice-Impacted Populations, NYC Department of Health and Mental Hygiene

Leanne Lapp, Esq., Ontario County Public Defender

Sheila Shea, Esq., Director, Mental Hygiene Legal Services, Third Judicial Department (retired)

Virginia Fineran, Ph.D., Clinical Director, Mental Health, Correctional Health Services, Rikers Island, NYC Health & Hospitals

Raji Edayathumangalam, MSc, PhD, LCSW, Senior Policy Social Worker, New York County

4. Mandated Treatment, Civil Commitment, and Guardianship

Hon. Anne E. Minihan (*Co-Chair*), Administrative Judge, Ninth Judicial District

Hon. David J. Gugerty (*Co-Chair*), Justice of the Supreme Court, Nassau County

Alexander Sasha Bardey, M.D., President, Fifth Avenue Forensics and Director of Forensic Psychiatry, Nassau County Department of Health, Chemical Dependency and Intellectual Disabilities

Alison Burke, Vice-President of Regulatory and Professional Affairs, Greater New York Hospital Association

Brian Stettin, Esq., Senior Advisor on Severe Mental Illness, Office of the New York City Mayor

Hon. Carol Sharpe, Justice, Supreme Court, New York County

Hon. Damaris E. Torrent, Acting Supreme Court Justice, Westchester County

Hon. Jack Stoller, Supervising Citywide Judge, New York City Housing Court

Hon. Janet Malone, Justice, New York State Supreme Court, Westchester County

Hon. Kelly Vacco, Justice, Supreme Court, Eighth Judicial District

Hon. Ross P. Andrews, Judge, Syracuse City Court

Hon. Valentina Morales, Judge, New York City Criminal Court, New York County

Sheila Shea, Esq., Director, Mental Hygiene Legal Services, Third Judicial Department

Virginia Fineran, PhD., Clinical Director, Mental Health, Correctional Health Services, Rikers Island, NYC Health & Hospitals

Hon. Seth Peacock, Presiding Judge, Ithaca Wellness and Recovery Court

Merrill Rotter, M.D., Senior Forensic Advisor to the Commissioner, New York State Office of Mental Health

Hon. Jordan M. Dressler, NYC Housing Court

Sadie Ishee, Esq., Deputy Chief Attorney, MHLS, First Department

5. Family/Matrimonial/Child Welfare/Juvenile Justice

Hon. Keri E. Savona (*Chair*), Ulster County Family Court Judge and Acting Supreme Court Justice; Coordinating Judge of Specialty Courts, Third Judicial District

Lisa C. Smith, Esq. (*Chair*), Chief Counsel for Family Violence Matters, Office for Justice Initiatives, Division of Policy and Planning

Deanna Logan, Esq., Director, NYC Mayor's Office of Criminal Justice

Hon. Damaris E. Torrent, Acting Supreme Court Justice, Westchester County

Hon. Janet Malone, Justice, New York State Supreme Court, Westchester County

Hon. Kelly Vacco, Justice, Supreme Court, Eighth Judicial District

Patricia Warth, Esq., Director, New York State Indigent Legal Service

Meredith Ray-LaBatt, MA, MSW, Deputy Director, Division of Integrated Community Services for Children and Families, New York State Office of Mental Health

Kristila Brace, Psy.D., Acting Assistant Commissioner, Bureau of Health Promotion for Justice-Impacted Populations, NYC Department of Health and Mental Hygiene

6. Reentry and Housing

Patricia Hernandez, LCSW (*Co-Chair*), Former Director, Metro Region, Corporation for Supportive Housing

Ruth O'Sullivan, LCSW (*Co-Chair*), Senior Director for Clinical Practice, Center for Justice Innovation

Deanna Logan, Esq., Director, NYC Mayor's Office of Criminal Justice

Hon. Jack Stoller, Supervising Citywide Judge, New York City Housing Court

Hon. John Zhuo Wang, Judge, New York City Criminal Court, New York County

Hon. Judith Lieb, Acting Justice, Supreme Court, Bronx County

Kristila Brace, Psy.D., Bureau of Health Promotion for Justice-Impacted Populations,

NYC Department of Health and Mental Hygiene

Rabiah Gaynor, Associate Commissioner, Criminal Justice Division, NYS Office of
Addiction Services and Supports
Raji Edayathumangalam, MSc, PhD, LCSW, Senior Policy Social Worker, New York
County

7. Judicial and Court Staff Training and Wellbeing

Hon. Marcia Hirsch (*Co-Chair*), Acting Supreme Court Justice, Queens County (retired)
Hon. Juan Merchan (*Co-Chair*), Acting Supreme Court Justice, New York County
Hon. Anne E. Minihan, Administrative Judge, Ninth Judicial District
Christine Edwards, Esq., Chief Counsel, Office for Justice Initiatives, Division of Policy
and Planning
Hon. Doris M. Gonzalez, Justice, Supreme Court, Westchester County
Hon. Tamiko Amaker, Administrative Judge for New York City Criminal Court
Peter D. Guarino, LCSW, Deputy Director, Ontario County Mental Health Center
Elizabeth Fortino, Esq., Director, Mental Hygiene Legal Services, Fourth Department
Hon. Ellen Biben, Administrative Judge, Supreme Court, Criminal Term, New York
County

8. Equity/Person-Centered Justice

Hon. Doris M. Gonzalez (*Chair*), Justice, Supreme Court, Westchester County
Hon. Valentina Morales, Judge of the New York City Criminal Court, New York County
Peter D. Guarino, LCSW, Deputy Director, Ontario County Mental Health Center
Elizabeth Fortino, Esq., Director, MHLS, Fourth Department
Grace Hennessy, M.D., Associate Chief of Addiction Psychiatry, NYS Office of
Addiction Services and Supports

Appendix 2

Please check relevant reason(s) for referral for Article 730 Evaluation:

- Concerns about capacity to understand charges or court proceedings
 - Disoriented or confused
 - Agitated, disruptive, or bizarre behavior
 - Expresses odd or unusual thoughts
 - Unable to understand or remember relevant information
 - Difficulty understanding communications, not due to language issues
 - Speech pattern or content is disorganized/incoherent/bizarre
 - Responses are illogical, off-topic, and individual cannot be redirected
 - Other: _____

Briefly describe specific concerns from above:

Concerns about capacity to assist in their own defense

- Uncooperative with defense counsel
- Repeated threatening, violent, or erratic behavior that hampers legal process
- Difficulty communicating with defense counsel, not due to language issues
- Unable to consider options and/or make decisions
- Other: _____

Briefly describe specific concerns from above:

[Optional] Please provide any additional information that may be helpful to the evaluator. Example: details of psychiatric emergencies and crises, inpatient psychiatric hospitalization, outpatient mental health treatment, suicidal history; AOT* orders; (F)ACT* or IMT* team involvement; substance use treatment; prior unfit findings; dementia; TBI*; neurocognitive, neuropsychological, neurodivergent, or developmental conditions; OPWDD* eligibility; school IEP* plan for young adults, etc.

***ABBREVIATIONS:**

AOT: Assisted Outpatient Treatment
(F)ACT: (Forensic) Assertive Community Treatment
IMT: Intensive Mobile Treatment
TBI: Traumatic Brain Injury
OPWDD: Office for People with Developmental Disabilities
IEP: Individualized Education Program

730 Order (reasons for referral section)

Statutory Language from CPL 730.10: "Incapacitated person" means a defendant who as a result of mental disease or defect lacks capacity to understand the proceedings against him or to assist in his own defense.

OLD VERSION

Please check relevant reason(s) for referral for Article 730 Evaluation:

* proposed changes for revised version are indicated

Disruptive, confused or bizarre behavior (proposed subcategory/example)
Appears disheveled; not taking care of self (suggest removing, not necessarily fitness related)
Threatening or violent behavior (subsumed under uncooperative, not necessarily fitness related)
Appears not to understand charges or court processes (proposed primary category)
Suicidal behavior (under additional info)
History of past psychiatric problems (under additional info)
Uncooperative with defense counsel (proposed subcategory/example)
History of drug or alcohol abuse (under additional info)
Extreme or bizarre type of offense (suggest removing)
History of suicidal behavior (under additional info)
Other _____ (proposed subcategory)