



KEY QUESTIONS

at Appearances for Individuals with Serious Mental Illness

When Mental Illness Seems To Be a Factor, Consider:

PREVALENCE

- **Serious Mental Illness:** 17% of adults booked into jails (31% of women; 15% of men)
- **Substance Use Disorder:** 65% of adults in U.S. corrections systems
- **Co-Occurring Mental Illness/Substance Use Disorder:** 72% of adults with serious mental illnesses in jail also had co-occurring substance use disorders

CONTEXTUALIZING OBSERVATIONS

While certain categories of observation (see [Judges' Guide to Mental Illnesses in the Courtroom](http://csgjusticecenter.org), csgjusticecenter.org) may alert judges that an individual may have a mental illness that requires different judicial action and/or attention by a mental health professional, there are not definitive signs of mental illness. Certain contextual elements are important to consider:

- Appearing in court is an anxiety-provoking experience for most people, and people with mental illness in courts also typically have traumatic experiences in their backgrounds.
- Individuals may not be prepared to navigate a system as complex and demanding as the criminal justice system.
- Some individuals may have language barriers, hearing difficulties, or brain processing challenges.
- Individuals may bring to court skills that have allowed them to survive in their communities but are a poor fit for interacting with the courts (e.g., toughness, argumentativeness, silence).
- The presentation of symptoms of someone with serious mental illness can fluctuate.

EVIDENCED-BASED PRACTICES SHOULD BE FOLLOWED WHICH INCLUDE:

- Every case receives individual attention.
- Individual attention is proportional to need and seriousness of the issue before the court.
- Decisions demonstrate procedural justice (clear processes, fairness, information, respect, etc.).
- Judges control the legal process.

KEY QUESTIONS

1. Screening

- Does this person present as an individual who has behavioral health issues?
 - If yes, what screening tools are available to me, if any?
- Are any of the screening tools appropriate for this individual?
- Is this screening tool a validated instrument?
- Who will conduct this screening and when?
- Are criminogenic risks and needs considered?

2. Court Information

- What is the nature of the current charge?
- Does this individual have other pending matters?
- What does the criminal record of this individual show, if anything?
- Are there patterns of charges or types of charges to help get a picture of the individual's behavior in the community?
- Are there failures to appear that could have been impacted by this person's mental illness or social circumstances?

3. If the individual is screened and an assessment is appropriate

- What assessment tools are available to me?
- Is this assessment tool designed to work with the screening tool?
- Is this assessment tool appropriate for this individual?
- When can the assessment be completed and by whom?

4. Behavioral Health Triage, Early Intervention and Alternate Pathways

- Have I considered diversion or alternative pathways away from criminal settings and into treatment, pretrial, civil, or treatment court programs?
- Which connections to community-based treatment, recovery support, and care coordination are in alignment with the needs of the individual?
- Is there an accessible Certified Community Behavioral Health Clinic (CCBHC) or clinical service that can support an individual with criminal justice and mental health issues?
- What services are available that will meet the needs of the individual?
- Are there any impediments (e.g., insurance, transportation, housing)?

5. Best Practices

- Slow down the proceeding if you notice that an individual before you has behavioral health issues
- Be respectful
- Avoid embarrassing the defendant
- Ask for a side bar conference with the attorneys
- Avoid stigmatizing the defendant
- Don't get embroiled in the challenges of the defendant
- Subjective determinations of an individual need should be avoided
- Overrides of valid assessment results should be rare

For additional information, see Exploring Person-Centered Justice for Individuals with Behavioral Health Needs: A New Model for Collaborative Court and Community Caseflow Management reports and brief.

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