



HURON BEHAVIORAL HEALTH POLICY

Procedure #: **SD.1.16**
Issue Date: **09/09/09**
Rev. Date: **06/07/16**
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Title: Jail Diversion Policy

Prepared By: Clinical Director

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Purpose:

To define the Pre-Booking and Post-Booking Jail Diversion Program to persons with a developmental disability, severe and persistent mental illness, and/or a co-occurring substance use disorder, and the process for communication/ collaboration between Huron Behavioral Health (HBH) and local law enforcement entities (police, jail, prosecutors' office, probation/parole office, etc.).

Scope:

This policy applies to all employees (including full-time employees, part-time employees, contractual providers, volunteers, students, and/or interns) of Huron Behavioral Health (HBH). This procedure also applies to all individuals served by Huron Behavioral Health.

Information:

1. This policy conforms to the Michigan Department of Health and Human Services (MDHHS) Jail Diversion Technical Requirements.
2. Huron Behavioral Health shall provide a Jail Diversion Program which includes pre-booking and post-booking activities intended for individuals:
 - alleged to have committed misdemeanors or certain, unusual non-violent felonies and
 - who voluntarily agree to participate in the diversion program
3. Offenses considered appropriate for jail diversion are negotiated with local law enforcement agencies and the prosecuting attorney's office.
4. Although some people with a mental illness commit serious offenses requiring a traditional criminal justice response, a large proportion of police contacts and arrests for this population are for nuisance offenses or minor infractions. Examples of minor infractions may include: minor disturbances, trespassing on someone else's property, stealing/thefts, selling one's own prescription medications, becoming drunk & disorderly, wreckless driving (if it is a result of not taking meds), some small domestic violence cases. Jail diversion programs are intended for individuals alleged to have committed misdemeanors or non-violent felonies who voluntarily agree to participate in the Jail Diversion Program.
5. HBH Has identified a staff person to serve as the Jail Liaison. The HBH Daytime Emergency Services (ES) Worker is also the Jail Liaison and is also the primary contact person for collaborating with area law enforcement agencies for the purpose of developing close working relationships and robust processes for jail diversions. The Daytime ES Worker/Jail Liaison works closely with the Community Corrections Jail Liaison, the Jail Administrator, and the Prosecuting Attorney's office. The Jail Liaison bridges the gap between the mental health, substance abuse, and criminal justice systems and interacts between these systems. The individual shall have good communication skills, an understanding of the legal systems, and appropriate/suitable information systems.
6. HBH has a written agreement with the Huron County Law Enforcement/Criminal Justice System to mutually provide Jail Diversion activities to individuals that have a serious mental illness, serious emotional disturbance, or a developmental disability. Pre-Booking Jail Diversion occurs during the initial contact between law enforcement and an individual prior to formal charges occurring. Post-booking jail diversion occurs after an arraignment or incarceration for committing a crime.
7. HBH ES workers are trained to help identify individuals suitable for jail diversion services.
8. The Clinical Director will assign an individual to maintain records of Jail Diversion activities and report the information to the Pre-paid Inpatient Health Plan (PIHP) and MDHHS when requested.

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1. Eligibility is restricted to individuals who have or are suspected of having a serious mental illness, including those with a co-occurring substance use disorder, or a developmental disability, and who have committed a minor offence that would likely lead to arrest, or who have been removed from a situation that could potentially lead to arrest. When an individual is identified at some point in the arrest process and diverted into mental health services. Pre-booking Jail Diversions will typically come from local police referrals. Pre-Booking Jail Diversion occurs at the point of the individual's contact with law enforcement officers before formal charges are brought and relies heavily on effective interactions between HBH and local law enforcement entities.
2. Pre-Booking Jail diversion activities identify persons who are at risk for incarceration and have a mental disorder and/or a co-occurring disorder. These individuals who meet the criteria for pre-booking diversion are linked to HBH services for treatment. This program is not intended to mitigate the authority of any legal entity, but rather to provide mutually beneficial alternatives to incarceration when deemed appropriate.
3. Whenever a local law enforcement agent identifies an individual who may be at risk for arrest for a non-violent crime and they suspect the individual may be seriously mentally ill, seriously emotionally disturbed, or developmentally disabled, he/she has the following responsibilities:
 - a. Contact HBH to request a diversion screening or mental health assessment
 - b. Take the individual into protective custody (if necessary)
 - c. Transport the individual to the nearest Hospital Emergency Room (ER) (if necessary)
 - d. Remain available for consultation with the HBH worker
 - e. Re-instate charges if the diverted individual is non-compliant with the jail diversion plan
 - f. Sign any necessary paperwork agreeing to the diversion plan
4. Upon contact from the local law enforcement agency, the HBH ES worker will meet with the individual and the officer.
5. The ES worker will complete a "[Pre-Admission Screening Form](#)" (100-006) to determine the individual's treatment needs. (See also "[Emergency Services Intervention Procedure](#)" ER.2.02)
6. If it is agreed that Jail Diversion appears to be a suitable course of action, the ES worker will also complete a "[Jail Diversion Screening Form](#)" (90-328) and with the law enforcement officer, will mutually determine if the individual meets the eligibility criteria for diversion.
7. If the individual meets the eligibility criteria, a "[Consumer Agreement to Participate in Jail Diversion Program Form](#)" (90-348) must be signed by the consumer and a witness.
8. The consumer must also sign a "[Release of Information Form](#)" (90-009) to allow HBH and the referring law enforcement agency to share information about treatment progress and compliance.
9. Upon agreement to participate and to share information, a "[Consumer Treatment Plan for Jail Diversion Program Form](#)" (90-350) will be developed with the individual and the appropriate HBH worker, Daytime ES Worker, Clinical Director, HBH Psychiatrist, and the Law Enforcement Representative). The consumer treatment plan will identify goals, objectives, and methodology to achieve the goals.
10. Once agreement is made between the individual, law enforcement, and HBH worker, the individual will be informed of the right of the Prosecutor's Office to re-instate charges at a later date if the individual does not comply with the agreed-upon plan.
11. In order for an individual to become diverted from jail, he/she must sign all of the paperwork agreeing to the plan, and also agreeing to allow HBH to share information regarding their treatment, compliance to the plan, and progress made. If the consumer is not willing to sign the documents or participate in the treatment plan, they will not be diverted.

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12. A "[Jail Diversion Treatment Plan](#)" (90-350) will be completed by the assigned HBH worker, consumer, and law enforcement representative (if applicable). A law enforcement representative is to be included if HBH is to be providing treatment in lieu of the consumer serving time in jail.
13. If the individual is already a consumer of HBH services, the primary worker will follow the treatment progress and will document the progress (or lack of progress) onto the "Progress Note Form" (90-1008). If the individual is not a current HBH consumer, see also "[New Consumer Procedure](#)" (ISP.2.05) .
14. If the individual completes the Jail Diversion Treatment goals, but requires additional or on-going HBH services, the worker will develop a Person Centered Plan (PCP) in accordance with HBH "[PCP Policy](#)" [QI.1.05](#) and "[PCP Procedure](#)" ([QI.2.18](#)).

B. HBH Jail Diversion Program - POST-Booking:

1. Eligibility is restricted to individuals who have or are suspected of having a serious mental illness, including those with a co-occurring substance disorder, or a developmental disability, and who have been arrested for the commission of a crime.
2. The post-booking jail diversion process will screen jail detainees for the presence of a serious mental illness, co-occurring substance disorder, or developmental disability within the first 48 hours of detention.
3. The primary worker may advocate for a consumer who is in jail but they believe the individual meets the criteria for jail diversion. The primary worker will consider the following criteria:
 - The individual has a severe and persistent mental illness, serious emotional disturbance, or developmental disability (see definitions in the Michigan Mental Health Code, Act 258 as revised 1996)
 - The individual has committed a misdemeanor or non-violent felony
 - The individual has committed the crime as a result of their diagnosed condition (i.e. mental illness or intellectual impairment)
4. In consultation with the local Prosecutor's office and local law enforcement, the HBH worker will determine if the offense is acceptable for diversion. The worker will obtain referral information:
 - Demographic information and case number
 - Diagnosis
 - Criminal Charge
 - Assigned attorney
 - Status in the criminal justice system
 - Court involved and hearing date
5. The worker will consult with the Daytime ES Worker/Jail Liaison regarding post-booking jail diversion services.
6. The worker will also complete a "[Jail Diversion Screening Form](#)" (90-328) and with the law enforcement officer, will mutually determine if the individual meets the eligibility criteria for diversion.
7. If the consumer meets the eligibility criteria for the jail diversion program, the primary worker will explain the jail diversion program and also obtain the consumers signature on the "[Consumer Agreement to Participate in Jail Diversion Program Form](#)" (90-348).
8. The consumer must also sign a "[Release of Information Form](#)" (90-009) to allow HBH and the referring law enforcement agency to share information about treatment progress and compliance with the plan.
9. Upon agreement to participate and to share information, a "[Consumer Treatment Plan for Jail Diversion Program Form](#)" (90-350) will be developed with the individual and the appropriate HBH worker, Daytime ES Worker, Clinical Director, HBH Psychiatrist, and the Law Enforcement Representative). The jail diversion treatment plan will identify goals, objectives, and methodology to achieve the goals.
10. If a primary worker is not authorized to provide jail diversion services, the Daytime ES Worker/Jail Liaison in consultation with the appropriate law enforcement agency/office will determine the most appropriate service for the consumer. The Daytime ES Worker/Jail Liaison will make a referral for that service through the

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contracted Access Center or refer the individual to an appropriate private provider. The Daytime ES Worker/Jail Liaison and contracted service provider will ensure that the assigned primary worker has copies of all the appropriate legal and clinical documentation that has been accumulated.

11. For jail services procured through a contract provider, the primary worker will obtain authorization from the contracted Access Center when necessary (e.g. crisis residential services, in-patient hospitalization, etc), for the services that are included in the consumer's jail diversion plan. All services will be arranged prior to the consumers release from jail. Once the person is released from jail, the primary worker will assume the oversight of the person-centered plan.
12. The primary worker will provide quarterly updates and a final disposition of the diversion to the appropriate law enforcement entity (e.g. Prosecuting Attorney's office, District Court Judge, etc.).

C. Jail Diversion Collaborative Agreements and Cross-Training:

1. HBH will provide cross-training for, and actively promote attendance of, law enforcement and mental health personnel on the pre-booking jail diversion program including but not limited to: target group for diversion; specific options for diversion; key players and their responsibilities; data collection requirements; and other information necessary to facilitate an effective diversion program.
2. HBH will maintain a management information system (MIS) that is in compliance with the Health Insurance Portability & Accountability Act (HIPAA) which can identify individuals brought in or referred to the mental health agency as a result of a pre- and post-booking diversions. The case number also links to the encounter data to obtain information regarding services. Records include consumer ID, the date of diversion, the type of crime, and the diagnosis. The consumer case number, the date of diversion, the type of crime, and the diagnosis shall be collected and reported. Customer Service staff will collect jail diversion data and report it. (see section D below). HBH will share its jail diversion data with the PIHP and MDHHS upon request.
3. Additionally, HBH has outlined the program and processes in a written interagency agreement with local law enforcement entities in the county which should be renewed at least every four (4) years. Included in the interagency agreements are:
 - identification of the target population for pre-booking jail diversion;
 - identification of jail liaison and their responsibilities;
 - plan for continuous cross-training of mental health and criminal justice staff;
 - specific pathways for the diversion process;
 - description of specific responsibilities/services of the participating agencies;
 - data collection and reporting requirements;
 - process for regular communications including regularly scheduled meetings;
 - timeframe for which the agreement is valid
4. Regular meetings among the key players, including police/sheriffs, court personnel, prosecuting attorneys, judges and CMHSP representatives occur to encourage coordination of services and the sharing of information.
5. If newly hired case managers/clinical staff do not possess the experience in both the mental health and criminal justice systems, training with specific criminal justice focus will be provided in a culturally competent manner.
6. HBH provides and promotes cross training for law enforcement and mental health personnel on the post-booking jail diversion program including but not limited to: target group for diversion; specific pathways for diversion; key players and their responsibilities; data collection requirements; and other information necessary to facilitate an effective diversion program.

D. Reporting:

1. HBH has designated the Daytime ES Worker/Hospital Liaison representative to enter diversion activity into the tracking databases.
2. Pre-Booking jail diversion information is collected by the Daytime ES Worker/Hospital Liaison on the [Pre-Admission Screening Form \(100-006\)](#) and the [Jail Diversion Screening Form \(90-328\)](#) and given to the Daytime ES Worker/Hospital Liaison representative for compiling and reporting. All clinical staff is

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responsible for screening consumers during the pre-admission screening process and also during an emergency/crisis contact for the appropriateness of jail diversion activities.

3. Post-Booking information is collected by the worker on the [Jail Diversion Screening Form \(90-328\)](#) and given to Daytime ES Worker/Hospital Liaison representative for compiling and reporting. When the HBH worker is contacted by local law enforcement agencies with regards to a possible jail diversion candidate, they will assure that the information is provided to Customer Services for reporting.
4. The Daytime ES Worker/Hospital Liaison will review all of the Pre-Admission Screening Forms and Jail Diversion Forms whenever jail diversion activities have occurred and will enter the information in EMR, the Jail Diversion database, and will prepare quarterly reports which are submitted to Quality Improvement.

Definitions/Acronyms:**Acronyms:**

COA – Council on Accreditation

CMHSP – Community Mental Health Specialty Providers

DHS – Department of Human Services (formerly FIA – Family Independence Agency)

EMR – Electronic Medical Record

ES – Emergency Services

HBH – Huron Behavioral Health

HIPAA - Health Insurance Portability & Accountability Act

MDHHS – Michigan Department of Health and Human Services

MIS – Management Information System

PIHP – Pre-paid Inpatient Health Plan

Definitions:

Arraignment: The stage in the court process where the person is formally charged and enters a plea of guilty or not guilty.

Booking: The stage in the law enforcement custody process following arrest, when the individual is processed for formal admission to jail.

Co-Occurring Disorder – A dual diagnosis of a mental health disorder and a substance use disorder.

In-Jail Services: Programs and activities provided in the jail to address the needs of people with a serious mental illness, including those with a co-occurring substance disorder, or a developmental disability. These programs or activities vary across the state and may include crisis intervention, screening, assessment, diagnosis, evaluation, case management, psychiatric consultation, treatment, medication monitoring, therapy, education and training. Services delivered are based on formal or informal agreements with the justice system.

Jail Diversion Training: Cross training of law enforcement, court, substance abuse and mental health personnel on the diversion system and how to recognize and treat individuals exhibiting behavior warranting jail diversion intervention.

Jail Diversion Program: A program that diverts individuals with a serious mental illness (and often co-occurring substance disorder) or developmental disability, in contact with the justice system, from custody and/or jail and provides linkages to community-based treatment and support services. The individual thus avoids or spends a significantly reduced time period in jail and/or lock-up on the current charge. Depending on the point of contact with the justice system at which a diversion occurs, the program may be either a pre-booking or post-booking diversion program. Jail diversion programs are intended for individuals alleged to have committed misdemeanors or certain, unusual non-violent felonies and who voluntarily agree to participate in the diversion program.

Post-booking Diversion Program: Diversion occurs after the individual has been booked and is in jail, out on bond, or in court for arraignment. Often located in local jails or arraignment courts, post-booking jail diversion program staff work with stakeholders such as prosecutors, attorneys, community correction officers, parole and probation officers, community based mental health and substance abuse providers, and the courts to develop and implement a plan

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that will produce a disposition outside the jail. The individual is then linked to an appropriate array of community based mental health and substance abuse treatment services.

Pre-booking Diversion Programs: Diversion occurs at the point of the individual's contact with law enforcement officers, before formal charges are brought, and relies heavily on effective interactions between law enforcement officers and community mental health/substance abuse services.

Screening: Evaluation of a person involved with the criminal justice system to determine whether the person has a serious mental illness, co- occurring substance disorder, or a developmental disability, and would benefit from mental health services and supports in accordance with established standards and local jail diversion agreements.

Forms:

Information Release Authorization Form in EMR

[90-350 Jail Diversion Treatment Plan Form](#)

[90-328 Jail Diversion Screening Form](#)

[90-348 Jail Diversion Consumer Agreement to Participate Form](#)

Consent for Treatment Form in EMR

Pre-Admission Screening Form in EMR

Records:

Records of jail diversion activities are retained in the consumer's case record in the Electronic Medical Record (EMR) system in accordance with the ["HBH Record Retention & Storage Policy" \(QI.1.23\)](#).

Reference(s) and/or Legal Authority

COA standards

[QI.1.23 HBH Record retention & Storage Policy](#)

Michigan Mental Health Code Act 258 as revised 1996 @ <http://www.michigan.gov/mdch>

MDHHS Site Review Protocols (B.15.1 through B.15.4) @ <http://www.michigan.gov/mdch>

MDHHS Adult Jail Diversion Policy Practice Guideline (from the MDHHS Managed MH Supports & Services Contract Attachment C 6.9.5.1)

[ISP.2.05 New Consumer Procedure](#)

[ER.2.02 Emergency Services Intervention Procedure](#)

[SA.2.08 HBH Interface with Law Enforcement Officers Procedure](#)

Change History:

Change Letter	Date of Change(s)	Changes
None		New policy to comply with AAM Technical Requirement which was adopted 08/21/08 and required to comply with the Michigan Mental Health Code and MDCH protocols. Three previously approved HBH procedures were obsolete and their contents merged into this policy (SA.2.06 Post Booking Diversion Procedure; SA.2.07 Pre-Booking Diversion Procedure,; and SA.2.09 Jail Diversion Monitoring and Reporting Procedure).
A	05/30/13	Reviewed and revised to comply with 8 th edition COA standards - #3 in "Information" section added "and the prosecuting attorney's office", changed "ES Coordinator" to "Daytime ES Worker/Jail Liaison" or "Daytime ES Worker/Hospital Liaison" throughout document (7 places), removed "Gallery" from "Records" section.
B	08/20/14	Removed references to "Access Alliance of Michigan" and "AAM" (4 places) throughout document, added "PIHP" in "Acronym" section, removed form numbers for electronic/EMR forms and removed corresponding hyperlinks, changed "CMHC" to "EMR" in D.4,
C	06/07/16	Changed "MDCH" to "MDHHS" throughout document (6 places), in "Information" section changed "after an arrest" to "after an arraignment", in both A.9 and B.9 added "ES Worker" and changed "ES Supervisor" to "Clinical Director"