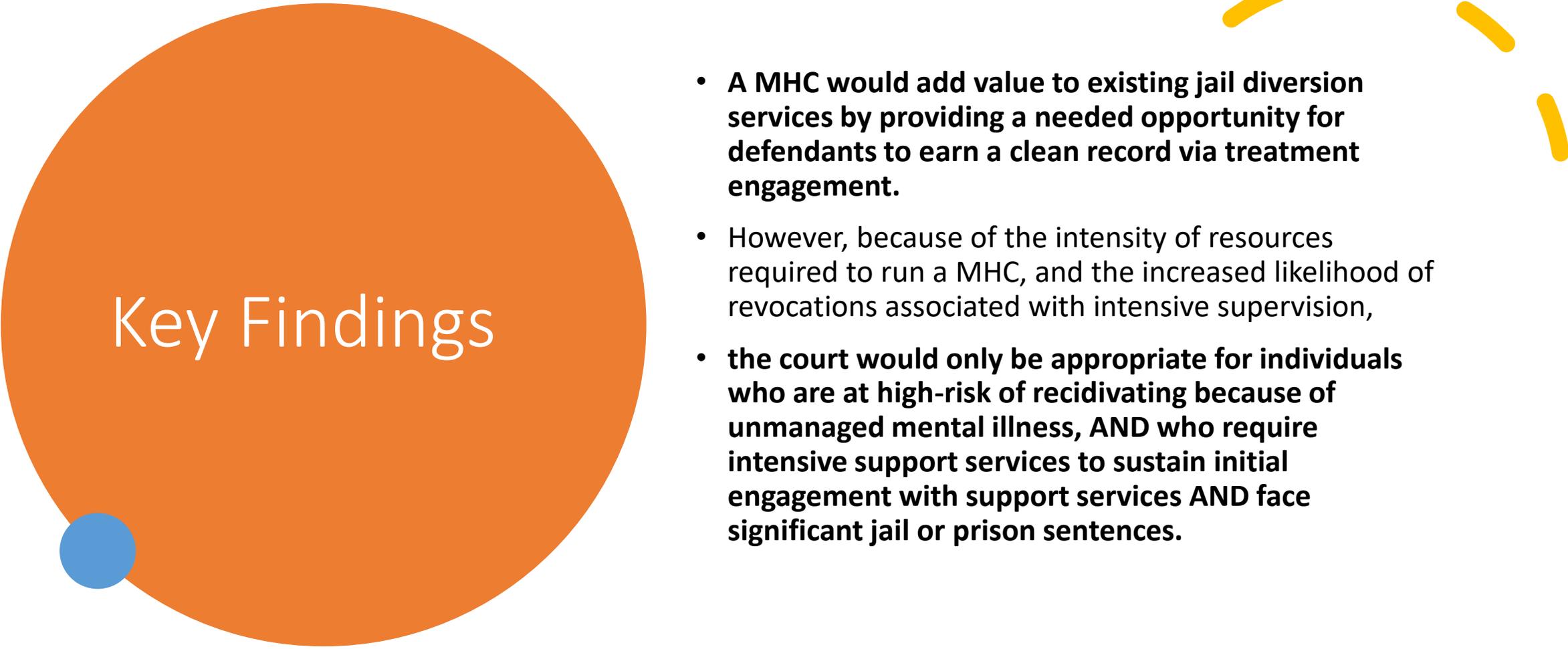


Presentation of Findings:
*Mental Health Court
Feasibility Report*
Nov 2021

To the CJC Behavioral Health Committee
March 18, 2022



Key Findings

- **A MHC would add value to existing jail diversion services by providing a needed opportunity for defendants to earn a clean record via treatment engagement.**
- However, because of the intensity of resources required to run a MHC, and the increased likelihood of revocations associated with intensive supervision,
- **the court would only be appropriate for individuals who are at high-risk of recidivating because of unmanaged mental illness, AND who require intensive support services to sustain initial engagement with support services AND face significant jail or prison sentences.**

How would it integrate with other criminal diversion programs?

Overlapping Factors Among Diversion Programming	MHC	CTA	OARS
Serves High-risk, High-need PSMI	Y	Y	Y
Avoids trauma of (further) incarceration	Y	Y	--
Provides wraparound services and case management	Y	Y	Y
Provides sanctions or incentives to motivate engagement with the treatment plan	Y	--	--
Provides judicial oversight	Y	--	--
Provides intensive supervision with possibility of revocations	Y	Y - for those on conditional release after a NGRI plea	Y
Funding Source	Federal funds + County levy	WI DHS, county levy, Medicaid billing. Some private insurance or Family Care MCO	State: DoC + DHS
Length of structured support	9-18 months or longer	CSP/ACT involvement ongoing; as long as needed	Up to 2yrs or sooner if connected to services and stabilized
Clears charges from client's record upon graduation	Y	N	--

Ideal Candidate No. 1

- **High risk, high need individuals who need the intensive structure of judicial oversight and could benefit from having their charges dismissed.**
 - Has a history of resisting engagement with or an inability to sustain treatment voluntarily
 - is at high risk of recidivating or causing harm to someone because of their untreated mental illness
 - Has some criminogenic tendencies that require judicial oversight but are mainly exacerbated by their unmanaged mental illness.
 - Is facing significant jail time or prison time
- For those that already have extensive criminal histories and are responsive to wraparound case management services, CTA is the recommended alternative

Ideal Candidate No. 2

- **Has many misdemeanor tickets as a result of untreated SMI and thus fines accrued but not much supervision required from a traditional court, and is at risk of facing significant jail time if they continue**
 - the ability to waive fines may serve as an excellent motivator to engage this person in treatment when they don't yet qualify for CSP or CTA.
 - Keeping them out of jail may aid decompensation.
- As one key informant said, “[this could be good for] the guy who has mental illness but hasn't been diverted to a CSP Program or an ACT Program or whatever and has all these tickets. If you could say, “Hey, work with this court and we'll drop your fines. You just have to work with these people for a year. Something like that. I could see mental health court in that array, in that situation.”

Potentially sufficient need
to justify a MHC

Estimating the Amount of Need

Between 2017--2020
among adults receiving mental health services each year:

204-379 were arrested and
107-179 were imprisoned

Each year,
roughly 262 Individuals with an axis 1 diagnosis have criminal justice involvement

According to AODA deferral program data from 2017-2020

Each year, approximately **21 individuals** participating in AODA referral services **may be eligible for MHC**

“There’s a whole lot of people that have 20 open misdemeanor cases in Dane County courts right now who should be in mental health court or should be looking at a diversion that gets them treatment because all those crappy misdemeanors are going to do nothing but tie up the system and cost a whole lot of money and it’s because they’re ill, and impulsive.”

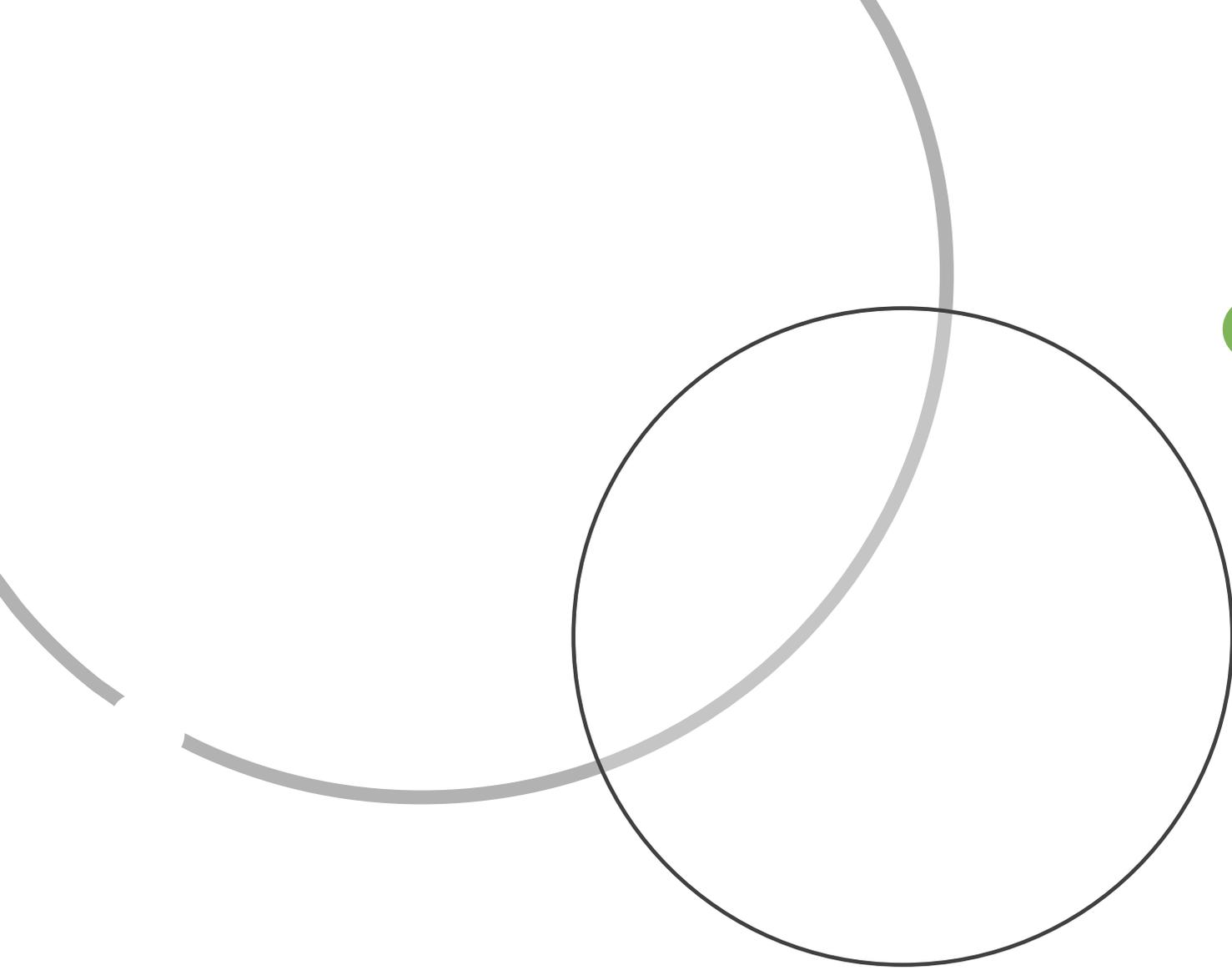
What are
the biggest
concerns
and
potential
barriers?

- Staffing levels at the DA's office
- Waitlists for treatment
- Unstable medication support in jail
- Insufficient wraparound support to address root causes like houselessness
- Could worsen racial inequities
- Too few BIPOC providers at all levels of process
- Stigma preventing eligible folks from seeking it out
- Community reluctance to de-carcerate

Potential Equity Issues to Monitor

- Mental health screeners and risk assessment tools have a bias toward rendering BIPOC people ineligible for traditional MHCs.
- MHCs disproportionately serve white males in their mid-thirties. Offenders of ethnic and racial minority groups tend to decline participation or withdraw early

- Excluding convictions involving violence will disqualify more BIPOC (Black, Indigenous, People of Color) defendants who tend to be given more serious charges.
- Could push the courts toward more coercive treatment and inadvertently increase recidivism



Our
Recommendations

A MHC could complement existing services

A MHC should be implemented **ONLY IF** the County can achieve a true collaboration between the county criminal justice and behavioral health/substance use systems to meet the following conditions:

- Accept the risk of committing the court to serving those in the community who are genuinely high risk and high need, and
- Provide a sufficient quantity of culturally matched services in a timely fashion, and
- Recruit the appropriate champions to the team
- Increase the capacity of the DA to staff another treatment court by increasing staffing or otherwise reducing the backlog of criminal cases

Take Steps to Remove Bias in Eligibility Standards

1

Accept BOTH misdemeanants and felony cases;

2

Consider violence on a case-by-case basis

3

Don't require a previous mental health diagnosis, accept a current assessment

4

Use the same screeners and assessment tools across all courts to maximize appropriate placement

Treatment Court Team should include:

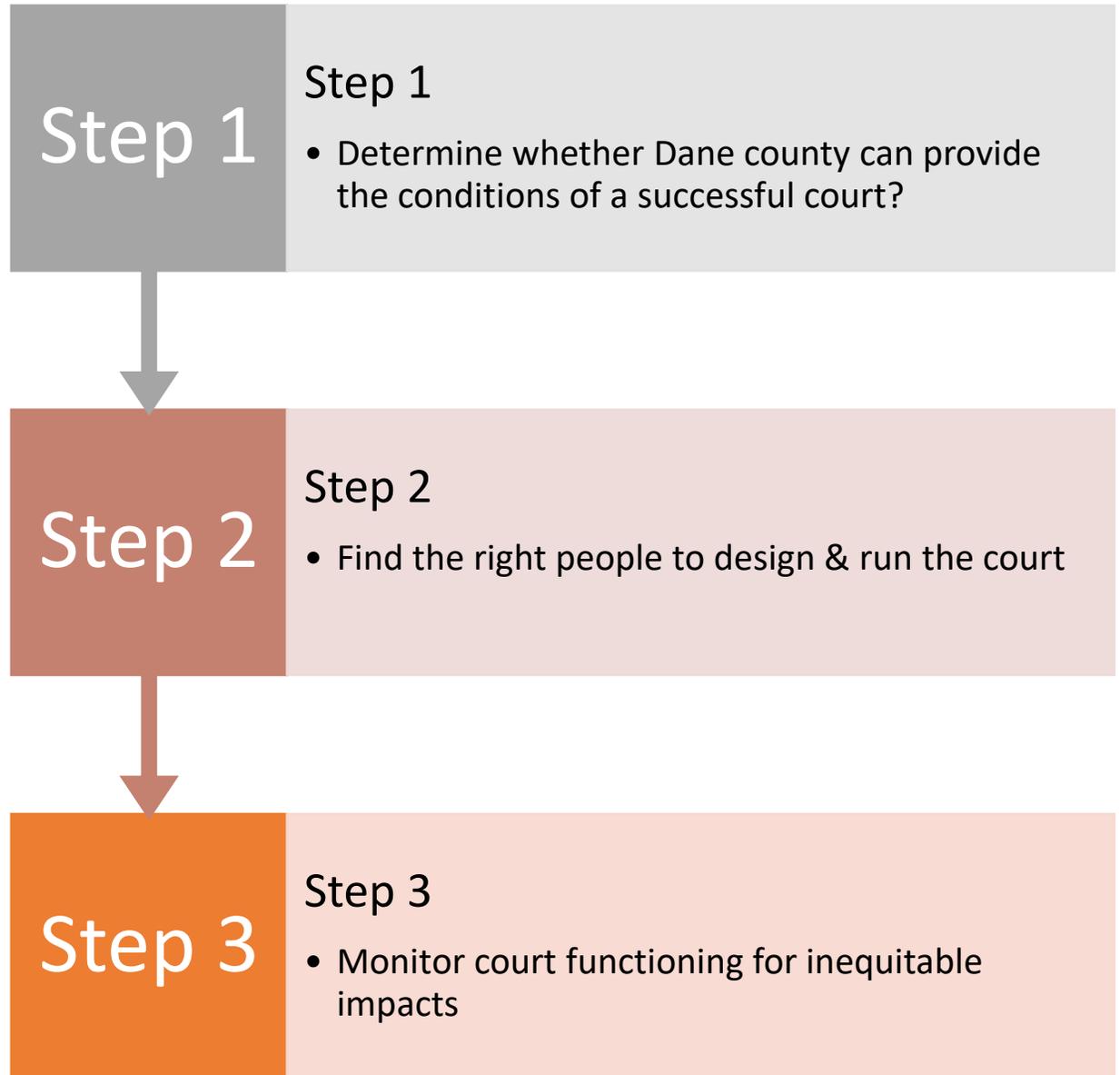
Dedicated prescriber

Culturally matched Peer Support Specialists (engaged at early stages and compensated)

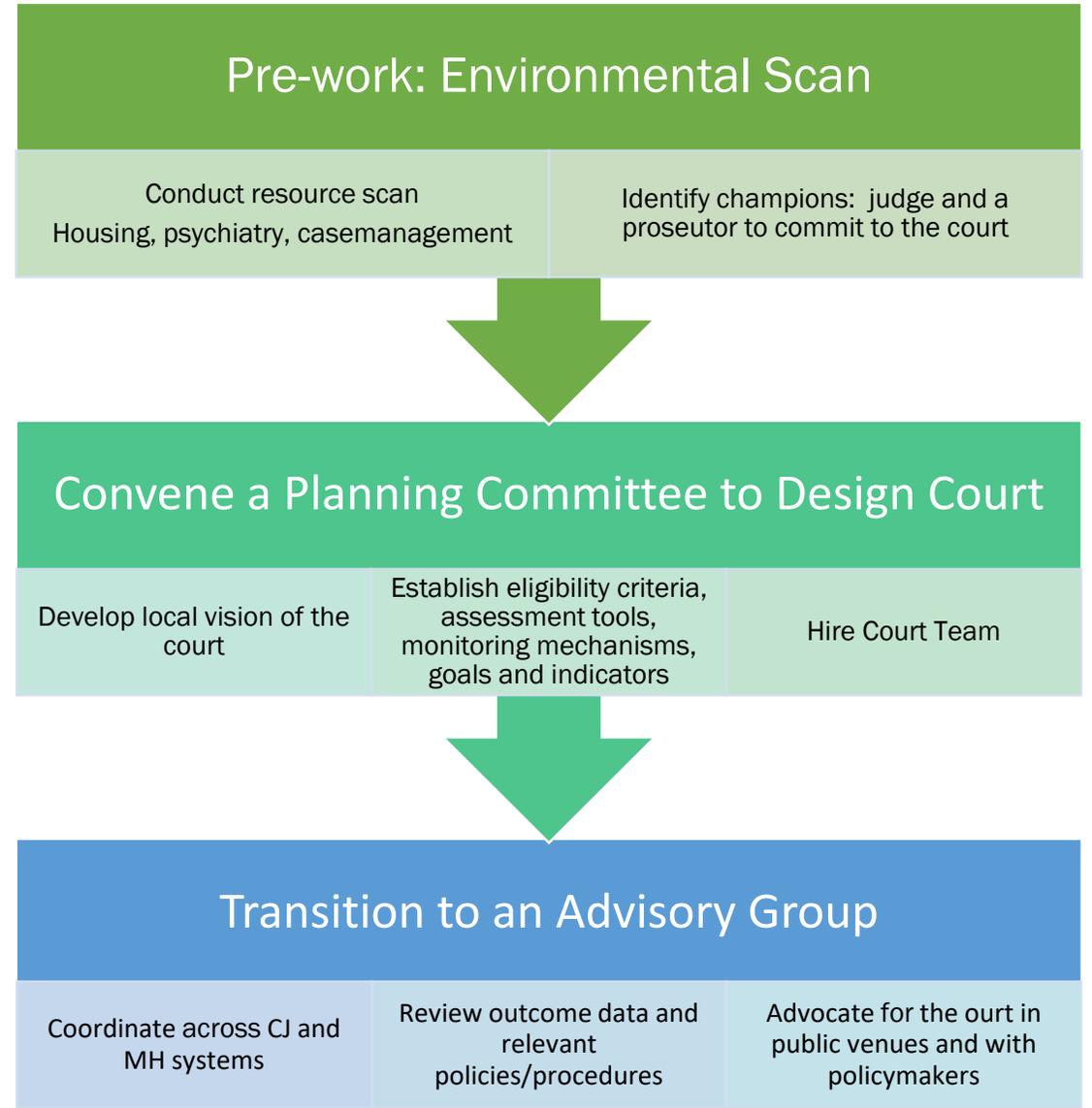
Judge who understands SMI, holds a compassionate and healing-centered approach to bench-side manner, and prefers community service sanctions over incarceration sanctions

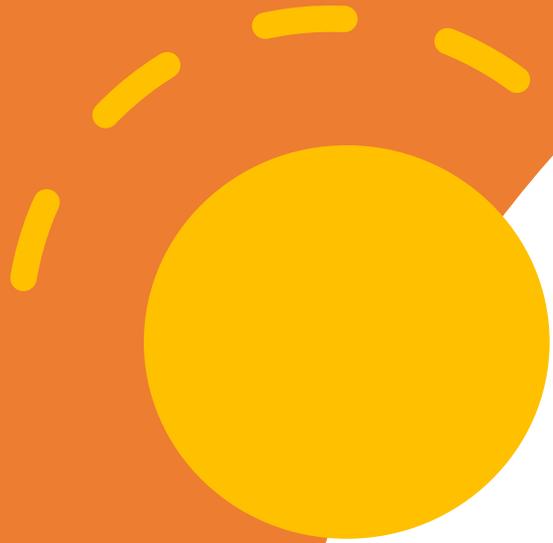
An LCSW and/or forensic psychiatrist to determine eligibility

Next Steps Toward Implementation



Suggested Process for Implementation





Thank you for your
time!