Council for Court Excellence
Improving Justice for the Community

Statement of the Council for Court Excellence
Before the Committee on the Judiciary and Public Safety
of the Council of the District of Columbia

Performance Oversight Hearing for the
Criminal Justice Coordinating Council

February 11, 2020

Good morning, Chairman Allen and other distinguished members of the Committee. My name is Misty Thomas, Executive Director of the Council for Court Excellence. Please note that per our policy, no judicial member of CCE participated in the formulation or approval of this testimony. This testimony does not reflect the specific views of or endorsement by any judicial member of CCE.

This testimony is largely informed by our research and findings in *"Everything is Scattered: The Intersection of Substance Use Disorders and Justice-Involvement in the District,"* a report we completed for the Office of the District of Columbia Auditor (ODCA) in 2020. That evaluation touched on, among other things, the significance of inter-agency coordination and information sharing for providing behavioral health services to District residents with behavioral health and justice involvement.

Information sharing is crucial for the delivery of quality behavioral health care services to justice-involved clients. Behavioral health care includes both mental health and substance use disorder - or SUD - treatment. For example, we found in our report that from 2015 to 2018, 90% of D.C. jail incarcerations that were preceded or followed by the receipt of SUD care in the community were not identified in Department of Corrections (DOC) records as requiring care for a SUD.[1] Without accurately identifying who does and does not need care, DOC cannot deliver effective services to clients who are incarcerated and cannot help coordinate care for those clients when they are released back into our community. We know that continuity of care is really critical for SUD treatment success for

[1] Council for Court Excellence. 2020. *Everything is Scattered: The Intersection of Substance Use Disorders and Justice-Involvement in the District*. Office of the District of Columbia Auditor. http://www.courtexcellence.org/uploads/File/SUD_Report_8_25_20.pdf. p. 99

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many people, so the ability for D.C.'s agencies that are in a position to provide support transitions to care to communicate with one another is critical. D.C. has an opportunity to improve continuity of care for its residents, but we need coordinated leadership to do it.

As this committee is well aware, the process of inter-agency information sharing is particularly challenging because of the higher level of protection afforded to SUD data by 42 C.F.R. Part 2. Our audit showed, however, that it is possible for D.C. agencies to establish legally-compliant agreements to facilitate information sharing on SUD data. The Criminal Justice Coordinating Council (CJCC) has also demonstrated – particularly in the last year with its HIPAA compliant work and its inter-agency behavioral health data analysis on the root causes of juvenile justice system involvement – that they are a viable hub for D.C.'s inter-agency SUD data. Additionally, they have collaborative relationships with federal justice system agencies which, if engaged in data-sharing MOUs, could improve the quality of analysis possible.

While CJCC is not the only entity in the District that could gather and analyze SUD data on an ongoing basis, there are many factors that make them the obvious choice to finalize data sharing MOUs or to have a statutory mandate to collect, analyze, and report on the data needed to understand how individuals with substance use disorders interact with our criminal justice system. It is only with that information and ongoing analysis that the District can evaluate trends or program impacts, identify opportunities for policy reform or future collaborations, and truly understand how our vulnerable residents utilize or need services at moments of crisis.

As just one example, we learned that the Department of Behavioral Health employees tasked with running the Pre-Arrest Diversion pilot did not have access to the information critical to evaluating and operating the program such as: the number of individuals eligible for deferral who were not offered deferral by police, the re-arrest rate of program participants relative to non-participants, the location of the greatest number of diversion-eligible offenses. They also have not been able to track longer-term health claims or mortality information about program participants to be able to demonstrate positive or negative health impacts correlated to participation. Each of these measures requires information sharing between the health and justice clusters. Data collection has not improved as the pilot ended and PAD merged into DBH's Community Response Team.

In our audit, we also recommended that CJCC coordinate with other agencies to finalize a uniform consent form for the release of protected health information, specifically SUD records. This is something that CJCC has worked on in recent years and would be a valuable tool in the District. A uniform consent form is critical for community-based SUD providers to obtain the appropriate permission from their clients necessary to notify other care providers, including DOC or the federal Bureau of Prisons, of patient needs. Similarly, care providers in DOC need to be able to transmit information about client release dates and treatment in DOC.

However, the transmission of health care data for the purpose of updating treatment plans and keeping providers informed changes to the status of their patients is only one application of greater information sharing between agencies. As we can see from a variety of efforts – including those of CJCC, Live.Long.D.C., the District Task Force on Jails & Justice, among others – it is clear that D.C.'s justice system is moving toward a greater reliance on community-based behavioral health alternatives to arrests and incarcerations. To allow these programs to grow and thrive, the District must have appropriate patient consents and inter-agency MOUs that allow for the regular sharing of matched client-level data both to implement novel programs and to properly evaluate the costs, benefits, and efficacy of established programs.

While health cluster agencies, led by the D.C. Health Information Exchange, have made progress on facilitating greater information sharing between providers and agencies through the Chesapeake Regional Information System for our Patients (CRISP), a similar practice is not yet underway to facilitate information sharing between the justice and healthcare cluster agencies. The time for that effort is well overdue. We encourage this Council to provide support to a dedicated D.C. entity like CJCC statutory authority to collaborate with local and federal justice and health agencies to create a permanent and continual inter-agency data-sharing plan and agreement by the end of 2021.

I encourage you to review our report, "Everything is Scattered" for more details about the importance and viability of data sharing regarding SUDs and the justice system, and opportunities to better evaluate D.C.'s policies and laws in this area.

Finally, and unrelated to the topic of SUDs, I also want to recognize that CJCC has begun to do more work on the housing needs of D.C.'s returning citizens. Because CCE also does a significant amount of work focused on reentry and helping our returning citizens to succeed, I want

to acknowledge the importance of this focus. Not only has housing been a priority of the D.C. Reentry Action Network over the last year, but the District Task Force on Jails & Justice called for more investments in housing, including for returning citizens. Collaboration between justice system and affordable housing stakeholders will be invaluable in helping get more returning citizens into stable housing.

Thank you for your time and I welcome any questions you may have.