Final Report

Senate Bill 21-138

Brain Injury Support in the Criminal Justice System Task Force

A *plan to integrate into the criminal justice system a model to identify and support individuals with brain injury*

Issued to the Colorado General Assembly on:

January 1, 2022

~ Facilitated by Colorado Department of Human Services

Table of Contents

Executive Summary

In 2021, the Colorado General Assembly passed Senate Bill 21-138, which created a pilot program within the Colorado Department of Corrections to implement the Colorado Brain Injury Model in one of its facilities over the next several years. In addition, the bill established the Brain Injury Support in the Criminal Justice System Task Force (Task Force), which was required to develop a plan to integrate into the criminal justice system a model to identify and support individuals with brain injury. (Section 26-1-312, C.R.S.) The Task Force convened between August and November 2021 and is pleased to submit this final report to the Judiciary Committees of the Colorado General Assembly on January 1, 2022.

The Task Force members believe in the merits of providing support for individuals with brain injury who are part of the criminal justice system. Furthermore, the Task Force members agree that Colorado should work toward building an effective system in which that support is provided. However, the Task Force members believe it is important to recognize that integrating the Colorado Brain Injury Model into the entire Colorado criminal justice system is an extremely aspirational goal and will not happen overnight. For this reason, the first set of recommendations in this report are related to the organizational and systemic conditions that must be in place for the Colorado Brain Injury Model and other supports for individuals with brain injury to be effectively implemented within the Colorado criminal justice system. The following are those eight recommendations:

- ***The Task Force recommends that people with lived experience of being both justice involved and experiencing a brain injury be involved in the design and implementation of brain injury programs in the criminal justice system.***

- ***The Task Force recommends applying the science of implementation, organizational change, and change management to any further work in this area.***

- ***The Task Force recommends ensuring the organizations and systems in which the Colorado Brain Injury Model would be implemented are first organizationally ready for such a change and have the capacity to effectively facilitate and implement the change.***

- ***The Task Force recommends an incremental rollout and phased approach that aligns with continuous quality improvement and implementation research.***

- ***The Task Force recommends further research and evaluation of the implementation of the Colorado Brain Injury Model before it is implemented more systematically across the Colorado criminal justice system.***

- ***The Task Force acknowledges that it is necessary for projects and programs to be fully funded to allow for successful implementation and therefore recommends***

that the fiscal impact of any further policies or legislation in this area be carefully considered and understood to ensure sufficient funding to support effective implementation and pay for any new policy or statutory requirements at the state and local level.

- ***The Task Force recommends several considerations regarding contracts, data sharing, and memorandums of understanding.***

- **The Task Force recommends long-term, system-wide evaluation and analysis to determine when and where these components are best suited.**

In addition, as required by Section 26-1-312, C.R.S., the Task Force identified best practices and approaches from national and Colorado research for integrating the Colorado Brain Injury Model into the Colorado criminal justice system in the following areas:

- Brain injury training requirements for criminal justice professionals
- List of those who would benefit from the training
- Necessary training for mental health professionals providing screenings and support
- Policies & procedures for performing brain injury screening
- Policies & procedures for providing support to individuals who screen positive, including:
    - Identification of symptoms to determine deficits
    - Referral to neuropsychological assessment, if necessary
    - Implementation of accommodations
    - Referral to appropriate brain injury community services
- Identification of necessary contracts between various entities to implement the recommendations in the plan

Background

Research suggests that the prevalence of brain injuries in adult, incarcerated populations is reported to range from 41-51% (Farrer & Hedges, 2011) to 60.25% (Shiroma, Ferguson, & Pickelsimer, 2010) to as high as 82% (Schofield et al., 2006). Individuals with a brain injury report a greater number of incarcerations than individuals without a brain injury (Piccolino & Solberg, 2014). In Colorado, recent studies have demonstrated the average prevalence of brain injury history among adults in Colorado jails and problem-solving courts was 54% (Gorgens, et al., 2021). Multiple studies have shown that individuals with a brain injury in the criminal justice system have a higher rate of disciplinary infractions, lower rates of successful probation completion, and are more likely to recidivate than their peers.

In 2021, the Colorado General Assembly passed Senate Bill 21-138, creating a pilot program and a task force to address brain injury in criminal justice. The purpose and "north star" of the Task Force can best be summed up by the following statement from the legislative declaration by the Colorado General Assembly for Senate Bill 21-138, which states:

> *"It is in the best interest of the state to increase awareness of and training surrounding brain injuries for criminal justice professionals, expand screening and identification for people in the criminal justice system who have been identified as having a significant brain injury, and integrate the Colorado brain injury model more broadly throughout the criminal justice system."*

Introduction

Senate Bill 21-138 created the Brain Injury Support in the Criminal Justice System Task Force (Task Force) within the Colorado Department of Human Services (CDHS). The Task Force was required to develop a plan to integrate into the criminal justice system a model to identify and support individuals with brain injury and submit the plan to the Judiciary Committees of the Colorado General Assembly by January 1, 2022. (Section 26-1-312, C.R.S.) The bill identified the types of members and organizations to be represented. Consistent with those requirements, the following is a list of the Task Force members.

SB21-138 Position	Name	Title/Organization
Director of the (MINDSOURCE Brain Injury Network) Program*	Liz Gerdeman	Director, MINDSOURCE Brain Injury Network, CDHS
Director of the Division of Probation Services in the Judicial Department*	Glenn Tapia	Director, Division of Probation Services, Judicial Department
Executive Director of the Department of Corrections*	Kristin Robinson	Mental Health Program Administrator, Colorado Department of Corrections
State Public Defender*	Florence Seamon	Senior Deputy Public Defender, Office of the Colorado State Public Defender
Director of the Office of Community Corrections, Division Of Criminal Justice in the Department of Public Safety*	Katie Ruske	Director, Community Corrections, Colorado Department of Public Safety
A Sheriff or Jail Administrator	Jaime FitzSimons	Sheriff, Summit County Jail
A Member of the (Colorado Brain Injury) Trust Fund Board*	Jennifer Coker	Research Scientist, Craig Hospital and Chair of the Colorado Brain Injury Trust Fund Board
Member of a criminal justice advocacy organization	Terri Hurst	Policy Coordinator, Colorado Criminal Justice Reform Coalition
Expert in the research and evaluation of brain injuries in the criminal justice system	Kimberly Gorgens	Professor/Researcher, University of Denver
Member who represents an organization specializing in delivering brain injury services	Liam Donevan	Criminal Justice Program Manager, Brain Injury Alliance of Colorado
Member who represents an organization specializing in delivering brain injury services	Jaime Horsfall	Vice President of Professional Programs, Brain Injury Alliance of Colorado
Member who experienced a brain injury and has been involved in the criminal justice system	Marchell Taylor	
Member who experienced a brain injury and has been involved in the criminal justice system	John Kurak	
**Note - for some positions, designees were permitted.*		

Representatives from CDHS convened the Task Force in July 2021. The Task Force met five times from August to November 2021. The Task Force meetings were facilitated by and logistical support was provided by:

- Angie Goodger - Pediatric Care Coordination Systems Consultant, Colorado Department of Public Health and Environment & Member of Colorado Brain Injury Trust Fund Board
- Mindy Gates - Deputy Director, Office of Adult, Aging and Disability Services, CDHS
- Lina Kyle - Administrative Assistant, MINDSOURCE Brain Injury Network, CDHS
- Liz Gerdeman - Director, MINDSOURCE Brain Injury Network, CDHS

As stated in Section 26-1-312, C.R.S., the purpose of the Task Force was to develop a plan to integrate into the criminal justice system a model to identify and support individuals with brain injury that at a minimum included the following items:

- Brain injury training requirements for criminal justice professionals
- List of those who would benefit from the training
- Necessary training for mental health professionals providing screenings and support
- Policies & procedures for performing brain injury screening
- Policies & procedures for providing support to individuals who screen positive, including:
    - Identification of symptoms to determine deficits
    - Referral to neuropsychological assessment, if necessary
    - Implementation of accommodations
    - Referral to appropriate brain injury community services
- Identification of necessary contracts between various entities to implement the recommendations in the plan

The Task Force voted to support the content of this statutorily-required report/document. Any individual Task Force member vote does not necessarily represent that person's individual or organizational position on any specific legislative strategy or content that may arise from this document.

In addition, it is important to note that in addition to the creation of this Task Force, SB 21-138 established a Brain Injury Pilot Program (pilot program) within the Colorado Department of Corrections (Section 17-40-108, C.R.S.). The purpose of the pilot program is to implement the Colorado Brain Injury Model at one correctional institution and evaluate outcomes for individuals with a brain injury who received screening and support while in the criminal justice system. The Colorado Department of Corrections is required to submit a report on the implementation of the pilot program to the Judiciary Committees of the Colorado General Assembly by January 1, 2022 and each January thereafter. This report from the Task Force does not address information related to the pilot program as the pilot is still in the process of being developed at this time.

Glossary of Terms

Brain Injury - This report uses the definition from statute for the Colorado Brain Injury Program (Section 26-1-301(1.5), C.R.S.), which is "Damage to the brain from an internal or external source, including, but not limited to, a Traumatic Brain Injury (TBI), that occurs post-birth and is noncongenital, nondegenerative, and nonhereditary, *resulting in partial or total functional impairment* in one or more areas, including but not limited to attention, memory, reasoning, problem solving, speed of processing, decision-making, learning, perception, sensory impairment, speech and language, motor and physical functioning, or psychological behavior."

Accommodations - The Task Force does not recommend the use of the word "accommodation" unless it is specifically pertaining to the American Disabilities Act (ADA) terminology. In the context of this report, the Task Force will use the terms "strategies" or "modifications" rather than "accommodations". Strategies and modifications include addressing an individual's deficits, such as impaired attention, delayed processing speed, short term memory loss, disinhibition, and other cognitive, physical, or emotional challenges due to the brain injury.

Colorado Criminal Justice System - The following are the organizations and systems that the Task Force considers part of the criminal justice system in Colorado:

- Prison - The Colorado Department of Corrections (DOC) manages, supervises and operates 19 state prisons and contracts with 2 private owned prisons. People who are incarcerated at state prisons have been convicted of a felony or felonies and are sentenced to prison for a period of incarceration. There are also federal prisons that are operated by the federal government.
- Jail - Jails are operated by the local county, generally the county Sheriff's Department. Some municipalities also have their own jail. There are 56 county jails in Colorado. Some counties do not operate their own jail but have an agreement with another county jail. People can be in jail for many different reasons, though the length of stay is usually up to two years.
- Parole - People released from prison in Colorado will be required to serve a period of supervision, called "parole" after they are released. People who are on parole are supervised by a Parole Officer who works for the Colorado Department of Corrections. There are numerous parole offices across the state.
- Probation – Probation is a sentencing option imposed by the court. A person on probation is under supervision of the court system and is supervised by a Probation Officer.
- Community Corrections – A person can be directly sentenced to a Community Corrections program or a person may transition to a Community Corrections program when they are released from prison. People in Community Corrections programs usually complete a residential stay in a program for a determined amount of time before they transition to a non-residential period of supervision before their sentence is complete. Some Community Corrections programs offer residential treatment or dual diagnosis treatment as a requirement of one's sentence.
- Judicial - The court system in Colorado is divided into 22 independent Judicial Districts. Each has courts that will hear different kinds of cases, i.e. criminal, civil, family law, etc. Some operate "specialty courts" like drug court or veteran's court. Each Judicial District has an independent Probation Office and a Chief Probation Officer. Probation Officers are officers of the court. Each judicial district has an elected District Attorney who is responsible for filing and prosecuting criminal cases. Colorado has a unified state Public Defender's Office that represents indigent clients. The Public Defender has numerous offices across the state. There are also defense attorneys in private practice across the state.

- Pretrial Supervision (PTS) - People who are alleged to have committed a crime but who are still legally innocent are often released from jail incarceration on pretrial supervision. PTS is operated by a local unit of government and supervises people with the goals of public safety and helping defendants return to court to meet their obligations.
- Behavioral Health Partners - Many components of the system work with mental health clinicians, including specialists in Substance Use Disorders, Sex Offenses, Domestic Violence, and other criminal justice treatment providers.

Task Force Recommendations

The Task Force believes in the merits of providing support for individuals who are part of the criminal justice system and have experienced a brain injury at some point in their lifetime. Furthermore, the Task Force agrees that Colorado should work toward building a system in which that support is provided. However, the recommendations in this report related to integrating the Colorado Brain Injury Model into the entire Colorado criminal justice system are aspirational and will not happen overnight. For that reason, the Task Force had significant discussions related to how, when and under what organizational and systemic conditions the Colorado Brain Injury Model and other supports for individuals who have experienced a brain injury could effectively be implemented within the Colorado criminal justice system. As a result, the recommendations in this report are located within two main sections: *Recommendations for Effective Implementation* and *Recommendations for the Use of the Colorado Brain Injury Model in the Criminal Justice System in Colorado*.

The recommendations included in this report are those made by Task Force members within their professional capacity and do not represent the official position of their respective programs or departments.

Section 1: Recommendations for Effective Implementation

Effective implementation of programs and services such as the Colorado Brain Injury Model takes much more than the foundational research that has been done to date on this topic. This section describes the work of the Task Force related to Implementation, Organizational Change, and Change Management - with an eye to government workflow - all of which is crucial to achieving the outcomes the Task Force was charged with identifying. There are a variety of areas that the Task Force determined will require further research, planning, support and development, before any program or service for individuals in the criminal justice system who have experienced a brain injury is scaled out to the organizations, systems, and individuals (nearly a quarter of a million justice-involved people) across Colorado.

The Task Force recognizes that traditional implementation methods alone (i.e. training or creating policies and procedures) are ineffective if not coupled with other strategies related to implementation science. As such, the Task Force has dedicated the following sections to outlining recommendations and describing the areas that will require further consideration as well as specific research, ongoing evaluation, expert planning, and support. The following eight recommendations speak to this.

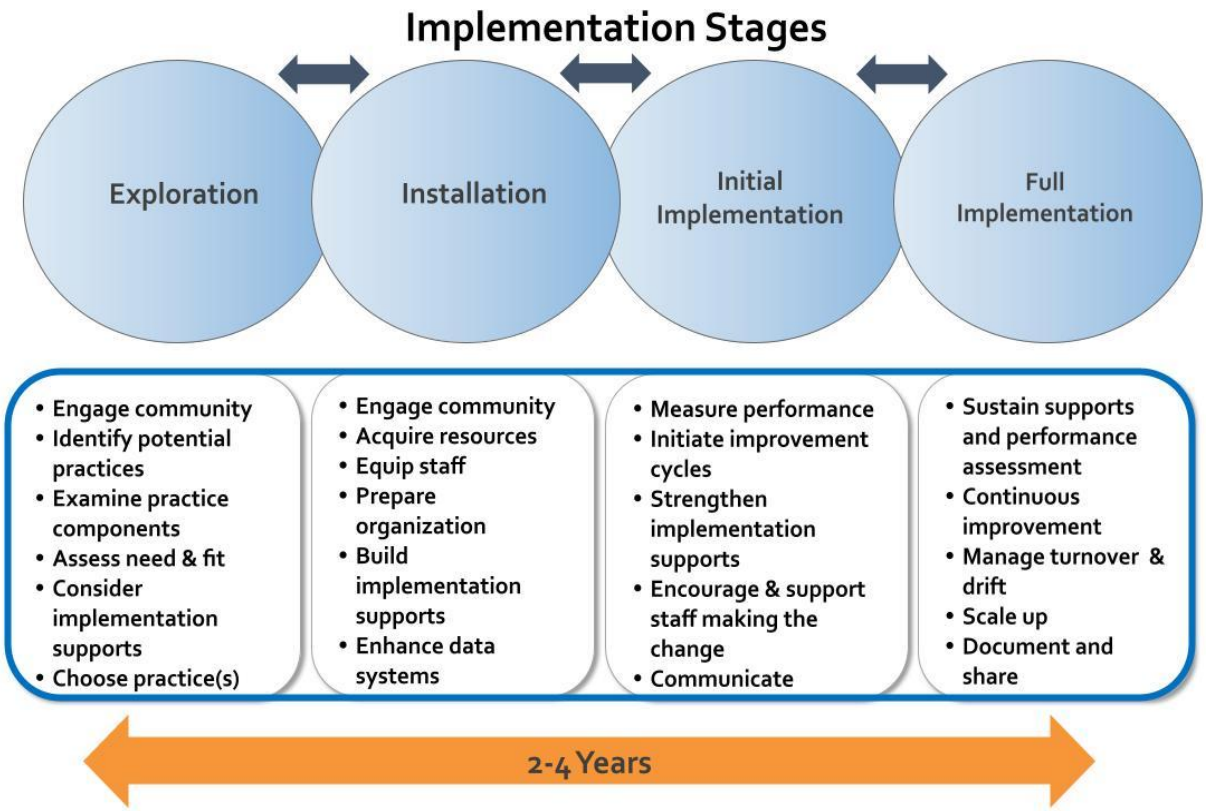
The two primary resources for the information contained in this section are *Putting Implementation Science into Practice: Lessons from the Creation of the National Maternal and Child Health Workforce Development Center* and *Implementation Research: A Synthesis of the Literature*. The citations can be found at the end of this document.

1. **The Task Force recommends that people with lived experience of being both justice involved and experiencing a brain injury be involved in the design and implementation of brain injury programs in the criminal justice system.**

As with all human services interventions, there is no substitute for the inclusion of individuals with lived experience when it comes to planning and coordinating a new program or service. Not only do such individuals bring the wisdom of their own experience to the table, but they often have a passion for the topic and ensuring the interventions are successful. This Task Force was fortunate to have two individuals with lived experience participate and believes that is an essential component of this work going forward.

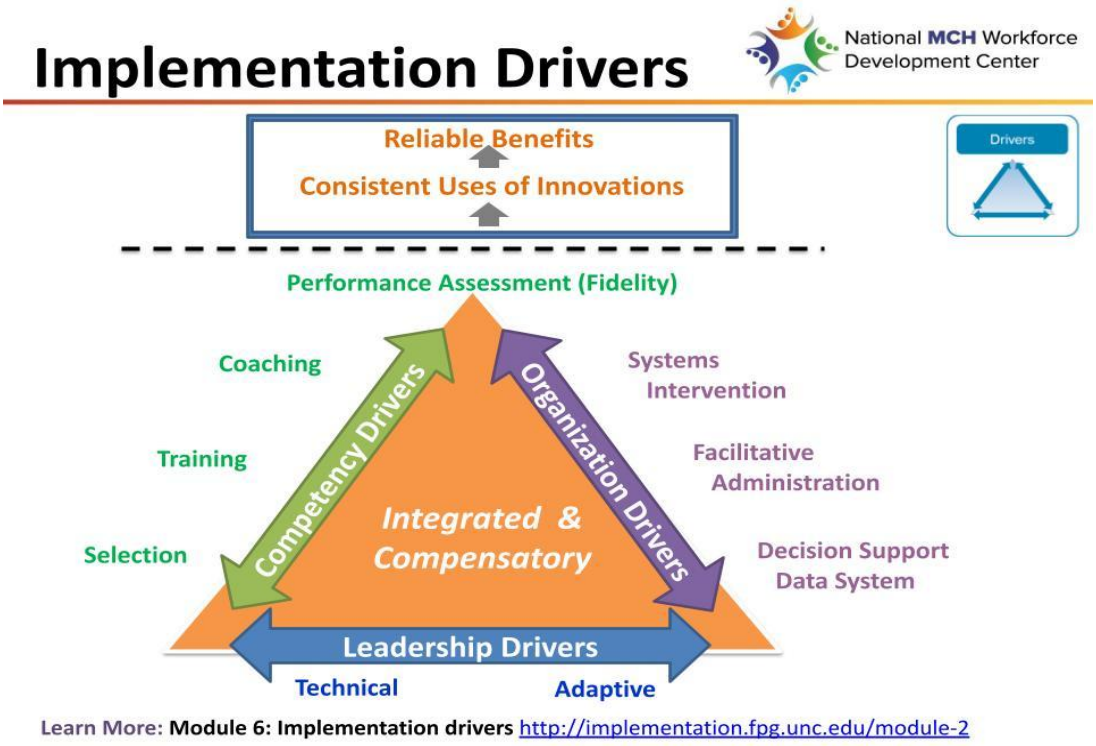
2. **The Task Force recommends applying the science of implementation, organizational change, and change management.**

The Task Force points to Implementation Science because traditional implementation methods alone are ineffective. Implementation science refers to the “methods or techniques used to enhance the adoption, implementation, and sustainability” of an intervention. It helps us to determine how we do our work by answering questions such as: What works? For whom and under what circumstances? And most importantly, how can interventions be adapted and scaled up in ways that are accessible and equitable? Research shows us that without guided and directed implementation, only 14% of new scientific discoveries (EBP’s) enter day-to-day practice. However, when skilled - expert teams - use Implementation Science, 80% successful use of innovations can be seen over 3 years time.



According to the National Implementation Research Network (NIRN), implementation must include specific activities and purposeful and proactive use of both practice and science. Without these specific activities, research shows that 80-90% of people-dependent innovations never get fully implemented beyond initial stages.

3. **The Task Force recommends ensuring the organizations and systems in which the Brain Injury Model would be implemented are first organizationally ready for such a change and have the capacity to effectively facilitate and implement the change.**



First, consider developing and implementing a Readiness Assessment to determine organizational readiness. Key components of such an assessment include a review of Implementation Supports:

- *Competency Supports* (selection, training, coaching, performance assessment)
- *Leadership Supports* (multi-level engagement, continuous communications, enabling context)
- *Organizational Supports* (data systems to support decision-making, supportive policies, working across systems). Another key consideration here is the assessment of organizational culture.

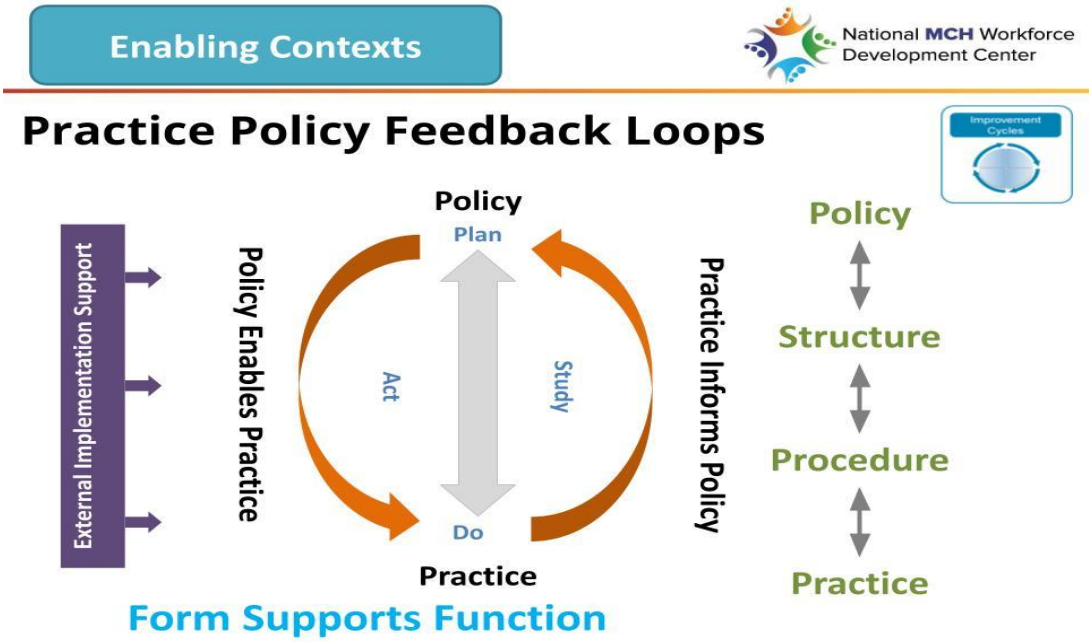
Second, building capacity to manage change and ensuring that organizations and connected systems have the capacity to effectively facilitate and implement the change is critical and can be done by:

- Organizing State, Regional, and Site specific Implementation Teams. These teams would be responsible for leading change, collaborating across the systems, and building implementation capacity. Their work would be guided by data in order to improve stage-aligned efforts and foster feedback loops.
- Supplementing the workforce with dedicated team members to oversee project management and facilitate change management.

- Ensuring that there is adequate workforce availability in the areas in which the organization will need to hire new staff is critical. If there is a shortage of workers in a given field, and the organization is intending to implement a change that would require significant new positions and hiring in that field, the change may need to be adjusted in terms of size, scope, timing, etc. to address the staffing capacity issue that is anticipated.

4. **The Task Force recommends an incremental rollout and phased approach that aligns with continuous quality improvement and implementation research.**

   Successful implementation is so much more than the dissemination of manuals, websites, and mandated training. Experimental data show when used alone, these methods are insufficient to effect long-term change.



Instead, it is necessary to ensure authentic change can be achieved by providing tools & knowledge, competency supports, leadership supports, organizational supports and supporting workforce development. To do this, the Task Force recommends planning for and engaging in a Strategic Planning process. Doing so will help to build a long term implementation framework given the limited capacity and change clutter currently experienced by our systems. The following are some items that should be considered as part of that process:

- Right sizing or scaling components of the intervention will help to build state and local implementation capacity over time and should reduce the likelihood of failure and to achieve success.
- Prioritizing the order in which organizations and individuals begin implementing the work.

- Finish building scalable (usable) practice models for those who serve justice-involved people through community supervision, and other institutions including physical and behavioral health.
- Ensuring fidelity across implementation of the Colorado model by identifying fidelity benchmarks, building tools, and equipping agencies with capacity for fidelity support.

5. **The Task Force recommends further research and evaluation of the implementation of the Colorado Brain Injury Model before it is implemented more systematically across the criminal justice system.**

   There are nearly one quarter of a million justice involved people in Colorado. This number represents criminal court proceedings, probation, community corrections, diversion, parole, jail, pretrial supervision and prison.

   The Task Force recommends completion and evaluation of the pilot program required by SB 21-138 prior to further work to scale the Colorado Brain Injury Model in this massive system. It is important to continue applying lessons learned from site to site and to consider time, density and quality of services. To that end, it's important to consider if the pilot has been in place long enough, at a large enough scale, and with quality and fidelity.

6. **The Task Force acknowledges that it is necessary for projects and programs to be fully funded to allow for successful implementation and therefore recommends that the fiscal impact of any further policies or legislation in this area be carefully considered and understood to ensure sufficient funding to support effective implementation and pay for any new policy or statutory requirements at the state and local level.**

   To do this, the Task Force recommends considering doing the following:
   - Completing a study on the costs associated with implementation including but not limited to monetary, staffing, facility, and time. Through robust discussion, the Task Force members discovered that each section of the Criminal Justice system (state and local) may require different FTE, resources, and support.
   - Investigating the potential for increased cost at the community level (for example: the last part of the model includes referring to community-based services, which will increase the need for case management FTE with an understanding of the needs of individuals with brain injury who have been involved in the criminal justice system). Additional costs might be associated with travel, training, etc. Efforts on the part of the state to make the training easy, accessible, and affordable will support buy-in and systems change.

7. **The Task Force recommends the following considerations regarding contracts, data sharing, and memorandums of understanding.**

Task Force members spent a significant amount of time discussing the organizational supports needed long-term for program success. As part of the organizational assessment and cost analysis, careful consideration will need to be given to workforce development, contracts, data sharing, and potential Memorandums of Understanding (MOUs), especially as work is completed across systems. The following should be considered:

a. Plan for and invest in data sharing solutions:
    i. Reduce human error, duplication, and re-work by developing tools that support tracking & evaluation of screens, seamless referrals, and improved communication, while also ensuring confidentiality, a trauma-informed approach, and avoiding over screening.
    ii. Ensure consent form outlines confidentiality (supporting access across necessary components of the system so an individual isn't screened more than what's needed) and describes intent (that there is no forensic utility, but it may be used to inform treatment or community resource considerations).
    iii. Explore opportunities to leverage existing state Social Health Information Exchange (SHIE) work.

b. Seek cost-avoidance opportunities such as establishing one contract or MOU for the system to create training modules (virtual and/or facilitator guides) to ensure content and consistency of training statewide.

8. The Task Force recommends long-term, system-wide evaluation and analysis to determine when and where these components are best suited.

Evaluation is essential. As part of an ongoing process, this work should be monitored and evaluated to ensure short-term and long-term program outcomes are measured, assessed and utilized for program improvement.

There may also be other site-specific data available over time that will help identify strategies to more effectively implement this system-wide. Examples include collecting data on urban and rural capacity, and applying new brain injury innovation or lessons learned during implementation. Site-specific evaluation can also help identify fidelity throughout the steps of the model, where adaptation may be appropriate or necessary, and identify potential areas for improvement and the effects of those changes. Plan-do-study-act cycles are recommended to assist in studying the ongoing effects and scalability of adaptations.

It is important to analyze the impacts of an intervention like this to the larger system. Many system impacts that haven’t been identified yet will need to be discussed or addressed. It will be essential to create pathways to talk about,identify,evaluate, and adjust as needed, both intended and unintended system impacts.

Finally, but very importantly, there should also be ongoing fiscal analysis of the cost of doing this work.

Section 2: Recommendations for the Use of the Colorado Brain Injury Model in the Criminal Justice System in Colorado

As previously mentioned, the following items (A - F) were required by SB 21-138 to be included in this report to share the Task Force members' thoughts on how to incorporate the Colorado Brain Injury Model into the Colorado Criminal Justice System. We have reported the Task Force Recommendations first, followed by the national research as it currently stands for each item.

A. Brain injury training requirements for criminal justice professionals

Each aspect/part of the Colorado Criminal Justice system will have different needs related to training for professionals, so it is not possible for the Task Force to identify unilateral training requirements for all criminal justice professionals. There are two different categories of training the Task Force discussed that will be addressed here: 1) a broad overview training on brain injury geared toward the audience of all criminal justice professionals to provide a foundational understanding of the topic and 2) a more in-depth training that a criminal justice organization or system would need to adopt for various professionals within their organization or system to implement the Colorado Brain Injury Model fully. The latter would include training on the screening tool and other advanced training on how to provide support, specifically strategies to help an individual be more successful after addressing the cognitive, physical, or emotional deficits related to their brain injury.

For the basic broad overview training, the Task Force recommends considering the development of a short standardized training that could be used for organizations across the state, such as a one-hour online training. The Task Force recommends this be developed by a contractor skilled in this subject matter. The Task Force also recommends the cost and feasibility of implementing this type of training in each area of the criminal justice system be further studied before action is taken. The feasibility study should include the cost and implementation considerations for one organization to create and deliver a standardized training versus an approach in which different organizations are responsible for doing so independently.

For the more advanced training necessary for the implementation of the Colorado Brain Injury Model, described as level 2 and 3 below, the types of professionals to be trained would depend on the site or section of the system. In the experience of some of the Task Force members who have done this type of training, sites have handled the protocol implementation differently depending on what works best for them.

The Task Force recommends using nationally-recognized best practices on training requirements for criminal justice professionals, which include:

- A tiered approach to training, depending on the type of interaction each group of professionals has with individuals with brain injury.
- A basic understanding for all professionals and more advanced understanding for those who are implementing the protocol (*"protocol" and "Colorado Brain Injury Model" are synonymous and described on pages 22-23*).

Here is what the national research says on this topic -

In May of 2020, the National Association of State Head Injury Administrators (NASHIA) released a document, *Criminal and Juvenile Justice Best Practice Guide: Information and Tools for State Brain Injury Programs.* The document outlines the following types of training recommended for various professionals across the spectrum of the criminal justice system:

Anyone working within the justice system should be trained on the basics of brain injury including; judges/magistrates, attorneys, line staff, officers and guards, mental health teams, medical staff, educational teams (in juvenile justice settings), specialized community supervision/re-entry staff, ADA coordinators, and probation/parole officers. That said, not everyone needs in-depth training, for that reason, state brain injury programs should consider a tiered approach to training. The following are suggested levels of training. Each level builds on the last:

Level 1: (designed for all criminal and juvenile justice personnel)
Goal of the training – gain a basic understanding of brain injury, how it affects an individual, and learn basic strategies for supporting an individual with brain injury. Typically 60 minutes via live training or a pre-recorded content that could be built into a learning management system.

- Definition of brain injury
- Mechanisms of brain injury
- Prevalence of brain injury
- What brain injury looks like
- Behavior and brain injury (can't vs. won't)
- Simple compensatory strategies (modifications to help alleviate cognitive, physical, or emotional deficits related to an individual's brain injury)

Level 2: (designed for anyone who will be involved with implementing the protocol, including behavioral health providers) Overview of each component of the protocol. Typically 90-120 minutes via a live training session with practice cases.

- Overview and practice with the lifetime history screening tool being used
- Overview of the risk, need, responsivity model and how brain injury screening integrates
- Overlay brain injury impairments with indicators of criminogenic needs
- Case studies and practice identifying compensatory strategies
- Introduction to psycho-educational curriculum (if applicable)
- Overview of community-based resources
- Overview of referral protocol to community provider (e.g. community-based brain injury service coordination)

Level 3: (designed for those states that want to implement a train-the-trainer approach). Typically 1.5 to 2 days of live training sessions, depending on the number of participants.
To help ensure sustainability, state brain injury programs might consider implementing a train-the-trainer approach. This involves teaching criminal justice personnel to conduct the

training elements of level 1 and 2 and to provide case consultation for their probation officer peers.

B. The criminal justice professionals who would benefit from brain injury training

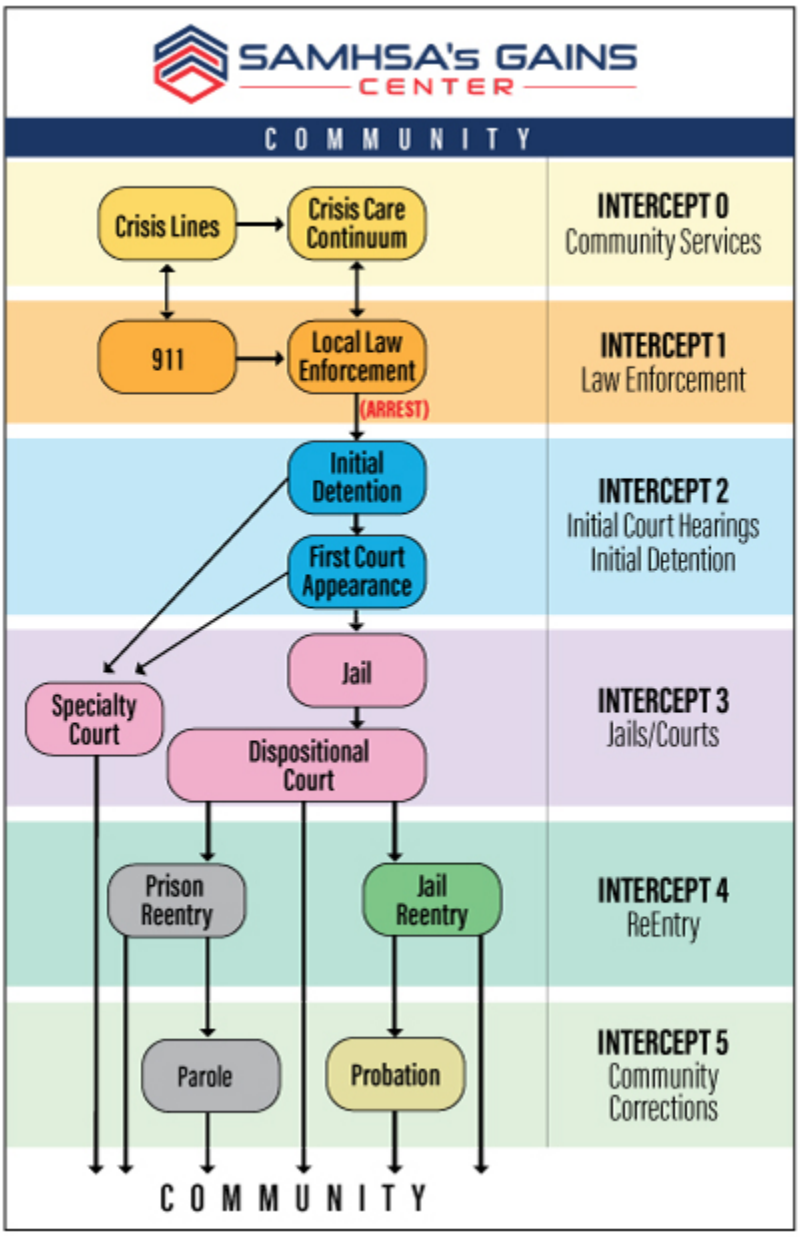
Regarding the type of criminal justice professionals who would benefit from training on brain injury, the Task Force recommends aligning with nationally-recognized best practices published in August of 2021. Identifying exactly which criminal justice professions across the entire system in Colorado would benefit from brain injury training was not feasible within the timeline for the Task Force. However, the Task Force discussed this topic and recommends the use of the model used in a report called "Findings on the Relevancy of the Criminal and Juvenile Justice Competencies" done by the Criminal/Juvenile Justice & Brain Injury Workgroup, supported by the Administration on Community Living (ACL) Traumatic Brain Injury (TBI) State Partnership Program (SPP) that was released May 25, 2021. Recommendations from the report include mapping the Substance Abuse and Mental Health Services Administration's (SAMHSA) Sequential Intercept Model (SIM) with Colorado's criminal justice system. The SIM helps communities identify resources and gaps in services at each intercept and develop local strategic action plans.

Here is what the national research says on this topic -

The report ("Findings on the Relevancy of the Criminal and Juvenile Justice Competencies") drafted a set of competencies, designed to serve as an initial guide for the professional development of knowledge, skills, and abilities for professionals in the criminal and juvenile justice systems. Subject matter experts were interviewed and surveyed, forming recommendations of the necessary competencies professionals in the system should have related to brain injury. This report, *Findings on the Relevancy of the Criminal and Juvenile Justice Competencies,* outlines these recommendations:

"The workgroup determined that the Substance Abuse and Mental Health Services Administration's (SAMHSA) Sequential Intercept Model (SIM) framework. The SIM helps communities identify resources and gaps in services at each intercept and develop local strategic action plans. The SIM mapping process brings together leaders and different agencies and systems to work together to identify strategies to divert people with mental and substance use disorders away from the justice system into treatment. The model details how individuals with mental health and substance use disorders come into contact and move through the criminal justice system, offering a structure from which to build a competency survey. The six intercepts in SAMHSA's SIM are:

- Intercept 0: Community Services
- Intercept 1: Law Enforcement
- Intercept 2: Initial Detention/ Initial Court Hearings
- Intercept 3: Jails/Courts
- Intercept 4: Re-entry
- Intercept 5: Community Corrections



As noted, this framework was adopted to guide the listing of professionals, who may interact with the individual with a brain injury, at any intercept from community service to community re-entry and community corrections. Individuals with relevant experience, or subject matter experts (SME's), were recruited to help validate the list of competencies.

In each intercept, the role with the most decision-making power was considered when rating relevance e.g., behavioral health practitioner at intercept 0, judge at intercepts 2 and 3, and administration and ADA coordinator at intercept 4.

Relevancy of competencies trended upward across the SIM, in other words – as the

competency relates to people with brain injuries who have moved into higher levels of criminal justice involvement."

C. Necessary training required for mental health professionals providing screenings and support for individuals who are in the criminal justice system

The Task Force recommends that for those who will be implementing the Colorado Brain Injury Model, mental health professionals working with individuals in the criminal justice system have at least Level 2 training as discussed previously under "A" above.

Here is what the national research says on this topic -

Listed below are resources and nationally recognized best practices on the interaction between mental health professionals and the criminal justice system.

From the Best Practices Guide:

According to a 2014 Working Group on Screening and Assessment (WGSA), a collaboration of the American Psychological Association's Board of Professional Affairs and the Committee for the Advancement of Professional Practice of the American Psychological Association (2014), screening tests:

(a) can be used for the early identification of individuals at potentially high risk for a specific condition or disorder;
(b) can indicate a need for further evaluation or preliminary intervention;
(c) are generally brief and narrow in scope;
(d) may be administered as part of a routine clinical visit;
(e) may be used to monitor treatment progress, outcome, or change in symptoms over time;
(f) may be administered by clinicians, support staff with appropriate training, an electronic device (such as a computer), or self-administered;
(g) can be used by support staff who follow an established protocol for scoring with a pre-established cut-off score and guidelines for individuals with positive scores; and
(h) are neither definitively diagnostic nor a conclusive indication of a specific condition or disorder
(Tresa et al, 2017).

Neuropsychological screening is a good tool to use when criminal justice personnel need a more in-depth understanding of the cognitive impairments an individual is experiencing. Once these deficits are identified, targeted interventions can be applied. Additionally, appropriate screening can lead to eligibility of brain injury specific resources in some states. There are a variety of screening batteries that can be implemented. The qualifications required to implement neuropsychological screening vary depending on the battery/tools being administered.

The Colorado Department of Education has developed a comprehensive matrix based on the building blocks of brain development. This matrix can be used as a guide to determine

appropriate assessments for children/youth, but also has applicable information for working with adults: https://cokidswithbraininjury.com/educators-and-professionals/brain-injury-matrix-guide/.

An additional resource from the National Association of State Head Injury Administrators (NASHIA), coming at the end of 2021 at www.NASHIA.org, is a course on Neuropsychological Screening: Using brain injury and cognitive screening to inform treatment planning across settings.

This 3-hour, three-part course is designed for MA-level professionals who are interested in learning about the use of neuropsychological screening batteries for clinical practice. This course will first briefly review the incidence and physiology of acquired and traumatic brain injuries and the most common after-effects, including emotional and cognitive problems, and the related accommodations for each. Best practices for screening for reported brain injury history will be reviewed.

A second hour covers the important differences between full neuropsychological assessment batteries and neuropsychological screening batteries, including their indications for use and the benefits of each. Participants will be exposed to neuropsychological screening batteries and a cognitive screening test. That includes a computerized neurocognitive test [CNT] called the Automated Neuropsychological Assessment Metric [ANAM], a paper and pencil test called the Neuropsychological Assessment Battery, and a readily available single-page screening tool called the Montreal Cognitive Assessment [MoCA]).

In the 3rd hour, interpretation and report writing is addressed in the context of the Colorado Brain Injury screening model which is covered in detail. Research on the Colorado Brain Injury Model is reviewed. Example reports and client summaries are available to participants.

An optional one-hour module designed to guide those who would be providing clinical supervision to those administering the test is also available.

Finally, for an additional cost, individuals can receive direct live (virtual) consultation or supervision as they implement and interpret screens with their clients.

Upon completion of this course, participants will be able to:

- Discuss brain injury and the cognitive and emotional consequences
- Discuss the use and application of two neuropsychological screening batteries
- Select the most appropriate screening batteries for diverse clinical populations
- Make informed clinical decisions about the use of screening batteries and referrals for full neuropsychological evaluation

The following link provides an outline of neuropsychological screening batteries for consideration with this population:
https://www.nashia.org/resources-list?category=Criminal%20and%20Juvenile%20Justice

D. Policies & procedures for performing brain injury screenings for individuals in the criminal justice system

Screening within criminal justice settings should be implemented only when the setting can provide strategies for endorsed symptoms and identified impairments (see E below). Therefore, the Task Force recommends that any screening for brain injury and comorbid conditions that occurs within the Colorado Criminal Justice System be carefully considered. Typically, the screening should not occur unless the organization has the capacity to and intends to provide support to individuals who are identified as having a significant brain injury history and related impairments.

Regarding screening as part of the Colorado Brain Injury Model, the Task Force recommends the use of a valid and reliable screening tool that can be easily and efficiently administered to identify individuals with brain injury and a reliable screening tool to identify comorbidities or functional impairments. Policies and procedures will be unique to the section of the criminal justice system which undertakes screening of individuals.

Here is what the national research says on this topic:

Medical documentation, including a neuropsychological evaluation that describes specific deficits, is the gold standard for identifying a brain injury. That being said, research demonstrates that at least 42% of individuals with a brain injury do not seek medical treatment. A federal report released in 2006 from the Bureau of Justice Statistics recommends:

- Routine screening for brain injury
- Screening individuals with brain injury for substance abuse and co-occurring mental health diagnoses
- Education for personnel about how to manage and support individuals with brain injury

"The Ohio State University (OSU) Traumatic Brain Injury (TBI) Identification Method (OSU TBI-ID) is a standardized procedure for eliciting a person's reported lifetime history of brain injury via a structured interview (administration with this population can take 10-15 minutes, given the typical history of multiple injuries). While not ideal for determining lifetime exposure to a potentially damaging brain injury, self-report remains the gold standard for research and clinical use where medical records are not available. The OSU TBI-ID has proven useful in many settings, including medical, mental health, substance abuse, domestic violence, corrections and aging. Health care and social service professionals need this tool to elicit a person's history of TBI."

E. Policies & procedures for supporting individuals who screen positive for a brain injury, including:

- **Identification of symptoms to determine deficits and appropriate individual support strategies**
- **Referral to neuropsychological assessment, if necessary**
- **Implementation of accommodations, as necessary**

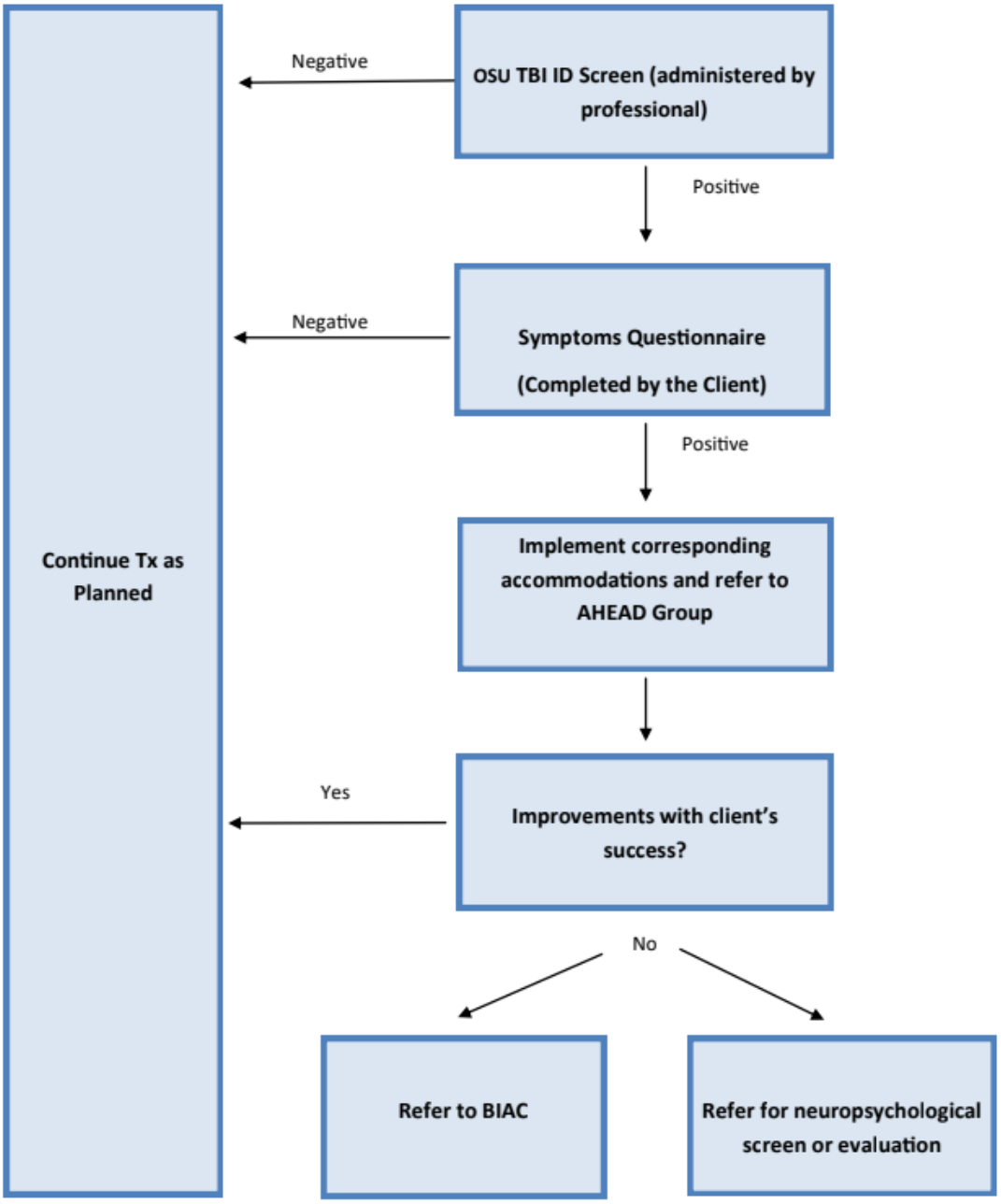
- **Referral to appropriate brain injury services outside of the criminal justice system upon the individual's release**

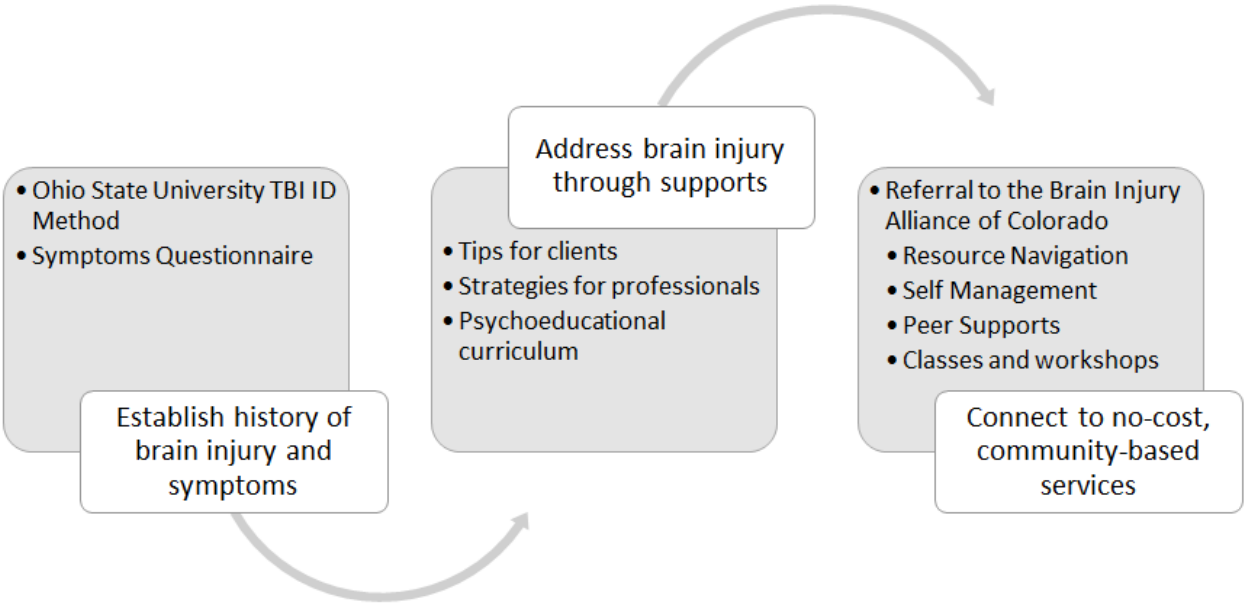
The Task Force recommends the use of the Colorado Brain Injury Model, as described below, which addresses screening, neuropsychological assessment, support strategies, and referral to appropriate community based brain injury services.

The following are flowcharts demonstrating the CO Brain Injury Model:

Brain Injury Screening and Supports Protocol– Process Flow

*note: referral can be made to BIAC at any point in process if client screened positive AND there is need for case management support and/or professional consultation





Here is what the national research says on this topic:

<u>Additional Resources from the National Best Practices Guide on Components of a brain injury screening, support, and referral protocol</u>

Increasingly, justice service providers recognize the importance of better addressing brain injury within their systems. For example, the National Council on State Legislators has issued a policy brief on this topic.

Finally, there have been several states that have implemented brain injury screening, support, and referral models within the criminal justice system. Details of the position statement, policy brief, and of these models can be found in these documents:

1. Policy Brief – National Conference of State Legislators, Traumatic Brain Injuries Report (Anne Teigen & Kristine Goodwin, August 2019). https://www.nashia.org/resources-list/ultvlaoicnk14l0k1f0prgqvhlt04f?rq=ncsl
2. Report - Traumatic Brain Injury and Criminal Justice/Juvenile Justice Systems (Prepared by the National Association of State Head Injury Administrators, Maria Crowley, 2017) https://www.nashia.org/resources-list/x6cp9ic89wa8qq16emqq9x0gtkogrf?rq=report

While brain injury screening, support, and referral models vary slightly from state to state, there are key components that are widely accepted and included. These components include:

- Training and education for criminal justice personnel
- Screening for history of, and assessing of impairment from, brain injury

- Psychoeducation and self-advocacy training for justice-involved individuals with brain injury
- Modifying programming to address cognitive strengths and weaknesses
- Referral to community-based service coordination/resource facilitation
- Data collection & outcomes evaluation

F. Identification of necessary contracts between various entities to implement the recommendations in the plan

The Task Force was not able to identify all the necessary contracts and data sharing agreements that would need to be put in place to implement the Colorado Brain Injury Model throughout the entire criminal justice system. Rather, consistent with the recommendations included in Section 1 of this report, the Task Force recommends that as organizations within the Colorado Criminal Justice System begin to implement the Model, they identify the necessary collaboration and agreements.

Citations

- Criminal/Juvenile Justice Workgroup, August 2021, *Findings on the Relevancy of the Criminal and Juvenile Justice Competencies.*
- *Farrer, T. & Hedges, D. (2011). Prevalence of traumatic brain injury in incarcerated groups compared to the general population: a meta-analysis. DOI: 10.1016/j.pnpbp.2011.01.007*
- *Fixsen, D. L., Naoom, S. F., Blase, K. A., Friedman, R. M. & Wallace, F. (2005). Implementation Research: A Synthesis of the Literature. Tampa, FL: University of South Florida, Louis de la Parte Florida Mental Health Institute, The National Implementation Research Network (FMHI Publication #231). Full Article*
- *Fleming, W.O., Apostolico, A.A., Mullenix, A.J. et al. Putting Implementation Science into Practice: Lessons from the Creation of the National Maternal and Child Health Workforce Development Center. Matern Child Health J 23, 722–732 (2019). https://doi.org/10.1007/s10995-018-02697-x*
- *Gorgens, K., Meyer, L., Dettmer, J., Standeven, M., Marchi, C., Goodwin, E., & Lyman, H. (2021). Traumatic Brain Injury in Community Corrections: Prevalence, Comorbidities, and Long-Term Outcomes. Criminal Justice and Behavior. https://doi.org/10.1177/00938548211010316.*
- National Association of State Head Injury Administrators (NASHIA), May 2020, *Criminal and Juvenile Justice Best Practice Guide: Information and Tools for State Brain Injury Programs*.
- *Piccolino, A. & Solberg, K. (2014). The Impact of Traumatic Brain Injury on Prison Health Services and Offender Management. https://doi.org/10.1177/1078345814530871*
- *Schofield, P., Butler, T., Hollis, S., Smith, N., Lee. S, & Kelso, W. (2006). Traumatic brain injury among Australian prisoners: Rates, recurrence and sequelae. https://doi.org/10.1080/02699050600664749*
- *Shiroma, E., Ferguson, P., & Pickelsimer, E. (2010). Prevalence of traumatic brain injury in an offender population: a meta-analysis. DOI: 10.1177/1078345809356538*
- *Tresa M. Roebuck-Spencer, Tannahill Glen, Antonio E. Puente, Robert L. Denney, Ronald M. Ruff, Gayle Hostetter, Kevin J. Bianchini, Archives of Clinical Neuropsychology, Volume 32, Issue 4, June 2017, Pages 491–498, https://doi.org/10.1093/arclin/acx021, March 2017*