

Promote Early Intervention and Effective Management of Court Cases

ESSENTIAL ELEMENT 6: Effective Defense Representation

POLICY

Defense counsel have an important role in understanding the behavioral health needs of clients and advocating effectively for their clients. Courts have an inherent responsibility to support them in this role. Defense counsel should provide leadership in the community and in the courthouse to address the needs of those with behavioral health needs. Defense attorneys and defender offices should have training and expertise in identifying mental illness, working with clients with mental illness, and in developing diverse and client-centered treatment plans for clients. To the extent possible, these offices should strive to develop specialized units or training on mental health and/or involve social workers who work alongside the attorneys to connect clients to appropriate treatment.

EVIDENCE-BASED PRACTICES

[Evidence-Based Decision Making: A Guide for Defense Attorneys](#) (National Institute of Corrections)

[Peer relationships](#) are the best way to obtain information for holistic representation and to determine the types of support that each individual needs.

GETTING STARTED

Build relationships: Defense counsel should seek to build relationships with key stakeholders inside and outside of the court system to ensure a continuum of treatment. Using resources such as peers can allow defense counsel to focus on the

legal aspects of a case while ensuring that a defendant is also receiving non-legal assistance.

Training: Training is integral to the success of defense counsel and their clients.

Identify patterns: Pay special attention to charges that are arising out of engagement with law enforcement.

ROLES AND RESPONSIBILITIES

Leadership from defender offices is crucial as individualized decisions are made relative to the trajectory of an individual with behavioral health needs. Internal and external communication and collaboration with other justice partners is critical. Courts should support leadership roles of defenders' offices relative to individuals with behavioral health needs.

NEXT GENERATION

Innovation, Technology, New Practice

- Address underlying issues that are leading to cycling within the criminal justice system.
- Effective communication.
- Individualized approach by law enforcement and crisis personnel.
- Specialized accommodations with conditions of probation.
- Americans with Disabilities Act (ADA) accommodations.
- Reframe engagement with individuals with serious mental illness and ways accommodations can be brought to forefront.

Institutionalization, Sustainability, Funding

- Explore funding opportunities for indigent defense services, especially for social workers. In practice, public defenders and many private defense attorneys face severe resource constraints that limit their ability to engage in the intensive style of representation envisioned in this document. In particular, many defense attorneys lack access to social workers, who are helpful in interviewing clients, assessing needs, identifying issues, obtaining records and social history, developing mitigation, finding program placements, and developing alternative disposition plans. Even where social workers are available, their use must typically be rationed. Investigators can also be very useful in interviewing clients and building client relationships.
- Consider the mode of defense representation. Assigned or contract counsel who represent a large share of indigent defendants in state courts and who tend to work in small firms or solo practices with little to no support staff face larger challenges to implement holistic or client-centered representation than those in a public defender office.
- Use evidence-based peer support models.
- Provide jails and other holding facilities with information on critical physical medical conditions and mental health conditions as permitted by law.
- Advocate for types of support each individual needs.
- Use self-determination, including using a person's own language, choices, etc.
- Training is essential and should be ongoing.

RESOURCES

[Assessing a Social Worker Model of Public Defense: Findings and Lessons Learned from Genesee County, Michigan](#)

[Social Work Practice in Public Defense](#)

[The Measure of Good Lawyering: Evaluating Holistic Defense in Practice](#) (Client-centered lawyering, a focus on avoiding reinvolvement in the criminal justice system by meeting underlying needs, and the involvement of social workers in defense representation are key components of the holistic defense model.)

[The Evolving Character of Public Defense: Comparing Criminal Case Processing Effectiveness and Outcomes Across Holistic Public Defense, Traditional Public Defense, and Privately Retained Counsel](#) (Comprehensive examination of outcomes achieved by holistic defense in comparison to more traditional public defense and private counsel, showing that holistic defenders largely out-perform each group.)

[Examining the Effectiveness of Indigent Defense Team Services: A Multisite Evaluation of Holistic Defense in Practice](#) (Provides a systematic look at the practice of holistic defense in three sites.)

[The Effects of Holistic Defense on Criminal Justice Outcomes](#) (Bronx Defenders)

[Holistic Representation: An Innovative Approach to Defending Poor Clients Can Reduce Incarceration and Save Taxpayer Dollars – Without Harm to Public Safety](#)

[The Role of Indigent Defense for Defendants with Mental Health Disorders](#)

[Mental Health Public Defender](#) (Travis County)

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