

Promote Early Intervention and Effective Management of Court Cases

ESSENTIAL ELEMENT 5: Prosecution Practices

POLICY

Prosecutors should ensure that their practices, in the community and in the courthouse, consider the needs of those with behavioral health conditions. Prosecutors should promote training about mental illness within their offices, familiarize themselves with best practices for working with individuals with mental illness (including ensuring that their practices are trauma-informed for all involved in the criminal justice system), promote restorative justice, minimize misdemeanors, and end the criminalization of mental illness, among other stigmatizing practices. Courts should support the efforts of all justice partners and behavioral health providers to consider the specialized needs of those with behavioral health issues.

EVIDENCE-BASED PRACTICES

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

[Multistate Evaluation of Prosecutor-Led Diversion Programs](#)

GETTING STARTED

Self-assessment: Prosecutors should assess actual practices within their offices to determine if they align with or conform to evidence-based practices. Without an assessment of what prosecutors' offices have and do not have and what is working and what is not, the needs of individuals with behavioral health needs will not be met. Leadership should also solicit input from all levels of the office to ensure a

complete continuum when implementing best practices and should solicit input from stakeholders including those with lived experience. Attention should be paid to the needs of crime victims in this assessment.

Data: Data should drive all decisions and collaborative efforts among other prosecutors and justice partners. Prosecutors need to address any deficiency they may have in the area of data, and all decisions should be data informed. Data should be published and transparent. Successes or failures can no longer appropriately be explained using anecdotal stories or examples. If there is a successful capture of data in an established database, the ability to obtain reports from that data should be available and utilized. Any deficiencies should be rectified.

Build relationships: Prosecuting agencies should seek to build relationships with key stakeholders to ensure buy-in. Relationships both inside and outside the criminal justice system are critical for success as are relationships with defense counsel and service providers.

Training: Prosecutors should recognize that behavioral health needs and substance use disorder are ongoing issues that need to be addressed and that training is integral to the success of both prosecutors and diversion programs. Prosecutors participating in treatment court should understand the fundamentals of treatment courts, including how they differ from regular court sessions. Prosecutors should also receive training regarding the fundamentals of the subject

matter for the treatment courts in which they practice. However, training for treatment court prosecutors is not enough, many individuals who are not eligible to enter a treatment court also have significant behavioral health needs such that all persons who work as a prosecutor should be trained in behavioral health, including understanding specialized behavioral health units, trauma, and implicit bias.

Knowing Resources: Planning is key. Prosecutors need to know available community treatment opportunities and justice partner options including referral systems.

ROLES AND RESPONSIBILITIES

Leadership from prosecuting agencies 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 and treatment providers is key. Buy-in has to begin at the leadership level and be effectively communicated throughout the entire office. Engagement and education should be focused on how to effectively navigate cases requiring special attention due to behavioral health needs of the individual being prosecuted. Courts should support all justice partner efforts relative to communication, engagement and education.

NEXT GENERATION

Innovation, Technology, New Practice

Prosecutors' offices should advocate for centralized databases. Information-sharing alleviates issues of fragmentation that exists between different counties or jurisdictions and can assist with streamlined case management and help provide appropriate services to criminal defendants as well as crime victims. Methods to streamline communications to crime victims should also be considered, as victims may have helpful information for all parties when developing plans on individual cases.

Institutionalization, Sustainability, Funding

Promote ongoing communication, collaboration, and partnerships with justice partners, treatment agencies, victim service agencies, reentry coordination, funders, and the public. Prosecutors can be powerful in communicating to the community, but the community also needs resources and tools in place because the alternatives are jail or non-prosecution, with the latter resulting in no provision of resources or support for the individual with behavioral health needs.

Periodic reassessments of practices and procedures are critical to success.

Prosecutors' offices should continually explore opportunities for funding, including grants, and should engage the assistance of court systems, where appropriate, to obtain funding.

RESOURCES

[National District Attorneys Association](#)

[Association of Prosecuting Attorneys](#)

[Justice and Mental Health Collaboration Program](#) (The Council of State Governments Justice Center)

[Understanding and Managing Risks for People with Behavioral Health Needs: FAQs for Local Prosecutors](#) (The Council of State Governments Justice Center)

[Improving Justice System Responses to Individuals with Mental Illness](#) (Fair and Just Prosecution.org)

[Victims, Witnesses, and Defendants with Mental Illness or Intellectual and Developmental Disabilities: A Guide for Prosecutors](#) (Prosecutors' Center for Excellence)

[Prosecutors and Frequent Utilizers: How Can Prosecutors Better Address the Needs of People who Frequently Interact with the Criminal Justice and Other Social Systems?](#) (John J. Choi et al.)

[The ABC's of SUDs \(Substance Use Disorders\) for Prosecutors](#) (Susan Broderick)

[Trauma Training for Criminal Justice Professionals](#) (SAMHSA's GAINS Center)

[Trauma Informed Prosecution Resource](#) (Institute for Innovation in Prosecution at John Jay College)

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