Institutionalize Alternative Pathways to Treatment and Recovery and Improve Outcomes

ESSENTIAL ELEMENT 6: Treatment Courts

POLICY

All court systems should have access to a full continuum of behavioral health treatment and supervision options. Treatment duration and dosage needs to be matched to an assessed level of clinical need, and the intensity of supervision should correlate to the assessed criminogenic needs of the individual. Treatment (or problem solving) courts are an essential component of this continuum and are one of the most effective interventions for high-risk/high-need individuals already engaged with the criminal justice system.

EVIDENCE-BASED PRACTICES

Treatment courts typically involve intensive substance use and mental health disorder treatment coupled with frequent court reviews, significant community supervision, and comprehensive case management, all coordinated by a multi-disciplinary team. This level of justice and treatment response is generally only appropriate for defendants who have been assessed as high risk/high need, and in fact, subjecting low risk or low needs individuals to such a program often makes them worse, so carefully screening and assessing criminogenic risk/needs and adopting objective eligibility criteria is essential.[1]

While the traditional model of intensive treatment and supervision is most appropriate for high-risk/high-need individuals, this treatment court model can be modified for defendants with lower levels of risk and needs. Mental Health Courts in particular have often chosen to focus on low risk individuals who nonetheless have frequent interaction with the justice system, and who have significant mental health disorders. This population requires a modification to the traditional treatment court model in that intensive supervision is likely not appropriate, and the goals of this Mental Health Court model may be different. Often, program goals for this model include medication management, development of community supports, and less frequent law enforcement involvement in the future.

Both models can be effective, but the different populations should not be mixed, and the program goals should be clear from the outset and matched to the program design.

GETTING STARTED

Often, when the intersection of mental illness and the courts is addressed, the assumption is that if the jurisdiction has a mental health court, that's all that is needed. But a mental health court – or

[1] For a discussion of criminogenic risk, needs, and responsivity, see Policy Research Associates, The Most Carefully Studied, Yet Least Understood Terms in the Criminal Justice Lexicon: Risk, Need, and Responsivity, and for an excellent resource on screening and assessment see SAMHSA's Screening and Assessment of Co-Occurring Disorders in the Justice System.

other treatment court – is only the best model for a relatively small segment of justice-involved individuals with behavioral health needs. As a jurisdiction starts to examine, or re-examine their continuum of responses, that jurisdiction should first gather data and map[2] the existing resources and gaps in those resources. If there is a gap in resources for high-risk/high-need individuals, a treatment court may well be needed. There are excellent free technical assistance resources available for planning and implementation of drug courts and veterans treatment courts available via the Bureau of Justice Assistance and NADCP.

If there is a consensus that a mental health court is needed, the court and system partners need to agree on the goals of the program – harm reduction and treatment intervention with recycling low-level offenders, typically misdemeanants, or targeted recidivism efforts aimed at felony-level defendants? Once the goal is determined, the resource examples can help with program implementation. Then, careful data collection is imperative to ensure that objectives and goals are met.

NEXT GENERATION

Institutionalization, Sustainability, Funding

While NADCP's Best Practice Standards first came out in 2013, the next step – implementing those best practices and the subsequent research – continues to be the focus of most, if not all, states. All but a handful of states have a state-level treatment court coordinator, usually affiliated with the state supreme court or administrative office of the courts. These coordinators are a key resource in assisting state and local jurisdictions in identifying and implementing best practices. Many states are implementing treatment court certification processes to institutionalize fidelity to those best practices.

While the vast majority of treatment courts were implemented using federal planning and implementation grants, sustainable funding continues to be an issue. One important aspect of advocating for ongoing, permanent funding is effective data collection. If a program can demonstrate effectiveness by showing reductions in recidivism, increases in recovery and health metrics, and cost avoidance or cost savings, obtaining appropriate funding is more likely.

Some states have had success in tying treatment court funding to non-general fund sources, such as tobacco settlement funds, opioid settlement funds, redirection of fines or fees, and special assessments, such as Idaho's dedicated alcohol sales earmark. Ultimately, funding often depends on demonstrated results, and research is clear that good results correspond to compliance with best practices.

RESOURCE EXAMPLES

Treatment courts are the most researched criminal justice intervention, and there are now clear, specific best practices. The National Association of Drug Court Professionals (NADCP) convened a blue ribbon group of researchers and practitioners that produced a comprehensive synthesis of this research, the most recent version of which was released in 2018. The Adult Drug Court Best Practice Standards provide consensus best practice statements on target population, equity and inclusion, roles and responsibilities of the judge, complementary treatment and social services, monitoring and evaluation, and more.

While the standards speak directly to the adult drug court model, the underlying research informs best practices for mental health courts, veterans treatment courts, and other models as well. A number of states have directly adapted

[2] See examples, Utah, Nebraska, and Georgia

the relevant standards from the NADCP product to specific standards for mental health courts and for other models.[3]

Other mental health court-specific resources:

- Developing a Mental Health Court: An Interdisciplinary Curriculum (Council of State Governments Justice Center)
- A Guide to Mental Health Court Design and Implementation (Bureau of Justice Assistance)
- Mental Health Court Performance Measures (National Center for State Courts)

Individuals with behavioral health needs who encounter the justice system often have co-occurring disorders, histories of trauma, and specific responsivity needs that require a response tailored to those issues. In addition to the resources listed above, there are resources specific to best practices for other models of treatment courts (veterans treatment court, family dependency court, DUI/DWI court, etc.) that should be consulted, and the most important aspect of an effective response may be the identification of the most appropriate program or pathway for each individual based on their specific needs.

[3] For example, a Sequential Intercept Model mapping. See Data Collection Across the Sequential Intercept Model: Essential Measures.

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