

Institutionalize Alternative Pathways to Treatment and Recovery and Improve Outcomes

ESSENTIAL ELEMENT 1: Diversion – A Pathways Approach

POLICY

People with behavioral health disorders are overrepresented in the criminal justice system. For many, if not most, with these conditions, treatment is the most effective response both in terms of their wellbeing and public safety. Yet, that system generally does not effectively connect people with treatment; and when it does, it is the wrong treatment, at the wrong time – usually too late.

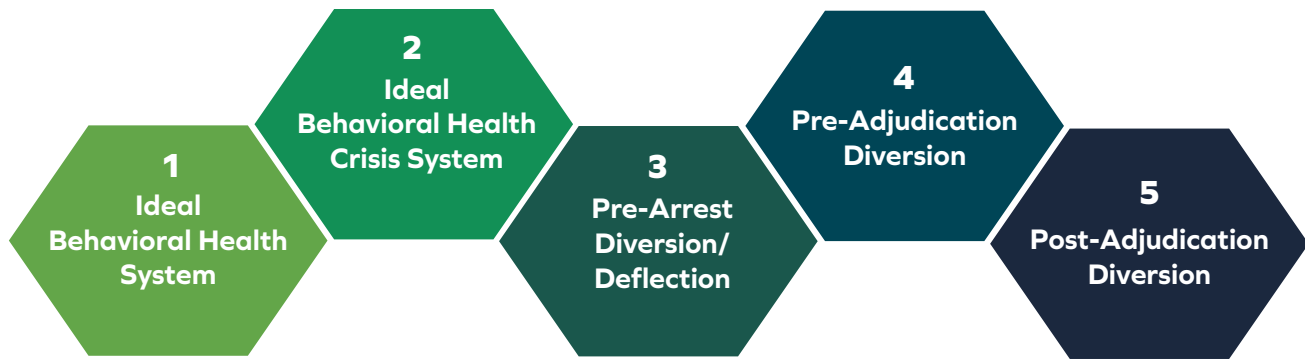
Research that indicates how to make those connections most effectively and a range of initiatives have been designed to address discreet pieces of this problem with specialized or pilot programs, but the broader criminal justice system still generally fails to routinely match best practice interventions to prevent recidivism with individuals' needs.

The often siloed relationship between the criminal justice, civil, and the mental health treatment systems needs to be redesigned so that all stakeholders work together as partners to use resources more efficiently, make the most effective services the norm, and thereby achieve the best outcomes for this population more consistently. At each point of interaction with each these systems, beginning with crisis response and continuing through reentry, active efforts to find diversion pathways – offramps from the traditional criminal justice road – should be systematically undertaken, and a continuum of diversion options and access to treatment and recovery must be developed and available in every jurisdiction.

EVIDENCE-BASED PRACTICES

Principles of Risk-Need-Responsivity (RNR) represent the evidence-based practices clearly shown to result in the most effective outcomes for this population. Criminogenic risk, the likelihood that an individual will be successful with traditional criminal justice interventions, should inform the nature and level of system oversight and supervision appropriate for each individual. Criminogenic needs, factors that can be addressed or treated to resolve underlying conditions that also contribute to recidivism, should be targeted with tailored treatment and case management interventions in an appropriate dosage based on their assessed need. Responsivity factors are issues and conditions that need to be considered and addressed in order for the supervision (risk) and treatment (needs) interventions to be effective. Responsivity needs frequently include mental health disorders, trauma, and the like.

The nature and extent of each of these three issues can and should be determined using appropriate screening and assessment tools. Assessment, if indicated by the screening, should be repeated during an individual's progress through the criminal justice system in order to identify the appropriateness and effectiveness of ongoing interventions. The results of these screenings and assessments inform each opportunity to divert individuals to a treatment pathway and away from the criminal justice system.



GETTING STARTED

Courts, both at the local and state levels, should begin by assessing the current systems of behavioral health and justice system resources and practices. Such an assessment must be done in collaboration with all relevant system partners. Task Force resources on how to identify and collaborate with those partners at the state level¹ and local level² have been developed.

The Sequential Intercept Model (SIM) provides a framework for assessing and organizing diversion opportunities, resources, and resource gaps; and a SIM mapping is a structured, facilitated process of carefully identifying those opportunities and resources.

Next, an integrated system of evidence-based responses along the SIM continuum should be implemented, including a broad array of community treatment supports, options for appropriate crisis responses, pre-arrest deflection training and resources, post-arrest diversion structures and resources, universal behavioral health and RNR screening, timely access to assessment resources, post-arrest civil diversion options, modernized civil commitment laws, robust behavioral health resources in jail, systematic evaluation for diversion options instead of prosecution, appropriate competency processes and resources, diversion structures for all levels of risk and need, treatment oriented

sentencing alternatives, specialized behavioral health calendars and teams, specialized behavioral health probation and parole supervision teams, and dedicated behavioral health reentry resources.

This continuum of care can be represented as five domains, based on where in the behavioral health and justice system a person is located.

ROLES AND RESPONSIBILITIES

The current behavioral health and justice systems are structured and operated the way that they are as the result of innumerable practical, fiscal, policy, and political reasons; there is enormous inertia in complex and diverse systems such as these. Whole system change – especially change that is institutionalized – is difficult and requires forward thinking leadership from each partner entity. Overlaying a comprehensive pathways approach on these disparate entities requires enormous coordination by law enforcement, crisis response systems, jails, prosecutors, defense counsel, community supervision providers, courts, and treatment providers at each level. Every one of those partners, and more, have a role to play, from law enforcement embracing deflection, to jails implementing universal screening, to judges and lawyers ensuring the use of evidence-based practices. Data sharing is also critical and should

¹ [Leading Change Guide for State Court Leaders](#)

² [Leading Change: Improving the Court and Community's Response to Mental Health and Co-Occurring Disorders for Maximizing Results](#)

include clinical and criminal justice histories, screening and assessment results, treatment and supervision compliance, and a host of other data. Decision making should be informed and supported by this data. To coordinate and integrate these significant and systemic reforms requires leadership and perhaps a measure of institutional humility.

NEXT GENERATION Innovation, Technology, New Practice

While the principles of RNR have been around for decades, technology has more recently had a role in operationalizing those principles. Data warehouses, real-time data updates, secure electronic communication platforms, and remote treatment and supervision technologies have all made implementation of RNR strategies easier and more accurate and reliable.

Recent diversion innovations have focused on truly prioritizing community-based rather than institutional treatment settings, new models of crisis response,³ training law enforcement and other criminal justice system players on modern brain science,⁴ and using civil court options rather than criminal system responses.⁵

Institutionalization, Sustainability, Funding

Institutionalization is the most difficult part of implementing this pathways model. The disparate funding, structures, and goals of the many affected partner entities make long lasting change a complex and challenging endeavor. Leadership and persistence are key.

As Judge Steven Leifman, architect of the cutting edge Miami Model often recounts, it has taken over 20 years to build that system, and it isn't done evolving and improving.

One emerging incentive for comprehensive movement to treatment-oriented and non-criminal responses is monetary. Managed healthcare systems have learned that opting for early intervention and rapid diversion to treatment at every opportunity is less expensive in the short term and more effective – and cheaper – in the long term. Medicaid expansion, in those states that have opted in, has provided access to early behavioral healthcare for many thousands of individuals, and Medicaid waivers aimed at smoothing the care transitions to and from jails have proved very effective. A substantial body of research shows that implementing evidence-based treatment and supervision models, consistent with the RNR model, is both less expensive and more effective, but, of course, more research is needed.

RESOURCES

[The Most Carefully Studied, Yet Least Understood Terms in the Criminal Justice Lexicon: Risk, Need, and Responsivity](#) (Policy Research Associates)

[Screening and Assessment of Co-Occurring Disorders in the Justice System](#) (SAMHSA)

[Screening and Assessment](#) (National Center for State Courts)

³ SAMHSA, [Crisis Services: Meeting Needs, Saving Lives](#)

⁴ University of Memphis, [Crisis Intervention Team Core Elements](#), [Mental Health First Aid](#)

⁵ Treatment Advocacy Center, [Implementing Assisted Outpatient Treatment: Essential Elements, Building Blocks and Tips for Maximizing Results](#)

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