

Institutionalize Alternative Pathways to Treatment and Recovery and Improve Outcomes

ESSENTIAL ELEMENT 4: Specialized Behavioral Health Dockets

POLICY

Despite the fact that the majority of people jail, and therefore in criminal courts, have behavioral health needs, judicial systems are designed for those that do not. Law schools don't have classes on serious mental illness, psychopharmacology, and the risk-need-responsivity principle, nor do medical schools or Master of Social Work programs focus on criminal procedure, pretrial release standards, and the like. Yet, the criminal legal system and behavioral health systems are expected to work hand-in-glove with each other in response to the issues presented in court thousands of times every day across the country.

Actors from these two systems often have misconceptions about each other, may have different goals, and have different approaches to issues presented by people with behavioral health disorders as they interact with the criminal justice system.

Specialized dockets, and a team approach to staffing them, can ameliorate these differences and lead to better outcomes for the individuals with behavioral health needs, increased public safety, and more efficient processing of their cases.

EVIDENCE-BASED PRACTICES

Specialized dockets and multidisciplinary teams should be considered at several points in the process. At each point, a docket consisting of similar cases at the same stage in the process allows for bringing together relevant team members and resource information that can be focused on the common issues of those on the docket. A team approach is generally only feasible if the cases are grouped at a

consistent time with the same team members. Consistent calendars and times allows for more efficient scheduling, especially for community resource providers who are not regularly in court, and consistent team membership allows for the development of predictability and trust among team members which are essential to achieve the best case outcomes and efficiencies.

Pretrial – An evaluation of both the risk of failure to appear or to offend while released and of the behavioral health needs that may affect those risks should be done by a multidisciplinary team. The pretrial release decision is a critical opportunity for setting an appropriate trajectory for individuals with behavioral health needs. Gathering and combining screening/assessment data and clinical information with criminogenic risk and legal history data will provide the best opportunity to form an accurate prognosis for the individual. A well-informed decision can then be made by the judge regarding release, conditions, treatment needs, and diversion options. Team members should include prosecution, defense, a judge, pretrial supervision personnel, and appropriate behavioral health professionals.

Pre-adjudication – Similarly, decisions about diversion from prosecution should be informed and considered by a team of professionals from different perspectives. Being further along in the process than at the pretrial stage, there should be even more contextual information at this point – behavioral health and criminogenic risk/need assessments, perhaps additional information about treatment engagement, community resource availability, pro-social supports, and diversion program eligibility.

All of these should be considered from a variety of perspectives to arrive at a well-informed recommendation and decision. Team membership is similar to the pretrial team (and could be the same), but an additional consideration here is the addition of a dedicated case manager. Several models for using case managers with specific experience in both behavioral health and court processes have shown success.

The competency to stand trial docket and team strategies are particularly important and are addressed separately in [Competency Dockets](#).

Post-adjudication – Individuals with serious behavioral health disorders should be expected to have some failures with respect to long-term compliance with court and program requirements. Compliance monitoring and attendant responses should also be informed by an experienced multidisciplinary team in order to have the most effective outcomes. Team composition is similar to the pre-adjudication team, with the addition of a community supervision perspective, if appropriate. If the individual is in a treatment court, a team approach is required and is addressed more specifically in other resources.

GETTING STARTED

Planning is an essential element of successful collaboration. Team members should agree in advance on each team member's role and authority, how information will be shared, and how decisions will be made. MOUs should be put in place to institutionalize these roles and relationships and to facilitate information and data sharing.

ROLES AND RESPONSIBILITIES

Once a court has jurisdiction, final decisions are the responsibility of the judge, but the team dynamic should be as described in NADCP's Adult Drug Court Best Practice Standards:

Team members contribute relevant insights, observations, and recommendations based on their professional knowledge, training, and experience. The judge considers the perspectives of all team members before making decisions that affect participants' welfare or liberty interests and explains the rationale for such decisions to team members and participants.

NEXT GENERATION

Institutionalization, Sustainability, Funding

Collaborative teams and specialized dockets or calendars provide stability and consistency in system responses to behavioral health issues. Changes in individual entities – judges, prosecutors, and others – are less disruptive if a true collaborative process is in place. This consistency is further enhanced by having each team member reduce to writing their role and responsibilities as a team member on the specialized docket. This “job description” for that team role, as opposed to their general function, promotes consistency and facilitates transitions.

RESOURCES

[Statewide, Regional, and Trial Court Behavioral Health Positions](#) (National Center for State Courts - NCSC)

[Improving Responses to People with Mental Illnesses at the Pretrial Stage: Essential Elements](#) (Council of State Governments Justice Center - CSGJC)

[Competency Dockets](#) (NCSC)

[Leading Reform: Competence to Stand Trial Systems](#) (NCSC)

[Adult Drug Court Best Practice Standards](#), especially Standard VIII, Multidisciplinary Team (National Association of Drug Court Professionals)

[Implementing Specialized Caseloads to Reduce Recidivism for People with Co-Occurring Disorders](#) (CSGJC)

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