



Part III

“The Pathfinder Certificate of Completion Seminar”

Seminar # 15

Issue # Six of 12 key issues: The Legal Court System Intervention

Seminar Objectives:

1. Have a working knowledge of the Sequential Intercept Model (SIM)
2. Finding an attorney
3. What is Drug Court

Introduction

INSTRUCTIONS: View this video prior to continuing in this workbook.

VIDEO ONE



ASSIGNMENT VIDEO: On www.youtube.com/

Search Title: What is Court Diversion?

Published in April 2014

By: Patrick Warn

Incarceration Diversion



Issues the Family Faces

Introduction to Drug Court

In many of these courts there are far fewer procedural limitations, the drug court judge controls the agenda; has informal conversations with the parties, the treatment providers, and correctional officials; and ultimately does almost “whatever is needed” to ensure that everyone promotes the shared goal. This sort of informal, flexible system can work toward the long-term benefit of defendants by increasing the chances that they will be able to overcome drug addiction. However, this system of increased power and authority for judges presents, at least, some increased risks for the defendant as well, since drug court judges retain the power, albeit after discussing issues among all team members, to impose a variety of punitive sanctions, which often include removing defendants from the program entirely and requiring them to serve lengthy criminal sentences.

Thus, while everyone enters the drug court system with the same stated interest, the interests of the defendant may eventually diverge from those of the judge and the treatment team, especially when the judge resorts to the variety of punitive sanctions available in a drug court program.

Before any decision on participation is made, the defense lawyer will raise and address with the client the confidentiality consequences of entering drug court. Drug courts often require defendants to execute confidentiality waivers that allow relevant portions of their medical treatment information to be distributed not just to the court but to prosecutors, as well.

Clients should be made aware of the potential dangers of disclosing such information and informed that it is to help them on the road to recovery. They also should be informed that they have complete power over whether to do so and that other than under limited circumstances, disclosure of such information would not be permitted if they were to secure treatment without court supervision. In addition, every defendant needs to know that participation in the drug court system may compel a formal admission of guilt and may result in the waiver of legal defenses should treatment fail, and the defendant is eventually brought to trial. Unfortunately, providing competent advice on all these subjects may be further complicated by the desire of the drug court to place a defendant in treatment as soon as possible after the defendant's arrest.

Although this speedy treatment may provide therapeutic benefits, it may hinder the ability of a defense attorney to conduct a factual and legal investigation into the merits of the case. Nevertheless, without such an investigation, it is impossible to make a reasoned assessment of what a likely criminal court disposition would be or to assess the costs of waiving various legal defenses. Lacking some reasonable projection of the possible penalties and the possible defenses at trial, a client cannot make a meaningful decision as to whether to participate in drug court.

Practical Exercise # One

Laying the Family Knowledge Foundation

1. Identify the Drug Court Advisory Council

- Chief Judge: _____
- Elected Prosecutor: _____
- Chief Public Defender: _____
- Chief Court Administrator/Court Clerk: _____
- Chief of Police: _____
- Elected Sherriff: _____
 - Chief Probation Officer: _____
 - Director of Treatment Services: _____
 - County Commissioner(s): _____
 - City Council Member(s): _____

2. Identify the Drug Court Planning Team Members

a. Judicial

- Judge: _____
- Magistrate: _____

b. Prosecution

- District Attorney: _____

c. Defense

- Public Defender: _____
- Private Defense Attorney: _____
- Local Bar Association: _____

d. Coordination

- Court Administrator: _____
 - Clerk: _____
 - Other: _____

e. Community Supervision Point of Contacts, (Name & Phone #)

- Pre-trial: _____
- Probation: _____
- Parole: _____
- Community Corrections: _____
- Police: _____
- Sherriff: _____
- Highway Patrol: _____

f. Treatment Point of Contact

- Private Provider Treatment: _____
- Private Provider: _____
- County/State Provider: _____
- Health Department: _____
- Mental Health: _____

g. Evaluator

- Local College/University Professor:
- Research/Evaluation Company:
- Other State Agencies- Children & Families, Education etc.:
- Vocational & Educational Communities:
- Job Skills -Training & Placement Agencies
- Welfare to Work Programs:

3. Designed Entry Process to Drug Court

a. Risk and Need Assessment

- Determines who is most suited for Drug Court:
- Identify tool(s) to be used:
- Identify who will administer risk and needs assessment:

b. Identify who will conduct legal screening

- Prosecutor:
- Defense Attorney:

Coordinator:

Entire Team:

c. Determine Your Point of Entry

At Arrest:

Bail:

Pre-trial Review:

Initial Court Appearance:

Pre-sentence Hearings:

Probation Revocation Hearing:

d. Clinical Screening

Identify and select a tool:

Identify who will conduct the screening:

Drug Court case managers:

Pretrial Services:

Probation:

TASC:

Treatment Provider:

e. Purpose of Screening

Determine the presence and severity of substance abuse:

Weed out persons who do not have substance abuse problems:

Determine if the severity of substance abuse problem is appropriate to the level of available drug court services:

f. Clinical Assessment (notice clinical screening is different from Clinical Assessment)

Identify which selected a tool will be used for assessment, then research it on-line:

Do they address biological, psychological, and sociological factors:

Identify the clinically trained and qualified counselor, psychologist, psychiatrist, social worker, or nurse to administer tool:

Determine if the severity of substance abuse problem is appropriate for the drug court program:

g. Purpose of Assessment

- Examine scope and nature of substance abuse problem:
- Identify full range of service needs, pursuant to treatment planning:
- Match participants to appropriate services:
- Determine where and when the legal and clinical screening will be Administered:
- Determine where and when the clinical assessment will be delivered:

7. What are the Establish Drug Court Phases to this System

a. Determine Length of Program

- Legal Requirements
- Treatment Needs

b. Determine Number and Length of Phases

- Phase Advancement Requirements

c. Define Specific Court-Imposed Rules

- Rules and regulations of treatment
- 12 Step Meetings/Support Meetings
- Community Service
- Employment
- Program Fees/Court Costs
- Alumni/Continuing Care
- Court Appearances
- Drug Tests
- Curfew
- Ancillary Services
- Case Management
- Educational/Vocational Training/GED
- Drug-Free/Pro-Social Activities

8. What are their Developed Treatment Protocols

a. Assess Treatment Resources and “Levels of Care” in the Community

- Detoxification

- Intensive Outpatient
- Outpatient
- Day Treatment
- Inpatient Residential
- Halfway House
- Sober Living
- Medical Care
- Mental Health Care
- Medication Assisted Programs
- Case Management Services

b. Ensure an Assessment of Other Ancillary Resources Available in the Community

- Community Mapping Tool
- c. Choose the Treatment Program(s) to Serve the Drug Court
 - Duration of Treatment
 - Goals of Treatment
 - Frequency of Treatment in each Phase
 - Culturally Appropriate Services and Staff
 - Individualized Treatment Plans
 - Type of evidence-based treatment used by provider
 - Cognitive Behavioral Therapy
 - Motivational Enhancement Therapy
 - Community Reinforcement Approach
 - Medically Assisted Treatments
 - Relapse Prevention
 - Aftercare/Continuing Care
 - Determine Administrative Responsibilities for Providers
 - Types of reports to be generated
 - Information to be shared with team

9. Identify Community Resources

- Complete Community Mapping

10. Develop Community Supervision Protocol

a. Determine Which Agency Supervises Clients

- Probation
- Parole
 - Police
 - Sheriff
 - Pre-trial Services
 - Marshalls
 - Community Supervision Officers:

11. Case Managers

b. What are their Develop Practices

- Determine the Frequency of Contact by Phase
- On-going Assessment, how frequent
- On-going Home Visits, how frequent
- Office Visits, how frequent

11. Develop Drug Testing Protocol, how frequent

a. Determine Which Agency Administers Drug Tests, Point of Contact:

- Probation, how frequent do they communicate
- Parole, how frequent do they communicate
- Police
- Sheriff
- Pre-trial Services
- Marshalls
- Community Supervision Officers
- Case Managers
- Treatment Providers

b. Determine Type(s) of Drug Test Methodology

- Onsite/Laboratory, do they perform these tests, how frequent
 - Urine
 - Hair
 - Silva
 - Breath
 - Blood
 - Sweat

c. Determine Frequency of Testing in Each Phase for all the above

12. Develop Court Responses Protocol

- What are the Court Responses Based on the NDCI Ten Science-Based Principles to Changing Behavior

13. Develop Communication Protocol

- Is there an Authorization/Consent Form. i.e., HIPPA

14. Develop a Monitoring and Evaluation Protocol

- Select an Evaluator (public or private)
- What are the drug courts Identified Performance Measures

15. Identify and Develop Waivers

- Develop Search Waiver
- Develop Offender Contract
- Develop Offender Consent Form



Obstacle the Family Addresses

To address the obstacles of this intervention it is critical to get an assessment of your loved one. The “Assessment & Screening” is implemented to ensure the right level of services are provided and has an important consideration as to the review of their case by the courts. These two screening tools are those which are typically used in conjunction with other assessments. We are providing these two tools, so your family members have an idea of what an assessment looks like. Ask your case worker, counselor, or your attorney to explain results and build your knowledge, ask what you and your family members can do to

positively impact the results going forward.

Drug Screening Questionnaire (DAST)

Patient name:

Date of birth:

Which recreational drugs have you used in the past year? (Check all that apply)

- methamphetamines (speed, crystal)
- cocaine
- cannabis (marijuana, pot)
- narcotics (heroin, oxycodone, methadone, etc.)
 - inhalants (paint thinner, aerosol, glue)
 - hallucinogens (LSD, mushrooms)
 - tranquilizers (valium) other

How often have you used these drugs? Monthly or less Weekly Daily or almost daily

1. Have you used drugs other than those required for medical reasons? No Yes
2. Do you abuse (use) more than one drug at a time? No Yes
3. Are you unable to stop using drugs when you want to? No Yes
4. Have you ever had blackouts or flashbacks because of drug use? No Yes
5. Do you ever feel bad or guilty about your drug use? No Yes
6. Does your spouse (or parents) ever complain about your involvement with drugs? No Yes
7. Have you neglected your family because of your use of drugs? No Yes
8. Have you engaged in illegal activities to obtain drugs? No Yes
9. Have you ever experienced withdrawal symptoms (felt sick) when you stopped taking drugs? No Yes
10. Have you had medical problems because of your drug use (e.g., memory loss, hepatitis, convulsions, bleeding)? No Yes

Do you inject drugs? No Yes

Have you ever been in treatment for a drug problem? No Yes

I	II	III	IV
0	1-2	3-5	6

Alcohol screening questionnaire (AUDIT)

Patient name:

Date of birth: _

One drink equal: 12 oz. Beer 5 oz. wine 1.5 oz. Liquor (one shot)

1. How often do you have a drink containing alcohol?

Ans: Never Monthly or less 2 – 4 times a month, 2 – 3 times a week, 4 or more times a week.

2. How many drinks containing alcohol do you have on a typical day when you are drinking?
Ans: 0 - 2 3 or 4, 5 or 6, 7 – 9, 10 or more

3. How often do you have five or more drinks on one occasion?
Ans: Never Less than monthly, Monthly, Weekly, Daily, or almost daily

4. How often during the last year have you found that you were not able to stop drinking once you had started?
Ans: Never Less than monthly, Monthly, Weekly, Daily, or almost Daily

5. How often during the last year have you failed to do what was normally expected of you because of drinking?
Ans: Never Less than monthly, Weekly, Daily, or almost daily

6. How often during the last year have you needed a first drink in the morning to get yourself going after a heavy drinking session?
Ans: Never Less than monthly, Weekly, Daily, or almost daily

7. How often during the last year have you had a feeling of guilt or remorse after drinking?
Ans: Never Less than monthly, Weekly, Daily, or almost daily

8. How often during the last year have you been unable to remember what happened the night before because of your drinking?
Ans: Never Less than monthly, Weekly, Daily, or almost daily

9. Have you or someone else been injured because of your drinking?
Ans: No__ Yes, but not in the last year, Yes, in the last year

10. Has a relative, friend, doctor, or other health care worker been concerned about your drinking or suggested you cut down?
Ans: No__ Yes, but not in the last year, Yes, in the last year

11. Have you ever been in treatment for an alcohol problem
Ans: Never, Currently, In the past

Scoring and interpreting the audit

1. Each response has a score ranging from 0 to 4. All response scores are added for a total score.
2. The total score correlates with a risk zone, which can be circled on the bottom left corner.

Score Zone Explanation

I - Low Risk 0-3

“Someone using alcohol at this level is at low risk for health or social complications.”

Counselor Action: Positive Health Message – describe low risk drinking guidelines 4-9

II – Risky: 4-9

“Someone using alcohol at this level may develop health problems or existing problems may worsen.”

Counselor Action: Brief intervention to reduce use 10-13

III – Harmful: 10-13

“Someone using alcohol at this level has experienced negative effects from alcohol use.”

Counselor Action: Brief Intervention to reduce or abstain and specific follow-up appointment (Brief Treatment if available) 14+

IV – Severe: 14

“Someone using alcohol at this level could benefit from more assessment and assistance.”

Counselor Action: Brief Intervention to accept referral to specialty treatment for a full assessment.

Positive Health Message, an opportunity to educate patients about the NIAAA low risk drinking levels and the risks of excessive alcohol use.

Brief Intervention to Reduce Use: Patient-centered discussion that uses Motivational Interviewing concepts to raise an individual’s awareness of his/her substance use and enhance his/her motivation to change behavior.

Brief interventions are typically 5-15 minutes and should occur in the same session as the initial screening. Repeated sessions are more effective than a one-time intervention. The recommended behavior change is to cut back to low risk drinking levels unless there are other medical reasons to abstain (liver damage, pregnancy, medication contraindications, etc.).

Brief Intervention to Reduce or Abstain (Brief Treatment if available) & Follow-up: Patients with numerous or serious negative consequences from their alcohol use, or patients who likely have an alcohol use disorder who cannot or are not interested in obtaining specialized treatment, should receive more numerous and intensive BIs with follow up.

The recommended behavior change is to cut back to low risk drinking levels or abstain from use.

Brief treatment is 1 to 5 sessions, each 15-60 minutes. Refer for brief treatment if available. If brief treatment is not available, secure follow-up in 2-4 weeks.

Brief Intervention to Accept Referral: The focus of the brief intervention is to enhance motivation for the patient to accept a referral to specialty treatment. If accepted, the provider should use a proactive process to facilitate access to specialty substance use disorder treatment for diagnostic assessment and, if warranted, treatment. The recommended behavior change is to abstain from use and accept the referral.

More resources: www.sbirtoregon.org

* Johnson J, Lee A, Vinson D, Seale P. “Use of AUDIT-Based Measures to Identify Unhealthy Alcohol Use and Alcohol Dependence in Primary Care: A Validation Study.” *Alcohol Clin Exp Res*, Vol 37, No S1, 2013: pp E253–E259



Solutions to Issues & Obstacles

Finding the Right Attorney:

One of the best ways to assess a lawyer's legal ability is by interviewing them. Most attorneys will provide an initial consultation (usually an hour or less) at no charge. Below are a few questions to consider:

- What experience does the lawyer have in your type of legal matter?
- How long have they been in practice?
- What is their track record of success?
- What percentage of their caseload is dedicated to handling your type of legal problem?
- Do they have any special skills or certifications?
- What are their fees and how are they structured?
- Do they carry malpractice insurance? If so, how much?
- Who else would be working on your case and what are their rates?
- Do they outsource any key legal tasks or functions?
- What additional costs may be involved in addition to lawyer fees (postage, filing fees, copy fees, etc.)?
- **How often will you be billed?**
- Can they provide references from other clients?
- Do they have a written fee agreement or representation agreement?
- How will they inform you of developments in your case?

Standard Hourly Rates

A flat fee is a composite of the attorney's standard hourly rate and how many hours he thinks he will have to invest in your case to resolve it. Ask what that hourly rate is and find out how much you will be charged for the services of other attorneys and paralegals in the firm.

This will give you an idea of how many hours the attorney expects the firm to spend on your estate plan. If he quotes you a \$5,000 flat fee and he bills his time at \$200 an hour, he expects that he and his firm will spend about 20 to 25 hours on your case.

The general rule is that the higher an attorney's hourly rate, the more experience he has. All those hours might seem like a lot to you, but the attorney should have a fairly good idea of the time it will take to meet with you, answer your questions, design, and draft your estate plan, review your plan with you, help you sign your plan, then help you fund your trust if you have chosen to include one.

Meet by Telephone First

It is common these days to handle a significant amount of business by telephone. Consider setting up telephone interviews with at least two estate planning attorneys before meeting in person. This will save your time and the attorney's time...if she is willing. Do not expect a great deal of decisive information in an initial phone interview. That would be like the attorney giving her advice away for free. Your goal for this phone conversation should be determining whether you want to work with her or not.

Each attorney should be able to get a feel for what your needs are during this conversation and quote you a flat fee for your basic estate plan. Remember, you are not asking what you should do, but rather how much it is likely to cost you to do what you have in mind. This gives you the opportunity to compare the flat fees quoted by each attorney and narrow down your choice as to who you want to meet with in person.

Busier attorneys might not offer this option.

Keep in mind that a higher fee does not necessarily equate with a more qualified attorney. Consequently, a rock bottom fee may signal problems, inexperience, or incompetence.

After meeting with the lawyer, you should ask yourself the following questions:

- Are the lawyer's experience and background compatible with your legal needs?
- Did they provide prompt and courteous responses to your questions?

- Are they someone with whom you would be comfortable working with?
- Are you confident they possess the skills and experience to handle your case?
- Are you comfortable with the fees and how they are structured?
- Are you comfortable with the terms of the fee agreement and/or representation agreement?

Consult Martindale-Hubbell Law Directory.

Found online at Martindale.com and at your local public and law libraries, Martindale-Hubbell is a great resource for information about a law firm and its lawyers. This guide is often used by lawyers when choosing legal talent in another jurisdiction. The directory includes basic practice profile data on virtually every lawyer in the United States and Canada and detailed professional biographies of leading lawyers and firms in 160 countries. It also includes lawyer and law firm ratings based upon peer reviews, which may help when choosing between two equally qualified candidates.

Ask Other Attorneys

Lawyers know the skill and reputation of other lawyers. Attorneys may be able to provide information about a fellow lawyer that you may not find in a book or online, such as information about a lawyer's ethics, competence level, demeanor, practice habits, and reputation.

Conduct a Background Check

Before hiring any lawyer, contact the lawyer disciplinary agency in your state to confirm that they are in good standing as a member of the bar. For an online listing of each state's lawyer disciplinary agency, review this directory of lawyer disciplinary agencies. You should always check references, especially if you located the attorney through the Internet. You can also check a lawyer's peer review ratings online at Martindale.com. Peer review ratings provide an objective indicator of a lawyer's ethical standards and professional ability, generated from evaluations of lawyers by other members of the bar and the judiciary in the United States and Canada.

Tour the Lawyer's Law Office

You can tell a lot about an attorney from his law office. Request a brief tour of his office, beyond the office or conference room where you met with the lawyer. Is the law office neat, orderly, efficient, and well-run? What kind of support staff does the lawyer employ? Does staff appear friendly and helpful? Is the lawyer's office local and easily accessible? Is a large portion of his office space unoccupied? Watch for red flags, such as mass disarray, unhappy staff members, and empty offices. By taking these five steps, you can select a lawyer with the legal skills and personal qualities that will best serve your needs.

VIDEO TWO: Jail Diversion



ASSIGNMENT VIDEO: On www.youtube.com/

Search Title: The Bexar County Story Jail Diversion

Published on May 4, 2018

Duration: 8:06 min.

Model Jail Diversion Program diverting the nonviolent mentally ill person from inappropriate incarceration and hospitalization.

VIDEO THREE: Drug Courts



ASSIGNMENT VIDEO: On www.youtube.com/

Search Title: DRUG COURT - Program Steps

Published on May 4, 2018

Duration: 8:47 min.

Judge Buccini outlines what it takes to get through Drug Court.

VIDEO FOUR: Jail Diversion



ASSIGNMENT VIDEO: On www.youtube.com/

Search Title: A rehab jail for heroin addicts

Published on May 4, 2018

Duration: 9:53 min.

Each day in the U.S. more than 115 people die from an opioid overdose. Whether it is by abusing

MASTER FAMILY PLAN OF ACTION FOR: "FAMILY IS A SYSTEM"

Complete answers and move to "Master Family Plan of Action" found in back of workbook.

1. Your family will identify the steps of a legal Court System Intervention of your loved one.
2. Your Family will use the workbook: The Substance Use Disorders Journey, It is Time to Get Organized and complete it now, in advance of needing it during an emergency.
3. Be prepared to request an assessment and become familiar with these tools.
4. Pre-Screen an attorney while there is time and less stress. The family will likely need this service at some point in the journey.
5. As part of the Master Family Plan of Action you will complete the review the needed points of contact in the practical exercises and gain a diagram level of understanding the court process.