



## **LEARNING MODULE I**

### **Seminar # 15**

#### **The Legal Court System Intervention**

#### **Learning Objectives**

1. What is the issue.
2. How can the issue impact the family.
3. What are the options.

## Pathfinder: The 12 Key Issues a Family Faces

**#1 Enabling vs Consequences**

**#2 Addiction Behavior**

**#3 Family Intervention**

**#4 The Police**

**#5 Emergency Medical Services**

**#11 Bereavement  
(Learning how to move forward)**  
**#12 Spirituality, Faith Practices**

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*What is the issue?*

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**#6 Legal Court System**

**#7 Treatment Centers**

**#8 Support Agencies Mapping**

**#9 The Relapse**

The

**#10 Successful Lifelong Recovery**

Sequential Intercept Model (SIM) is a tool that enables communities to create coherent strategies to divert people with mental and substance use disorders from the criminal justice system. The mapping process associated with SIM (see Figure 1) focuses on five discrete points of potential intervention, or “intercepts” (Munetz & Griffin, 2006). This gives the family members a visual perspective to the legal court systems intervention process.

Intervention 1: Law enforcement.

Intervention 2: Initial detention/first court appearance.

Intervention 3: Jails/courts.

Intervention 4: Reentry from detention into the community

Intervention 5: Community corrections, probation, and parole.

The Crisis Intervention Team model has been disseminated broadly as a strategy to improve law enforcement interventions at Intercept 1-2. Your community may have a mental health court, drug court, or other treatment courts. These have become an increasingly common part of the judicial landscape and define much of the conversation at Intercept 3. Reentry from jail or prison, Intercept 4, has become a core topic in general discussions regarding correctional policies at the federal, state, and local levels. SAMHSA's SSI/SSDI Outreach, Access, and Recovery) (Dennis & Abreu, 2010) ease reentry on release from jail or prison. And while many communities lack much in the way of resources at Intercept 5, a literature has emerged that discusses specialized probation as a strategy to ensure longer community tenure (Skeem & Manchak, 2008).

While each intercept presents opportunities for diversion, Intercept 2 holds the most unexplored potential. This is because it is at Intercept 2 (initial detention and first court appearance) that most individuals who meet the criminal justice system appear. These numbers overwhelm many court systems.

Many of these individuals have a mental illness and co-occurring substance use disorders; these are the individuals whom communities often try to divert. However, for a variety of reasons discussed below, this intercept is often overlooked.

The optimal diversion strategies that are most often overlooked and involve municipal courts are at first appearance (Intercept 2).

### **Municipal Courts: Definition and Caseloads**

Most people who are arrested appear before a “municipal court” or its equivalent. Municipal courts are courts of limited jurisdiction.

Figure 1. The Sequential Intercept Model

SSI/SSDI Outreach, Access, and Recovery (SOAR) expedites access to Social Security disability benefits – Supplemental Security.

### **The family members need to:**

1. Get Educated on the process.
2. Get Organized to be ready, should this occur.
3. Get Networked in advance, to know who is here to help.

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## *How can the issue impact the family?*

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### *Incarceration Diversion Programs*

#### **Identification and Screening Is an Important Step**

The Identification and screening process for co-occurring disorders in early diversion programs is challenging due to the high number of cases processed in municipal courts and the short time between arrest and arraignment.

Even in communities with police Crisis Intervention Teams, behavioral health information. So, the family needs to confirm this information is passed up the chain and included. It may be needed for the family to pay an attorney to hand carry it through the courts. This confusion is compounded by high volumes of cases, inadequate staffing, and space limitations. All these factors inhibit staff at initial detention from screening for mental illness and co-occurring substance use disorders and eligibility for diversion.

Many communities identify potential candidates for referral to specialty courts or appropriate community-based treatment at arraignment, but they lack the capacity to divert individuals with co-occurring disorders at arraignment. So, the family needs to be proactive.

To initiate prompt and timely diversion, the family needs to solicit resources that are devoted to identification and screening as early as possible following arrest.

For this reason, your family is needed in the ER, to advocate for the right level of assessments, treatment and especially follow-up care.

#### **Pre-Trial Services**

In many communities Pre-Trial Services is either under the auspices of the local probation department or a contracted agency. The main objective of Pre-Trial Services is to assess bail risk and determine the likelihood that someone will return to court.

As noted above, justice-involved people with mental illness are more likely to have more bail risk factors lack employment, lack of personal relationships, and most importantly, lack of an address. Consequently, likelihood of incarceration for people with mental illness is high at arraignment.

Pre-Trial Services is uniquely positioned to be a partner in early diversion programs. Adding a screening instrument (e.g., the Brief Jail Mental Health Screen) to the bail assessment will help to identify potential candidates for early diversion. Your courts may or may not have these components. If not ask why.

**Get Counsel:** Getting a defense counsel is the next strategic entity, to then interview the defendant. By incorporating a behavioral health screening into the initial interview, diversion candidates can be identified by attorneys, and the merits of diversion versus usual case processing can be discussed with this information included.

Many public defender offices employ social work staff to provide clinical assessment and diversion coordination for defendants; Focusing the efforts of clinical staff at arraignment allows the courts to identify and refer to diversion services and enhances prompt referral to post arraignment diversion programs.

**Court-Based Clinicians:**

When clinicians are present in court, there is added capacity for screening for diversion opportunities. Court-based clinicians may be employed by the court, local behavioral health departments, or contracted providers. Court-based clinicians face challenges regarding interview space, case volume, and time. Larger, municipal courts often operate seven days per week from morning to evening and providing clinical coverage for all hours of court operation may not be feasible.

**Judge and Court Staff**

Do not expect everyone understands the process. As a family member takes the initiative to confirm each step of the process. Even without clinical training, municipal court judges and their court staff are in a great position to identify defendants who seem to be struggling in the courtroom. Particularly in smaller jurisdictions, judges are familiar with repeat defendants and their families and have a sense about an individual's behavioral health needs. Recognizing there is interest among municipal court judges in gaining skills to understand behavioral health needs from the bench and respond appropriately.

The role of the court-based clinician is to provide both screening and assessment, as described above, and initial engagement and linkage. Once identification through a screening process is accomplished, assessment is required to determine clinical eligibility and treatment needs. Often there are few clinical records available, so assessment relies heavily on screening/assessment tools, psychosocial history, and mental status examination to determine clinical eligibility.

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### *What are the options?*

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#### *Drug Court and Veterans Court*

*Veterans Justice Outreach Specialists* the U.S. Department of Veterans Affairs (VA) initiated a Veterans Justice Outreach (VJO) initiative in 2009. VJO specialists are tasked with providing diversion alternatives for justice-involved veterans eligible for VA services.

VJO specialists may not have the capacity to service all municipal courts in their region, but where available, VJO specialists are effective in screening and identifying veterans for diversion programs, offer consultation regarding the most effective strategies for screening veterans, and provide access to VA services (Christie et al., 2012).

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## *Jail to Rehabilitation or Community*

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### **The Current Situation:**

An estimated 50 percent of the U.S. prison population has a drug addiction issue, but only about 10 percent get the necessary help. Sending many of these offenders to rehab rather than jail or prison could help save money in the following ways:

- Individuals in addiction recovery are less likely to be arrested again, which reduces costs related to arrest and incarceration.
- Fewer crimes committed also would reduce court costs and lawyer fees. Initial drug rehab and addiction treatment is less costly than prison.
- Addiction treatment and recovery improve health overall, which then reduces healthcare costs in both the short- and long-term.
- Addiction treatment and recovery would reduce costs associated with lost work productivity, either from incarceration or drug-related injury and illness.
- Recovery would save resources spent on caretaking for children of offenders or addicts.

The U.S. Department of Justice estimates that 15 percent to 20 percent of the United States' 2 million prisoners have a mental illness. Unlike clinics and hospitals, however, the prison system was not built to address serious mental-health needs.

Psychologists and, to a lesser extent, psychiatrists do provide mental health care to prison inmates, and may provide helpful rehabilitative services. Such programs, however, are difficult for prison-based therapists to implement on top of their already heavy caseloads. There are also not enough mental-health professionals to address every need in U.S. prisons.

Rehab programs for inmates are also difficult to create and implement because of philosophical and priority differences. While psychology is focused on treating and rehabilitating patients, the current criminal justice system is focused on punishing offenders.

Drug treatment studies for in-prison populations find that when programs are well-designed, carefully implemented, and utilize effective practices they:

- reduce relapse.
- reduce criminality.
- reduce recidivism.
- reduce inmate misconduct.
- increase the level of the offender's stake in societal norms.
- increase levels of education and employment upon return to the community.
- improve health and mental health symptoms and conditions.
- improve relationships.

Collectively, these outcomes represent enormous safety and economic benefits to the public.

Community Treatment Services is the reentry effort of the Psychology Services Branch. CTS, formerly known as Transitional Drug Abuse Treatment or TDAT, provides continuity of care for offenders placed in Residential Reentry Centers (RRCs) and on Home Confinement. Research has found this period to be the most vulnerable time for an offender to relapse into substance use and/or criminal behavior. Research also demonstrates continued treatment and supervision is an essential element to the offender's treatment and success.

CTS provides a comprehensive network of contracted community-based treatment providers in all 50 states, three U.S. Territories and the District of Columbia. The network of professionals consists of licensed individuals (e.g., certified addictions counselors, psychologists, psychiatrists, social workers, professional counselors, medical doctors, certified sex offender therapists, etc.) and specialized agencies resulting in a variety of services available in the community.

The CTS staffs work closely with U.S. Probation to establish a continuum of care as the offender leaves Bureau custody and moves to supervised release under U. S. Probation. To facilitate this process, U. S. Probation is provided with a comprehensive discharge/termination report on all offenders who have participated in treatment in the community. This provides the supervising U. S. Probation Officer valuable information regarding the offender's treatment progress and ongoing treatment needs.



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## ***Finding an Attorney***

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If you are a multiple offender, have several DUI's, or otherwise have a proven track record of committing substance related crimes, your judge may recommend you to a rehabilitation program instead of to prison. In most cases, you will be given a dual option of either rehab or jail, so you can choose which you want to do.

You can also encourage this process by consulting with your lawyer and asking them to recommend you court ordered rehab. Your lawyer can help you to determine if you qualify (for example, if you have a history of drug or alcohol use) and can then recommend the option to the judge as a solution over jail. Importantly, this is only a solution in non-violent crimes.

Here, you will go through a process where you are assigned a case worker who will spend time with you to determine your actual drug and alcohol use and how much it was responsible for your crime. If the case worker agrees, you will be sentenced to rehab, possibly followed by, or including a stint in AA.

### **The Contents of this Study Guide Session:**

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### **Municipal Courts:**

An Effective Tool for Diverting People with Mental and Substance Use Disorders from the Criminal Justice System SAMHSA Publication