

# IV. GUIDES TO THE MODULES FOR FACILITATORS

## Introduction to the Guides

The following guides provide additional support for each module in *Developing a Mental Health Court*. You should review these guides in tandem with the materials for each module, particularly the Presentation and Activities Guide sections. Each guide contains:

Aim of the Module	Implicit purpose of the module (i.e., what you want participants to “get out of” the module)
Learning Objectives	Explicit outcomes of your training; what participants should be able to know or do
Facilitating the Activities	Includes the aim of the activity; materials and resources needed; common concerns and how to address them; additional discussion questions not included in the Activities Guide for the module; facilitation tips; and information for the team to learn more on the topic area

Note: Some of the videos in the Presentation and Activities Guide sections show the Bonneville County (Idaho) Mental Health Court team (a Bureau of Justice Assistance Mental Health Court Learning Site) discussing their experiences operating a mental health court; others show the team engaging in simulated team meetings and discussing hypothetical program participants. Convey to participants that the Bonneville County Mental Health Court program emerged as a result of the priorities and resources in that community, as well as due to the efforts of particular individuals. While there are many impressive aspects to its work, the Bonneville team is not shown as a “model” mental health court team; for example, some may note the absence of a defense attorney at team meetings. Rather, the Bonneville team represents people facing real challenges in a mental health court setting, sometimes acting on prompts for learning purposes. Encourage participants to think about which aspects of the Bonneville team’s approach they might apply to their community, and what they might do differently.

### Tip

Be sure to include time at the end of each activity to debrief. Ask everyone to think of the most important thing they learned and what they would do differently as a result. Each person can write this down and keep a running list to share with the group after completing the modules.

# Module 1: Understanding Mental Health Courts

## Aim of Module

The aim of this module is to introduce teams to mental health courts as one of many program options to improve outcomes for people with mental and co-occurring substance use disorders. It includes general information on the overrepresentation of people with mental disorders in the criminal justice system, research on mental health courts, and the essential elements of mental health courts, as well as common concerns with the mental health court program model and alternative approaches. This information can help community members, practitioners, and policymakers decide whether starting a mental health court program is the best response to meet the needs of their jurisdiction. The module will conclude with a few questions for participants to reflect upon to help determine whether starting a mental health court is desirable and identify what the next steps are in the process.

## Learning Objectives

By the end of the module, participants should be able to

1. articulate why a community may decide to start a mental health court;
2. describe the mental health court model and the state of research on program outcomes; and
3. identify program models other than mental health courts that have been shown to improve outcomes for individuals with mental disorders who are involved in the criminal justice system.

### Tip

You may wish to draw the participants' attention to this activity before meeting in person and ask different individuals to be responsible for researching and completing different parts of the map beforehand. The in-person meeting can then be an opportunity for each person to share what she or he has developed.

## Facilitating the Activities

### Activity 1: Systems Mapping

#### Aim of Activity

The group should emerge from this activity with an increased understanding of how individuals with mental disorders move through the system's criminal justice system. This activity is also likely to improve understanding among the different system actors about how different parts of the criminal justice and mental health systems work. System mapping is a very common strategy that draws on the idea that often a picture is worth a thousand words (or conversations). With each actor contributing his/her perspective to how individuals with mental disorders move through the system, a complete, common picture of the system emerges. Individuals from different agencies gain a better appreciation for what goes on in other parts of the system, and the group builds a common foundation of knowledge for future planning.

#### Materials and Resources Needed

- » Whiteboard/blackboard/flip charts and writing implements for sketching out the flows and listing the interventions

- » A printed copy of Module 1’s Activities Guide for each participant so that they have copies of:
  - » *The Flowchart of Select Events Experienced by a Person with Mental Illness in the Criminal Justice System*—CSG Justice Center’s Criminal Justice/ Mental Health Consensus Project (Page 6 in Module 1’s Activities Guide)
  - » *The Sequential Intercept Model*—Munetz & Griffin, adapted by SAMHSA’s GAINS Center for Behavioral Health and Justice Transformation (Page 8 in Module 1’s Activities Guide)

### Tip

Encourage the team to refer to the list of team members in the videos. The handout can be printed from the Activities Guide webpage for each of the modules, under “[Meet the mental health court case study team members.](#)”

## Common Concerns and How to Address Them

In this activity, the group will develop a catalog of existing policies and programming to address the overrepresentation of individuals with mental and/or co-occurring substance use disorders spanning the criminal justice continuum. (See the flowchart in Module 1 of the Activities Guide, sections (a) and (b), and/or across all of the intercepts in the Sequential Intercept Model in sections (c) and (d).) If the community has undergone system mapping in the past, these materials should be made available to the group. During the discussion, the group may identify opportunities for the revision of existing, or the development of new, policies or programming. Note down responses and come back to this list with the group to prioritize ideas for near-, medium-, and long-term planning based on potential impact, necessary resources, required approval processes, and other local priorities. You may find that more stakeholders are needed to provide further system information. Have the group flag these places, identify who may be able to fill in the missing information, and assign someone at the table to coordinate with these partners.

Although this activity is intended for examining all of the intercepts, it is possible the group will concentrate on court-based responses only, which would represent just two of the “intercept points” (intercepts 2 and 3). However, you may want to stress that a comprehensive system-wide strategy is required to address problems raised by the large number of people with mental disorders and/or co-occurring substance use disorders in the criminal justice system.

Opportunities specific to intercepts 2 and 3 and most relevant to court practitioners include problem-solving courts (e.g., mental health courts) and a number of others, including:

- **Deferred Prosecution/Pretrial Diversion.** In some jurisdictions, the prosecution is able to drop or reduce charges for eligible defendants if they successfully meet certain requirements (e.g., specific programming and/or treatment). Many jurisdictions have formalized deferred prosecution programs, which are sometimes referred to as pretrial intervention or pretrial diversion programs. (Under “For the Team to Learn More,” please see Resource 1 of “Resources on alternative responses to mental health court programs.”)
- **Specialized probation.** Some probation departments designate specific caseloads for clients with mental health needs that are generally overseen by probation officers who have backgrounds in mental health services or have received additional training. These caseloads are typically smaller than average and allow probation officers to spend more time with each client and provide more individualized supervision. (Under “For the Team to Learn More,” please see Resource 2 of “Resources on alternative responses to mental health court programs.”)

- **Mental health public defenders.** In some public defender offices, a defender or a team of defenders are designated as “mental health public defenders” and are assigned cases involving individuals with mental health needs. These defenders generally have a background in or special training for working with individuals with mental and/or co-occurring substance use disorders, and often work with social workers and other mental health specialists to address the variety of needs associated with these clients. (Under “For the Team to Learn More,” see Resource 3 of “Resources on alternative responses to mental health court programs.”)
- **Holistic defense.** Holistic defense is a model for providing public defense that seeks to address not only individuals’ immediate criminal cases but also the collateral consequences of criminal justice involvement by providing civil legal representation, social work support, and community advocacy. (Under “For the Team to Learn More,” please see Resource 4 of “Resources on alternative responses to mental health court programs.”)

Many communities pursue mental health courts alone or in combination with other court-based initiatives. Others decide after completing a thoughtful needs assessment that implementing a mental health court is not the most appropriate response, and instead decide to pursue alternative court-based programs. (Activity 3 of Module 1 is intended to spur this thoughtful consideration by having the group revisit their findings from completing the mapping process and develop a list of reasons for and against starting a mental health court program in their jurisdiction.)

## For Additional Discussion

1. Some communities across the country have conducted systems mapping as a first step to develop a countywide strategic plan to improve responses to individuals with mental disorders in the criminal justice system across all intercepts.
  - a. *Ask: Does your community have a taskforce, commission, or similar type of entity that has undergone this type of work?*
  - b. *Ask: If not, is there interest in building upon this initial systems mapping exercise to coordinate a broader, systems-wide effort, of which the mental health court is an important component?*
2. Some groups that have worked through this activity in the past have added a “community-based prevention” intercept (or intercept 0) focusing on efforts that can be made to enhance continuity of care and connections to services before an individual even comes into contact with the criminal justice system (or law enforcement, intercept 1). Have the group discuss where the strengths and areas of improvement are to meet the needs of high-risk, high-need individuals in the community to reduce their likelihood of encountering the criminal justice system in the first place. This will likely yield a discussion of strategies to improve public health and public safety at multiple levels—from a policy to an individual level. (See the Social Ecological Model link in “For the Team to Learn More” for a helpful framework used in the public health field.)
3. It is possible that a community leader may propose a mental health court to address the overrepresentation of people with mental disorders in the justice system because that is the approach he or she has heard the most about. What other approaches did group members hear about, either in this module or through other research? Would any of these approaches be more appropriate?

## For the Team to Learn More

### 1. For examples of completed systems maps and accompanying reports:

**Resource 1:** Rosalyn Bertram et al., “Policy Research Brief: Implementation Opportunities and Challenges for Prevention and Promotion Initiatives” (Center for Mental Health Services, Substance Abuse and Mental Health Services Administration, 2011), [hhs.gov/ash/oah/news/assets/sts\\_implementation\\_opportunities\\_challenges.pdf](https://hhs.gov/ash/oah/news/assets/sts_implementation_opportunities_challenges.pdf).

**Resource 2:** System map of Multnomah County, Oregon: Policy Research Associates, *Sequential Intercept Mapping & Taking Action for Change—Multnomah County, Oregon*, Final Report, April 2010, [multco.us/file/35510/download](http://multco.us/file/35510/download).

**Resource 3:** Systems maps of multiple counties in the Commonwealth of Pennsylvania conducted by the Pennsylvania Mental Health and Justice Center of Excellence (click on “mapping report”):<sup>36</sup> Center for Research on Health Care (CRHC) Data Center, “Cross-System Reports,” *Pennsylvania Mental Health & Justice Center of Excellence: Cross-System Reports*, accessed April 14, 2014, [pacenterofexcellence.pitt.edu/mapping\\_Reports.html](http://pacenterofexcellence.pitt.edu/mapping_Reports.html).

### 2. A paper on the use of the Social Ecological Model in the Public Health field to improve community health:

Seunghyun Yoo et al., “Collaborative Community Empowerment: An Illustration of a Six-Step Process,” *Health Promotion Practice* 5, no. 3 (July 1, 2004): 256–65.

### 3. Resources on alternative responses to mental health court programs:

**Resource 1:** For more information on deferred prosecution and pretrial diversion programs, and how they have been used to reduce recidivism and advance recovery for individuals with mental and/or co-occurring substance use disorders, please see: John Clark, *Non-Specialty First Appearance Court Models for Diverting Persons with Mental Illness: Alternatives to Mental Health Courts* (Delmar, NY: Technical Assistance and Policy Analysis Center for Jail Diversion, February 2004), [gainscenter.samhsa.gov/pdfs/jail\\_diversion/pre\\_trial\\_nocover.pdf](http://gainscenter.samhsa.gov/pdfs/jail_diversion/pre_trial_nocover.pdf).

**Resource 2:** For more information on specialized probation for individuals with mental disorders, please see: *Improving Responses for People with Mental Illnesses: The Essential Elements of Specialized Probation Initiatives* (New York, NY: Council of State Governments Justice Center, 2009), [csgjusticecenter.org/cp/publications/improving-responses-to-people-with-mental-illnesses-the-essential-elements-of-specialized-probation-initiatives/](http://csgjusticecenter.org/cp/publications/improving-responses-to-people-with-mental-illnesses-the-essential-elements-of-specialized-probation-initiatives/).

**Resource 3:** For more information on mental health public defenders, and how this model has worked in Austin, Texas, please see: Carmichael, Dottie, et al., *Representing the Mentally Ill Offender: An Evaluation of Advocacy Alternatives* (Austin, TX: Texas Task Force on Indigent Defense Office of Court Administration, 2010), [sfsuperiorcourt.org/sites/default/files/pdfs/metally\\_ill\\_offender.pdf](http://sfsuperiorcourt.org/sites/default/files/pdfs/metally_ill_offender.pdf).

**Resource 4:** For more information on holistic defense, please see: “Holistic Defense, Defined,” The Bronx Defenders, [bronxdefenders.org/holistic-defense/](http://bronxdefenders.org/holistic-defense/).

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<sup>36</sup> The Pennsylvania Mental Health and Justice Center of Excellence ([pacenterofexcellence.pitt.edu/index.html](http://pacenterofexcellence.pitt.edu/index.html)) works to help counties design and implement collaborative responses to individuals with mental and co-occurring substance use disorders in their criminal justice systems.

## Activity 2: Meet the Bonneville County (ID) Mental Health Court Team

### Aim of Activity

Activity 2 is designed to introduce the team to a real mental health court team. Throughout the curriculum, they will encounter this team engaging in mental health court team activities. Through this activity, the team should gain an understanding of which professions are represented on a mental health court team and how these professionals interact on the team. Each team member should also have opportunities throughout this module to reflect upon their own role in contributing to the program's and participants' success.

### Materials and Resources Needed

- » A printed copy of Module 1's Activities Guide for each participant so that they have copies of the brief description of the Bonneville County Mental Health Court team (Pages 2 to 3 in Module 1's Activities Guide)
- » Handout listing the Bonneville County Mental Health Court team members
- » Whiteboard/blackboard/flip charts and writing implements for recording group responses
- » Module 1's Activities Guide Video Clips (available at [learning.csgjusticecenter.org/?page\\_id=215](http://learning.csgjusticecenter.org/?page_id=215)) and a computer with Internet access and good speakers
- » For group viewing of the video clips, an LCD projector is encouraged. Please note that access to YouTube is required to stream the video.

#### Tip

Encourage the team to refer to the list of team members in the videos. You may want to print copies ahead of time to bring to the training. The handout can be printed from the Activities Guide webpage for each of the modules, under "[Meet the mental health court case study team members.](#)"

### Common Concerns and How to Address Them

This activity introduces the group to the Bonneville Mental Health Court Team—a real mental health court team featured throughout the curriculum—reacting to hypothetical scenarios and engaging in issues that mental health courts face daily. As explained in this handbook's introduction, teams are encouraged to watch and discuss these clips together to consider why different team members in the videos are making certain statements and decisions. Though the Bonneville County Mental Health Court Team illustrates some best practices that will be useful as the group is planning their own program, you should encourage training participants to think about what they might do differently from this team, particularly as members of the Bonneville team are occasionally acting on prompts to generate conversation. For example, the Bonneville Mental Health Court does not have a defense attorney participate in the staffing meetings or in status hearings so this

important voice is absent in the videos. Ideally, a defense attorney who will be involved in the program will be present to participate in the activities involving the Bonneville County Mental Health Court team. You may want to consider asking the training participant to provide his/her perspective on this case example and how she or he might approach the conversation differently had she or he been involved in the staffing meeting or status hearing depicted in the videos.

It will be very useful for each person to have a copy of the handout listing the members of the Bonneville County Mental Health Court team who they will see in the videos. The handout includes a photo of each person, his/her name, and his/her role on the mental health court team. This handout can be downloaded on the “Activities Guide” page for each module (except for *Module 2: Your Community, Your Mental Health Court* as it is the only module without videos).

## For Additional Discussion

1. Once the group has watched the videos and met all of the members of the Bonneville County Mental Health Court team, ask them to react to what they heard.
  - a. Ask: *Are there particular things that resonate with you? Are there certain things that give you pause that you don't necessarily agree with?*
  - b. Ask each person to react to how their professional counterpart on the Bonneville County Mental Health Court team described the program and his/her role.
    - i. Ask: *Does what she or he said differ from how you perceive your role on the mental health court team? How so?*
    - ii. Ask: *Are there certain programmatic design elements that the Bonneville County Mental Health Court team discussed that you would like to explore the applicability of to your own program?*

## For the Team to Learn More

**To learn more about the Bonneville County Mental Health Court:**

[csgjusticecenter.org/mental-health/learning-sites/idaho-falls-mental-health-court/](http://csgjusticecenter.org/mental-health/learning-sites/idaho-falls-mental-health-court/).

## Activity 3: Should Our Community Plan a Mental Health Court?

### Aim of Activity

Activity 3 is designed to prompt a thoughtful discussion to help team members consider whether or not to plan a mental health court program in their community. During this activity, team members will develop a preliminary list of reasons for and against starting a mental health court program in their jurisdiction.

### Materials and Resources Needed

- » A printed copy of Module 1's Activities Guide for each participant so that they have copies of:
  - » *The Flowchart of Select Events Experienced by a Person with Mental Illness in the Criminal Justice System*—CSG Justice Center's Criminal Justice/Mental Health Consensus Project (Page 6 in Module 1's Activities Guide)
  - » *The Sequential Intercept Model*—Munetz & Griffin, adapted by SAMHSA's GAINS Center for Behavioral Health and Justice Transformation (Page 8 in Module 1's Activities Guide)
- » Whiteboard/blackboard/flip charts and writing implements for recording group responses

#### Tip

Encourage the team to refer to the list of team members in the videos. You may want to print copies ahead of time to bring to the training. The handout can be printed from the Activities Guide webpage for each of the modules, under "[Meet the mental health court case study team members.](#)"

### Common Concerns and How to Address Them

Planning any kind of interdisciplinary, cross-systems response to address the needs of people with mental disorders in the criminal justice system takes work and will likely involve a significant amount of time, effort, and resources. As such, the process should not be initiated without careful consideration and an affirmative decision that a mental health court is the best option for the community. With this in mind, *Module 1: Understanding Mental Health Courts* was intentionally designed to give teams a moment to pause to discuss and decide whether a mental health court is the right response for their communities. The curriculum and Module 1, in particular, are designed to help communities have frank, thoughtful conversations. In fact, one of the sites that piloted the curriculum went through all of the modules before deciding that a mental health court wasn't appropriate for their community, and pursued a specialized pretrial supervision program instead.

While *Module 1* is designed to encourage this discussion and decision making, the group may have already had this discussion and made a decision, or they may not be ready to engage in this conversation even once they reach the end of this activity. Additionally, going through *Module 2: Your Community, Your Mental Health Court* may help the group think through the availability of resources in their community and how a mental health court would fit into the existing landscape.

As the facilitator, you can use this activity to purposefully dedicate time to this decision and use it as a starting off point to determine (1) if the group would like to initiate the planning process for a mental health court program and thus engage in additional training using the remaining modules of the curriculum, and (2) which other stakeholders ought to be involved in the training moving forward. As



such, this activity will likely not be particularly useful for teams with programs that are already up and running.

Having the right people at the table is key for Module 1. Potential issues may arise if the leaders and decision makers who would need to be present are not there at the time of the training, and the decision may then need to be made after a series of conversations and training sessions over time.

## For Additional Discussion

1. Ask: *Are there individuals not participating in the training who would need to be present to engage in the conversation of whether or not to move forward in planning a mental health court program?*
  - a. *If so, who?*
  - b. *Who will reach out to him/her?*
  - c. *Are there individuals who are not likely to need to participate in the program, but who the team needs to engage with in some way before moving forward?*

## For the Team to Learn More

### **For more information on court-based initiatives other than mental health courts:**

Hallie Fader-Towe and Ann-Marie Louison, “Moving Beyond Mental Health Courts: Introduction to the Range of Court-Based Initiatives” (presented at the FY2011 Justice and Mental Health Collaboration Program, Grantee Orientation Meeting, Council of State Governments Justice Center, March 2012), [cases.org/resources/presentations/Moving%20Beyond%20MH%20Courts.pdf](http://cases.org/resources/presentations/Moving%20Beyond%20MH%20Courts.pdf).

# Module 2: Your Community, Your Mental Health Court

## Aim of Module

The aim of this module is to help walk groups through a thoughtful process to determine whether a mental health court program is appropriate for their community by (1) evaluating what the needs and resources are of their communities, and (2) exploring how to build upon local circumstances to shape the goals and design of the mental health court program. It is important that teams determine who will need to be at the table and what roles will be, identify concrete goals and how to measure progress, and explore how to build upon what is already in place.

## Learning Objectives

By the end of the module, participants should be able to

1. identify local- and state-level stakeholders who should help plan the mental health court;
2. articulate common mental health court goals and ways of measuring these goals; and
3. understand how to build on local resources and priorities to shape the program.

## Facilitating the Activities

### Activity 1: Thinking About Your Team

#### Aim of Activity

This activity is designed to help the group think about how to involve appropriate stakeholders in the planning process and to understand the difference between the advisory group and the mental health court team. At the end of this activity, the group should have created a list of individuals or organizations that could potentially serve on their advisory group and mental health court team, as well as the roles and responsibilities of these individuals. The group should also have a better understanding of the expectations for the roles and time commitment of each team member in the planning process.

#### Tip

Encourage the team to refer to the list of team members in the videos. The handout can be printed from the Activities Guide webpage for each of the modules, under [“Meet the mental health court case study team members.”](#)

#### Materials and Resources Needed

- » A printed copy of Module 2’s Activities Guide for each participant so they have copies of scenarios and questions
- » Whiteboard/blackboard/flip charts and writing implements for recording group responses

#### Common Concerns and How to Address Them

Whether it is agreeing to new practices or dedicating staff time or other resources, leadership and line staff from diverse organizations must come together to make a mental health court function well. Sometimes

these leaders are already assembled through an existing coordinating council or task force. These groups often involve representatives of mental health, substance use, housing, and other social service agencies who would also be involved in the mental health court program. However, some communities may not have such an entity and the discussion of the mental health court may be in the inciting factor prompting the creation of one. As such, these communities may require additional support and training to identify and engage stakeholders and formalize their involvement.

It is likely that if you have a group assembled for a training on mental health courts that there is already buy in for starting a program—or at least for exploring the model. However, many communities struggle with bringing together key stakeholders for even initial discussions. This can be due in part to stakeholders having different concerns and priorities, and a lack of understanding of “what’s in it for them.”

As the facilitator, you will want to make sure to get a sense ahead of time of what the major challenges relating to stakeholder engagement and buy-in are for the group so that you can determine whether additional time is necessary to help the group develop an engagement strategy.<sup>37</sup> For example, the team may want to think about the role that the judge can play in convening the group and taking a role in facilitation or at least supporting the facilitator at key points. Judges carry with them the neutrality of the court in the criminal process and are well positioned to moderate discussions between parties (prosecutors, defense attorneys, mental health providers, representatives from advocacy and community organizations, etc.) with different priorities and attitudes toward a mental health court program and how it should be organized. Also, if a respected judge convenes a meeting to explore the potential for a mental health court program, other stakeholders, regardless of their opinions on this approach, are more likely to attend.

## For Additional Discussion

1. This activity emphasizes the different types of involvement that stakeholders may have in the program as a member of the advisory group, or a member of the mental health court team. Although there may be significant overlap, it may not be appropriate for certain people to participate in both. Perhaps the group needs certain leaders or decision makers in the advisory group, but not as members of the mental health court team. What is important to understand in considering the membership of the advisory group versus the mental health court team is that if people do not feel that their time is being spent productively, the initial energy around starting a program will peter out quickly. This can then lead to possible burn out and negatively impact their commitment to the planning effort.
  - a. Ask the team to revisit the section of the presentation that lays out the differences in function and role between the advisory group and the mental health court team as they are completing this activity, particularly part (f) on page 8 of the Activities Guide.

## For the Team to Learn More

**For resources to help the group assess their current level of collaboration and identify ways to build upon this collaboration,** please see the “Collaboration Assessment Tool.” This tool contains two worksheets that should be completed by both the criminal justice and behavioral health partners. The tool is available at [csgjusticecenter.org/mental-health-projects/cp-technical-assistance/technical-assistance-tools/collaboration-assessment-tool/](https://csgjusticecenter.org/mental-health-projects/cp-technical-assistance/technical-assistance-tools/collaboration-assessment-tool/).

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<sup>37</sup> As you read in the “Customizing the Curriculum” section of the *Handbook for Facilitators*, you can use the questions provided in Appendix G, Section B for questions to help you identify existing partnerships and possible tensions among the group.

## Activity 2: Your Mission, Goals, and Data

### Aim of Activity

Activity 2 is designed to help the group develop a customized mission statement and articulate measurable goals for their mental health court program. After completing the activity, the team should have drafted a mission statement and identified preliminary goals for their program. The team should also gain an understanding of where and how to gather baseline data that will help in measuring progress towards these goals.

### Materials and Resources Needed

- » A printed copy of Module 2's Activities Guide for each participant so that they have copies of the Water County mission statement and court goals (Pages 15 to 16 in Module 2's Activities Guide)
- » Whiteboard/blackboard/flip charts and writing implements for recording group responses and drafting a mission statement and program goals

### Common Concerns and How to Address Them

Collecting data on people with mental disorders in the criminal justice system can be extremely difficult. Data on this population is often maintained by multiple agencies in the criminal justice and behavioral health systems. Even within particular agencies, information technology may be outdated or ill-equipped to provide specific information related to people with mental disorders who become involved with the criminal justice system. Because of these obstacles, sufficient data may not be available to answer the full range of questions that a team would want to consider. For example, a jail may track the number of inmates receiving psychotropic medication, but may not have aggregate data on inmate diagnoses. As the facilitator, you will want to emphasize that data-driven answers to a more limited set of questions are preferable to anecdotal responses to a broader range of questions.

Depending on how much legwork the team has already done to collect the necessary baseline data, it may be time-consuming and frustrating for teams to assemble this data before the training. As the facilitator, you will want to try to acknowledge any difficulties that the team faces and validate their frustrations; however, try to be as solution-focused as possible. Try to guide the team to develop a plan to identify necessary data, and then determine who is responsible for obtaining it. Knowing what is “must have” versus “nice to have” can help move the group past obstacles. In every system there will be nuances or exceptions to the rule; the goal here is getting accurate data to get a good sense of needs, not the whole picture in minute detail. It is also worth noting that participants may confuse data for analytical purposes (i.e., setting a baseline and measuring progress on specific goals) with individual case level data used for case management while an individual is participating in the mental health court program (e.g., dates that participant John must appear in court and has scheduled appointments with his counselor). While it is ideal for a case management data system to serve as the basis for the broader analytics, it is likely that in many places different systems may be needed.

A major takeaway of this activity is that the mental health court team will want to clearly articulate goals, determine a baseline, and collect data to measure whether their program is achieving these goals. It is important for the team to understand the importance of using data to not only determine or confirm need, but to show that the program is achieving positive outcomes—or to know what improvements to make in order to maximize positive outcomes. In this way, this activity is intended to help the team

understand (1) that thinking about how to evaluate their program ties directly to the program’s design, and (2) why it is important to think about this as early as possible in the planning process.

## For Additional Discussion

1. If it is determined that necessary data are not available, will a plan be developed for future collection of this data?

## For the Team to Learn More

### Resources on data collection and program evaluation in mental health courts:

**Resource 1:** For more information on collecting outcome data for mental health courts, please see Henry J. Steadman, *A Guide to Collecting Mental Health Court Outcome Data* (New York: Council of State Governments Justice Center, 2005), [bj.gov/Programs/MHC-Outcome-Data.pdf](http://bja.gov/Programs/MHC-Outcome-Data.pdf).

**Resource 2:** With the support of the U.S. Department of Justice’s Bureau of Justice Assistance, and the Health Foundation of Greater Cincinnati, the CSG Justice Center developed a database for mental health court operations and reporting. This database is available free on a CD and includes a User Manual, Tech Guide, and Data Dictionary for interested jurisdictions. No technical support is available for database modifications or installation difficulties. The team can request a copy by submitting a request through the “Contact Us” page on the curriculum website.

**Resource 3:** This webinar—the first in a two-part series—focuses on practical approaches for collecting mental health court data. The webinar also teaches skills and techniques for working with mental health court data in Microsoft Excel.

Cynthia Kimmelman, Andrew Barbee, and Hallie Fader-Towe, “Webinar: Working with Data for Mental Health Court Practitioners, Part One: Data Collection and Manipulation” (Webinar, Council of State Governments Justice Center), [csgjusticecenter.org/cp/webinars/webinar-archive-working-with-data-for-mental-health-court-practitioners-part-one-data-collection-and-manipulation](http://csgjusticecenter.org/cp/webinars/webinar-archive-working-with-data-for-mental-health-court-practitioners-part-one-data-collection-and-manipulation).

**Resource 4:** The second part of the “Working with Data for Mental Health Court Practitioners” webinar series presents perspectives on data analysis and provides suggestions on how to analyze data and meaningfully present the findings.

Cynthia Kimmelman and Andrew Barbee, “Webinar: Working with Data for Mental Health Court Practitioners, Part Two: Data Analysis and Communication,” [csgjusticecenter.org/cp/webinars/webinar-archive-working-with-data-for-mental-health-court-practitioners-part-two-data-analysis-and-communication](http://csgjusticecenter.org/cp/webinars/webinar-archive-working-with-data-for-mental-health-court-practitioners-part-two-data-analysis-and-communication).

## Activity 3: Building on What You Have: An Inventory of Resources

### Aim of Activity

This activity is designed to help the group develop an inventory of services and resources that are available in their community that would be useful for program participants. This exercise will also help training participants identify resource gaps that will need to be addressed. They should develop a list of community resources available to their participants as well as a plan for creating linkages between these resources and the mental health court program.

#### Tip

Encourage the team to refer to the list of team members in the videos. You may want to print copies ahead of time to bring to the training. The handout can be printed from the Activities Guide webpage for each of the modules, under [“Meet the mental health court case study team members.”](#)

### Materials and Resources Needed

- » A printed copy of Module 2’s Activities Guide for each participant so that training participants have copies of the Resource Inventory worksheet (Page 21 to 26 in Module 2’s Activities Guide)
- » Whiteboard/blackboard/flip charts and writing implements for recording group responses

### Common Concerns and How to Address Them

A mental health court program’s success is based on its participants receiving appropriate treatment in the community, so it is crucial that the program has the services and supports in place to address participants’ potentially extensive and complicated needs. Conducting a full inventory of what is available in the community is necessary to give the team a sense of what the program’s service capacity could be and where there are gaps. The team may express that completing this full inventory with the current group composition may not be possible, particularly as there may be myriad service providers in the community who may not be present (especially in larger, urban communities). However, encourage the group in its current form to at least get a running start on working through the worksheet, identify additional agencies or organizations to contact, and assign who should contact them to fill in any missing information. You can emphasize with the team that while completing this worksheet may take time, they are ultimately developing a useful “directory” of resources for the mental health court program that they will be able to use and update moving forward.

Understandably, depending on the team’s community, there may be some frustration based on the type and magnitude of service gaps. Across the board, deep budget cuts to all systems have led to staff reductions and a diminished capacity to offer services. Communities are facing different challenges that place strain on already scarce resources, so it is important that limited resources are most wisely spent on interventions that target criminogenic and behavioral health needs and—if properly implemented—have demonstrated positive outcomes for clients as well as for the system (more detailed discussion of this is provided in *Module 4: Target Population* and *Module 6: Case Planning*). There will be differences across communities—particularly across urban and rural communities—with regard to the availability and accessibility of quality care and services to address the needs of individuals with mental and co-occurring substance use disorders. Rural communities may face challenges to implementing certain evidence-based practices and programs (EBPs)—such as lack of

transportation and a scarcity of qualified and licensed health professionals (particularly those that are dually licensed to provide mental health and substance use treatment services).<sup>38</sup> It may be helpful to identify an existing mental health court program operating in a similar jurisdiction to be able to compare notes and find out what steps they took to address identified service gaps.

Even if the group identifies that certain services or supports are available in their community, it does not mean that the agencies or programs are willing and able to accept court referrals. Some mental health providers may be reluctant or even unwilling to accept clients referred by the criminal justice system, especially those perceived to be “high risk” of either committing new crimes or potentially dangerous behavior. The mental health care community often feels that it is asked to assume a public safety role that is not in sync with its primary mission. Yet many of their existing clients have likely been involved in the criminal justice system at some point in their lives. Mental health court program team members should respect these concerns and try to address misunderstandings that criminal justice and behavioral health partners may have about each system’s capacity, abilities, roles, and appropriate types of referrals. Remember that the Introduction modules can be used to address this goal.

Essentially, criminal justice and behavioral health professionals should take a coordinated approach to reducing recidivism and promoting recovery for mental health court participants. Engaging in discussions with reluctant treatment providers can help build effective partnerships and help communicate how the mental health court program relates to their work. Emphasizing that the clinical requirements are comparable regardless of criminal justice involvement may make mental health treatment providers more amenable to serving program participants. Treatment providers can also be reminded that the addition of court leverage to a treatment regiment often creates better overall outcomes for both the mental health and criminal justice systems.

## For Additional Discussion

1. *Ask: Are there other services or resources that aren’t included on the worksheet for this activity but are available in the community?*
2. A substantial number of individuals with mental disorders who may be eligible for the mental health court program may also have co-occurring substance use disorders. Integrated treatment (see page 5 of this activity’s worksheet, listed under Evidence-Based Programs for Mental Health Treatment) has been demonstrated as the most effective treatment for individuals with serious mental and co-occurring substance use disorders, but the availability of integrated services remains limited in most communities. Bring this to the group’s attention to stress that not only will many participants in the mental health court have co-occurring substance use disorders, but research indicates that the program ought to offer integrated treatment whenever possible for these individuals.
3. While this activity focuses on identifying what resources and services are available, an equally important exercise is to determine how resources and services are or can be paid for. Federal benefit programs (e.g., Medicaid) play an important role in enabling individuals with mental disorders to receive public mental health services. Health reforms such as the Mental Health Parity and Addiction Equity Act (passed in 2008) and the Patient Protection

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<sup>38</sup> For more information on how rural communities have adapted EBPs given barriers they face, please see: Rural Behavioral Health Programs and Promising Practices (U. S. Department of Health and Human Services, Health Resources and Services Administration, Office of Rural Health Policy, June 2011), [www.hrsa.gov/ruralhealth/pdf/ruralbehavioralmanual05312011.pdf](http://www.hrsa.gov/ruralhealth/pdf/ruralbehavioralmanual05312011.pdf).

and Affordable Care Act (passed in 2010) represent an opportunity to improve access to comprehensive health services and reduce state and local expenditures for individuals involved with the criminal justice system.

- a. If you aren't already familiar with how the U.S. state in which your team is from is implementing these health reforms, you may want to do some research ahead of time to share at the training. For example, you can contact the state office that administers federal benefits to get more information. Or, if you determine that the team has a particularly strong interest or need for more in-depth training on how to facilitate enrollment for program participants, you may want to invite a speaker to present on the subject.
- b. If you have not already asked while preparing for the training, ask the team to weigh in now while they are together as a group on activities their agencies are engaged in to facilitate enrollment in Medicaid or a subsidized plan offered through Health Insurance Marketplace, and other public benefits.

## For the Team to Learn More

### 1. Resources on evidence-based practices and programs for individuals with mental disorders involved in the criminal justice system:

**Resource 1:** Alex M. Blandford and Fred C. Osher, "A Checklist for Implementing Evidence-Based Practices and Programs (EBPs) for Justice-Involved Adults with Behavioral Health Disorders" (SAMHSA's GAINS Center for Behavioral Health and Justice Transformation, 2012), [csgjusticecenter.org/wp-content/uploads/2013/04/SAMHSA-GAINS.pdf](http://csgjusticecenter.org/wp-content/uploads/2013/04/SAMHSA-GAINS.pdf).

**Resource 2:** Fact sheets and accompanying webinars on evidence-based practices and programs (EBPs) for individuals involved in the criminal justice system developed by SAMHSA's GAINS Center for Behavioral Health and Justice Transformation. Available at [gainscenter.samhsa.gov/topical\\_resources/ebps.asp](http://gainscenter.samhsa.gov/topical_resources/ebps.asp).

**Resource 3:** The Vermont Tri-Branch Task Force conducted an inventory of resources for individuals with mental disorders using the Sequential Intercept Model. It offers a list of community programs and providers statewide and by county, and is available at [vermontjudiciary.org/MasterDocument/SIM%2012-6-2011.pdf](http://vermontjudiciary.org/MasterDocument/SIM%2012-6-2011.pdf).

### 2. For more information on Medicaid and financing health care for individuals involved with the criminal justice system:

Council of State Governments Justice Center, "Policy Brief: Opportunities for Criminal Justice Systems to Increase Medicaid Enrollment, Improve Outcomes, and Maximize State and Local Budget Savings" (Council of State Governments Justice Center, 2013), [csgjusticecenter.org/wp-content/uploads/2013/12/ACA-Medicaid-Expansion-Policy-Brief.pdf](http://csgjusticecenter.org/wp-content/uploads/2013/12/ACA-Medicaid-Expansion-Policy-Brief.pdf).



# Module 3: The Mental Health Court Team

## Aim of Module

The aim of this module is to introduce the group to the composition, roles, and responsibilities of the mental health court team. The group should emerge with a sense of their role on the team and a deeper understanding of the roles of fellow team members.

## Learning Objectives

By the end of the module, participants should be able to

1. describe the roles and responsibilities of the core mental health court team members;
4. identify ethical issues that mental health courts present for themselves and other team members; and
5. develop approaches for handling conflict within the mental health court team.

## Facilitating the Activities

### Activity 1: Defining Your Role on the Team

#### Aim of Activity

The first activity is designed to help team members think about what their role will be on the mental health court team and how it relates to others' roles and to the overall functioning of the program. During the activity, team members will produce a description of his/her role on the mental health court team and gain an understanding of how team members will work together, given these individual roles.

#### Materials and Resources Needed

- » A printed copy of Module 3's Activities Guide for each participant so that they have copies of the scenarios
- » Whiteboard/blackboard/flip charts and writing implements for recording group responses
- » Module 3's Activities Guide video clips (available at [learning.csgjusticecenter.org/?page\\_id=280](http://learning.csgjusticecenter.org/?page_id=280)) and a computer with Internet access and good speakers
- » For group viewing of the video clips, an LCD projector is encouraged. Please note that access to YouTube is required to stream the video.

#### Tip

Encourage the team to refer to the list of team members in the videos. The handout can be printed from the Activities Guide webpage for each of the modules, under "[Meet the mental health court case study team members.](#)"

#### Common Concerns and How to Address Them

Mental health court programs require team members to rethink and expand their professional roles, and this activity is intended to help the group think about what role each member will play on the mental health court team. Shifting away from the adversarial model, the mental health court team works together to achieve the best outcome for the participant. However, setting aside these traditional

conventions can be difficult and concerns often arise. Some common concerns you may hear:

- » Prosecutors are trained to uphold public safety, not work in the best interest of the defendant
- » Defense attorneys want to limit the penetration of their client in the criminal justice system, not extend the period of their supervision
- » Judges are impartial arbiters of fact, not probation officers or social workers
- » Probation officers are likely more accustomed to responding to violations with punitive sanctions, and not adjustments to a treatment plan
- » Treatment providers may not be accustomed with collaborating so closely with criminal justice staff and sharing information relating to the treatment plan (pursuant to obtaining consent)

It will be very helpful for you as the facilitator to be as familiar as possible with how team members feel about their current roles and how their roles may change.<sup>39</sup> Having this information will help you determine if there are certain areas that you'd like to probe into more deeply in your discussion for this activity. Each member of the team will contribute to the participants' success and to ensuring that program goals are met, so it is important to make sure that each person feels comfortable with what their role and responsibilities will be working in the program.

Sometimes the extent to which a person must rethink their role to work in the program can reach a level that is not productive. Team members working in mental health courts may feel that their role can bleed into the role of a fellow team member ("role diffusion"), sometimes causing some tension as this blurred role separation may compromise their ability to be effective in their intended role. This sort of role confusion often comes from good intentions; however, it is important for team members to remind themselves of their own training and specific functions within a collaborative, well-functioning team. For example, if a mental health treatment provider (often a case manager) is reporting to the court on participants' adherence to treatment and supervision conditions, she or he may find him/herself as both a facilitator of the participant's support structure and as a potentially punitive extension of the legal system. In a more extreme case, a judge proud of new knowledge about mental illness may be tempted to make specific recommendations about treatment and try to guide or even override the advice of the clinical staff. You may want to highlight for the group that this role diffusion can occur to varying degrees and have them discuss why clearly defining roles and communicating with one another are so important.

## For Additional Discussion

1. The mental health court team is a team of individuals, each representing key interests. As such, it is important for the team to consider how members will communicate and what process they will take to make decisions.
  - a. Share the "MHC Communication Model" on page 3 of the publication "Leaving Your Hat at the Door" (see link on page 58). Ask the group to reflect on how this model would work in practice for their team. *How would information be exchanged between the different team members in their program?*
  - b. Ask the group to sketch out what their program's communication model might look like (see pages 51 and 57 in *Leaving Your Hat at the Door* for examples of two different programs' models)

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39 "Skills" and "attitudes" are discussed more in the "Customizing the Curriculum" section of this handbook.

## For the Team to Learn More

**1. To learn more about the culture of working as part of a mental health court team, including strategies to enhance team communication:**

Nicole L. Waters, Shauna M. Strickland, and Sarah A. Gibson, “Mental Health Court Culture: Leaving Your Hat at the Door” (National Center for State Courts, November 2009), [cdm16501.contentdm.oclc.org/cdm/ref/collection/spcts/id/209](http://cdm16501.contentdm.oclc.org/cdm/ref/collection/spcts/id/209) (accessed June 6, 2014).

**2. Cross training for the group:**

Encourage team members to review the system they are the least familiar with when looking at the Presentation and Additional Resources sections in the curriculum’s introductory lesson. For example, encourage criminal justice staff to view “Introduction to Behavioral Health,” and urge behavioral health staff to view “Introduction to Criminal Justice.” (For more cross-training ideas, see page 12 of this handbook.)

## Activity 2: Exploring Ethical Issues

### Aim of Activity

Activity 2 is designed to help the group think about the ethical obligations unique to each profession involved in a mental health court team. After completing the activity, each team member should have a description of their ethical obligations based on their profession, a description of another team member’s ethical obligations based on his/her profession, and an understanding of how team members develop strategies that allow them to work effectively with people from other professional disciplines.

### Materials and Resources Needed

- » A printed copy of Module 3’s Activities Guide for each participant so that they have copies of the scenarios
- » Printed copies of Module 3’s Prep Work reading assignments for each participant to review
- » Internet connection and sound to be able to play videos
- » Whiteboard/blackboard/flip charts and writing implements for listing group responses

#### Tip

Encourage the team to refer to the list of team members in the videos. The handout can be printed from the Activities Guide webpage for each of the modules, under “[Meet the mental health court case study team members.](#)”

### Common Concerns and How to Address Them

Members of the mental health court team have certain responsibilities that relate to their own skills, knowledge, and professional experience. As such there may be issues that members of the team grapple with or must think through that may be at odds with their training or the ethical underpinnings of their profession. As the facilitator, you may already be familiar with what issues tend to emerge, but it is a good idea to spend some time before the training to try to be as familiar as possible with what the main concerns are that may arise for certain team members.

Many of these concerns have been captured in the articles for this module in the Prep Work section, so it is recommended that you read all of the articles to get a good sense of the range of issues and concerns

that may arise in conflict with the ethics of each profession. Spend some time reading through each article and note what the top three main points are for each so you are familiar with the challenges that will likely come up for each professional on the mental health court team. Stress the importance to the team members of reading these articles before meeting in person; as noted below under “For the Team to Learn More,” the directions in the module for the Prep Work section indicate that each person should read the article that pertains to his/her profession, and then another article that pertains to a different profession.

You can also prepare ahead of time by gathering and reviewing professional codes of conduct so that you can help team members navigate potential ethical issues. Consulting professional organizations that represent the different professions comprising the mental health court team is also helpful (see page 60). You can also contact other programs in your state to try to connect to professionals who have squared their own experience with working within the mental health court context.

## For Additional Discussion

1. Have the team consider the following ethical questions and to share their professional perspective:
  - a. Ask: *While mental health courts are voluntary programs, participation in a post-adjudication program can be included in an individual's sentence. Is this coerced treatment? Why or why not?*
  - b. Ask: *Opponents of mental health court programs argue that they enable certain people to “move to the head of the line” in terms of accessing treatment services and other supports. Do you agree or disagree with this statement?*
  - c. Ask: *Can a defendant participate in a mental health court program and have his/her constitutional right to trial and legal counsel protected at the same time?*
    - i. *What steps should be taken to ensure his/her rights are protected?*
  - d. Ask: *Should incarceration be used as a response if someone is not following his/her treatment plan?*
    - i. *Is there information you would like to have before making this decision? If so, what would you want to know?*
    - ii. *What are the advantages and disadvantages of using jail time as a response?*
    - iii. *What type of situation would warrant this response?*
  - e. Ask: *Should there be a response if a participant is not taking his/her medication?*
    - i. *What would be an appropriate response?*
    - ii. *Is there information you would like to have before making this decision? If so, what would you want to know?*
  - f. Ask: *What protections might you put in place to ensure that sensitive information is not shared in open court during a status hearing?*

## For the Team to Learn More

1. **Articles highlighting ethics for professionals who are part of the mental health court team:** Ask team members to read all of the articles in the Prep Work section for this module. Available at [learning.csgjusticecenter.org/?page\\_id=274](https://learning.csgjusticecenter.org/?page_id=274).
2. **Professional associations by type of profession:**
  - a. **Judges**
    - i. American Judges Association (AJA), [aja.ncsc.dni.us](http://aja.ncsc.dni.us)
    - ii. Consult the state judiciary for state-specific codes of conduct
    - iii. American Bar Association, ABA Model Code of Conduct, [americanbar.org/groups/professional\\_responsibility/publications/model\\_code\\_of\\_judicial\\_conduct.html](http://americanbar.org/groups/professional_responsibility/publications/model_code_of_judicial_conduct.html)
    - iv. National Judicial College (NJC), [judges.org](http://judges.org)
  - b. **Attorneys, generally**
    - i. American Bar Association, Model Rules of Professional Conduct, [americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct.html](http://americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct.html)
  - c. **Prosecutors**
    - i. National District Attorneys Association (NDAA), [ndaa.org](http://ndaa.org)
    - ii. Association of Prosecuting Attorneys (APA), [apainc.org](http://apainc.org)
    - iii. National Association of Prosecutor Coordinators (NAPC), [napc.us](http://napc.us)
  - d. **Defense Attorneys**
    - i. National Legal Aid and Defender Association (NLADA), [nlada.org](http://nlada.org)
    - ii. National Association of Criminal Defense Lawyers (NACDL), [nacdl.org](http://nacdl.org)
    - iii. National Association of Public Defenders (NAPD), [publicdefenders.us](http://publicdefenders.us)
  - e. **Supervision Officers**
    - i. American Probation and Parole Association (APPA), [appa-net.org](http://appa-net.org)
    - ii. National Association of Pretrial Services Agencies (NAPSA), [napsa.org](http://napsa.org)
  - f. **Mental Health Practitioners and Clinicians**
    - i. National Council for Behavioral Health (NCBH), [thenationalcouncil.org](http://thenationalcouncil.org)
    - ii. American Mental Health Counselors Association (AMHCA), [amhca.org](http://amhca.org)
    - iii. American Psychiatric Association (APA), [psych.org](http://psych.org)
    - iv. National Association of Social Workers (NASW), [socialworkers.org](http://socialworkers.org)
    - v. Association of Social Work Boards (ASWB), [aswb.org](http://aswb.org)

# Module 4: Target Population

## Aim of Module

The aim of this module is to outline and help walk the group through a number of different considerations so that they take a thoughtful, research-based approach to define whom their program will serve (or the target population) and what should be the program's eligibility criteria. This module is designed so the members of the group consider their goals, relevant research and best practices, available resources/capacity, stakeholder priorities and concerns, and other factors. After completing all of the components of this module, the group should emerge with a description of the target population for the program.

## Learning Objectives

By the end of the module, participants should be able to

1. understand the current state of research on who benefits from mental health courts;
2. understand how local conditions can shape criminal justice and clinical eligibility criteria; and
3. analyze factors for and against requiring a plea for program participation.

## Facilitating the Activities

### Activity 1: Describing Your Target Population

#### Aim of Activity

After completing this activity, the team should understand the problems associated with defining the program's target population without considering the research on who benefits from participating in a mental health court. They will first read and discuss a hypothetical case study, and then move to completing a worksheet that lays out the different factors to consider and helps guide the conversation, capture decisions, and highlight areas for future discussion. Note that there is an expanded version of this worksheet in Activity 1 of *Module 5: Designing Policies and Procedures for Program Participation*, so instruct the team to keep a copy of this completed worksheet for that activity.

#### Tip

Encourage the team to refer to the list of team members in the videos. The handout can be printed from the Activities Guide webpage for each of the modules, under "[Meet the mental health court case study team members.](#)"

#### Materials and Resources Needed

- » Whiteboard/blackboard/flip charts and writing implements for recording decision points
- » A printed copy of Module 4's Activities Guide for each team member
- » Completed "Resource Inventory" Worksheet from Activity 3 of Module 2

## Common Concerns and How to Address Them

Depending on how far along the team is in identifying the target population of their program, this activity can generate considerable discussion and, potentially, disagreement. For example, members of the group may have firm opinions on whom the program should and shouldn't serve based on their own priorities and concerns. For example, a judge may wish to start a mental health court with a particular individual or type of individual in mind. Or a team member may wish to make the mental health court program available to all defendants with identified mental disorders in an effort to serve as many people as possible. Other team members may be anxious about the capacity to provide quality treatment for those with co-occurring substance use disorders. As the facilitator, you will often have to remind the group about the research findings and open questions from the presentation so that the group is making decisions based on facts, rather than assumptions or beliefs. You will also be the one best equipped to remind the group about applicable state rules or guidance for mental health courts.

Reinforce with the team that even if they respond a certain way on the worksheet, this does not mean that they won't need to make modifications as they move through the other modules and start to think more about how these criteria translate to implementation. Also, be aware that the process the team goes through during this activity may highlight questions they are not able to resolve on that day (e.g., the team has agreed to target medium-high risk individuals, but does not know who assesses for criminogenic risk in their system and how to get access to this information). Have the group flag these places, identify who may be able to fill in the missing information, and assign someone at the table to follow up.

### Tip

Build in the extra time if you suspect that the team may not have had previous conversations on this topic and will need to have comprehensive discussions on the criteria listed in the worksheet.

Traditionally, both criminal justice and behavioral health practitioners believed criminal involvement for people with serious mental disorders was simply the direct result of the disorder (e.g., the voices an individual hears tell him/her to commit a crime). Recent studies, however, have demonstrated that the relationship between mental illness and criminal activity is more nuanced and complex. Researchers looking at the relationship between mental illness and recidivism have found that changes in an individual's psychiatric symptoms do not necessarily relate to whether or not she or he is rearrested or revoked from community supervision.<sup>40</sup> This means that our older understanding of mental illnesses leading to crime is not as straightforward as originally believed, and any assessment of pathways into incarceration for persons with mental illnesses must include an investigation of risk factors beyond psychiatric symptomatology.

During this discussion, the group may identify many opportunities for improved policies or programming. For instance, using the example above, the team may identify that there is not a way to get access to assessment information in a reliable and timely manner, highlighting the need for mechanisms to facilitate cross-system information sharing that comply with all legal privacy and confidentiality mandates. Note these opportunities (this may be a good use for a whiteboard or flip chart) and come back to this list with the group to prioritize ideas for near-, medium-, and long-term planning based on potential impact and required resources and approval processes.

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<sup>40</sup> Jennifer L. Skeem, Sarah Manchak, and Jillian K. Peterson, "Correctional Policy for Offenders with Mental Illness: Creating a New Paradigm for Recidivism Reduction," *Law and Human Behavior* 35, no. 2 (2011).

## For Additional Discussion

1. Remind the team about any applicable state laws or guidance relevant to mental health courts. If there are written materials on this guidance, bring it for the team's discussion.
2. The team will learn in the presentation for this module that an individual who has a high likelihood of recidivating (i.e., high criminogenic risk level) has the most potential to benefit from participating in a program with more intensive supervision, and intensive supervision for low-risk individuals can actually increase recidivism. They will learn that most mental health court programs focus on individuals with severe impairments associated with their mental disorders (although there is no research to suggest that individuals with certain disorders are more successful than individuals with other disorders in mental health court programs) in an effort to target scarce resources to those who need them most. In sum, research suggests that targeting resources for individuals with high to moderate risk levels who have serious behavioral health needs will have the greatest impact on increasing public safety.
  - a. Since individuals with high-risk and high behavioral health needs are by definition more likely to commit new crimes or violate terms of supervision as well as have the most significant level of impairment due to their mental disorder, it's important that the team have realistic expectations for working with this population.
    - i. Ask: *Do you have experience working with this population, and if so, what has your experience been like and how would you describe your expectations?*
  - b. As this population also requires more intensive services and resources, both in terms of treatment and supervision, the team should consider the following questions (first introduced in the presentation, but important to highlight again):
    - i. Ask: *Does your community have sufficient supervision resources to safely manage this population?*
    - ii. Ask: *Does your community have sufficient treatment resources to address the criminogenic needs of these individuals, such as criminal attitudes/thinking?* (See item 1, under "For the Team to Learn More.")
3. Participants may be familiar with research and standards from drug courts that recommend targeting "high risk, high needs" individuals.<sup>41</sup> Discuss with the team how what they learned in this module is consistent with and slightly different from this guidance.

## For the Team to Learn More

1. **For more information on cognitive behavioral treatment targeted to criminogenic needs of individuals who are involved in the criminal justice system:**  
Harvey Milkman and Kenneth Wanberg, "Cognitive-Behavioral Treatment: A Review and Discussion for Corrections Professionals" (U.S. Department of Justice, National Institute of Corrections, 2007), [static.nicic.gov/Library/021657.pdf](https://static.nicic.gov/Library/021657.pdf).

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<sup>41</sup> See, e.g., Douglas B. Marlowe, "Fact Sheet: Targeting the Right Participants for Adult Drug Courts" (National Drug Court Institute, n.d.), [ndci.org/sites/default/files/nadcp/Targeting\\_Part\\_I.pdf](https://ndci.org/sites/default/files/nadcp/Targeting_Part_I.pdf).



- 2. For more information on a conceptual framework that can be used to take a coordinated approach to reduce recidivism and advance recovery by prioritizing and allocating resources based on individuals' identified criminogenic and behavioral health needs:**

Fred Osher et al., "Adults with Behavioral Health Needs Under Correctional Supervision: A Shared Framework for Reducing Recidivism and Promoting Recovery" (Council of State Governments Justice Center, 2012), [csgjusticecenter.org/wp-content/uploads/2013/05/9-24-12\\_Behavioral-Health-Framework-final.pdf](http://csgjusticecenter.org/wp-content/uploads/2013/05/9-24-12_Behavioral-Health-Framework-final.pdf).

- 3. Resources with more information on similarities and differences in the target population for drug courts and programs targeting those with co-occurring mental health and substance use disorders:**

**Resource 1:** Henry J. Steadman et al., "Six Steps to Improve Your Drug Court Outcomes for Adults with Co-Occurring Disorders" (National Drug Court Institute and SAMHSA's GAINS Center, April 2013), [ndci.org/sites/default/files/nadcp/C-O-FactSheet.pdf](http://ndci.org/sites/default/files/nadcp/C-O-FactSheet.pdf).

**Resource 2:** Roger Peters, "Webinar: Addressing Co-Occurring Disorders in Adult Court-Based Programs" (Webinar, Council of State Governments Justice Center), accessed March 31, 2014, [csgjusticecenter.org/courts/webinars/webinar-archive-addressing-co-occurring-disorders-in-adult-court-based-programs](http://csgjusticecenter.org/courts/webinars/webinar-archive-addressing-co-occurring-disorders-in-adult-court-based-programs).

## Activity 2: Target Population in Action

### Aim of Activity

Activity 2 is designed to help the team better understand how the decisions they make regarding their target population impacts the applicants who are eligible for the program. The group should emerge from the activity with a greater understanding of how target population decisions impact case selection and staffing.

### Materials and Resources Needed

- » A printed copy of Module 4's Activities Guide for each participant so that they have copies of the discussion questions
- » Whiteboard/blackboard/flip charts and writing implements for recording group responses
- » Module 4's Activities Guide Video Clips (available at [learning.csgjusticecenter.org/?page\\_id=299](http://learning.csgjusticecenter.org/?page_id=299)) and a computer with Internet access and good speakers
- » For group viewing of the video clips, an LCD projector is encouraged. Please note that access to YouTube is required to stream the video.

#### Tip

Encourage the team to refer to the list of team members in the videos. You may want to print copies ahead of time to bring to the training. The handout can be printed from the Activities Guide webpage for each of the modules, under "[Meet the mental health court case study team members.](#)"

### Common Concerns and How to Address Them

As the videos demonstrate, the team must come to the staffing meetings with certain information about potential participants in order to make an informed decision as to whether or not someone is eligible for the program. You may want to ask the group to refer back to the eligibility criteria worksheet they worked on in Activity 1 of this module and ask what information they would need access to and who has access to it. This information can be drawn from a variety of sources. Most individuals deemed potentially eligible for the program have had multiple contacts with the mental health and criminal justice systems, and these agencies can provide certain information relevant to eligibility and treatment needs.

Accessing pre-existing information controls costs by keeping new evaluations to a minimum and also ensures continuity of care. Furthermore, mental health and criminal justice agencies may be able to contribute relevant facts that the defendant is unable or unwilling to provide, such as past offenses, employment history, family contacts, and medical insurance and benefits information. Remember that information sharing must comply with all privacy laws and regulations; obtaining a defendant's written consent to release information is the surest way to adhere to these regulations (this will be covered more in *Module 5: Designing Policies and Procedures for Program Participation*).

As mental health court teams develop procedures for identifying and accepting participants, benchmarks for the speed with which individuals will be processed should be established. Time limits are particularly important for misdemeanor cases, in which individuals could spend more time in jail waiting for a case plan to be developed than they might otherwise serve if their cases were

processed through the regular court.

The team may raise a concern about mental illness and violence. Many mental health court programs exclude people charged with violent offenses; however, the majority of people with mental disorders are not violent and do not commit crimes. There are also many popular beliefs about violence and mental illness that are not based in fact; studies indicate only a weak association between mental disorders and violence.<sup>42</sup> Research does suggest that some people under the influence of drugs and other substances are more likely to be violent—whether or not they have a mental disorder.<sup>43</sup> Some individuals who are arrested and incarcerated—including those without mental disorders—are all more likely to be violent than the general population.<sup>44</sup> The vast majority of people with mental disorders are not violent; in fact, they are more likely to be victims of violence than perpetrators of violence.<sup>45</sup>

## For Additional Discussion

1. It is not uncommon for the prosecutor and/or judge to have veto power over all potential participants, so efforts to maximize the collaborative nature of the final eligibility decision will serve the team well in the long run.
  - a. Ask: *Do you see the Bonneville team in the video use any particular strategies to enhance the collaborative spirit of the staffing meeting?*
  - b. Ask: *Are there other strategies that the team can think of to employ in their program?*
2. As you may have noticed, the Bonneville Mental Health Court did not have a defense attorney attend the case staffing in the video, so this important voice is absent here. Ideally, a defense attorney who will be involved in the program will be present to participate in this activity. You should ask the defense attorney to provide his/her perspective on this case example and how she or he might approach the conversation differently had she or he been present at this staffing meeting.

## For the Team to Learn More

1. **For more information on emerging research on mental health courts and its implications for selecting target populations:**

Lisa Callahan and Heathcote W. Wales, “Webinar: Mental Health Courts Research Roundup: Applying Research to Practice” (Council of State Governments Justice Center, March 26, 2013), [csgjusticecenter.org/courts/webinars/mental-health-courts-research-roundup-applying-research-to-practice](https://csgjusticecenter.org/courts/webinars/mental-health-courts-research-roundup-applying-research-to-practice).

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42 The National Association of State Mental Health Program Directors (NASMHPD) and The Council of State Governments (CSG) Justice Center, “Responding to a High-Profile Tragic Incident Involving a Person with a Serious Mental Illness: A Toolkit for State Mental Health Commissioners” (NASMHPD and CSG Justice Center, 2010), [nasmhpd.org/docs/publications/docs/2010/ViolenceToolkit\\_Bkmk.pdf](https://nasmhpd.org/docs/publications/docs/2010/ViolenceToolkit_Bkmk.pdf).

43 Eric B. Elbogen and Sally C. Johnson, “The Intricate Link Between Violence and Mental Disorder: Results From the National Epidemiologic Survey on Alcohol and Related Conditions,” *Archives of General Psychiatry* 66, no. 2 (February 1, 2009): 152, doi:10.1001/archgenpsychiatry.2008.537.

44 Richard A. Friedman, “Violence and Mental Illness—How Strong Is the Link?,” *The New England Journal of Medicine* 355, no. 20 (November 16, 2006): 2064–66, doi:10.1056/NEJMp068229.

45 V A Hiday et al., “Criminal Victimization of Persons with Severe Mental Illness,” *Psychiatric Services* (Washington, D.C.) 50, no. 1 (January 1999): 62–68.

2. **For more in-depth discussion of the relationship between mental disorders and violence:**  
The National Association of State Mental Health Program Directors (NASMHPD) and The Council of State Governments (CSG) Justice Center, “Responding to a High-Profile Tragic Incident Involving a Person with a Serious Mental Illness: A Toolkit for State Mental Health Commissioners” (NASMHPD and CSG Justice Center, 2010), [nasmhpd.org/docs/publications/docs/2010/ViolenceToolkit\\_Bkmk.pdf](https://nasmhpd.org/docs/publications/docs/2010/ViolenceToolkit_Bkmk.pdf).

# Module 5: Designing Policies and Procedures for Program Participation

## Aim of Module

The aim of this module is to walk the group through key decisions that they have to make in order to define policies and procedures and codify them to make the program coherent. Members of the group will work to define common expectations for participants, while ensuring protection for participants' legal rights and complying with relevant laws. They should make decisions about referrals, screening and assessment for eligibility criteria established in *Module 4: Target Population*, and providing information to allow candidates to make an informed choice to participate. As the facilitator, you will want to stress the importance of institutionalizing these decisions in writing, and the activities for this module were designed to help teams get a running start.

## Learning Objectives

By the end of the module, participants should be able to

1. understand how a mental health court program can be designed to protect legal rights;
6. describe how to design a referral process for the program; and
7. identify considerations for determining the duration of an individual's participation.

## Facilitating the Activities

### Activity 1: Screening, Assessment, and Referral Resources

#### Aim of Activity

Activity 1 is designed to help the group plan referral processes, including screening and assessment protocols, to identify potential program participants based on their mental health court's target population. Through this activity the group will develop proposals for screening processes, including determining who will be responsible for different aspects of the process, what instruments will be used, and how the effectiveness of the process will be measured and evaluated. The group will come away with a deeper understanding of the challenges involved in identifying appropriate program participants and addressing concerns related to sensitive information.

#### Tip

Encourage the team to refer to the list of team members in the videos. You may want to print copies ahead of time to bring to the training. The handout can be printed from the Activities Guide webpage for each of the modules, under [“Meet the mental health court case study team members.”](#)

#### Materials and Resources Needed

- » A printed copy of Module 5's Activities Guide for each participant so that they have copies of the “Screening Potential Participants” worksheet (Page 7 in Module 5's Activities Guide)
- » Completed “Eligibility Criteria/Target Population” worksheet from Activity 1 of Module 4. (Pages 7 to 8 in Module 4's Activities Guide) If you have not completed that activity as part of

the curriculum, please print out the worksheet from *Module 4: Target Population* and enter the necessary information from your program's target population.

- » Whiteboard/blackboard/flip charts and writing implements for recording group responses

## Common Concerns and How to Address Them

Referrals can come from a number of different sources, including law enforcement officers, jail staff, probation officers, judicial officers, other programs (e.g., drug court programs), pretrial services staff, prosecutors, defense attorneys, mental health and substance use treatment providers, family, friends, or defendants themselves. Almost all mental health court programs will accept referrals from a combination of these sources, hoping to ensure the identification of appropriate participants. However, casting a wide net carries with it complications: ultimately many people are found to be ineligible, either because of their legal charges, their clinical diagnoses, or their decision not to participate. This can mean that significant staff time is devoted to people who will not participate in the program, but should be referred to community mental health services. Providing education to referral sources on what the eligibility criteria of the program are may help maximize the likelihood of receiving referrals consistent with the program's defined target population.

It's important for the team to think about who has contact with and information about individuals who may meet the program's criteria. The goals of this activity are for the team to (1) think about if participants' information relating to the eligibility criteria defined in Activity 1 of *Module 4: Target Population* is being collected (e.g., Is the information available? What screening or assessment tools are/will be used to collect it?), and (2) consider which referral points have access to the information and what they can legally share (e.g., Who is responsible for collecting the information? Is there a mechanism for it to be shared legally?).

Also, be aware that the process that the team will go through during this activity may highlight open questions that they are not able to resolve on that day (e.g., the group has agreed to target medium-high risk individuals, but does not know who assesses for criminogenic risk in their system and how to get access to this information). Have the group flag these places, identify who may be able to fill in the missing information, and assign someone at the table to follow up.

## For Additional Discussion

1. Part (d) of this activity involves a discussion of resources that are available for people who have been referred, but do not fit within the program's target population.
  - a. Direct the team to consult the "Resource Inventory" Worksheet from Activity 3 of *Module 2: Your Community, Your Mental Health Court*.
    - i. Ask: *Are there resources identified here that the program might be able to connect ineligible candidates with?*
  - b. Many teams operate on a very "case by case basis" and do accept participants that don't meet their target population.
    - i. Have the team think about cases when this may be appropriate.
    - ii. Ask: *What implications does accepting participants who don't meet the eligibility criteria have on the program's ability to adequately address the needs of the identified target population and have the greatest impact on recidivism?*

2. As you may have noticed, the Bonneville Mental Health Court did not have a defense attorney attend the case staffing in the video, so this important voice is absent here. Ideally, a defense attorney who will be involved in the program will be present to participate in this activity. You want to consider asking the defense attorney to provide his/her perspective on this case example and how she or he might approach the conversation differently had she or he been present at this staffing meeting.
3. Refer the team to the completed worksheet. Ask them to consider which information from the assessments/tools listed should be shared with other team members, and whether sharing this information requires the participant's consent. This will get the group to start thinking about the informed consent process, which is the focus of the next activity.

## For the Team to Learn More

**For examples of referral forms that referral sources complete for consideration by the mental health court team,** see Merrimack County Department of Corrections, “Mental Health Court Referral/ Application Form,” August 2011, [courts.state.nh.us/drugcourts/MC-6th-Circuit-District-Division-Concord-Mental-Health-Court-Referral-Application-Form.pdf](https://courts.state.nh.us/drugcourts/MC-6th-Circuit-District-Division-Concord-Mental-Health-Court-Referral-Application-Form.pdf).

## Activity 2: Facilitating Informed Consent

### Aim of Activity

In this activity, the group will examine the informed consent process and related issues concerning the circulation of information among mental health court team members, including the foundational concepts of privacy and due process in relation to operational needs and responsibilities. The team should emerge with a deeper understanding of the importance of privacy and due process in court policies and procedures as well as strategies to manage the functioning of the program while protecting privacy.

### Materials and Resources Needed

- » A printed copy of Module 5's Activities Guide for each participant so that they have copies of the role-playing exercise scenarios (Pages 11 to 13 in Module 5's Activities Guide)
- » A printed copy of Bonneville County Mental Health Court's “Problem Solving Court Application Packet” from Module 5's Prep work, for each participant
- » A printed copy of Behavioral Health Court Consent to Participate from the San Francisco (CA) Behavioral Health Court from Module 5's Additional Resources section, for each participant
- » Whiteboard/blackboard/flip charts and writing implements for recording group responses

#### Tip

Encourage the team to refer to the list of team members in the videos. You may want to print copies ahead of time to bring to the training. The handout can be printed from the Activities Guide webpage for each of the modules, under [“Meet the mental health court case study team members.”](#)

## Common Concerns and How to Address Them

Ensuring that a mental health court program is voluntary involves more than simply presenting the option of participation to individuals. Programs must establish procedures to ensure that individuals are legally competent to make decisions about their case and treatment and that they fully understand what participation in the program involves before deciding to participate. The question of legal competency must be addressed prior to considering any defendant for participation in the mental health court program; if an individual is not competent to aid in his/her defense, she or he should not be participating in a program that requires waiving rights. Some mental health courts rely on existing mechanisms to determine competency. However, these processes are often time-consuming, which is particularly problematic in misdemeanor cases, for which the time to determine competency often exceeds the maximum likely jail time for the offense. In response to this obstacle, some mental health courts have developed expedited processes for determining competency. You may want to make sure you are as familiar as possible with the mechanisms that the team relies on to determine competency, and brainstorm about ways that the team might be able to accelerate the process in their jurisdiction or state.

As explained in the presentation, defense counsel play a critical role in making sure individuals understand the implications of all of their available options, including entering the mental health court program. Defense counsel should discuss rights that may be waived in entering the program, the requirements of program participation, and the consequences of not abiding by court conditions, and should help their clients weigh the mental health court program option against traditional criminal case processing. To maximize the likelihood of an individual's total awareness of the voluntary nature of the program, programs should list all of the court terms in a written, formal contract that is concrete, easy-to-read, and free of "legalese" and other jargon. Defendants can then review the contract with their defense attorneys before signing and accepting entry into the program.

It is important to note that voluntariness does not end upon entry to the program. The mental health court team should also consider how the development of treatment plans, the structure of status hearing, and other program components contribute to participants' perceptions of the court—particularly the extent to which they perceive the process to be fair and just (procedural fairness). Participants' perceptions of the program as fair, respectful, and open to his/her input will have implications on their level of engagement and motivation to change (which will be explored in more detail in *Module 7: Facilitating the Success of Mental Health Court Participants*).

This Activity involves role-playing. You may want to consult the Training and Group Facilitation Tips under "While Facilitating" for some ideas on how to engage reluctant participants in this portion of this Activity.

### For Additional Discussion

1. As you may have noticed, the Bonneville Mental Health Court did not have a defense attorney attend the case staffing in the video. Ideally, a defense attorney who will be involved in the program will participate in this activity. You want to consider asking the defense attorney to provide his/her perspective on this case example and how she or he might approach the conversation differently had she or he been present.



2. In many jurisdictions, shortages in the availability of defense attorneys for indigent clients delay appointment of counsel and hinder the ability of counsel to thoroughly prepare early in a defendant’s case.
  - a. Ask: *How does the appointment of counsel work in your jurisdiction?*
  - b. Ask: *How can the team work with jail or pretrial services staff to quickly identify those with mental health needs who may be appropriate for mental health court so that they can meet promptly with counsel to advise them on the opportunity to participate in mental health court?*

## For the Team to Learn More

1. **For more information on best practices considered most effective and efficient for handling mental incompetency issues**, see The National Judicial College, “Mental Competency–Best Practices Model,” 2012, [mentalcompetency.org/index.php](http://mentalcompetency.org/index.php).
2. **Resources with more information on information-sharing for behavioral and criminal justice practitioners working collaboratively.**

**Resource 1:** John Petrila and Hallie Fader-Towe, *Information Sharing in Criminal Justice–Mental Health Collaborations: Working with HIPAA and Other Privacy Laws* (New York, NY: Council of State Governments Justice Center, October 2010), [csgjusticecenter.org/wp-content/uploads/2012/12/Information\\_Sharing\\_in\\_Criminal\\_Justice-Mental\\_Health\\_Collaborations-2.pdf](http://csgjusticecenter.org/wp-content/uploads/2012/12/Information_Sharing_in_Criminal_Justice-Mental_Health_Collaborations-2.pdf).

**Resource 2:** The Vera Institute of Justice, “Justice & Health Connect,” *Justice & Health Connect*, accessed April 14, 2014, [jhconnect.org](http://jhconnect.org).

## Activity 3: Defining Participant “Success”

### Aim of Activity

Activity 3 addresses the criteria for successful program completion and the process of leaving or graduating from the program. The team should gain an understanding that leaving the program involves a process that begins before and extends beyond graduation. The team will also think about what “success” means in terms of program and participant goals, and learn about precise criteria to use when drafting guidelines for successful program completion.

#### Tip

Encourage the team to refer to the list of team members in the videos. You may want to print copies ahead of time to bring to the training. The handout can be printed from the Activities Guide webpage for each of the modules, under “[Meet the mental health court case study team members.](#)”

### Materials and Resources Needed

- » A printed copy of Module 5’s Activities Guide for each participant so that they have copies of the scenarios and “Graduation Criteria” worksheet (Page 19 in Module 5’s Activities Guide)
- » Whiteboard/blackboard/flip charts and writing implements for recording group responses

- » A computer, LCD projector, and a high-speed Internet connection. Please note that access to YouTube is required to stream the video.
- » Module 5's Activities Guide Video Clips (available at [learning.csgjusticecenter.org/?page\\_id=309](http://learning.csgjusticecenter.org/?page_id=309)).

## Common Concerns and How to Address Them

Without clear guidelines about what constitutes success, the program could jeopardize its ability to treat participants fairly and could possibly work with participants indefinitely, which is neither appropriate for a program seeking to reduce criminal justice system involvement nor a good use of the program's unique resources.

As the team will learn in the presentation, an individual should have a clear idea of how long the program will last before she or he decides to apply. Your training group will likely want to know during the training if there is research on how long the program should last. The answer is that there is not currently any evidence to indicate exactly how long a program should be, but there are a series of considerations that programs should make in thinking about program duration. The maximum length of program should not exceed the length of incarceration or probation appropriate to an individual's charges; the goal of programs is to reduce future criminal justice involvement, not expand it. Programs that accept individuals with misdemeanor charges struggle with this challenge; often, these individuals spend more time in these programs than if they had served their sentences.

Programs have to decide what the impact of program completion—both favorable and unfavorable—will be on participants' cases. This is usually based on the severity of the charges, and is often tied very closely to the plea arrangement in that the impact of program completion should be determined prior to entry. Many misdemeanor programs dismiss charges completely, which can help motivate participants to engage in the program in the first place. Programs that accept felony charges may reduce them, or place participants on probation after program completion.

From a clinical perspective, mental health court teams should understand that the requirements for successfully completing the mental health court program are related but not identical to the individualized goals in the participants' treatment plans (see the Activities Guide for *Module 6: Case Planning* for opportunities to explore the development of treatment plans as part of participants' case plans in more detail). Some of the goals in the treatment plan for an individual may be unattainable within the relatively short duration of the mental health court program, which is often even more pronounced for programs accepting individuals with misdemeanor charges only. In these situations, there should be a frank conversation about which goals or steps will be completed during the mental health court program and which will follow in the future.

Many mental health programs divide their programs into phases with different levels of supervision tied to demonstrated successes and progress toward program completion. Generally, each subsequent phase includes less frequent court hearings or contacts with supervision and increasing autonomy in illness self-management. Mental health court teams interested in developing a phased approach should do so in a manner that allows for flexible individualized case plans. While some elements may be common for all participants, such as the frequency of court appearances, treatment goals should be based on the individual treatment plan. The expectations for program phases should be clearly delineated and explained to participants. Program phases can be a helpful way to structure program

participant to lead a participant toward “success” in the mental health court. See *Module 6: Case Planning* for more information about developing phases in line with treatment goals and *Module 7: Facilitating Mental Health Court Participant Success* (particularly the Guide to Module 7 for Facilitators) for more discussion of using program phases to motivate engagement in the case plan.

## For Additional Discussion

1. Have the team consider what will need to happen in their jurisdiction to carry out the terms of participation upon a participant’s completion of, or “graduation” from, the program.
  - a. For pre-adjudication cases:
    - i. Ask: *What papers must be filed to officially withdraw charges?*
    - ii. Ask: *What steps must be taken to clear the participant’s record?*
  - b. For post-adjudication cases:
    - i. Ask: *Is there a plea on record that will be vacated?*
    - ii. Ask: *If a sentence was ordered but not imposed, will this sentence be removed from the record?*
    - iii. Ask: *If mental health court participation was a term of probation, will the successful graduate remain on probation?*
    - iv. Ask: *If so, how does his/her status change?*
    - v. Ask: *What, if anything, can be done to ensure the successful participant does not suffer the collateral consequences of a conviction?*
2. Have the team consider what “unsuccessful completion” will mean for participants.
  - a. Ask: *Will the individuals return to the regular criminal justice system at the same point she or he left it?*
  - b. Ask: *Must there be a hearing?* (Removing a participant from a mental health court program may constitutionally require that the defendant has an opportunity for his/her case to be heard)
  - c. Ask: *May the mental health court judge preside over the trial or sentencing of a former mental health court participant?* (Courts are currently split about whether the Sixth Amendment right to trial prohibits a problem-solving court judge from presiding over a new trial or sentencing of the case of a participant who has unsuccessfully completed)
  - d. Ask: *How will the individual remain connected to appropriate behavioral health care?*
  - e. Have the team reflect on why they should avoid using language loaded with negative connotations (e.g., “terminating participant”). Many of the individuals participating in these programs have histories of failure and trauma that may make words like “terminated” unintentionally hurtful.

3. *Ask: How will the team ensure that access to support services, including behavioral health treatment and appropriate supervision are available beyond program completion?*
4. As team members may have noticed, the Bonneville Mental Health Court did not have a defense attorney attend the case staffing in the video. Ideally, a defense attorney who will be involved in the program will participate in this activity. You may want to consider asking him/her to provide his/her perspective on this case example and how she or he might approach the conversation differently had she or he been present.
5. What are some examples of “success” that may only be possible for some participants? For example, full-time employment may not be a realistic goal for all participants based on their levels of functioning.

## For the Team to Learn More

**For those interested in learning more about “success and failure” inherent in the process of innovating criminal justice approaches**, see the Center for Court Innovation, “Trial and Error,” March 15, 2011, [courtinnovation.org/topic/trial-and-error](http://courtinnovation.org/topic/trial-and-error).

# Module 6: Case Planning

## Aim of Module

The aim of this module is to introduce the group to the case planning process that they will need to use to coordinate their work with participants in the mental health court. As there is a significant variation in how jurisdictions and agencies undertake case planning, it may not be feasible to develop a single, integrated case plan; the focus should be placed instead on coordinating case planning across the various entities from intake through discharge. This module is also intended to help team members from the behavioral health and criminal justice systems develop and incorporate collaborative responses that match individuals' level of criminogenic risk and behavioral health need with the appropriate levels of supervision and treatment into the development of case plans, setting the stage for *Module 7: Facilitating Mental Health Court Participant Success*, which focuses on how these collaborative responses can support adherence to these plans.

## Learning Objectives

By the end of the module, participants should be able to

1. understand what a case plan is and what its main components are;
2. describe the relationship between the treatment plan and supervision conditions; and
3. understand how to develop treatment plans and supervision conditions based on comprehensive assessments and available supports.

## Facilitating the Activities

### Activity 1: Developing and Coordinating Case Plans

#### Aim of Activity

Activity 1 asks members of the mental health court team to compare approaches to planning for participants' involvement with their program and to consider how best to coordinate treatment and supervision. Through this activity, team members will gain a greater understanding of the components of a case plan and strategies for coordinating the implementation, monitoring, review, and revision of case plans.

#### Materials and Resources Needed

- » Printed copies of Module 6's Activities Guide for all participants
- » If possible, ask group members ahead of time to bring blank or de-identified examples of treatment plans, and court orders or probation case plans that include supervision conditions
- » Whiteboard/blackboard/ flip charts and writing implements for mapping elements of a treatment plan, and points of overlap and divergence among plans and strategies

#### Tip

Encourage the team to refer to the list of team members in the videos. You may want to print copies ahead of time to bring to the training. The handout can be printed from the Activities Guide webpage for each of the modules, under "[Meet the mental health court case study team members.](#)"

## Common Concerns and How to Address Them

As explained in the presentation for this module, the case plan for a mental health court participant should involve two components: (1) the treatment plan, which outlines how the participant will manage his/her disorder(s) and identifies specific steps toward recovery, and (2) the supervision conditions, which outline the requirements that a participant must adhere to while in the program (these often include adherence to the treatment plan, in addition to regularly scheduled court appearances). While these two elements are complementary, it may not be feasible or realistic to develop a case plan that is physically integrated (i.e., in one document). In many jurisdictions, agencies have specific protocols and information systems that they use and it may not be possible to merge the treatment plan and supervision conditions into one document. There may also be privacy concerns and a need to be cautious with regard to what information is shared and in what circumstances—though sharing information among team members is sometimes necessary to make good, informed decisions, caution the group against “over sharing.” Even though it is often done in the mental health court context with the best of intentions, team members must respect that individuals have a legitimate interest in keeping information about their diagnoses and treatment private.

So, while treatment plans and conditions of supervision are sometimes addressed separately for clarity, it is important for the team to understand that these components are often interrelated and share a basis in common assessments, goals, and strategies. Since there are multiple team members involved with developing and monitoring compliance with participants’ case plans, communication can break down when one side relies on the other to unilaterally resolve issues (e.g., “treatment will address that problem” or “probation will take care of that”). So, team members must make every effort to remain on the same page, while paying attention to not over share certain sensitive information.

While the team may be familiar with the goals of the broader case plan for participants in the mental health court, it may not be appropriate for the team to view specific progress against the treatment plan and supervision case plan. So, programs often encounter a need for a mechanism to gather and share relevant information for staffing meetings and status hearings. Often, someone on the team (usually the program coordinator) will compile a report using information gathered from a number of sources (team members, other community-based providers and services, etc.) that will be shared with the team members and will guide the conversation during the staffing meeting. This document essentially contains relevant information from the case plan relating to a participant’s progress that is appropriate to share given privacy laws.

As discussed in the presentation, it is important that mental health court team members are flexible because treatment plans and supervision conditions can change, and often do. The terms of supervision are usually adjusted according to the participant’s progress in treatment and adherence to court conditions. There is often a tension between wanting to include specific, court-ordered terms of participation as part of the case plan, but needing to keep these terms general enough to allow for flexibility to adapt to individual needs.

The focus of this module and this activity is not only for teams to think about what constitutes effective case planning and how to develop case plans, but also to think about who is responsible for overseeing participant compliance with both the treatment plan and supervision conditions. So, unless the team has already determined who should fulfill these roles, they may need some additional guidance. The presentation emphasizes joint supervision by criminal justice and behavioral health staff as this strategy helps maintain clarity between treatment and supervision roles. It does, however, increase the need for close collaboration between the two staff members doing the monitoring. However,

some programs aren't able to employ joint supervision and instead use different strategies to monitor participants, each with its own advantages and disadvantages:

- » **Supervision by mental health providers.** Some programs rely on mental health treatment providers, usually case managers, to report on the participant's adherence to court conditions. This case manager may be an employee of the court or may be employed by a partnering community agency. In smaller programs, one case manager may supervise all participants, while a larger program may split the caseload between two or more case managers.
  - » One obvious benefit is efficiency; a single point of contact is responsible for coordinating and monitoring all aspect of the participant's progress, making it easier for other team members (e.g., the judge, prosecutor, defense counsel) to obtain updates and streamline the process of collecting information to prepare for team meetings and status hearings. Furthermore, the case manager is well positioned to identify potential causes for non-adherence and to propose changes to the treatment plan or court conditions to address these underlying issues.
  - » On the other hand, this arrangement creates potential role conflicts, as case managers find themselves as both facilitators of the participant's support structure and as potentially punitive extensions of the legal system. This dual role may impede the development of a trusting relationship with the participant. Also, some judges and prosecutors are uncomfortable with assigning the responsibility for supervision to someone with a non-criminal justice background. Thus, with this approach, coordination with other team members is critical.
- » **Supervision by criminal justice staff.** Some programs assign the monitoring role to criminal justice staff, usually a probation officer, or sometimes the mental health court coordinator or a pretrial services officer. As with the mental health-based supervision strategy described above, the criminal justice agent may be permanently assigned to the court, supervising all of its participants, or may be based in another agency (e.g., probation) and involved only in certain cases. In this arrangement, the probation officer meets with the participants on a regular basis, consults family, coworkers, and employers, and receives detailed reports from treatment providers about attendance and progress toward established goals. Rather than being the person responsible for communicating with the court, the treatment provider becomes one of multiple sources of information on participants' progress.
  - » Courts assigning responsibility for supervision to a criminal justice staff member may do so because of concerns about public safety, particularly when the program serves defendants with felonies.
  - » On the other hand, a criminal justice agent may not be as well versed in identifying treatment-based solutions in response to non-adherence to court conditions. Programs employing this strategy should ensure that mental health staff have input into the responses to supervision violations.

## For Additional Discussion

1. Comparative research has not demonstrated the superiority of one supervision strategy over the others in terms of ensuring adherence to supervision conditions and encouraging treatment engagement among participants. However, teams must devise a supervision strategy by weighing these pros and cons with public safety, efficiency, coordination, and resource concerns. Prompt the team to consider which strategy they will use. What implications will

their chosen strategy have by considering the following questions:

- a. Ask: *How will the treatment plan and supervision conditions be developed?*
  - b. Ask: *How will the treatment plan and supervision conditions be coordinated?*
  - c. Ask: *What will the process be to collect information to prepare for staffing meetings and status hearings?*
2. Once the team has considered the different supervision approaches and discussed who would be responsible for developing and overseeing the treatment plan and the supervision conditions, revisit section (e) of this activity. Does this discussion alter the team's strategy?
  3. Co-occurring mental and substance use disorders (CODs) are the norm and not the exception among participants in a mental health court program.
    - a. Ask the team how they will address needs of individuals with CODs in the program, knowing that the most effective programs provide integrated treatment for both mental and substance use disorders.
    - b. Have the team revisit their completed worksheet from Activity 3 of *Module 2: Your Community, Your Mental Health Court*.
      - i. Ask: *Is truly integrated treatment available in the community?*
      - ii. Ask: *If not, how can you advocate for the expanded availability of such treatment?*
  4. As the presentation explained, participants should be connected with government benefits during the planning process as federal benefit programs (e.g., Medicaid) play an important role in enabling individuals with mental disorders to receive public mental health services. Health reforms such as the Mental Health Parity and Addiction Equity Act (passed in 2008) and the Patient Protection and Affordable Care Act (passed in 2010) represent an opportunity to improve access to comprehensive health services and reduce state and local expenditures for individuals involved with the criminal justice system.
    - a. If you aren't already familiar with how the U.S. state in which your team is from is implementing these health reforms, you may want to do some research ahead of time to share at the training. For example, you can contact the state office that administers federal benefits to get more information. Or, if you determine that the team has a particular strong interest or need for more in-depth training on how to facilitate enrollment for program participants, you may want to invite a speaker to present on the subject.
    - b. If you have not asked already while preparing for the training, ask the team to weigh in now while they are together as a group on activities their agencies are engaged in to facilitate enrollment in Medicaid or a subsidized plan offered through Health Insurance Marketplace, and other public benefits.



5. The presentation outlines different ways that programs can organize phases for their programs:
  - » **Specified target goals.** Each phase has specifically defined goals for supervision, treatment, and other activities (e.g., securing employment), and participants do not progress without achieving those goals
  - » **Set periods of time.** Each phase lasts a set period of time, and if the participant has not violated terms of supervision, she or he advances after the period elapses
  - » **Progress along a general trajectory.** Each phase can have supervision requirements—such as defined frequency of court appearances—and requires general progress toward treatment goals, such as increasing motivation to change behavior (e.g., moving from one stage to another in the Stages of Change model)
    - a. How do program phases relate to the goals of the case plan (i.e., goals of the treatment plan and of the conditions of supervision)?
    - b. Ask the team to consider if organizing their program in phases makes sense for them, and if so, to identify the pros and cons of organizing the phases in the ways listed above.
    - c. Ask your training team which way makes most sense for the phases of their mental health court program? Why?

## For the Team to Learn More

### 1. Resources on effective treatment planning and case management.

**Resource 1:** For more information on effective case management for community corrections, see Mark Carey, “Effective Case Management: Coaching Packet,” ed. Madeline M. Carter (Center for Effective Public Policy, 2010), [cepp.com/documents/Effective%20Case%20Management.pdf](http://cepp.com/documents/Effective%20Case%20Management.pdf).

**Resource 2:** For more information on screening, assessment, and integrated treatment planning for individuals with mental and co-occurring substance use disorders, see Center for Substance Abuse Treatment, “Screening, Assessment, and Treatment Planning for Persons with Co-Occurring Disorders.” (Substance Abuse and Mental Health Services Administration and Center for Mental Health Services, 2006), [store.samhsa.gov/shin/content/PHD1131/PHD1131.pdf](http://store.samhsa.gov/shin/content/PHD1131/PHD1131.pdf).

### 2. Resources on health policy reforms and the criminal justice system.

**Resource 1:** For more information on recent developments and resources on this subject, see Council of State Governments Justice Center, “Health Policy Reforms and the Criminal Justice System,” accessed April 14, 2014, [csgjusticecenter.org/reentry/issue-areas/health/health-policy](http://csgjusticecenter.org/reentry/issue-areas/health/health-policy).

**Resource 2:** For more information on opportunities to maximize Medicaid enrollment, see The Council of State Governments Justice Center and The Legal Action Center, “Medicaid and Financing Health Care for Individuals Involved in the Criminal Justice System” (Council of State Governments Justice Center, 2013), [csgjusticecenter.org/wp-content/uploads/2013/12/ACA-Medicaid-Expansion-Policy-Brief.pdf](http://csgjusticecenter.org/wp-content/uploads/2013/12/ACA-Medicaid-Expansion-Policy-Brief.pdf).

## Activity 2: Transition Planning

### Aim of Activity

The aim of this activity is to introduce the team to the different elements and processes of transition planning. While mental health court programs are time-limited, individuals' mental health problems are chronic and ongoing and many may require long-term treatment and access to supportive services. So it is important that team members attend to the inevitable end of judicial supervision from the outset and be prepared for participants' concerns and anxiety as graduation approaches. This activity helps the team think about how to incorporate transition planning into case plans to connect individuals with services and supports and increase the likelihood that they remain engaged in treatment after leaving the program.

### Materials and Resources Needed

- » Whiteboard/blackboard/flip charts and writing implements for recording decision points
- » A printed copy of Module 6's Activities Guide for each team member
- » A computer, LCD projector, and a high-speed Internet connection. Please note that access to YouTube is required to stream the video.

#### Tip

Encourage the team to refer to the list of team members in the videos. You may want to print copies ahead of time to bring to the training. The handout can be printed from the Activities Guide webpage for each of the modules, under [“Meet the mental health court case study team members.”](#)

### Common Concerns and How to Address Them

Some mental health courts encounter participants that do not want to leave the program and may even compromise their progress to stay in the program longer. Ask the team how they would approach this, and discuss what role transition planning plays in alleviating participants' anxiety and addressing apprehensions about program completion. Have the group talk about the supports provided for participants in the program and how similar supports can be put in place after the court-based intervention has concluded. How can relationships with key people be maintained? Will structure be provided by meetings, treatment sessions, and court hearings? Connections to care?

Some participants may want to remain connected with the program after they have graduated, so establishing an “alumni mentor” group is a way to mutually benefit the mentors who have left the program and mentees who are currently in the program. For teams working in existing programs, ask them if they have such a program in place or if this is an idea that they would like to explore. Encourage teams starting new programs to revisit the idea once they have been operating long enough to have potential alumni to participate in such a group.

A key component of transition planning is helping to ensure continuity of care and maintain a participant's strong level of engagement in treatment after they leave the program. One way to approach this is to work with the treatment provider(s) working with the mental health court participants to see if it is possible for them to remain clients after graduation.

## For Additional Discussion

1. As you may have noticed, the Bonneville Mental Health Court did not have a defense attorney attend the case staffing in the video. Ideally, a defense attorney who will be involved in the program will be present to participate in this activity. You want to consider asking him/her to provide his/her perspective on this case example and how she or he might approach the conversation differently had she or he been present at this staffing meeting.

## For the Team to Learn More

1. **Resources with more information on addressing behavioral health and criminogenic needs of individuals involved in the criminal justice system:**

**Resource 1:** Fred Osher et al., “Adults with Behavioral Health Needs Under Correctional Supervision: A Shared Framework for Reducing Recidivism and Promoting Recovery” (Council of State Governments Justice Center, 2012), [csgjusticecenter.org/wp-content/uploads/2013/05/9-24-12\\_Behavioral-Health-Framework-final.pdf](https://csgjusticecenter.org/wp-content/uploads/2013/05/9-24-12_Behavioral-Health-Framework-final.pdf).

**Resource 2:** For more information on evidence-based treatment associated with positive outcomes for individuals with behavioral health disorders who are involved in the criminal justice system, see Alex M. Blandford and Fred C. Osher, “A Checklist for Implementing Evidence-Based Practices and Programs (EBPs) for Justice-Involved Adults with Behavioral Health Disorders” (SAMHSA’s GAINS Center for Behavioral Health and Justice Transformation, 2012), [csgjusticecenter.org/wp-content/uploads/2013/04/SAMHSA-GAINS.pdf](https://csgjusticecenter.org/wp-content/uploads/2013/04/SAMHSA-GAINS.pdf).

**Resource 3:** For more information on cognitive behavioral treatment targeted to criminogenic needs of individuals who are involved in the criminal justice system, see Harvey Milkman and Kenneth Wanberg, “Cognitive-Behavioral Treatment: A Review and Discussion for Corrections Professionals” (U.S. Department of Justice, National Institute of Corrections, 2007), [static.nicic.gov/Library/021657.pdf](https://static.nicic.gov/Library/021657.pdf).

2. **Resource on specialized probation responses to supervise individuals with behavioral health disorders:**

Seth J. Prins and Fred C. Osher, *Improving Responses to People with Mental Illnesses: The Essential Elements of Specialized Probation Initiatives* (New York: Council of State Governments Justice Center, 2009), [csgjusticecenter.org/wp-content/uploads/2012/12/Improving\\_Responses\\_to\\_People\\_with\\_Mental\\_Illnesses\\_-\\_The\\_Essential\\_Elements\\_of\\_Specialize\\_Probation\\_Initiatives.pdf](https://csgjusticecenter.org/wp-content/uploads/2012/12/Improving_Responses_to_People_with_Mental_Illnesses_-_The_Essential_Elements_of_Specialize_Probation_Initiatives.pdf).

# Module 7: Facilitating the Success of Mental Health Court Participants

## Aim of Module

This module is designed to help the group think about how to facilitate participants' success in the program by drawing upon research on what works to motivate engagement in treatment and compliance with supervision conditions. In the absence of mental health court-specific research, the team will learn how to apply principles to the general atmosphere of the program (Part 1 of the presentation) and how to respond appropriately to specific types of participant behavior (Part 2 of the presentation).

## Learning Objectives

By the end of the module, participants should be able to

1. articulate principles that research shows are effective in modifying behavior;
2. describe how these principles inform each person's role on the mental health court team; and
3. develop policies and procedures that apply these principles to the mental health court.

## Facilitating the Activities

### Activity 1: Setting the Conditions for Success

#### Aim of Activity

Activity 1 is designed to help the team think about how to set the context for a program participant to be successful. The team will develop strategies for creating the conditions for participant success in their program and gain an understanding of how to apply research into what enhances motivation to engage in treatment and comply with court conditions.

#### Materials and Resources Needed

- » Printed copies of Module 7's Activities Guide for all participants so they have copies of the scenarios
- » Whiteboard/blackboard/flip charts and writing implements for listing group responses
- » A computer, Internet Access, and an LCD projector. Please note that access to YouTube is required to stream the video.
- » Module 7's Activities Guide video clips (available at [learning.csgjusticecenter.org/?page\\_id=340](http://learning.csgjusticecenter.org/?page_id=340)).

#### Tip

Encourage the team to refer to the list of team members in the videos. You may want to print copies ahead of time to bring to the training. The handout can be printed from the Activities Guide webpage for each of the modules, under "[Meet the mental health court case study team members.](#)"

## Common Concerns and How to Address Them

As the team learned in the presentation, each interaction between the participant and a team member presents an opportunity to reinforce positive behavior change. This is particularly pronounced at the hearings before the judge, and the judge plays such a pivotal role in helping to motivate participant engagement through direct interactions with program participants in his/her courtroom. While adjusting from a traditional role to this more active role may come naturally to many judges, others may not be as comfortable initially. If you have not already, try to talk to the judge one-on-one about his/her role in starting and overseeing the program, and his/her comfort level with interacting with individuals with mental disorders in the courtroom and the mental health court model. There are a number of different resources and materials (listed below under “For the Team to Learn More”) dedicated to enhance judicial understanding of, and responses to, individuals with mental disorders in the courtroom and the broader criminal justice system.

The team may notice that defense counsel is not present at the staffing meeting or at the status hearing in the video of the Bonneville County Mental Health Court. Many mental health courts operate in this way because they maintain a non-adversarial atmosphere, and because status hearings do not have a natural counterpart in the traditional court process. However, this may raise concerns that are important for the team to understand. Despite their distinctness from traditional court processing, regular status hearings still represent a function of the criminal justice system, and present the opportunity for court participants to put themselves in further jeopardy. For example, participants may appear at status hearings after having been recently booked on new crimes, or may volunteer information to the court that puts them in violation of their court conditions and thus eligible for jail time. The role of defense counsel is to advise their clients throughout their involvement in the criminal justice system—not just prior to entry into the mental health court program—and the preceding scenarios illustrate the difficulties that can arise when defense counsel are absent from status hearings or when program policies and procedures do not provide other appropriate protections for participant rights.

Some programs struggle with low levels of motivation and engagement of participants in early stages of the program. There may be certain strategies that programs will use to help motivate behavior change and encourage engagement in the program. Some programs train staff in Motivational Interviewing, a specific technique developed by William R. Miller and Stephen Rollnick to enhance an individual’s willingness to change by helping him/her realize how his/her actions relate to his/her values. Mental health court team members can apply the principles of Motivational Interviewing (see discussion question below) even without formal training, although receiving the training is ideal.

### For Additional Discussion

1. As discussed in the presentation, a program will be most successful to the extent it responds to participants’ learning styles (this is the Responsivity Principle from the Risk-Need-Responsivity Principle). The factors affecting an individual’s ability to learn and change his/her behavior should be the first targets of intervention. For example, an individual’s psychosis must be addressed before she or he can benefit from cognitive behavioral therapy.
  - a. Ask the team to reflect on their program’s ability to:
    - » Maintain any necessary medications, including those for general medical needs
    - » Be sensitive to potential histories of trauma among participants

- » Be sensitive to gender differences related to how people learn and what makes them feel safe and secure
  - » Be prepared to adapt to different levels of cognitive functioning among participants
- b. Ask the team to give one concrete example for each application of the Responsibility Principle outlined above (see *a.*) in their program.
2. Ask the team if staff that will be working with mental health court participants are trained in any particular methods to increase participant engagement, such as Motivational Interviewing. If not, ask them to consider how (1) they have applied the principles of Motivational Interviewing in their traditional roles, and (2) how they might apply them in the mental health court. For example, through:
    - a. Expressing empathy by making it clear to the participant that you understand what she or he is experiencing
    - b. Pointing out discrepancies between the participant’s goals and current behavior
    - c. “Rolling with resistance,” or appreciating and emphasizing with the participant’s circumstances while also discouraging his/her harmful behavior
    - d. Empowering the individual to act for him/herself
  3. The mental health court team should pay attention to how status hearings are conducted; certain intangibles may significantly affect how participants experience the mental health court program, and, in turn, their adherence to court conditions and the ultimate success of the program. Have the team consider the following when viewing *Video 4: Val Harris—Court Appearance*:
    - a. Ask: *Is the courtroom structured in a way that makes participants feel intimidated? Where are there opportunities to work with existing space to improve the physical setting for these interactions? Is there a smaller courtroom that can be used? Where do participants stand? If the courtroom layout requires the individual to stand far away from the judge or appear in a very large room, is it possible to provide support by having team members or a peer coach stand up with the participant so that she or he does not feel alone?*
    - b. Ask: *Are participants offered an opportunity to discuss their successes or explain the reasons why difficulties may have arisen?*
    - c. Ask: *Do team members show interest in participants as individuals?*

## For the Team to Learn More

1. **Resources to improve judicial understanding of, and responses to, individuals with mental disorders in the criminal justice system (for judges presiding over traditional criminal court dockets, and problem-solving courts, including mental health courts).**

The Judges’ Leadership Initiative for Criminal Justice and Behavioral Health ([csgjusticecenter.org/courts/judges-leadership-initiative/](http://csgjusticecenter.org/courts/judges-leadership-initiative/)) has developed several resources designed to serve as references on the bench, including the Judges’ Guide to Mental Illnesses in the Courtroom Bench card ([csgjusticecenter.org/courts/publications/judges-guide-to-mental-illnesses-in-the-courtroom](http://csgjusticecenter.org/courts/publications/judges-guide-to-mental-illnesses-in-the-courtroom)) and three bench books, including the *Judges’ Guide to Mental Health Jargon* (to

order copies, please visit [prainc.com/the-judges-criminal-justicemental-health-leadership-initiative-references-for-justice-system-practitioners](http://prainc.com/the-judges-criminal-justicemental-health-leadership-initiative-references-for-justice-system-practitioners)).

**2. Resources with more information on the role of procedural justice in a mental health court.**

**Resource 1:** Nicole L. Waters, Shauna M. Strickland, and Sarah A. Gibson, “Mental Health Court Culture: Leaving Your Hat at the Door” (National Center for State Courts, November 2009).

**Resource 2:** Bruce J. Winick and David B. Wexler, eds., *Judging in a Therapeutic Key: Therapeutic Jurisprudence and the Courts* (Durham, N.C: Carolina Academic Press, 2003). See in particular the chapter on problem-solving courts (pages 73 to 86).

**Resource 3:** Center for Court Innovation’s webpage with information and resources on procedural justice: Center for Court Innovation, “Procedural Justice,” n.d., [courtinnovation.org/topic/procedural-justice](http://courtinnovation.org/topic/procedural-justice).

**3. Resources with more information on applications of motivational interviewing in criminal justice settings.**

**Resource 1:** These guides provide an overview for correctional treatment staff of Motivational Interviewing and exercises to practice and improve Motivational Interviewing techniques. Bradford Bogue and Anjali Nandi, “Exercises for Developing MI Skills in Corrections” (U.S. Department of Justice, National Institute of Corrections, 2012), [static.nicic.gov/Library/025557.pdf](http://static.nicic.gov/Library/025557.pdf).

**Resource 2:** This document contains content adapted from the original training on Motivational Interviewing developed by William Miller and Stephen Rollnick specifically for judicial officers. Roxanne Bailin, *Motivational Interviewing for Judicial Officers, Adapted from William Miller and Stephen Rollnick, Motivational Interviewing, Second Edition*, (National Center for State Courts, 2006), [bit.ly/1fxoV2e](http://bit.ly/1fxoV2e).

**4. Resources with information on including families and supportive relationships in your program.**

**Resource 1:** For information on strategies to incorporate families into case management, please see: “Family Justice Program,” Vera Institute of Justice, [vera.org/centers/family-justice-program](http://vera.org/centers/family-justice-program).

**Resource 2:** For information on perspectives of family members of individuals involved in the criminal justice system, please see: “NAMI Perspectives on the Justice System,” National Alliance on Mental Illness, [www2.nami.org/Content/ContentGroups/Policy/Issues/Spotlights/Criminalization/NAMI\\_Perspectives\\_on\\_the\\_Justice\\_System.htm](http://www2.nami.org/Content/ContentGroups/Policy/Issues/Spotlights/Criminalization/NAMI_Perspectives_on_the_Justice_System.htm).

**Resource 3:** For information on support and education for family, caregivers, and friends of individuals living with mental illness, please see: “Family to Family,” National Alliance on Mental Illness, [www2.nami.org/template.cfm?section=family-to-family](http://www2.nami.org/template.cfm?section=family-to-family); and “NAMI Family Support Group,” National Alliance on Mental Illness, [nami.org/Find-Support/NAMI-Programs/NAMI-Family-Support-Group](http://nami.org/Find-Support/NAMI-Programs/NAMI-Family-Support-Group).

## Activity 2: Responding to Positive and Negative Events

### Aim of Activity

Activity 2 is designed to help the group think about how they would respond to positive and negative events in their program. The group should gain an understanding of how to use research to design responses to positive and negative events and how different programs craft their responses.

### Materials and Resources Needed

- » Printed copies of Module 7's Activities Guide for all participants so that they have copies of:
  - » Water County's responses to positive and negative events (Page 8 in Module 7's Activities Guide )
  - » *Mental Health Court Strategies to Help Defendants with Mental Illnesses Make Progress in Treatment and Comply with Court Requirements* (Pages 9 to 11 in Module 7's Activities Guide)
  - » Scenarios
- » Whiteboard/blackboard/flip charts and writing implements for recording group responses
- » A computer, Internet access, and an LCD projector. Please note that access to YouTube is required to stream the video.
- » Module 7 Activities Guide Video Clips (available at [learning.csgjusticecenter.org/?page\\_id=340](http://learning.csgjusticecenter.org/?page_id=340)) and a computer with Internet access and good speakers.

#### Tip

Encourage the team to refer to the list of team members in the videos. You may want to print copies ahead of time to bring to the training. The handout can be printed from the Activities Guide webpage for each of the modules, under "[Meet the mental health court case study team members.](#)"

### Common Concerns and How to Address Them

You may hear a request from the team to apply incentives and sanctions from drug courts (e.g., taking a list already developed for or by a drug court) to respond to participant problems and successes in the mental health court program. This is certainly tempting, yet reports from existing mental health courts suggest that the drug court model does not necessarily translate well for mental health court participants. Given their unique diagnoses and behavioral health needs (mental health, substance use, or both); different functional abilities; and individualized treatment and supervision plans tailored to behavioral health needs and criminogenic risk levels, a formulaic application of a sanctioning grid may not address the root causes of a violation. Instead, mental health court teams should tailor incentives and sanctions to the specific situation and participant, and should maintain internal data on the effectiveness of these responses in motivating compliance. Encourage the group to consult the general principles to motivate participant engagement and example responses outlined on pages 9 to 11 of the Activities Guide. Certain research-based principles also highlighted in the presentation include:

- » Increase the ratio of positive to negative responses (research indicates that applying positive reinforcement four times as frequently as negative reinforcement is most effective in moving an individual's behavior in the desired direction)



- » Clarify expectations and consequences (team members should be specific about the likely consequences of certain behaviors)
- » Respond to all events as promptly as possible (responses should be administered in a timely fashion so that the connection to the event is reinforced)
- » Make responses meaningful to the participant (individuals value different things, so any standardized list of responses should be vetted against the individuals' particular motivations)

The application of these principles and examples should not replace the careful evaluation on a case-by-case basis of what response is most appropriate. That said, a complete list of potential responses should be developed for the benefit of the mental health court team and the participants. As discussed in *Module 5: Designing Policies and Procedures for Program Participation*, participants should be aware upfront what the consequences of their actions may be before they enter the program, and defense counsel have requested such a list in many programs.

The use of jail as a response used for negative behaviors is worthy of substantial discussion. There are diverging practices among mental health court programs on this issue, yet there seems to be more of a consensus among national experts and experienced practitioners that the best practice is for programs to use jail time infrequently. While this is not been empirically studied, experts in the field subscribe to the belief that while jail may satisfy the desire to “punish,” it does little to actually improve a participant’s long-term ability to engage in treatment and advance toward recovery. In fact, incarceration disrupts a participant’s treatment regime (particularly access to appropriate medication), as well as housing, employment, and other stability factors, causing a person to decompensate. It also incurs cost; the team should consider whether controlling costs is a program goal. Some practitioners may dispute the deterrence potential of incarceration, suggesting that some participants may welcome time in jail because of the stability it can afford. Others use jail more liberally, such as when they feel that community safety is at risk; to “shake up” a participant; to stabilize someone in crisis; or as a form of detoxification. It is important for the team to discuss what their policy will be with regard to the use of jail in the program.

Some courts require that participants remain abstinent, and even list abstinence as a criterion for advancement to the next phase or graduation from the program. Others have explored applying a harm-reduction model to their mental health court programs, however, it is unusual for mental health courts to claim a full harm reduction approach, as it might be seen by some in conflict with the court’s goals to uphold law-abiding behavior, which includes the legal prohibition on drugs. While mental health courts employ recovery principles and court staff appreciate the circumstances around continued episodes of substance use, in the end the criminal justice context of these courts creates limits to the degree of continued use that is considered treatable by non-coercive means. In some mental health courts the client may be terminated (or voluntarily withdraw) and be sent back to regular criminal justice processing. Other mental health courts sentence participants to short jail or prison stays. Illicit substance use make a total harm reduction approach unlikely in mental health courts, but lessons from harm reduction and recovery principles can and do inform mental health court program design and operation as they pursue both their criminal justice and mental health goals for their clients.

## For Additional Discussion

1. Revisit the “MHC Communication Model” on page 3 of the publication *Leaving Your Hat at the Door* that was included in the Facilitators’ Guide to Module 3 ([cdm16501.contentdm.oclc.org/cdm/ref/collection/spcts/id/209](http://cdm16501.contentdm.oclc.org/cdm/ref/collection/spcts/id/209))

- a. If the team hasn't already done so for Module 3, ask them to reflect on how this model would work in practice for them.
  - b. Ask: *How would information be exchanged between the different team members in the program?*
2. As discussed in *Module 6: Case Planning*, many mental health courts organize their programs into phases with different levels of supervision tied to demonstrated success. Some programs have decided to go one step further and have outlined treatment and supervision goals and specific advancement criteria for each phase, and even differentiate between misdemeanor and felony (see example of Treatment Phases for the Chatham-Savannah Mental Health Court, available in the Additional Resources section of Module 7).
- a. Ask the team to review this example and ask what their reactions are in general, and with regard to this program's decision to
    - i. Integrate treatment and supervision goals
    - ii. Differentiate between participants with mental disorders and those with co-occurring mental and substance use disorders
    - iii. Introduce requirement for employment or engagement in a structured activity in Phase 4 and not earlier
      1. Ask: *Should employment even be a requirement? Why or why not?*
    - iv. Specific minimum time requirements for each phase (Note: Programs should try to be flexible in terms of the minimum time specified for each phase)
  - b. In part (d) of this activity, the team will view the Bonneville County Mental Health Court team's discussion of an appropriate response to Val Harris' behavior in their staffing meeting. The team considers the option that Mr. Harris work through a contingency plan rather than serve jail time (question 3 addresses this decision). The Bonneville County Mental Health Court uses "contingency plans" (particularly for participants with co-occurring mental and substance use disorders). Adapted from the contingency management treatment approach, the team uses learning strategies with participants to develop a couple concrete skills, thus working towards incremental change while continuing treatment without interruption. The treatment team then rolls the goals outlined in the contingency plan into the broader treatment plan. Common elements in a contingency plan used by mental health court programs include: (1) the stated reason for the contingency plan, (2) the purpose of the plan, (3) the consequence if the plan is not followed, (4) and the parameters of the plan itself.
    - i. Ask the team to consider the use of contingency plans in a mental health court program and discuss whether it is an approach that is appropriate for their particular program. Why or why not?
    - ii. What potential advantages and challenges does using contingency plans present? (Note: the Bonneville County Mental Health Court has an Assertive Community Treatment (ACT) team to work with participants on contingency plans, and other programs may not find this approach feasible without such a highly intensive, wrap-around treatment team approach).

## For the Team to Learn More

### Resources on Contingency Management Plans.

**Resource 1.** Example of a contingency plan from the Bonneville County Mental Health Court, available at [csgjusticecenter.org/wp-content/uploads/2014/04/Contingency-Management-Plan-for-Participant.pdf](http://csgjusticecenter.org/wp-content/uploads/2014/04/Contingency-Management-Plan-for-Participant.pdf).

**Resource 2:** For more information on contingency management, see Nancy M. Petry, Sheila M. Alessi, and David M. Ledgerwood, “A Randomized Trial of Contingency Management Delivered by Community Therapists.,” *Journal of Consulting and Clinical Psychology*, 80 no. 2 (2012): 286–98.

## Activity 3: Identifying Potential Responses to Events

### Aim of Activity

Activity 3 is designed to help the group list preliminary ideas about how they will respond to positive and negative events in their program. In this activity, the group will develop a list of responses to potential positive and negative events.

### Materials and Resources Needed

- » Printed copies of Module 7 Activities Guide for all participants so they have copies of the “Event Responses” worksheet
- » Whiteboard/blackboard/flip charts and writing implements for listing group responses

### Common Concerns and How to Address Them

As mentioned previously for Activity 2, while drug court research has shown that drug courts that use a structured schedule of incentives and sanctions are more effective, this research should not necessarily be applied to a mental health court setting. Instead, programs should coordinate and individualize judicial and clinical responses when responding to setbacks and successes in a way that motivates compliance with the individual’s treatment plan. However, a complete list of potential responses should be developed for the benefit of the mental health court team and the participants so that they are aware upfront what the consequences of their actions may be before they enter the program. Or at the very least, including ranges of incentives and sanctions (from the least to most severe) should be offered to encourage participants’ perception of predictability and fairness.

Many teams planning mental health court programs experience some stress and hesitation in articulating responses for their programs. However, there are certain principles that teams can follow as they are thinking this through; as mentioned above, see Activity 2, part (b) in the Activities Guide

#### Tip

Encourage the team to refer to the list of team members in the videos. You may want to print copies ahead of time to bring to the training. The handout can be printed from the Activities Guide webpage for each of the modules, under [“Meet the mental health court case study team members.”](#)

for this module on pages 9 to 11. In addition to these principles, there are certain considerations programs should make in developing a list of responses.

- » Many programs do not make an effort to keep treatment responses separate from other responses, which can be problematic; programs don't want to "punish" by increasing intensity of treatment or "reward" by decreasing intensity of treatment.
- » When designing and selecting incentives and sanctions, programs should remember that one person's sanction could be another person's reward and that responses need to be tailored to what will motivate the individual participant. For example, one participant at the Brooklyn Mental Health Court saw the "Penalty Box" sanction as a reward, instead of the sanction it was intended to be.
- » Courts can personalize incentives and sanctions lists and options by working with individual participants to determine what would be an incentive or sanction to them and operating on a case-by-case basis. Some participants aren't even aware what is on the "menu" of incentives and sanctions, and working through the list or creating one with them will help ensure they know how the incentives and sanctions apply to them and what sort of responses they can anticipate.

As the facilitator, you may also want to make it clear to the team that while they will start a list of likely events and appropriate responses in this activity, this is intended to be a starting point only and their program's responses will evolve over time. The team will continue the discussion of what circumstances warrant which responses, and continue to refine and adjust the list of responses and applications as the program matures and the team tracks what is most effective for whom. This activity will help them develop a conceptual framework to build upon as they move toward program implementation.

## For Additional Discussion

- 1) In Activity 2, the team had the opportunity to consider how Bonneville County Mental Health Court and Water County Mental Health Court design responses to negative and positive events. This activity is intended for the team to start designing their own responses. If you find that the team is reluctant to start this process and may need an additional reference point, refer them to:
  - a. Pages 9 to 10 of the San Francisco Behavioral Health Court's Policies and Procedures Manual: Superior Court of California, County of San Francisco, "Behavioral Health Court Policies and Procedures Manual," July 2008, [sfbar.org/forms/lawyerreferrals/ida/BHC\\_manual.pdf](https://sfbar.org/forms/lawyerreferrals/ida/BHC_manual.pdf).

# Module 8: Launching and Sustaining Your Program

## Aim of Module

The aim of this module is to introduce the group to the variety of issues and considerations that fall under program management in launching (Part 1) and sustaining (Part 2) a mental health court program, including

- » how and what data to collect to “make the case” for sustaining the program;
- » how to monitor the performance of the program;
- » how to use data to identify necessary programmatic adjustments and improvements;
- » how to plan for adverse events; and
- » how to develop a program manual.

## Learning Objectives

By the end of the module, participants should be able to

1. identify common strategies for funding the program at the outset;
2. describe the role of data collection and evaluation in managing and sustaining the program; and
3. describe strategies for engaging the advisory group and team members in continuously improving the program.

## Facilitating the Activities

### Activity 1: Communicating Program Information to Different Audiences

#### Aim of Activity

Activity 1 involves a set of role-playing exercises to develop strategies to use when communicating with different constituencies about the program. The group will come away from the activity with notes on topics and phrasing to incorporate into informational products (e.g., brochures) and other materials about the program designed for different audiences.

#### Materials and Resources Needed

- » A printed copy of Module 8’s Activities Guide for each participant so that they have copies of the role-playing scenarios and talking points worksheet (Pages 6 to 8 in Module 8’s Activities Guide)
- » Whiteboard/blackboard/flip charts and writing implements for listing group responses

#### Tip

Encourage the team to refer to the list of team members in the videos. You may want to print copies ahead of time to bring to the training. The handout can be printed from the Activities Guide webpage for each of the modules, under [“Meet the mental health court case study team members.”](#)

## Common Concerns and How to Address Them

The team will need to collect data for different purposes: to keep track of participants (program operations); to measure the program's performance on an ongoing basis (performance measurement); and to determine whether the program is operating as intended and having the intended results (process and outcome evaluations respectively). As the Presentation explains, it is important for the teams to understand the different uses of data early on during the planning of the program to help them determine the best way to collect, manage, and analyze it.

This activity is intended for the team to consider its ability to measure the performance of the program and make a case for sustaining it to different constituencies including key stakeholders, county commissioners and council members, legislators, potential referral sources or partners, and members of the public. This information may come from program performance measures or from program evaluation measures, but there is often confusion on what distinguishes the two types. Ensuring that the team understands the differences will help them determine how to conduct both performance measurement and program evaluation, tailoring both to their program's objectives and resources.

Both forms of assessment “aim to support resource allocation and other policy decisions to improve service delivery and program effectiveness,” but there are key differences, as illustrated in Table 9 on the following page, adapted from the U.S. Government Accountability Office's (GAO) glossary.

Many programs aim to conduct cost-benefit analyses, but cost data are very complex and difficult to gather and interpret correctly. One particular challenge is determining whether costs have been reduced, or shifted from corrections to behavioral health systems. The Center for Court Innovation's evaluation of the Brooklyn and Bronx mental health courts highlights challenges associated with conducting cost-benefit analyses for the programs, and suggests a strategy with recommendations for future data collection (see Resource 4 under “Resources on data collection and program evaluation in mental health courts” below).

Publicizing the program is essential to getting a new mental health court program off of the ground, so the team will want to invest time and energy in preparing stakeholders to promote it by identifying opportunities and venues for them to do so (e.g., news articles, speaking engagements) and by developing background and promotional materials (e.g., talking points, brochure). The team may express that they don't have many ideas on how to get the word out, or the time or resources to dedicate to it, particularly early on when they are focusing on planning and early implementation efforts. However, there are different strategies other programs have used that they should consider—some may be less labor and resource intensive than they think. Encourage them to consult the “Engaging Stakeholders in Your Project” resource listed below under *For the Team to Learn More*.

This activity involves role-playing. You may want to consult the Training and Group Facilitation Tips under “While Facilitating” for some ideas on how to engage reluctant participants in this portion of this activity.

Table 9. Types of Program Performance Assessment

	Performance Measurement	Program Evaluation
What is it?	The ongoing monitoring and reporting of program accomplishments, particularly progress towards pre-established goals.	Program evaluations are individual systematic studies conducted periodically or on an ad hoc basis to assess how well a program is working.
Who conducts it?	Typically conducted by program or agency management.	They are often conducted by experts external to the program, either inside or outside the agency as well as by program managers.
What is the focus?	Focuses on whether a program has achieved its objectives, expressed as measurable performance standards.	Focuses on whether a program has achieved its objectives, expressed as measurable performance standards. Evaluations may examine aspects of program operations (such as in a process evaluation), or factors in the program environment that may impede or contribute to its success, to help explain the linkages between program inputs, activities, outputs, and outcomes. Alternatively, evaluations may assess the program’s effects beyond its intended objectives, or estimate what would have occurred in the absence of the program, in order to assess the program’s net impact. Additionally, program evaluations may systematically compare the effectiveness of alternative programs aimed at the same objective.
How is it used?	Performance measurement, because of its ongoing nature, can serve as an early warning system to management and as a vehicle for improving accountability to the public.	There are four main types, all of which use measures of program performance, along with other information, to learn the benefits of a program or how to improve it.

Source: U.S. Government Accountability Office, “Performance Measurement and Evaluation: Definitions and Relationships” (U.S. GAO, 1997), [gao.gov/special.pubs/gg98026.pdf](https://www.gao.gov/special.pubs/gg98026.pdf).

## For Additional Discussion

1. Ask: *Can you identify any upcoming events or meetings that would be good opportunities to introduce the program?*

## For the Team to Learn More

1. **A tool mental health programs can use to monitor program performance and demonstrate accountability to different audiences:** National Center for State Courts, “Mental Health Court Performance Measures” (NCSC, 2010), [ncsc.org/services-and-experts/areas-of-expertise/problem-solving-courts/mental-health-court-performance-measures.aspx](http://ncsc.org/services-and-experts/areas-of-expertise/problem-solving-courts/mental-health-court-performance-measures.aspx).

2. **Resources on data collection and program evaluation in mental health courts:**

**Resource 1:** With the support of the U.S. Department of Justice’s Bureau of Justice Assistance and the Health Foundation of Greater Cincinnati, the CSG Justice Center developed a database for mental health court operations and reporting. This database is available free on a CD with a User Manual, Tech Guide, and Data Dictionary for interested jurisdictions. No technical support is available for database modifications or installation difficulties. The team can request a copy by submitting a request through the “Contact Us” webpage on the curriculum’s website.

**Resource 2:** This webinar—the first in a two-part series—focuses on practical approaches for collecting mental health court data. The webinar also teaches skills and techniques for working with mental health court data in Microsoft Excel. Cynthia Kimmelman DeVries, Andrew Barbee, and Hallie Fader-Towe, “Webinar: Working with Data for Mental Health Court Practitioners, Part One: Data Collection and Manipulation” (Webinar, Council of State Governments Justice Center), [csgjusticecenter.org/cp/webinars/webinar-archive-working-with-data-for-mental-health-court-practitioners-part-one-data-collection-and-manipulation](http://csgjusticecenter.org/cp/webinars/webinar-archive-working-with-data-for-mental-health-court-practitioners-part-one-data-collection-and-manipulation).

**Resource 3:** The second part of the “Working with Data for Mental Health Court Practitioners” webinar series presents perspectives on data analysis and provides suggestions on how to analyze data and meaningfully present the findings. Cynthia Kimmelman DeVries and Andrew Barbee, “Webinar: Working with Data for Mental Health Court Practitioners, Part Two: Data Analysis and Communication,” [csgjusticecenter.org/cp/webinars/webinar-archive-working-with-data-for-mental-health-court-practitioners-part-two-data-analysis-and-communication](http://csgjusticecenter.org/cp/webinars/webinar-archive-working-with-data-for-mental-health-court-practitioners-part-two-data-analysis-and-communication).

**Resource 4:** Chapter 5 (page 126) of the Center for Court Innovation’s evaluation report on the Bronx and Brooklyn mental health court programs illustrates the challenges encountered in conducting a CBA, and provides a suggested strategy with recommendations for future data collection. Shelli B. Rossman et al., *Criminal Justice Interventions for Offenders with Mental Illness: Evaluations of Mental Health Courts in Bronx and Brooklyn, New York* (National Institute of Justice, February 2012), [courtinnovation.org/sites/default/files/documents/Criminal\\_Justice\\_Interventions.pdf](http://courtinnovation.org/sites/default/files/documents/Criminal_Justice_Interventions.pdf).

3. **Resource with ideas on how to engage stakeholders “to get the word out” about the program.** Center for Court Innovation, “Fact Sheet: Engaging Stakeholders in Your Project,” accessed October 20, 2014, [courtinnovation.org/sites/default/files/Engaging\\_Stakeholders\\_in\\_Your\\_Project.pdf](http://courtinnovation.org/sites/default/files/Engaging_Stakeholders_in_Your_Project.pdf).



## Activity 2: Adverse Event Planning

### Aim of Activity

Activity 2 is designed to help the group understand how a mental health court team addresses events that can threaten the sustainability of the program, such as a high-profile negative incident involving a program participant or graduate. Group members will see how a mental health court team considers the needs of different stakeholders in planning its response to a negative event, and develop an understanding of what roles mental health court team members play in addressing them. In this activity, the group will also develop a list of stakeholder concerns that will need to be addressed if there is a negative event.

### Materials and Resources Needed

- » A printed copy of Module 8's Activities Guide for each participant so that they have copies of the discussion questions
- » Whiteboard/blackboard/flip charts and writing implements for listing group responses
- » A computer, Internet access, and an LCD projector. Note that access to YouTube is required to view the video clips.
- » Module 8's Activities Guide video clips (available at [learning.csgjusticecenter.org/?page\\_id=351](http://learning.csgjusticecenter.org/?page_id=351)) and good speakers.

#### Tip

Encourage the team to refer to the list of team members in the videos. You may want to print copies ahead of time to bring to the training. The handout can be printed from the Activities Guide webpage for each of the modules, under "[Meet the mental health court case study team members.](#)"

### Common Concerns and How Address Them

As Eric, the program coordinator, pointed out in the video, the team is concerned about what the program's messaging should be following this negative event. The situation is heightened because the Bonneville County Mental Health Court program accepts "high-risk" individuals, which is consistent with available evidence; as the team has learned in earlier modules, research suggests that targeting resources on individuals with high to moderate risk levels who have serious behavioral health needs will have the greatest impact on increasing public safety and will maximize the impact of the program's resources.

It is worth remembering here that "high-risk" in this context is a high criminogenic risk. Criminogenic risk refers to the likelihood that an individual will commit a new crime, or violate conditions of supervision and does not refer to risk of violence. Teams should think about how to promote the understanding that high criminogenic risk does not mean high risk of violence. Measuring risk of violence is not within the scope of an instrument designed to measure risk of recidivism. While relevant assessment instruments do exist to assess the risk of violence (e.g., Violence Risk Appraisal Guide, their ability to predict future violent acts is limited by the complex nature of violence, and the fact that violence is an infrequent event. Significantly, without certain prior behaviors (e.g., past history of violence, clinical symptoms of violent psychopathy), it is almost impossible to predict whether an individual will commit a violent act in the future. Additionally, as with other actuarial risk assessment instruments, violence risk assessments will not state what a specific person will do but rather places a person in a "risk group."

As the video showed, the Bonneville County Mental Health Court team prepared for the possibility of this type of event occurring and developed a plan to address public safety concerns raised in response. This plan includes an agreement on how to respond to inquiries from the legislature, other state or local governing bodies, the media, and attorneys. Part of the plan includes ongoing education and outreach to different constituencies in the community about the program and the limitations in predicting or preventing violence for participants. Collecting and analyzing outcome data will play a vital role by providing empirical verification of the positive impact of the program.

A commitment among team members to data-driven and evidence-based approaches provides a solid foundation from which to deal with exceptional unfortunate events. Close coordination and trust among team members will assist in presenting a united front that contains consistent messages and facts from person to person.

### For Additional Discussion

1. Ask your team how they might react differently to the scenario presented in the video than the Bonneville Mental Health Court team did. Why?
2. The Bonneville team discusses the possibility of sharing participant “success stories” with stakeholders, particularly legislators (but only with participant privacy protected, as the prosecutor points out). Ask your training team if they are considering collecting this type of information once the program has been up and running long enough. *How could this information be presented and communicated in an effective way?*

### For the Team to Learn More

**A handbook for state mental health commissioners on responding to a high-profile, negative event involving a person with a serious mental disorder.** The National Association of State Mental Health Program Directors (NASMHPD) and the CSG Justice Center, “Responding to a High-Profile Tragic Incident Involving a Person with a Serious Mental Illness,” [nasmhpd.org/docs/publications/docs/2010/ViolenceToolkit\\_Bkmk.pdf](https://nasmhpd.org/docs/publications/docs/2010/ViolenceToolkit_Bkmk.pdf).

## Activity 3: Creating A Program Manual

### Aim of Activity

Activity 3 is designed to help the team create a manual describing their program’s policies and procedures. This manual (or variants of it) will help instruct team members and clarify the program for potential participants. The program manual will likely evolve as the program matures.

#### Tip

Encourage the team to refer to the list of team members in the videos. You may want to print copies ahead of time to bring to the training. The handout can be printed from the Activities Guide webpage for each of the modules, under [“Meet the mental health court case study team members.”](#)

### Materials and Resources Needed

- » A printed copy of Module 8’s Activities Guide for each participant so that they have copies of the summary of key topics (Pages 13 to 19 in Module 8’s Activities Guide)
- » Whiteboard/blackboard/flip charts and writing implements for drafting a Table of Contents for the mental health court’s program manual

### Common Concerns and How to Address Them

As the team learned in *Module 5: Designing Policies and Procedures for Program Participation*, developing written policies and procedures for a mental health court program is considered a best practice; team members must agree on shared goals and consistent messaging. The program must clearly outline what the requirements and parameters are. For example, setting the target population is a fundamental policy that the team must agree on. Putting this decision to paper will help the team avoid “net widening,” or accepting participants that fall outside of the agreed upon program target population. It is admirable to want to serve as many individuals in the community as possible, but the program ought to consistently evaluate whether it is able to meet the needs of and supervise these individuals.

While it is a good idea for teams to consult program manuals (or, program policies and procedures manuals) that other programs have developed—particularly from a program in their own state and from a community similar to theirs—you should try to dissuade teams from adopting such a manual wholesale for their own program. The intention of this activity is to help teams think about what important components and information their manual should contain before relying too heavily on the content, scope, and format of one developed by another program. However, developing a document like this can be a time consuming, and often iterative process as it forces the team to make decisions and memorialize them on paper. Remind the group why it is so important to have these conversations and use developing a manual as a record, but that it is a living document that will be updated as the program evolves.

As you will notice in reviewing Activity 3, the components of the curriculum were intentionally developed so that teams could work through them to make key program design decisions, discuss program policies and procedures, and develop materials and resources that collectively could roll up into an outline for a program manual. In fact, Activity 3 is designed so that team members can take stock of what decisions they have made and what they have accomplished (either from going through the entire curriculum, or in using part of it to build upon existing policies and procedures). The team can work through key topics (“Summary of Key Topics” on pages 13 to 19 of the Activities

Guide) that would typically be included in a program manual and record decisions, information, and policies they have already developed and agreed upon. Going through these topics with the training group may reveal questions that they have not yet worked through, or certain areas that they have not reached consensus on, which would warrant further discussion. As the facilitator, you may even find it helpful to use the “Summary of Key Topics” throughout the training to keep track of how the team is progressing, what decisions you have heard the team reach, and areas that you anticipate additional discussion time is necessary to resolve.

Programs may develop a version of the policies and procedures manual that is intended for program participants, often called a “Participant Handbook.” This document should be a version of the policies and procedures manual that is accessible for participants. It shouldn’t omit any vital information (as stressed throughout the curriculum, it is important for participants to be familiar with and fully understand all of the program parameters before making the decision to enter the program), but the language used can be less reliant on jargon and address the participant directly. After the information is fully reviewed with the participant prior to his/her decision to enter to program (and ideally with defense counsel), that person can then refer to it as needed. To give the team a sense of what the participant handbook can contain versus a program policies and procedures manual, see the link under “For the Team to Learn More” for examples from the Bonneville County Mental Health Court program.

## For Additional Discussion

1. Ask: *Who will be responsible for overseeing the development of the manual after the group works through this activity?*
2. Ask: *Are there other stakeholders or partners who will need to weigh in and review the draft?*
3. Ask: *What other documentation will you need to include in the manual as appendices?*

As the team thinks this through, you can direct them to the worksheets and activities they completed in earlier modules to use as a starting off point for certain documents. See Table 10 on the next page for commonly used documents and corresponding relevant material from the curriculum’s activities. (Note: This is not an exhaustive list and there are documents and materials that your team may wish to develop that are not listed here or included as examples from other programs.)

## For the Team to Learn More

**To see example documents from the Bonneville County Mental Health Court,**<sup>46</sup> including the program’s Participant Handbook and Policies and Procedures Manual, see [csgjusticecenter.org/mental-health/learning-sites/idaho-falls-mental-health-court/](https://csgjusticecenter.org/mental-health/learning-sites/idaho-falls-mental-health-court/).

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<sup>46</sup> The versions of these documents may not necessarily reflect any updates made by the team since they were originally uploaded.

Table 10. Documentation

Common Materials/Documents/Resources	Content From Activities That Can Be Used to Develop
Inventory or directory of services and supports in the community	"Inventory of Resources" Worksheet from Module 2: Your Community, Your Mental Health Court, Activity 2
Outline of program eligibility criteria	"Eligibility Criteria/ Target Population" Worksheet from Module 4: Target Population, Activity 1
1) Flow Chart for Program (useful to map out screening, assessment, and referral process) 2) Referral form	"Screening Potential Participants" Worksheet and accompanying questions on page 8 from Module 5: Designing Policies and Procedures for Program Participation
List of graduation requirements/graduation checklist	"Graduation Criteria and Conditions" from Module 5: Designing Policies and Procedures for Program Participation
Informed consent form	Questions from Activity 2, Module 5: Designing Policies and Procedures for Program Participation
List of responses to positive and negative events	"Event Responses" Worksheet from Module 7: Facilitating Participant Success
Talking points/answers to common questions stakeholders may have	Answer to questions on page 6 from Module 8: Launching and Sustaining Your Program
Plan in case of an adverse event	Answers to question 2 on page 10 from Module 8: Launching and Sustaining Your Program