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Session 20

Working with Justice Involved Individuals

aims to support community-based behavioral health providers in their practices for individuals with behavioral health and substance use disorders who are currently involved with our have history of involvement in the adult criminal justice system.

Working with Justice Involved Individuals

Vision and Values

“Community-based behavioral health providers and systems have an essential role in serving individuals with behavioral health and substance use disorders who are currently or formerly involved with the criminal justice system. These individuals are a part of every community, and as for all community members with behavioral health needs, individualized, integrated, comprehensive, coordinated, and continuous service is the standard of care.” SAMHSA

Justice System Involvement

In many communities, individuals with behavioral health disorders face significant barriers in accessing adequate community-based services.

This lack of resources often results in these individuals being funneled into the justice system instead.

This situation highlights the critical need for improved access to quality community-based care to prevent the criminalization of behavioral health disorders and ensure that those in need receive the appropriate treatment and support within their communities.

The Eight Principles

“The Principles provide a foundation for realizing a quality, community-based behavioral health treatment system.”

Principle 1

Community providers are knowledgeable about the criminal justice system. This includes the sequence of events, terminology, and processes of the criminal justice system, as well as the practices of criminal justice professionals.

The criminal justice process begins when a person has contact with a law enforcement officer. This contact may lead to an arrest and entry into the criminal justice system, which includes prosecution, pretrial services, adjudication, sentencing, and corrections. Corrections may involve jail, prison, or community supervision.

Principle 2

Community providers collaborate with criminal justice professionals to improve public health, public safety, and individual behavioral health outcomes.

Community providers and criminal justice professionals must work together to ensure continuous care during transitions in and out of incarceration and maintain treatment and support both in correctional facilities and the community. This involves sharing information, responsibilities, and accountability.

Principle 3

Evidence-based and promising programs and practices in behavioral health treatment services are used to provide high quality clinical care for justice-involved individuals.

Programs for behavioral health and substance use disorders should be based on evidence and adapted for justice-involved individuals when needed. These adaptations include cognitive-skills training to address criminal thinking and behavior.

Treatment should be personalized and focus on motivation, problem solving, and skill building to improve cognitive, social, emotional, and coping skills.

Principle 4

Community providers understand and address criminogenic risk and need factors as part of a comprehensive treatment plan for justice-involved individuals.

Criminogenic risk is the chance that someone will commit a new crime or violate probation or parole. Criminogenic needs are factors that make re-offending more likely, such as unemployment or substance use disorders. These risks and needs can be changed with intervention.

Principle 5

Integrated physical and behavioral health care is part of a comprehensive treatment plan for justice-involved individuals.

People who were formerly incarcerated are at higher risk for serious chronic health conditions and need coordinated care with other health professionals. They often have high rates of infectious and chronic diseases, which can worsen during incarceration. Testing for these diseases and coordinating medical care are important parts of treatment for justice-involved individuals.

Principle 6

Services and workplaces are trauma-informed to support the health and safety of both justice-involved individuals and community providers.

People involved in the justice system often experience high levels of trauma. Trauma comes from events or situations that cause lasting harm to a person's mental, physical, social, emotional, or spiritual well-being. In prison, individuals may face additional trauma like sexual and physical violence, intimidation, isolation, and coercion. Previous trauma can worsen with new experiences in jail.

Principle 7

Case management for justice-involved individuals incorporates treatment, social services, and social supports that address prior and current involvement with the criminal justice system and reduce the likelihood of recidivism.

People involved with the criminal justice system or returning from jail face unique challenges in finding housing, jobs, and health care. Case managers help connect them to services and address issues like lack of housing, unemployment, and social support. These issues, along with untreated substance use disorders, can lead to poor health and a higher chance of re-offending.

Principle 8

Community providers recognize and address issues that may contribute to disparities in both behavioral health care and the criminal justice system.

Different groups, based on race, ethnicity, gender, sexual orientation, and economic status, have unequal access to quality behavioral health treatment and are overrepresented in the criminal justice system. Community-based providers need to understand these biases to avoid perpetuating them and to ensure positive treatment and justice outcomes.

Frequently Asked Questions: Get to Know The Criminal Justice System

Why Should Community-Based Providers Understand the Criminal Justice Process?

Understanding criminal justice procedures, professionals, and terms, and the experiences of people with behavioral health and substance use disorders in the criminal justice system, is essential for helping justice-involved individuals. This knowledge helps community providers tailor treatment and support, meet supervision requirements, and avoid further criminal justice involvement.

Knowing the roles of criminal justice professionals helps providers navigate the system with their clients. Opportunities may exist to divert individuals from the criminal justice system before or after arrest and link them to treatment services. When public safety is not at risk, police and behavioral health collaborations can support diversion before an arrest.

What is the sequence of events in the criminal justice system?

The process in local justice systems varies by jurisdiction and state, but generally follows these steps:

Arrest and Booking: After an arrest, a person is taken into custody, booked in jail, and awaits bail determination by a judge or magistrate.

Bail and Release: The judge decides on bail. The person may be released on bond, into custody, or on their own recognizance (ROR). High-risk individuals might be supervised by a pretrial services agency, requiring regular check-ins or drug tests.

Arraignment: The case is assigned to a judge, and the first court hearing (arraignment) takes place. Charges are read, and the right to an attorney is stated. If the individual can't afford an attorney, a public defender is assigned. Bail may be reviewed.

Next Steps: The court decides the next steps, such as diversion to a specialty court (e.g., drug court) or continuing the case. If evidence is insufficient, charges may be dismissed. If a plea of not guilty is entered, a trial date is set. Plea bargains are also possible.

Trial and Sentencing: If not diverted to a specialty court, a trial determines guilt or innocence. This can be a jury trial or a bench trial (judge-only). If found innocent, the person is released. If guilty, sentencing follows:

Jail: Less than a year.

Prison: More than a year.

Community Supervision: Probation with regular meetings and drug tests.

Post-Sentencing:

Probation: Supervised by a probation officer.

Jail/Prison: Transferred to local jail or state prison.

Parole: After serving part of the sentence, individuals on parole are supervised by a parole officer.

What is diversion?

Diversion means redirecting people with behavioral health or substance use disorders from the criminal justice system to treatment programs instead of jail.

- **Before Arrest:** Diversion can happen through police-behavioral health partnerships like Crisis Intervention Teams (CIT), Law Enforcement Assisted Diversion (LEAD), and joint responses by police and health professionals. These efforts aim to direct people to treatment rather than arresting them.
- **After Arrest:** Once arrested, during detention and initial court hearings, there are opportunities for assessment and possible diversion from traditional prosecution. This involves coordination between police, jail staff, prosecutors, public defenders, probation officers, pretrial services, and judges.
- **Treatment Courts:** Specialized courts (like drug courts) offer diversion by focusing on treatment rather than punishment. Participation is voluntary. If participants complete the program, charges may be reduced or dismissed. These courts have dedicated judges and legal teams and often work with probation departments or case managers for supervision.

- **Types of Courts:** Besides drug courts, there are mental health courts, veterans courts, and domestic violence courts. These courts aim to address underlying issues and connect participants with necessary treatments and services.
- **Assisted Outpatient Treatment:** For those at risk of harming themselves or others, state laws may allow diversion to community-based treatment programs.

What are reentry services?

Reentry refers to the process of preparing individuals in jail or prison for their return to the community and supporting them after release.

- **Transition Period:** This period is crucial for ensuring continuous care, reducing overdose risk, and connecting individuals to necessary services. The risk of overdose and death, especially from opioids, is much higher immediately after release.
- **Continuing Care:** Starting treatment in jail or prison and continuing it after release helps maintain progress.
- **Collaboration:** Working together with correctional staff and health providers ensures consistent care, reduces overdose risks, and lowers the chance of returning to jail or prison. Regular contact and clear policies improve this collaboration. Peer-support staff, who have personal experience, play a vital role in reentry, providing unique support and enhancing engagement.
- **Building Relationships:** Providers should connect with local jail administrators (usually the county sheriff) or state and local prison reentry services to establish collaboration.
- **Comprehensive Support:** Coordinating with reentry service personnel helps meet the full range of needs, including healthcare, housing, employment, transportation, and access to identification and benefits. This support is critical due to the high risks of homelessness and health issues after release.

What are community corrections programs?

People under criminal justice supervision after leaving jail or prison may be monitored by community corrections programs.

- **Community Corrections:** These programs manage individuals on probation or parole. They are run by agencies or courts that can enforce rules and penalties.
- **Probation vs. Parole:**
 - **Probation:** Supervision in the community instead of serving time in jail or prison.
 - **Parole:** Supervised release from prison under certain conditions.
- **Collaboration:** Working together with community treatment providers and community corrections officers helps individuals meet their supervision requirements successfully.
- **Pretrial Supervision:** In places without a separate pretrial services agency, probation and parole agencies might also supervise people released from jail while they wait for their court date.
- **Treatment Court Programs:** Community corrections may also oversee people in treatment court programs.

What information and data can be shared with a criminal justice professional?

Barriers: Sharing information between community providers and criminal justice professionals can be challenging due to misunderstandings of HIPAA (Health Insurance Portability and Accountability Act).

HIPAA Basics: HIPAA's main goal is to protect privacy and security of electronic health records, not to block necessary health services. It allows health care providers to share information with other providers for treatment without needing patient permission first.

Criminal Justice: Although criminal justice professionals are not covered by HIPAA, they can still receive health information in certain situations. For example, law enforcement can get information if it's needed for the individual's health and safety.

Agreements: Tools like "business associate agreements" and "qualified service organization agreements" can help standardize information sharing. Providers can also get signed releases from clients to ensure proper sharing of health information.

Substance Use Disorder Records: The Confidentiality of Substance Use Disorder Patient Records (42 CFR Part 2) has strict rules about sharing information. These records can only be shared with written consent, a court order, or in emergencies.

For more details on HIPAA and 42 CFR Part 2, visit the U.S. Department of Health and Human Services and the SAMHSA websites.

Who are peer support specialists and what role do they play in providing services?

- **Role:** Peer support staff use their own experiences with behavioral health, substance use, or incarceration to help others in treatment settings.
- **Benefits:** Research shows that peer support can increase clients' empowerment and satisfaction with services. It may also help reduce substance use, improve stability, and enhance community involvement and social functioning.
- **Impact:** Peers help clients overcome societal stereotypes and barriers, making treatment feel more responsive and inclusive.
- **Employment:** Community-based providers should employ and integrate peer staff, often called "Peer Support Specialists," into various roles like case management, transitional support, clinical treatment, and administration.
- **Value:** Involving people with lived experience in all aspects of the agency ensures relevant, compassionate services that support client recovery.

Glossary of Terms

42 CFR Part 2: The Confidentiality of Substance Use Disorder Patient Records regulation, 42 CFR Part 2 ("Part 2"), governs confidentiality for people seeking treatment for substance use disorders from federally assisted programs. Part 2 protects the confidentiality of records relating to the identity, diagnosis, prognosis, or treatment of any patient records that are maintained in connection with the performance of any federally assisted program or activity relating to substance use disorder education, prevention, training, treatment, rehabilitation, or research.

Adjudication: The action or process of resolving a court case, which in many jurisdictions results in a decision, finding, or verdict on the charge or matter at hand.

Appeal: A request made after a trial, asking another court (usually the court of appeals) to decide whether the trial was conducted properly. To make such a request is “to appeal” or “to take an appeal.”

Arrest warrant: A written order directing the arrest of a party. Arrest warrants are issued by a judge after a showing of probable cause.

Bail: Security given for the release of a criminal defendant or witness from legal custody (usually in the form of money) to secure his/her appearance on the day and time appointed.

Behavioral health: “A state of mental/emotional being and/or choices and actions that affect wellness. Behavioral health problems include substance abuse or misuse, alcohol and drug addiction, serious psychological distress, suicide, and mental and substance use disorders.”

Booking: Procedure in which a jail records information about a person taken into custody by law enforcement and placed in the jail's custody.

Charge: The law that the police believe the defendant has broken.

Community-based provider: An agency or individual that delivers services in a community setting versus an institution, such as a hospital, jail, or prison.

Community corrections: Correctional services, often called probation and/or parole, which are delivered in the community rather than prison or jail. People under the oversight of community corrections may be serving the remainder of a sentence or may be required by state statute to remain under oversight for a set period of time following release from a jail or prison. In some areas, probation agencies also provide oversight to post-adjudication treatment court program participants during their participation in the treatment court program.

Community supervision: The activities involved in providing oversight to people who are under community corrections. In some areas, probation agencies also provide community supervision to post-adjudication treatment court program participants during their participation in the treatment court program.

Co-morbid disorders: The presence of two chronic diseases or conditions in a patient.

Co-occurring disorders: The coexistence of both behavioral health and substance use disorder(s); may include polysubstance use disorders, which are substance use disorders involving more than one type of drug.

Criminogenic factors: Criminogenic factors are risks and needs that research has demonstrated increase an individual's likelihood of re-offense.

Criminogenic needs: Dynamic or changeable factors that increase an individual's likelihood of re-offense but can be remedied or lessened through appropriate interventions or services.

Criminogenic risk: The likelihood that an individual will engage in future illegal behavior in the form of a new crime or because of failure to comply with probation or parole conditions.

Crisis Intervention Teams (CIT): An evidence-based program for first responders that provides training, resources, and partnerships to support the diversion of people with mental illness or co-occurring mental and substance use disorders from arrest or a jail stay into treatment or services.

Diversion: The process of channeling a person away from the justice system and placement into services or treatment to address symptoms and underlying causes leading to justice involvement.

Federally Qualified Health Centers (FQHC): Community-based health care providers funded by the Health Resources and Services Administration (HRSA) to provide primary and preventive health care, dental care, and behavioral health services to persons of all ages on a sliding scale basis. FQHCs are located in underserved areas and can provide a partnership for linking individuals with primary and preventative care.

Felony: A crime regarded more serious than a misdemeanor and usually carrying a penalty of more than a year in prison.

Evidence-based practice (EBP): “The conscientious, explicit, and judicious use of current best evidence in making decisions about the care of the individual patient. It means integrating individual clinical expertise with the best available external clinical evidence from systematic research.

Evidence-based program: A program providing an intervention that is supported by a robust research base indicating its effectiveness on populations receiving the intervention.

Health Insurance Portability and Accountability Act (HIPAA): United States legislation that provides data privacy and security provisions for safeguarding medical information.

Initial hearing: Court proceeding in which the defendant learns of his or her rights and the charges against him or her and the judge decides bail.

Jail: Short-term facilities that are usually administered by a local law enforcement agency and that are intended for adults but sometimes hold juveniles before or after adjudication. Jail inmates usually have a sentence of less than 1 year or are being held pending a trial, awaiting sentencing, or awaiting transfer to other facilities after a conviction.

Justice-involved: This descriptor indicates past or current involvement in the criminal justice system, typically indicating the person has experienced one or more of the following: an arrest, prosecution, incarceration in a jail or prison, and/or community supervision.

Medicaid: A federal health care program that provides coverage of certain health services to families or individuals that meet income eligibility requirements. The eligibility requirements and services covered vary by state. Funding is largely provided by the federal government; however, states may supplement the funds and direct the way Medicaid is delivered on the state level.

Medication-assisted treatment: The use of medications, usually in combination with counseling and behavioral therapies, to treat substance use disorders; often used to treat opioid use disorders.

Mental health: The “state of well-being in which every individual realizes his or her own potential, can cope with the normal stresses of life, can work productively and fruitfully, and is able to make a contribution to her or his community.”

Mental illness: “Any mental illness (AMI) is defined as a mental, behavioral, or emotional disorder. AMI can vary in impact, ranging from no impairment to mild, moderate, and even severe impairment ...

Misdemeanor: A crime considered less serious than a felony, usually punishable by less than a year of confinement. Depending on the jurisdictions, misdemeanors may or may not include infractions, which are even less serious offenses, such as exceeding the speed limit, illegal parking, and others.

Parole: The conditional release of an offender from prison to serve the remainder of his/her sentence under supervision in the community.

Plea: In a criminal case, the defendant's statement pleading “guilty” or “not guilty” in answer to the charges.

Pretrial services: Monitoring and services provided by a designated agency to defendants awaiting the adjudication of their court case. Typically, defendants must be court ordered to pretrial supervision. The research indicates that people at high to medium-high risk of failure to appear in court and/or criminal activity during the pretrial phase are most appropriate for pretrial services.

Prison: Compared to jail facilities, prisons are longer-term facilities owned by a state or by the federal government. Prisons typically hold felons and persons with sentences of more than a year; however, the sentence length may vary by state. Six states (Connecticut,

Rhode Island, Vermont, Delaware, Alaska, and Hawaii) have an integrated correctional system that combines jails and prisons. There are a small number of private prisons, facilities that are run by private prison corporations whose services and beds are contracted out by state or the federal government.

Probation: A sentencing alternative to imprisonment in which the court releases convicted defendants under supervision as long as certain conditions are observed.

Probation officers: Monitor convicted offenders released under court supervision; in some jurisdictions, may provide community supervision for offenders under the oversight of a treatment court program.

Promising practice: A specific activity or process used that has an emerging or limited research base supporting its effectiveness. Promising practices are not considered “evidence based” until additional evaluation research is completed to clarify its short- and long-term outcomes and impact on groups going through the activity or process.

Promising program: An intervention program that has an emerging or limited research base supporting its effectiveness. Promising programs are not considered “evidence based” until additional evaluation research is completed to clarify its short- and long-term outcomes and impact on groups receiving the intervention.

Prosecution: The process of legal proceedings to resolve a criminal case (with one or more charges) against a defendant.

Protected health information: Any identifiable information about an individual's health condition, receipt of health care services, or payment for such services that is gathered by a Covered Entity (or Business Associate of a Covered Entity) according to HIPAA.

Public Defender: An attorney that is assigned to an individual unable to afford a private attorney.

Recovery: The process through which people with mental illness or co-occurring disorders improve their health and wellness.

Risk-Need-Responsivity (RNR) model: A correctional treatment model that supports clinicians, case managers and corrections professionals in identifying and prioritizing individuals for the appropriate treatments to reduce their likelihood of re-offense. Although the RNR model focuses on the risk of re-offense, it can be instructive in connecting behavioral health needs to criminogenic risk.

Sentence: The punishment ordered by a court for a defendant convicted of a crime.

Sentencing: The process by which a person convicted of a crime is ordered to a specified punishment.

Sequential Intercept Model: A conceptual model to inform community-based responses to the involvement of people with behavioral health and substance use disorders in the criminal justice system.

Specialty or problem-solving courts: These courts differ from traditional courts in that they are specially designed court calendars or dockets dedicated to addressing one type of offense or offender. These court-based interventions may focus on substance use, mental health, and other criminogenic issues. Typically, the judge plays a key supervisory role, and other criminal justice components (such as probation) and social services agencies (such as substance use treatment) collaborate on case management.

Substance use disorder (SUD): A medical condition involving a physical and/or psychological dependence on one or more substances, such as a drug or alcohol. “Polysubstance use” is often used to describe use of more than one type of drug by a person with SUD.

Trauma-informed: The use of information, precautions, and sensitive approaches by community-based providers that considers real or potential experiences of trauma among people served.

Treatment court: Also called “problem-solving courts” or “specialty courts,” these courts have a specialized docket where programming is provided to people meeting eligibility criteria under court order and oversight. Common treatment courts include drug treatment court, mental health court, veterans court, and Driving While Impaired (DWI) court, among others. Treatment courts are voluntary and may be a pre-plea (charge is dismissed upon program completion) or a post-plea (conviction is removed from record upon program completion) type of court.

Trial: A hearing that takes place when the defendant pleads “not guilty,” and the parties are required to come to court to present evidence.

Session 20 Review Questions:

1. What is the difference between probation and parole?
2. What is the purpose of peer support staff in treatment settings?
3. What are treatment courts designed to do?
4. What type of agreement can help standardize information sharing between community providers and criminal justice entities?
5. Why is it important for community-based providers to recognize and address disparities in behavioral health care and the criminal justice system?