

MINNESOTA MENTAL HEALTH COURT CONFERENCE
MAY 7-9, 2024

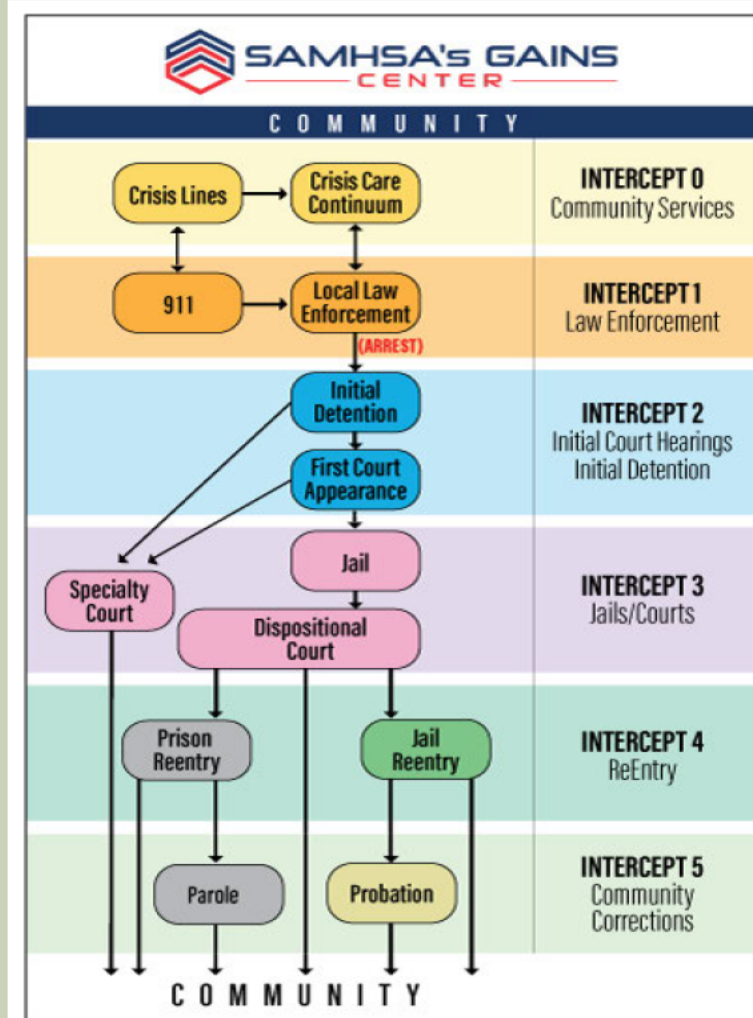
**Persons with Developmental
Disorders in Mental Health Courts:
Challenges and Opportunities**

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PRESENTATION OBJECTIVES

- 1.** To know the diagnostic criteria for neurodevelopmental disorders
- 2.** To articulate how developmental disorders can impact individuals' participation in the criminal justice system
- 3.** To identify specialized programs in the criminal justice system for persons with developmental disorders
- 4.** To understand the challenges and opportunities of including individuals with developmental disorders in mental health courts

SEQUENTIAL INTERCEPT MODEL



PRESENTER BACKGROUND INFORMATION

- **Social work practice, St. Louis, MO**
 - Places for People, a nonprofit mental health agency
 - Missouri Department of Mental Health (MDMH), forensic mental health program at a long-term state psychiatric hospital
- **Relevant research projects as a professor at Saint Louis University, St. Louis, MO**
 - St. Louis County Municipal Mental Health Court
 - Options for Justice for Individuals with Developmental Disabilities

BIBLIOGRAPHY – MENTAL HEALTH COURT ARTICLES FOCUSING ON PERSONS WITH DEVELOPMENTAL DISORDERS

- **Burke, M. M., Griggs, M., Dykens, E. M., & Hodapp, R. M. (2012).** Defendants with intellectual disabilities and mental health diagnoses: Faring in a mental health court. *Journal of Intellectual Disability Research, 56(3), 305-316.*
- **Seck, M. M., Tsagaris, G. S., & Rowe, R. (2017).** Mental health courts and adult offenders with developmental disabilities and co-occurring diagnoses. *Best Practices in Mental Health, 13(2), 30-40.*
- **Linhorst, D. M., Loux, T. M., Dirks-Linhorst, P. A., & Riley, S. E. (2018).** Characteristics and outcomes of people with intellectual and development disabilities participating in a mental health court. *American Journal of Intellectual and Developmental Disabilities, 123(4), 359-370.*

BIBLIOGRAPHY – BOOKS ON PERSONS WITH DEVELOPMENTAL DISORDERS IN THE CRIMINAL JUSTICE SYSTEM

- Lindsay, W. R., & Taylor, J. L. (Eds.). (2018). *The Wiley Handbook on Offenders with Intellectual and Developmental Disabilities: Research, Training, and Practice*. Hoboken, NJ: Wiley Blackwell.
- Lindsey, W. R., Craig, L. A., & Griffiths, D. (Eds.). (2020). *The Wiley Handbook on What Works for Offenders with Intellectual and Developmental Disabilities: An Evidence-Based Approach to Theory, Assessment, and Treatment*. Hoboken, NJ: Wiley Blackwell.

BIBLIOGRAPHY – OTHER BOOKS ON PERSONS WITH DEVELOPMENTAL DISORDERS IN THE CRIMINAL JUSTICE SYSTEM

- Conley, R. W. et al. (Eds.). (1992). *The Criminal Justice System and Mental Retardation*. Baltimore, MD: Paul H. Brookes.
- Perske, R. (1991). *Unequal Justice: What Can Happen When Persons with Retardation or Other Developmental Disabilities Encounter the Criminal Justice System*. Nashville: Abingdon Press.
- Griffiths, D. et al. (Eds.). (2020). *Intellectual and Developmental Disabilities and the Criminal Justice System*. Kingston, NY: National Association for the Dually Diagnosed.
- Tyler, N., & Sheeran, A. (Eds.). (2022). *Working with Autistic People in the Criminal Justice and Forensic Mental Health Systems*. New York: Routledge.

ARTICLES ON OPTIONS FOR JUSTICE

- Linhorst, D. M., Bennett, L., & McCutchen, T. (2002). The development and implementation of a program for offenders with developmental disabilities. *Mental Retardation*, 40(1), 41-50.
- Linhorst, D. M., McCutchen, T., & Bennett, L. (2003). Recidivism among offenders with developmental disabilities participating in a case management program. *Research in Developmental Disabilities*, 24(3), 210-230.

DIAGNOSTIC CRITERIA FOR NEURODEVELOPMENTAL DISORDERS

- **American Psychiatric Association. (2022). *Diagnostic and Statistical Manual of Mental Disorders (DSM-5-TR)*. Arlington, VA: Author.**
- **Neurodevelopmental Disorders**
 - Intellectual Disabilities (ID)
 - Communication Disorders
 - Autism Spectrum Disorder (ASD)
 - Attention-Deficit/Hyperactivity Disorder
 - Specific Learning Disorder
 - Motor Disorders
 - Other Neurodevelopmental Disorders

CHARACTERISTICS OF NEURODEVELOPMENTAL DISORDERS

- Onset in the developmental period, often before the child enters school.
- Impairments of personal, social, academic, or occupational functioning.
- Symptoms and functioning demonstrate a range of severity.
- Diagnosis of a disorder requires the presence of both symptoms and impaired function.
- The neurodevelopmental disorders frequently co-occur with one another or with other mental disorders.

CRITERIA FOR INTELLECTUAL DISABILITY

- **Deficits in intellectual functioning**, such as reasoning, problem solving, planning, abstract thinking, judgment, academic learning, and learning from experience, confirmed by both clinical assessment and individualized, standardized intelligence testing.
- **Deficits in adaptive functioning**, result in failure to meet developmental and sociocultural standards for personal independence and social responsibility in one or more activities of daily life, such as communication, social participation, and independent living, across multiple environments, such as home, school, work, and community.

SEVERITY LEVELS OF INTELLECTUAL DISABILITIES

- **Mild** – Can live independently with minimal levels of support (DSM-IV, IQ 50-69, 85% of ID population)
- **Moderate** – Independent living may be achieved with moderate levels of support, such as a group home (DSM-IV, IQ 36-49, 10% of ID population)
- **Severe** – Requires daily assistance with self-care activities and safety supervision (DSM-IV, IQ 20-35, 3.5% of ID population)
- **Profound** – Requires 24-hour care and support for every aspect of daily routines (DSM-IV, IQ <20, 1.5% of ID population)

CRITERIA FOR AUTISM SPECTRUM DISORDER

- **Persistent deficits in social communication and social interaction across multiple contexts, currently or by history.**
- **Restricted, repetitive patterns of behavior, interests, or activities, as manifested by at least two of the following, currently or by history:**
 - **Stereotyped or repetitive motor movements, use of objects, or speech.**
 - **Insistence on sameness, inflexible adherence to routines, or ritualized patterns of verbal or nonverbal behavior.**
 - **Highly restricted, fixated interests that are abnormal in intensity or focus.**
 - **Hyper- or hypo-reactivity to sensory input or unusual interest in sensory aspects of the environment.**
- **Symptoms cause clinically significant impairment in social, occupational, or other important areas of current functioning.**
- **These disturbances are not better explained by intellectual disability or global developmental delay.**

SEVERITY LEVELS OF AUTISM SPECTRUM DISORDER

- **Level 1 - Requires support** - Without supports in place, deficits in social communication cause noticeable impairments. Difficulty initiating social interactions, and clear examples of atypical or unsuccessful responses to social overtures of others. May appear to have decreased interest in social interactions. Inflexibility of behavior causes significant interference with functioning in one or more contexts. Difficulty switching between activities. Problems of organization and planning hamper independence.
- **Level 2 - Requires substantial support** – Marked deficits in verbal and nonverbal social communication skills; social impairments apparent even with supports in place; limited initiation of social interactions; and reduced or abnormal responses to social overtures of others. Inflexibility of behavior, difficulty coping with change, or other restricted/repetitive behaviors that interfere with functioning in a variety of contexts.
- **Level 3 - Requires very substantial support** - Severe deficits in verbal and nonverbal social communication skills cause severe impairments in functioning, very limited initiation of social interactions, and minimal response to social overtures from others; may have few words of intelligible speech who rarely initiates interaction. Inflexibility of behavior, extreme difficulty coping with change, or other restricted/repetitive behaviors that markedly interfere with functioning in all spheres.

CO-OCCURRING DISORDERS

- **Intellectual Disability** - The most common co-occurring disorders are attention deficit and hyperactivity disorder; depressive disorders, including major depression; bipolar disorder; anxiety disorders; autism spectrum disorder; impulse-control disorders; and major neurocognitive disorders. (DSM-5-TR)
- **Autism Spectrum Disorder** - The most common co-occurring disorders are anxiety disorders, eating disorders, attention deficit and hyperactivity disorder, bipolar disorder, and depression. (Autism Empowerment)

CO-OCCURRING DISORDERS IN MENTAL HEALTH COURT STUDIES

- **Burke et al. (2012):** Co-occurring disorders with ID - psychotic disorders, 34%; mood disorders, 24%; depressive disorders, 13%; disruptive disorders, 11%; and substance abuse disorders, 53%.
- **Linhorst et al. (2018):** Co-occurring disorders with DD - SMI, 37%; substance abuse, 23%.
- **Seck et al. (2017):** Co-occurring disorders with DD – mental health disorders, 54%; substance abuse disorders, 43%.

PREVALENCE OF DEVELOPMENTAL DISORDERS IN THE CRIMINAL JUSTICE SYSTEM

- Overall rates: ID, 4%; DD, 1.3% to 36%; ID, 9%-15%.
- Prison rates: DD, 4%-10%; DD, 0.5%-19.1% in study with multiple states; 2% in a study of 20 states; DD, 0.5%-1.5% in 10 studies in 4 countries.
- Jail rates: DD, 10%.

PREVALENCE OF DEVELOPMENTAL DISORDERS IN MENTAL HEALTH COURTS

MHC articles focused on developmental disorders:

- **Burke et al. (2012). ID, 11% (93 of 841).**
- **Linhorst et al. (2018). DD, 6% (70 of 1,120).**
- **Seck et al. (2017). All in study had a developmental disorder.**

Rates of developmental disorders included in other MHC studies:

- **Anestis & Carbonell. (2014). ID, 2.5% (5 of 198).**
- **Bath et al. (2015). ID, 38.0% (123 of 214); ASD, 5.9% (19 of 324); (This was a juvenile mental health court).**
- **Campbell et al. (2015). ID & Cognitive Disorder, 20.0% (39 of 196); ASD, 4.6% (9 of 196).**
- **Frailing. (2011). ID, 0.7% (8 of 1,220).**
- **McNiel & Binder. (2007). DD, 8% (13 of 170).**
- **Stafford & Wygant. (2005). ID, 10% (8 of 80).**

CHARACTERISTICS OF DEVELOPMENTAL DISORDERS THAT IMPAIR THE ABILITY TO MANAGE THE CRIMINAL JUSTICE SYSTEM

- **Gullibility** - Taken advantage of; talked into doing things for which one does not understand consequences.
- **Acquiescence** - Tendency to give in when under pressure.
- **Naiveté** - Inexperienced; accepts what someone says without question; does not catch subtlety of situations.
- **Desire to please** - Will do what someone else wants in order to be accepted.
- **Concrete thinking** - Inability to understand abstract concepts.

CHARACTERISTICS (CONT.)

- **Memory issues** - Difficulty with short-term memory; may not remember details of a situation.
- **Language problems** - Difficulty with receptive and expressive language; does not understand what is being said; cannot articulate what one is thinking or feeling.
- **Social behaviors** - Displays inappropriate emotions or feelings.
- **Cloak of competence** - Attempt to pass as 'normal'; may go to great lengths to deny or hide limitations.

From Table 1 in Smith et al. (2008). Individuals with intellectual and developmental disabilities in the criminal justice system and implications for transition planning. *Education and Training in Developmental Disabilities*, 43(4), 421-430.

EFFECTS OF DEVELOPMENTAL DISORDERS IN THE CRIMINAL JUSTICE SYSTEM

- Are often manipulated into criminal activity by people they believe to be their friends.
- Are more likely to be arrested because they may not try to hide their crimes.
- May not recognize seriousness of what he or she is being accused of.
- May not understand their Miranda rights.
- Are more likely to provide incriminating evidence.
- May have difficulty communicating with their attorneys, which lessens the effectiveness of their defense.
- Are more likely to confess to crimes they did not commit in order to please law enforcement officials.
- May display a behavior (e.g., laughing) that suggests a lack of remorse at an inappropriate time (e.g., during trial).

EFFECTS OF DEVELOPMENTAL DISORDERS IN THE CRIMINAL JUSTICE SYSTEM (CONT.)

- Are less likely to receive a reduced charge through plea bargaining.
- If convicted, are more likely to be incarcerated because judges and prosecutors often view them as poor candidates for probation.
- Frequently do not have a stable work history or adequate living arrangements, which lessens chances of bail or probation if convicted.
- Have a more difficult period of adjustment to prison.
- Are less likely to be paroled because of rule infractions incurred due to their inability to grasp the routine and rules and regulations of prison life and difficulties developing release plans.
- Once released into the community, have a high rate of arrest and reconviction.

(Linhorst et al., 2002, 2003)

ADAPTING A PRISON-BASED PROGRAM TO INMATES WITH DEVELOPMENTAL DISORDERS

- Adapted a cognitive-behavioral treatment for sex offenders without disabilities for inmates with developmental disorders and some cognitive disorders.
- Session length was reduced from 3 hours (with a 15-minute break) to 2.5 hours (with a 30-minute break).
- The program was increased from 8 to 12 months in duration.
- The participants attended groups 4 days per week instead of the regular 5 days.
- The content was simplified, withdrawing more complex concepts.
- Added drama therapy, symbols, and other techniques and reduced written tasks and materials.

Keeling, J. A. & Rose, J. L. (2006). The adaptation of a cognitive-behavioural treatment programme for special needs sexual offenders. *British Journal of Learning Disabilities*, 34(2), 110-116.

SPECIALIZED PROGRAMS FOR OFFENDERS WITH DEVELOPMENTAL DISORDERS; PROBATION AND PAROLE

- **The Pima County, Arizona, Office of Probation special supervision program**
- **Nebraska's Individual Justice Program**
- **The Massachusetts Parole Board's MassCAPP Project**
- **Scotland's comprehensive community service program 10-bed facility**

Linhorst et al. (2018). Criminal justice responses to offenders with intellectual and developmental disabilities. In W. Lindsay & J. L. Taylor (Eds.). (2018). *The Wiley Handbook on Offenders with Intellectual and Developmental Disabilities* (pp. 86-104). Street Hoboken, NJ: Wiley Press.

SPECIALIZED COMMUNITY-BASED PROGRAMS FOR OFFENDERS WITH DEVELOPMENTAL DISORDERS; SERVICES PROVIDED BY OPTIONS FOR JUSTICE

- **Education and training** - Includes members of both the criminal justices and developmental disorders communities.
- **Telephone information and referrals** - Provides information about people with developmental disorders and the criminal justice system to professionals and the general public.
- **A pretrial advocacy program** - Supports individual clients by providing information and documentation to the court about the client's disability, educating the client and his or her family about each phase of the legal process as the case develops, making recommendations for alternative sentencing as requested, and initiating collaborations among community providers involved with the client.
- **A post-conviction case management program** - Program is for individuals on federal, state, or county probation or parole to supplement supervision.
- **Support for people with developmental disorders enrolled in mental health courts** - OFJ staff participate in weekly case conferences in St. Louis City's MHC and Co-Occurring Court, and attend cases conferences in the state and municipal MHCs in St. Louis County on an as-needed basis.
- **Support for people with developmental disorders in jails** - OFJ staff work with jail inmates with developmental disorders in Lincoln and St. Charles, Missouri, counties.

Options for Justice; <https://ofjstl.org> Jennifer Day, Program Director, jday@ofjstl.org

OTHER SPECIALIZED COMMUNITY-BASED PROGRAMS FOR OFFENDERS WITH DEVELOPMENTAL DISORDERS

- **The Arc of New Jersey's Criminal Justice Advocacy**
<https://www.arcnj.org/programs/criminal-justice-advocacy-program/how-we-help.html>
- **Dual Diagnosis Justice Case Manager (DDJCM), Ontario, Canada**
<https://www.community-networks.ca/collaboration/dual-diagnosis-justice-case-managers/>

CHALLENGES TO WORKING WITH PERSONS WITH DEVELOPMENTAL DISORDERS IN MENTAL HEALTH COURTS

- Under-identification of offenders with developmental disorders.
- Communication issues with defendants with developmental disorders.
- Incompetent to stand trial.
- Many criminal justice personnel lack training on developmental disorders.
- Offenders with developmental disorders often present complex clinical cases.
- Lack of adequate services for persons with developmental disorders.
- High rates of recidivism.

OPPORTUNITIES (OR GUIDELINES) TO SUCCESSFULLY INCORPORATE PERSONS WITH DEVELOPMENTAL DISORDERS INTO MENTAL HEALTH COURTS

Process used to develop guidelines:

- My own experience with a mental health court.
- The professional literature on the topic.
- How to address the challenges previously discussed.
- Applied *The Essential Elements of a Mental Health Court*
 - Thompson, M., Osher, F., & Tomasini-Joshi, D., 2007, *Improving Responses to People with Mental Illnesses: The Essential Elements of a Mental Health Court*. New York: Council of State Governments Justice Center.
https://bja.ojp.gov/sites/g/files/xyckuh186/files/Publications/MHC_Essential_Elements.pdf
- Example from the St. Louis County MMHC
 - Linhorst, D. M., Dirks-Linhorst, P. A., Stiffelman, S., Gianino, J., Bernsen, H. L., & Kelley, B. J. (2010). Implementing the essential elements of a mental health court: The experiences of a large multi-jurisdictional suburban county. *Journal of Behavioral Health Services and Research*, 37(4), 427-442.

ESSENTIAL ELEMENTS OF MENTAL HEALTH COURTS

- 1. Planning and administration.**
- 2. Target Population.**
- 3. Timely participant identification and linkage to services.**
- 4. Terms of participation.**
- 5. Informed choice.**
- 6. Treatment supports and services.**
- 7. Confidentiality.**
- 8. Court team.**
- 9. Monitoring adherence to court requirements.**
- 10. Sustainability.**

APPLICATION OF *ESSENTIAL ELEMENTS*:

1. PLANNING AND ADMINISTRATION

1: PLANNING AND ADMINISTRATION - *A broad-based group of stakeholders representing the criminal justice, mental health, substance abuse treatment, and related systems and the community guides the planning and administration of the court.*

- Providers of services to persons with developmental disorders should be included on:
 - the planning committee of new mental health courts, and
 - the advisory group that monitors the court's ongoing performance.
- St. Louis County MMHC experience.

APPLICATION OF *ESSENTIAL ELEMENTS*:

2. TARGET POPULATION

2: TARGET POPULATION - *Eligibility criteria address public safety and consider a community's treatment capacity, in addition to the availability of alternatives to pretrial detention for defendants with mental illnesses. Eligibility criteria also take into account the relationship between mental illness and a defendant's offenses, while allowing the individual circumstances of each case to be considered.*

Two components of focus:

- Eligibility criteria.
- Improvement of accessibility and quality of community care (from detailed description).

APPLICATION OF *ESSENTIAL ELEMENTS*:

2. TARGET POPULATION (CONT.), ELIGIBILITY CRITERIA

- **Include developmental disorders as qualifying diagnoses in eligibility criteria for your mental health court.**
- **Reasons to do so:**
 - **MHCs have the capacity to help this vulnerable population.**
 - **Many MHCs already include persons with developmental disorders.**
 - **Participants with developmental disorders have good outcomes.**
- **Inclusion can take three forms:**
 - **Include participants with developmental disorders at each MHC session as may be appropriate.**
 - **Hold a special docket within the MHC that focuses solely on participants with developmental disorders.**
 - **Create a special court just for people with developmental disorders.**

APPLICATION OF *ESSENTIAL ELEMENTS*:

2. TARGET POPULATION (CONT.)

SERVICES ENHANCEMENT

“Mental health court personnel should explore ways to improve the accessibility and quality of community-based care when treatment capacity is limited.”

St. Louis County MMHC experience with Services Enhancement

- **Soon after the MMHC began, it recruited volunteer psychiatrists to assess and treat clients without Medicaid or other types of health insurance.**
- **The MMHC applied for and received several grants to direct appropriate clients to the MMHC, to divert them to other options, and to fund MMHC services.**
- **After the grants ended, the largest service provider, based on its very positive working relationship with the MMHC, agreed to give priority to MMHC and work with clients without health insurance.**

APPLICATION OF *ESSENTIAL ELEMENTS*:

3: TIMELY PARTICIPANT IDENTIFICATION AND LINKAGE TO SERVICES

3: TIMELY PARTICIPANT IDENTIFICATION AND LINKAGE TO SERVICES - *Participants are identified, referred, and accepted into mental health courts, and then linked to community-based service providers as quickly as possible.*

- Role of MHCS in generating referrals
 - Work to publicize the MHC across a range of parties in the criminal justice and social services communities, including agencies that work with people with developmental disorders.
 - Select a limited number of larger agencies, including those that work with persons with developmental disorders, to provide more in-depth information.
 - Work with agencies that provide services to people with developmental disorders to assist with training of key parties in the criminal justice system.
- Include questions in the MHC intake process to identify potential undiagnosed or unreported developmental disorders.

APPLICATION OF *ESSENTIAL ELEMENTS*:
3: TIMELY IDENTIFICATION AND LINKAGE TO SERVICES;
QUESTIONS TO ASSIST WITH IDENTIFYING WHETHER A PERSON
REFERRED TO THE MHC HAS A DEVELOPMENTAL DISORDER

- Did you attend special education classes in school?
- Have you repeated more than one grade in school?
- Did you ever worked in a sheltered workshop?
- Have you ever had paid staff supporting you?
- Do you currently have a case manager in the community?
- Have you ever lived in a group home?
- Have you ever been told you have a developmental disability or intellectual disability?

APPLICATION OF *ESSENTIAL ELEMENTS*:
3: TIMELY IDENTIFICATION AND LINKAGE TO SERVICES;
SERVICE LINKAGE; REFERRALS TO THE MHC

Referral sources to the St. Louis County MMHC

- 39.1% Police officers.**
- 32.8% Court referrals (county prosecutors or judges).**
- 19.3% Contracts with St. Louis County municipalities.**
- 3.9% Probation/parole officers.**
- 2.2% Defense attorneys.**
- 0.9% Social service agencies.**
- 1.8% Other sources.**

Why such a large percentage of referrals from police officers?

- The local police academies specifically include training on mental disorders, and have a separate training on DDs, which is conducted by OFJ staff.**
- Extensive police officer CIT training that includes information on developmental disorders.**

APPLICATION OF *ESSENTIAL ELEMENTS*:

4. TERMS OF PARTICIPATION

4: TERMS OF PARTICIPATION - *Terms of participation are clear, promote public safety, facilitate the defendant's engagement in treatment, are individualized to correspond to the level of risk that the defendant presents to the community, and provide for positive legal outcomes for those individuals who successfully complete the program.*

- **Terms of participation**

- The extent to which terms of participation are “clear” to people referred with developmental disorders is uncertain and will be addressed in a later section on informed choice.

- **Length of MHC supervision should not exceed maximum if convicted.**

- Monitor lengths of supervision for persons with developmental disorders.

- **Positive legal outcomes**

- Dropping charges post-MHC supervision.
- Dropping charges without MHC supervision.

APPLICATION OF *ESSENTIAL ELEMENTS*:

4. TERMS OF PARTICIPATION (CONT.)

TERMS OF PARTICIPATION - St. Louis County MMHC experience

Length of MHC supervision should not exceed maximum if convicted.

- Participants of the St. Louis County MMHC who were diagnosed with an intellectual disability had higher mean lengths of court supervision than those with other diagnoses, 11.4 months compared to 9.6 months.

Positive legal outcomes

- Participants with developmental disorders were just as likely to have their charges dropped at the end of supervision than participants with other diagnoses.
- Participants with developmental disorders were more likely to their charges resolved without MMHC supervision compared to those with other diagnoses.
 - ID - 7.9% vs 3.6%.
 - ASD - 17.5% vs. 3.4%.

APPLICATION OF *ESSENTIAL ELEMENTS*:

5. INFORMED CHOICE

5: INFORMED CHOICE - *Defendants fully understand the program requirements before agreeing to participate in a mental health court. They are provided legal counsel to inform this decision and subsequent decisions about program involvement. Procedures exist in the mental health court to address, in a timely fashion, concerns about a defendant's competency whenever they arise.*

Focus on three components of this element:

- **Defendants fully understand the program requirements before agreeing to participate.**
- **Provision of effective legal representation.**
- **Competency to participate in the mental health court.**

APPLICATION OF *ESSENTIAL ELEMENTS*:

5. INFORMED CHOICE; COMMUNICATION GUIDELINES

Guidelines to assist with interactions with persons with developmental disorders in the criminal justice system.

- When possible, find a place to communicate with the person where there are few distractions.
- Take extra time to explain expectations and make sure you have the person's attention when doing so.
- Do not use jargon or slang when communicating. Be direct and use straight forward language.
- Speak slowly and clearly. Use clear, precise language.
- Be very specific when giving directions to the person. If the person is able to read, try to write things down for them in case they have difficulty retaining information or following verbal direction.
- Use visual cues that help the person understand what you are saying.

APPLICATION OF *ESSENTIAL ELEMENTS*:

5. INFORMED CHOICE;

COMMUNICATION GUIDELINES (CONT.)

Guidelines (cont.)

- When giving directions to the person, try not to give more than one or two at a time. They may be overwhelmed by more than one instruction.
- Allow the person some time to process information and act on it. They will need extra time to understand what is being asked of them before they can act on it.
- Ask the person to tell you what they think you are asking. They should be encouraged to use their own words so you can check their understanding.
- Use open questions to get more than a “yes” or “no” answer.
- Be aware of body language. Make sure your verbal message and your body language are consistent.

Southern Network of Specialized Care (2013, June). *Understanding Special Needs of Offenders Who Have a Dual Diagnosis* (3rd ed.) Available at:
https://www.community-networks.ca/wp-content/uploads/2015/11/understanding_the_offender_w_dd-jan.2010.pdf

APPLICATION OF *ESSENTIAL ELEMENTS*:

5. INFORMED CHOICE; ADVOCATES

- Make available advocates for participants with developmental disorders, or even require ones depending on the level of disability.
- Advocates can be from an agency such as Options for Justice that specialize in pretrial work, a service provider that already knows the participant, a family member, and/or a legal guardian.
- MHC participants typically will be represented by an attorney. However, an attorney may not be available in municipal courts, which further increases the need for an advocate.
- Given that most attorneys do not have expertise communicating with persons with developmental disorders, an advocate of some sort should still be present.
- Having an advocate of some type can assist people with developmental disorders to help them understand what their options are and what will be required of them if they participate in the MHC.

APPLICATION OF *ESSENTIAL ELEMENTS*:

5. INFORMED CHOICE; LEGAL REPRESENTATION

- Persons participating in municipal courts may not have the right to an attorney.
- Legal representation is not just an issue in municipal mental health courts. There is no clear statutory or constitutional requirement that defense attorneys attend the preliminary mental health court hearings or participate in case conferences and court hearings.
- Many mental health courts cannot afford to hire one or more defense attorneys to work with all court participants.
- Public defenders often have excessive caseloads; they may not have the time to participate in all phases of the MHC process.
- Having an attorney and an advocate is the best combination for persons with developmental disorders to be able to make an informed choice as to whether to participate in mental health courts.

APPLICATION OF *ESSENTIAL ELEMENTS*:

5. INFORMED CHOICE; LEGAL REPRESENTATION IN ST. LOUIS COUNTY MMHC

- 80% of MMHC participants did not have attorneys representing them.
- MMHC participants with a developmental disorder were no more likely to have an attorney than those without that diagnosis.
- Having legal representation was associated with four outcomes.
 - More likely to choose not to participate in the MMHC.
 - More likely to resolve criminal charges without being supervised by the MMHC.
 - Less likely to be released from the MMHC for failing to appear.
 - Less likely to have a negative termination from the MMHC.

Linhorst, D. M. et al. (2022). Associations between legal representation and mental health court outcomes. *American Journal of Criminal Justice*, 47(1), 75-97.

APPLICATION OF *ESSENTIAL ELEMENTS*:

5. INFORMED CHOICE; COMPETENCY

- Persons with developmental disorders have high rates of incompetency to stand trial with many studies finding higher rates than those with other diagnoses.
- Processes to determine and address competency with vary by state and level of government, and it is beyond the scope of this study to address.
- Even if a person with a developmental disorder meets the legal test for competency, he or she will still need ongoing support to meaningfully participate in the MHC processes.

APPLICATION OF *ESSENTIAL ELEMENTS*:

6. TREATMENT SUPPORTS AND SERVICES

6: TREATMENT SUPPORTS AND SERVICES - *Mental health courts connect participants to comprehensive and individualized treatment supports and services in the community. They strive to use—and increase the availability of—treatment and services that are evidence-based.* Points to discuss from the detailed description of this element.

- Connection to services begins with a proper diagnosis of the developmental disorder and any co-occurring disorders.
- One of the strengths of mental health courts is their ability to adapt interventions and court conditions to the individual circumstances of each participant.
- To what extent do treatment interventions vary between participants with developmental disorders and those without?

APPLICATION OF *ESSENTIAL ELEMENTS*:

6. TX SUPPORTS AND SERVICES (CONT.);

PARTICIPANT INVOLVEMENT IN TX PLANS

- **Some characteristics of people with developmental disorders may limit or prevent participation, such as very low intelligence levels and language problems, among others.**
- **However, many people with mild or moderate intellectual disabilities and people on the upper end of the autism spectrum disorder scale can meaningfully participate in their treatment planning process.**
- **To successfully do this, communication must be adapted to participants' particular level and type of disability and guidelines applied to interactions that I previously provided.**
- **Advocates of some type typically should be involved to maximize the potential of meaningful participation.**

APPLICATION OF *ESSENTIAL ELEMENTS*:

7. CONFIDENTIALITY

7: CONFIDENTIALITY - *Health and legal information should be shared in a way that protects potential participants' confidentiality rights as mental health consumers and their constitutional rights as defendants. Information gathered as part of the participants' court-ordered treatment program or services should be safeguarded in the event that participants are returned to traditional court processing.*

- Sharing and safeguarding health and legal information occurs the same for all MHC participants, regardless of their disorder.

APPLICATION OF *ESSENTIAL ELEMENTS*:

8. COURT TEAM

8: COURT TEAM – *A team of criminal justice and mental health staff and service and treatment providers receives special, ongoing training and helps mental health court participants achieve treatment and criminal justice goals by regularly reviewing and revising the court process.*

Court team members

- **When MHC participants with developmental disorders are on the docket, it is critical that the court team includes a provider of services that works with the MHC participant and/or an advocate who knows the participant and his or her abilities and service needs.**

APPLICATION OF *ESSENTIAL ELEMENTS*:

8. COURT TEAM; TRAINING

- Member of both the mental health and criminal justice systems also need training on:
 - community resources,
 - approaches to motivating MHC participants to adhere to supervision conditions that take into account their particular disability, and
 - collaborative approaches that foster rehabilitation.
- Information on developmental disorders should be its own training, rather than being one short module in a training on mental illness.
- Members of the court team should include persons with expertise on developmental disorders, who can provide targeted information and training as situations arise.

APPLICATION OF *ESSENTIAL ELEMENTS*: 8: COURT TEAM – QUALITY IMPROVEMENT ROLE

- Include the specific type of developmental disorder in MHC databases.
- Include a range of intermediate and long-term outcomes, such as types of program status, rearrests, and others.
- Analyses should be completed to determine the number of participants with developmental disorders, whether program status varies by developmental disorders versus other disability types, and rearrests by developmental disorders versus other disability types.
- Reexamine the recruitment and treatment planning process with participants with developmental disorders, the range of available services, and other areas if the number of developmental disorders participants is low or if there are negative disparities between developmental disorders and other disability types regarding program status or arrests.
- The mental health court advisory group can assist with data analysis, suggest modification of processes, and obtain resources identified in the quality improvement process.
- Once again, persons with expertise on developmental disorders should be included in advisory groups to participate in the quality improvement and program evaluation process.

APPLICATION OF *ESSENTIAL ELEMENTS*:

9. MONITORING ADHERENCE

Criminal justice and mental health staff collaboratively monitor participants' adherence to court imposed conditions, offer individualized graduated incentives and sanctions, and modify treatment as necessary to promote public safety and participants' recovery.

Focus on two components of this element:

- **Monitoring.**
- **Incentives and sanctions.**

APPLICATION OF *ESSENTIAL ELEMENTS*: 9. MONITORING ADHERENCE; GUIDELINES FOR COMMUNITY MONITORING

Information sources

- Home visits.
- Telephone contact with
 - Clients themselves.
 - Mental health service providers.
 - Others who may have regular contact with clients.
- Visits to day programs if clients are participating in them.
- Visits to places of employment (but only with permission of the client).
- Contact with family members, if family members are supportive, and typically with permission of the client.

APPLICATION OF *ESSENTIAL ELEMENTS*:

9. MONITORING ADHERENCE; GUIDELINES FOR MONITORING (CONT.)

Assessing potential problems

- Assess behavior within the context of what is regular, typical, or baseline for that client. To assess “regular” behavior, monitors must know their clients.
- Track missing appointments with service providers, employers, and related areas.
- Watch out for signs of substance abuse.
- Monitor medication compliance.
- Issues with community residents.

Dirks-Linhorst, P. A., & Linhorst, D. M. (2012). Monitoring offenders with mental illness in the community: Guidelines for practice. *Best Practices in Mental Health*, 8(2), 47-70.

APPLICATION OF *ESSENTIAL ELEMENTS*:

9. MONITORING ADHERENCE; GUIDELINES FOR MONITORING (CONT.)

Additional guidelines for monitoring MHC participants with developmental disorders

- **Seek out and take advantage of local community resources, such as agencies like Options for Justice, that can supplement monitoring, particularly for higher risk participants.**
- **Educate social service case managers of their monitoring and reporting duties.**

APPLICATION OF *ESSENTIAL ELEMENTS* – 9: MONITORING ADHERENCE; INCENTIVES AND SANCTIONS

- **No studies on the use of incentives and sanctions in MHCs included a delineation of how they may vary between MHC participants with and without developmental disabilities.**
- **Work with people who know the participants with developmental disabilities on what incentives or sanctions may work best for the participant.**
- **Many persons with developmental disabilities work with a behavioral analyst, who should be very helpful in helping the court team develop incentives and sanctions specific to the participant.**

APPLICATION OF *ESSENTIAL ELEMENTS*: 10: SUSTAINABILITY

10: SUSTAINABILITY - *Data are collected and analyzed to demonstrate the impact of the mental health court, its performance is assessed periodically (and procedures are modified accordingly), court processes are institutionalized, and support for the court in the community is cultivated and expanded.*

- Collecting and using data to improve court process and measure outcomes.
- Generating ongoing support for the mental health court.

CONCLUSION

- **Include persons with developmental disorders in your mental health court.**
- **Explicitly include developmental disorders, or more specifically if preferred, intellectual disabilities and autism spectrum disorder, in the formal eligibility criteria.**
- **In addition to including people with developmental disorders in your MHCs, work to ensure in your community that other opportunities exist to work with offenders with developmental disabilities as illustrated on the Sequential Intercept Model.**
- **Include advocacy groups and providers of services to persons with developmental disorders on the mental health court planning committee and advisory group.**
- **Adapt your intake form to include questions to help identify whether individuals referred to the MHC have a developmental disorder.**

CONCLUSION (CONT.)

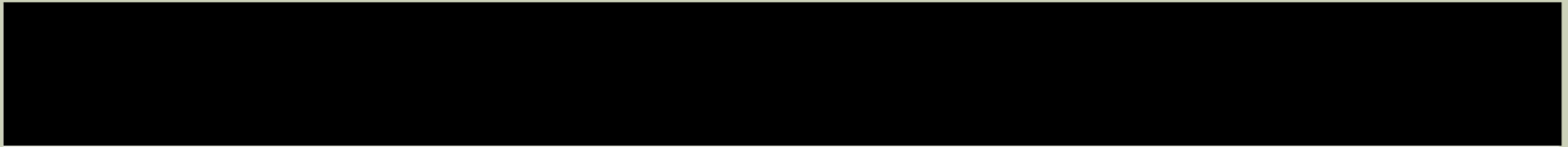
- **Make advocates available for MHC participants with developmental disorders. Having an attorney and an advocate is the best combination for persons with developmental disorders to be able to make an informed choice as to whether to participate in mental health courts.**
- **Many persons with developmental disorders who come before MHCs will have complex clinical pictures. Ensure they are properly assessed in order to match them with the needed services.**
- **If necessary, advocate for services for persons with developmental disorders in your communities, including organizations such as Options for Justice, that focus on offenders with developmental disorders.**
- **Seek out training for MHC personnel on developmental disorders, and provide training to providers of services to people with developmental disorders on the criminal justice system and expectations for their work on behalf of their clients coming before the MHC, including monitoring and reporting duties.**

CONCLUSION (CONT.)

- **Seek out and take advantage of local community resources, such as agencies like Options for Justice, that can supplement monitoring, particularly for higher risk participants.**
- **Work with people who know the participants with developmental disorders on what incentives or sanctions may work best for them.**
- **Develop a formal program evaluation system that includes the diagnosis of developmental disorders, monitor the number of referrals of persons with developmental disorders, and complete analyses to determine whether disparities exist between mental health participants with and without developmental disorders.**
- **Include developmental disorders service providers and advocacy groups in your MHC advisory group to participate in the process to improve, support, and sustain MHCs.**

PRESENTER CONTACT INFORMATION

Dr. Don Linhorst



QUESTIONS?