

CONTINUING LEGAL EDUCATION

SPRING 2014

MAY 22, 2014

Effective Diversion Practices for Defense Attorneys: Working with Youth and People with Mental Illness

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ANN-MARIE LOUISON, AND JOHN VOLPE, LCSW,



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APPELLATE DIVISION, FIRST DEPARTMENT
AND
THE ASSIGNED COUNSEL PLAN, FIRST JUDICIAL DEPARTMENT

BRIEF JAIL MENTAL HEALTH SCREEN

Section 1

Name: _____ <small>First MI Last</small>	Detainee #: _____	Date: ____/____/____	Time: _____ AM PM
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Section 2

Questions	No	Yes	General Comments
1. Do you <i>currently</i> believe that someone can control your mind by putting thoughts into your head or taking thoughts out of your head?			
2. Do you <i>currently</i> feel that other people know your thoughts and can read your mind?			
3. Have you <i>currently</i> lost or gained as much as two pounds a week for several weeks without even trying?			
4. Have you or your family or friends noticed that you are <i>currently</i> much more active than you usually are?			
5. Do you <i>currently</i> feel like you have to talk or move more slowly than you usually do?			
6. Have there <i>currently</i> been a few weeks when you felt like you were useless or sinful?			
7. Are you <i>currently</i> taking any medication prescribed for you by a physician for any emotional or mental health problems?			
8. Have you <u>ever</u> been in a hospital for emotional or mental health problems?			

Section 3 (Optional)

Officer's Comments/Impressions (check <i>all</i> that apply):		
<input type="checkbox"/> Language barrier	<input type="checkbox"/> Under the influence of drugs/alcohol	<input type="checkbox"/> Non-cooperative
<input type="checkbox"/> Difficulty understanding questions	<input type="checkbox"/> Other, specify: _____	

Referral Instructions: This detainee should be referred for further mental health evaluation if he/she answered:

- YES to item 7; OR
- YES to item 8; OR
- YES to at least 2 of items 1 through 6; OR
- If you feel it is necessary for any other reason

Not Referred

Referred on ____ / ____ / ____ to _____

Person completing screen _____

INSTRUCTIONS ON REVERSE

INSTRUCTIONS FOR COMPLETING THE BRIEF JAIL MENTAL HEALTH SCREEN

GENERAL INFORMATION:

This Brief Jail Mental Health Screen (BJMHS) was developed by Policy Research Associates, Inc., with a grant from the National Institute of Justice. The BJMHS is an efficient mental health screen that will aid in the early identification of severe mental illnesses and other acute psychiatric problems during the intake process.

This screen should be administered by Correctional Officers during the jail's intake/booking process.

INSTRUCTIONS FOR SECTION 1:

NAME: Enter detainees name — first, middle initial, and last
DETAINEE#: Enter detainee number.
DATE: Enter today's month, day, and year.
TIME: Enter the current time and circle AM or PM.

INSTRUCTIONS FOR SECTION 2:

ITEMS 1-6:

Place a check mark in the appropriate column (for "NO" or "YES" response).

If the detainee REFUSES to answer the question or says that he/she DOES NOT KNOW the answer to the question, do not check "NO" or "YES." Instead, in the General Comments section, indicate REFUSED or DON'T KNOW and include information explaining why the detainee did not answer the question.

ITEMS 7-8:

ITEM 7: This refers to any *prescribed* medication for any emotional or mental health problems.

ITEM 8: Include any stay of one night or longer. Do NOT include contact with an Emergency Room if it did not lead to an admission to the hospital

If the detainee REFUSES to answer the question or says that he/she DOES NOT KNOW the answer to the question, do not check "NO" or "YES." Instead, in the General Comments section, indicate REFUSED or DON'T KNOW and include information explaining why the detainee did not answer the question.

General Comments Column:

As indicated above, if the detainee REFUSES to answer the question or says that he/she DOES NOT KNOW the answer to the question, do not check "NO" or "YES." Instead, in the General Comments section, indicate REFUSED or DON'T KNOW and include information explaining why the detainee did not answer the question.

All "YES" responses require a note in the General Comments section to document:

- (1) Information about the detainee that the officer feels relevant and important
- (2) Information specifically requested in question

If at any point during administration of the BJMHS the detainee experiences distress, he/she should follow the jails procedure for referral services.

INSTRUCTIONS FOR SECTION 3:

OFFICER'S COMMENTS: Check any one or more of the four problems listed if applicable to this screening. If any other problem(s) occurred, please check OTHER, and note what it was.

REFERRAL INSTRUCTIONS:

Any detainee answering YES to Item 7 or YES to Item 8 or YES to at least two of Items 1-6 should be referred for further mental health evaluation. If there is any other information or reason why the officer feels it is necessary for the detainee to have a mental health evaluation, the detainee should be referred. Please indicate whether or not the detainee was referred.

Scoring the PHQ-9 modified for Teens

Scoring the PHQ-9 modified for teens is easy but involves thinking about several different aspects of depression.

To use the PHQ-9 as a diagnostic aid for Major Depressive Disorder:

- Questions 1 and/or 2 need to be endorsed as a "2" or "3"
- Need five or more positive symptoms (positive is defined by a "2" or "3" in questions 1-8 and by a "1", "2", or "3" in question 9).
- The functional impairment question (How difficult....) needs to be rated at least as "somewhat difficult."

To use the PHQ-9 to screen for all types of depression or other mental illness:

- All positive answers (positive is defined by a "2" or "3" in questions 1-8 and by a "1", "2", or "3" in question 9) should be followed up by interview.
- A total PHQ-9 score ≥ 10 (see below for instructions on how to obtain a total score) has a good sensitivity and specificity for MDD.

To use the PHQ-9 to aid in the diagnosis of dysthymia:

- The dysthymia question (In the past year...) should be endorsed as "yes."

To use the PHQ-9 to screen for suicide risk:

- All positive answers to question 9 as well as the two additional suicide items **MUST** be followed up by a clinical interview.

To use the PHQ-9 to obtain a total score and assess depressive severity:

- Add up the numbers endorsed for questions 1-9 and obtain a total score.
- See Table below:

Total Score	Depression Severity
0-4	No or Minimal depression
5-9	Mild depression
10-14	Moderate depression
15-19	Moderately severe depression
20-27	Severe depression

The CRAFFT Screening Questions

Please answer all questions honestly; your answers will be kept confidential.

Part A

During the PAST 12 MONTHS, did you:

1. Drink any alcohol (more than a few sips)?
2. Smoke any marijuana or hashish?
3. Use anything else to get high?

"anything else" includes illegal drugs, over the counter and prescription drugs, and things that you sniff or "huff"

No

Yes

If you answered NO to ALL (A1, A2, A3) answer only B1 below, then STOP.

If you answered YES to ANY (A1 to A3), answer B1 to B6 below.

Part B

1. Have you ever ridden in a CAR driven by someone (including yourself) who was "high" or had been using alcohol or drugs?
2. Do you ever use alcohol or drugs to RELAX, feel better about yourself, or fit in?
3. Do you ever use alcohol or drugs while you are by yourself, or ALONE?
4. Do you ever FORGET things you did while using alcohol or drugs?
5. Do your FAMILY or FRIENDS ever tell you that you should cut down on your drinking or drug use?
6. Have you ever gotten into TROUBLE while you were using alcohol or drugs?

No

Yes

CONFIDENTIALITY NOTICE:

The information on this page may be protected by special federal confidentiality rules (42 CFR Part 2), which prohibit disclosure of this information unless authorized by specific written consent. A general authorization for release of medical information is NOT sufficient.

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Name _____ Birthdate _____ Doctor _____ Today's Date _____

A Survey from Your Healthcare Provider

Part of routine screening for your health includes considering mood and emotional concerns. Instructions: How often have you been bothered by each of the following symptoms during the past two weeks? For each symptom put an "X" in the box beneath the answer that best describes how you have been feeling.

	(0) Not At All	(1) Several Days	(2) More Than Half the Days	(3) Nearly Every Day
Feeling down, depressed, irritable or hopeless?				
Little interest or pleasure in doing things?				
Trouble falling or staying asleep or sleeping too much?				
Poor appetite, weight loss, or overeating?				
Feeling tired or having little energy?				
Feeling bad about yourself --or feeling that you are a failure, or have let yourself or your family down?				
Trouble concentrating on things, like school work, reading or watching TV?				
Moving or speaking so slowly that other people could have noticed? Or the opposite – being so fidgety or restless that you were moving around a lot more than usual?				
Thoughts that you would be better off dead, or of hurting yourself in some way?				

In the **past year** have you felt depressed or sad most days, even if you felt OK sometimes? Yes No

If you are experiencing any of the problems on this form, how difficult have these problems made it for you to do your work, take care of things at home or get along with other people?

- Not difficult at all Somewhat difficult Very difficult Extremely difficult

Has there been a time in the past month when you have had serious thoughts about ending your life? Yes No

Have you **ever**, in your **whole life**, tried to kill yourself or made a suicide attempt? Yes No

Effective Diversion Practices for Defense Attorneys: Working with Youth and People with Mental Illness

First Department
Continued Education

May 23, 2014

6pm-8pm

111 Centre Street, 11th Floor

Speakers

Ceresa Gonzalez, MSW, Director Court Operations, CASES

John Volpe, LCSW, Special Advisor Criminal Justice and Mental Health, NYC Dept. Health & Mental Hygiene

Ann-Marie Louison, Director Adult Behavioral Health Program, CASES

Angelo Dula, Resource Coordinator, Court-based Intervention Resource Team (CIRT), CASES

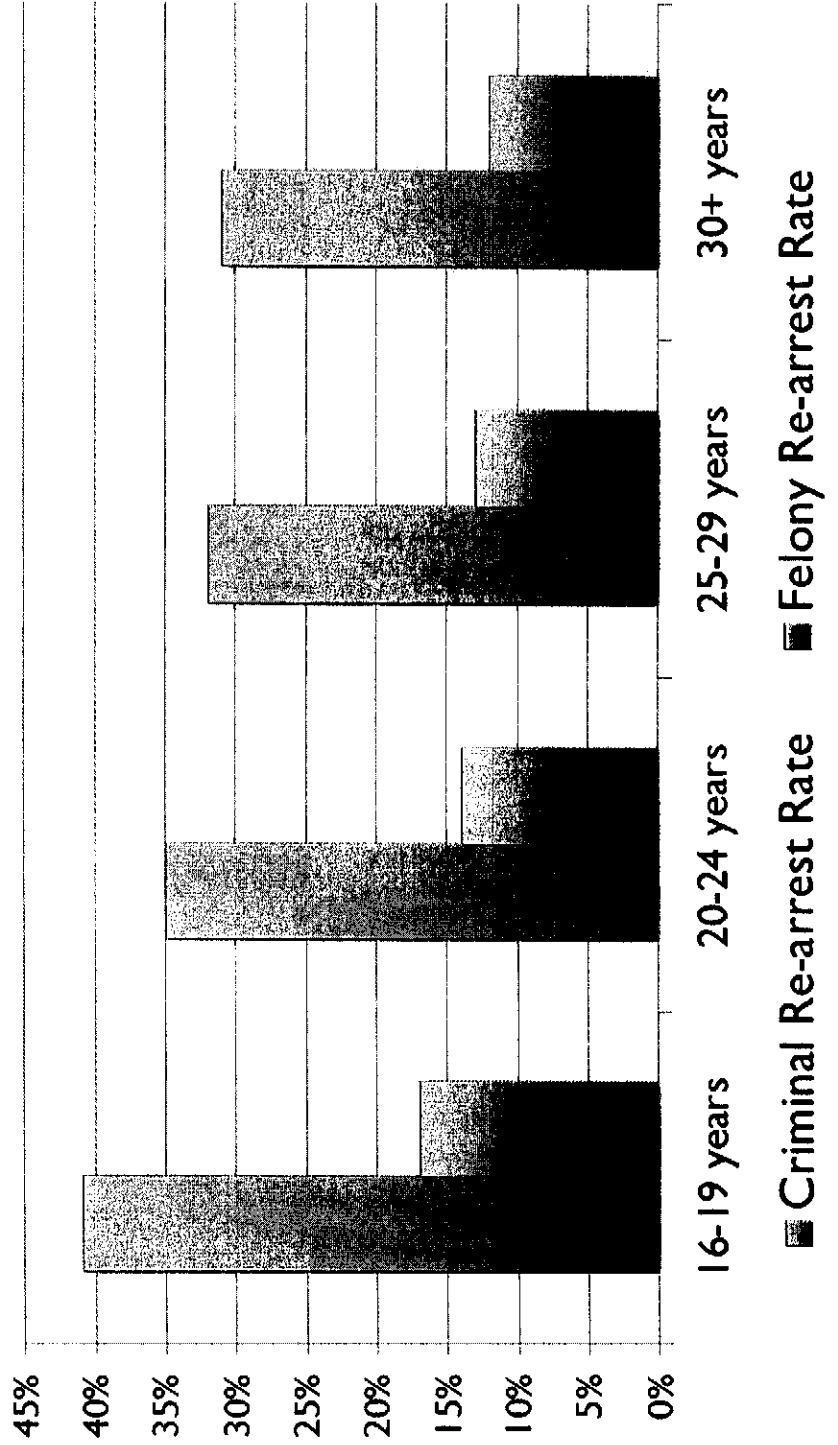
Mary Beth Anderson, Esq., LMSW, Director Mental Health Project, Urban Justice Center

Youth in NYC Criminal Justice System

- * More likely than adults to be arrested for serious crimes
- * Overwhelmingly African American and Hispanic/Latino
- * Have complex needs (educational, vocational, behavioral health, family, psychosocial, economic, etc.)
- * Need legal counsel with knowledge of adolescent development and communication
- * Without appropriate guidance, youth are unlikely to understand rights they are regularly asked to waive, let alone the consequences of waiving them
- * Even when youth have had prior experience with the criminal justice system, such experience does not necessarily translate into a better understanding of legal rights

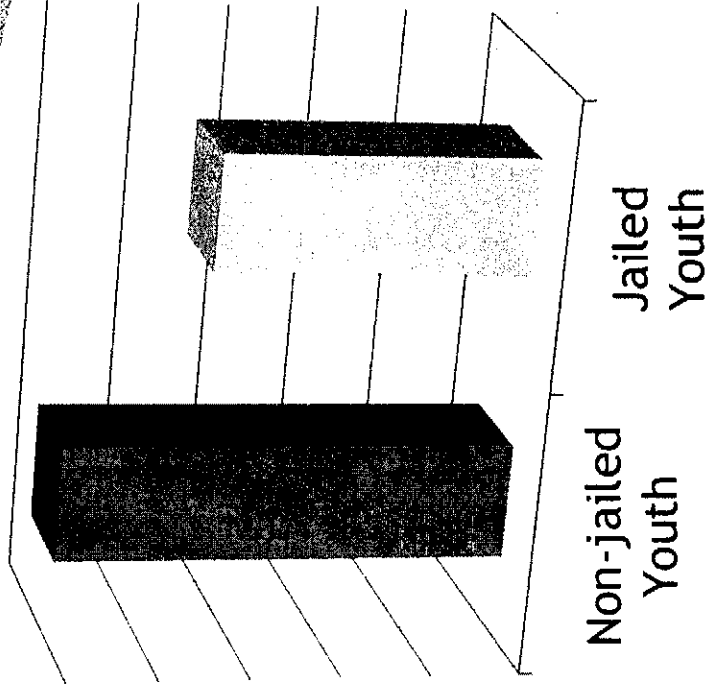
Youth Higher Rates of Re-Arrest

One Year Re-arrest Rates by Age:
New York City Defendants in 2009



Source: Criminal Justice
Indicator Report. The New
York City Office of Michael
Bloomberg. Office of the
Criminal Justice
Coordinator John Feinblatt,
2013.

The Impact of Detention on Youth Employment



Jailing youth ages 16-25 reduced work time over the next decade by 25-30 percent.

- Economists have shown that the process of incarcerating youth will reduce their future earnings and their ability to remain in the workforce, and could change formerly detained youth into less stable employees
- Only 29% of adolescent males are in school 15 months after release from NYC jail, compared to 69% at jail admission.
- Upwards of 40% of incarcerated youth have a learning disability, and they will face significant challenges returning to school after they leave detention

Youth Development

Youth development is an approach that builds on youth's assets and their potential

Youth Development Principles

- * Providing youth with safe and supportive environments.
- * Fostering relationships between youth and caring adults who can mentor and guide them
- * Supporting development of youth's knowledge and skills in a variety of ways, including study, tutoring, sports, the arts, vocational education and service learning
- * Engaging youth as active partners and leaders who can help move communities forward
- * Providing opportunities for youth to show that they care – about others and society
- * Promoting healthy lifestyles and teaching positive patterns of social interactions

Youth Development

- * Research into brain development underscores that adolescents are in fact children and that the human brain is not fully formed until the age of 25
- * Because the adolescent brain is still developing, the character, personality traits and behavior of adolescents are highly receptive to change; adolescents respond well to interventions, learn to make responsible choices, and are likely to grow out of negative or delinquent behavior
- * Peer influence can affect youths' decisions directly, as when adolescents are coerced to take risks they might otherwise avoid. More indirectly, youths' desire for peer approval, or their fear of rejection, may lead them to do things they might not otherwise do.

What Can We Do?

- * Recognize youth and adult differences and consider this in your work
- * Individuals working with youth and young adults must be motivated to work with them and their families
- * Successfully engage young people – take more time
- * Allow sufficient time to get to know young clients, their situations, and their cases, as well as build relationships with them
- * Youth and young people are members of families, be they traditional, extended, or headed by a nonrelative. Whatever the structure, it is important to form a relationship with the young person's family
- * **Extra efforts** to get diversion approved for youth and young adults

CASES

The mission of CASES is to increase public safety through innovative services that reduce crime and incarceration, improve behavioral health, promote recovery and rehabilitation, and create opportunities for success in the community

CASES – New York City

Youth Programs

Court Employment Project

Choices ATD

Queens Justice Corps

Justice Scholars

Civic Justice Corps

Adult Behavioral
Health Programs

Manhattan CTR Team

Manhattan CTR Team

Manhattan CTR Team

Manhattan CTR Team

Participants Served in FY 2015 (Projected)

Service	# of Clients
Youth Programs	620
Court Employment Project	400
Choices Alternative-to-Detention	105
Queens Justice Corps	75
Young Adult Justice Scholars	40
Adult Behavioral Health Programs	3,126
Nathaniel ACT Team	68
Manhattan ACT Team	68
Manhattan START	2240
Staten Island Community Service Project	750
New Mental Health Programs (Youth and Adult)	1260
Nathaniel Clinic	400
New York County CIRT	460
Brooklyn CIRT	400

TOTAL

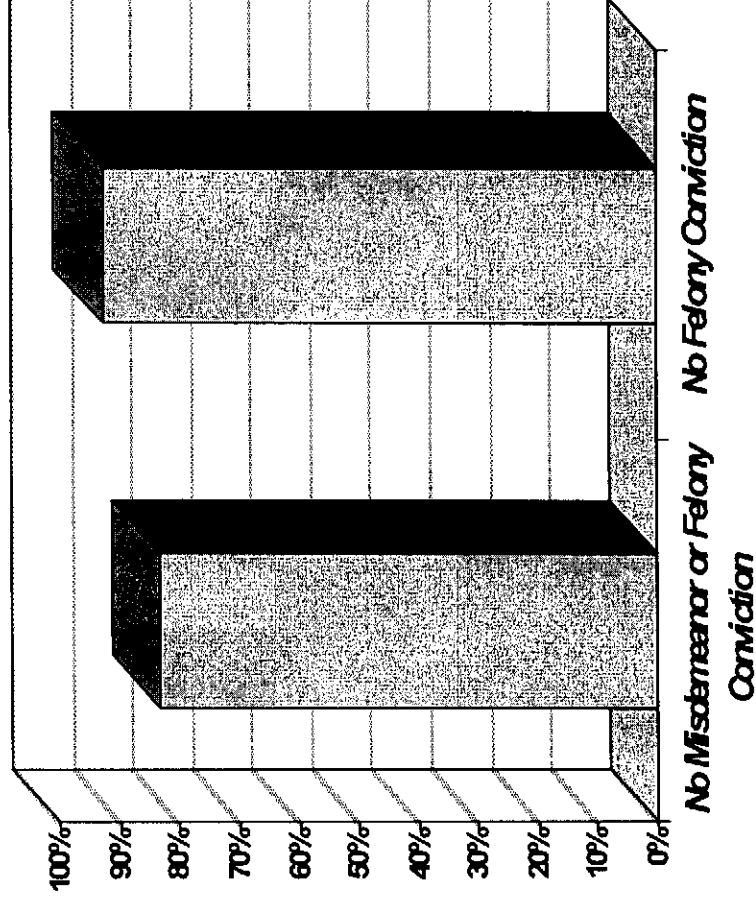
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Court Employment Project

- * 6 month alternative-to-incarceration (ATI) program
- * Operates in Supreme Courts in Manhattan, Bronx, Brooklyn and Queens
- * Comprehensive services for justice-involved young people ages 15-21 years old
- * 22-24 year olds are considered case-by-case
- * Felony cases only

Goals & Outcomes

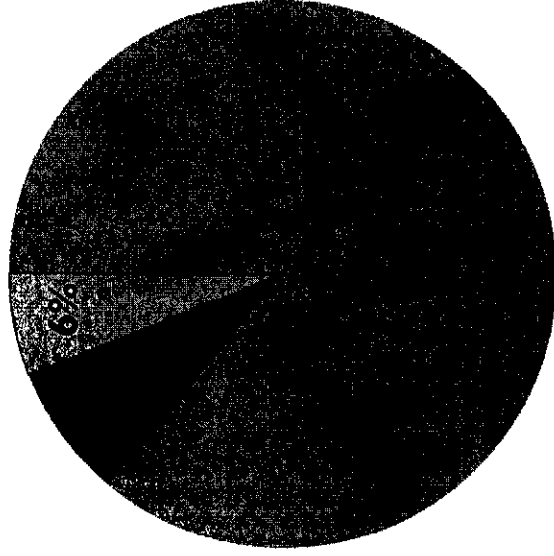
Recidivism Rates for CEP Graduates: (FY11 graduates, after 2 years)



- * To reduce the rate of incarceration by providing alternative cost-effective sanctions to the courts
- * Provide tools and outlets for justice involved young people to avoid further contact with the justice system

Youth Outcomes

- In 2013, CASES' youth participants earned 54 GED diplomas. 68% of 2013 test takers earned their diploma.*
- 49 CASES participants attended college in 2013 with the Next Steps program – 20 continued their college enrollment while 29 were newly matriculated.
- 194 youth program participants obtained employment, job training, or an internship in 2013.



■ Drug-free
■ Receiving community drug treatment
■ Tested positive for drug use

In 2013, 94% of CEP graduates were either drug-free or receiving drug treatment in their communities.

*excluding the results of 40 participants awaiting their test results.

Services

- * Education
- * Employment
- * Substance Abuse
- * Mental Health
- * Curfew monitoring (Court Mandate Only)
- * Benefits Specialist
- * Home Visits
- * School Visits
- * Community Based Organization (CBO) connection upon program exit to link individuals to ongoing services
- * Alumni Education & Employment

Paper Eligibility

- * 15-21 year-old young men and women
- * Residing in New York City indicted on a violent or non-violent felony
- * 22-24 year-olds are considered case-by-case
- * Individuals incarcerated at any point between Supreme Court arraignment and plea
 - * If not incarcerated, any one of the following apply:
 - Charged with an AFO or certain sexual offenses, or
 - Charged with a VFO and bail was imposed at any point, or after arrest, or
 - Charged with a B or C violent or non-violent felony and has a prior arrest, or
 - Charged with a D or E non-violent felony and has some ongoing involvement in the criminal justice system, such as an open criminal case, probation or a conditional discharge.

VOP cases are reviewed

Pre-plea/voluntary enrollment

Referral & Intake Process

- * **Referral Sources**
- * Court calendar screenings or direct referrals from Judges, Defense Counsel, Prosecutors, Social Workers, defendants or family members
- * **Referral Process**
- * Obtain permission from Defense Counsel to interview defendant based on paper eligibility
- * Schedule interview with defendant and family in the CEP court office, the courthouse, the pens or via video conference
- * Reach out to DA's office and Diversion Program upon acceptance to advocate on behalf of the client
- * Appear on each court appearance to advocate for a non-jail disposition; submit advocacy letters on client's behalf
- * Plea and court mandate must take place within three months of program enrollment if pre-plea or voluntary.

Strategies for Working with Youth and Young Adults in the Justice System

- * Begin by meeting the client and family where they are by encouraging their input and developing a realistic and attainable program plan
- * Identify individual needs based on age, geography, family & community support, education needs, employment background and emotional/behavioral health
- * Identify fit between client and program culture; consider risk of “setting the client up”; present alternatives if a fit is not apparent
- * Consider program’s expertise & current client demographic; client’s interest, level of motivation & self-autonomy, and understanding of commitment to receiving services through the court
- * Develop comprehensive and realistic program plan to present to the court and DA’s office

Disposition Types

YO Eligible

- * YO + 3-5 years probation
- * YO + 6-month split
- * Conditional Discharge
- * Re-plea to misdemeanor
- * Best possible disposition

Non-YO

- * Re-plea to misdemeanor
- * Conditional Discharge
- * Best possible disposition

What to Expect from CEP?

- * Advocacy for best possible disposition and a defendant's participation in the program
- * Collaborative Service Planning with program staff and external community partners (including key court players)
- * Timely and accurate court reports
- * Communication between the CEP Court Representative and all court-involved parties
- * Immediate notification of non-compliance concerns

Questions & Information

To discuss any questions or concerns please
contact:

Director of Youth Programs Court Operations

Ceresa González

T: (212) 553-6313

C: (347) 712-2198

cgonzalez@cases.org

To Make A Referral

Manhattan

Please Contact

Borough Director: Andrew DeSilva
T: (212) 553-6635 C: (347) 712-2198
adesilva@cases.org

Or

Court Representative: Brandon
Joseph

T: (212) 553-6350 C: (646) 627-1023
bjoseph@cases.org

Bronx

Please Contact

Court Representative: Kenneth
Kirton

T: (718) 537-8330 C: (917) 685-5417
kkirton@cases.org

Or

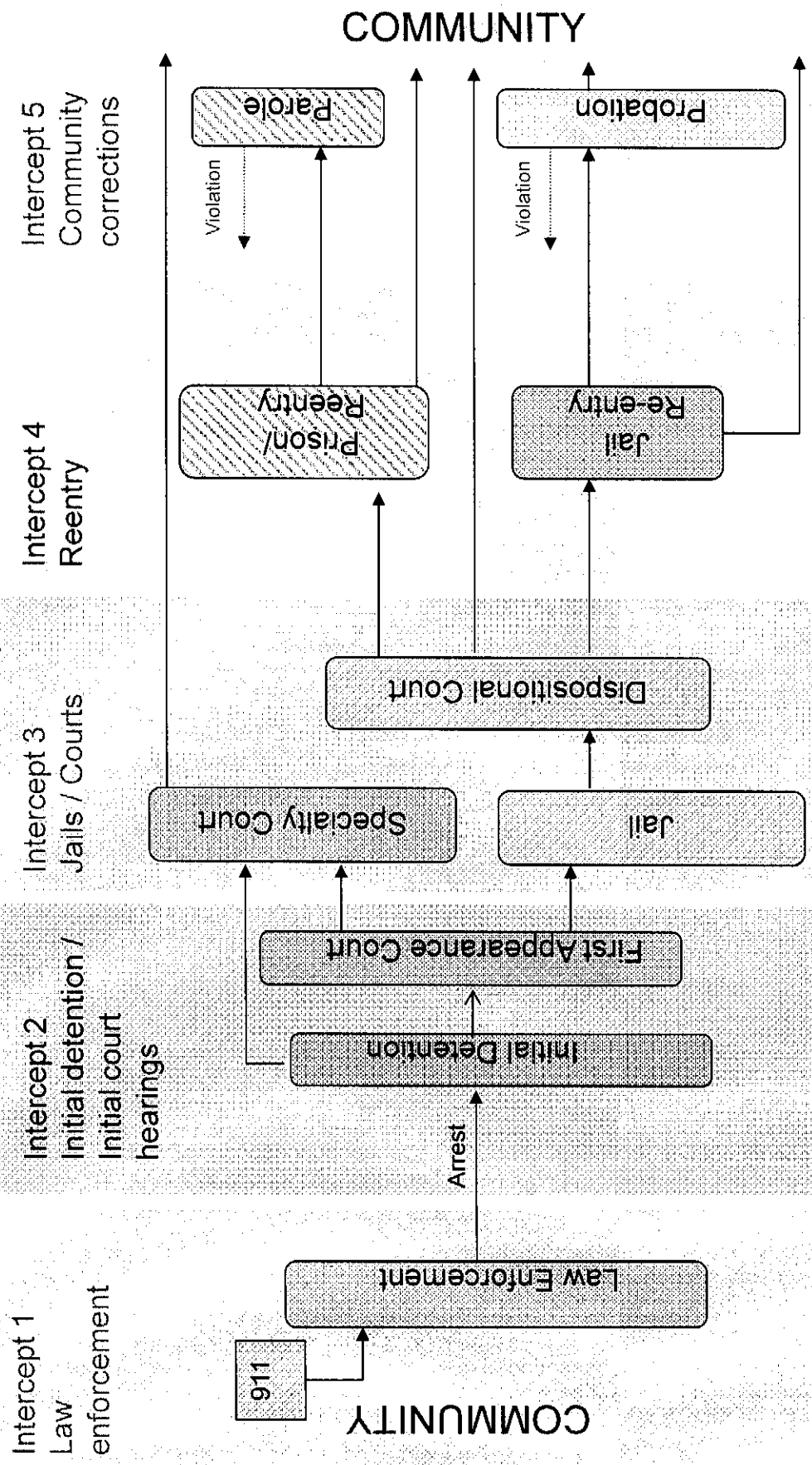
Court Representative: Tara Knoll
T: (718) 537-8330 C: (347) 436-6444
tknoll@cases.org

Youth and Adults with Mental Illness in Justice System

John Volpe, ECSW

Ann-Marie Louison

Angelo Dula



COMMUNITY

Intercept 5
Community
corrections

Intercept 4
Reentry

Intercept 3
Jails / Courts

Intercept 2
Initial detention /
Initial court
hearings

Intercept 1
Law
enforcement

911

COMMUNITY

Parole

Probation

Prison/
Reentry

Jail
Re-entry

Dispositional Court

Specialty Court

Jail

First Appearance Court

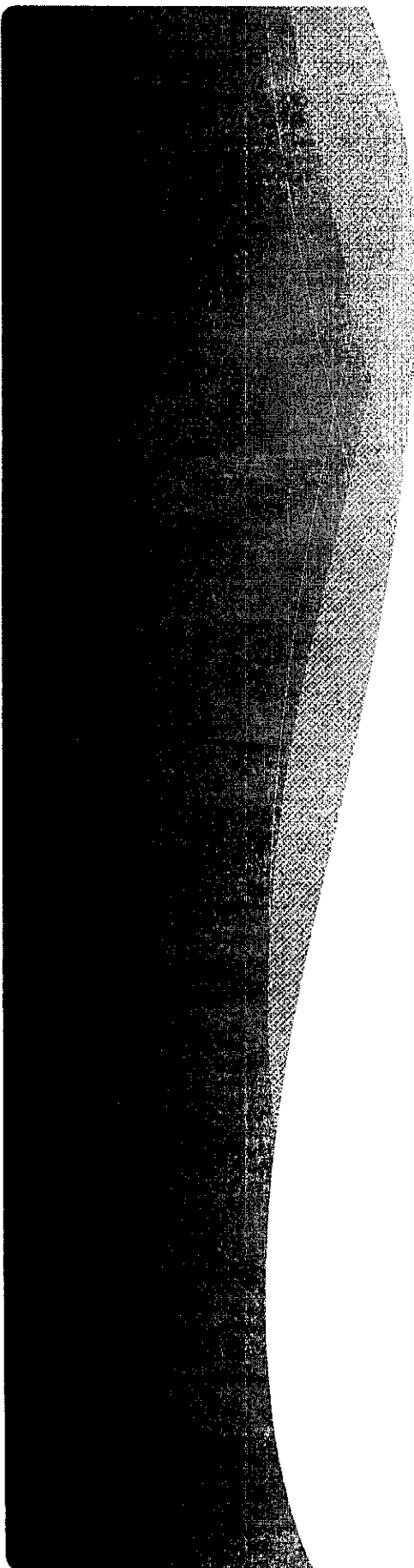
Initial Detention

Law Enforcement

Arrest

Violation

Violation



John Volpe, LCSW
Special Advisor Criminal Justice and Mental
Health
NYC Department of Health & Mental Hygiene
Bureau of Mental Health

jvople1@health.nyc.gov

347 396-7174

Youth Mental Health and Substance Use

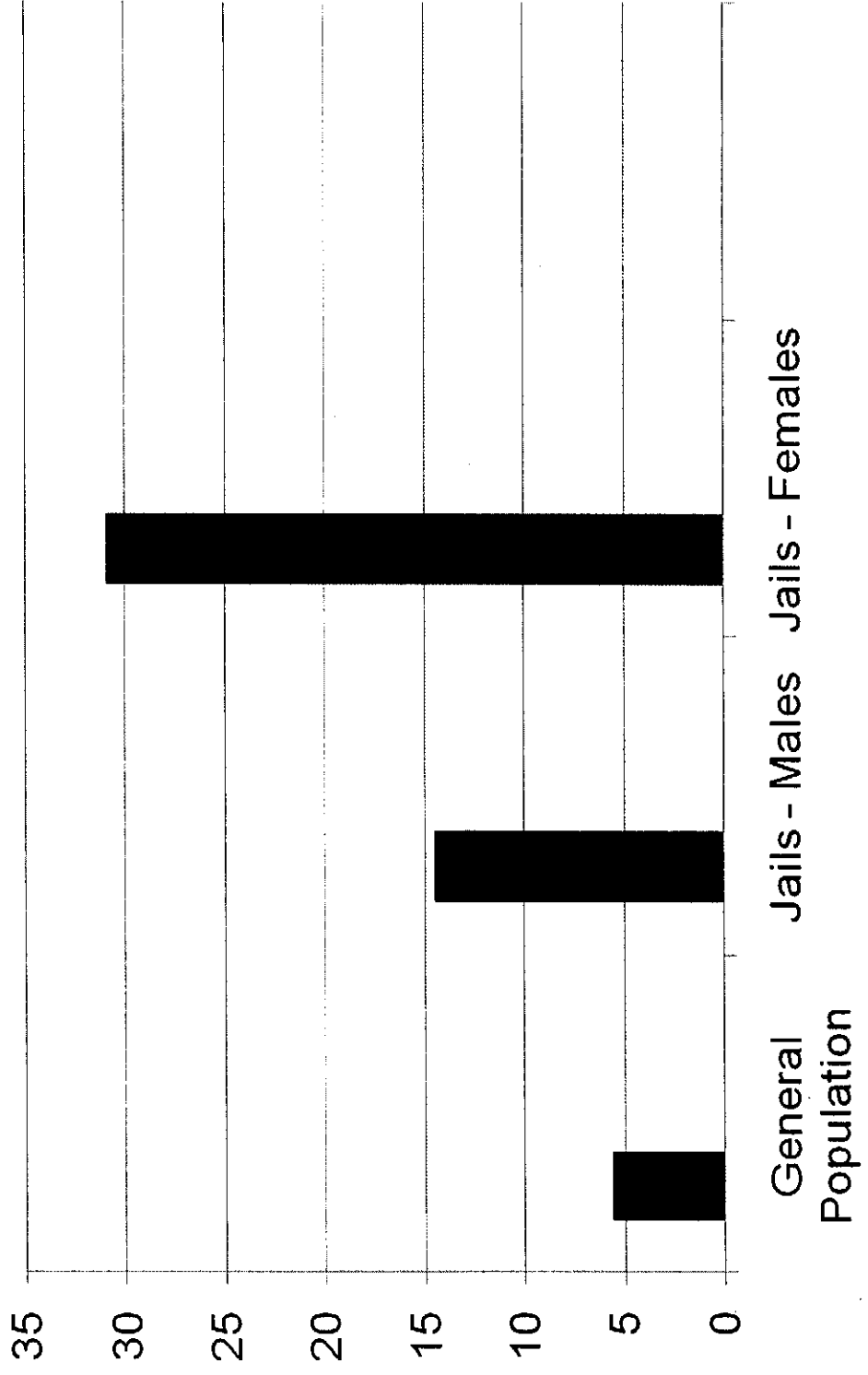
- The majority of youth in the justice system have one or more psychiatric disorder (66% of males; 75% of females)
- Poor mental health and the conditions of confinement together conspire to make it more likely that incarcerated teens will engage in suicide and self-harm
- Research published in Psychiatry Resources showed that for one-third of incarcerated youth diagnosed with depression, the onset of the depression occurred after they began their incarceration
- 46% of youth aged 16-18 on Rikers have a mental health diagnosis
- 28% of young adults aged 19-24 detained on Rikers Island have a mental health diagnosis
- 34% of children in the U.S. have experienced a traumatic event, between 75 to 93% of youth entering the justice system has experienced some degree of trauma
- Youth and young people under 25 with mental illness stay longer in jail (detained) than any other group
- Younger people with behavioral health needs including those with serious mental illness more likely to be detained for a serious crime

Sources: SAMHSA GAINS Center for Behavioral Health and Justice Transformation Youth Fact Sheet; Aborn, Richard, Bennett, John, Cannon, Ashely. Citizens Crime Commission of New York City. Guide to Juvenile Justice in New York City. 2010. Holman, Barry. Ziedenberg, Jason. A Justice Policy Institute Report. The Dangers of Detention: The Impact of Incarcerating Youth in Detention and Other Secure Facilities

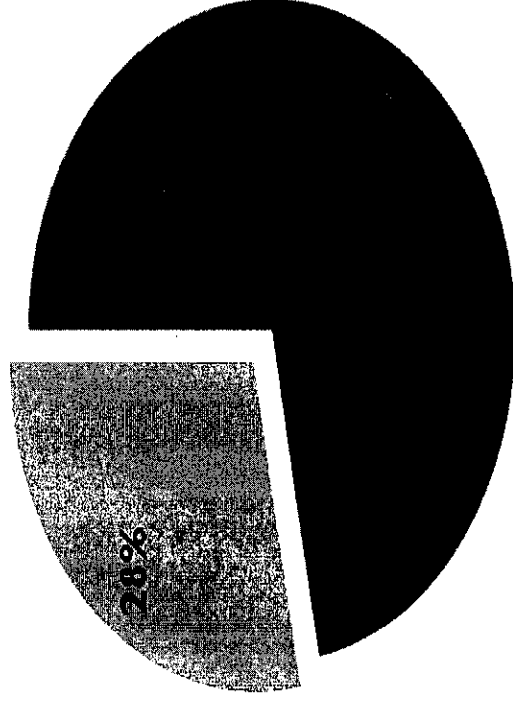
Youth Mental Health and Substance Use

- * Youth and young adults have the best chance of positive long term outcomes by receiving quality, integrated clinical services as quickly as possible after onset of the first symptoms of behavioral disorders
- * Delays in receiving care are common for youth in general
- * The average age of onset for a psychiatric disorder is 14, while the average lag from first symptoms to receiving care is nine years

Illnesses

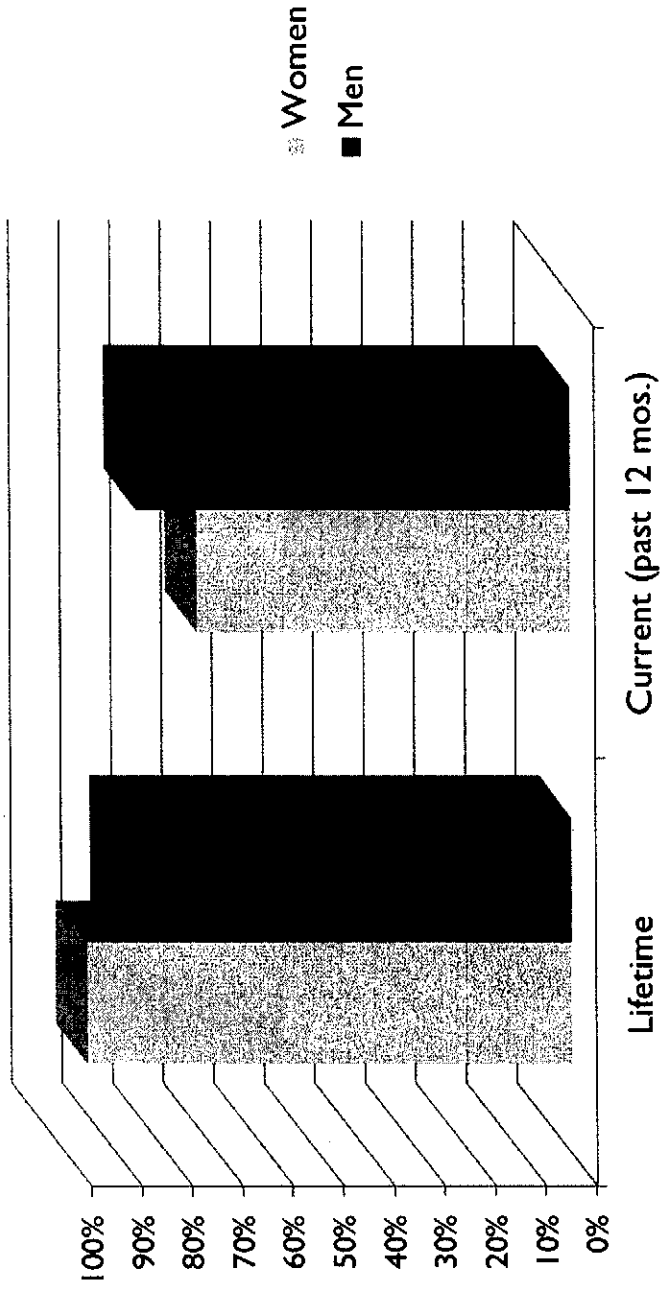
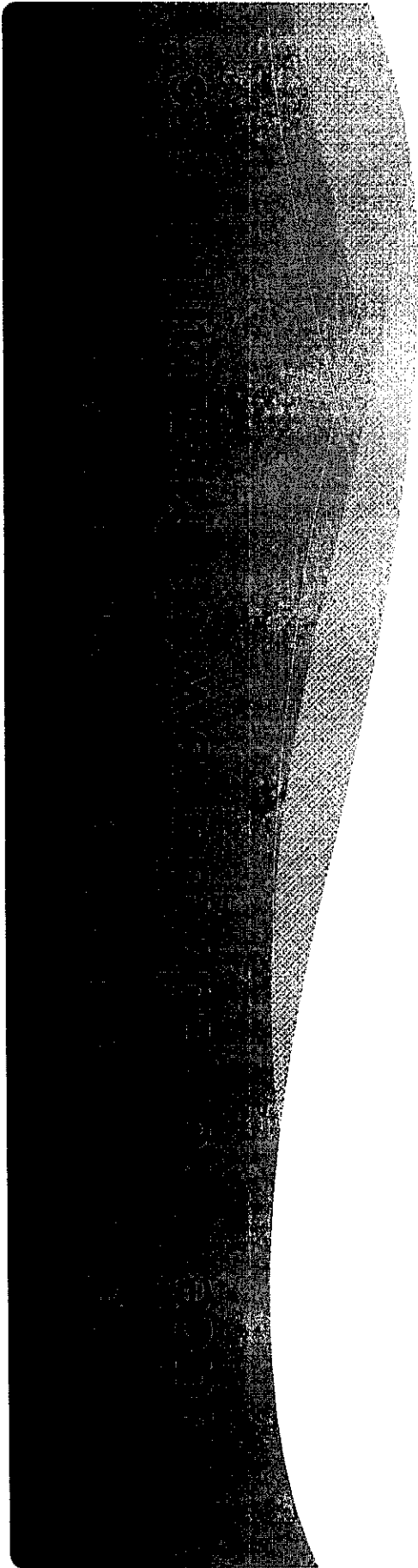


SMI and Co-Occurring Substance Use Disorders (CODs) among Adult Jail Detainees



■ % With Co-Occurring Substance Use Disorders

■ % Without Co-Occurring Substance Use Disorders



Source: Steadman, Lifetime experience of trauma among participants in the cross-site evaluation of the TCE for Jail Diversion Programs initiative, 2009.

Manhattan Short Term Alternatives & Referral to Treatment (START)

- * Manhattan Arraignment ATI program
- * Men and Women aged 18 and above facing misdemeanor conviction and jail sentence
- * Adults with mental illness facing misdemeanor conviction and jail sentence
- * All misdemeanor eligible
- * Individual has 3 or more prior convictions

START – Two Tracks

- * **Daytime custody services for men**
- * 3 day mandate
- * 5 day mandate
- * **Community Case Management for men with mental illness and all women**
- * 3 session mandate
- * 5 session mandate

Referrals

Day Arraignment Staff

**Irvin Emmanuel, Sr. Court
Representative**

212 349-8208 (Office)

347 477-7017 (Cell)

**Nadia Assasi, LMSW, Intake
Specialist**

212 964-8109 (Office)

917 763-9686 (Cell)

Night Arraignment Staff

Wednesday - Sunday

**Justine Tribou, LMSW,
Intake Specialist**

212 964-8108 (Office)

646 581-0140 (Cell)

Nathaniel Assertive Community Treatment (ACT) ATI Program

- * Manhattan Supreme Court only
- * Every courtroom
- * Felony indicted
- * 2 year ATI
- * Facing **minimum** one year in jail or a prison sentence
- * Aged 18 and above
- * Serious Mental Illness (such as schizophrenia)
- * Eligible for Assertive Community Treatment (ACT) as defined by the NYS Office of Mental Health and NYC Department of Health and Mental Hygiene
- * Many participants are referred to Nathaniel by Kirby Forensic Psychiatric Center

INVESTIGATIVE

Assault

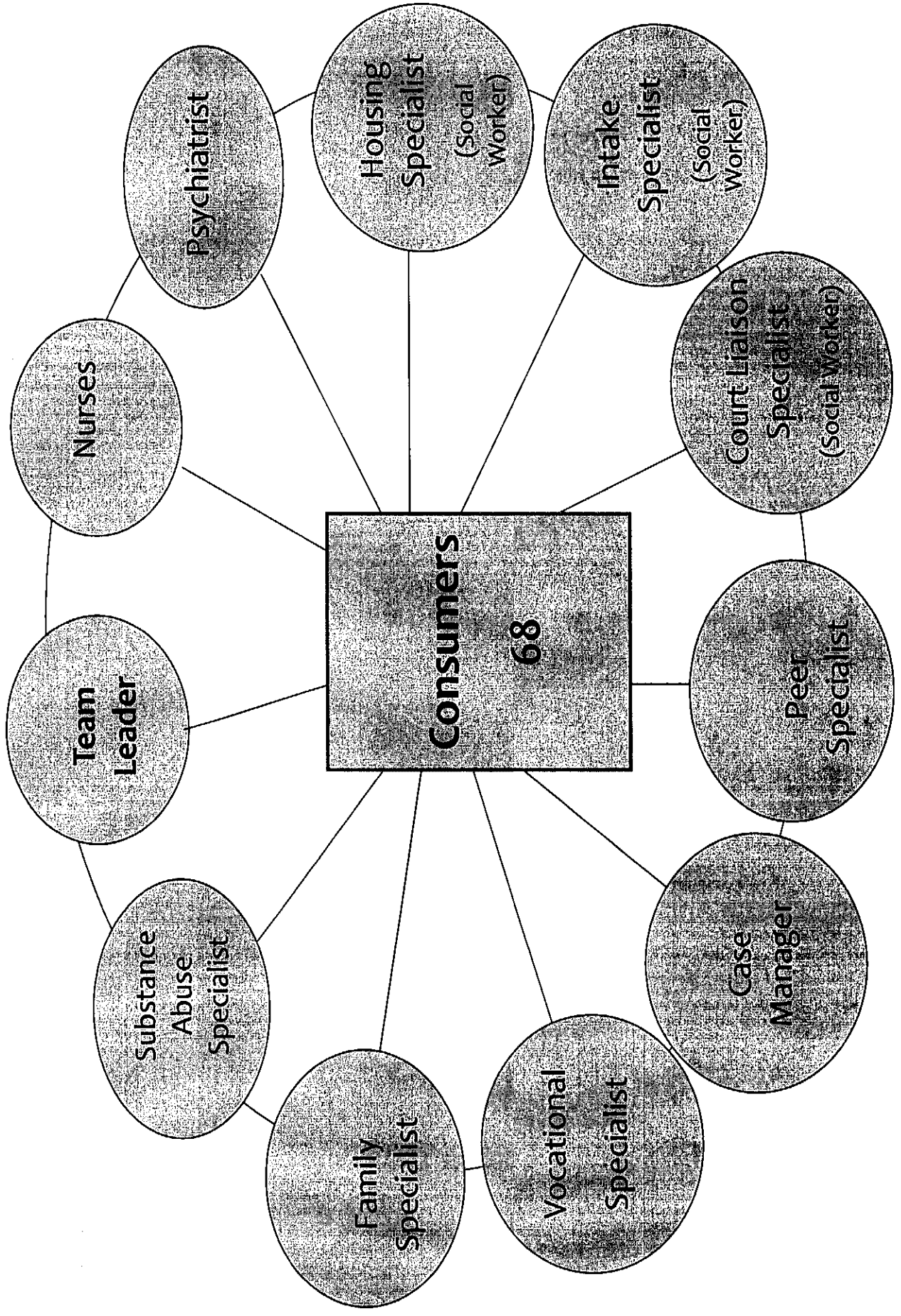
Criminal Sale Controlled Substance

Robbery

Burglary

Grand Larceny

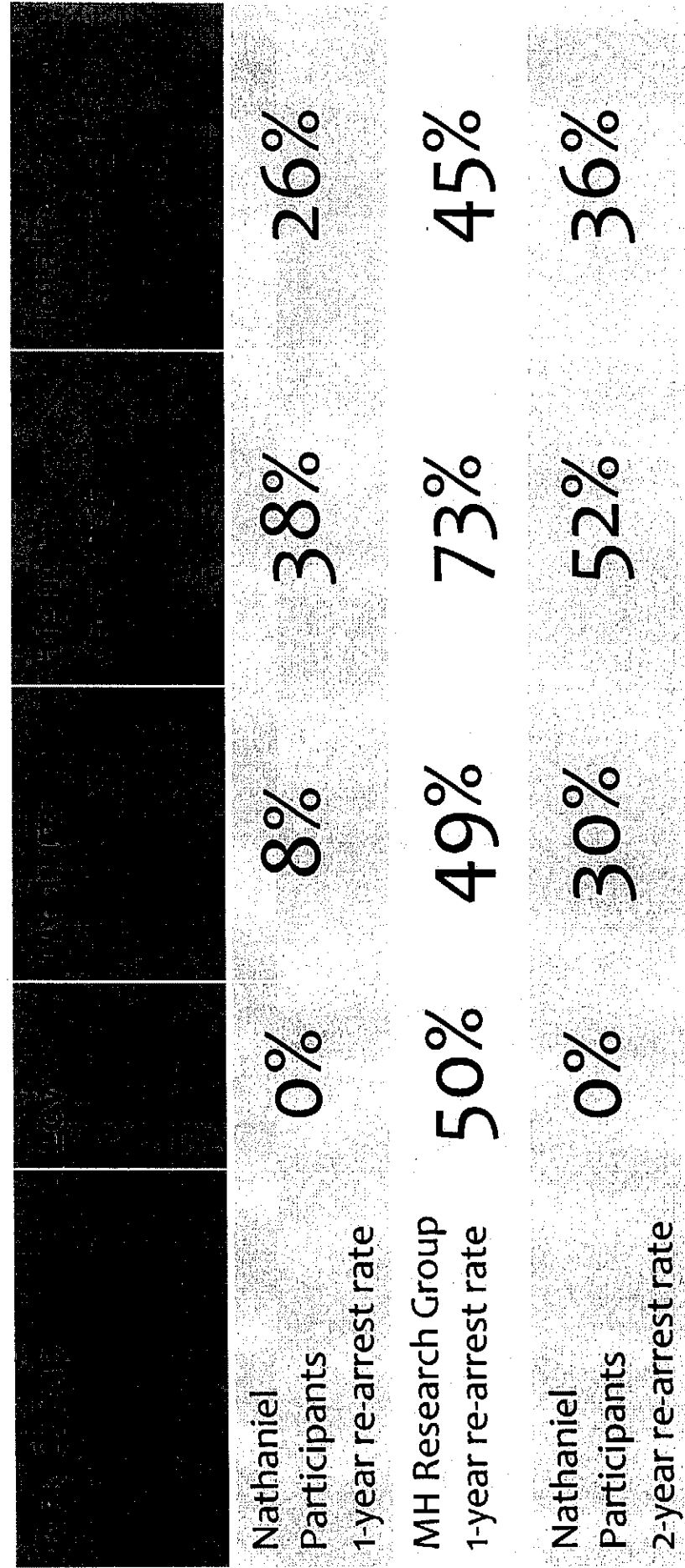
Criminal Contempt



Level of Service Case Management Inventory (LSCMI) Risk Levels

	Nathaniel ACT	Nathaniel (Kirby Forensic Psychiatric Center Participants)
Low	9%	5%
Medium	56%	50%
High/Very High	35%	43%

Risk for Recidivism Influences Outcomes



Referrals

Theodore Willbright, Intake Coordinator

twillbright@cases.org

Cellphone 646-208-4907

Office 212 553-6716

Katie Herman, Court Liaison Specialist

kherman@cases.org

Cellphone 646-398-1180

Office 212 553-6714

Court –based Intervention Resource Team (CIRT)

Program Capacity

479 Misdemeanor

378 Felony

Program Goals

- Reduce detention of individuals with “M” designation
- Offer Alternative-to-Detention (ATD) legal options
- Expand Alternative-to-Incarceration (ATI) legal options
- Participants access behavioral health services
- Participants get needed supports in community
- Participants have better life outcomes

Eligible Participants

- Detained in jail
- Give consent for DOC to refer to CIRT
- Aged 16 and above
- Non-violent instant charge
- DOC Risk for Re-incarceration score
- “M” designation = received some type of mental health treatment in the jail

Staff

- Director
- Resource Coordinator
- Court Liaison Specialist (3 Social Workers)
- Clinical Supervisor
- P/T Psychiatrist
- Social Workers (3)
- Case Managers (2)
- Peer Specialists (2)
- Licensed Practical Nurse

DOC Shares

- Identifying Information
 - name
 - address
 - charge
 - bail amount
 - next court date
- DOC risk score (low, medium, high)
- Sent to CIRT sometime during legal process

Misdemeanor ATD

- Misdemeanor arraigned charges
- Screened by CIRT and client consents
- 170.70 bail application
- CIRT presents ATD recommendation
- 1 month supervised release
(CIRT monitoring and services during dependency legal case)
- Bail Condition - Supervised Release to CIRT

Misdemeanor ATI

- Misdemeanor arraigned charges and guilty plea
- Screened by CIRT and client consents
- 170.70 and subsequent court appearances
- ATI 1 month
- ATI 2 months
- ATI 3 months
- Legal mandate – participate in CIRT

Felony ATD

- Felony arraigned and indicted
- Felony arraigned and reduced to misdemeanor
- Screened by CIRT and client consents
- Attorney makes bail application
- 4 months supervised release to CIRT (during dependency legal case)

Felony ATI

- Felony arraigned and indicted
- Felony arraigned and SCI
- Felony arraigned and reduced to misdemeanor
- Screened by CIRT and client consents
- Guilty plea
- 6 months CIRT participation

Court Services

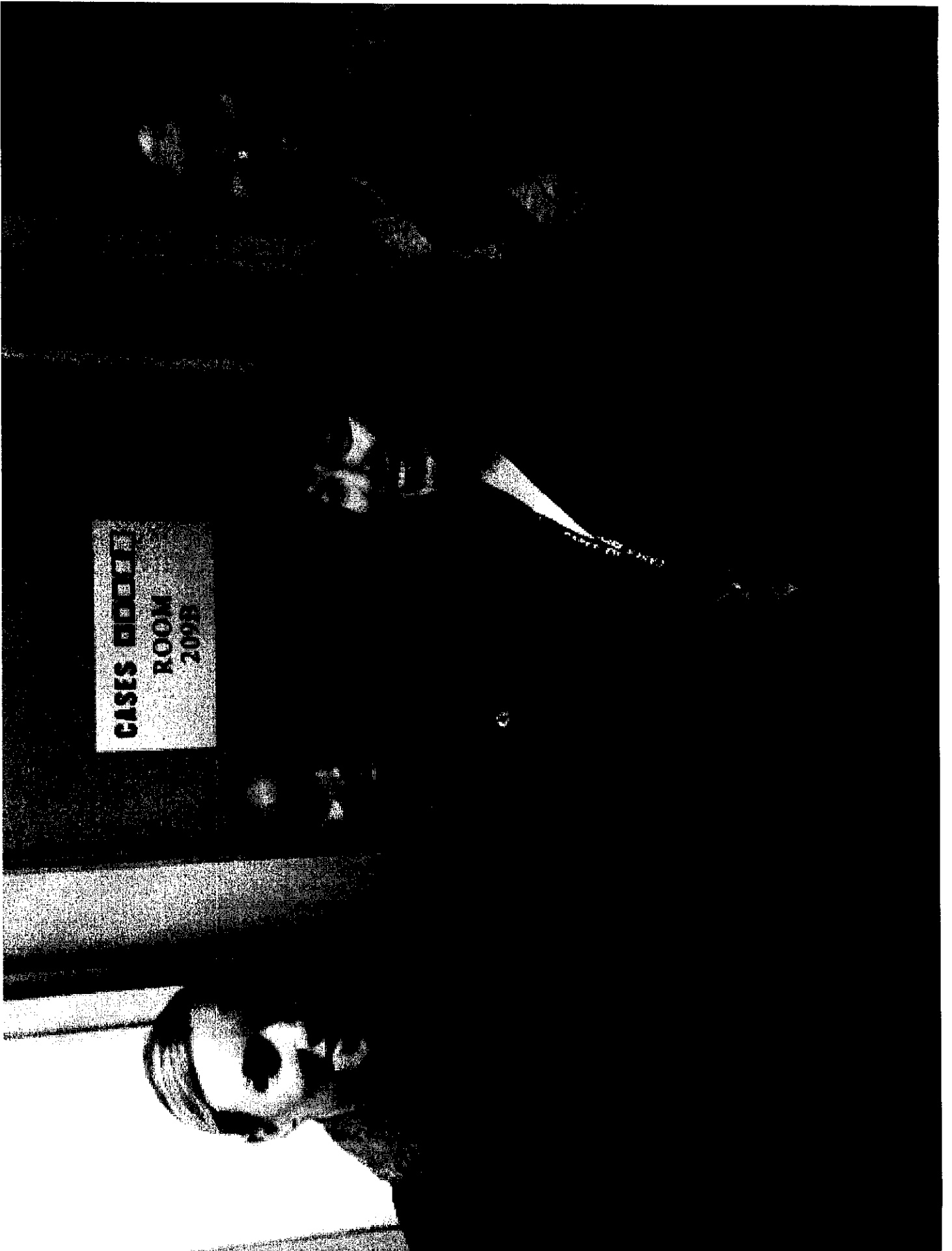
- Screened by social worker
- Advocacy at court hearing
- Advocacy with prosecutor as consented by defense
- Escort to court appearance
- Status and progress reports
- Notification non-adherence to bail or ATI conditions

Program Services

- Rapid engagement
- Treatment Plan
- Psychiatric evaluation, initiation of medication
- Onsite individual and group services
- Linkage to community treatment and follow-up
- Linkage to education, vocational training, housing, and other supports
- Case management in the community
- Supervision and monitoring

Youth Services

- CIRT youth social worker
- P/T child and adolescent psychiatrist
- Family work
- Education/School
- Linkage to vocational training
- Linkage to substance abuse treatment
- Linkage to mental health treatment
- Onsite individual counseling
- Youth workshops/groups
- Access to onsite CASES youth services (education)



CASES ROOM
209B

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**Attorney & Social Work Ethics:
Similarities, Differences, and
Impact on Indigent Defense
Practice**

Attorney & Social Work Ethics

Presenter:

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Codes of Ethics

- * Key feature of professions include codification of ethics concerns
- * Attorneys in New York State follow the New York Code of Professional Responsibility
- * Social workers are guided by the National Association of Social Workers Code of Ethics
- * Public Defenders can also find guidance in the NLADA Performance Guidelines for Criminal Defense Representation

Other relevant statutes

- * New York State Education Law Article 154 (§ 7700 et seq.)
- * Rules of the Board of Regents
- * Commissioner's regulations
- * New York Social Service Law § 413

Ethical Considerations Are Often
Similar

Competence - Attorneys

- * Rule 1.1
 - * (a) A lawyer should provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.
 - * (b) A lawyer shall not handle a legal matter that the lawyer knows or show know that the lawyer is not competent to handle, without associating with a lawyer who is competent to handle it.

Competence – Social Workers

- * Section 1.04
 - * (a) Social workers should provide services and represent themselves as competent only within the boundaries of their education, training, license, certification, consultation received, supervised experience or other professional experience.
 - * Social workers should provide services in substantive areas or sue intervention techniques or approaches that are new to them only after engaging in appropriate study, training, consultation and supervision from people who are competent in those interventions or techniques.

Competence – Social Work, cont'd

- * Section 1.04
 - * (c) When generally recognized standards do not exist with respect to an emerging area of practice, social workers should exercise careful judgment and take responsible steps (including appropriate education, research, training, consultation, and supervision) to ensure the competence of their work and to protect clients from harm.

Section 4.01 also deals with competence.

Professional Values Are Similar

- * Social workers and criminal defense attorneys have many similar values, among them:
 - * Client empowerment
 - * Client autonomy/self-determination
 - * Providing clients with accurate information to assist them in making decisions
 - * Advocating for clients' needs and rights

But sometimes there are conflicts . . .

Examples of conflicting obligations

- * Lawyers *MUST* advise clients as to particular, recommended courses of action (clients are always free to reject an attorney's advice).
- * Social workers tend to help clients make choices without specifically recommending a course of action.

Types of Conflicts

- * Attorney wants client to participate in a mental health program, in order to resolve case favorably.
- * Client does not believe he has mental health problem.
- * Social worker cannot place client in program if client cannot engage in services.

Another conflict

- * Attorney wants social worker to prepare report, recommending a certain result.
- * Social worker's review of client's circumstances does not permit recommending of attorney's desired result.

The Conflict Everyone Dreads...

MANDATORY REPORT

What is Mandatory Reporting?

- * Social Services Law § 413 (a):
The following persons and officials are required to report or cause a report to be made in accordance with this title when they **have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child**, or when they have reasonable cause to suspect that a child is an abused or maltreated child where the **parent, guardian, custodian or other person legally responsible for such child** comes before them in their professional or official capacity and states from **personal knowledge facts, conditions or circumstances** which, if correct, would render the **child an abused or maltreated child: any . . . social worker . . .**

Are You Saying Social Workers Are
Going To Talk to the Government
about My Client???

It's complicated, but -

- probably not.

Important to focus on:

- * Mandatory reporting involved minors, 17 and under.
- * It does not involve adults:
 - * Elder abuse is not covered.
 - * Partner abuse is not covered.
 - * Client with mental illness who does not take medication is not covered.
 - * Client who leaves a substance abuse program is not covered.

What triggers a report?

- * Client reports to a social worker she abuses or neglects her children.
- * Client reports to a social worker she abuses or neglects children in her care.
- * Client under age 18 reports that a parent or guardian abuses or neglects your client or other children in the home.
- * Client of any age reports that an adult in position of responsibility abuses or neglects minor children in client's presence.

Examples of what might trigger a report

- * 16 year old client reports that mom uses drugs and sends your client to buy drugs for mom.
- * Client reports that she uses drugs in front of her children and is unable to care for them.
- * 17 year old client, charged with assaulting dad, cannot return to home because of order of protection AND dad refuses to provide client with alternate housing

Examples of what does not trigger a report

- * 16 year old client admits he hits his 15 year old girlfriend (not cool, but not reportable)
- * Mom of your 17 year old client tells social worker that client must live with his grandmother, because he assaulted his 16 year old sister and mom needs to protect sister
- * Client admits he is attracted to children
- * Client who has open ACS case admits the conduct that is the subject of the investigation

Mandatory reporting -

- * Does not apply to adults who have mistreated children unless the adult is the parent, guardian, or a person responsible for the mistreated child (responsible persons include teachers and baby-sitters)
- * Does not apply when the information is not sufficiently reliable or is remote (e.g., my sister told me our mom hit her two years ago and caused a bruise)

What happens if a social worker does not report?

- * The Rules of the Board of Regents provide that failing to file a report mandated by law is a ground for unprofessional conduct, which could lead to sanctions – including loss of license.
- * Social Services Law § 420 provides that any mandated reporter who fails to file a required report is guilty of a class A misdemeanor and subject civil penalties, including personal liability for damages.

Procedures social workers follow to inform clients about limits on confidentiality

- * Code of Ethics requires social workers to explain limits on confidentiality (Section 1.07).
- * Discussion about limits of confidentiality should occur as early as possible in the social worker-client relationship, and as needed thereafter.
- * Social workers should use language that is geared to the client's comprehension levels, and should ensure, to the extent possible, that clients understand the limits of confidentiality.

Disclosure of Information

- * Even when a client authorizes disclosure of information, a social worker should disclose the minimum amount necessary.
- * Social workers should discuss with clients the potential consequences of any disclosure of private information. This discussion should ideally take place before the disclosure.
- * Social workers should still advocate for clients, consistent with client needs, even when disclosure of information may cause harm to the client.

Additional Tips about Mandatory Reporting

- * Social workers can interrupt clients who are beginning a discussion that might trigger a mandatory report, to remind them of the limits on confidentiality.
- * Some items that may trigger a social worker's mandatory report might also fall within an attorney's discretion to report (Rule 1.06).

What does a social worker do when a report may need to be made?

- * Issue should be discussed with client (unless this discussion is impossible or has already taken place).
- * Report will be made to Mandatory Hotline.
- * To the extent possible, social worker can advocate for child(ren) not to be removed from the home and for preventive, supportive services to be offered.
- * Social worker will file required form and, to extent possible, should follow up with client.

Similar issues

- * Clients who are suicidal
 - * Jailed clients
 - * At liberty clients
- * Clients who are homicidal
 - * Does client have mental illness?
 - * Is client intoxicated
- * Clients who appear to need hospitalization
- * At liberty clients who appear to be unfit

Clients in Treatment

- * Should a social worker engaged by the defense “monitor” progress and “report” to court?
- * Advantages
 - * Defense social worker can frame reports in a way to emphasize client’s achievements, soften the blow of client’s challenges
 - * Defense social worker can get client into additional services, if client’s legal position would be enhanced by obtaining such services

Clients in Treatment, cont'd

- * Should defense social worker “monitor” progress and “report” to court?
 - * Disadvantages
 - * Defense may feel uncomfortable revealing client’s challenges to the court
 - * Defense may feel like an enemy of the client if forced to report client’s leaving a program
 - * Court may require defense to do MORE work as a monitor, because of skepticism of defense monitoring

Bottom line: Monitor or not?

- * Informed consent of client is key
- * Client must agree to this arrangement.
- * Client must understand that social worker engaged by the defense is going to report positive and negative information about progress in treatment.
- * Defense attorney may need to be able to live with discomfort over the reporting role if this role achieves result for client.

Other Ethical Considerations

- * Treatment of clients with impairments: Rule 1.14, Section 1.14
- * Social worker's role in an interdisciplinary team: Section 2.03
- * Attorney's responsibilities in providing nonlegal services: Rule 5.7
- * Using specialists to advocate for clients in sentencing procedures: Performance Guideline 8.1(6).

Thanks for your time & attention!

Other ethics questions relating to representing a client
with mental health challenges? Contact me:

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