

Motivational Interviewing in the Courtroom

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Drug Court Agenda

COURT'S AGENDA

- ???
- Remand clients to treatment
 - Regular attendance
 - Participation in program
 - Completion of goals
- Avoid recidivism

CLIENT'S AGENDA

- ???
- Avoid incarceration
- May or may not match court's agenda



Emotions may color proceedings


- Client emotions likely involve:
 - Anxiety
 - Anger
 - Betrayal
 - Hopelessness
 - Avoidance and Denial
- Court personnel emotions may also include:
 - Suspicion
 - Weariness
 - Cynicism
 - High need for information and cooperation





Initial Contact

- 90% of Communication is Nonverbal
- Demonstrate congruence between words and body language
- Non-defensive tone and posture
- No Double-Binds
- Provide Clear Explanations
 - Possible options to explore
 - Client's choice to participate or not
 - List of potential outcomes



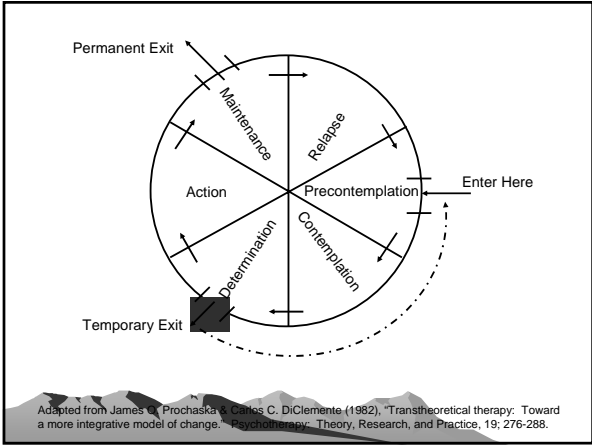
Stages of Change Applications

Individuals vary widely in their motivation to change various behaviors. In Criminal Justice situations, these may include:

- Disclosure of events leading to arrest
- Substance Use
- Willingness to share details of personal trauma
- Mental Health Disorders
- Medical Problems
- Other Criminal Behavior



Stages of Change



Adapted from James O. Prochaska & Carlos C. DiClemente (1982), "Transtheoretical therapy: Toward a more integrative model of change." *Psychotherapy: Theory, Research, and Practice*, 19: 276-288.

Precontemplation Stage

"Smoking weed is no big deal."
"3 months of Outpatient treatment has got to be easier than jail."

At this point, your client is in denial. S/He has yet to recognize that there is any problem that needs addressing, and is not ready to actively participate at the level needed for the best possible outcome.

Precontemplation Interventions

Primary Goals: Build Relationship &
Begin developing trust

- 1) Offer factual information about case and what is needed from client for a successful outcome
- 2) Begin exploring the history of events that brought client to this charge, and discuss the outcomes of previous criminal justice and / or drug treatment experiences
- 3) Outline the benefits and disadvantages of cooperating with you versus reluctance to discuss difficult information



Contemplation Stage

“Can I afford to change?”
“Treatment never works.”

At this point, your client sees the possible benefits of collaborating in the drug court process, but still remains uncertain and ambivalent about cooperating due to perceived risks and feelings of vulnerability.



Contemplation Interventions

- 1) Continue to explore the pros and cons of client collaboration in the drug court process
- 2) Discuss the client's sense of being able to freely choose to cooperate, as well as what this collaboration / commitment will entail
- 3) Elicit, reflect upon, and repeat any self-motivating statements the client proffers



Determination Stage

“ I want to talk more about what going to a residential treatment program means...”

At this point, the client has decided to begin collaborating in the drug court process, but is still considering the terms of how that cooperation will occur.



Determination Interventions

- 1) Offer a menu of options of the various ways the client can collaborate with you in preparing for his/her participation in treatment
- 2) Identify and continue working to diminish barriers toward collaboration
- 3) Begin negotiating a plan of action and a timeline of when and how each of the elements of drug court and treatment induction will occur



Determination Interventions

- 4) Help the client elicit any positive social support as s/he begins the process of self-exploration and collaboration
- 5) Encourage the client to publicly commit (to family and/or other social supports) that s/he is actively participating in the drug court and drug treatment process



Action Stage

"I want to tell you about something..."
"I spoke to my family about going to drug treatment."

At this point, the client is actively working with you and preparing to cooperate with drug court directives.

HOWEVER, this is still a relatively uncertain time for the client, and it is critically important that you continue the collaborative process.



Action Stage Mis-Steps

- It is critically important that you don't default to a prescriptive mode: "Now that you're ready to change, here's what you need to do."
- Alternately, watch for providing the client insufficient direction / too little help
- Don't underestimate ongoing ambivalence
- Watch for client triggers, relationship ruptures, and quick-exit strategies



Action Interventions

- 1) Start with small steps the client can take that have the least amount of risk
- 2) Help the client identify steps that feel the most risky, and develop coping strategies to successfully navigate them
- 3) Positively reinforce any steps a client takes in collaboration, consistently and often
- 4) Continue to encourage family and social support



Maintenance Stage

“There’s a couple other things that happened…”

“Here are 3 more people you can talk to…”

At this point, the client is consistently telling important details of his/her story, the behavior that led to the arrest, etc. S/He is actively working through the steps you have agreed upon, and linking you to key witnesses.



Maintenance Interventions

- 1) Continue setting short and longer-term goals
- 2) Encourage client to maintain social supports
- 3) Help client identify anxiety-reducing techniques
- 4) Discuss and develop a plan for how to cope if the client has anxiety or anger meltdown, particularly the best ways you can re-establish trust and continue collaborating



Relapse Stage

“I can’t do this anymore.”

“You suck. I want a new lawyer.”

At this point, the client:

- a) has become too anxious to proceed,
- b) is angry about _____, and / or
- c) trust has been breached.



Relapse Interventions

- 1) Seek out what has caused the change from cooperation to fear or anger
- 2) Engage client in previously identified anxiety/anger-reducing techniques
- 3) Utilize previously developed plan to re-engage client in relationship and process
- 4) Reinforce your trustworthiness



Relapse Interventions

- 5) Acknowledge areas you cannot control
- 6) Be willing to seek out additional resources; realistically share what you are unable to accomplish by yourself
- 7) Determine what stage of change client is at, and begin utilizing the appropriate interventions accordingly



Sounds Easy! But Hard to Do

- Lawyers and judges are used to being the experts, and having the “long arm of the law” on their side

BUT

- Clients are the experts about their lives, and are the ones who actually have control over the choices they will make



Practical Applications

Clients often set limitations on when and how they will work with legal system requirements

Motivational Engagement / Interviewing techniques can break down those barriers



WHAT YOU SEE



WHAT ACTUALLY EXISTS

Stages of Change Applications

Motivational Engagement Techniques / Motivational Interviewing help:

- identify which steps their clients are MOST motivated to do in the initial stages of their drug court experience, and
- over time, develop trust in process so that other additional steps might be possible



Motivational Interviewing




Motivational Approaches

- The FRAMES approach
- Decisional balance exercises
- Discrepancies between personal goals and current behavior
- Flexible pacing
- Maintain contact with clients between meetings



FRAMES Approach

- Feedback regarding personal risk is given to the client following assessment of current legal charges and associated drug court demands
- Responsibility for change is placed squarely and explicitly on the client (and with respect for the client's right to make choices for him/herself)
- Advice about collaboration versus non-cooperation is clearly given to the client by the lawyer in a non-judgmental manner.



FRAMES Approach

- Menus of self-directed change options and participation alternatives are offered to the client
- Empathic counseling (showing warmth, respect, and understanding) is emphasized
- Self-efficacy or optimistic empowerment is engendered in the client to encourage cooperation



Feedback

Responsibility

Advice

Menus

Empathetic

Self efficacy

the
FRAMES
Approach




The Cardinal Rule

1. The CLIENT is the EXPERT
2. If something isn't working, see rule one.



Eliciting Information



Obtaining Key Information: **OARS**

Open-ended questions

- Elicit more than one word, yes / no answers
- At least 50% of your questions should be open-ended

Affirm a strength or positive client trait


- Be honest but specific
- We learn best by positive reinforcement (carrot, not stick)

Reflect information that a client has proffered

- Turn questions into reflections
- It does not matter if your guess is accurate; client will tell you
- Under or over-amplify a client's response to elicit more info


Summarize key material

- "On a scale of 1 to 10, how important is it to you that you change this _____ behavior?"
- "Where do you think you would have the most difficulty being fully honest about important details of your life?"



Turning Questions into Reflections

- 1) Think of your question
- 2) Guess the answer the client might give
- 3) Make it into a neutral, reflective statement and say that out loud to client
- 4) Your tone is unemotional, like you are commenting on the weather
 - DON'T ask client if you are correct in your reflection
 - DON'T let your voice go up at the end



Turning Questions into Reflections

EXAMPLES:

- "You're feeling like you don't want to talk about this now."
- "It sounds like drug treatment feels like punishment."
- "It seems that you are angry at your wife."
- "So you have been using heroin for about 15 years now."
- "If I have heard you correctly, you are having mixed feelings about going to treatment."



Continuing the Paragraph

More than restatement of what client just said, intent is to continue moving forward the dialogue by venturing forth a probable next sentence:

Client: I can drink most people under the table.
But I'm not an alcoholic.

Lawyer: You're not as bad off as that. But you're still anxious.

Client: I'm not anxious, but I am thinking about it.

Lawyer: And wondering if you should do something differently.

Client: Maybe. I don't know.

Lawyer: So you may be drinking too much, but you're not sure if you want to change that yet.

* Adapted from Miller & Rollnick (2002) Motivational Interviewing, 2nd Ed.



Resistance





What does resistance look like?

- ARGUING: contesting the accuracy, expertise, and/or integrity of the “persuader”
 - Challenging
 - Discounting
 - Hostility
- INTERRUPTING: defensive interruptions
 - Talking Over
 - Cutting Off



What does resistance look like?

- NEGATING: client unwilling to recognize problems, cooperate, accept responsibility, or take advice
 - Blaming
 - Disagreeing
 - Excusing
 - Claiming impunity (e.g., not in any danger from ____)
 - Minimizing
 - Pessimism
 - Reluctance



What does resistance look like?

➤ IGNORING:

- Inattention
- Non-answer (answers something other than question originally asked)
- No response
- Sidetracking (changes direction and / or topic of conversation)



Resistance Talk

- Advantages of maintaining the status quo
- Disadvantages of making changes
- Intention to NOT change
- Pessimism about change



CHANGE TALK

- Disadvantages of status quo
 - What worries you about your current situation?
 - What will happen if you don't change anything?
 - How has this stopped you from doing what you want to do in your life?
- Advantages of change
 - How would you like your life to be different than it is now?
 - What would be the good things about going into treatment?
 - If you could magically change RIGHT NOW, how would things be better?
- Intention to change
 - What makes you think that if you decided to change, you could do it?
 - What will help you succeed in making this change?
 - Who could support you to change this issue?
- Optimism about change
 - What would you be willing to try?
 - Ignoring the "How" part right now, what would you like to have happen?



Overcoming Resistance



Developing Discrepancy

DISCREPANCY is the gap between client's current behaviors and desired outcome

- Have client list pros and cons of participation
- Non-judgmentally reflect back what you hear
- Goal is for the CLIENT to present reasons for making the change (from non-cooperation to collaboration)
- Summarize what key points client has made



Avoid Argumentation

- Arguments are struggles over who holds the power
- Remember the CLIENT is the EXPERT.
S/he chooses whether to follow the process to the optimal drug court outcome.
- You may win the argument but will ultimately lose the war



Affirmations

Lasting characterological change comes when we get immediate POSITIVE reinforcement after an action, "catching someone doing good."

- "You took a big step coming to talk with me today."
- "Thanks for being on time."
- "If I were you, I'd have had a hard time dealing with all those traumatic things too."
- "That's a good idea."
- "I'm glad we talked today, and that I've gotten to know you a bit better." *

* Adapted from Miller & Rollnick (2002) Motivational Interviewing, 2nd Ed.

Pitfalls

- Avoid interrogating; this isn't a deposition
- Avoid brilliant persuasion; this isn't summation
- Avoid criticizing, shaming, blaming, and labeling; this isn't cross-examination
- Don't be a teacher; don't act as expert witness
- Don't be defensive; own mis-steps honestly
- Don't make promises you can't keep



QUESTIONS?



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