



County Touchpoints in Access to MAT for Justice Involved Populations

TRAINING MODULE THREE

THE CASE FOR TREATING ADDICTION IN JUSTICE AND HUMAN SERVICE SETTINGS

- + This training module describes a variety of reasons for treating addiction in criminal justice settings from several points of view including jail operations, public safety, child welfare, and legal risk.

LEARNING OBJECTIVES

At the end of this training module, the participant can:

- + Articulate at least two reasons for justice and child welfare systems to embrace medication assisted treatment for individuals with OUD.
- + Explain how the Americans with Disabilities Act (ADA) is a factor in treating OUD.
- + Identify a barrier to supporting treating OUD with MAT in your workplace, and a proposed rationale for working to overcome that barrier.



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■ THE CASE FOR TREATING OUD IN JUSTICE SETTINGS: THREE PARTS

- + History of drug treatment in justice settings
- + California's evolution in opioid treatment
- + Reasons for justice systems to embrace MAT in treating OUD

HISTORICAL PERSPECTIVE: CORRECTIONS-BASED ADDICTION TREATMENT

- + The first federal correctional facility to house and treat addicts opened in 1935 in Lexington, Kentucky and was referred to as a “Narcotic Farm”**
- + The farms pioneered methadone and talk therapy**
- + 1966 Congress passed Narcotic Addict Rehabilitation Act which required drug treatment in federal prisons.**
- + By 1970s, the Bureau of Prisons introduced manualized addiction treatment in all of its facilities.**

Note: Slide content obtained from Dr. Andrew Klein, Advocates for Human Potential (AHP)

HISTORICAL PERSPECTIVE: CONTINUED

- + Evaluation in 1980s found significant reductions in recidivism among graduates compared to parolees without treatment and drop outs (51% arrest free versus 15% after three years).**
- + 1994 Congress established the Residential Substance Abuse Treatment (RSAT) Program for state prisoners under the Violent Crime Control and Law Enforcement Act (Pub. L. No. 103-322, § 1901). Continues today under BJA, for prisons and jails**
- + Most prisons and jails have operated SUD treatment outside of health care and considered mental health and SUD treatment “mutually exclusive.”**

+ Historically...

- Nearly all state prison systems and most jails categorically refused to allow any medication assisted treatment. Primary exception in Rikers Island, which has provided opioid treatment with methadone since 1987.
- MAT has not been acceptable in drug courts.
- Probation has not uniformly accepted methadone
- Child welfare systems had considered MAT unacceptable

+ Recently, with national efforts to curb the opioid epidemic, the use of MAT has grown, as has awareness of the objectives of SUD treatment and the acceptance of addiction as a treatable medical condition.

EMERGING NORMS FOR TREATMENT OF OPIOID ADDICTIONS

+ In the medical world, the evidence-based standard of care is that all persons with opioid addictions should have all FDA-approved forms of MAT available to them, via an individualized treatment plan

This norm is finding its way into criminal justice settings

- Drug courts and other collaborative courts are accommodating MATP
- Probation is addressing MAT and SUD treatment
- Jails are:
 - Continuing treatment started in the community
 - Initiating SUD treatment during incarceration, including MAT
 - Assuring continuity of treatment upon release from incarceration

- + The county has a single standard of care such that persons with OUD have access to all FDA-approved forms of MAT available to them, via an individualized treatment plan.
- + The jail is a health care site in the community's continuum of care.
- + A county resident receives the same care for acute and chronic conditions wherever he/she seeks care in the county, including the jail.

CALIFORNIA CURRENT STATE: COUNTY DRUG TREATMENT

- + **Statewide strategy under Medi-Cal Waiver: All counties must upgrade AOD systems to bring in clinical expertise and offer all forms of MAT in all treatment settings**
 - Counties at different points of implementation, but direction is clear
 - Medi-Cal benefit covers SUD treatment for low income adults – NEW
- + **State Opioid Response funds all directed to increasing access to MAT through multi-pronged efforts**
- + **Abstinence-based programs are figuring out how to fit into the new model**
- + **Many community provider systems in flux, but the fog is clearing**

■ CALIFORNIA CURRENT STATE: LOCAL CRIMINAL JUSTICE

- + At least 33 counties working to be able to continue MAT in jail settings, many already started**
- + Many also developing capacity to START treatment in the jails**
- + 25+ counties working to expand access to MAT through drug courts**
- + Current challenge for many courts and probation:**
 - Incomplete understanding of addiction and MAT**
 - Incomplete understanding of evolving system of county treatment providers**
 - Many use “parallel universe” of SUD providers, long historic relationship. Abstinence-based**
 - Not accessing Medi-Cal benefits**
- + County Touchpoints project to support ability of justice and human service agencies to support MAT**

■ CALIFORNIA CURRENT STATE: PRISON SYSTEM IS TREATING ADDICTIONS

- + CDCR has committed to treat all addictions with all FDA-approved forms of medication, throughout incarceration. Announced in November 2018.
- + First priority populations:
 - Prisoners arriving from jails on MAT
 - Inmates overdosing in prison
 - Inmates within two years of release date
- + Parole Offices are being trained to address and support MAT
- + CDCR is now releasing prisoners on MAT “out to court” to counties

Two-thirds of people in jail meet the criteria for drug dependence or abuse. —Bureau of Justice Statistics 2014

Of these, at least 25% have an OUD.

So at least 16-17% jail detainees have OUD

Many more have alcohol, methamphetamine addictions

Risk of overdose increases 129 times over the general population for those who go cold turkey, leave jail, and return to their previous levels of drug use.

■ WHY TREAT ADDICTION IN JUSTICE SETTINGS?

+ Providing MAT to inmates improves behavior behind bars

- Detainees receiving methadone continuation during incarceration are 3 times less likely to receive disciplinary tickets than those on forced methadone withdrawal *Addiction Medicine Mar/Apr 2-18*
- CDCR saw 58% reduction in Rules Violation Reports in inmates receiving MAT

Treating pregnant women with OUD in jails can profoundly impact the health of the fetus and the recovery of the mother

■ WHY TREAT ADDICTION IN JUSTICE SETTINGS?

- + **Release from prison or jail creates extremely high risk of overdose death-**
 - **Persons released from prison have 129 times the risk of overdose death than the general population.**
- + **Providing MAT to detainees WORKS.**
 - **RIDOC saw 61% drop in opioid overdose deaths after release within a year of program launch, contributing to a 12% overall drop in overdose deaths across the state**
 - **Rikers Island has seen twice the rate of adherence in outpatient treatment when methadone is continued during jail stay compared to forced methadone withdrawal**

National Commission on Correctional Health Care-Oct 2018



Jail Based Medication-Assisted Treatment

Promising Practices, Guidelines, and Resources for the Field

FDA-approved forms of MAT is the standard of care for OUD

Use of MAT is determined by the physician and the patient – all forms are available and treatment is customized to the unique patient's needs.

- + Rationale to refuse to provide methadone or buprenorphine behind bars is likened to refusing to treat diabetes with insulin. “Yeah, we don’t do that here” sounds like **deliberate indifference**.
- + Terminating treatment for a diagnosed condition sounds like **deliberate indifference**.

- + Brenda Smith sentenced to 40 days in Maine jail for theft
- + Had been on Suboxone and sober since 2009, during which time she earned a high school diploma and regained custody of her children.
- + District Court ruled:
 - Society would be well served if she maintained her children, home, and job
 - The ADA and 8th Amendment likely require she be allowed to continue Suboxone
 - Jail must provide her prescribed buprenorphine
- + First Circuit Court of Appeals agreed with federal district court in a published ruling that carries precedential weight

- + Plaintiff was facing jail time for probation violation and driving with suspended license
- + Stable on daily methadone since 2016
- + Pesce brought claims under the 8th Amendment and ADA that he would suffer irreparable harm if methadone was refused
 - Had overdosed three times in 24 hours before methadone, faced high risk of OD upon release from jail without methadone
- + Jail claimed suboxone was most common contraband in custody and didn't want methadone in the jail
- + Ruling: Jail ordered to provide methadone under ADA and 8th amendment
 - Prison has legitimate concern for safety and security but Pesce's medical needs outweighed them

■ GROWING TREND.....

- + April 2019 Whatcom County Jail in Washington agreed to provide MAT to detainees with OUD as part of a settlement agreement
- + US Bureau of Prisons agreed to provide MAT to at least two incoming prisoners so settle suits filed by ACLU
- + No legal challenges made by persons with OUD to receive MAT in prisons or jails have been lost by plaintiffs
- + In California, Prison Law Office and Disability Rights California are tracking the prison system's efforts to treat OUD; it is not unreasonable to anticipate their interest where local jails do not follow suit

U.S. Department of Justice

United States Attorney

Southern District of New York

New York, N11, York

October 3, 2011

Re: Medication-Assisted Treatment and the ADA

Dear New York State Office of the Attorney General:

It has come to our attention that the Family Court and Surrogate's Court in Sullivan County, New York, as well as the stakeholders involved with those courts, may benefit from further information about the ADA's application to individuals receiving medication-assisted treatment ("MAT"), such as treatment with methadone or buprenorphine, for substance use disorders.

EVERYBODY WINS:

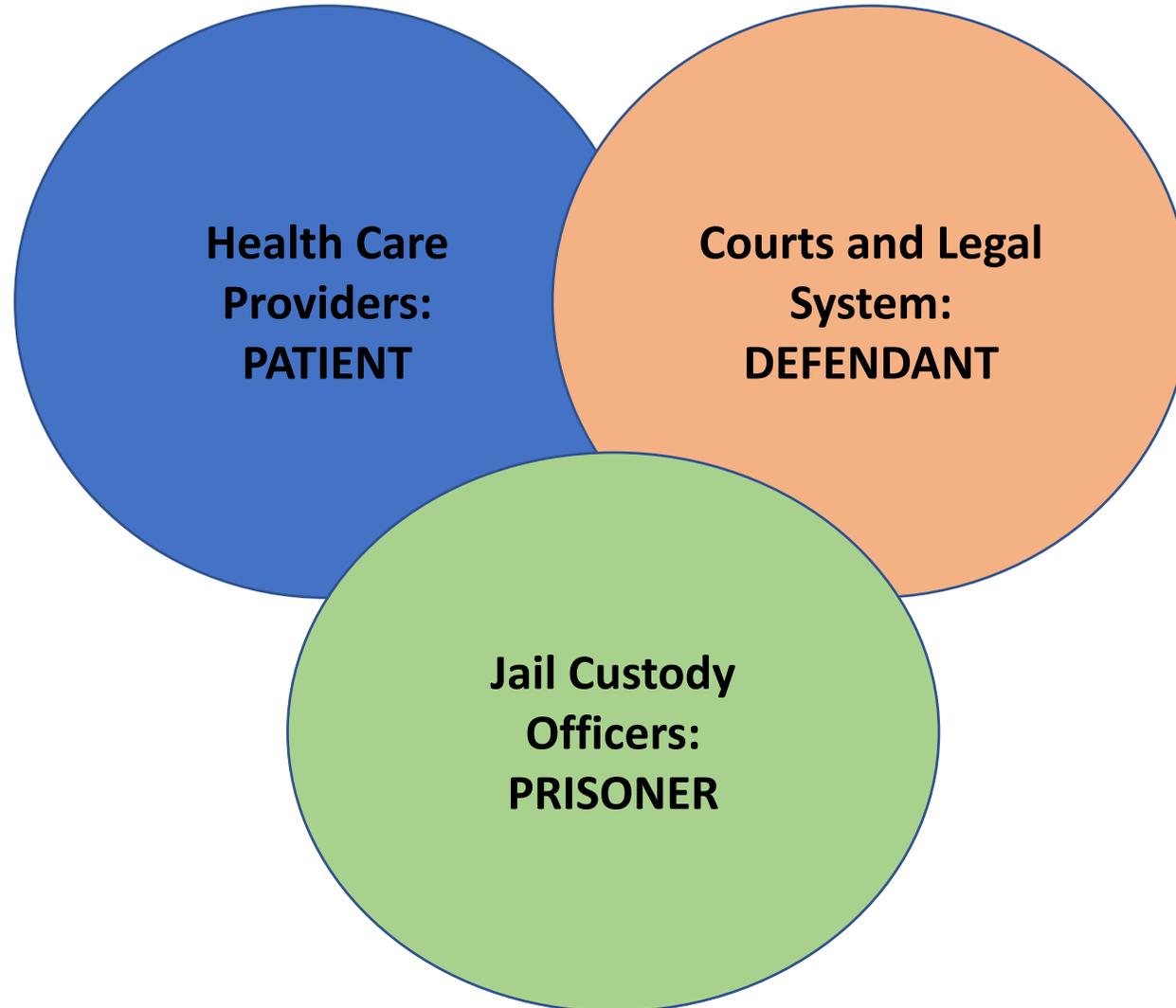
1. Person with OUD attains recovery and gets his/her life back
2. Overdose deaths are prevented
3. Crime is prevented

**Today, the emerging question for criminal justice and
human service systems is no longer
IF
we should support treatment of opioid addiction with
MAT, but
HOW**

But the “How” can be difficult and challenging....

- + Prescriber capacity
- + Training all levels of staff
- + Overcoming resistance to methadone
- + Drug diversion and safety concerns
- + Community systems and access to meds at release
- + Addressing MAT in drug courts
- + What about abstinence?
- + Data
- + Special populations: pregnant women, youth, tribes
- + Co-occurring mental illness
- + Interface with prison system

■ PERSPECTIVE ON PERSON WITH ADDICTION



Interested in Continuing Education Credits for this Module?

For information on accessing continuing education credits for your discipline that may apply to completing this module, visit the County Touchpoints website

<https://addictionfreeca.org/California-MAT-Expansion-Project/County-Touchpoints-in-Access-to-MAT-for-Justice-Involved-Populations>

and click on the icon for Continuing Education Information.



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