

FIRST DISTRICT MENTAL HEALTH COURT

Judicial Education and Training



The Transtheoretical Model of Behavior Change and its Application in the Judicial Interview

FIRST DISTRICT MENTAL HEALTH COURT

Judicial Education and Training Module

The Transtheoretical Model of Behavior Change and its Application in the Judicial Interview

Introduction

The Transtheoretical model was developed primarily by James Prochaska (1979), in collaboration with John Norcross, and Carlo DiClemente. Their model for self-change has attracted attention worldwide and has been applied in programs sponsored by such organizations as the National Cancer Institute, the National Institute of Drug Abuse, and the Centers for Disease Control. The authors have conducted over fifty empirical studies demonstrating the effectiveness of the model in affecting a change in problematic behavior.

This model (stages-of-change) focuses on intentional self-change that utilizes principles and processes from many different psychotherapeutic theories and systems. The basic premise being that behavior change is not a single step or lineal process, but is accomplished in definitive stages. This approach to behavior change as applicable to the mental health court is designed to assist mentally ill offenders as they work through the process of therapeutic jurisprudence until previous behaviors of criminal conduct and treatment ambivalence are relinquished and new behaviors supporting mental health and judicial recovery are successfully developed and maintained.

The Transtheoretical model is a theory and model of self-change as a stage paradigm. It likewise is a model grounded in the perspective of human agency or intentionality and is reminiscent of the social cognitive model of Albert Bandura which proposes that behavior change is not accidental but a process initiated with purpose. The Transtheoretical nature of the model is so named due to its integration of psychotherapeutic approaches. This model is rooted in a variety of behavioral and experiential change processes and techniques. Self-change is viewed as a process that requires a level of readiness and determination before actual change can be successful. Behavior change generally progresses through five basic stages in which motivation, decision making, commitment, and self-efficacy represent core concepts applicable to the change process. Self-change as a non-lineal model incorporates the realities of relapse as a natural occurrence in the change process.

The stage construct is the key organizing element of the Transtheoretical model. It is important in part because it represents in some respects a temporal dimension. Generally, the process of change in the context of a stage paradigm implies that certain attitudinal and behavioral phenomena occur over time and within distinct conceptual and experiential frameworks that differ qualitatively. However, this aspect of qualitative differences at specific choice points in the process of change has been largely ignored by alternative theories of change in which behavior change has often been construed as an independent event void of any sequential process. The Transtheoretical Model conceptualizes change as a process involving progress through a series of five stages identified as (1) precontemplation, (2) contemplation, (3) preparation, (4) action, and (5) maintenance. Additionally, termination from the change process is also considered in the paradigm although there is admitted difference of opinion among various practitioners as to whether or not termination represents an actual stage. However, each of the five process stages of change are defined as qualitatively distinct from any other stage, and each stage contains specific processes designed to work through the problems unique to that stage as a means of progression to the succeeding stage. The paradigm is described graphically as spiral in nature as opposed to lineal, which takes into consideration the possibility of relapse or regression to previous stages, which appears more consistent with the actual patterns of human behavior.

OVERVIEW OF SPECIFIC STAGES IN THE TRANSTHEORETICAL MODEL

As introduced above, the ascending hierarchy of stages in this model proceeds along a continuum of consciousness, especially in the beginning stages where recognition and self-awareness are critical to the development of a commitment to the alteration of self-defeating behavior patterns. Each stage builds on the preceding stage while retaining the tools and techniques utilized to advance in the change process. The following provides a brief perspective of each stage in the Transtheoretical paradigm.

Stage 1: Precontemplation

Precontemplation is the stage in which people are not intending to take action in the foreseeable future, usually measured as the next six months. People may be in this stage because they are uninformed or under-informed about the consequences of their behavior. Or they may have tried to change a number of times and become demoralized about their ability to change. Both groups tend to avoid reading, talking or thinking about their high risk behaviors. They are often characterized in other theories as resistant or unmotivated or as not ready for health promotion programs and although are in a state of distress, they are also generally in a state of denial. Those

in the pre-contemplation stage often utilize a variety of psychological defense mechanisms such as rationalization, justification, minimization, and projection of blame. These mechanisms serve to reinforce the pattern of denial and permit the individual to avoid both responsibility and accountability for personal change.

Stage 2: Contemplation

Contemplation is the stage in which people are intending to change in the next six months. They are more aware of the pros of changing but are also acutely aware of the cons. This balance between the costs and benefits of changing can produce profound ambivalence that can keep people stuck in this stage for long periods of time. We often characterize this phenomenon as chronic contemplation or behavioral procrastination. These people are also not ready for traditional action oriented programs.

Stage 3: Preparation

Preparation is the stage in which people are intending to take action in the immediate future, usually measured as the next month. They have typically taken some significant action in the past year. These individuals have a plan of action, such as joining a health education class, consulting a counselor, talking to their physician, buying a self-help book or relying on a self-change approach.

Stage 4: Action

Action is the stage in which people have made specific overt modifications in their life-styles within the past six months. Since action is observable, behavior change often has been equated with action. But in the Transtheoretical Model, Action is only one of five stages. Not all modifications of behavior count as action in this model.

Stage 5: Maintenance

Maintenance is the stage in which people are working to prevent relapse but they do not apply change processes as frequently as do people in action. They are less tempted to relapse and increasingly more confident that they can continue their change.

Applications

The Transtheoretical model therefore addresses the underlying dynamics of change that are common to both self-administered as well as psychotherapeutic courses of treatment. The model draws on the fundamental tenants of many diverse theories of psychotherapy and has been empirically tested in more than fifty distinct studies. The model is being applied by researchers to help understand how individuals change in a broad range of circumstances.

The stages of change are employed in rehabilitation programs designed for numerous mental health populations of clients suffering from interpersonal problems or depression, and for alcoholics and substance abusers; and in associated clinical trials of psychotropic medications for patients with anxiety and panic disorders. Given the span of clinical disorders and concomitant substance abuse issues shared by the mental ill offender population in the mental health court, the Transtheoretical model appears particularly germane to the issue of therapeutic jurisprudence.

Critical Considerations

Although broad in application and theoretical promise, there has been some critical studies conducted which challenge the sequential premise of the stages of change. Even though a sequential movement through each of the stages in the Transtheoretical model is the preferred pattern, the variables of individuality and the reality of relapse into previous patterns of self-defeating behavior may interfere with a true sequential progression of change. However, regardless of whether a defendant moves in exact succession through the stages of change, or accomplishes stage mastery simultaneously, or otherwise transitions through the stages out of sequence, the value of the model lies in the conceptual and practical order of the change process into adequately defined and manageable steps that provide at least a logical and realistic framework distinct from the preponderance of therapeutic mysticism found in some models of clinical practice.

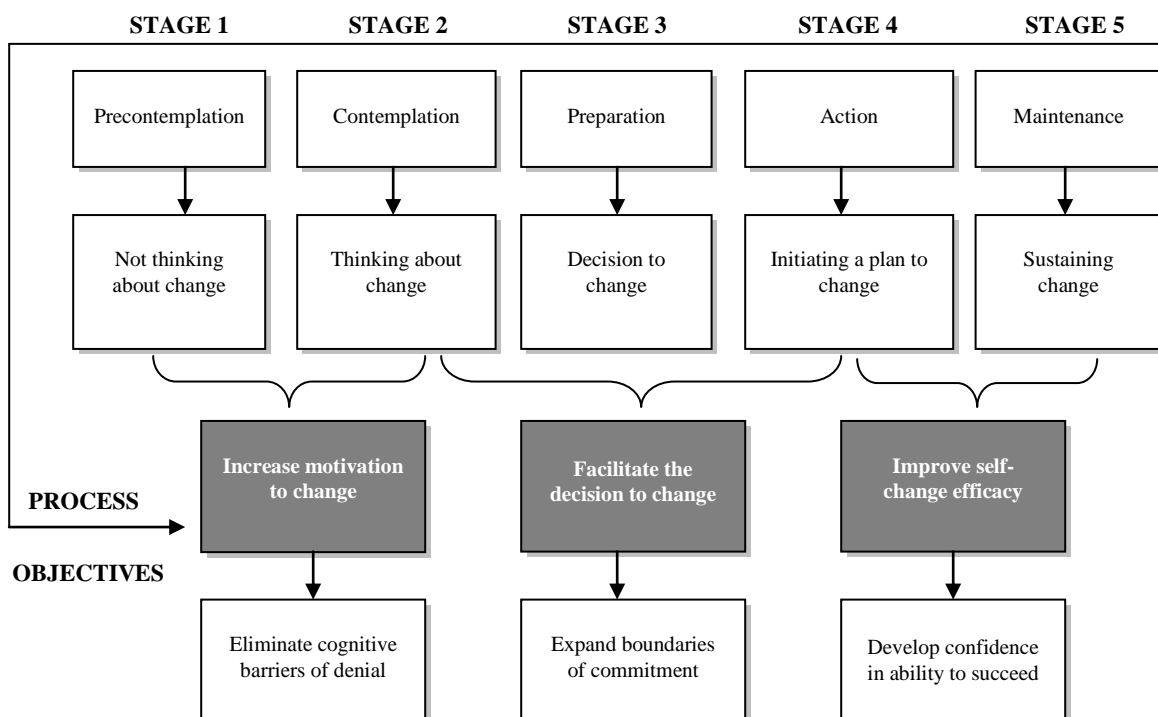
Other criticisms suggest that the stages as defined in the Transtheoretical model do not represent completely discrete categories and that individuals involved in the change process may not necessarily solely fit within a single stage but instead may evidence simultaneous activity in non-adjacent stages. For some researchers, empirical validity of the stage model requires the possibility of assigning individuals to one and only one stage category at a time, however, given both the complexity of human beings and the complexity of the change process, it is clearly plausible that the course of change for

any given individual is a multidimensional endeavor that does not preclude the possibility of co-occurring activity across the stage continuum.

Finally, some critiques argue semantics as to whether the processes of change are actually processes or procedures insisting that any genuine mediator of change hypothesized to explain the effects of treatment is conceptually distinct from a procedure. Additionally, there is debate as to whether the processes of change described in the model are prescriptively or rigidly tied to a given stage or whether there is flexibility and utility in the processes across stages. Although the authors of the model do contend that some processes, such as the helping relationship for example, are applicable across differing stages. These issues seem ultimately empirical in nature and may reflect the challenges inherent in conducting strict scientific studies of something as complex, variable and dynamic as human behavior change.

Objectives Related to the Stages of Change

As illustrated below, each stage of the model ties to one of three fundamental process objectives, which generally forms the threshold for movement to the succeeding stage of change, although as indicated above, a strict sequential progression may at times vary from individual to individual as to the movement between stages as well as the duration of time spent in one stage or another.



Increasing Motivation to Change

This objective focuses on assisting the defendant in eliminating specific cognitive barriers that stand in the way between the stage of precontemplation (no thought of change) and contemplation (thinking about change). Typically, these are the barriers of denial which include rationalization, minimization, and projection of blame. As long as the defendant is able to successfully justify self-defeating behavior, trivialize its significance and impact, or assign responsibility for it to others, they will have no need to consider doing anything different with the course of their life. Eliminating the barriers of denial is necessary for the defendant to assume ownership of their conduct and the direction of life which they pursue. Once the individual sees themselves as ultimately responsible for their current circumstance, they can begin to consider a shift of effort from aggressive, placated, or submitted control of others, to acceptance of personal responsibility for their own actions as well as the consequences that flow from those choices.

A variety of possibilities exist during the judicial interview to impact motivation. Two examples are the use of dissonance motivation or role clarification in which the interviewer attempts to raise the defendant's awareness of contrast or incongruity between their social identity and behavior that is out of harmony with the identified role, as in the following example:

Dissonance motivation

Cognitive dissonance is an important concept in understanding attitude change. It represents the motivational state acquired when an individual becomes aware of a discrepancy or inconsistency between beliefs, values, or attitudes and their behavior. The tension produced by such a state may be reduced by adding consonant elements or by changing one of the dissonant elements so that it is no longer inconsistent. The following is an example of using cognitive dissonance as a motivational tool:

Judge: Let me take a moment to ask you a few questions. What would you say defines who you are? For example, you have parents, right? So, you are a daughter. You're working part time at the nursing home, so you're a nursing assistant. What else would you say defines who you are as a person?

Defendant: I have two children, so I guess I'm a Mother.

Judge: Excellent, now the statement "I am a Mother" is that a declarative statement or a narrative one?

Defendant: What do you mean?

Judge: I mean, is the statement you made “I am a Mother” a stand that you take in life, and something that you are committed to, or is it merely a story that you tell?

Defendant: I don’t know, I think it’s something I’m proud of, so I guess it’s something I should stand for.

Judge: Thank you. Now I want to ask you a very important question but I don’t want you to answer this question. I want you to think deeply about this question over the next week and when you come back to court I want to know what your thoughts are about it and what your experience was as you thought about it. Here is the question, and I’m very serious.

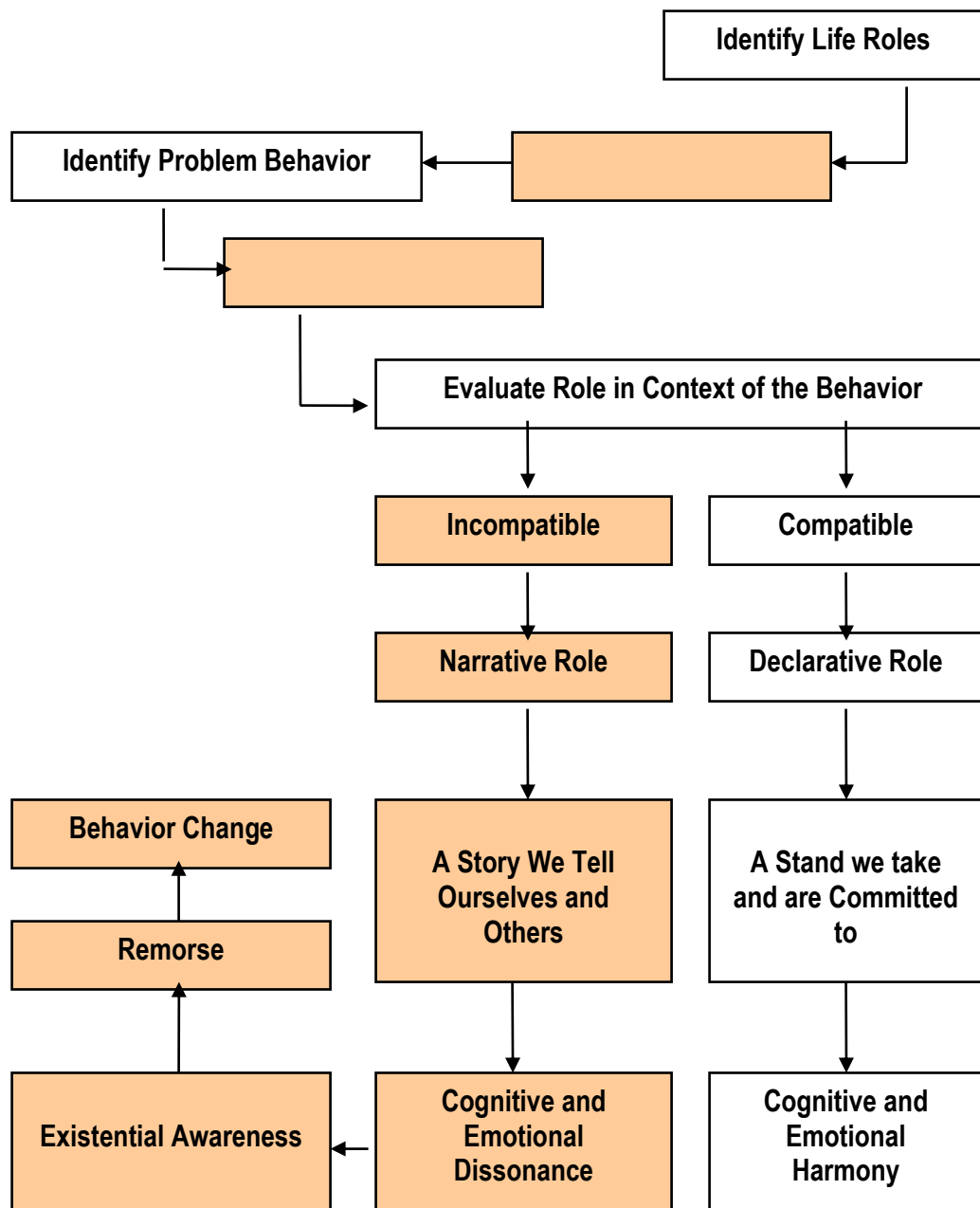
What part of being arrested and jailed for driving under the influence fulfills the declaration, “I am a Mother”?

With respect to the example above, it is important to understand that the goal is one of helpful emotional arousal that will stimulate further consideration of behavior change; it is not designed to overwhelm the individual emotionally with disgust or disappointment.

Role Clarification

The example above also represents the process of role clarification in which the defendant is assisted in the evaluation of a particular social role in the context of a problem behavior. This process again attempts to raise the level of the defendant’s conscious awareness of discrepancy to a functional level. The idea of a functional cognition is derived from the Social Cognitive Model of Albert Bandura which stresses that “consciousness is the very substance of mental life that not only makes life personally manageable but worth living” (Bandura, 2001).

The intentional focus on the cognitive regulation of human action through the productive use of goals and activities is referred to by Bandura as “functional consciousness.” Functional consciousness involves purpose, intent, and the deliberate processing of information necessary in order to select, construct, regulate, and evaluate appropriate courses of action. As illustrated below, role clarification and cognitive dissonance are processes of change that support the development of a functional consciousness.



Additionally, functional consciousness increases motivation through a progressive expansion of levels of personal awareness. As illustrated in the following diagram, as the defendant's awareness of problem behaviors progresses from a cognitive to an emotional to an existential level, the defendant begins to transition and alter their thought, feeling, and belief about their life, which can then further stimulate action toward behavior change.

Behavior Change



Existential Awareness

Knowledge that we are actively pursuing a course of lifestyle change consistent with a change in our belief about our behavior

(Objective-Consciousness)

Self-
Reevaluation

Emotional Awareness

Knowledge of the characteristics and attributes of a problem behavior and its negative impact on self and others. This level of awareness represents a change in our feeling about our behavior

(Self-Consciousness)

Emotional
Arousal

Conscious
Raising

Cognitive Awareness

Knowledge of the existence of a problem behavior. This level of awareness represents a change in our thought about our behavior

(Waking-Consciousness)

Unaware

Facilitating the Decision to Change (Decisional Balance)

Nearly all decisions pivot on some scale of balance for or against some course of action. Decisional balance can be influenced by a variety of factors including, among others, social and environmental persuasion. Support and encouragement to make responsible choices or the context of consequence can provide the necessary impact needed to tip the scale in one direction or the other. For the mental health court participant, the judicial interview conducted during the status hearing often provides an

opportunity to weight the balance in favor of responsible decision making. The persuasive role of the judicial interviewer is exercised primarily through the methods of solution-focused and motivational interviewing as described in previous educational modules and as further explained in the material to follow.

Additionally, the function of motivational interviewing with respect to decisional balance, in part serves to assist defendants in the early stages of the change process to consider the costs and benefits of behavior change and program participation which will vary somewhat depending on the stage of change in which the defendant is positioned, as depicted below.

STAGE OF CHANGE	COST BENEFIT PERSPECTIVE
PRECONTEMPLATION	Defendant has not thought about behavior change, so does not consider either cost or benefit. Program participation is merely a function of avoiding incarceration.
CONTEMPLATION	Defendant recognizes some benefit to behavior change and program participation, but still believes the cost in terms of loss of control, duration of the program, forced treatment, constant monitoring, etc., outweigh the benefits.
PREPARATION	Defendant recognizes that the benefits of behavior change and program participation outweigh the costs.

Interviews designed to provoke thought about the costs and benefits of program participation or personal behavior and life style change may be structured in many ways, such as the following:

This is the third time you've been arrested and incarcerated for substance abuse; tell me about how comfortable you are doing that for the rest of your life?

What is your experience with taking medications and not taking medications; how do you compare the two with respect to your ability to function at work (or at home, or in school, or in relationships, whatever is applicable to the defendant)?

In what way is losing your job because of another DUI going to be a problem and in what ways is it not so bad?

You're currently in jail because you violated your probation by failing to participate in substance abuse treatment; what advantage do you see in avoiding substance abuse counseling and how does that match up with whatever disadvantages you see?

Improve Self-Change Efficacy

Self-efficacy beliefs are judgments an individual makes about their capability to succeed or perform effectively. How capable someone perceives themselves as related to any given task or challenge directly influences their thought and self-directed action. Whether thought and conduct are directed productively, destructively, pessimistically or optimistically and how well the individual motivates themselves and perseveres in the face of adversity is substantially influenced by the strength or weakness of perceived self-efficacy.

The illustration and descriptions below depict the four domains through which self-efficacy is cultivated and developed to maturity through the application of the mental health court system.

Personal Mastery Experiences

The most influential source for the formation of self-efficacy is the interpreted result of one's previous performance, or what are referred to as master experiences. Individuals engage in various tasks, assignments, and activities, interpret the results of their actions, use these interpretations to develop impressions and beliefs about their capability to effectively engage in subsequent tasks and activities, and then act according to the belief system they have created. Typically, the outcomes of such tasks and activities interpreted as successful tend to elevate the persons sense of personal capability while those considered as unsuccessful, poor, or even as failure will induce a negative perception of self-efficacy. The clinical and judicial

activities associated with the mental health court are designed to provide program participants with mastery experiences through which they can enhance their perception of individual capability for problem solving, conflict resolution, task completion, social responsibility, and the successful management of mental illness.

Vicarious Modeling Experiences

Another source of self-efficacy development although less influential is the vicarious experience of observing human models performing challenging tasks and activities. The effects of human modeling are particularly relevant when individuals are uncertain about their own capabilities or when they have limited prior experience in particular tasks or activities.

Observing the successful performance of human models can contribute to the observer's belief about their own capabilities, especially when the model shares particular characteristics with the observer. Even experienced and self-efficacious individuals will tend to raise their own efficacy beliefs higher if a model can successfully demonstrate performance in a task when there is an assumed similarity with the model.

However, when people perceive the model's attributes, skills, and characteristics, as decidedly different than their own, the influence of the modeling experience is greatly minimized. In this regard, the mental health court program utilizes the strategy of a public forum to provide effective vicarious modeling experiences for newer program participants as another venue for the development of self-efficacy. As a public forum, all program participants are required to attend frequent court hearings where each defendant on the calendar for that hearing presents and reports as to their participation and progress in the program. Each participant therefore represents a model for observation. Those who demonstrate either success or difficulty do so in the social forum where other participants can gain both insight and education about their own capability for both judicial and clinical success. Participants who demonstrate progress through commitment and active involvement are affirmed by the court and proceed more readily to an advanced status and program graduation while those less successful and/or less compliant with program activities and objectives serve to model the effects of accountability as the court may issue a variety of sanctions relative to the participant's failure of commitment and program engagement.

Persuasive Social Experiences

Individuals also create and develop self-efficacy beliefs as a result of the social persuasions they receive from others. This is essentially a coaching model in which program participants are afforded the opportunity to experience frequent and consistent positive verbal affirmations as well as genuine and constructive verbal judgments. Social persuaders play an important role in the mental health court system. Through the persuasive process, which is not to be confused with trivial, empty, meaningless or gratuitous praise, program participants are supported and guided in the recognition of their strengths and potential capabilities. Effective persuaders must cultivate the individual's belief in their capabilities while simultaneously ensuring that the participant's goals and objectives are in fact attainable. Program personnel are instructed in the art of social persuasion, understanding that just as positive persuasions work to encourage and empower the mentally ill offender, likewise negative persuasions can conversely work to weaken and defeat self-efficacy beliefs, and that it is often far easier to demoralize an individual through negative appraisals than to strengthen them through positive encouragement. Mental health court hearings become formats for effective judicial persuasion and recognition of accomplishment as well as opportunity for the exercise of "compassionate accountability" as methods for building efficacy beliefs specific to personal and social accountability. The use of persuasive dialogue to enhance perceived self-efficacy may take many shapes and forms, such as:

The fact that you were able to control your temper in a very difficult situation shows that you have the ability to make responsible decisions even when you feel like exploding emotionally; that's a sign of maturity that I admire.

Remember last week when you described a situation in which you expressed your feelings of frustration to your instructor for what you believed was an unfair evaluation; that's a strength that just didn't appear by magic. That's a strength that you already have, and all you need to do is decide to recognize it.

You have been active in treatment now for three consecutive months, even when you weren't convinced it would be helpful; that's the power of self-determination, that power can make you successful at whatever you chose to do in life.

As defendants are encouraged through social persuasion to believe they have the capability to succeed, the more likely it is that they will invest greater effort consistent with that belief.

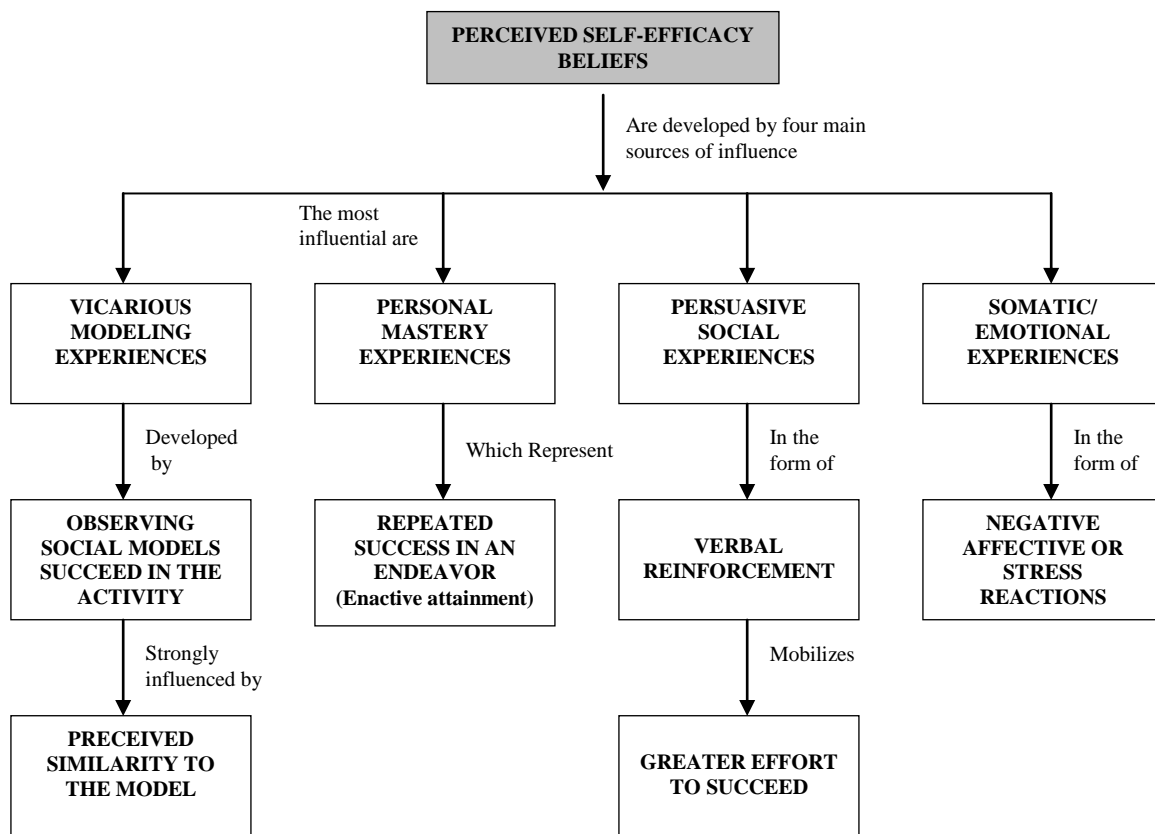
Somatic/ Emotional Experiences

Finally, somatic and emotional states such as anxiety, stress, arousal, and mood also provide cues about efficacy beliefs as individuals often gauge their degree of confidence by their emotional perceptions as they contemplate an action. Strong emotional reactions of fear, apprehension, dread, or anxiety provide signals regarding the anticipated outcome of success or failure of any task. When individuals experience negative thoughts and feelings about their capabilities, those affective reactions tend to lower self-efficacy perceptions and trigger additional stress and agitation that may fulfill the inadequate performance the individual already anticipates.

The mental health court program works to raise participant's self-efficacy beliefs through the program's judicial and clinical activities which target the improvement of the participant's psychological, behavioral and emotional functioning. As a participant begins to alter their thought and feeling toward enhanced self-efficacy beliefs, these beliefs in turn serve to powerfully influence the individual's psychological condition. As the self-efficacy of the mentally ill offender increases, they are able to persist in their program goals despite occasional setbacks or challenges.

Additionally, through the interdependent nature of the program in which program personnel and participants alike work together to resolve psycho-legal issues, this cooperative engagement helps ease the typical apprehension and anxiety associated with accountability. As the mentally ill offender gains a sense of support and partnership in the resolution of the legal/clinical problem, they are likely to experience a more positive affective state which will serve to strengthen the feeling of capability to successfully complete the mental health court program.

As illustrated below, each of the four methodologies for self-efficacy development mark the path the defendant must follow in order to enhance the perception that they can effectively manage the challenges and trials of the mythic quest (i.e., mental health court program). The persuasive influence of the judicial interviewer subsequently can assist the defendant who is at the threshold of the hero's journey, to take the initial step forward and accept the call to adventure.



CONTEXT OF THE JUDICIAL INTERVIEW

The judicial interview, which is defined as the conversation that occurs between the Judge and the defendant each week during the defendant’s status hearing, is considered an opportunity to conduct brief, targeted conversations that can provide an added motivational factor in the defendant’s process of change. Although not necessarily appropriate to each defendant at each hearing, given the constraints of time relative to the volume of the court docket, still there may be a select number of defendants who are struggling more than others with the issues of compliance and active program participation who could benefit from a more therapeutically focused interview. These opportunities are ultimately at the discretion of the Judge. However, as a precursor to judicial interviewing, it is critical to understand the importance of protecting the defendant’s therapeutic alliance with mental health practitioners and avoid any structure of conversation suggesting the context of betrayal. Although the function of the mental health court system includes a signed authorization for disclosure of health care information by the defendant and a review of progress by committee prior to the defendant’s appearance in the status hearing, the conduct of the judicial interview should be careful to structure the dialogue so as to elicit a report of progress from the perspective of the defendant, such as:

Tell me about your treatment activities this past week; what things have you participated in and how has it been helpful?

You seem a little on edge right now, what's changed this past week; what's different in your experience?

You have had some problems lately with being consistent in keeping your appointments; how did you do since you were in court last, did you make it to all your appointments?

Last time you mentioned that you cancelled an appointment because you didn't have transportation; were you able to solve that problem this week so you could follow through with your treatment plan?

What were you able to accomplish this week regarding getting in to see someone for substance abuse counseling?

I recall that last week you were concerned about your medications; what progress have you made this week in getting your medications adjusted?

In our last hearing we talked about finding a community service project; what specifically have you done this week to complete that assignment?

A few weeks ago it was recommended that you schedule a family therapy session to work on your relationship with your parents; what were you able to arrange?

Last time we talked about your medication treatment and you mentioned that you missed a couple of doses; does the group home you're staying at keep a record of when you take your medications and when you don't? Next time I want you to bring that to court with you.

How have you been doing with your employment search? Next week I would like you to bring to court a list of every employer you contacted during the week, and the name and number of the contact person you spoke with.

The possibilities for eliciting a self-report from the defendant are numerous and varied. The introductions above are in contrast to forms of dialogue that represent a third-party disclosure which creates a conflict of trust, such as:

I hear that you missed your therapy appointment yesterday.

I've been told that you don't have any plan to continue mental health treatment once you've completed the mental health court program, is that right?

Your therapist has informed me that you are not taking your medications as prescribed.

It's been reported that you went to the emergency room last night threatening to kill yourself.

I understand that you are refusing to do your chore assignments at the group home.

I received a letter from your parents telling me that you are not keeping to the curfew that was agreed to in your housing contract.

If the judicial interview is framed within the context of betrayal so that the defendant perceives that the court simply functions as the parent and the treatment system as the rival sibling who's role is to tattle information, it is likely anticipated that the defendant will become more guarded in the treatment setting and defensive in the status hearing, neither of which are complimentary to the work of mental health and legal recovery.

The defendant's response to questions designed to elicit status information function as the gateway to further exploration regarding the issues of ambivalence and motivation for change. Discrepancies between the defendant's report and the information obtained in the pre-hearing committee meeting however, are managed with the same discretion so as to try and avoid the impasse of the "he said, she said" stalemate. For example:

Judge: What were you able to accomplish this week regarding getting in to see someone for substance abuse counseling?

Defendant: I called and made an appointment for an assessment with Bear River Drug and Alcohol.

Judge: Who is the appointment scheduled with and when?

Defendant: I can't remember who I'm supposed to see.

Judge: So if I call over to Bear River Drug and Alcohol right now they will verify that you have an appointment?

Defendant: Well I didn't actually get an appointment; I called and they said I had to call back and talk to their intake coordinator.

The point of the above example is that in this case the Judge receives information in the committee meeting that the defendant has not followed through to obtain an actual appointment with the local substance abuse provider as assigned, which is discordant with what the defendant reports in the status hearing. Rather than directly confront the defendant with the discrepancy in an adversarial manner, the strategy of dialogue in this case is to pursue the immediate verification of the defendant's report, at

which point the defendant provides a more accurate report of progress. Other or similar strategies may be employed to challenge or address the validity of discrepant information without resorting to a blatant accusation that the defendant is lying. Examples of other approaches include:

Your mental health court agreement specifies that you must maintain a drug-free residence; if I were to ask your room mates about the use of drugs or alcohol in your apartment complex, what would they probably say?

What would your parents tell me about how you're complying with the contract you signed in order to live at their residence?

How are you fulfilling your commitment to participate in substance abuse counseling and would your counselor be willing to provide the court with a report of your participation?

In some respects it is valuable for the defendant to understand that the mental health court program, while not intended as a “snitch” system, is a collaborative effort that pursues information from collateral sources in order to gauge progress for determinations about program advancement and inducements for change. Structuring the brief judicial interview toward eliciting a self-report and away from the perception of covert third-party information, as though at trial, is anticipated to build rapport and further the function of the court as a therapeutic entity.

PROCESSES OF CHANGE AND APPLICATION IN THE JUDICIAL INTERVIEW

The judicial interview conducted during the court hearing may provide numerous opportunities to assist defendants in the behavior change process by the application of specific strategies tailored to a defendant's specific stage of change. The brief interview with the defendant who is in the stage of pre-contemplation, who does not see anything he needs to do differently and blames the neighbor who called the police, will be a different conversation than with the individual who is at least halfheartedly considering whether or not he should take his medication as prescribed.

The stage of change model employs an array of nine processes of change associated with differing stages. Many of these processes may be relevant to the judicial interview as the course of therapeutic dialogue in the mental health court hearing may either directly or indirectly shape the defendant's utilization of a particular change process. These processes represent specific activities designed to help modify thought, feeling and/or behavior.

Consciousness Raising

Increasing conscious awareness or “recognition” is the most widely used change process among all the major therapies practiced today. First described by Freud, making the “unconscious conscious” was a primary objective of psychoanalysis and an indispensable tool in furthering the analytic process. In the Transtheoretical model however, consciousness-raising is not limited to uncovering hidden drives and wishes. Any increased awareness and knowledge of a problem behavior and its personal and social effects becomes invaluable as a stimulus for intentional change. Without any recognition of behavior in the context of a problem which relates to the self or to others, there can be no perceived need to change, and life remains the same. As indicated previously through the use of role clarification or dissonance motivation, the judicial interview can be effectively used as a means to increase the defendant’s cognitive, emotional, and existential awareness of the need to change.

Social Liberation

The process of social liberation involves any social/environmental alternative that supports the change effort by providing a context of liberation. A context of liberation means essentially a social context or environment that is free of the behavior one is trying to change and predominately free of unwanted stimulus or cues for problem behavior. A drug-free residence, community-based psychosocial programs, recovery support groups, and advocacy organizations such as NAMI, are examples of social environments designed to help liberate defendants from exposure to enticements to continue or reengage problem behaviors. The external forces of social liberation strive to alter social environments in ways that can help others change themselves and in the process lend support to the development of more personally empowering behaviors. The judicial prescription to participate in socially liberating environments such as the Clubhouse for example

Emotional Arousal

Emotional arousal is an important tool which forms the basis for many different therapeutic approaches. This process enables the individual to become aware of their primary defenses against change and in effect parallels the process of consciousness-raising although on a deeper level. While consciousness-raising in essence deals with cognitive awareness, emotional arousal focuses on one’s emotional awareness and a conscious connection to the destructive

force of problem behavior both in the individual's life as well as in the lives of others. Effective work in elevating one's cognitive awareness often leads to an awareness of emotional remorse and is an extremely powerful experiential component of intentional change.

Self-Reevaluation

The process of self-reevaluation is fundamentally an extension of consciousness-raising and emotional arousal in that it also increases individual awareness but at a deeper more existential (life meaning) level. Proper self-reevaluation focuses attention on the dissonance between the behavior of the individual and their core values associated with personal identity and personal responsibilities connected to family, work, community, faith, friendships, and society in general. It is an evaluation of self and life-role and an assessment of the problem behavior and its compatibility within the scope of this role. Effective self-reevaluation leads to the development of a belief in the need to change.

Commitment

The process of commitment or resolve is at the heart of the process of self-change and represents the act of dedication and allegiance to one's decision to change. Commitment in essence is a declaration that is made when the individual arrives at a point of accepting both responsibility and accountability for the problem behavior. It is more than just a story or a narrative or a description of one's willingness to change, or likewise just a word about change, it is the act of one's word and one's will. All other processes of change either support or facilitate the commitment to change. Without the process of commitment, behavior change will not be realized.

Countering

All behavior in some respect is conditional in that it occurs more readily in a specific context or when certain conditions are present. Countering as a process of change works in effect to counter-condition the individual's response to the urge, tension, and craving or pressure to engage in a problem behavior by substituting a healthier activity when these tensions or conditions are present.

Environmental Control

Environmental control is the process of regulating, restructuring, or modifying an individual's surroundings so that things which provoke or stimulate the problem behavior are eliminated.

This is the process of changing the environment as a means of controlling behavior. The defendant may work to create living environments at work, home, school, or even their car that are less compatible with their problem behavior.

Reward

Rewards and punishments are essentially two alternate sides of the same issue. Punishment can be used in efforts to extinguish problem behavior or reinforcements can be applied in efforts to encourage desirable behavior. While punishment tends to temporarily suppress behavior rather than lead to lasting change, reward seems to provide a greater stimulus for successful change. Rewards can be self-initiated as well as applied by others as a function of recognition. Self-change requires work, effort, sacrifice, compromise, and flexibility as these activities need the nourishment of reinforcement in order to flourish in the face of temptation to return to old familiar self-defeating patterns.

Helping Relationships

Although self-change generally implies unassisted change, the term specifically refers to the modification of behavior without professional assistance, rather than without any assistance. Care, support, encouragement, and an alliance with significant others in a person's life is indispensable in the self-change process. A helping relationship is the most frequent and powerful process employed in traditional psychotherapy and it is of equal importance for those initiating a self-change program. Helping relationships are critical to success and are applicable to every stage of change in the Transtheoretical model.

THE TRANSTHEORETICAL MODEL AND MOTIVATIONAL INTERVIEWING

As presented in Module 2, motivational interviewing was originally developed by William Miller and Stephen Rollnick, as a strategy for assisting their clients in the process of making commitments to behavior change. It was initially targeted to individuals who were subject to addictive behaviors; however, with the further development of brief motivational interviewing, the approach has been broadened to assist in the management of change with other populations.

Motivational interviewing attempts to address the issue of ambivalence inherent in the change process, as many individuals are prone to patterns of denial that prohibit successful change, or they may underestimate the seriousness of the consequences likely to occur if change is not forthcoming. Some

mentally ill offenders may understand the need for treatment and the relevance of the court, but may be unable to see any way to fulfill the objectives of the program without overwhelming difficulty. Consequently, they may lack the confidence necessary to successfully or fully engage or see the program through to completion. Such individuals get caught in the snare of ambivalence which directly affects motivation and readiness to change and places unnecessary inhibitions in the way of the defendant's ability to acquire appropriate strategies important to the success of the change process.

An important starting point for motivational interviewing that reflects its direct link to the stages of change model is an initial assessment of the defendant's readiness for change. Identifying and understanding what stage of change the defendant is presently in will assist the interviewer in proceeding with conversational strategies that will best compliment the defendant's level of readiness for change in ways that may better support and influence movement to a succeeding stage.

MOTIVATIONAL STRATEGIES ASSOCIATED WITH THE STAGES OF CHANGE

In addition to the understanding and execution of the basic principles of motivational interviewing in psychosocial service delivery, likewise, the judicial practitioner must also be sensitive to the design and implementation of motivational strategies that compliment the various stages of change to which a particular defendant may be engaged. The following represent basic motivational interviewing strategies applicable to each particular stage of change in the Transtheoretical model. Although represented here as associated with discrete stages of change, many of the interviewing strategies listed are applicable throughout the stage continuum and may be applied as considered appropriate by the interviewer in the context of the defendant's status hearing.

Motivational Interview Strategies Most Applicable to the Precontemplation Stage:

- Establish rapport and build trust

Establishing rapport is not the same as establishing a friendship. The Judge is not the defendant's friend although he at times may act friendly. Rapport is one of the most important features or characteristics of unconscious human interaction. It represents a commonality or understanding of perspective with the person to whom you are talking.

There are a number of simple techniques reportedly beneficial in building rapport such as: matching body language (ie, posture, gesture, and so forth); maintaining eye contact; and

communicating empathy. A relevant example of the development rapport in the therapeutic relationship can be found in the book *Uncommon Therapy* by Jay Haley, about the psychotherapeutic intervention techniques of Milton Erickson. Erickson developed the ability to enter the world view of his patients and, from that vantage point (having established rapport), he was able to make extremely effective yet subtle interventions in helping his clients overcome significant life difficulties.

- Facilitate doubt about current behavior patterns

Most individuals do not initially view their own behavior as causal in nature and in fact will generally project blame (cause) as a defense against personal responsibility. The more the behavior of the mentally ill offender is consciously connected to cause and effect, the more difficult it will become to justify its maintenance. The interviewer works to facilitate doubt about the appropriateness of behavior, its advantages, its strength or influence, its outcome, its importance, or its usefulness. For example:

I see that you injured your hand pretty severely when you lost control of your temper; help me understand how you believe that behavior is working for you?

It seems as though every time you start skipping medication doses you have a harder time functioning at work; are you sure that's what you really want?

You haven't been very consistent in keeping your treatment appointments lately; how do you think that will help you successfully complete the mental health court program?

- Communicate concern and establish an open dialogue

The communication of concern is more than the communication of empathy. Whereas empathy conveys understanding of the defendant's experience and situation, concern represents an expression of consequential interest that carries at least an inferred warning, as in the following:

Your inconsistency in participating in mental health treatment has me worried about whether or not you will successfully complete this program.

By the look of your broken hand as a result of your recent upset, I'm really fearful that you may hurt yourself or someone else very seriously someday if you're not willing to accept medication treatment.

This is the third week that you report you haven't yet entered substance abuse counseling and I'm concerned enough now to say if it doesn't happen this week you may have to spend some time in jail.

Motivational Interview Strategies Most Applicable to the Contemplation Stage:

- Normalize the issue of ambivalence

There is value in communicating that the process of change is a shared experience, meaning that everyone has made attempts to change something about themselves and found that for many reasons, it wasn't as easy to accomplish behaviorally as it was conceptually.

I can see from your hesitation that you aren't quite sure you're ready to commit to participating in the mental health court program, which is understandable, every one is probably a little unsure at first, that's natural.

It's not easy to change certain habits we've developed over many years. Sometimes we even see some benefits in behaviors that are self-defeating, there like old friends, we get comfortable with them, and so it's very common to feel uncertain about making a change.

- Elicit and summarize self-motivational statements of intent and commitment

Just as criminal responsibility incorporates the principle of intent as Mens Rea or "guilty mind" so the responsibility for human change involves the same issue. Responsibility for personal behavior change is void of meaning without intent. The court may coerce compliance but it cannot mandate change. Change more readily proceeds if the change agent can influence motivation toward commitment. Subsequently it is advisable to capitalize on any statements from the defendant that reflect some degree of intent which may then be used to elicit a stronger level of commitment, such as:

I hear you saying that you will try and make an effort to attend two therapy groups this week, which is a good start; but can you do more than try; can you make a commitment that you will attend two groups?

- Elicit thoughts regarding perceived self-efficacy beliefs

As described in greater detail above, the defendant's perception of their capability related to any given task or challenge strongly influences thought and behavior relative to the initiation and/or persistence with a course of action. Through the interview process the defendant can be assisted in identifying the perception of their capability for performance, for example:

How do you think you will be able to manage your upcoming job interview; what do you see as your strengths that will enable you to perform well in this work environment?

What do you feel is your capability to successfully complete your community service project and do you anticipate any problems that might get in the way of that assignment?

How confident do you feel about mentoring new participants in the mental health court program, do you think that's something you could do?

Motivational Interview Strategies Most Applicable to the Preparation Stage:

- Clarify and reinforce the defendant's own goals and objectives

A relevant axiom of psychosocial rehabilitation states that it is generally more effective to increase the frequency of specific behaviors defined by personal goals and objectives rather than decrease the frequency of problematic or otherwise self-defeating behavior. Defendants need to increase behaviors that serve to increase the quality of human living and not just work to extinguish inappropriate conduct.

- Explore the defendant's barriers to change

As explained earlier, the patterns of denial (minimization, rationalization, projection of blame, etc.) function as buffers against the acceptance of responsibility and accountability for individual conduct. The exploration of the defendant's use of each mechanism raises awareness and exposes the "elephant in the living room." With increased conscious exposure, the mechanism of denial loses its magic and protective power. For example:

So what I hear you saying is, since the mental health system didn't call and remind you of your medication appointment, you're not responsible to manage your medications; is that right?

Your substance abuse behavior has resulted in the loss of your driver's license, the loss of your job, and separation from your family; are you sure you still want to insist that it's not that big of a problem?

I can appreciate that there is always an acceptable reason in your mind for missing your therapy appointments, but it's important for you to understand that the reasons are

simply justifying a pattern of inconsistency, and inconsistency will not allow you to succeed in the program.

- Assist the defendant to enlist a social support network

Interdependent relationships are favored above dependent and independent associations, as the mutual approach to problem solving is both more effective and models the pro-social nature of society in general. The mentally ill offender cannot maintain isolation and expect to progress toward mental health recovery, therefore any opportunity for the promotion of appropriate social engagement is desirable.

Motivational Interview Strategies Most Applicable to the Action Stage:

- Reinforce the defendant's persistence in treatment and therapeutic activities

A significant aspect of serious and persistent mental illness is the common difficulty in maintaining persistence and pace in both therapeutic and productive activities. Too often the mentally ill offender disengages from the benefits of treatment prematurely only to increase their vulnerability for relapse. To help maintain persistence in the face of changing mood states, the sedation of psychotropic medication treatment, and the challenge of functional deficits, the judicial interviewer must be attuned to opportunities for verbal reinforcement and affirmation of the defendant's honest efforts to participate and push through the chemical and functional barriers that otherwise would likely result in an increase in the participant's potential for resignation, drop out, and recidivism.

- Help the defendant identify high-risk situations

The psychosocial dynamics of escape and avoidance are particularly relevant to the mentally ill offender. Escape from a detrimental situation once they have crossed the threshold of initiation of a behavior is extremely difficult. The defendant who is engaged in an explosive outburst will find it much more difficult to regain control until the destructive energy has been expended. It is preferable that the mentally ill offender learn to recognize high-risk situations and exercise strategies for avoidance rather than continue the futile struggle to try and escape once caught up in the current of psychological and emotional decompensation. Exploring the risk potential of any activity is similar to the exercise of cost/benefit analysis described in preceding sections, although it includes the dimension of forethought characteristic of human agency.

Forethought represents the temporal extension of human agency which proceeds beyond the function of forward-directed planning. Individuals establish goals and anticipate the likely consequences of their prospective actions. They select and create courses of action likely to produce desired outcomes and avoid those that may be detrimental. Through the exercise of forethought, individuals motivate themselves and guide their actions in anticipation of future events. When projected over a long period of time on matters of value to the individual, a forethoughtful approach provides greater direction, coherence, and meaning to one's life. As people progress in their choice of life course they continue to plan ahead, reorder their priorities, and structure their lives accordingly. The process of psychosocial and criminal rehabilitation requires careful forethought. In part, the function of the mental health court is to assist program participants in the management of their psycho-legal recovery toward desired future oriented outcomes. This requires that participants continually identify courses of action that pose a high-risk of defeating the desired outcome of program success, which can be readily facilitated through the function of the judicial interview.

Motivational Interview Strategies Most Applicable to the Maintenance Stage:

- Support and affirm the defendant's behavior change, resolve, and self-efficacy

As presented in module 2 on motivational interviewing, affirmations provide program participants the experience of recognition and appreciation through the use of complimentary statements. Direct affirmations offer support in the continuing process of the maintenance of successful behavior change and represent a key ingredient in the development and maintenance of therapeutic rapport.

- Continue to review the defendant's long-term change objectives and benefits

As previously stated, the mentally ill offender must focus attention toward increasing the frequency of specific behaviors defined by personal goals and objectives rather than merely construct goals to decrease the frequency of problematic or otherwise self-defeating behavior. In reality, the negative objective may be accomplished through the absence of activity while the positive objective requires responsible, productive, and meaningful activity. A review of the defendant's goals and objectives through the judicial interview should include not just discussion about what the defendant will refrain from doing in the future, but what the defendant will proactively initiate to replace a previously self-defeating behavior.

Motivational Interview Strategies Most Relevant to Situations of Relapse:

- Help the defendant re-engage the change cycle and reinforce commitment and willingness to continue

Although not encouraged, relapse is anticipated if not expected in the Transtheoretical model. As this may occur, it is important to realize that most individuals who relapse do not totally relinquish their ability to change. Most will likely return to an earlier stage in the self-change process, and usually not at the beginning stage of precontemplation. The interviewing goal with the defendant who has backtracked in the mental health court program is to reframe the situation as a learning experience that can provide valuable information, but at the same time reinforce that guided or structured learning is preferable to trial and error. Going forward then, the interviewer further structures dialogue with the defendant to encourage the re-commitment of efforts toward preparation, action, and maintenance of behavior change. For example:

Your recent relapse to substance use and the outcome of arrest and incarceration resulted in some painful consequences; but let's don't look at that as the end of the story; are you ready to re-dedicate yourself to the goal of recovery?

What have you learned from your recent DUI experience, and how do you think you can you use that learning to strengthen your commitment to change that behavior?

SUMMARY

The intent of the forgoing material is in part to redefine the judicial role in the mental health court as one that represents a proactive agent of change. This is not to presume that the Mental Health Court Judge is by any means a professional mental health practitioner, but practitioner or not, the Judge in the function of the status hearing, with appropriate tools for effective interviewing, can significantly influence the defendant's process of change toward recovery and societal re-integration. The manageable size of the mental health court case load permits an expansion of time and substance in the function of the judicial interview, which forms in part the value of the rural model. The change process model as a stage paradigm provides a frame of reference for understanding the dynamics and complexities of human change, and a structure within which to address the critical issues of ambivalence, commitment, responsibility and accountability pertinent to the mental health court program.

References

- Bandura, A. (1969). Principles of behavior modification. New York, NY: Holt, Reinhart and Winston.
- Bandura, A. (1977). Self-efficacy: Toward a unifying theory of behavioral change. *Psychological Review*, 84, 191-215.
- Bandura, A. (1978b). The selfsystem in reciprocal determinism. *American Psychologist*, 33, 344-358.
- Bandura, A. (1984). Recycling misconceptions of perceived self-efficacy. *Cognitive Therapy and Research*, 8, 231-255.
- Bandura, A. (1986). Social foundations of thought and action: A social cognitive theory, Englewood Cliffs, NJ: Prentice Hall.
- Bandura, A. (1989). Human agency in social cognitive theory. *American Psychologist*, 44, 1175-1184.
- Bandura, A. (2002). Social cognitive theory: An agentic perspective. *Annual Review of Psychology*, 52, 1-26.
- Prochaska, J. O. (1979). *Systems of psychotherapy: A transtheoretical analysis*. Homewood, Illinois: The Dorsey Press.
- Prochaska, J. O., Norcross, J. C., & Diclemente, C. C. (1994). *Changing for good*. New York: Avon Books, Inc.