

Therapeutic Dialogues:



Incantations for the Judicial Midwife

**An Introduction to Judicial Interviewing Strategies
in the Mental Health Court Status Hearing**



“ ... the teacher, whoever he might be ... is only an occasion; because I can discover my own error only by myself. Only when I discover it, and not before, has it been discovered, even if the whole world knew it.”

Søren Kierkegaard

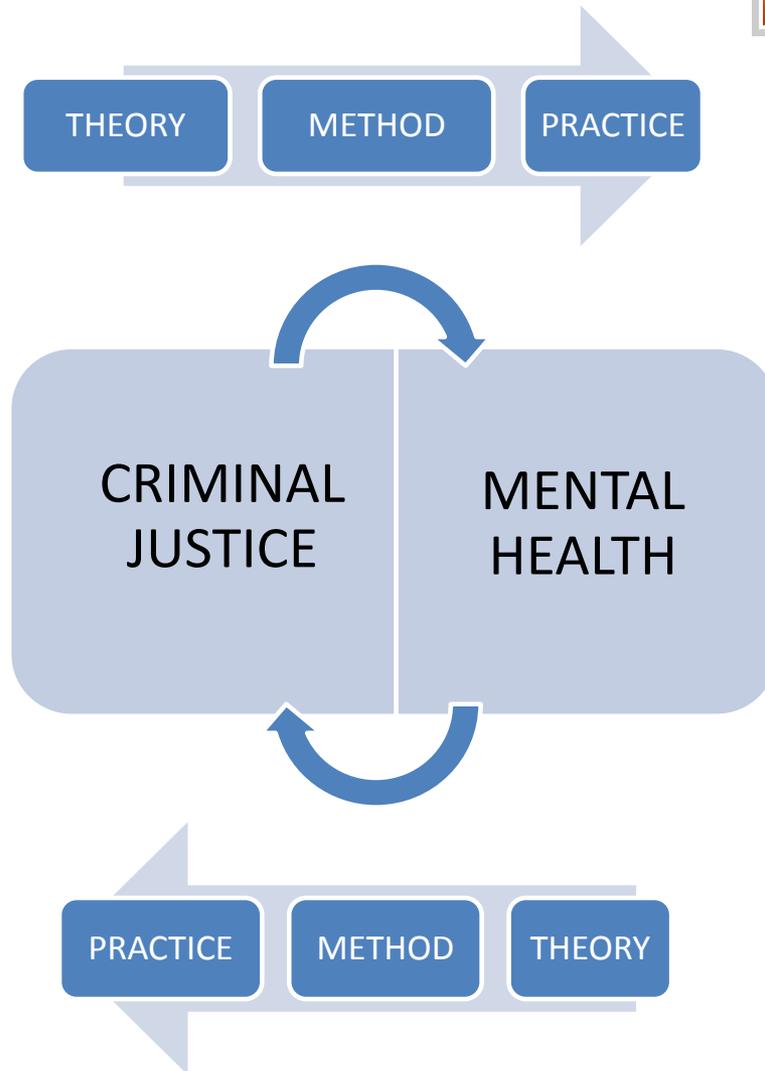
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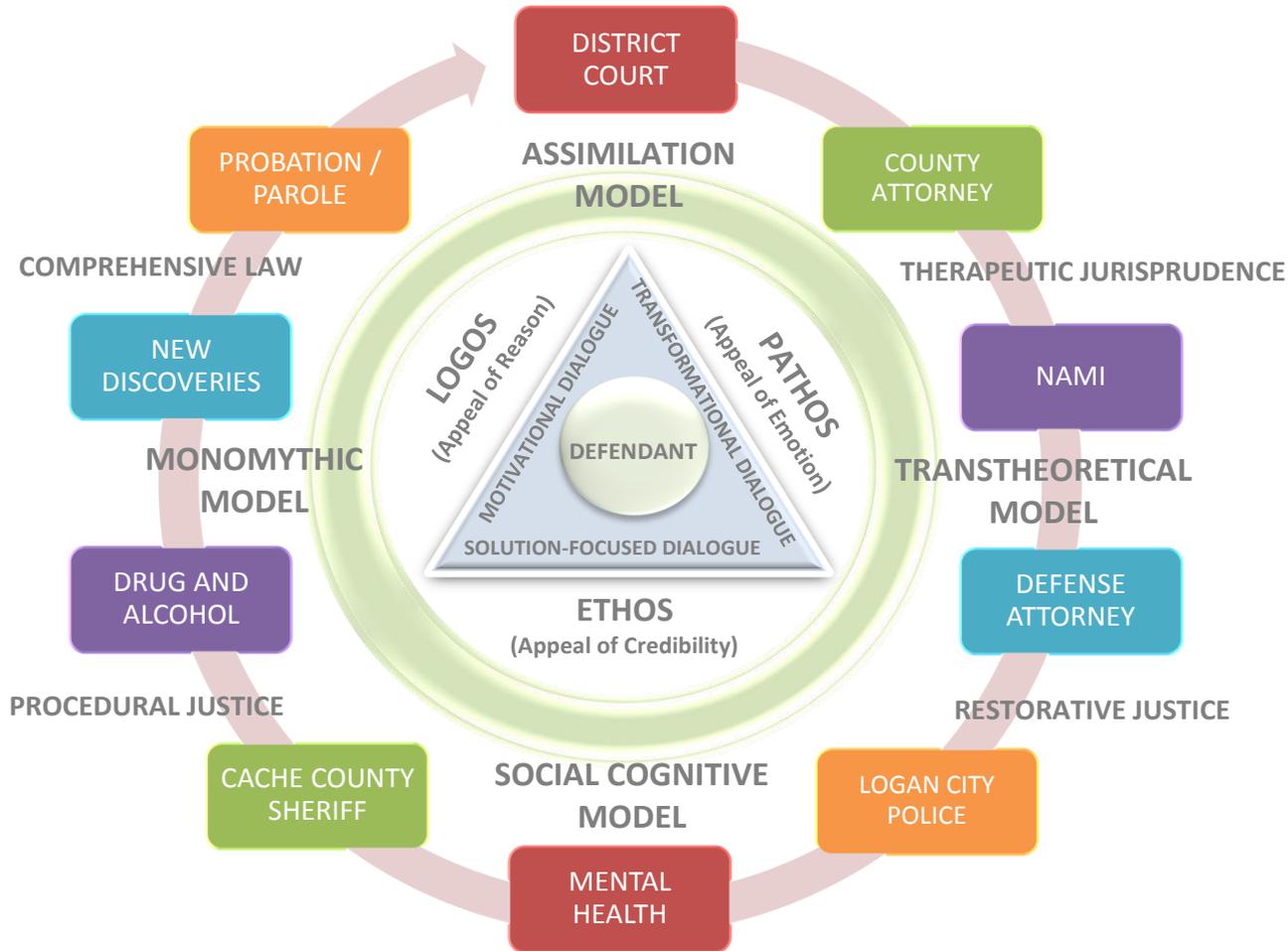


- Regardless of who the participant is or what mental illness condition they may have, the mental health court program is ultimately about effective behavior change, sustainability of behavior change, as well as psycho-legal recovery and reconciliation.
- This is true for all self-defeating behavioral issues the mental health court may encounter relative to the mentally ill offender, including:
 - Criminal Behavior
 - Substance Use/Abuse Behavior
 - Treatment Avoidance Behavior
 - Self-harm Behavior
 - Counter-motivated Behavior
 - Ambivalent Behavior
 - Poor Coping Behavior

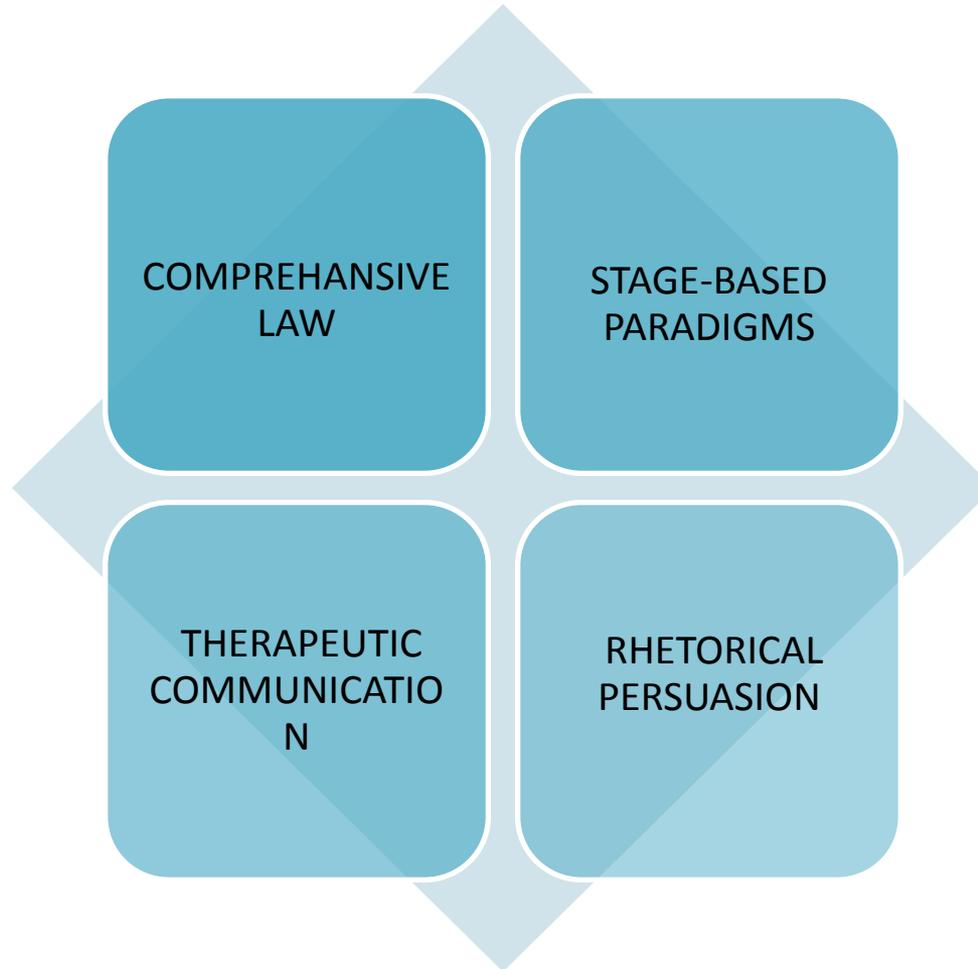
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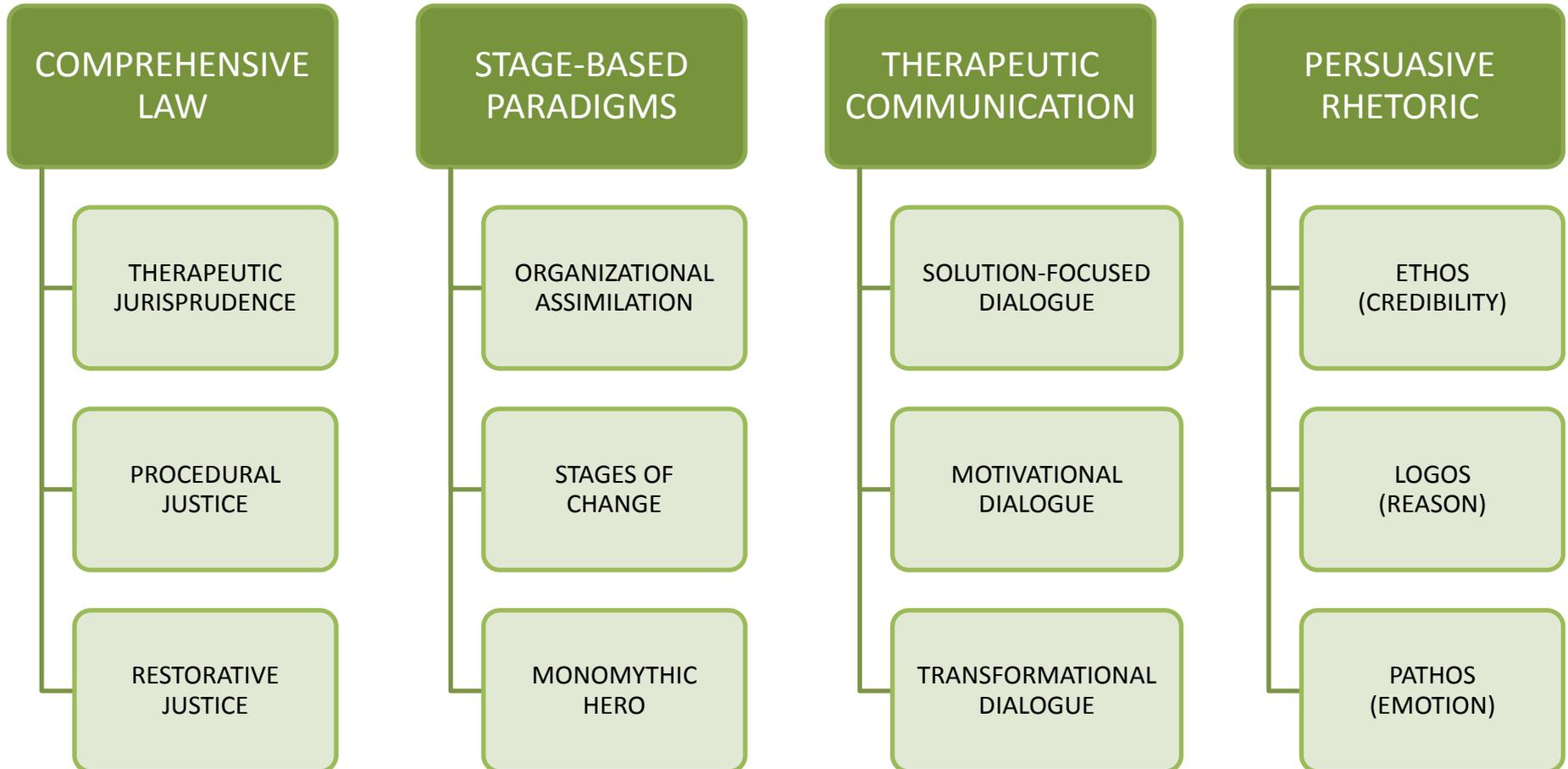
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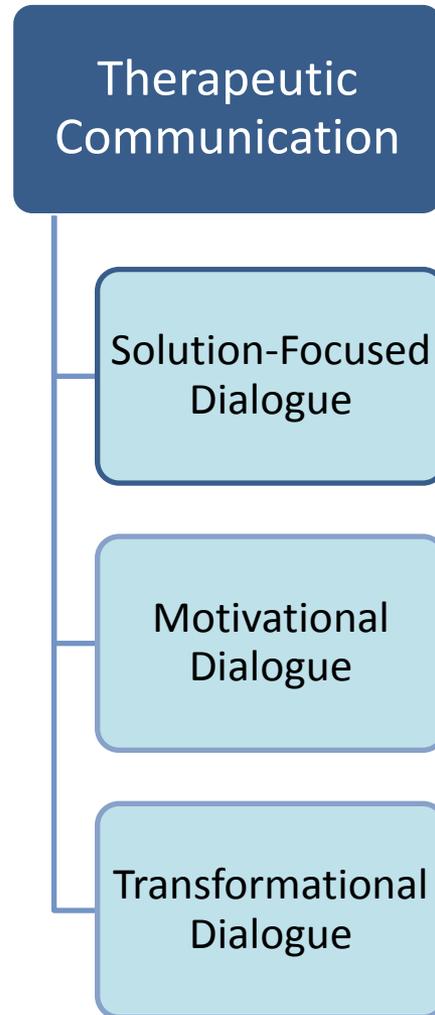
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Therapeutic Communication



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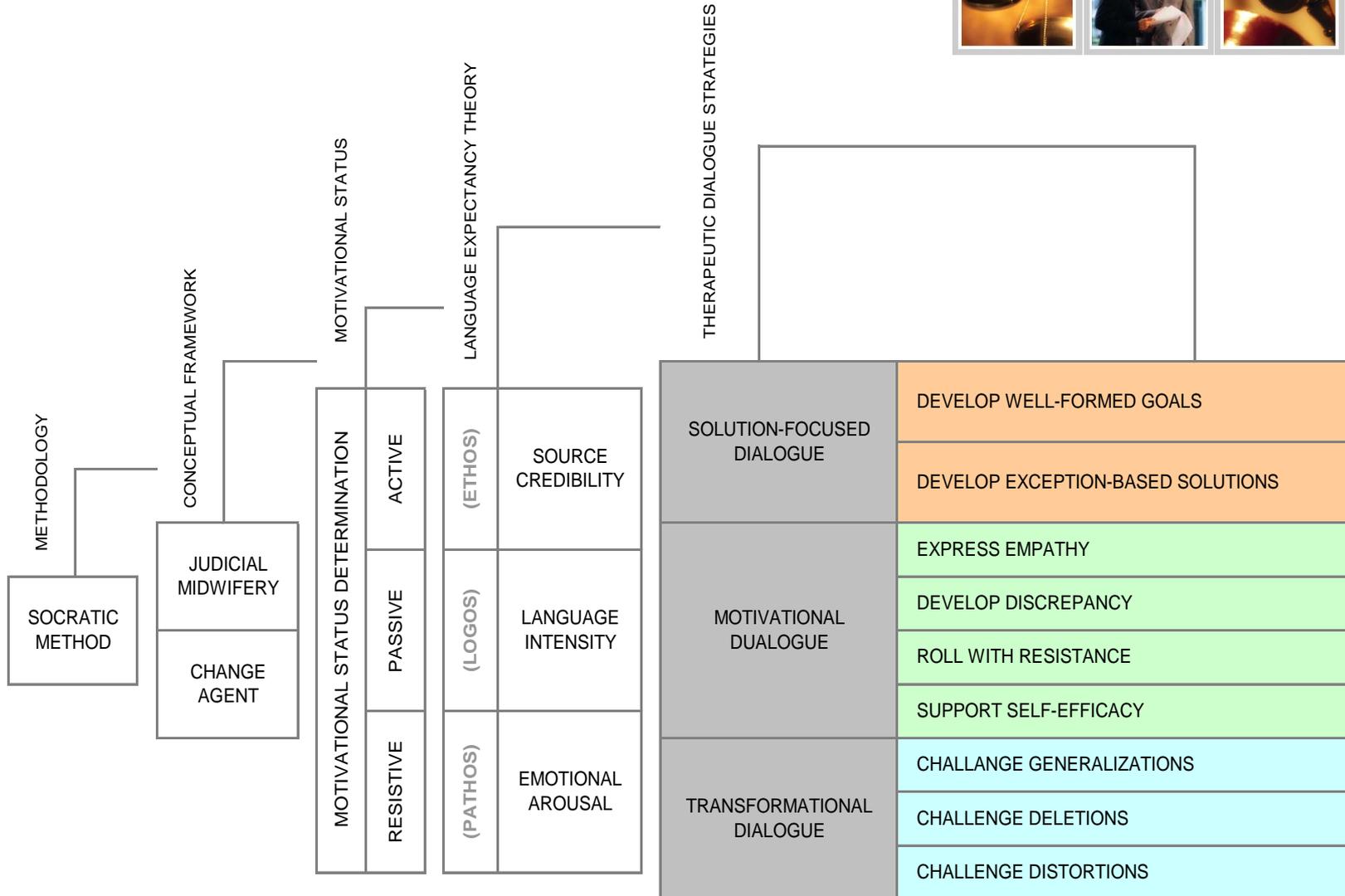
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Presentation Overview



Introduction: The Premise of Therapeutic Dialogue



Introduction The Premise of Therapeutic Dialogue

Introduction: The Premise



Specialty courts extend beyond the traditional adversarial model of criminal justice to include a broader interactive dimension between judge and defendant.

This heightened interactive role subsequently provides a greater opportunity for the court to function as a viable agent of change.

Through source credibility, in combination with specific forms of structured interviewing, the judicial officer can work to achieve a more effective level of persuasive influence with each defendant.

This string of therapeutic encounters, these “occasions” over the course of the defendant’s court appearances, combine to form an aggregate of change-based interactions, that can greatly enhance the possibility for the defendant’s success.

Introduction: The Premise



Process v. Event

Judicial interviews with mental health court participants occur over the course of the program.

Although each interview is in itself an “event” or as Kierkegaard stated, “an occasion” it is the cumulative effect of these interview moments that will likely have the most significant impact in the life of the defendant.

Judicial interviewing is therefore viewed from the perspective of a process that succeeds over time and not merely an event in which each interview is separate and distinct from any other interview.

Introduction: The Premise



- Effective change-oriented communication is the primary goal of the judicial interview.
- The interactive context of the status hearing provides opportunities for the mental health court Judge to proceed along various lines of change-based forms of communication.
- It is advantageous that judges receive training and education in the principles, tools, and insights of productive interviewing that will enhance the effectiveness of the judicial officer as an agent of change.



Introduction: The Premise



A diversity of language-based interventions and tools can provide more effective structure and direction in the work of judicial interviewing, such as:

Language-expectancy
Tools

Solution-focused
Tools

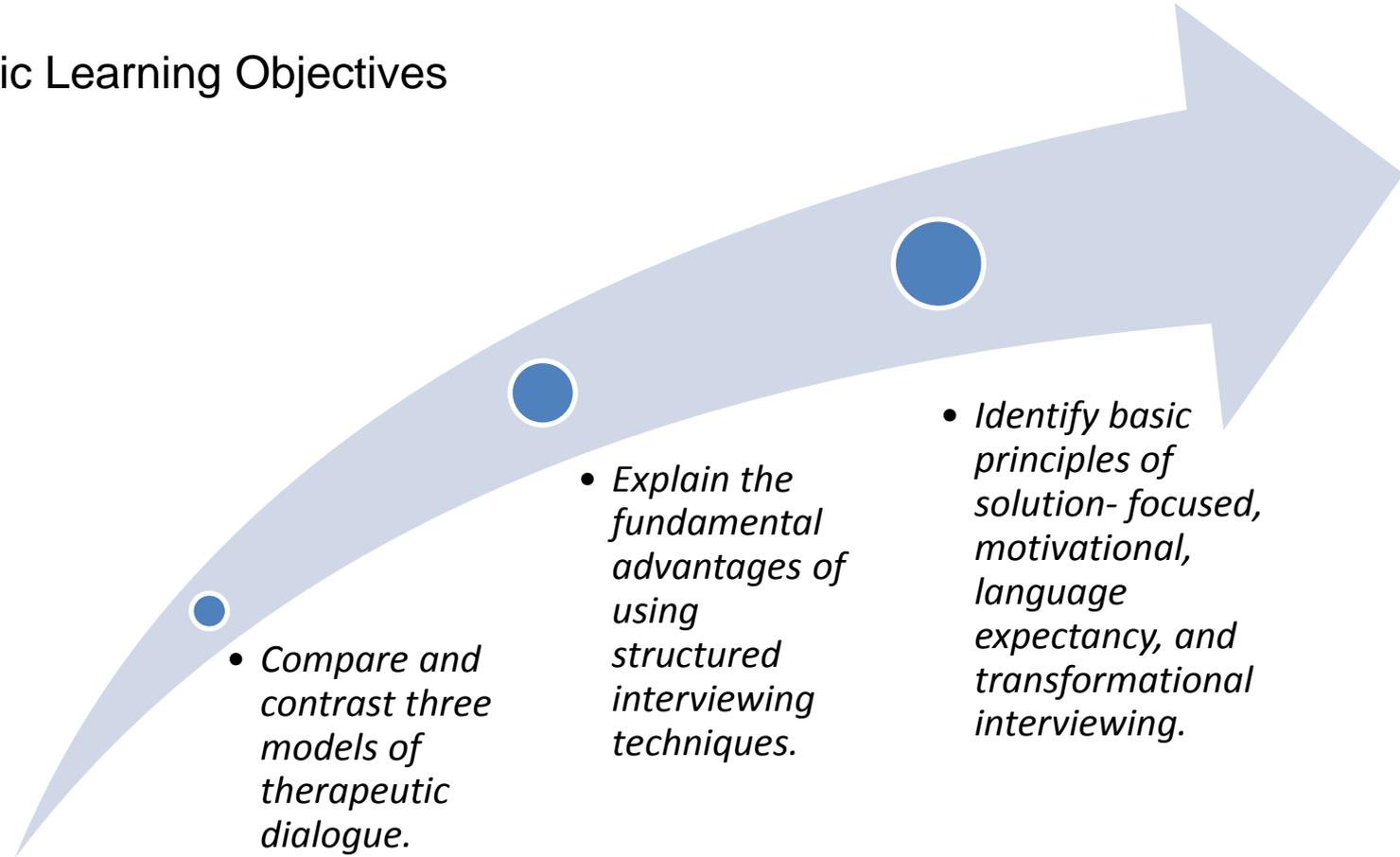
Motivational
Tools

Transformational
Tools

Introduction: The Premise



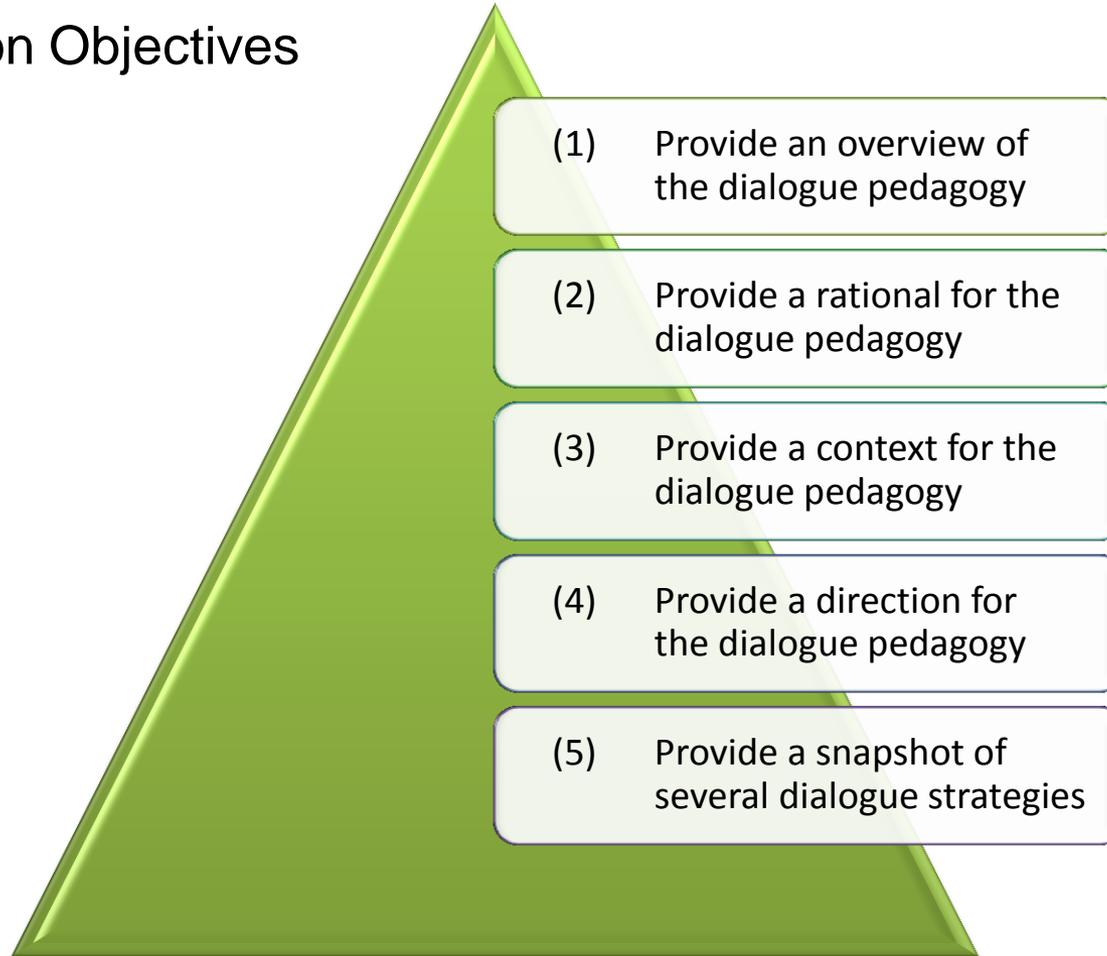
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Introduction: The Premise



Presentation Objectives

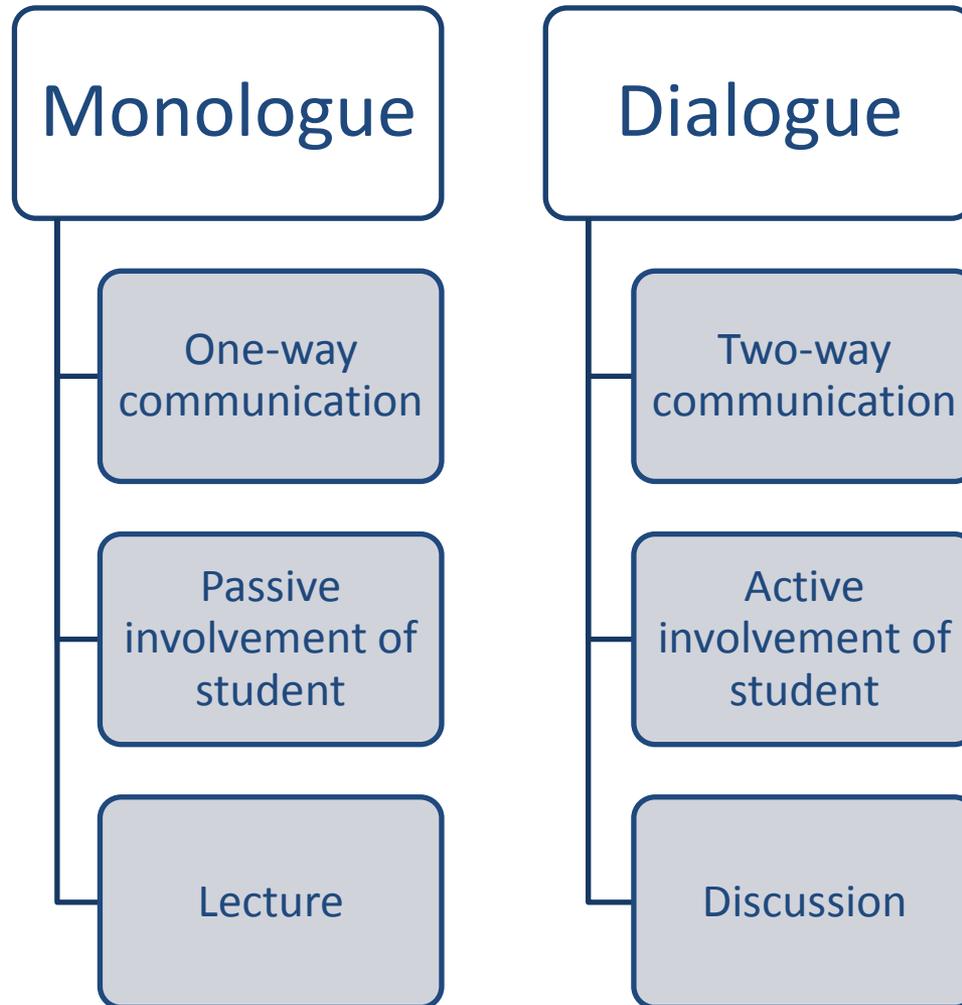


Part I: The Methodology for Therapeutic Dialogue



Part I: The Methodology for Therapeutic Dialogue

Part I: The Methodology of Therapeutic Dialogue



Part I: The Methodology of Therapeutic Dialogue

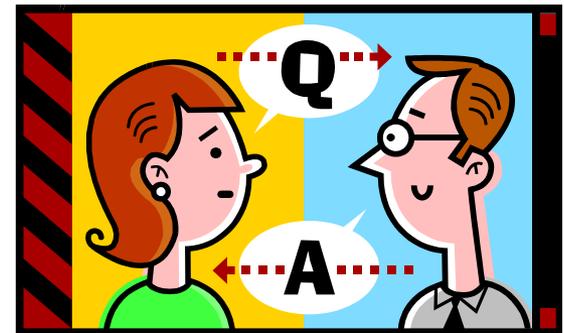


- The concept of dialogue has held a central place in Western views of education ever since the teachings of Socrates. The back-and-forth form of question and answer, challenge and response, has been viewed as the external communicative representation of a dialectical process of thinking based on conjecture, criticism, and reconstruction of ideas.
- Some of these views of dialogue have stressed the role of the teacher as a facilitator of a student's discovery of certain insights on his or her own; in some cases it is in pursuit of an answer the teacher has in mind already,
- in others, of an answer neither participant could have anticipated. Other views have stressed the role of vigorous debate and argument as a basis for hewing defensible conclusions out of the raw material of opinion and speculation.
- Still other views have stressed the role of the teacher as a partner in inquiry, learning *with* the student as both explore a problem together through reciprocal questions and answers.

Part I: The Methodology of Therapeutic Dialogue



- Dialogue entails such quality relationships between interlocutors as mutuality, responsibility, engagement and acceptance. The existential interpretation of dialogue holds that it is only in true dialogic relationships that an individual is able to unfold and experience self as personality. Personality is different from individuality. While individuality can be described by a unique combination of individual characteristics and attributes, personality is defined by the human capacity to become the subject of one's life – the one who is able to take full responsibility for one's own actions in life.
- Personality is characterized by her/his inner world, which cannot be understood by another personality unless both are engaged in a true dialogue with each other. Consequently, one is able to cognize her/his own self when engaged in a dialogue with someone different from her/himself. That is why Paulo Freire called dialogue “an existential necessity” and Mikhail Bakhtin referred to dialogic interaction with self as the major factor of self-creation:
- “Without dialogue there is no communication, and without communication there can be no true education” (Freire, 2004, p.93).





Part I: The Methodology of Therapeutic Dialogue



- **Socratic Underpinnings**

- Therapeutic dialogues, as question-based interviewing strategies, are primarily modeled on the traditional law school Socratic pedagogy.
- Emeritus Professor Donald Marshall, in his inaugural lecture on taking the position of Law Alumni Distinguished Teacher at the University of Minnesota Law School, expressed that

“the quintessential evocative mode [of teaching], properly used, is the dialogue,” and that the phrase “Socratic Method” used in describing law school teaching is a synonym for dialogue. His proposition is that principled exploitation of the pedagogy of dialogue is “the irreducible core of legal education.”

- This pedagogic “core” is subsequently applied as one of two fundamental conceptual frameworks for the various interviewing strategies utilized in the mental health court status hearing.

Part I: The Methodology of Therapeutic Dialogue



- Dialogue = Conversation that sows the seeds of change and has held a central place in the occidental view of education since the teachings of Socrates.
- However, we want to guard against defining dialogue only according to two polarities:
 - 1. Any verbal interaction between facilitator (teacher) and student = dialogue, and
 - 2. Only a single form of interaction between facilitator (teacher) and student = dialogue.

Part I: The Methodology of Therapeutic Dialogue



Overly
Broad
Perspective

Any verbal
interaction between
teacher and student
is considered a
dialogue

Overly
Narrow
Perspective

Only a single form
of interaction
between teacher
and student is
considered a
dialogue

Complex
Perspective

Multiple forms of
dialogue are valid,
but usefulness
depends on relation
between the form of
communication and:

- Context of the interaction
- Relation among participants
- Subject matter under discussion
- Varied differences among participants

Part I: The Methodology of Therapeutic Dialogue



The Socratic Method:

- The **Socratic method**, named after the classical Greek philosopher Socrates, is a form of inquiry between individuals based on asking and answering questions to stimulate critical thinking and to illuminate ideas. It is a dialectical method.
- Generally, the Socratic Method is a technique in which a teacher does not give information directly but instead asks a series of questions, with the result that the student comes either to the desired knowledge by answering the questions or to a deeper awareness of the limits of knowledge.
- A single, consistent definition of the Socratic Method is difficult due to the diversity with which 'the method' has been used historically. There are many styles of question oriented dialogue that claim the name Socratic Method.
- For purposes of this presentation however, the Socratic Methodology subtly underlies the work of therapeutic interviewing and provides a familiar reference for the mental health court Judges, who likely have experienced this form of pedagogy at some point in the process of their legal training.

Part I: The Methodology of Therapeutic Dialogue



Conceptual Frameworks for Judicial Interviewing – (1) The Socratic Midwife:

- The 19th Century Danish philosopher Søren Kierkegaard characterized Socrates as a “divinely sanctioned midwife” reflecting that:



“Socrates was true to himself and realized artistically what he had understood. He was and remained a midwife; ... because he understood that this was the highest relationship one person could have to another.”

- The role of the Socratic (i.e., philosophical) midwife was in essence to help the student impregnated cognitively to undergo the pains of labor and facilitate the birth of the intellectual child.
- Similarly, the judicial midwife, through a form of Socratic dialogue, helps the mental health court participant through the intellectual labor of contemplation and the cognitive birth of the idea for the need for change.

Part I: The Methodology of Therapeutic Dialogue



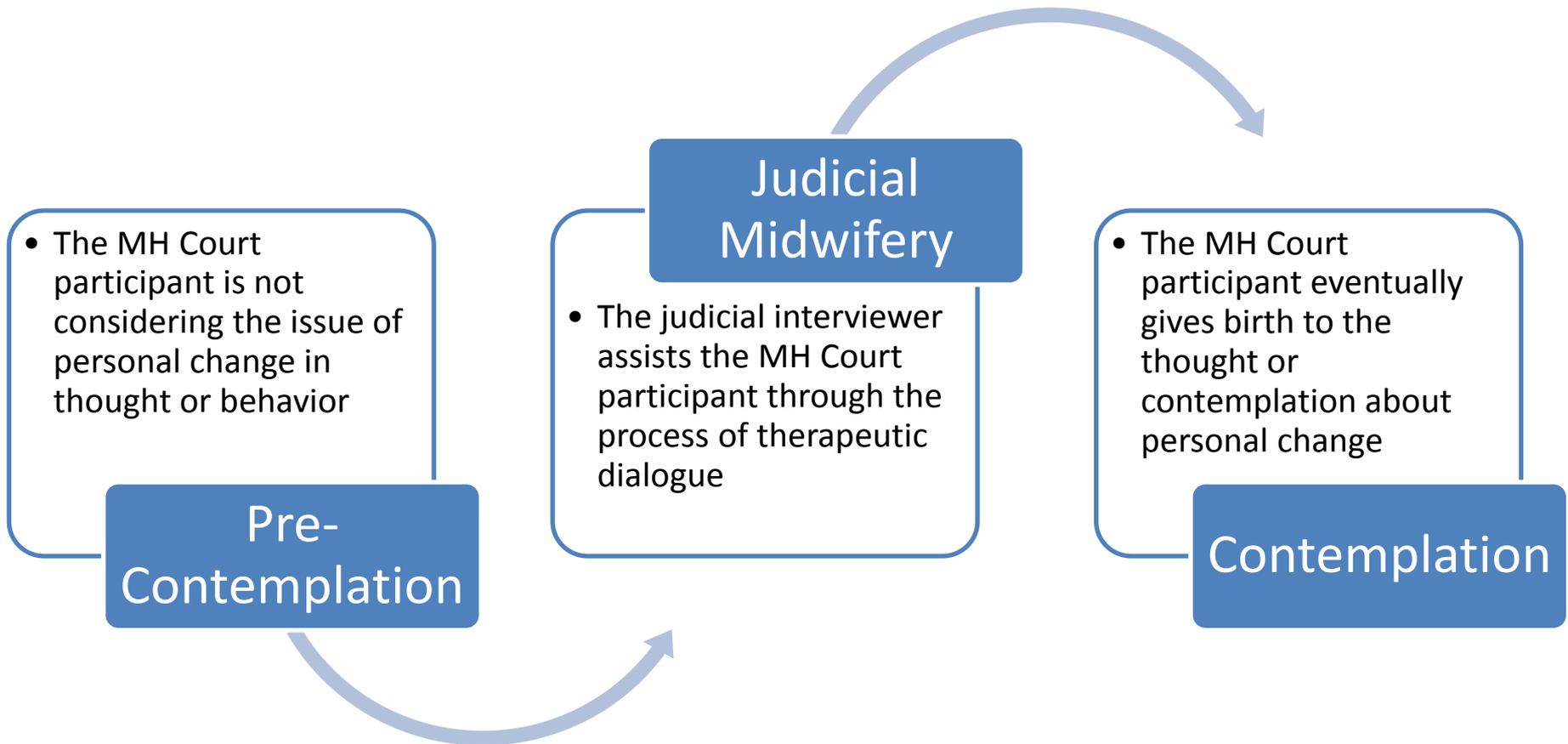
The Socratic Midwife

Plato's dialogue on the question of knowledge (*Theaetetus*) is likewise the home of the metaphor of the educator as midwife. The midwife metaphor as a quotation from Socrates eloquently articulates educational insights which remain influential even today.

For Socrates, teaching was not the mere handing over of information by the teacher to the student. In fact, Socrates did not consider himself a teacher in the usual sense, but only an assistant at the birth of knowledge, an intellectual midwife. In Plato's *Theaetetus*, Socrates uses this metaphor to explain how, although he knows nothing, he can help others in their search for truth (150b):

I cannot give birth to wisdom myself and the accusation that many make against me, that while I question others, I myself bring nothing wise to light due to my lack of wisdom, is accurate. The reason for this is as follows: God forces me to serve as a midwife and prevents me from giving birth.

Part I: The Methodology of Therapeutic Dialogue



Part I: The Methodology for Therapeutic Dialogue



Through a form of Socratic dialogue, the judicial midwife helps the mental health court participant through the intellectual labor of contemplation and the cognitive birth of change-oriented thought.

Building Effective Solutions

Improving Personal Motivation

Enriching Representational Models of Reality

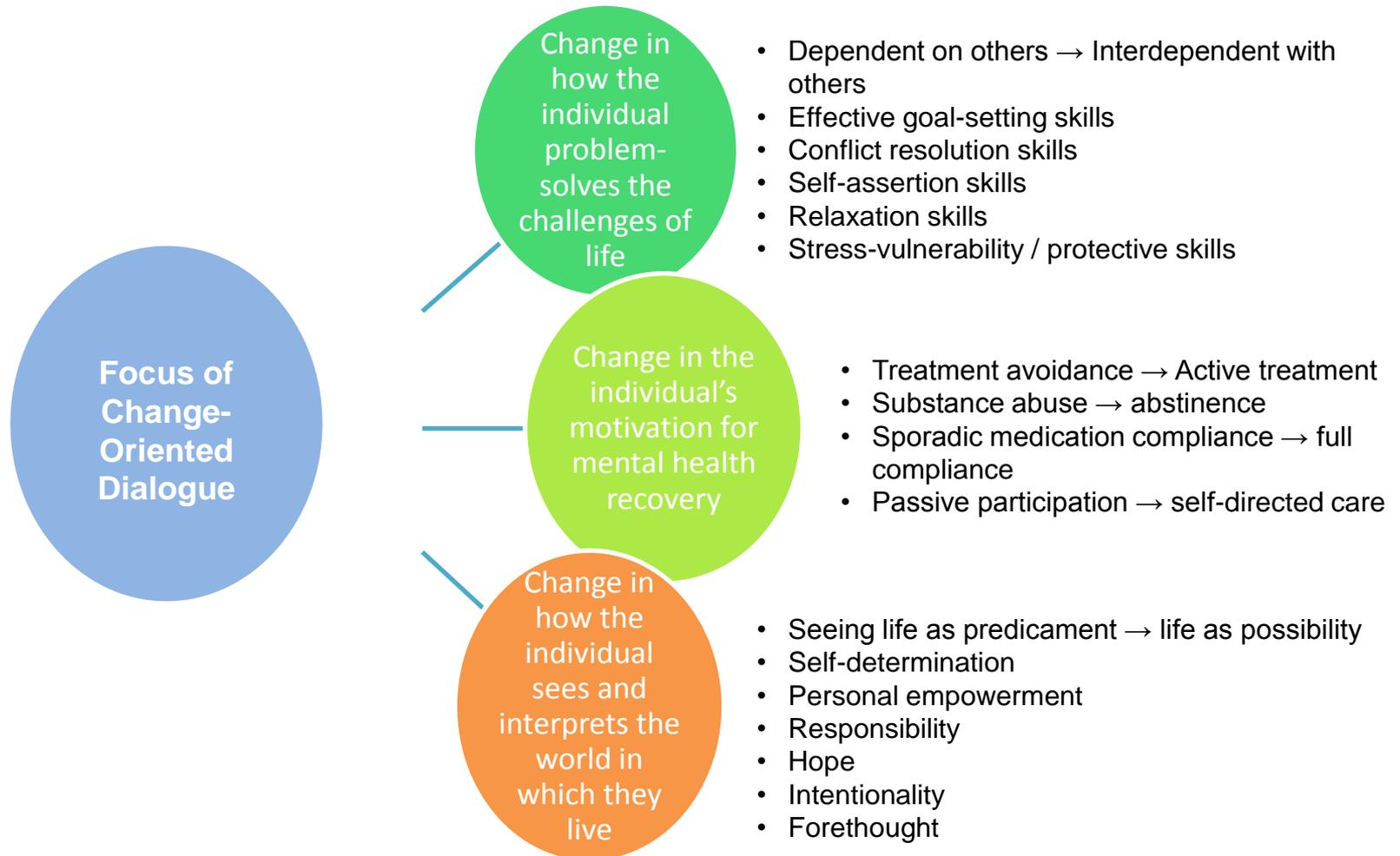
Part I: The Methodology of Therapeutic Dialogue



Conceptual Frameworks for Judicial Interviewing – (2)The Agent of Change:

- It is not the intent of any education or training in therapeutic dialogue to turn judges into psychotherapists.
- The pedagogic art of therapeutic dialogue is merely to provide a structure for the fulfillment of the specialty court in the work of mental health recovery and legal reconciliation.
- The partnership between criminal justice and mental health is a shared endeavor in which both systems function respectively as **Agents of Change**.

Part I: The Methodology of Therapeutic Dialogue





Part II:
Mental Health Court Status Determinations
The Foundation for Therapeutic Dialogue

Part II: Status Determinations



- Generally, mental health court participants demonstrate three varying positions of relationship with the court and the program, represented as:
 - (1) proactive;
 - (2) passive; and
 - (3) resistive.
- Each position functions as a categorical platform from which the judicial interviewer can structure well-formed questions and relevant communication particular to the participant's motivational level.
- Each of the three status positions correspond with one of three designations of the status hearing (i.e., positive, neutral, or negative), which also serves to provide direction for the judicial interview.

Part II: Status Determinations



Hearings may be categorized as positive, negative, or neutral depending on the content of the status report as communicated to the judge by both the participant (during the hearing), by the MHC committee (preceding the hearing), or other collateral sources of information.

Designations may either be formal or informal. A formal designation is pronounced publicly in the course of the status hearing and any outcome relative to incentive or sanction is equally pronounced and linked to the designated status category.

Informal designations are utilized solely in committee as a format for discussion and as a dialogue cue for the mental health court judge. An informal status system is not announced publicly.

Part II: Status Determinations



- Positive Status:

A positive hearing is one in which the participant is found to be in full or decidedly favorable compliance with the program expectations required in their current phase of participation.



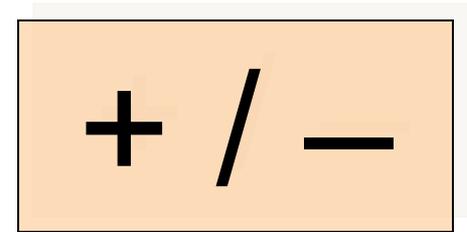
A positive hearing represents an **active** level of program participation and results in public recognition and possible extrinsic incentive. Positive hearings factor into the participant's opportunity for phase advancement and progression to program graduation.

Part II: Status Determinations



- Neutral Status:

A neutral hearing represents a ***passive*** level of program participation and partial compliance as reflected by such things as cancelling scheduled treatment appointments without rescheduling, only partial completion of court assignments, inconsistent involvement in the participant's prescribed treatment plan, etc.



The neutral hearing does not result in any sanction imposed by the court, but also does not usually merit any extrinsic incentive or public recognition (formal applause).

Part II: Status Determinations



- Negative Status:

A negative hearing occurs as a result of non-compliance with program expectations due to failure to keep scheduled treatment appointments, a violation of the conditions of probation, failure to complete a court assigned activity, discontinuing or altering a prescribed medication, and/or the acquisition of new criminal charges.



In consequence of a negative hearing, public recognition and any extrinsic incentives are withheld and the court will usually impose a sanction up to and including a period of incarceration. Negative hearings represent a **resistive** level of program participation and may count against program advancement, and depending on the severity of conduct, may result in program suspension or termination.

Part II: Status Determinations



- Scaling Program Compliance

A simple ***Likert Scale*** can be utilized as an interval-based psychometric method for designating compliance and subsequent determinations of overall status. The measurement used in the status determinations represented here is a five point continuum from “always” on the positive end of the scale to “never” on the negative end point.

Compliance scaling is only intended as a guide to decision making and is not meant as a rigid and inflexible measuring system that fails to take into account either mitigating or aggravating circumstances.

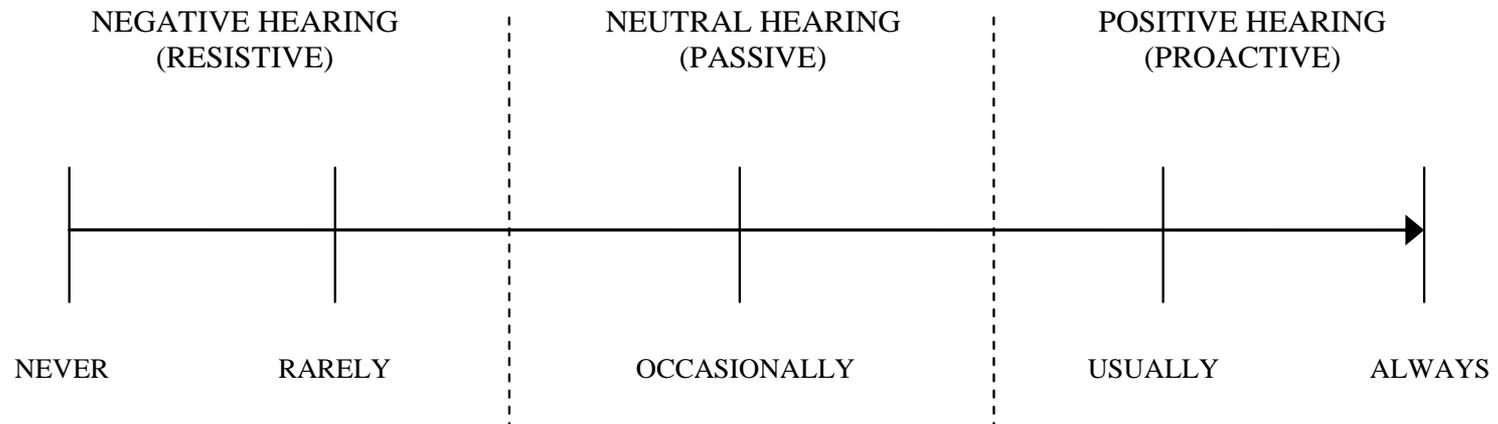
The scale is relative to the measurement of compliance between the participant’s previous court appearance and their current court appearance, and is not intended as a global measurement of the participant’s overall compliance with the program to date.

Part II: Status Determinations



COMPLIANCE AND HEARING STATUS LIKERT SCALE

During the period of time since the participant's last status hearing, how would you rate their compliance with respect to treatment participation, productivity, education, or court assignments?



Part II: Status Determinations



- Some measured assessment of compliance and individual progress is critical both to provide a stimulus for motivational dialogue as well as a basis for making decisions for program advancement.
- In this way the court will avoid arbitrary advancement schemes that attend predominately to the factors of:
 - Program duration;
 - Pressure to move participants forward due to an increasing volume of program referrals;
 - Response to frustration experienced over time dealing with difficult, particularly passive, participants.

Part II: Status Determinations



- As indicated in the measurement scale, the status determination corresponds to a particular motivational position identified as:
 - ***The Proactive Position:***

The proactive participant exhibits a higher level of attention, interest and involvement in the mental health court program as evidenced by a more active level of participation in both mental health treatment as well as pursuit of productive community living.
 - ***The Passive Position:***

The passive participant is generally the reluctant defendant who often is over-reliant on others for problem solving and direction. Lack of concern for responsibility and accountability favor a cognitive and behavioral vacuum often void of intentional goal-directed action.
 - ***The Resistive Position:***

Such individuals demonstrate a greater degree of hostility-based behavior, conflict with authority, and pervasive and sustained chaos in both family and community relationships. Interest in the mental health court is usually to escape or avoid criminal consequences and not for the purpose of self-change, mental health recovery, or the resolution of criminal accountability.

Part II: Status Determinations



- Example of Status Designation – Judge John A. Zottola (Allegheny County, Pennsylvania)
- Video - The Matt Graham Case

An individual diagnosed with schizophrenia with a history of leaving residential placement, missing reviews and going off his medications. He appears before [Judge John A. Zottola](#), having spent two weeks in jail for assaulting his stepfather and pouring barbecue sauce on his mother due to psychotic delusions.

- The court is faced with a familiar problem: It needs to arrange for a stable environment for Matt outside of prison that will encourage him to stay on his medication. In this clip, the court team discusses one option: placement in the "CRC," the Mercy Behavioral Health Central Recovery Center.

Part II: Status Determinations



- A status report is obtained during the MH Court committee meeting prior to the status hearing.

FIRST DISTRICT MENTAL HEALTH COURT - STATUS HEARING REPORT

Defendant: _____

Phase: _____

Date: _____

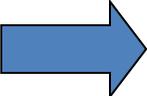
Agency	Compliance			NOTES	STATUS	
	Full	Partial	Non		Positive (Active)	
BRMH						
AP&P					Neutral (Passive)	
BRDA					Negative (Resistive)	
ND						
NAMI						

Part II: Status Determinations

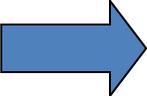


Once a status determination is made and a corresponding motivational level identified, the interviewing work of the mental health court Judge generally proceeds along one of the following three distinct but objective interviewing paths:

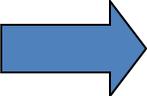
- Proactive defendant / positive status:

Objective:  Interviewing to sustain compliance

- Passive defendant / neutral status:

Objective:  Interviewing to advance compliance

- Resistive defendant / negative status:

Objective:  Interviewing to initiate compliance

Part II: Status Determinations



Interviewing to Sustain Compliance

- Communicate positive affirmation
- Deliver extrinsic reinforcements
- Provide direct and indirect compliments
- Scale progress

Interviewing to Advance Compliance

- Identify and build effective solutions
- Develop and establish well-formed goals
- Challenge perceived barriers
- Clarify incentives
- Obtain specific commitments

Interviewing to Initiate Compliance

- Provide adequate program orientation
- Clarify expectations
- Reinforce the contract for participation
- Explore decisional balance
- Initiate sanctions if necessary

Part III: The Context of Therapeutic Dialogue



Part III: The Context of Therapeutic Dialogue Language Expectancy Theory

Part III: The Context of Therapeutic Dialogue



- **Expectation as the Mutuality of Obligation by Agreement:**

This is an aspect of expectancy motivation, whereby the influence of expectation is used as a persuasive tool under the premise that such is legitimized through a principle referred to as “obligation by agreement.” As each participant enters the program under a mental health court agreement, an obligation is formed and the context of expectation is subsequently created and should be applied as necessary to help stimulate motivation for change.

The court applies the psychological dynamic of expectation in efforts to assist participants who demonstrate either passive or resistive postures with respect to their program involvement. In part, this approach may help to further structure the fulfillment of program success.

Part III: The Context of Therapeutic Dialogue



- Language Expectancy Theory (LET) is a formalized model about persuasive message strategies, attitude, and behavior change developed by Michael Burgoon.
- LET explicates three different paradigms relative to persuasive messages:
 - **Active participation paradigm:**
Individuals are “self-persuaded” by actually producing messages, usually at odds with their own privately held attitudes that result in their changing their private attitude to conform more closely to their public communication behavior.
 - **Passive message reception paradigm:**
Traditional situation in which a persuader presents a message to a target audience with the desire to change attitudes and/or behavior.
 - **Resistance-to persuasion paradigm:**
Centers on how language and expectations work in tandem to decrease or inhibit the strength of a future persuasive attempt.

Part III: The Context of Therapeutic Dialogue



- Exploring Language Expectancy Theory for application in a traditional situation of passive message reception defines the mental health court status hearing.
- In this situation the Mental Health Court Judge initiates persuasive message attempts with defendants in the mental health court status hearing.
- The mental health court participant is the target audience and message recipient.
- The intent of the persuasive message in each case is to influence a change in the attitude and/or behavior of the participant.
- Language-based persuasion may involve aspects of (1) **source credibility**, (2) **language intensity**, and/or (3) **fear appeal**, expressed through a variety of interviewing models.

Part III: The Context of Therapeutic Dialogue



The Ancient Path of Persuasion



Ethos
(Appeal to Character)



Pathos
(Appeal to Emotion)



Logos
(Appeal to Reason)



Part III: The Context of Therapeutic Dialogue



- Aristotle's Persuasive Appeals – The art of rhetoric

The study of persuasion dates to the time of ancient Greek societies and Aristotle, who provided a theory, reasoning that to be successful at persuasion, one had to understand the characteristics of the source (ethos), the message (logos), and the emotions of the audience (pathos).

- These three dimensions of persuasion are similar in nature to the three primary dimensions of language expectancy namely:
 - Source Credibility (Ethos):
 - Emotional Appeal (Pathos):
 - Language Intensity (Logos):

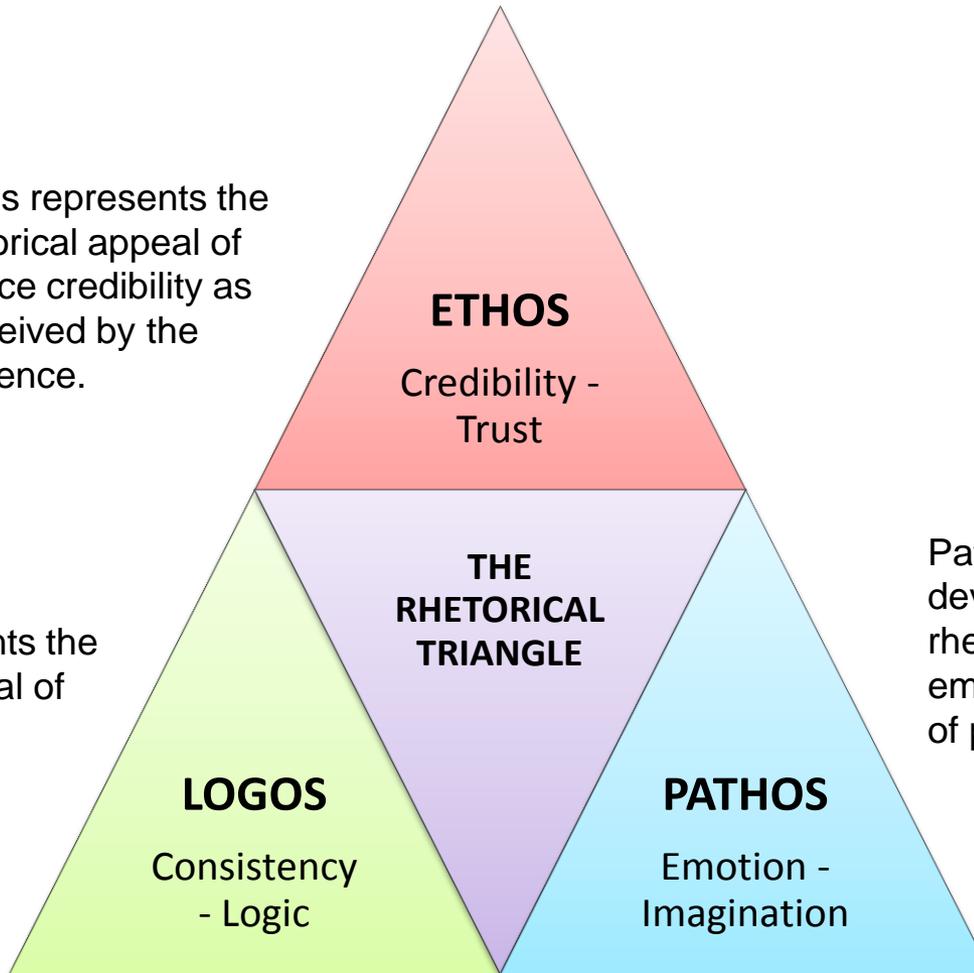
Part III: The Context of Therapeutic Dialogue



Ethos represents the rhetorical appeal of source credibility as perceived by the audience.

Logos represents the rhetorical appeal of reason

Pathos or the pathetic device represents the rhetorical appeal of emotion in the function of persuasion.



Part III: The Context of Therapeutic Dialogue



- Language-expectancy theory involves the following communication dynamics applicable and relevant to the function of the judicial interview in the mental health court status hearing:
 - **Source Credibility:**
Source credibility is the believability of a communicator, as perceived by the recipient of the message.
 - **Language Intensity:**
The definition proposed by John Waite Bowers: a quality of language that indicates the degree to which the speaker's attitude toward a concept deviates from neutrality.
 - **Fear Appeals:**
Any message by a communicator that uses fear or anxiety arousal to influence the compliance of the recipient of the message.

Part IV: Strategies for Therapeutic Dialogue



Dialogue
Premise

Socratic Method

Conceptual
Foundation

Judicial
Midwife

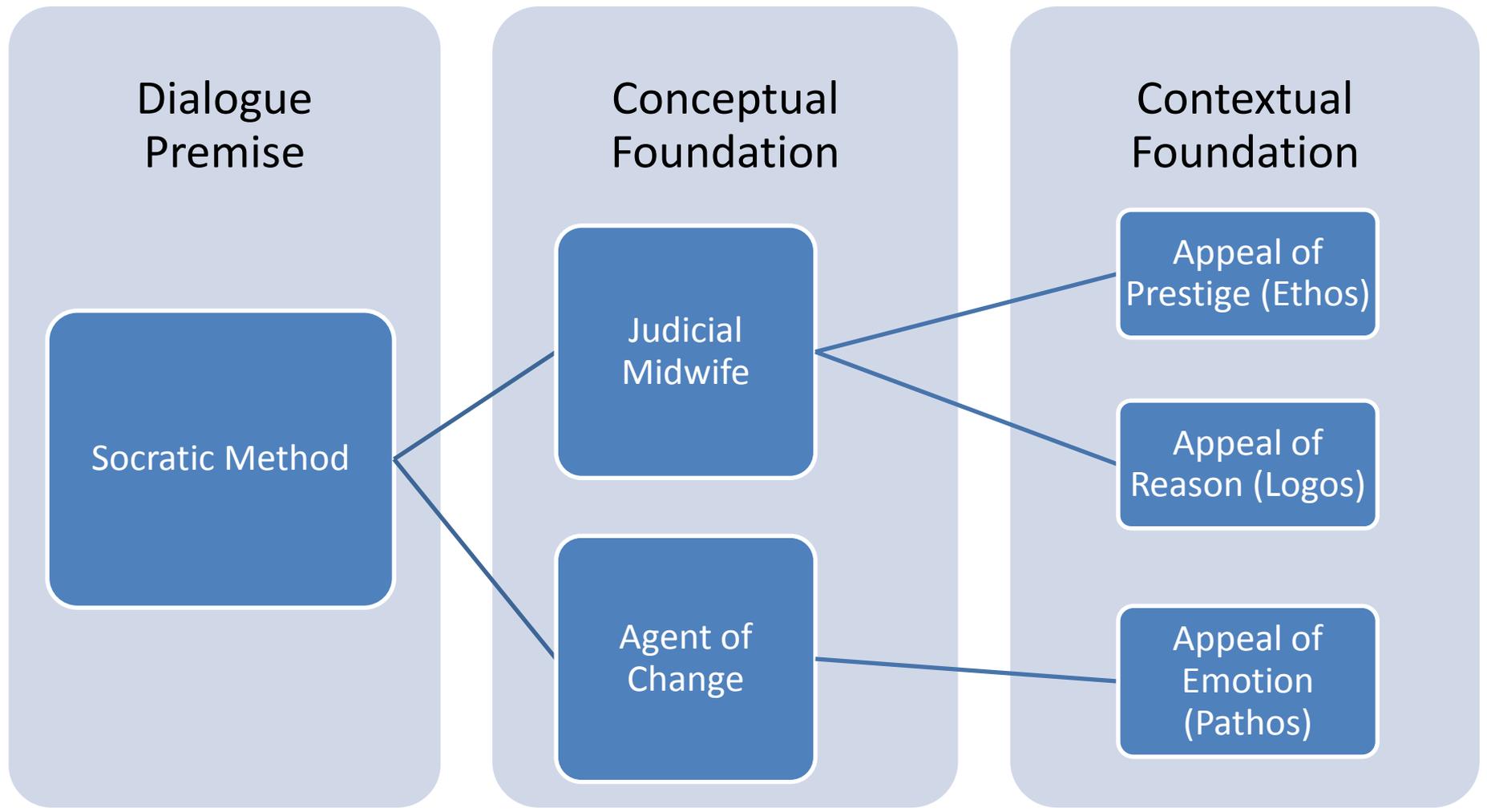
Agent of
Change

Contextual
Foundation

Appeal of
Prestige (Ethos)

Appeal of
Reason (Logos)

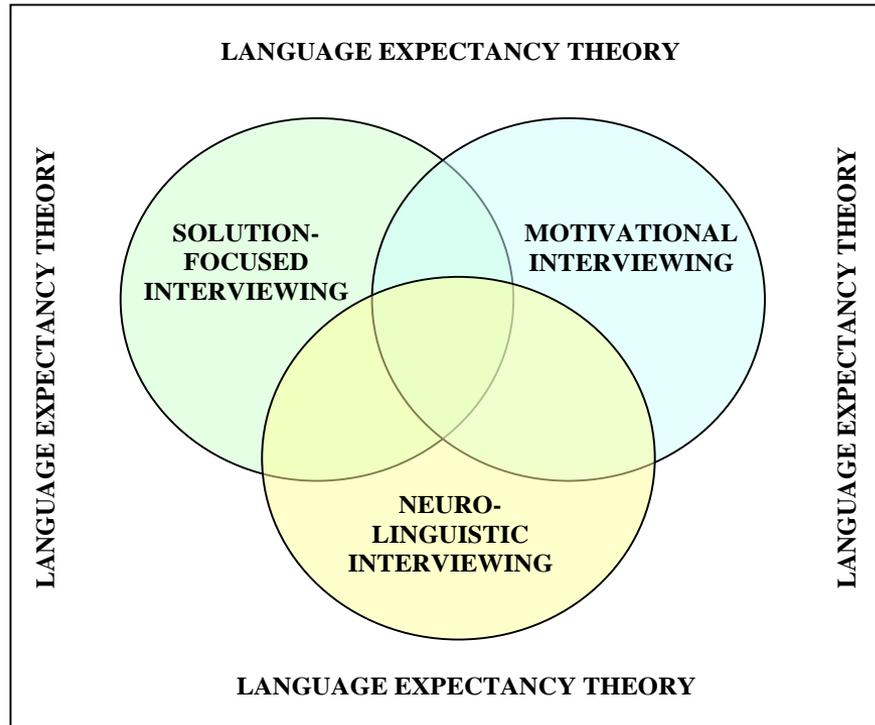
Appeal of
Emotion
(Pathos)



Part III: The Context of Therapeutic Dialogue



- Language Expectancy Theory forms a communication context from which specific interviewing strategies proceed.



Part III: The Context of Therapeutic Dialogue



PRESTIGE: Source Credibility in the MHC status hearing:

An important factor in the effectiveness of communication is the attitude of the audience toward the communicator. Indirect data on this issue come from studies of “prestige” attributed to the communicator.

The source of a message is of vital importance when determining the credibility of the message. An individual’s acceptance of information and ideas is based in part on ‘who said it.’

This variable, the source’s role in communication effectiveness, has been given many names: ethos, prestige, charisma, image, or, most frequently source credibility”

Part III: The Context of Therapeutic Dialogue



Dimensions of Source Credibility:

- Trustworthiness:

Trustworthiness refers to the degree to which an audience perceives the assertions made by a communicator to be valid. Trustworthiness deals with attributes such as the communicator's perceived honesty, sincerity, and objectivity. It is important that the public perceive the source of a message as trustworthy in order for the messages designed to have the desired effect on the targeted audiences.

- Expertise:

The communicator's level of expertise deals with the level to which the receptors of the message believe that he/she is a knowledgeable and experienced source on a specific topic. Expertise also deals with other attributes such as intelligence, qualification, authoritativeness, and competence.

Part III: The Context of Therapeutic Dialogue



LANGUAGE INTENSITY in the MHC status hearing:

Language intensity was originally defined as the degree to which a source's language deviates from neutrality (Bowers, 1963). The underlying assumption is that language intensity increases the perceived extremity of the message. Studies that manipulated language intensity have found that highly intense language is language that is specific (i.e., precise and graphic) and emotional (increased degree of affective expression).

Thus, language that is specific and emotional tends to be perceived as more extreme. language that lacks specificity is characterized as lexical imprecision, ambiguous language (words that allow two interpretations), vagueness (words that allow multiple interpretations), or equivocation (intentional use of ambiguity by sources).



Additionally, language intensity is associated with message strength as communicated through various dimensions of sincerity, voice tone, voice inflection, volume, and word choice.

Part III: The Context of Therapeutic Dialogue



- Positive Affirmations

- It is often easy to permit the enthusiasm for perceived progress to at times overshadow a more conservative perspective of the change process.
- Success for the seriously mentally ill offender population is generally characterized by moderate incremental progress interspersed with retrograde setbacks or detours from the path of change.
- The use of exaggerated expressions in reference to things that in reality are generally commonplace or an expected behavioral norm may technically be considered a form of hyperbole.
- The mental health court Judge must make careful discriminations as to what activities of the defendant are considered praiseworthy, and how and in what degree praise is communicated, and what activities, although beneficial, do not necessarily warrant more than casual recognition.

Part III: The Context of Therapeutic Dialogue



- The Appeal to Reason – Logos

Logos is persuasion by the use of reasoning and refers to the internal consistency of the message--the clarity of the claim, the logic of its reasons, and the effectiveness of its supporting evidence. The impact of logos on an audience is sometimes called the argument's logical appeal.

Part III: The Context of Therapeutic Dialogue



EMOTIONAL APPEAL in the MHC status hearing:

The simplest model of emotional appeals argues that appeals that increase the arousal of fear, anxiety, or dissonance in message receivers is a motivational dynamic, and that increased emotional arousal acts as a drive that is only satisfied by the elimination of the emotion.

If successful, ***elimination of the emotional response is linked to a particular recommendation contained in the persuasive message***. This model is known as the ***drive model of emotional appeals***. It posits a direct, linear relationship between emotion and attitude change. In the drive model, manipulated emotion in the message increased perceived anxiety in receivers, and perceived anxiety increased attitude change, and attitude change subsequently increased behavior change.

Mental health court Judges may have frequent occasion to utilize emotional appeal when interviewing program participants in such a way as to stimulate an increased sense of responsibility and accountability in daily living and program participation.

Part III: The Context of Therapeutic Dialogue



Example of an emotional appeal (Dissonance Motivation):

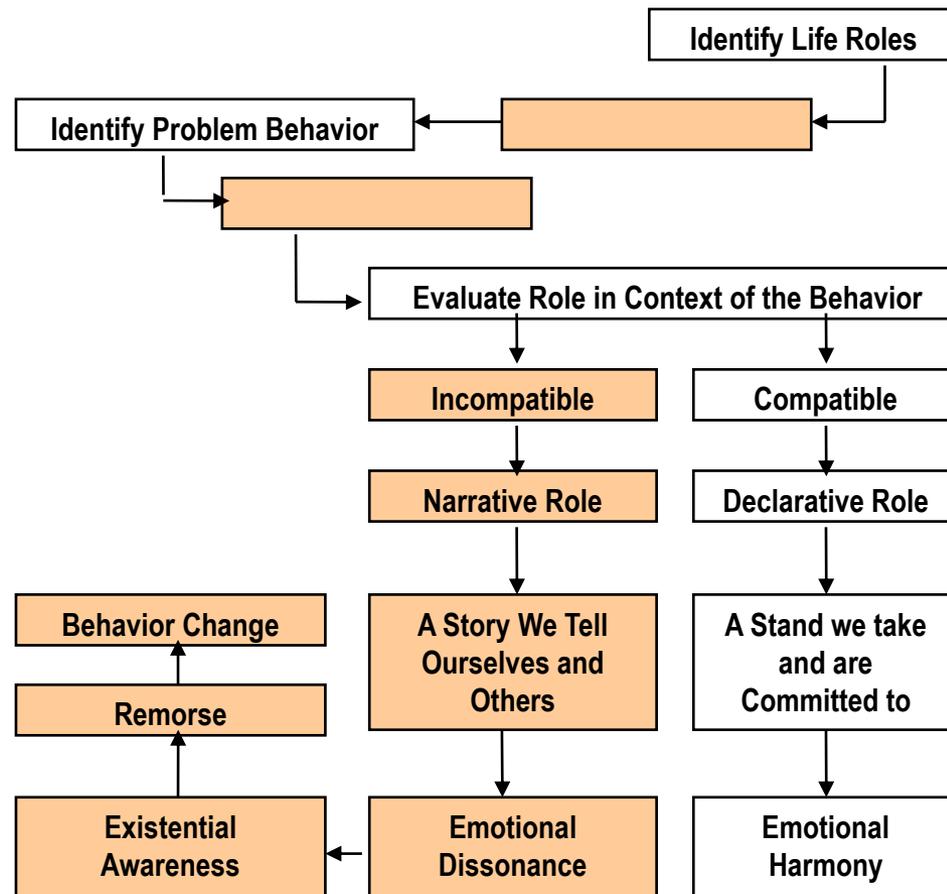
- Judge: Let me take a moment to ask you a few questions. What would you say defines who you are? For example, you have parents, right? So, you are a daughter. You're working part time at the nursing home, so you're a nursing assistant. What else would you say defines who you are as a person?*
- Def: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

Part III: The Context of Therapeutic Dialogue

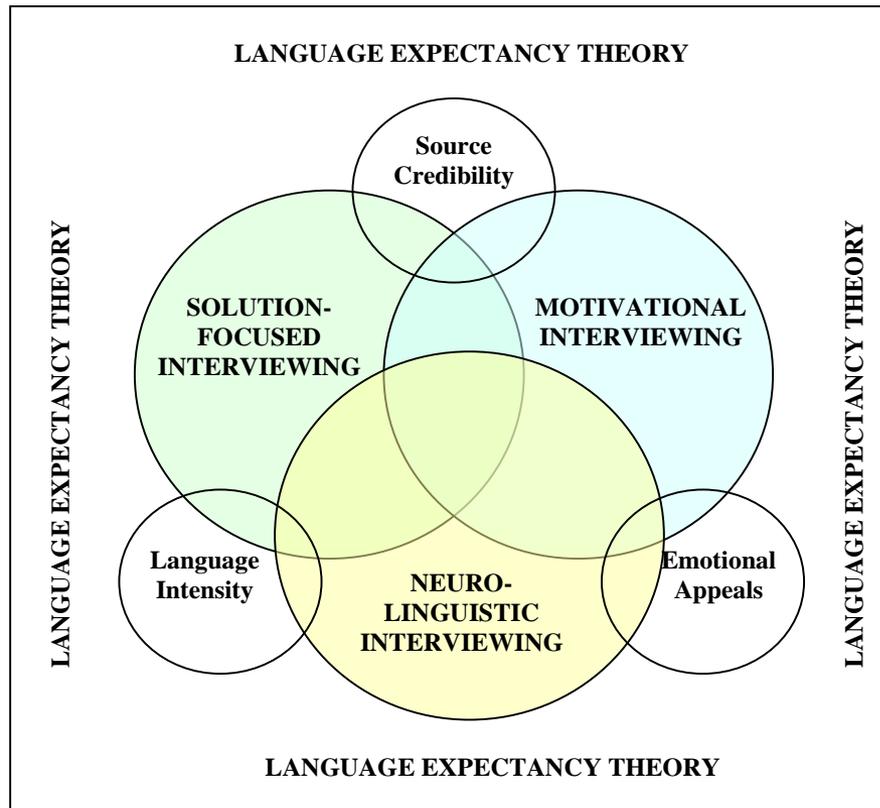


- Dissonance Motivation

The preceding example illustrates the emotional appeal of dissonance illustrated below:



Part III: The Context of Therapeutic Dialogue



Part III: The Context of Therapeutic Dialogue



Context Summary:

Through the combination and context of the elements of expectancy as part of the ancient Socratic and Platonic path of persuasion, such as *prestige* (source credibility), *emotional appeal*, and *language intensity*, that surround and frame the content messages delivered through any therapeutic interviewing model, the mental health court in the process of the status hearing can effectively function as an agent of change.

Part IV: Strategies for Therapeutic Interviewing



Part IV: Strategies for Therapeutic Interviewing Varieties of Change-Oriented Dialogue

Part IV: Strategies for Therapeutic Interviewing



Solution-focused Dialogue (Facilitating the birth of well-formed goals)

Part IV: Strategies for Therapeutic Dialogue



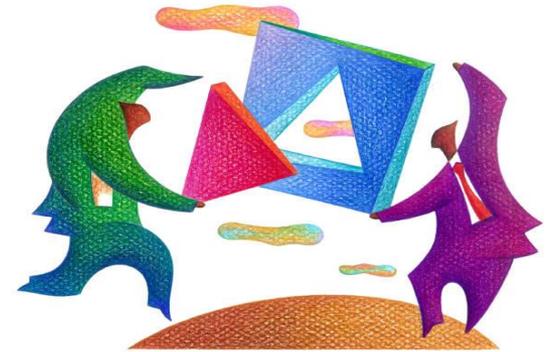
- The specialty court functions beyond the traditional adversarial model where the court and judicial personnel function as an agent of change.
- Such a hybrid role requires increased adaptation and flexibility in working with defendants who have serious and persistent mental health issues.
- The interactive context of the mental health court hearing provides many opportunities for the District Judge to proceed along various lines of dialogue.
- It is advantageous therefore that mental health court judges receive training and education in the principles, tools, and insights of various forms of productive interviewing that will enhance their effectiveness as an agent of change, and further enable the judicial hearing to be used as an added resource in therapeutic jurisprudence.

Part IV: Strategies for Therapeutic Dialogue



- Solution-Focused Interviewing

The solution-focused model was pioneered primarily through the work of Steve de Shazer and Insoo Kim Berg and was stimulated relevant to earlier work involving communication theory by a number of social scientists, including Gregory Bateson and Jay Haley.



In the mid – 1970s, they opened their own clinic and worked inductively by observing individual interviews, paying attention to what appeared to be most useful in the interviewing process as they worked specifically in defining the relationship between the nature of problems and solutions.

In the process of their work over the years they developed and documented the procedures utilized in their therapeutic work which has become known as solution-focused interviewing.

Part IV: Strategies for Therapeutic Dialogue



SOLUTION BUILDING MODEL

- **STRENGTHS PERSPECTIVE**
- **CLIENT THE EXPERT**
- **FOCUS ON SOLUTION-TALK**
- **THE CLIENT INHERENTLY POSSESSES THE SOLUTION**

- **DEFICIT PERSPECTIVE**
- **PROFESSIONAL THE EXPERT**
- **FOCUS ON PROBLEM-TALK**
- **PROFESSIONAL SUPPLIES THE INTERVENTION**

PROBLEM SOLVING MODEL

Part IV: Strategies for Therapeutic Dialogue



- Solution-Focused Interviewing

Solution-focused interviews are primarily organized around activities involving:

- (1) The development of well-formed goals consistent with the frame of reference of the mentally ill offender and,
- (2) The development of solutions based on exceptions, or times in the life of the offender when legal and/or other problems could have occurred but either did not occur or were less severe in their occurrence.

Although the mental health court judge does not act in the same capacity as a clinical therapist, still the dialogue and structural tools of solution-focused interviewing can enhance the process of change to which the mental health court program is dedicated.

Part IV: Strategies for Therapeutic Dialogue



- Developing Well-Formed Goals

The characteristics of well-formed goals are that they are small, concrete, important to the individual, and represent the beginning of a difference in the life of the individual and not the end result.

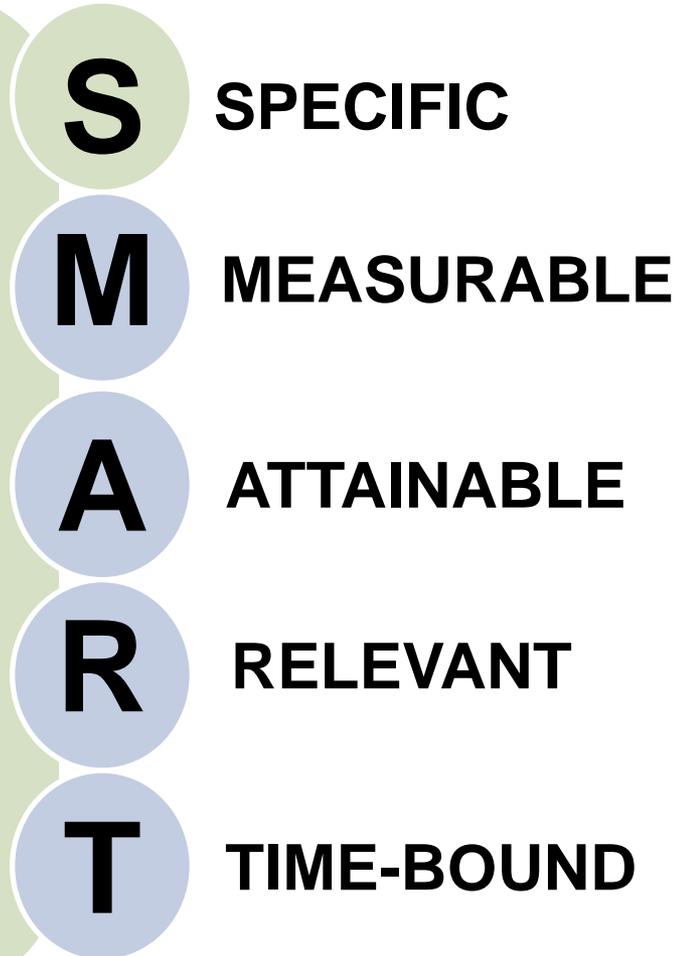
The structure of the solution-focused interview, no matter how brief, is designed to help the defendant develop a sharper vision of what life will be like when the problems that brought them before the court are effectively managed.

Any goal of the defendant represents a good starting point toward a workable solution; however workable solutions will more readily emerge from the defendant's answers to questions about what has already worked and what might be different as they engage in the activities of the mental health court program.

Part IV: Strategies for Therapeutic Dialogue



Foremost among the variety of goal setting formats is a structural tool identified as **S.M.A.R.T.**, which represents a goal setting system that shapes the process into an organized approach to goal achievement containing the following elements:



Part IV: Strategies for Therapeutic Dialogue

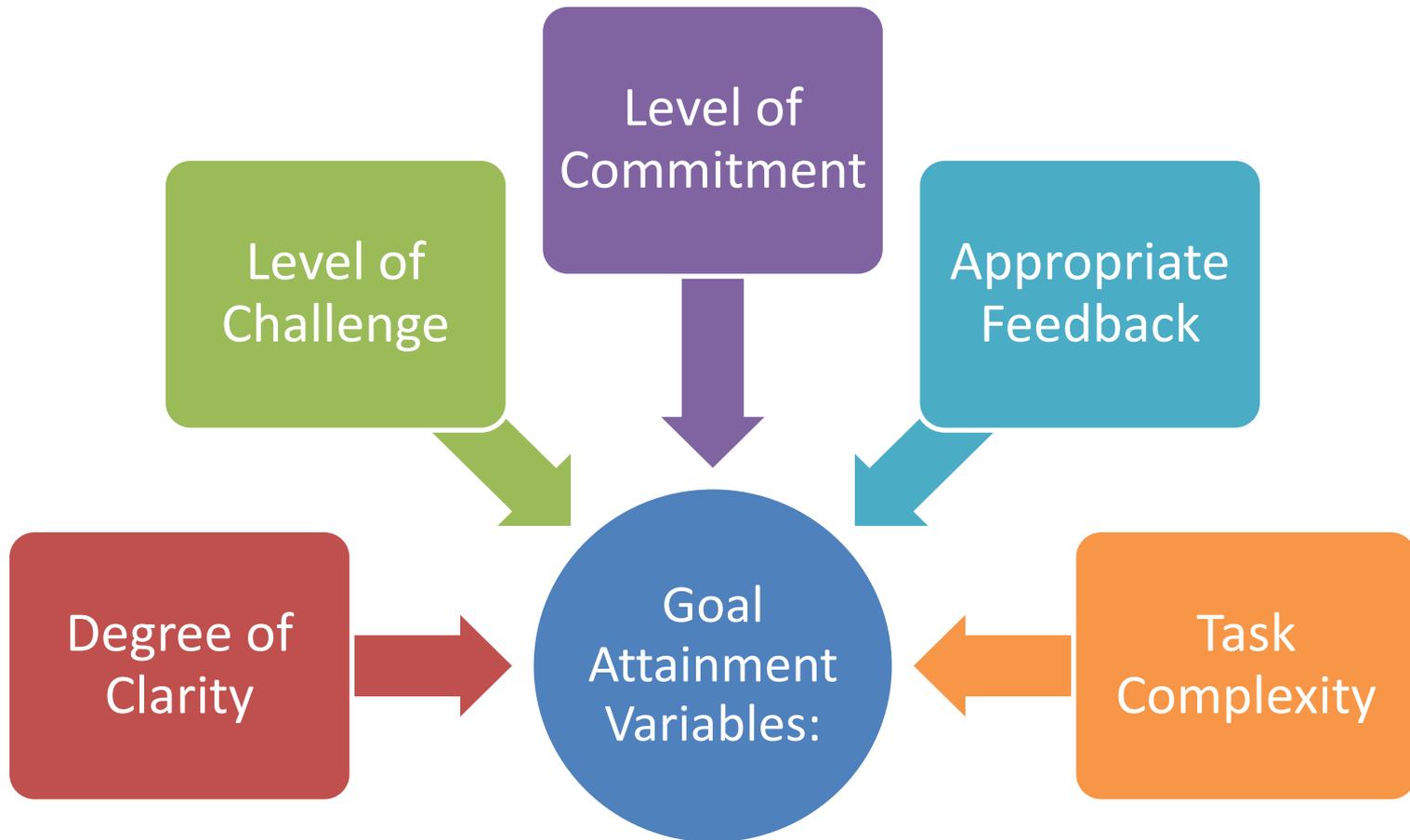


- **Basic principles of S.M.A.R.T. goal setting**

- For goals to be motivational, they must take into consideration the degree to which a number of variables are present in the process.
- These include aspects of **clarity**, level of difficulty or **challenge**, level of individual **commitment**, appropriate **feedback**, and level of task **complexity**.
- Each characteristic functions as a complimentary piece in the whole context of effective goal setting and task performance.



Part IV: Strategies for Therapeutic Dialogue



Part IV: Strategies for Therapeutic Dialogue



- Introductory questions focusing on difference can provide a gateway to developing well-formed goals, for example:
 - *“What specifically would you like to see different about your life by participating in this program?”*
 - *“To make your goals unique to you, help me understand what you think you can work on in this program that will make a real difference in your life.”*
 - *“How do you think this program will specifically help you change the behaviors that got you in trouble?”*

Part IV: Strategies for Therapeutic Dialogue



- At times a series of questions are needed in order to begin to get the defendant to consider a possible workable solution. For example:

Judge: "What specifically would you like to see different in your life by participating in this program?"

Defendant: "I don't know, not having to come to court I guess."

Judge: "What would you have to do differently to avoid getting in legal trouble again?"

Defendant: "Not take drugs."

Judge: "You could sit in the corner of a dark room for the rest of your life and fulfill that goal. What specifically would you have to do differently in an active way to keep from repeating this problem?"

Defendant: "Probably follow through with my substance abuse and mental health treatment program every day."

Judge: "Now that makes better sense to me. Do you see the difference between doing something passive to achieve a goal and doing something active?"

Part IV: Strategies for Therapeutic Dialogue



- Developing Exception-based Solutions:
 - Developing exceptions is the activity of exploring occasions in the life of the defendant when their problems were less severe or absent, and who or what contributed to this difference.
 - The context of those times when the defendant’s problem could have occurred but did not, in terms of who, what, when, and how, provide the important logistics of the exception and shifts the focus of attention on the positive times in the defendant’s life where the defendant’s strengths are brought into perspective and then reinforced to create solutions for the here-and-now.

Part IV: Strategies for Therapeutic Dialogue



- Exceptions to the clinical and judicial problems that combined to involve the defendant in the mental health court program may occur throughout the course of the program, and can readily be explored for detail about difference:

“Your report of the past week is that you were successful in keeping all your appointments and you felt better about your treatment progress. What did you do differently from the previous week when you didn’t feel as positive?”

“I assume you have had many opportunities to use illegal substances in the past and sometimes you didn’t. What was different about the times you could have, but didn’t engage in that behavior?”

“You could have taken your Mother’s checkbook many other times but didn’t, at times when you didn’t take it, what prevented you from taking it?”

Part IV: Strategies for Therapeutic Dialogue



- 5 Stages of Solution Building

- Describe the problem:

- Defendant given opportunity to describe problems. Listen respectfully to the defendant's problem talk. Avoid asking about possible causes.

- Develop well-formed goals:

- Elicit descriptions of what will be different in life when the problems they describe are solved.

- Explore for exceptions:

- Ask about times in the defendant's life when the problems that brought them to court were not present or were less severe.

- Provide feedback:

- Include compliments and suggestions at the conclusion of the interview. Compliments emphasize what the defendant is doing that is useful. Suggestions identify what the defendant needs to do differently to enhance chances of success.

- Evaluate progress:

- Help defendant evaluate progress in reaching solutions through the process of scaling (i.e., rating progress on a scale of 1 to 10).

Part IV: Strategies for Therapeutic Dialogue



Solution-focused Activities

Activity 1

Helping the defendant
develop well-formed goals

Activity 2

Helping the defendant
develop exception-based
solutions

Part IV: Strategies for Therapeutic Dialogue



The Defendant as the Expert:

The solution-building model in the mental health court program recognizes that the defendant is the expert with respect to their own life and is the only one who can effectively change their life to be something different than what it is now. The court merely functions to help facilitate the solution-building process within the defendant's own frame of reference in the following three ways:

- (1) Defendants are helped to explore what specifically they would like to see changed in their life, what they would like to be different.
- (2) Defendants are helped to explore what will be different when the problems they describe are solved. The interviewer listens carefully for, and works hard to respect the direction of change the defendant wants to pursue.
- (3) Defendants are helped to explore the differences at times in their life when there were, or are, exceptions to the problems they describe. These exceptions are recognized as evidence of personal strengths and as sources of information about useful resources that exist within the context of their daily life outside the courtroom.

Part IV: Strategies for Therapeutic Dialogue



- Summary skills for solution-focused interviewing:

Echoing or Asking for Clarification:

Clarification questions attempt to solicit specific detail from the defendant and shift the defendant's frame of reference from the perceptual domain (their experience), to a conceptual domain. The life span of the defendant is a continuum whose only integrator is his or her conceptual faculty. The defendant is working to construct solutions for a better future and the future cannot be grasped perceptually.

Defendant: *"This week was a total waste?"*

Judge: *"Can you tell me what you mean by "total waste?" "What specific things happened that you interpret as wasteful?"*

Part IV: Strategies for Therapeutic Dialogue



Echoing or Asking for Clarification

- *Defendant:* “This week was a total waste?”
- *Judge:* “Can you tell me what you mean by “total waste?” “What specific things that you interpret as happened wasteful?”

Open-ended Questions

- “Tell me about your treatment compliance this past week” vs “Did you keep your therapy appointments last week?”

Summarizing

- “Now let me see if I understand what you just said ... ”or “Now if I heard you correctly you said ...”

Part IV: Strategies for Therapeutic Dialogue



- Summary skills for solution-focused interviewing:

Open-ended questioning:

Open questioning forms an integral part of building rapport with program participants. Interviewers are encouraged to ask questions in such a way that the defendant is given the opportunity to elaborate and provide sufficient detail necessary for the interviewer to properly assess and understand the defendant's current situation.

“Tell me about your treatment compliance this past week” vs “Did you keep your therapy appointments last week?” (A limited choice of response requiring a simple yes or no answer).

Summarizing:

Periodically recounting a brief summary of what the interviewer heard regarding the thoughts, actions, and feelings of the defendant.

“Now let me see if I understand what you just said ...” or “Now if I heard you correctly you said ...”

Part IV: Strategies for Therapeutic Dialogue



- Summary skills for solution-focused interviewing:

Self-disclosure:

Familiarity with the interviewer in the court proceeding and familiarity with the personal life of the interviewer are distinctly different. It is not advisable for the interviewer to disclose or foster a personal relationship or provide personal information beyond simple generalizations. For example:

“When I was your age I made a bad decision and I had to enter a drug treatment program too.” vs. “Everyone in life faces difficult choices and sometimes we make judgments we regret, the important thing for you to ask yourself is, what could be different in my life by participating in this program?”

Part IV: Strategies for Therapeutic Dialogue



- Summary skills for solution-focused interviewing:

Complimenting:

A specific aspect of feedback that directly or indirectly recognizes or acknowledges the defendant's strengths (skills, talents, abilities, and positive attributes) that have contributed to either past or present success.

The variety of strengths may include such things as resilience in the face of hardship, a sense of humor, organized thinking, the capacity for hard work, a sense of caring for others, willingness to listen, interest in learning, etc.

Compliments can be direct or indirect. Direct compliments are positive statements while indirect compliments are questions that infer something positive about the defendant. Indirect complimenting is preferable to direct complimenting as the question format leads defendant's closer to self-discovery of individual strengths and resources.

Part IV: Strategies for Therapeutic Dialogue



- Summary skills for solution-focused interviewing

Direct Compliments:

“I’m pleased to see that you have been able to maintain your job for the past two months now, you clearly have the ability to focus on responsibility even though you are working through a lot of difficult challenges.”

“For you to be able to keep all your treatment appointments, court dates, and still manage time for family and employment shows me that you have some great organizational skills that you are using to make a difference in your life, good job.”

Indirect Compliments:

“How have you been able to maintain your job in the face of all that’s going on in your life right now?”

“What’s made it possible for you to keep all your treatment appointments, court dates, employment schedule, and family time so organized?”

Part IV: Strategies for Therapeutic Dialogue



Direct Compliments

- *“For you to be able to keep all your treatment appointments, court dates, and still manage time for family and employment shows me that you have some great organizational skills that you are using to make a difference in your life, good job.”*

Indirect Compliments

- *“What’s made it possible for you to keep all your treatment appointments, court dates, employment schedule, and family time so organized?”*

Empathic Statements

- *“I can understand that when you realized you missed your medication appointment you were fearful about coming to court and then just panicked and took off.”*

Part IV: Strategies for Therapeutic Dialogue



- Summary skills for solution-focused interviewing

Perceptual Affirmation:

A perception, or what someone perceives about themselves or the world in which they live, their conscious experience, represents an aspect of the person's overall level of awareness. In order to help build rapport and trust, the interviewer acknowledges the perceptual domain of the defendant as opposed to trivializing or discounting their perceptual experience. Through the process of perceptual affirmation in the court interview, the defendant can gain a sense that they are understood, which can function as the gateway toward a transition to the conceptual domain of the defendant where they can formulate solutions for the future. Affirmation does not isolate and focus on the feelings of the defendant per se, and instead focuses on the defendant's larger context of awareness. In essence, affirming the defendant's perceptions of how they think, feel, or act, is simply an acknowledgement of the ways in which the defendant experiences their life, and regardless of agreement in the opinion of the interviewer, such perceptions are recognized as having meaning to the defendant.

"From what you have described, I think we can understand your concern about how much time and effort the program involves as opposed to just doing your time in jail."

"Based on your experience, I can see how you might think that nothing in your life ever seems to go right."

Part IV: Strategies for Therapeutic Dialogue



- Summary skills for solution-focused interviewing

Empathy:

Empathy represents an understanding of the defendant's experience and situation and is distinct from sympathy. Sympathy joins the defendant emotionally and to some degree shares the perceptual experience of the defendant. Sympathy must be avoided in the interview process as it tends to focus on and amplify negative feelings. Empathic affirmation (or perceptual affirmation as described above) may acknowledge perceptual and emotional experience but quickly moves the defendant toward a conceptual exploration of a relevant solution to the problems that brought the defendant before the court.

"I can see that the thought of having a mental illness is troubling to you, as it would be for anyone."

"I can understand that when you realized you missed your medication appointment you were fearful about coming to court and then just panicked and took off."

Part IV: Strategies for Therapeutic Dialogue



- Summary skills for solution-focused interviewing

Redirecting the Defendant:

Criminal offenders may tend to project blame and focus the court's attention on people, situations, or circumstances they view as responsible for their problems. For example:

"I didn't make my medication appointment last week because the nurse didn't give me a reminder call the day before."

"I left the group home and stayed with a friend because there is another resident there that drives me crazy and I just had to get away from them for awhile."

In a Solution-Focused approach, the judicial interviewer works to redirect the defendant toward personal responsibility and accountability for their own life.

"It's not the nurse whose responsible to keep the appointment, what can you do differently so that you don't miss another appointment?"

"Your court approved residence is the group home, what would happen if you sat down with the group home staff and asked for help in working out your differences with the other resident?"

Part IV: Strategies for Therapeutic Dialogue



- Summary skills for solution-focused interviewing

Difference Questions:

Often, the interviewer is asking the defendant about the concept of difference. The information the court is most interested in consist of differences that make an effective difference in the life of the defendant. The news that the defendant missed a medication appointment is news of difference but it is a difference that is detrimental to both clinical and legal progress. News that a defendant took the initiative to calendar his appointments for the week and thereby fulfilled his scheduled treatment is news of an effective difference that has the power to produce positive change for the future.

Subsequently, the interviewer looks for effective difference in the interviewing process and encourages the defendant to provide specific detail about differences in life that would lead to program success.

“What have you done differently this past week to make your life better?”

“What specifically do you want to be different in your life over the course of the program?”

“What will we see different in your behavior that will tell us you are ready to advance to the next phase of the program?”

Part IV: Strategies for Therapeutic Dialogue



- Summary skills for solution-focused interviewing

Exception Questions:

Exceptions are times in the life of the defendant when he could have drunk, lost his temper, got into a fight, used an illegal substance, arrived late for work, missed his therapy appointment, or stopped taking his medication, but somehow managed not to. Exception questions focus on the specifics. Who? What? When? Where? and most important, How?

“It seems like you have been struggling with these problems off and on for a fairly long time. Except when, when in the past month or even the past year did these problems not exist, or at least they didn’t seem so bad?”

“What was the difference between then and now?”

“How did you do that?”

“You say you didn’t feel like attending group last week but you did anyway, what did you do that made you decide to keep your commitment to the court?”

“Tell me about a time when you wanted to stop taking your medications but you didn’t.”

Part IV: Strategies for Therapeutic Dialogue



- Summary skills for solution-focused interviewing

Goal-Formation Questions:

Goal-formation questions are another variation of exploring for difference by asking court participants to conceptualize what would have to change in order to achieve program completion.

“What will likely be different in your behavior when you have managed to complete this program?”

“What changes do you think you will see in your relationship with your family that will tell you all this has been successful?”

“What do you plan to do differently in phase 3 of the program that will prepare you to advance to phase 4?”

Part IV: Strategies for Therapeutic Dialogue



- Summary skills for solution-focused interviewing

Scaling:

Scaling questions facilitate the defendant's ability to conceptualize observations, impressions, experience, and predictions along a numerical continuum of probability usually from 0 (lowest) to 10 (highest). This question format has significant versatility and can be used to help assess the defendant's perception of almost anything, including investment or motivation for change, willingness to work to bring about change, prioritizing problems to be solved, perception of hopefulness for change, evaluation of progress, etc.

“On a scale of 1 to 10, with 1 being not at all, how serious are you about participating in the mental health court program?”

“How committed are you to your mental health treatment plan on a scale of 1 to 10 with 1 being totally uncommitted?”

“On a scale of 1 to 10 with 10 being totally confident, how confident are you that you will successfully complete the mental health court program?”

Part IV: Strategies for Therapeutic Dialogue



- Summary skills for solution-focused interviewing

Coping Questions:

Another type of questioning that shifts the defendant away from the perceptual (problem oriented) domain, to the conceptual (solution oriented) domain, are questions about what the defendant does currently or has done historically to manage stressful circumstances.

“While you have been in jail for the past three months, what did you do to help yourself cope with that situation?”

“When you realized that you missed your therapy appointment last week and had violated the requirements of the program, what did you do that gave you some courage to come to court today?”

“How have you managed to get this far in life without killing yourself through drug abuse?”

Part IV: Strategies for Therapeutic Dialogue



Scaling Questions

- *“On a scale of 1 to 10, with 1 being not at all, how serious are you about participating in the mental health court program?”*
- *“How committed are you to your mental health treatment plan on a scale of 1 to 10 with 1 being totally uncommitted?”*

Coping Questions

- *“When you realized that you missed your therapy appointment last week and had violated the requirements of the program, what did you do that gave you some courage to come to court today?”*

Part IV: Strategies for Therapeutic Dialogue



- Summary skills for solution-focused interviewing

Indirect Questions:

This question format focuses directly on someone external to the defendant (therefore indirectly on the defendant) and what the impact of change might have on that person or how that person may relate to the change process.

“What effect do you think this situation has had on your family?”

“What difference would it mean to your children if you successfully complete the mental health court program?”

“How do you think the changes you are making will impact your relationship with your parents?”

Part IV: Strategies for Therapeutic Dialogue



Motivational Dialogue

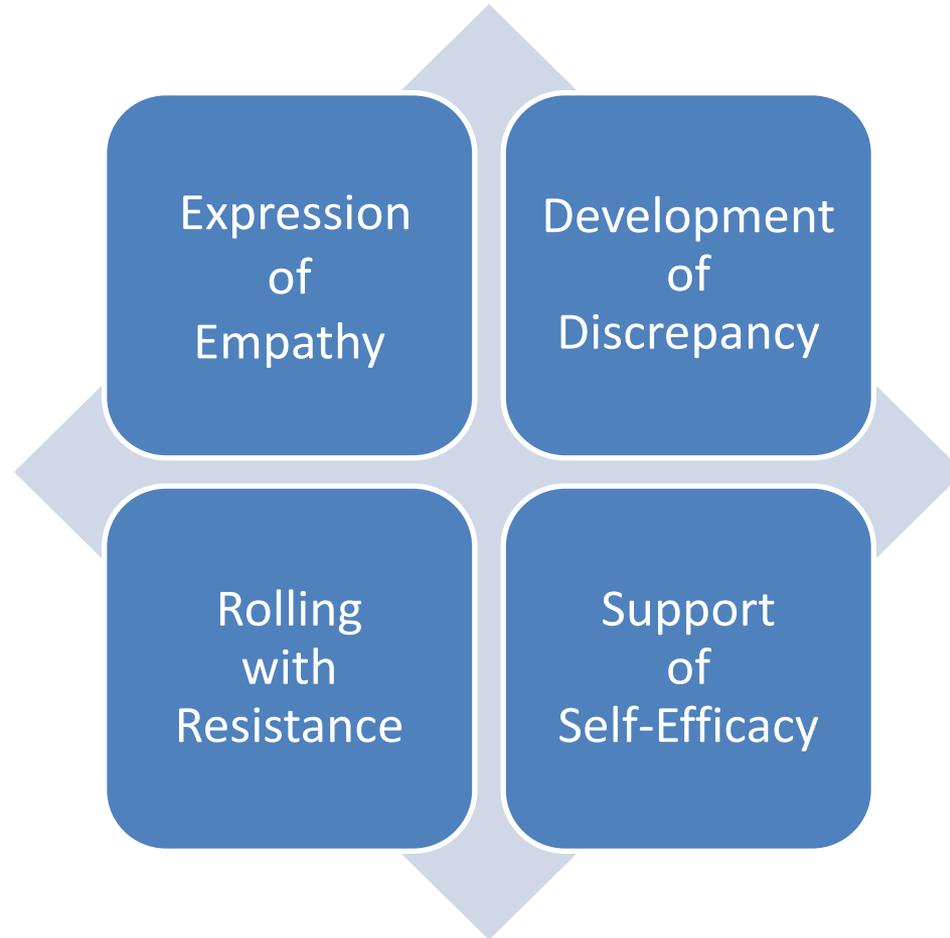
(Facilitating the birth of personal motivation for change)

Part IV: Strategies for Therapeutic Dialogue



- Motivational interviewing was originally developed in the 1980's by William Miller, Ph.D and Stephen Rollnick, Ph.D, as a person-centered strategy for assisting clients in the process of making commitments to behavior change.
- The fundamental premise behind motivational interviewing is the resolution of *ambivalence* as a way to facilitate adaptive behavior change.
- A relevant starting point for motivational interviewing is an initial assessment of the defendant's *readiness for change*.
- Beyond the initial assessment of ambivalence are the four primary principles that constitute the practice of motivational interviewing.

Part IV: Strategies for Therapeutic Dialogue



Part IV: Strategies for Therapeutic Dialogue



The four central principles of motivational interviewing in practice are:

Express Empathy by using reflective listening to convey understanding of the client's message;

Develop Discrepancy between the client's most deeply held values and current behavior (dissonance);

Roll with Resistance by meeting it with reflection rather than confrontation; and

Support Self-Efficacy by building confidence that change is possible.

Part IV: Strategies for Therapeutic Dialogue



- Expressing Empathy:
 - Although primarily applicable in clinical environments, empathy may be equally useful in criminal justice systems focused on behavior change as the foundation of *restorative justice*.
 - Empathy therefore is not an emotional alignment with the defendant in which the judicial practitioner experiences the same affective states as the defendant, but an alignment of deep understanding which communicates meaningful attention and interest in the individual distinct from either their crime or their illness.
 - It is important to recognize that an alignment of understanding between Judge and defendant does not negate the exercise of legal accountability and the imposition of consequences for criminal conduct.

Part IV: Strategies for Therapeutic Dialogue



- Empathic Affirmation:

When defendants perceive empathy on the part of the interviewer, they become more open to challenges about lifestyle issues and beliefs about personal conduct. They become more comfortable fully examining their ambivalence about change and less likely to defend the barriers of denial (rationalization, minimization, projection of blame, etc.). In short, the interviewer's accurate understanding of the defendant's experience helps to facilitate change.

“I can see that the thought of having a mental illness is troubling to you, as it would be for anyone.”

“I can understand that when you realized you missed your medication appointment you were fearful about coming to court and then just panicked and took off.”

Part IV: Strategies for Therapeutic Dialogue



- **Development of Discrepancy:**

Discrepancy refers to the process of making distinctions between self-defeating actions and more valued courses of action that are consistent with the defendant's intrinsic worth. This involves helping the defendant to elicit and identify those life aspects that are more enduring and meaningful and which stand at variance with current patterns of less-productive behavior. In the process of developing discrepancy, the defendant is assisted in shifting their decisional balance in favor of more effective and rewarding choices.

The judicial practitioner must gain a deep level understanding of what is truly meaningful and significant to the defendant relative to both immediate and longer-term goals and objectives. In addition, it is important that the practitioner acquire a clear understanding of the defendant's value and belief systems in order to assist in the transition out of the position of ambivalence toward commitment and action for self-change.

Part IV: Strategies for Therapeutic Dialogue



- Discrepancy Questions:

Discrepancy questions help create a gap between where the individual is currently, or has been recently, and where they want to be at the conclusion of the mental health court program, such as:

“What do you imagine your life will be like a month from now if you continue to skip medication doses?”

“What did you like about the way your life was going when you were not taking medication regularly?”

“How do you anticipate that missing your therapy appointments will help you complete the mental health court program?”

“What are some of the positive things and some of the negative things about your participation in the program right now?”

Part IV: Strategies for Therapeutic Dialogue



- **Rolling with Resistance:**

The phrase “rolling with resistance” portrays the characteristic of flexibility on the part of the mental health court practitioner. The practitioner must recognize that resistance or difficulty in adherence to judicial prescriptions and rehabilitative plans and goals often demonstrates the energy inherent in the mechanism of ambivalence.

Rolling with resistance does not necessarily mean that the court simply tolerates a defendant’s failure to adhere to the legal and clinical requirements of the program.

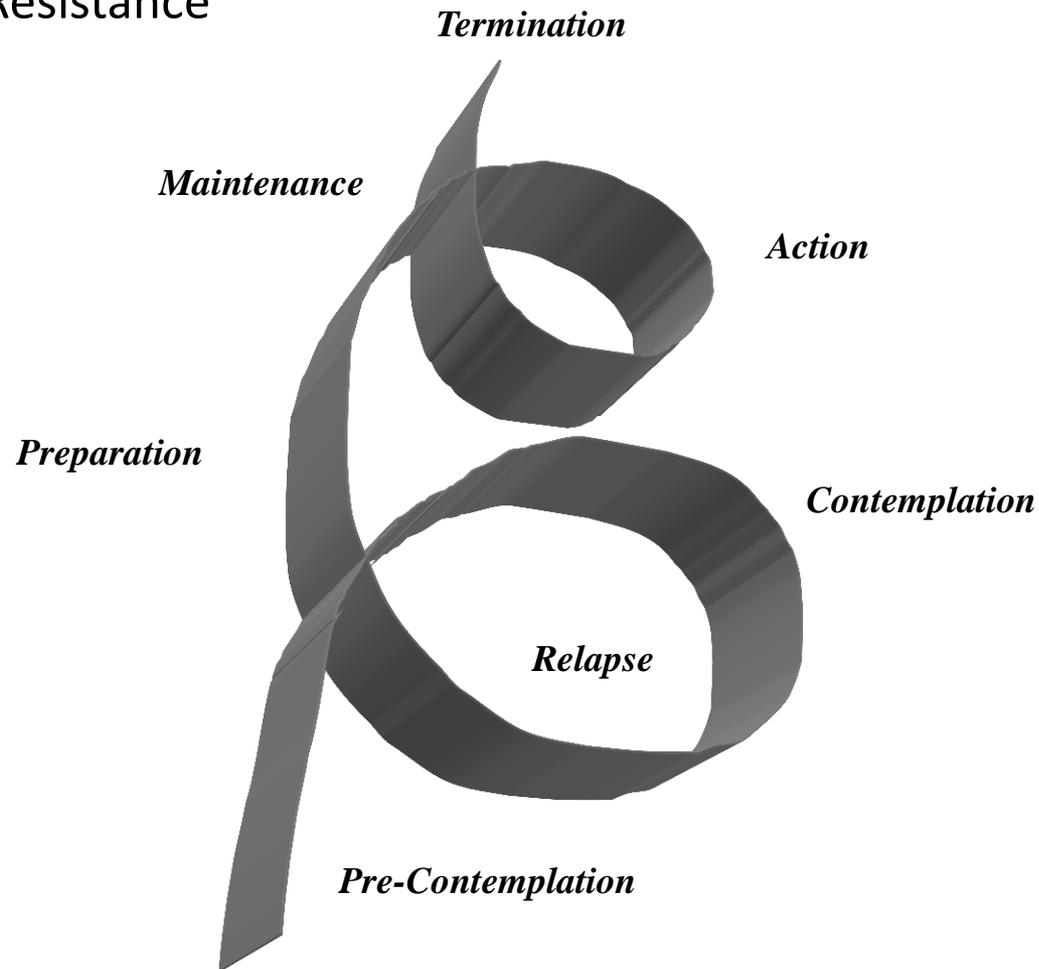
The exercise of empathy and flexibility in the management of ambivalence, represents the alternative approach in the mental health court and is characteristic of what is termed “compassionate accountability.”

Compassionate accountability does not exclude the adversarial possibility of judicial sanctions that may include incarceration, but works to place the judicial requirements of the court, including consequential sanctions, within the context of respect for the defendant’s self-directed choices and respect for the principle of responsibility that must necessarily attend every choice that is made.

Part IV: Strategies for Therapeutic Dialogue



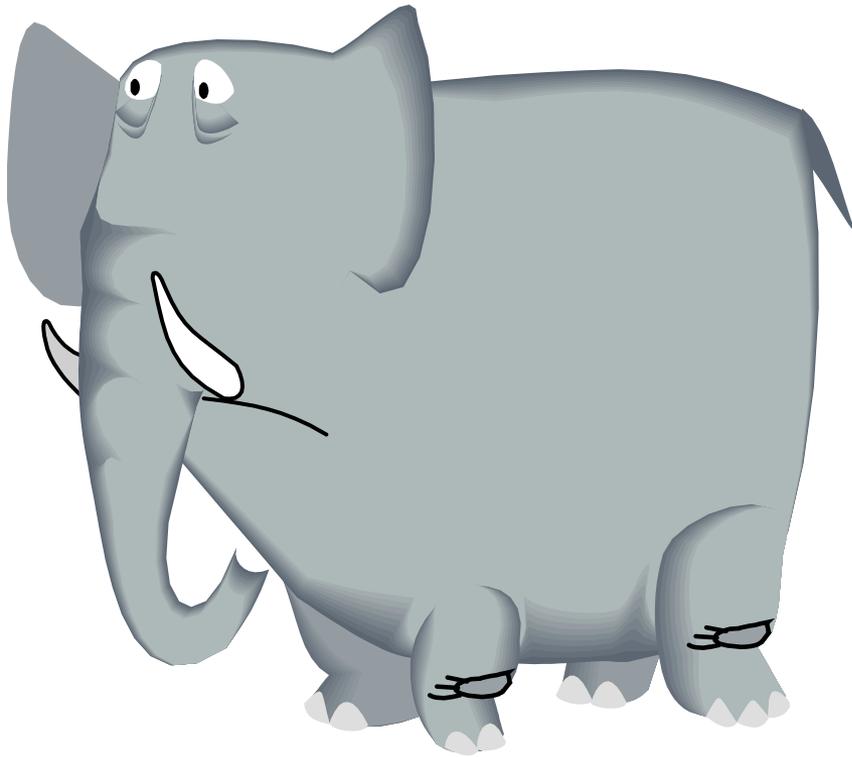
- The Reality of Resistance



Part IV: Strategies for Therapeutic Dialogue



- Conceptualizing Resistance – Patterns of Denial – The Elephant in the Living Room



DENY

MINIMIZE

RATIONALIZE

PROJECT BLAME

Part IV: Strategies for Therapeutic Dialogue



- **Rolling with Resistance:**

Rather than always meeting a defendant's counter-motivation with direct confrontation so as to place the judicial interview within a competitive context or otherwise an assertion of power, interviewers are encouraged when possible to utilize reflection and/or discrepancy in order to re-direct the struggle toward the process of change.

Defendant: "At least I have a place to live, so what if my roommates drink occasionally, it doesn't bother me too much."

Interviewer: "So even though you're in conflict with the rules of the program, at least for now you have a roof over your head."

Defendant: "I'm not sure I should be in this program with all the groups I'm supposed to go to and the fact that it will take me longer to get through than if I just did my time in jail."

Interviewer: "So you're not sure if it's worth the time and effort to be successful and make your life different."

Part IV: Strategies for Therapeutic Dialogue

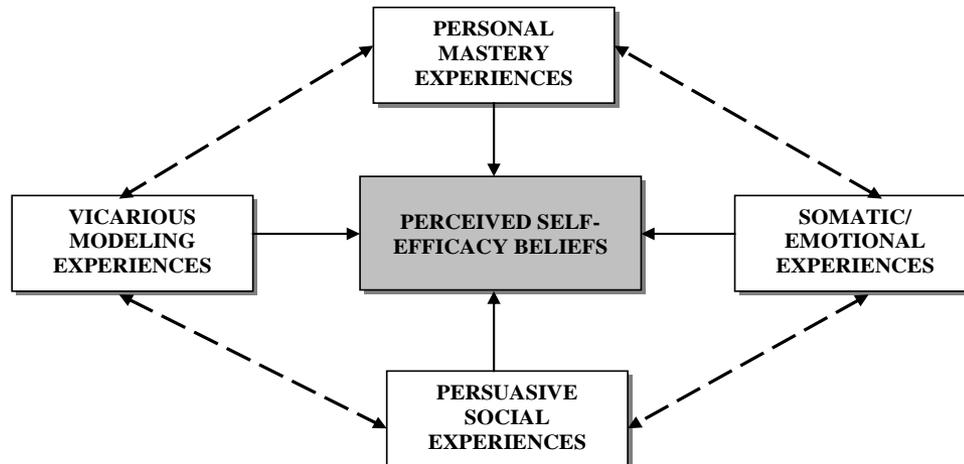


- **Support of Self-Efficacy**

Self-efficacy beliefs are judgments individuals make about their capability to succeed or perform effectively.

How capable we perceive ourselves related to any given task or challenge influences our thought and behavior.

Whether we think productively, destructively, pessimistically or optimistically and how well we motivate ourselves and persevere in the face of adversity is influenced by our perceived self-efficacy.



Part IV: Strategies for Therapeutic Dialogue



The Four Domains for Building Self-Efficacy

Personal
Mastery
Experiences

Vicarious
Modeling
Experiences

Persuasive
Social
Experiences

Somatic /
Emotional
Experiences

Part IV: Strategies for Therapeutic Dialogue



- **Personal Mastery Experiences**

The most influential source for the formation of self-efficacy is the interpreted result of a defendant's previous performance, or what are referred to as mastery 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 judicial and clinical activities of the mental health court program are designed to provide program participants with mastery experiences through which they can enhance their perception individual capability.

Part IV: Strategies for Therapeutic Dialogue



- **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 positively stimulate the observer's consideration of 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.

Part IV: Strategies for Therapeutic Dialogue



- **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 mental health court program participants are afforded the opportunity to experience frequent and consistent positive verbal affirmations as well as genuine and constructive verbal judgments.

Social persuaders, such as the presiding judge in the mental health court, play an important role in the program.

Through the persuasive process, which is not to be confused with trivial, empty, meaningless or gratuitous praise, mentally ill offenders 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 legal and clinical goals and objectives are in fact attainable.

Part IV: Strategies for Therapeutic Dialogue



- Somatic / Emotional Experiences

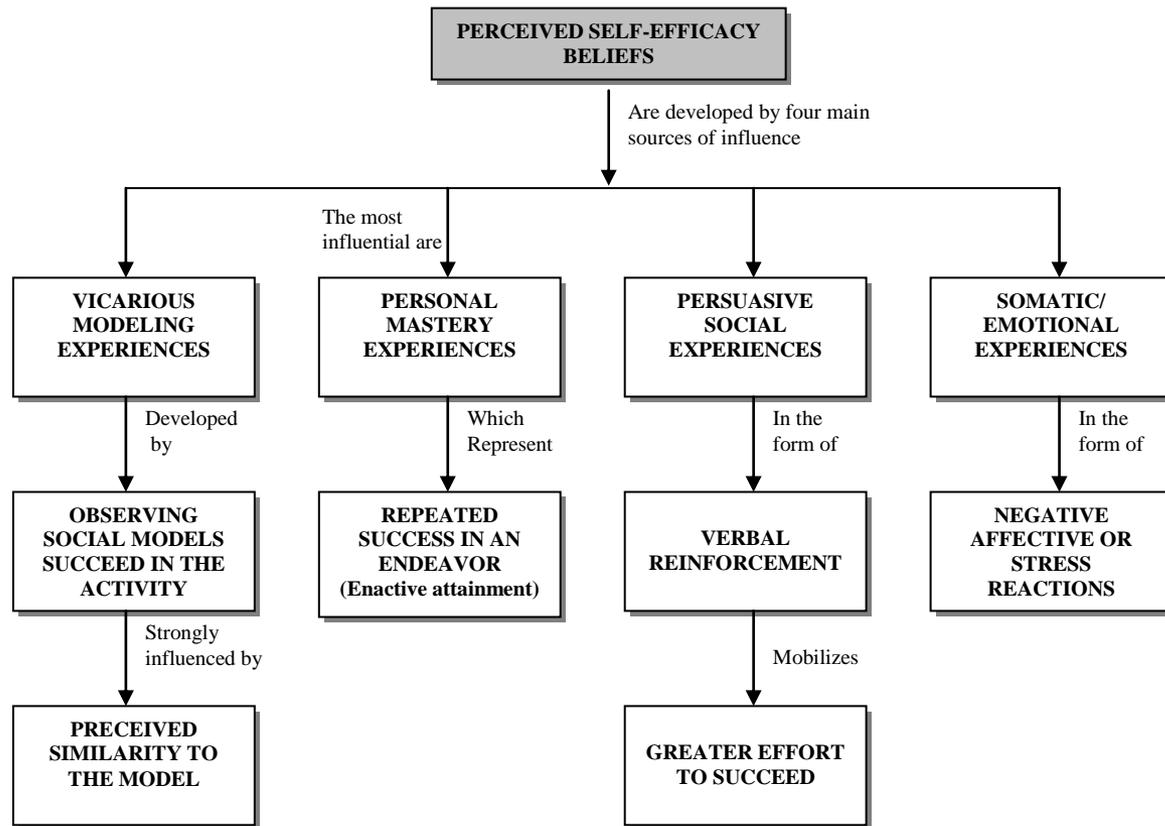
Somatic and emotional states also provide cues about efficacy beliefs as individuals often gauge their degree of confidence by their emotional perceptions as they contemplate an action.

Strong emotional reactions of fear, apprehension, dread, or anxiety provide signals regarding the anticipated outcome of either success or failure in any given 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 and curriculums which target the improvement of physical and emotional states.

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 away from the limitations of ambivalence toward the direction of enhanced motivation for program engagement and completion.

Part IV: Strategies for Therapeutic Dialogue



Part IV: Strategies for Therapeutic Dialogue



Expressing Empathy

- Communicating an understanding, but not sharing (i.e., sympathy), the emotional situation of the defendant.

Developing Discrepancy

- Raising the level of the defendant's cognitive or emotional dissonance by contrasting intrinsic worth with self-defeating behavior.

Rolling with Resistance

- Avoiding power struggles by sidestepping the defendant's resistance and finding other ways to respond than by direct argument.

Supporting Self-Efficacy

- Encouraging the defendant's perception of competence through verbal persuasion.

Part IV: Strategies for Therapeutic Dialogue



- Motivational Dialogue Skills – O.A.R.S.

- *Open-ended questions:*

Helps individuals explore their own thinking.

- *Affirmations:*

Helps individuals acknowledge their strengths.

- *Reflective listening:*

Helps individuals know that they are understood.

- *Summary statements:*

Helps individuals bring closure to the discussion and transition to the next topic.



Part V: Strategies for Therapeutic Dialogue



- Summary Skills for Motivational Interviewing:

Open-ended questioning

Open questioning forms an integral part of building rapport with program participants. Practitioners are encouraged to ask questions in such a way that the defendant is given the opportunity to elaborate and provide sufficient detail necessary for the practitioner to properly assess and understand the defendant's current situation and life experience. Open-ended questioning is the same practice skill utilized in solution-focused interviewing explained previously. For example:

“Tell me about your some of your group activities this past week, what did you find useful?” vs. “Did you keep your therapy appointments last week?” (A limited choice of response requiring a simple yes or no answer).

“You look more relaxed today, what’s been different in your life this past week?” vs. “Has anything been different in your life this past week?”

“How do you feel you benefit from participating in the Clubhouse program?” vs. “Do you feel you benefit from going to the Clubhouse?”

Part IV: Strategies for Therapeutic Dialogue



- Summary Skills for Motivational Interviewing:

Reflective listening

Reflective statements are particularly useful for addressing counter-motivational behavior. Such statements convey that the interviewer is listening and hearing what the defendant is saying, which in turn communicates a sense of interest and respect.

In particular, there are three distinct forms of reflective listening used in motivational interviewing, each useful in encouraging the participant to continue an internal exploration of their experience. These three forms include:

Simple Reflection

Amplified Reflection

Double-sided Reflection

Part IV: Strategies for Therapeutic Dialogue



- Summary Skills for Motivational Interviewing:

Simple Reflection:

Restating the content, feeling or meaning of the defendant's communication in a generally neutral manner without adding additional content so as to facilitate further exploration, such as:

Defendant: I don't think I can handle attending three groups a week.

Interviewer: You think three groups a week will be too much to deal with?

Amplified Reflection:

Restating the defendant's communication with increased intensity or exaggerated form, such as:

Defendant: I don't think I can handle attending three groups a week.

Interviewer: So you think attending three groups a week will just be completely devastating?

Double-sided Reflection:

Reflecting both sides of the ambivalence the defendant experiences so as to provide an opportunity to juxtapose discrepant statements, such as:

Defendant: I don't think I can handle attending three groups a week.

*Interviewer: So on the one hand you don't **think** you can manage three groups a week, but on the other hand, you're not completely sure about that, right?*

Part IV: Strategies for Therapeutic Dialogue



- Summary Skills for Motivational Interviewing:

Affirmation

Affirmations provide program participants the experience of recognition and appreciation through the use of complimentary statements.

Direct affirmations offer further support in the process of identifying previous success experiences as discussed relative to the promotion of self-efficacy as well as playing a key role in the development and maintenance of therapeutic rapport.

“From what you have described, I think we can understand your concern about how much time and effort the program involves as opposed to just doing your time in jail.”

“Based on your experience, I can see how you might think that nothing in your life ever seems to go right.”

“It seems clear, given all the lack of treatment success you’ve had in the past, that you have a hard time trusting that more mental health treatment will make any difference in your life.”

Part IV: Strategies for Therapeutic Dialogue



- Summary Skills for Motivational Interviewing:

Summarizing

Summarizing is the technique of collating multiple items of information for the purposes of linking relative elements together to facilitate the defendant's reflection and transition away from a position of ambivalence.

Summaries communicate and demonstrate active listening and promote further exploration as well as opportunities for the defendant to correct information that the interviewer may have misunderstood or misinterpreted.

As in solution-focused interviewing, this dialogue activity recounts a brief summary of what the interviewer heard regarding the thoughts, actions, and feelings of the defendant. For example:

"Now let me see if I understand what you just said ..."

"Now if I heard you correctly you said ..."

"Tell me if I'm getting this right, you feel ..."

Part IV: Strategies for Therapeutic Dialogue



- **Summary Skills for Motivational Interviewing:**

Eliciting self-motivational statements

The role of the judicial interviewer is not to talk people into changing maladaptive or self-defeating behavior or to impose a curriculum of clinical or judicial rehabilitation, but instead to facilitate the defendant's legal and/or clinical recovery process.

In part, this is accomplished by minimizing the barrier of ambivalence so that the defendant becomes their own advocate for change.

As self-motivational statements are elicited, they begin to impact the defendant's decisional balance in favor of change.

Self-motivational statements are direct pronouncements by the defendant of some aspect of change which suggest that the defendant is advancing in their readiness, willingness, and perceived ability to change some aspect of their life.

Recognition and emphasis of self-motivational statements through reflection, summarizing, reframing, and affirmation is important in the process of the defendant's movement from a position of ambivalence to full commitment and the action of behavior change.

Part IV: Strategies for Therapeutic Dialogue



- **Summary Skills for Motivational Interviewing:**

Motivational statements about the desire to change:

“I want to stop having to go to the hospital because I went off my medications.”

“I wish I could do something to make my life better.”

“I don’t want to have to go back to jail again.”

“I would like to be able to get my kids back.”

Motivational statements about the ability to change:

“I think I could attend the day program three days a week.”

“I could probably find a community service activity.”

“I’m thinking I can do some volunteer work.”

“With the help of my case manager, I can probably find a part-time job.”

Motivational statements about the reasons or the need to change:

“I have to solve my anger problems so I don’t risk losing my job.”

“If I don’t keep on my medications I’ll end up in the hospital.”

“I might lose my apartment unless I can manage my income better.”

“My wife says she’ll leave me if I get one more DUI.”

Part IV: Strategies for Therapeutic Dialogue



- **Summary Skills for Motivational Interviewing:**

Decisional Balance

Effective decision making is central in order to move effectively through the continuum of change to commitment for action.

The decision to take action sooner, rather than later, is usually preceded by an evaluation of the pros and cons of a problem behavior.

Preparation for action lies in the balance between an individual's perception of the advantages (pros) and the disadvantages (cons) of behavior change.

The purpose of decisional balance then is to have the defendant openly compare the costs and benefits of their conduct as it pertains to the judicial and clinical aspects of the mental health court program. For example:

"It seems like you have had a consistent pattern over the past several years of avoiding treatment." "What have you found to be of value in that, and what's been the cost?"

"What advantage do you think you might get if your life just stays the same?" "What do you think might happen negatively if you decide you don't want to do anything different?"

Part IV: Strategies for Therapeutic Dialogue



Transformational Dialogue

(Facilitating the birth of a more enriched representational model)

Part IV: Strategies for Therapeutic Dialogue



- Transformational Linguistics

Human language systems are one way in which human beings represent their personal experience, and that the representation of human experience is the construction of a linguistic model of the world.

An introduction to this linguistic system focuses on the structure of language and communication as the gateway to understanding how the individual maps the territory in the world in which they live.

How we represent the perceived world through language in turn influences our experience, our perception, and the choices we see available at any given moment. This distinction between our representation of the world and the world itself is the basic concept of map territory relations forwarded by Swiss mathematician Alfred Korzybski and further expanded by such individuals as Gregory Bateson, Richard Bandler and John Grinder.

Once the defendant's representational process is discovered, dialogue with the defendant in the mental health court status hearing will have a greater transformational possibility and enrichment from the level of merely talk to the level of meaningful communication.

Part IV: Strategies Therapeutic Dialogue



- **Maps of Reality**

All individuals create models or representations (maps) of the world they perceive. Differences in models can impact social perceptions in ways that either enrich experience through choice and opportunity or impoverish experience thereby limiting one's ability to act appropriately and effectively.

The fundamental premise of transformational linguistics is that language serves as a representational system or map for our experiences. But we typically **Generalize, Delete,** and **Distort** information subsequently obscuring the connection to its deeper meaning.

Models that contain generalized, deleted, and distorted perspectives of the world result in impoverished life experience and limited behavioral options.

Challenging the processes of Generalization, Deletion, and Distortion works to help recover a fuller and more enriched representation of reality. By expanding the defendant's impoverished model or representation of their reality, options for individual choice about daily living can also be expanded.

Part IV: Strategies for Therapeutic Dialogue



- Application

An introductory step to the use of transformational grammar requires the recognition and understanding of three specific and universal processes by which human beings error in confusing their map or model (representation) of the world (the territory), with the territory itself.

Mistaking the map for the territory generally functions to narrow the perspective and therefore the range of choice and opportunity for personal and social fulfillment.

An impoverished model of reality devoid of possibility leads to the repetitive cycle of self-defeating behavior and the experience of predicament often characteristic of the mentally ill offender.

Part IV: Strategies for Therapeutic Dialogue



Processes of Human Modeling

Generalization

Distortion

Deletion

Part IV: Strategies for Therapeutic Dialogue



- Processes of Human Modeling:

Generalization

Generalization refers to the process by which certain elements or the specific detail of one's experience are obscured or lost altogether which may impoverish the defendant's model of the world and prevent them from making appropriate distinctions which would allow a broader scope of choices for coping with stress specific events.

Generalization may subsequently expand a painful experience to an insurmountable or even a universal level preventing any realistic consideration of the possibility for resolution and can lead to severe social restrictions and serious road blocks to healthy problem solving.

In the process of the judicial interview, as generalizations are recognized they may be appropriately challenged in efforts to re-connect the defendant's impoverished model with their actual experience, as well as reduce the obstacles to effective coping, restore detail and expand the perception of choice and possibility.

Part IV: Strategies for Therapeutic Dialogue



- **Forms of Generalization:**

Universal Quantifiers: (Generalizations that preclude any exceptions)

A variation of generalized language which lacks specificity relative to referential indices is the case of the universal quantifier. Universal quantifiers are words such as *all, every, any, none, never, nothing, etc.*

Defendant: “No one pays any attention to what I say.”

Judge: “Are you telling me that **NOBODY EVER** pays **ANY** attention to **ANYTHING** you say?”

Defendant: “Well not exactly.”

Judge: “OK, then; who specifically, doesn’t pay attention to what you say?”

The technique in this case is to emphasize the defendant’s universal quantifier by exaggerating it both in voice quality and inserting additional universal quantifiers in the defendant’s original communication. This challenge identifies and emphasizes the generalization in the defendant’s model while at the same time asks if there are any exceptions to their generalization.

Part IV: Strategies for Therapeutic Dialogue



- Forms of Generalization

Modal operators of necessity:

Words that require a particular action (e.g. should, shouldn't, must, must not, have to, etc.).

It is possible for people to limit their range of response options in any given circumstance through belief or assumption about what they should or shouldn't do.

Sometimes beliefs about the context of proper social conduct are held unnecessarily which unnecessarily limits the range of choice and option.

Statements reflecting beliefs, assumptions, or rationalizations about prescribed conduct usually contain cue words such as: "should", "must", "have to", or some variation of these operators.

For example a defendant might say:

"I had to see my old boyfriend even though I had a no contact order because he ..."

"I have to because ..."

"I must ..."

Part IV: Strategies for Therapeutic Dialogue



The opportunity for discovery in part comes about by merely asking "What would happen if ...?"

Defendant: "I had to see my old boyfriend because he was stranded and didn't have a ride to his probation meeting and that would have gotten him in trouble."

Judge: "What would have happened if you obeyed the no contact order and told him you couldn't see him?"

Defendant: "He would have probably missed his probation meeting and might have gone to jail."

Judge: "And why is it your responsibility to make sure he keeps his probation meeting?"

Defendant: "It's not I guess, but I was just trying to be a Good Samaritan."

Judge: "What would happen if you focused on your own responsibilities rather than sacrificing yours in order to assume someone else's?" "How would that benefit you in the long run?"

Defendant: "I suppose I wouldn't be standing here trying to explain why I violated a no contact order and putting myself at risk to go to jail."

Part IV: Strategies for Therapeutic Dialogue



- Forms of Generalization:

- **Modal operators of possibility:**

This involves the use of words that imply limitations of choice (e.g. can't, haven't, won't, etc.). As these are communicated by the defendant, the interviewer typically should ask: what would happen if ...? What is stopping you from . . ? What prevents you from ...?

There are many things in daily life that are possible but are believed to be either out of reach or obstructed from acquisition. Consider the following examples:

"I can't do groups"

"I won't be able to find a job"

"I can't get any breaks in life"

"It's impossible for me to get up in the morning"

These examples show limitations that are based on individual belief or assumption — not objective fact. When personal limitations are established relative to our belief or presupposition it is often possible to expand the perception of possibility by altering the underlying context of belief that interferes with the individual's perspective.

Part IV: Strategies for Therapeutic Dialogue



- Forms of Generalization:

Challenging model operators of possibility

The words 'cannot' and 'impossible' are barriers of predicament that betray an underlying belief structure or pattern of thinking. We often interpret such words as a reflection of absolute realities that are not typically subject to change.

Someone who says they can't do something is really just someone who imposes a limitation consistent within a certain context of experience while usually maintaining an unwillingness to broaden their experience.

In order to see through a belief statement, the judicial interviewers should replace "I can't" with "I won't". This shows that it is a choice and not an absolute fact. For example, changing "I can't give a speech in front of a thousand people" to "I won't give a speech in front of a thousand people" clarifies that the individual is making a reasoned choice. It may be a valid choice — giving a speech in front of a thousand people is a difficult task — but it isn't impossible.

Another approach to take is to ask the person *"what would happen if you did?"* or *"what stops you?"* or *"how do you stop yourself?"* These questions help further clarify what is preventing the individual from achieving something and can provide further insight into how to move forward.

Part IV: Strategies for Therapeutic Dialogue



- **Processes of Human Modeling**

- **Deletion**

- The mechanism of deletion is a process whereby the individual excludes in their communication, portions of their original experience so that the information conveyed is incomplete.

- The poverty of information is often characteristic of the poverty of the defendant's interpretive model of reality.

- Native speakers of English can intuitively recognize the structure of surface communication that contains omissions of information fairly easily, once deletions are recognized, the interviewer can then ask for the missing detail in order to broaden the defendant's perspective of their experience.

- Over the course of time, defendants from whom the interviewer consistently elicits deleted content in the process of the judicial interview will begin to self-recognize this mechanism and preempt the request for added content.

- In this way, the mentally ill offender will hopefully be assisted in developing a greater sensitivity to this form of linguistic modeling, which may then generalize to other social venues as well as the defendant's overall experiential process of perception and communication.

Part IV: Strategies for Therapeutic Dialogue



- **Forms of Deletion:**

- Unspecified nouns:

- Any noun that has as many meanings as there are people using that noun. For example:

- *“I don’t think I can take this anymore.”*

- On the surface, in the case above, there is no specificity or clarity with respect to the noun phrase or arguments to complete the linguistic representation. Subsequently, the representation is impoverished and leads the interviewer intuitively to ask for the missing detail. For example:

- *Defendant: “I don’t think I can take this anymore”.*

- *Judge: “You don’t think you can take what, exactly?”*

- *Defendant: “I don’t think I can take all these problems.”*

- *Judge: “What problems, specifically?”*

- *Defendant: “The problems that result from drinking.”*

- *Judge: “And what exactly are those problems?”*

- Here, the judicial interviewer continues to ask directly for the deleted information in order to structure the defendant’s communication so as to reveal the full linguistic representation of their experience.

Part IV: Strategies for Therapeutic Dialogue



- **Processes of Human Modeling**

- **Distortion** (process v. event)

- A common way in which individuals become restricted or limited in their consideration of change is to represent an ongoing process as a single event.

- An event is defined as something which occurs at a single point in time for a specific duration of time and then is concluded or closed with respect to further change. Once the event has occurred, its subsequent outcome is perceived as terminal. This way of representing experience is impoverishing as the individual, from this perspective, relinquishes control of the possibility for change, once a process is restricted to an event.

- The linguistic mechanism for transforming a process into an event is called nominalization whereby a process word or verb in the individual's speech appears an event word, or noun.

- Through the aid of the judicial midwife, the individual is helped to see that what the individual has represented in their model as a closed, terminal event, is in fact an ongoing process in which the individual still has a participatory role.

Part IV: Strategies for Therapeutic Dialogue



- **Forms of Distortion:**

- Nominalization:

- As the linguistic mechanism of nominalization transforms an active process into a static event, reversing nominalization assists the mental health court client in re-connecting their restrictive representational model with the actual ongoing dynamic process of daily living.

- The notion of process is consistent with the conceptualization of the mental health court program as an ascending continuum of the stages of change toward mental health recovery and legal reconciliation.

- The transformation of nominalizations from an event specific representation to a process representation is accomplished through the following steps:

- 1. Listen to the surface communication presented by the defendant;
 2. For each element that is not a verb or process word consider whether or not it describes some event which is actually a process in the real world;
 3. Test to see if the event word fits into the blank in the syntactic frame, *an ongoing _____*;
 4. Translate the nominalized representation back into an ongoing process representation.

Part IV: Strategies for Therapeutic Dialogue



- Transforming Nominalizations

Concrete nouns in language (i.e., desk, chair, table, etc.) can be visualized in an imaginary wheelbarrow.

However, abstract nouns, as distorted forms of verbs (i.e., relationship, pain, decision, responsibility, etc.), cannot be logically visualized as such.



Once the nominalization is identified, the interviewer can then proceed with a transformational dialogue to assist the speaker in understanding his role as an active participant. For example:

Defendant: “My relationship with my girlfriend isn’t working out.”

Judge: “How is the way you are relating to your girlfriend not working out for you?”

Defendant: “Sometimes I regret my decision to enter the mental health court program.”

Judge: “What specifically is regrettable about you’re deciding to participate in this program?”



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