

Justice for Trust Beneficiaries Initiative

PROBLEM STATEMENT

Beneficiaries of the Mental Health Trust are at increased risk of involvement with in the criminal justice system both as defendants and as victims. Trust beneficiaries who have committed no crime are incarcerated nearly four thousand times each year because appropriate service alternatives are not available to provide for their safety and treatment. Thousands more are arrested, prosecuted and incarcerated for minor “nuisance” or “status” offenses that result from their mental disability rather than criminal intent.

Limitations and deficiencies in the community emergency response, treatment, and support systems make criminal justice intervention the default emergency response to the conditions and resulting actions of many Trust beneficiaries. Deficiencies in the criminal justice system mean that most Trust beneficiaries are neither identified as experiencing a mental disability, appropriately treated while incarcerated, or linked to needed services and supports upon release. Standard court processes do not accommodate for their disabilities. Essential treatment and support services, including appropriate housing, are lacking or of inadequate capacity to prevent the need for criminal justice intervention or support effective court dispositions. These deficiencies too frequently result in a recurring cycle of deterioration in the condition or circumstances of Trust beneficiaries, repeat arrests and incarceration, victimization and a spiraling decline in the functioning and safety of beneficiaries who become involved with the criminal justice system.

A 1997 study indicated that up to 37% of persons in custody or under supervision of the Department of Corrections suffers from a mental illness – 12% with major psychiatric disorders. Most also suffer from a co-occurring substance use disorder. Approximately 15% of persons on probation or parole have mental disabilities. Because of their mental disabilities and the lack of adequate services and supports these persons have a far greater likelihood of being re-incarcerated for technical violations of their conditions of release – non-compliance that does not constitute a crime. They are also at increased risk of re-incarceration for criminal behavior because of inadequate pre-release planning, poor linkages with community services and because they too often do not receive the treatment and supports they need to succeed in the community.

Trust beneficiaries are at increased risk because they are more vulnerable to financial, physical, and sexual victimization and exploitation. However, the number of Trust beneficiaries who are victims of crime each year is unknown because victimization of persons with disabilities too often goes unrecognized and unreported or, if reported, not pursued because of the perceived limitations or lack of credibility of the victim. No effort has been made to systematically identify beneficiaries who are victims and link them to protective and supportive services. Nor are there special supports available for beneficiaries who are victimized even when they are identified. They must navigate a justice system inadequately prepared to accommodate or support them and are often unable to obtain justice and protection because of a lack of understanding, supports and accommodations throughout the criminal justice system.

Trust beneficiaries, particularly those with developmental disabilities or co-occurring disorders, are at special risk for sexual exploitation. They are also sometimes at increased risk of inappropriate sexual behavior because of their disabilities. Beneficiaries whose inappropriate sexual behavioral bring them into the criminal justice system encounter a system unprepared to effectively address their sexual behavior. They also

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face a service system with extremely limited and restrictive treatment and housing options. The nature of their offense, the perceived risk to others and associated liability concerns, and limited treatment expertise severely limits treatment and housing available to them.

Incarceration only reduces the most obvious and immediate danger presented by the condition and behavior of any beneficiary held. Jails and correctional facilities are not equipped to provide the medical care, monitoring, and treatment needed to assure the safety and promote the recovery of beneficiaries who are incarcerated. Substance abuse treatment has been virtually eliminated from Alaska's correctional system.

Incarceration does nothing to address the underlying conditions that result in the incarceration of beneficiaries. More often than not it fails to assist in linking beneficiaries with treatment and support services that are available in the community to address the conditions and both reduce risks and assist beneficiaries in recovery and successful adjustment in the community.

GOALS

1. Eliminate use of jails and prisons for providing protective custody of Trust beneficiaries under Title 47 of Alaska's Statutes.
2. Prevent and reduce inappropriate or avoidable arrest, prosecution, incarceration, and recidivism of Trust beneficiaries.
3. Ensure a continuum of services to Trust beneficiaries who require emergency intervention and/or protective custody or whose condition or behavior results in their involvement with the criminal justice system.
4. Make appropriate treatment and support resources timely available to Trust beneficiaries who become involved in the criminal justice system to:
 - a. improve their individual functioning in all life domains,
 - b. reduce the potential for further criminal justice involvement, and
 - c. reduce potential risks to the individuals and to the public.
5. Prevent and reduce victimization of Trust beneficiaries.
6. Increase the ability of the criminal justice system to accommodate, support, protect, and provide just treatment for victims and offenders who are Trust beneficiaries.

STRATEGIES

1. A focused effort over time to: 1) define and quantify problems and issues related to involvement of persons with mental disorders in the criminal justice system; 2) inform the public and policy-makers of the problems and effective solutions; and 3) support concentrated multi-disciplinary efforts of government and community leaders to effect needed change at state, regional, and community levels.
2. Systematic development of appropriate community-based crisis response and diversion alternatives to prevent inappropriate or unnecessary arrest, incarceration, and prosecution of persons with mental disabilities (e.g. community service patrols, sleep-off alternatives, detoxification services, law enforcement Crisis Intervention Teams, targeted case management, residential crisis stabilization – including alternatives providing choice for consumers seeking treatment options not involving psychiatric medication, etc.)

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3. Training for criminal justice personnel to assist in identifying and effectively responding to persons with mental disabilities.
4. Implementation/expansion of therapeutic justice models and practices within criminal court proceedings to identify, link, and provide scientifically-grounded therapeutic approach to use of incentives, sanctions, treatment and supports for achieving behavior change and supporting recovery.
5. Improved continuity of care between community and correctional treatment systems; implementing discharge planning and linkage to community-based treatment and supports to assist beneficiaries exiting the correctional system – either from short or long term incarceration.
6. Development of specialized and integrated treatment and support services for beneficiaries most at risk of crisis or coming into contact with the criminal justice system – those with co-occurring mental illness and substance abuse disorders or multiple disabilities including traumatic brain damage.
7. Development of a range of housing options specially targeted to Trust beneficiaries who have come into contact with the criminal justice system, including special emphasis on those excluded from most otherwise appropriate housing options – those convicted of a sexual offense or who present special behavioral challenges.
8. A targeted effort to define the nature and scope of the problem of criminal victimization of Trust beneficiaries and to develop an inventory of services and potential resources for beneficiaries who are victims of crimes, including financial victimization.
9. Increase knowledge and ability of people with developmental disabilities and other cognitive impairments and their care providers to avoid victimization through personal safety skills and the navigation of the criminal justice system.
10. Increase awareness of the needs and issues of people with developmental and other cognitive impairments who are victims of crimes or offenders and increase the criminal justice system's ability to recognize and respond effectively to victims and offenders with cognitive impairments