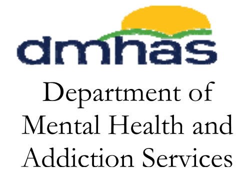
STATE OF CONNECTICUT
Department of Mental Health & Addiction Services



Commissioner's Policy Statement and Implementing Procedures

SUBJECT:	DMHAS Staff Interaction with the Criminal Justice System: Probation and Parole
P & P NUMBER:	Chapter 6.7
APPROVED:	Patricia Rehmer, Commissioner Date: October 20, 2011
EFFECTIVE DATE:	June 15, 2011
REVISED:	(Formerly "DMHAS Probation Policy/Interacting with Criminal Justice System") October 20, 2011
REFERENCES:	CGS 52-146e; CGS 17a-587; CGS 17a-589
FORMS AND ATTACHMENTS:	Guidelines for Working with DMHAS Clients Involved in the Criminal Justice System (rev April 2011)

STATEMENT OF PURPOSE: This policy provides guidelines for DMHAS staff who, in the course of their professional responsibilities, find it necessary to interact with Connecticut criminal justice personnel from the Court Support Services Division (CSSD) or the Department of Correction (DOC) regarding shared clients.

DMHAS recognizes that many of the individuals that we serve are also involved with the criminal justice system. Often that involvement entails a period of probation or parole, during which the individual is supervised by staff from CSSD for probation or DOC for parole. While DMHAS and the criminal justice system share a mutual interest in public safety, they have different and distinct functions. As advocates for those they serve, DMHAS treatment staff assists clients on probation/parole in understanding, dealing with and adhering to the specific conditions of their probation/parole, as well as provide the clinical and support services necessary to the client's recovery and success in the community.

In addition, CSSD/DOC personnel may establish certain conditions, including required participation in treatment, for the client to remain in the community on probation or parole. These conditions are placed upon the client, not upon DMHAS. Criminal justice personnel also have the legal right to require the client, as a condition of probation or parole, to sign a release of clinical information for DMHAS records or information so that they can effectively perform their supervision responsibilities. The fact that compliance with treatment is a condition of

probation/parole does not necessarily mean that the probation or parole officer has the right to review the Treatment Plan, progress notes or other medical records.

POLICY: DMHAS clients who are under the supervision of CSSD/DOC are provided the same array of clinical and support services as those without such supervision.

When DMHAS clients who are under the supervision of CSSD/DOC are asked to sign a valid release of information authorizing DMHAS staff to share their clinical protected health information with CSSD/DOC personnel, DMHAS staff will first discuss with the client the parameters of the information that will be provided to CSSD/DOC. Staff may also assist the client in negotiating the specific reporting requirements with CSSD/DOC.

Once the client has agreed to the parameters of the release, DMHAS staff will provide necessary and agreed-upon information to CSSD/DOC with the consent of the client, as per CGS 52-146e. DMHAS staff will facilitate an agreement among the client, CSSD/DOC, and DMHAS as to specific information to be disclosed. DMHAS staff will also receive information from CSSD/DOC staff that is helpful to the clinical and support services provided to the client. This exchange of information ideally will assist clients in their management of community life. However, as long as the client consents to the release of information, DMHAS staff must accurately report the agreed-upon information about participation in and response to treatment, even when this information reflects deficits in the client's treatment participation and progress.

Despite this exchange of information and potential collaboration on matters such as housing, CSSD/DOC personnel are not members of the treatment team and should not be treated as such. In other words, CSSD/DOC personnel are only entitled to the specific information released by the client, but not to the full range of discussions and exchange of information that occur in treatment planning processes.

PROCEDURES: Each DMHAS facility or program shall adopt procedures and supervisory processes that are consistent with this policy and provide guidance to staff about interaction with CSSD/DOC personnel in relation to conditions of probation or parole. Facilities should utilize the attached "Guidelines for Working with DMHAS Clients Involved in the Criminal Justice System" in providing guidance and establishing procedures and supervisory processes.

Facilities or programs that serve clients who are under the jurisdiction of the Psychiatric Security Review Board (PSRB) will adopt special procedures for situations in which probation officers are ordered by the PSRB to supervise clients who are on Temporary Leave (TL) from inpatient facilities or living in the community on Conditional Release (CR) under provisions of CGS Sections 17a-587 and 17a-589, respectively. Such procedures will acknowledge the supervision responsibility assigned to the probation officer by the PSRB, but the exchange of clinical information will still require the written consent of the client (as noted above). The clinical team will establish, in collaboration with the probation officer, an individualized plan for such supervision, based on clinical data and risk management factors. Interactions between the clinical team and the probation officer designated to supervise the client on TL or CR will adhere to the

following principles:

- The clinical team remains in charge of the clinical treatment.
- The probation officer is not a member of the treatment team, and does not participate in the full treatment planning and review process.
- The supervisory responsibilities of the probation officer will be acknowledged in the Treatment Plan, including an articulation of any necessary interactions with the treatment team for which the client's consent is required.
- The treatment team will work with the client and the designated probation officer to negotiate areas of potential overlapping concern (e.g., housing, restrictions on movement, monitoring of urine toxicology screens, etc.) so that all roles and responsibilities are clear.

Guidelines for Working with DMHAS Clients Involved in the Criminal Justice System

Guidelines were originally developed by Community Forensic Services of the SWCMHS in consultation with the DMHAS Forensic Services Division, April 2009.
These guidelines reflect revisions by the DMHAS Forensic Services Division, April 2011

As stated in Commissioner's Policy Statement Chapter 6.7, *DMHAS Staff Interaction with the Criminal Justice System: Probation and Parole*, each DMHAS facility or program is to adopt procedures and supervisory processes that are consistent with this policy and provide guidance to staff about interaction with personnel from the Court Support Services Division and the Department of Correction/Office of Adult Parole in relation to conditions of probation or parole, respectively, of DMHAS clients. Following are guidelines for these procedures and supervisory processes.

Background

There has been a continued increase in collaboration among the Department of Mental Health and Addiction Services (DMHAS), the Court Support Services Division/Office of Adult Probation (CSSD), and the Department of Correction/Office of Adult Parole (DOC). Given this collaboration and in recognition of the unique challenges and special legal and clinical issues involved, these guidelines have been developed to assist DMHAS treatment providers in understanding and managing work with clients involved in the criminal justice system. This document seeks to do this with the recognition that no guideline can foresee or prescribe every situation and that special supervisory review is often necessary in actual practice. Throughout this document the initials CSSD/DOC are used to refer to the respective offices that are part of the criminal justice system in Connecticut.

DMHAS provides behavioral health services to individuals who are mandated by the criminal justice system to seek, engage, and participate in behavioral health services. It is important to recognize that these stipulations constitute an agreement made between the client and CSSD/DOC specifying the conditions he or she must meet to remain in the community. The fulfillment of these stipulations is the responsibility of the client, and the role and responsibility of DMHAS services is to provide treatment, support, and encouragement, but DMHAS cannot assure compliance and does not enforce or pursue consequences for non-compliance. Mandated clients have the same rights as voluntary DMHAS clients, including the same requirements for confidentiality of protected health information and client consent for release of confidential information. All contacts/collaborations between DMHAS treatment providers and CSSD/DOC occur at the request of and with the approval of the client.

Throughout this work it is important for staff to convey to the client that they want the client to succeed at completing the period of supervision by CSSD/DOC without reincarceration.

Initial Contracting Regarding Communication with CSSD/DOC

During the intake/assessment process, the client's legal status is reviewed with him or her, including the stipulations set by CSSD/DOC. If these stipulations include engagement in behavioral health services and if status reports regarding the client's care and treatment are required to be submitted by DMHAS treatment staff on the client's behalf, then an appropriate release of information is prepared and signed by the client per agency policy. All laws and policies regarding informed consent and confidentiality apply. The client is informed that he/she has a right to revoke the release of information at any time; however, in the case of a revocation, the client needs to know that the clinical program will inform CSSD/DOC that the client has revoked the release of information if such notice was part of the stipulations in the original agreement among the client, CSSD/DOC and the clinical program. It is important to remember that the approval of the release of information is not universal or perpetual. The release specifies the specific information that is to be shared and the duration the release is in effect. Periodically, DMHAS staff are expected to review the release approval with the client and prepare a new release per agency policy.

Joint Meetings

With the client's informed consent, during the initial engagement stage, a joint meeting is held among the client, the CSSD/DOC representative, and the DMHAS clinical staff to discuss the recommendations for treatment and other recommendations that the treatment staff may have. (This meeting is a prelude to the treatment planning process, which occurs between the treatment staff and the client alone.)

The CSSD/DOC representative clarifies the stipulations of the client's release and his or her expectations regarding the client's treatment compliance. In addition, the details of the collaboration among the client, the CSSD/DOC representative, and the clinical program are discussed, most importantly the issue of the sharing of treatment information and the client's status between the treatment provider and CSSD/DOC. Treatment staff explain to the client what he/she must do in order for staff to be able to report to CSSD/DOC that he/she is compliant with the treatment mandated by CSSD/DOC. The treatment staff inform the client and the CSSD/DOC representative that DMHAS reports only what is directly relevant to the client's release stipulations (in most cases reports to CSSD/DOC are limited to compliance with clinical services; non-clinical information, or information about other persons, are not reported, unless instructed otherwise by the client).

In addition, the CSSD/DOC representative clarifies the consequences of a violation of release stipulations and/or the revocation by the client of his or her approval of the collaboration and sharing of information. The client is told that the determination of the violation of status is the responsibility solely of the CSSD/DOC representative.

Optimally the result of the meeting is a shared understanding of the ongoing stipulations of collaboration and their interplay with the client's treatment/recovery plan. It is not necessary that the CSSD/DOC representative be fully informed of the details of the

client's treatment/recovery plan. It is important that the client be given the opportunity to approve or disapprove any aspect of the agreement. However, the client is also informed by the CSSD/DOC representative of any potential consequences of his or her decisions in this regard. An integral part of the ongoing collaboration is good communication, so the specifics of communication and release of clinical information must be made clear.

Treatment/Recovery Planning

Treatment/recovery planning for the client involved in the criminal justice system is conducted according to the same guidelines as with other DMHAS clients. However in keeping with his/her special needs, the client's wishes, goals and objectives regarding his/her legal status and obligations are included in the Treatment/Recovery Plan. Most importantly, the plan clearly identifies the specific actions and services in which the client is going to engage in order to accomplish the goals regarding his/her legal status. The client is encouraged to include in the Treatment/Recovery Plan those persons whom he/she feels will help to support his/her goals. It is important that the plan always is person-centered and reflects the client's perspective.

Ongoing Counseling

It is important to acknowledge that the client's relationship with CSSD/DOC is often ambivalent and at various times he or she may have issues or difficulties complying with the conditions of probation/parole. The clinician actively seeks to discuss the client's feelings and reactions to being mandated to treatment. Helping the client accept, understand, and make good decisions about the management of his/her legal obligations and commitments is an important function of the behavioral health clinician.

Working with CSSD/DOC

The behavioral health team collaborates with CSSD/DOC at the client's request and in support of the client. If there is an increase in risky behavior and/or behavior out of compliance with the client's legal commitments, the clinical team continues to provide behavioral health services and continues to comply with legal and agency mandates regarding informed consent and confidentiality. The clinical team maintains clear boundaries between the behavioral health agency and the criminal justice agency. Clinicians do not use the CSSD/DOC representative as an enforcer, and the clinician avoids doing anything that reflects satisfying the needs of CSSD/DOC over those of the client.

Ongoing communication with CSSD/DOC is guided by the specific content of the release of information that has been signed by the client and the sections of the treatment/recovery plan directly relevant to the stipulations of release. Whenever possible, communication and collaboration occur with the client's active involvement. Conjoint meetings to discuss progress and continued collaboration may occur on a periodic basis. It is important to remember that the client has the relationship with and obligations towards CSSD/DOC. The clinical team's role is to facilitate recovery, part of which is to help the client in meeting court requirements.

Violations of Release (Diversion, Probation, Parole)

In some instances clients have difficulty complying with the stipulations of their release. Probation and parole have access to some services that can be helpful to the client, such as housing or substance abuse treatment. These additional services may help stabilize the situation and assist the client in his/her efforts to remain in the community. However, being found in violation of the current release status can occur if a client ceases to comply with the stipulations of his/her release.

If the client is out of compliance with stipulated behavioral health services, then the clinician utilizes all clinical tools available to help the client understand the reasons for his or her actions and decisions. The clinician can remind the client of the consequences that were outlined by the CSSD/DOC representative for failure to comply with required treatment so that he or she can make an informed choice about how to proceed. In addition, the clinician asks the client what information he or she wishes to be relayed to CSSD/DOC about his or her decision, as this was part of the original agreement.
If the client revokes his or her approval for release of information, then the clinician reminds the client that CSSD/DOC officers are informed of the revocation of release of information and further reminds the client of the consequences that were outlined by the CSSD/DOC representative. If the release of information remains in effect and all clinical tools have been exhausted without treatment compliance, then the clinician notifies the CSSD/DOC representative of the treatment status. At this point it is the responsibility of CSSD/DOC to discuss further consequences with the client.

Violations Leading to Arrest or Incarceration

First, DMHAS staff need to understand how violations of probation or parole are accomplished. For probation, the probation officer requests violation of probation from the court; the judge issues a warrant for arrest or a notice to appear in court in most cases. This interrupts the period of probation until the court makes a final determination about the requested violation. However the judge can also continue the client on supervision while a determination is pending on the status of the violation of probation. Generally, a judge will set this supervision for clients who tend to present with multiple risk factors. The judge may impose conditions for treatment for the violation arrest. If the judge decides the violation is justified, the judge may continue or terminate probation and the person may be incarcerated with or without a subsequent period of probation. The period of incarceration cannot exceed the maximum period of incarceration of the original underlying sentence. The time period between a decision by the PO to request a violation and incarceration is generally one or more months.

For parole, a person released early from prison is still committed to DOC. Once the parole officer decides that the person has not complied with the conditions of parole, he/she takes the person into custody (not arrested or convicted) immediately and admits him/her to prison. There is no review process prior to incarceration. Technically the person is not “violated”; instead he/she is “remanded” back to prison. The client then appears at a hearing where the Board of Parole determines if the client violated parole

stipulations. The Board then makes a decision regarding the client's Parole status. The Parole Board can set a new release date with specific conditions, make release contingent upon specific placement in the community, or revoke parole in which case the client would then have to complete the original sentence.

It is useful to note that the climate within the courts, probation, and parole has changed and the revised mission is to maintain people with behavioral health histories in the community. However, at times clients are "violated" and warrants are issued (probation) or clients are remanded (parole) resulting in arrest and/or reincarceration. In these instances, DMHAS staff do not participate in the violation, remand, and/or arrest of a client. If the CSSD/DOC officer "violates" a client, it is the responsibility of the CSSD/DOC to execute the warrant for a probationer or take the parolee into custody. DMHAS staff do not intentionally share information or provide any other assistance related to the arrest or remand of a client. DMHAS staff do not block or impede such an arrest or remand, but also have nothing to do with its execution. Arrests, remand, or the serving of warrants must always occur in the community without the participation of DMHAS staff. If an officer attempts to enter the clinic with the intent of serving a warrant or taking a client into custody, DMHAS staff inform a supervisor immediately.

Arrest and Incarceration

If a client is arrested either through a violation of release or via a new criminal charge, there are several resources that are utilized. First, if a clinician is aware of the arrest of a client, he/she will notify the appropriate Jail Diversion clinician. If Jail Diversion learns of an arrest of a client, they notify the appropriate treatment team to discuss treatment status and issues. Upon arrest, Jail Diversion and/or the treatment team meets with the client in the court lockup to discuss the availability of support services while the client is involved in the court system. If the client wishes such assistance during the court case, Jail Diversion and/or the treatment team secure releases of information allowing them to provide information to the court system.

Promise to Appear

If the client wants assistance with the court case, Jail Diversion may then offer treatment recommendations to the court as an alternative to incarceration, which may lead to a Conditional Promise to Appear (CPTA) in which the client is required to comply with certain treatment stipulations during release to the community, as discussed above. Upon release, Jail Diversion and/or the treatment team meets with the client and, with the client's approval, provides the court with written documentation containing treatment updates based strictly upon treatment compliance. Written documentation to the court and/or the criminal justice system does not include opinions as to whether the client should be incarcerated, and does not discuss any personal opinion of the writer or treatment team. Documentation is based upon compliance related to the CPTA stipulations. Jail Diversion may provide consultation to the clinical treatment team regarding submission of written documentation to the criminal justice system. When the report to the court indicates non-compliance, the report can also indicate willingness of

the treaters to continue to engage the client and/or a recommendation to change the level of care.