



CALIFORNIA
HEALTH
POLICY
STRATEGIES, LLC.

*County Touchpoints in Access to MAT for
Justice Involved Populations*

*Discussion Guide
for
PUBLIC DEFENDERS*

Introduction

With funding provided by the federal Substance Abuse and Mental Health Services Administration, the California Department of Health Care Services has launched a multi-pronged effort to address the opioid crisis by improving access to treatment, reducing unmet treatment need, and reducing opioid overdose related deaths. A variety of projects across the state are providing prevention, treatment, and recovery activities for opioid use disorder (OUD) with a strong focus on expanding access to Medication Assisted Treatment (MAT). The County Touchpoints in Access to MAT for Justice-Involved Populations project¹ is focused on outreach, education, and training about opioid addiction and treatment in county criminal justice and human service systems. The project is managed by Health Management Associates and California Health Policies Strategies LLC.

The project provides training and technical assistance to leaders, managers, and line staff in six stakeholder groups:

- Probation
- Human Services/Child Welfare
- Juvenile and Dependency Courts
- Adult Courts
- Public Defenders
- District Attorneys

Training for all groups covers the neuroscience of opioid addiction², the medications used to treat it, and the case for treating addiction in the criminal justice system. Discussion guides for each stakeholder group accompany the project training session. Each addresses the position of the national professional association and other experts regarding MAT and includes discussion questions, case studies, and other resources particular to the group. This guide is developed for **PUBLIC DEFENDERS**.

Framing the Problem

In 2014, a Bureau of Justice survey found that 63% of people incarcerated in jails met the criteria for Substance Abuse Disorder (SUD). Of these, one fourth had an OUD. Since then, the opioid crisis has exploded and today many jails report that half or more of their detainees have an OUD.

Overdose deaths following release from prison are 129 times higher than the general population³, and persons released from jail face exceptionally high overdose death rates as well. Providing access to MAT in the justice system saves lives – after Rhode Island

¹ <https://addictionfreeca.org/California-MAT-Expansion-Project/HMA-Projects/County-Touchpoints-in-Access-to-MAT-for-Justice-Involved-Populations>

² <https://www.youtube.com/watch?v=bwZcPwIRRcc>

³ Ingrid A. Binswanger et al., "Release from, Prison – a High Risk of Death for Former Inmates," *New England Journal of Medicine* 356, no. 2 (Jan 11, 2007): 157-65, doi:10.1056/NEJMs064115

implemented the use of all three medications for opioid addiction in its system of prisons and jails, overdose death rates after release dropped by 61%.

It is essential that people using MAT be supported in maintaining recovery on MAT at every point in criminal justice and human service systems. MAT saves lives, supports recovery, and reduces crime. The criminal justice system is among the largest sources of organizational referrals to addiction treatment, and persons working in the criminal justice system have a unique and valuable role in facilitating and supporting their clients' recovery.

Professional Association Positions on MAT

MAT's critical benefits for people involved in the criminal justice and dependency systems are well established. Numerous studies show MAT reduces drug overdose deaths, recidivism, and infectious disease among criminal justice involved persons.

MAT is often disallowed at different stages of the criminal justice system. Surveys conducted in 2014 showed that about half the nation's drug courts did not permit methadone and other effective doctor-prescribed medications to treat opioid use disorder. These addiction medications are also prohibited in many probation and parole settings and have been largely absent from the nation's jails and prisons.

However, the Bureau of Justice and criminal justice-related professional associations have issued strong statements in support of MAT.



In 2015, the **U.S. Department of Justice's Bureau of Justice Assistance** and Substance Abuse and Mental Health Administration began requiring all drug courts receiving federal money to permit MAT.

Arbitrary MAT timetables are harmful, as there is no one-size-fits-all duration for MAT. There is never a medical justification for a court or probation official to require someone to taper off MAT against a doctor's recommendation.

Policies prohibiting MAT are not only harmful to public health and safety, but also can be illegal. Courts and probation agencies that prohibit MAT can violate the Americans with Disabilities Act, Rehabilitation Act of 1973, constitutional due process, and State laws.

Defense attorneys can play a crucial role by advocating that judges and other officials do not block their clients from receiving evidence-based, life-saving medications.

LEGAL ACTION CENTER The Legal Action Center provides extensive training materials for defense attorneys to use in asserting client rights to addiction medication. Its website states: "Courts and probation officials often prohibit "medication-assisted treatment" (MAT) for opioid addiction, even though it has been proven to reduce illicit opioid use, crime, disease, and overdose deaths." Its training materials explain how criminal defense attorneys can assert their clients' right to addiction

medication in order improve health and criminal justice outcomes, and provides sample treatment letters, legal opinions, and more.

Objectives

- A. Explore current practices against the best practices set forth by the profession
- B. Explore models from counties in which best practices are realized in the discipline
- C. Explore barriers to getting to best practices within the discipline

Case Study

Clara F. is a 19-year-old woman who lives episodically on the street or with her grandmother, grandfather and a successful older sister. She sustains a four-year heroin addiction with street prostitution and a pick-purse/pick-pocket skill set she learned from her late mother who died last year at the age of 34 from the effects of HIV. Remarkably, Clara graduated high school at age 16 where she excelled in mathematics. She was declared a juvenile ward of the court at 17 and struggled to succeed in three outpatient addiction programs while on juvenile probation.

Scenario 1

Clara has been arrested in a sweep of a homeless encampment and charged with possession for sale of both heroin and meth after the police dumped the contents of a purse found in a tent that Clara had indicated, outside of Miranda, was hers and her significant other's shelter. The purse contained Clara's driver's license, an inactive cell phone, an old tuna sandwich and the drugs. Clara tells you that the drugs were her significant others, but that both of them had scored some drugs after a pick-pocket spree. She pleads with you to get her into the New Horizons addiction program where she had spent almost six months sober earlier this year. The DA arranges for an assessment by a SUD clinician, who finds Clara to be appropriate for and motivated to participate in a treatment program that would include access to MAT. The DA offers you one count of heroin possession with probation on the conditions of six months in jail and success in a mandatory county-authorized treatment program that includes access to Medication Assisted Treatment. Do you plead her or treat her, or both?

Scenario 2

Clara is approached by the County Psychiatric Emergency Team while wandering around the perimeter of her old High School. She is wide-eyed, muttering about the "green people" and alternatively giggling and crying. The PET team places Clara on a W.I.C. §5150 hold and transports her to the local designated psychiatric facility. When a day later Clara is informed of her right to representation at a probable cause hearing, she demands to talk to her lawyer and produces your card, which you had given her when you represented her years ago in Juvenile Court. You are contacted by Dr. Gideon who tells you that Clara's symptoms have "cleared," but that he feels Clara has been experiencing her first psychiatric "breaks" and that placement under conservatorship will enable her to apply for Medi-Cal, get her into treatment and psychiatric supportive housing and enroll her in a MAT program to address her addiction. She

also informs you that success in the treatment of psychosis is most likely if undertaken at the earliest onset of psychiatric illness.

Discussion Questions

Question	Notes
What would happen to this person under the current practice in your county?	
According to our best practices and new standards, what should happen?	
What are the barriers to getting to best practice?	
What have successful counties done/employed to get to best practice?	

Question	Notes
What resources and supports are needed to get to best practice?	
What are the implications of MAT in my professional practice?	

Criminal Justice and Human Services Recommendations for the Use of Medications for Opioid Use Disorders

PROBATION

Best Practices for Successful Reentry for People Who Have Opioid Addictions, CS Justice Center, Nov. 2018

<https://csgjusticecenter.org/wp-content/uploads/2018/12/Best-Practices-Successful-Reentry-Opioid-Addictions.pdf>, Accessed 18 Aug. 2019.

Reichert, Jessica. Gleicher, Lily. **Probation Clients' Barriers to Access and Use of Opioid Use Disorder Medications**, Health & Justice, Volume 7 (10), 2019,

<https://healthandjusticejournal.biomedcentral.com/articles/10.1186/s40352-019-0089-6>, Accessed 18 Aug. 2019.

Ingraham, Christopher. **One Quarter of State Prison Admissions Are for Minor Parole and Probation Violations**, New York Times, June 20, 2019,

<https://www.washingtonpost.com/business/2019/06/20/one-quarter-state-prison-admissions-are-minor-parole-probation-violations-report-finds/?noredirect=on>.

Research findings re: Probation and access to MAT 7/19

<https://www.ncbi.nlm.nih.gov/pubmed/31139961>

ADULT COURTS

Use of Medication Assisted Treatment for Opioid Use Disorder in the Criminal Justice System (SAMHSA 2019)

https://store.samhsa.gov/system/files/guide_4-0712_final_-_section_508_compliant.pdf

Use of Medication Assisted Treatment for Opioid Use Disorder in the Criminal Justice System.

Substance Abuse and Mental Health Services Administration, 2019,

<https://www.ncbi.nlm.nih.gov/pubmed/31139961>, Accessed 18 Aug. 2019.

Friedman, Sally, Wagner-Goldstein, Kate. **Medication Assisted Treatment in Drug Courts Recommended Strategies**, 2015,

<https://lac.org/wp-content/uploads/2016/04/MATinDrugCourts.pdf>, Accessed 18 Aug. 2019.

Adult Drug Court Best Practice Standards Volume I, National Association of Drug Court Professionals, 2013,

<https://www.nadcp.org/wp-content/uploads/2018/12/Adult-Drug-Court-Best-Practice-Standards-Volume-I-Text-Revision-December-2018-1.pdf>, Accessed 18 Aug. 2019.

Nordstrom, Benhamin. Marlowe, Douglas. **National Drug Court Institute Drug Court Practitioner Fact Sheet: Medication Assisted Treatment for Opioid Use Disorders in Drug Court**, National Association of Drug Court Professionals, Aug. 2016,

http://www.ndci.org/wp-content/uploads/2019/01/mat_fact_sheet-1.pdf, Accessed 18 Aug. 2019.

Adult Drug Court Best Practice Standards Volume II, National Association of Drug Court Professionals, 2013,

<https://www.nadcp.org/wp-content/uploads/2018/12/Adult-Drug-Court-Best-Practice-Standards-Volume-2-Text-Revision-December-2018.pdf>, Accessed 18 Aug. 2019.

Ten Essential Elements of Opioid Courts, 2019,

https://www.courtinnovation.org/sites/default/files/media/documents/2019-07/report_the10essentialelements_07092019.pdf, Accessed 18 Aug. 2019.

DISTRICT ATTORNEYS AND PUBLIC DEFENDERS

Attorney's Guide to Medication Assisted Treatment and Your Client, Legal Action Center, 2019, <https://lac.org/wp-content/uploads/2016/08/Attorney-Guide-Addiction-Medication-and-Your-Client.pdf>, Accessed 18 Aug. 2019.

The Opioid Epidemic: A State and Local Prosecutor Response, 12 Oct. 2018, National District Attorneys Association, <https://ndaa.org/wp-content/uploads/NDAA-Opioid-White-Paper.pdf>, Accessed 18 Aug. 2019.

Friedman, Sally. Trent, Melissa. **Defense Lawyers and the Opioid Epidemic: Advocating for Addiction Medication**, Aug. 2018, National Association of Criminal Defense Lawyers, <https://lac.org/wp-content/uploads/2018/10/Defense-Lawyers-Opioid-Epidemic-Champion-Aug-2018.pdf>, Accessed 18 Aug. 2019.

Training Materials – Attorneys & The Opioid Epidemic: Asserting Your Clients' Right to Addiction Medication, Legal Action Fund, <https://lac.org/defense-attorneys-the-opioid-epidemic-asserting-your-clients-right-to-addiction-medication/>, Accessed 18 Aug. 2019.

CHILD WELFARE AND DEPENDENCY COURTS

Medication Assisted Treatment for Opioid Use Disorder in the Child Welfare Context, US Department of Health and Human Services, 27 Nov. 2018, <https://aspe.hhs.gov/pdf-report/medication-assisted-treatment-opioid-use-disorder-child-welfare-context-challenges-and-opportunities>, Accessed 18 Aug. 2019.

Kim, Joon. **Medication Assisted Treatment and the Americans with Disabilities Act**. NY Office of the Attorney General, 3 Oct. 2017, <https://lac.org/wp-content/uploads/2018/02/DOJ-SDNY-ltr-to-OCA-10.3.17.pdf>, Accessed 18 Aug. 2019.

Substance Abuse and Mental Health Services Administration. ***A Collaborative Approach to the Treatment of Pregnant Women with Opioid Use Disorder***, Substance Abuse and Mental Health Services Administration, HHS Publication No. SMA 16-4978, 2016, https://ncsacw.samhsa.gov/files/Collaborative_Approach_508.pdf, Accessed 18 Aug. 2019.

Medication-Assisted Treatment of Adolescents with Opioid Use Disorders, American Academy of Pediatrics, Volume 138 (3), DOI: 101542/peds.2016-1893, ISSN Number: 1098-4275, 3 Sept. 2016, <https://pediatrics.aappublications.org/content/pediatrics/138/3/e20161893.full.pdf>, Accessed 18 Aug. 2019.

Ramos, Christal. Clemans-Cope, Lisa. Samuel-Jakubos, Haley. Basuto, Luis. ***Evidence-Based Interventions for Adolescent Opioid Use Disorders***, Urban Institute, 9 Sept. 2018, <https://www.urban.org/research/publication/evidence-based-interventions-adolescent-opioid-use-disorder>, Accessed 18 Aug. 2019.

LEGAL PARAMETERS

Kim, Joon. ***Medication Assisted Treatment and the Americans with Disabilities Act***. NY Office of the Attorney General, 3 Oct. 2017, <https://lac.org/wp-content/uploads/2018/02/DOJ-SDNY-ltr-to-OCA-10.3.17.pdf>, Accessed 18 Aug. 2019.

Legality of Denying Access to Medication Assisted Treatment In The Criminal Justice System, 1 Dec. 2011, Legal Action Center, https://lac.org/wp-content/uploads/2014/12/MAT_Report_FINAL_12-1-2011.pdf, Accessed 18 Aug. 2019.

TOOLKITS AND OTHER RESOURCES

Issue Brief: MAT for Opioid Use Disorders-Overcoming Objections, CHCF, July 2019, <https://www.chcf.org/wp-content/uploads/2019/06/MATOpioidUseDisorderOvercomingObjections.pdf>, Accessed 18 Aug. 2019.

Use of Medication Assisted Treatment for Opioid Use Disorder in the Criminal Justice System, HHS Publication No. PEP19-MATUSECJS, Substance Abuse and Mental Health Services Administration, 2019, https://store.samhsa.gov/system/files/guide_4-0712_final_-_section_508_compliant.pdf, Accessed 18 Aug. 2019.

Principles of Community Based Behavioral Health Services for Justice Involved Individuals: A Research-based Guide, HHS Publication No. SMA19-5097, Substance Abuse and Mental Health Services Administration, 2019,
<https://store.samhsa.gov/system/files/sma19-5097.pdf>, Accessed 18 Aug. 2019.

Training Materials – Attorneys & The Opioid Epidemic: Asserting Your Clients’ Right to Addiction Medication, Legal Action Fund,
<https://lac.org/defense-attorneys-the-opioid-epidemic-asserting-your-clients-right-to-addiction-medication/>, Accessed 18 Aug. 2019.