

# **FIRST DISTRICT MENTAL HEALTH COURT**

## Judicial Education and Training



### An Introduction to the Principles and Practice of Motivational Judicial Interviewing

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### The Principles and Practice of Motivational Interviewing

#### **INTRODUCTION**

The issue of motivation plays a central role in the effectiveness of any system that deals with behavioral mandates such as the criminal justice system as well as involuntary civil systems that impose mental health commitments. All such systems, although justified legally, involve some aspect of coercion, and subsequently, all mandated participants will naturally possess some level of ambivalence or counter-resistance to forced involvement whether they do so consciously or not. Although compliance has been the primary interest traditionally in court ordered programs, with the increasing emergence of “specialty” courts for mentally ill and substance abuse offenders, the issue of behavior change is beginning to gain equal footing as a focus of legal jurisprudence. In order to better address the issues and mechanisms relevant to the change process, including the common issue of ambivalence, criminal justice personnel are beginning to utilize structured strategies and communication tools designed to more effectively facilitate behavior change which can result in better possibilities for outcomes leading to diminished criminal recidivism.

Additionally, given the complexity of the issue of human motivation and behavior change, it is important to have a fundamental understanding of the theoretical underpinnings of motivational dynamics as reflected in the constructs of self-determination theory, social cognitive theory and the transtheoretical model of behavior change. These theoretical formulations interconnect and address various aspects associated with motivational principles and function as compliments to the work of the mental health court program and the role of the magistrate and the court as effective agents of human change.

#### **SELF-DETERMINATION THEORY**

The natural starting point for understanding the principles and function of motivational interviewing lies in the theoretical perspective of self-determination. Self-determination theory is essentially a broad-based theory related to human motivation in general and self-motivated behavior change specifically. It embraces the view that individuals possess an inherent tendency toward growth, self-

integration, and a natural inclination toward the resolution of psychological inconsistencies. This theory attempts to specify both the processes and outcomes of human thriving through the development of a conceptualization of the nature and characteristics of “optimal motivation.” Self-determination theory was initially developed subsequent to experimental investigations of the various effects of extrinsic reinforcements such as rewards and praise for example, on intrinsic motivation. Research and consideration relative to the factors that support or undermine intrinsic and self-directed motivation eventually fostered additional theoretical and empirical investigations that focused on the dynamics of human volition in general.

Self-determination theory is consistent with the self-directed premise of mental health recovery and is equally applicable to the issues of legal reconciliation involving the mentally ill offender. Additionally, it is a supporting theory applicable to the agentic perspective of the Social Cognitive Model, the stage paradigm of the Transtheoretical Model or stages of change, and the problems of ambivalence relative to the technique and practice of Motivational Interviewing, which form the theoretical and practical logics employed in the operation and function of the mental health court.

### **The Continuum of Motivational Autonomy**

Self-Determination theory posits that all human behavior lies along an ascending continuum which reflects the degree of individual choice and commitment to what one is doing. The significance of the relative autonomy of motivation has been directly related to treatment participation and outcomes in health care and psychotherapy specifically. For instance, a number of behavioral researchers have shown that mental health consumers expressing and actualizing more individual autonomy for following a medication regimen were more likely to accurately and persistently take their prescribed medications. Additionally, those who experienced their prescribing clinician as autonomy-supportive rather than as dictatorial were more likely to endorse autonomous reasons for medication compliance. The motivational continuum in the self-determination theory moves from a point of least self-determination or externally controlled behavior to a high point of predominately self-determined action. Self-determination theory distinguishes between four types of extrinsic motivation each of which differ in degree of autonomy and self-integration. Although the four extrinsic forms of motivation do not translate to behavior that is experienced as intrinsically enjoyable, still it is believed that autonomous extrinsically motivated behavior contains many of the same positive aspects as intrinsically motivated behavior and as such is a viable target applicable to all forms and contexts of psychosocial intervention, including those unique to criminal justice and the mental health court

system of therapeutic jurisprudence. The following briefly describes each motivational factor of the self-determination theory's continuum of motivational autonomy.

- **External Extrinsic Motivation**

At the least self-determined and autonomous end of the motivational continuum is behavior that is motivated predominately by external regulations, such as the basic behavior modifiers and reinforcements of rewards and punishments. Such external motivators are controlled by others and not self-regulated and therefore possess less potential for extended action. For example, defendants may participating in services as a result of a court order or pressured to participate in mental health services by family and friends. External regulation may temporarily motivate behavior; however, usually the individual will only strictly adhere to the minimal expectations when the controls are immediately operation. Often, the mental health court participant at this level of motivation will show compliance with the judicial prescription at the last moment before their court appearance, but otherwise will avoid proactive participation. This usually reveals that individuals who are solely externally motivated are likely to demonstrate minimal effort and poor performance quality as they are primarily invested in avoiding punishment. The mental health court program recognizes and may apply external regulation as a motivational tool, although the program curriculum is designed to advance the defendant toward motivational factors that are more consistent with self-determined recovery and self-directed participation as an optimal objective.

- **Introjected Extrinsic Motivation**

Somewhat more autonomous in nature is the concept of introjected motivation in which the defendant is attending to internalized contingencies related to self-esteem. An individual who is introjected regarding their behavior imposes internal pressure to action subsequent to the feelings of self-disparagement, self-deprecation, and shame when they fail in their endeavors and concomitantly, pride and self-approval when they succeed. Introjection represents a partial internalization of the value of any action, but still the individual struggles with ambivalence and the motivation remains somewhat unstable and tenuous. Partially internalized motivation may lead to a higher level of behavioral maintenance than external motivation; however, it is often accompanied by an overall negative emotional climate as well as inner conflict between self-imposed demands regarding engagement as opposed to a true value for the decided action.

Mental health court participants who demonstrate introjected motivation are those who possess an element of regret for their criminal conduct beyond the regret of being caught and subsequently, at some level of awareness, are looking for emotional redemption. However, internal motivation for the restoration of social-esteem is not the same as intrinsic motivation toward behavior change.

- **Identified Extrinsic Motivation**

Identification involves a conscious acceptance of behavior as specifically important in order to achieve and accomplish personal and valued objectives. The valued objectives provide an incentive necessary to overcome obstacles and difficulties that may impede behavioral maintenance. Some theorists have suggested that identified motivation may be more relevant than intrinsic motivation in the process of behavioral change. Other studies indicate that identification is a stable and persistent form of motivation, and when acting in accord with behavioral choices identified as socially responsible and appropriate; individuals report decidedly more effort, commitment, and positive experience in social contexts. The mental health court judge, through the process of motivational interviewing, structures dialogue with participants so as to recognize, encourage, and reinforce conscious behavioral choices based on the principles of responsibility and accountability.

The court may employ the use of what is termed “reification” in efforts to structure the fulfillment of identified extrinsic motivation. Reification is primarily a fallacy of ambiguity, when an abstraction (abstract belief or hypothetical construct) is treated as if it represented a concrete, real event or physical entity. For example, when people describe nonbiological events (like a geyser) or social institutions (like government) as alive, they are committing a reification fallacy. Reification is generally accepted in literature and other forms of discourse where reified abstractions are understood to be intended metaphorically.

Pathetic fallacy or anthropomorphic fallacy (in literature known as personification) is a specific subset of reification, where the theoretical concepts are not only considered alive, but human-like and intelligent. For example, the phrase “*what would responsibility have you do?*” although a pathetic fallacy since it ascribes some human characteristic to an otherwise inanimate concept is nevertheless useful as a way of distancing any connection to a prescriptive edict by an identified authority which might tend to be resisted. Subsequently, in the course of dialogue

with mental health court participants, the Judge may occasionally ask defendants to conceptualize responsibility as a presiding authority in daily decision-making that will extend beyond the boundaries of their current legal situation and provide a source of identification, rather than structure the dialogue in terms of what the “court” or the judge wants the defendant to accomplish.

- **Integrated Extrinsic Motivation**

Self-determination theory identifies Integrated Motivation as a combination of both identification and coordination with the individual’s core personal values and beliefs. The individual’s identification has become consistent with the person’s entire system of identifications and is characterized by an internal perceived locus of causality. For example, with integrated motivation the mental health court participant begins to realize that his or her participation in treatment is also consistent with many other life-goals and values such as becoming a better parent or maximizing one’s employment potential or increasing social competence. This form of motivation is more autonomous and thus increasingly stable and persistent as well as being a fully self-endorsed basis for action.

- **Intrinsic Motivation**

Finally, intrinsic motivation involves behaviors that are generally inherently interesting and exciting independent of any external stimulus. Both intrinsic and integrated forms of motivation are willful, involve no form of external coercion and therefore are fully self-determined. However, when motivation is integrated, behaviors are engaged in respective of particular desired outcomes rather than for any inherent satisfaction in the action itself. It should be noted that most clinical applications do not concern intrinsic motivation per se, but instead involve the internalization and integration of non-intrinsically motivated behaviors.

Intrinsic motivation is subsequently considered automatically self-determined given the parameters that such related activities are, in the conception of the actor inherently pleasurable, satisfying, or challenging. This stands in contrast to the extrinsic aspects of the motivational continuum which is relative to behavioral engagement to ultimately obtain some outcome separate from the activity itself. Given this distinction, it is sometimes difficult to understand how judicial and rehabilitative practitioners can realistically assist mentally ill offenders to

build intrinsic motivation, as both judicial and rehabilitative activities relevant to the mental health court program and the effort to change problematic aspects of the self are not usually experienced within the context of ‘fun.’ However, this does not mean that change in contexts apart from activities that are purely enjoyable cannot be achieved; it only means that in the context of therapeutic change or therapeutic jurisprudence, it is less probable that defendants will modify maladaptive behaviors because it is fun to do. Rather, defendants are more probable to feel that changing their behavioral patterns is primarily instrumental to the goal of coping with or alleviating the personal difficulties that lead them to the court as well as enhancing overall personal effectiveness in social, interpersonal, and vocational environments.

In summary, the four types of extrinsic motivation reflect the degree to which socially valued tasks with little intrinsic appeal have been internalized. Subsequently, the mental health court program and its application of the theory of self-determination is not primarily focused on enhancing the defendant’s intrinsic motivation, although this aspect is not by any means neglected. Rather, the program attempts to successfully promote the internalization of extrinsic change intentions by enhancing the defendant’s sense of identification with the change intention and by integrating that intention with the whole of their personal value-system. In this way, mental health court participants can come to participate in the activity of judicial and clinical rehabilitation with a greater sense of investment and self-endorsement as opposed to a sense of resistance and opposition. With this conceptual shift in motivation perspective, it is proposed that well-internalized motivations to change together with the feelings of confidence that change can be accomplished, both independently predict a variety of outcomes, including higher treatment attendance, less drop-out, less relapse, less criminal recidivism and enhanced feelings of well-being over the course of the mental health court program.

If the motivation for behavioral change is therefore predominately extrinsic, there is justifiable concern about the possibility for realistic success. However, as previously stated, intrinsic factors are not abandoned and the mental health court program attempts to integrate, where possible, therapeutic and judicial activity components that are more closely associated with the intrinsic side of the motivational continuum for the sake of program diversity as well as for both clinical and legal rehabilitative value.





Motivational interviewing was originally developed in the 1980's by William Miller, Ph.D and Stephen Rollnick, Ph.D, as a strategy for assisting clients in the process of making commitments to behavior change. It was initially targeted to individuals who were subject to addictive behaviors; however, with the further development of brief motivational interviewing, the approach has been broadened to assist in the management of change with other critical or vulnerable populations.

The fundamental premise behind motivational interviewing is the issue of ambivalence inherent in the change process. With respect to the mental health court, many defendants may be unaware of the necessity for change, or prone to patterns of denial that prohibit successful change, or they may misinterpret the seriousness of their conduct and/or condition and the negative consequences likely to occur if change is not forthcoming. Alternatively, some defendants may understand the need for treatment and the prescribed course of services, but may be unable to see any way to fulfill the treatment objectives without overwhelming difficulty. Consequently, they may lack the confidence or self-efficacy necessary to successfully or fully engage or see the course of treatment through to completion. Such individuals may subsequently get caught in the snare of ambivalence. Ambivalence in turn directly affects defendant motivation and readiness to change and places unnecessary inhibitions in the way of the defendant's ability to acquire appropriate coping strategies important to the success of the change process.

A relevant starting point for motivational interviewing that reflects its direct link to the stages of change model (Transtheoretical Model) is an initial assessment of the defendant's readiness for change. The readiness for change assessment should be conducted by the mental health court's clinical providers within the first two weeks of the defendant's acceptance into the mental health court program. Identifying and understanding what stage of change the defendant is presently in will assist both judicial and rehabilitative practitioners in defining specific motivational strategies that will best compliment the defendant's level of readiness for change.

However, beyond the initial assessment of ambivalence are the four primary principles that constitute the practice of motivational interviewing. These principles are constructed with the objective of avoiding the dilemma that often occurs in the application of non-collaborative approaches to rehabilitative and judicial services. In non-collaborative approaches, the clinical and/or judicial practitioner is positioned as the "expert" and subsequently is often over-directive in efforts to push or

aggressively influence the mental health court participant to take action to change. This is often counter-productive to the process of therapeutic jurisprudence.

The four principles of motivational interviewing are namely: (1) Expression of empathy, (2) Development of discrepancy, (3) Rolling with resistance, and (4) Support of self-efficacy. These principles are employed as a focused response to ambivalence in the crucial change stages of contemplation and commitment. Through interaction and dialogue with the mentally ill offender that is respectful and empathic, the practitioner facilitates a therapeutic environment of mutual trust and shared intention. By adopting a collaborative and stage sensitive approach, the practitioner is less likely to strengthen the defendant's ambivalence to change and conversely more likely to stimulate open communication. The four primary principles of motivational interviewing are described as follows:

### **(1) Expressing Empathy**

As motivational interviewing is based in part on the client-centered work of Carl Rogers, the practice of unconditional acceptance, positive regard, and empathy are critical to the work of human change. Empathy requires the exercise of active listening in order to accurately reflect what the consumer is communicating which is an important ingredient in generating a sense of recognition and acceptance. 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. Numerous studies have found empathy to be one of the most reliable predictors of positive outcome, which validates the importance of Rogers' work and highlights empathy as one of the most reliable of all the common factors of personal rehabilitation. 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.

As with the practice of solution-focused interviewing outlined in module two, motivational interviewing adheres to the same principle that 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.

Importantly then, 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.”*

## **(2) Developing 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 criminal as well as self-defeating 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.

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?”*

### **(3) Rolling with Resistance**

Motivational interviewing in its collaborative approach is essentially non-confrontational. This means that judicial and clinical practitioners utilize empathy and reflection to diminish the possibilities of defensive interaction that tend to promote resistive power struggles. 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. When program participants are resistant, angry, or otherwise needing to express independence, rolling with these episodes increases the likelihood that the defendant will remain engaged and potentially more receptive to the process of judicial reconciliation. The degree of flexibility and allowance of deficits of compliance with both clinical treatment and judicial assignments must be appropriately weighed against the court’s legal authority however. 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 court must maintain a position of authority, but do so with a minimum of authoritarian style. Otherwise, the defendant is likely to confuse the court’s empathy and flexibility as a weakness and an absence of authority. The traditional approach of criminal justice is generally adversarial in nature, however, 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.

Rather than always meeting a defendant’s counter-resistance 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 (See Reflective Listening, below) 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 violating the rules of the mental health court program, which could get you put in jail, at least you have a place to live for the moment.”*

*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: “I understand exactly what you are saying. You’re not sure if it’s worth the time and effort to be successful and make your life different. That’s something you have to really decide based on what you really want for the future.”*

#### **(4) Supporting Self-Efficacy**

Consistent with the Social Cognitive model forwarded by Albert Bandura, self-efficacy is an important aspect of human motivation. 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. Rehabilitative practitioners must make concerted efforts to provide program participants with consistent encouragement based on the capabilities, strengths, and resources they possess. The

technique of examining previous successes can be especially useful in attempting to discover and affirm the consumer's self-efficacy beliefs. Practitioners must also take advantage of opportunities of providing genuine affirmations when consumers both share and demonstrate success in the change process. Such affirmations are important in helping the mental health court participant conceptualize the real possibility for personal change, judicial reconciliation and recovery from mental illness.

There are four basic domains, as outlined below, through which self-efficacy is cultivated and developed to maturity, each of which is utilized strategically in the mental health court program.

### **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.

### **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.

However, when people perceive the model's attributes, skills, and characteristics as decidedly different than their own, the influence of the modeling experience is greatly minimized. In this regard, the mental health court program utilizes the forum of a public court, a peer mentoring system, and group therapy and skills curriculums where possible to provide effective vicarious modeling experiences for program participants as another venue for the development of self-efficacy.

### **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. Mental health court practitioners and clinical providers should be adequately instructed in the art of social persuasion, understanding that just as positive persuasions work to encourage and empower defendants, likewise negative persuasions can conversely work to weaken and defeat self-efficacy beliefs, and that it is often far easier to demoralize an individual through negative appraisals than to strengthen them through positive encouragement.

### **Somatic/ Emotional Experiences**

Finally, somatic and emotional states such as anxiety, stress, arousal, and mood also provide cues about efficacy beliefs as individuals often gauge their degree of confidence by their emotional perceptions as they contemplate an action. Strong emotional reactions of fear, apprehension, dread, or anxiety provide signals regarding the anticipated outcome of 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.

## **General Skills for Motivational Interviewing**

The four key principles described above represent the context for five general practice skills utilized in motivational interviewing. The five skill subsets outlined below are useful as an initial starting point for the mental health court practitioner and are essential to the process of overcoming a defendant's ambivalence.

### **(1) 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 in training module 1. 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?”*

### **(2) Reflective listening**

Reflective statements are particularly useful for addressing counter-motivational behavior. Such statements convey that the practitioner 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.



The first form or *simple reflection* serves to acknowledge the participants thoughts, feelings, and perspectives in a neutral manner such that further exploration and elaboration is facilitated. Secondly, *amplified reflections* are focused on reducing the intensity of the defendant's stand or position against self-change so that the individual is more inclined to consider the other side of his or her ambivalence to change. The third form or *double-sided reflection* attempts to capture both aspects of a defendant's position of ambivalence and is essentially useful with respect to the process of developing discrepancy skills. Mental health court practitioners are systematically trained and educated in the basic forms of reflective listening and the various ways in which these interviewing skills might be utilized to offset obstructions to a defendant's motivation for active participation and engagement in the process of therapeutic jurisprudence.

- **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 an increase in intensity or in an 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 in the process of change as well as both the pros and cons of compliance with program expectations 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?*

### **(3) Affirmation**

Affirmations provide program participants the experience of recognition and appreciation through the use of complimentary statements. Rather than being superfluous to the inherent affirming nature of motivational interviewing, 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. As presented in training module 1 on solution-focused interviewing, 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 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 of the defendant's perceptual experience is similar to reflective listening in form, but 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, accuracy, or effectiveness in the opinion of the interviewer, nevertheless 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.”*

*“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.”*

#### **(4) 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 ...”*

#### **(5) Eliciting self-motivational statements**

The role of the mental health court practitioner is not to talk people into changing maladaptive or self-defeating behavior and it is not to impose a curriculum of clinical or judicial rehabilitation. The role of the practitioner is 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 clinical and judicial practitioners help defendants elicit self-motivational statements they begin to impact the defendant’s decisional balance in favor of change. The exercise of decisional balance on the part of the defendant is a methodology that increases the defendant’s recognition of their own ambivalence which subsequently sets the stage for more focused attention toward engagement in the process of therapeutic jurisprudence.

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 in order to make a difference. Self-change talk can occur in several variations and essentially represent avenues to the activity of commitment out of which actual change takes place. Therefore, 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. The varieties of self-motivational talk include the following:

- **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."*

As stated previously, these types of motivational statements are important to recognize, facilitate, and elaborate as they are the precursors to statements about the commitment to change. Therapeutic interviewing is fundamentally focused toward the commitment to change,

therefore, the stronger the defendant's motivation in the direction of commitment, the greater the prediction of positive behavioral outcomes and program success.

### **Decisional Balance**

One aspect of attempting to elicit self-motivational statements is the goal of having the mental health court participant become an advocate for their own change. The process of eliciting self-motivational statements is subsequently a key ingredient in the therapeutic interview. One procedure often used in this process is the exercise of decisional balance. Effective decision making is central in order to move effectively through the continuum of change to commitment for action. However, 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. Usually in such a dialogue exercise, the benefits of a position of status quo are explored first. By discussing the benefits of avoiding medication treatment, or drug use, or criminal conduct, for example, the interview is more likely to elicit a consideration of cost from the perspective of the defendant. Subsequently, the defendant soon stands in a position of arguing against self-defeating behavior, rather than retaining their position to defend it.

*“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?”*

### **CONSIDERATIONS**

Although the effectiveness of motivational interviewing has been studied with respect to a variety of populations, most notably with substance abuse and addiction, there are some limitations of application as with any therapeutic modality that is at best quasi-scientific. Motivational interviewing is not a panacea by any means, even in the domain of the comprehensive treatment of addictions. Rather,

motivational interviewing should be conceptualized as a targeted response to the issue of ambivalence, and as such, generally represents an appropriate initial strategy relevant to the initial stages of the behavior change process. As motivational interviewing with a criminal population is primarily intended to facilitate the defendant in working through the issues of ambivalence associated with legal jurisprudence, the utilization of some motivational interviewing techniques may frustrate those defendant's already well motivated and engaged in the change process. In these cases, the use of the principles of motivational interviewing are generally to address further issues of ambivalence should they happen to occur.

Additionally, while motivational interviewing is clearly an acquirable skill set, not everyone attains the same level of expertise in this modality at the same rate given the same training. As this brief introduction is developed primarily as a judicial orientation, it is recommended that in order to further develop a greater level of practical competence, more formal education and training should be sought at the hands of appropriately qualified practitioners.

## **SUMMARY**

In summary, motivational interviewing represents a specific and intentional approach originally applied in the treatment of addictive behaviors but since has expanded as a methodology to address the issues and stages of the general process of human change, and especially the issue of ambivalence inherent in that process. A variety of empirical studies have shown that this interviewing modality is effective in enhancing behavior change outcomes when it both precedes and co-occurs with other forms of therapeutic intervention. Additionally, motivational interviewing fits well within the scope of self-determination theory and the basic principles and elements of motivational autonomy. Although originally employed in the treatment of addictive behavior, it is anticipated that the basic tools of motivational interviewing can be effectively applied in the context of the brief judicial interview that occurs routinely as part of the mental health court hearing, and that in its application with the mentally ill offender, it can adequately help facilitate the process of change toward legal and clinical recovery.

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