

Ethical Considerations of Court-Ordered Therapy

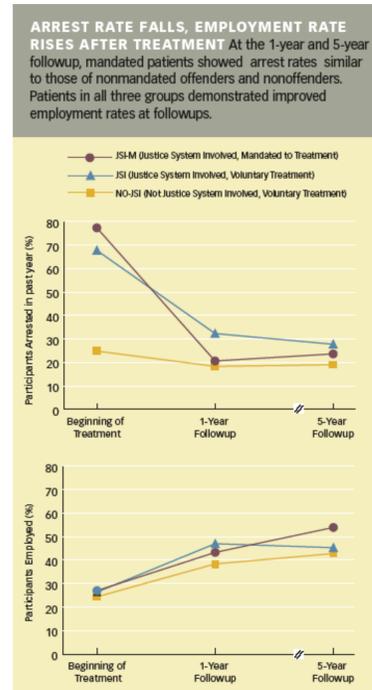
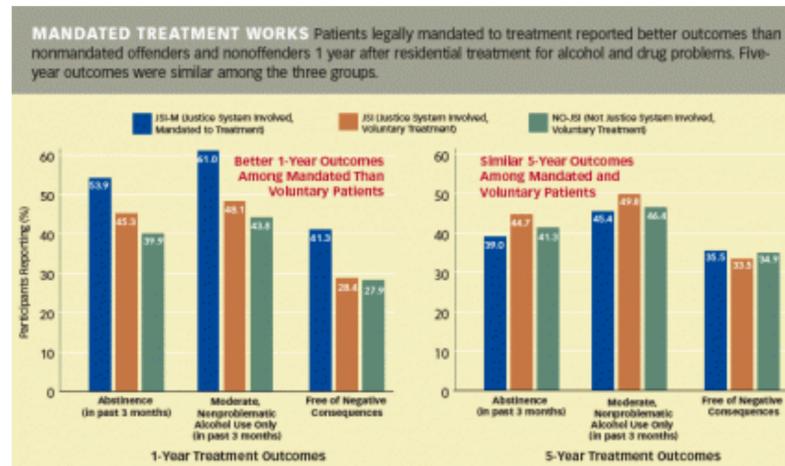
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Objective

- There has been a cultural shift over the past several years wherein growing numbers of policy makers, community members, and treatment professionals understand that people living with mental illness and/or substance use disorders deserve treatment and help rather than incarceration.
- This larger call for “alternatives to incarceration” has contributed to the development of specialized programs such as treatment courts while it has also led to the criminal justice system becoming one of the top referral sources for many forms of psychosocial treatment in the US today.
- Court-ordered outpatient psychotherapy (COT) may be mandated as part of an individual’s sentencing, and while advocates suggest that this increases access to care for vulnerable populations while reducing criminalization, there are also a number of unintended consequences and ethical challenges associated with this process.
- A review of the literature reveals mixed findings for the efficacy of COT, largely due to the outcome measure of rate of recidivism, which is calculated in highly variable methods.
- Ethical principles such as respect for one’s autonomy, and beneficence and nonmaleficence, patient-professional relationships deserve special examination within this unique population.

The Ethics Code and Court-Ordered Treatment: A Poor Marriage

- APA Ethical Principles are based on basic principles of bio-medical ethics, including:
 - Beneficence/nonmaleficence, fidelity and responsibility, integrity, justice and respect for people’s rights and dignity.
- In COT we are being asked to treat someone even though we are not free to exercise the normal duties we would have toward our voluntary patients.
- This circumstance creates a number of potential ethical dilemmas regarding informed consent, potential loyalty conflicts, violations of confidentiality, and the risk of therapeutic ruptures that clinicians typically do not encounter on a daily basis.
- These principles place us in a fiduciary position with respect to our clients; we are to put their best interest ahead of our own and advocate for them



Court-Mandated Treatment Works as Well as Voluntary. (2006). Retrieved 26 July 2020, from <https://archives.drugabuse.gov/news-events/nida-notes/2006/07/court-mandated-treatment-works-well-voluntary>

Court-Ordered Treatment: What Are We Doing and Who Really is the Client?

- One issue with COT is maintaining the ethical principle of respect for autonomy.
- How can autonomy be preserved when individuals are being coerced into treatment?
- What if they do not want to participate and do not engage in therapy?
- These scenarios pose an ethical dilemma because of the unique limits of confidentiality involved in this type of treatment.
- Practitioners have an obligation to report progress to the Court or probation officer, which begs the question: Who is really the client?
 - The individual referred for treatment? The Court? The probation officer? All of them?

Court-Ordered Treatment: Justice Served on the Couch

- COT is fraught with ethical quandaries, especially as it relates to the role of the practitioner.
- Practitioners are expected to balance the ambiguous line between providing client-centered therapy and also ensuring progress in ways expected by the court.
- Practitioners’ personal values and biases are inherently influential when working with this population.
- Acceptance of our clients is a critical component of good therapy.
 - This may be difficult for some practitioners, perhaps if working with a client whose actions have significantly harmed others.
- What does the relationship look like when the client is not operating as a free agent?
- How is the role of the practitioner impacted by their values and biases regarding this population?
- The practitioner is not simply a conduit between the court and freedom, they are a role model and an ally to assist the client in exploring what led them to COT in the first place.
- Performing COT requires a tremendous amount of introspection and examinations of one’s role as a practitioner

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