

Individual Justice Planning

A tool to address
justice involvement
for people with
disabilities

2022 Edition



Protection & Advocacy Project
400 E. Broadway, Suite 409
Bismarck, ND 58501
(701) 328-2950
1-800-472-2670
www.ndpanda.org

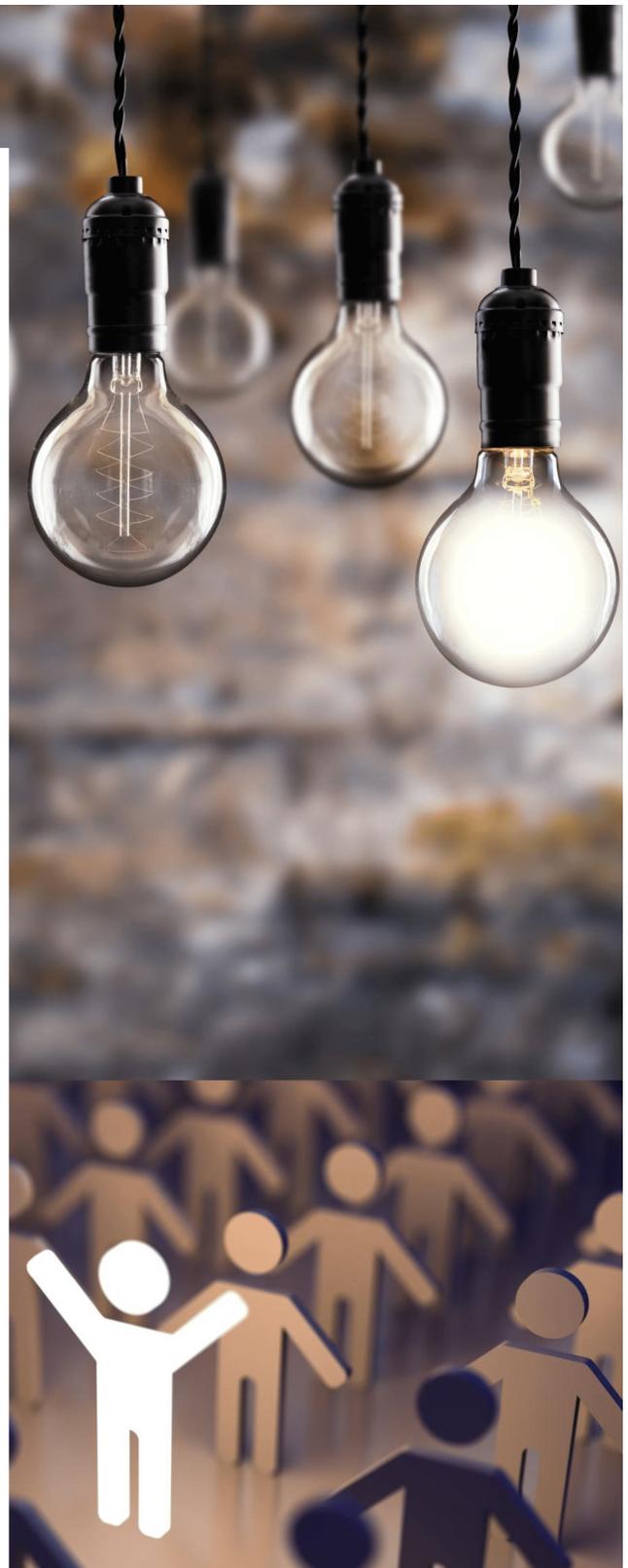


Table of Contents

Chapter 1.....	1
INTRODUCTION	1
Who is this manual intended to help?	1
Vision	2
Purpose	2
Scope of the Manual	3
Chapter 2.....	4
WHAT IS AN INDIVIDUAL JUSTICE PLAN?	4
Chapter 3.....	8
WHO WILL BE SERVED BY AN INDIVIDUAL JUSTICE PLAN	8
Eligibility for an IJP	8
Chapter 4.....	10
WHO CAN INITIATE AN INDIVIDUAL JUSTICE PLAN?.....	10
Referral for Initiation of an IJP.....	12
Chapter 5.....	13
WRITING THE INDIVIDUAL JUSTICE PLAN	13
Chapter 6.....	21
THE NORTH DAKOTA LEGAL SYSTEM.....	21
Appendix 1	25
HISTORY OF THE INDIVIDUAL JUSTICE PLAN	25
The Original IJP.....	25
Implementation Years	26
2007 IJP Manual Revision	26
2022 IJP Manual Revision	26
Appendix 2.....	27
TERMS AND DEFINITIONS	27
Appendix 3.....	40

Resources and Services for People with Disabilities	40
within the state of North Dakota	40
Appendix 4.....	41
IJP WORKSHEETS & FILLABLE TEMPLATES	41
Individual Justice Plan	42
IJP Assessment Worksheet.....	44
IJP Recommendations Worksheet.....	46
Recommendations for an IJP	48
Appendix 5-IJP EXAMPLES	49
Joe – Case Scenario #1	49
Jim Case Scenario #2	57
Marie – Case Scenario #3	64
Mike – Case Scenario #4	72
Charlie – Case Scenario #5.....	79
Appendix 6 - SAMPLE TEMPLATES	86
Client/Legal Decision Maker Consent Form	87
Referral Form.....	88
North Dakota Human Service Centers.....	89
Appendix 7	90
Disability Awareness	90
Appendix 8.....	95
ND Law Enforcement Investigatory Flowchart	95
ND Criminal Adult Prosecution Flowchart	96
ND Juvenile Justice Flowchart.....	97

IJP STEERING COMMITTEE

Protection & Advocacy Project staff

Pamela Mack
Mandy Dendy
Daniel Gulya
Shantell Meidinger
Andrea Schlobohm

Protection & Advocacy Mental Health Advisory Council Members

Carlotta McCleary
Lorena Poppe
Carey Goetz
Jennifer Skjod
Suzanne Kilichowski
Carl Young

Chapter 1

INTRODUCTION

Involvement in the justice system for people with disabilities often means something different than for those who do not have disabilities. The Individual Justice Plan (IJP) process will assist people with disabilities who are at risk of involvement or who are currently involved within the criminal justice system (CJS) or the juvenile justice system (JJS). Use of the IJP will frame the person with disabilities and his or her unique circumstances to inform the justice system and allow the person to obtain a fair result. An IJP may also be used to identify the person's disability(ies) and then what supports and services can appropriately be used to prevent involvement with the justice systems.

Who is this manual intended to help?

This manual is intended to be used for the benefit of people with disabilities who are at risk of becoming involved or who have become involved in the criminal justice or juvenile justice system. It may be used proactively or reactively. An IJP is not appropriate for all people or situations. Ideally, it will be a collaborative process of caring stakeholders, resulting in a plan which can guide a person's interaction with the CJS/JJS. Stakeholders may include but are not limited to family members, service providers, law enforcement, legal, and school personnel.

The manual will provide a framework for discussion as to whether the behavior is criminal or a manifestation of the person's disability. The manual is intended primarily for people whose disability may look criminal but may be a manifestation of a disability, and those people whose disability in some way limits their ability to interact with and obtain a fair result from the criminal/juvenile justice system.

Example: People with disabilities often have unexpected reactions to situations which may be underreactions or overreactions. Understanding how the disability may affect a person's behavior aids in determining whether that behavior is truly criminal.

This manual is intended to help people whose disability interferes with the full expression of their rights by the consideration of alternatives not explicitly offered through routine legal processes. In this manner, the CJS/JJS will be aided in its due process duties for the person and to protect the public.

Vision

Creation of a system of support and response for people with disabilities that recognizes the characteristics of a person's disability in the form of a tailored plan to prevent involvement or a tailored response to involvement in the criminal or juvenile justice system.

The IJP process is intended to empower people with a disability to present him/herself as unique and deserving full consideration by:

- the law
- those who administer justice
- those who enforce laws, and
- those who write laws.

Purpose

The purpose of this manual is three-fold.

- First, this tool creates an opportunity to establish, and build support for people with disabilities and to prevent involvement or further involvement in the criminal and juvenile justice systems.
- Second, it presents alternatives for the CJS/JJS to consider, as well as the resources, contacts, and tools needed to implement the process.

- Lastly, it provides a framework for the education of and cooperation between private/public human service agencies and the various facets of the CJS/JJS. This framework allows for the two systems to provide the most appropriate services for people with disabilities with the best outcomes for everyone.

Scope of the Manual:

Understanding what an IJP is, who may benefit from its use, and how an IJP may be used is critical to the successful implementation of the process. The outcome is mutually advantageous for both the person with the disability and society. The IJP process provides a framework for services and support for the person and takes into consideration the need for the safety of all involved, along with the desire to see all members of society living successfully in their communities.

Chapter 2

WHAT IS AN INDIVIDUAL JUSTICE PLAN?

An IJP is a collaboratively written plan which serves as an alternative criminal disposition or proactive plan to prevent criminal justice involvement. It is developed and monitored by a team that includes professionals and contains a detailed description of the presenting problems, assessment of those problems, and recommendations to address them.

An IJP presumes a person is **competent**, meaning he or she has sufficient ability to understand and participate in the IJP process unless a lack of competency has been otherwise established by the court. An IJP holds the person accountable for his or her behavior. What consequences constitute accountability will be an IJP team decision based on the person's comprehension and capacity specific to his or her circumstances.

The IJP process must not interfere with the person's legal right to due process. Due process in a nutshell means that all legal proceedings must be fair. The IJP process must be handled in a timely and meaningful manner with consideration to the court's obligation to provide due process.

An IJP starts with a description of the specific behaviors (**presenting problems**) that may bring or have brought the person into the justice system. This includes the impact on the person, the community, other people, and property.

This leads to an **assessment** that closely examines the motivation or cause for the behavior(s) at hand. The assessment includes looking at these aspects of a person's life:

- Residential
- Vocational
- Education/Training
- Medical
- Mental/Behavioral Health
- Financial
- Social/Recreation
- Family
- Identity/Cultural Background
- Transportation
- Advocacy

IJP **recommendations** should be based on an approach that represents the **least restrictive, most effective alternative** for the person. This can mean the least restrictive alternative within a particular situation and should also include consideration of less restrictive and more appropriate methods of response. Incarceration is not only the most restrictive alternative but a costly one.

Example: Incarceration for a person with a serious mental illness may cause deterioration of his or her condition. Consideration of other alternatives to support maintenance of or improvement of the person's mental health should be undertaken.

Normalization should be a paramount consideration for IJP recommendations, meaning that utilized consequences should allow the person a lifestyle that is as close as possible to the regular circumstances and ways of life of his or her surrounding community. Normalized consequences may be the same type of consequences incurred by people without disabilities but may be addressed differently.

This normalization results in the biggest chance for successful implementation of supports and services.

Example: A person with a substance abuse problem may be ordered to receive treatment whereas a person with a cognitive condition which makes him or her more susceptible to peer pressure (fetal alcohol syndrome, autism, etc.) may need to receive counseling to discuss peer pressure and how to effectively self-advocate.

Recommendations include consideration of the following support options:

- Positive Behavior Supports
- Counseling
- Supervision and/or Case Management
- Community Service
- Hospitalization
- Agency Transfer
- Other Treatment/Training
- Psychotropic Medication Management
- Restitution
- Fine
- Restorative Justice
- Probation
- Incarceration

The Plan should clearly describe its **anticipated outcome** and outline what will take place if the behaviors occur again. Every IJP needs to include a **review** process and an identified person who will be responsible to review and ensure the plan is monitored regularly going forward.

Finally, the plan is **confidential** and must include documentation of the person's (and his or her legal decision-maker, if applicable,) **consent**.

Chapter 3

WHO WILL BE SERVED BY THE INDIVIDUAL JUSTICE PLAN

Introduction

An IJP serves people with disabilities and creates a recognition that people with disabilities may have unique needs that require assistance beyond what is available to those without disabilities. In addition, the presenting behavior must have a direct correlation to the person's disability.

Eligibility for an IJP

Youth or **adults** with a disability that results in significant impact are eligible for the development of an IJP. This may include a person with a:

- Developmental disability,
- Brain injury,
- Neurodevelopmental disorder that affects brain function,
- Mental illness,
- Mental/cognitive impairment. The impairment determination must be made by a qualified mental health professional¹, human service professional, or a service delivery or treatment team.

People with disabilities may not view themselves as incapable, different, or "limited" which can result in the disability going unnoticed. Most people with disabilities assume themselves to be capable and have developed many coping skills to "mask" any limitations, hiding their challenges from those around them. Police officers, attorneys, judges, and correctional staff may have difficulty recognizing subtle disabilities given the number of

¹ [N.D.C.C. §25-03.1-02\(11\)](#)

people they encounter in the system. This may be compounded in situations where people may have multiple disabilities, or by co-occurring disability and substance use.

A person may be reluctant to participate, not seeing the process as beneficial or worthwhile. Therefore, it may require someone within the person's support network (e.g., team, physician, provider, advocate, family, defense attorney) to initiate, and/or develop and implement the IJP. This needs to include discussion with the person because informed consent is a prerequisite to the development and implementation of an IJP.

For examples of IJPs, see [Appendix 5](#).

Chapter 4

WHO CAN INITIATE AN INDIVIDUAL JUSTICE PLAN?

Anyone working with a person can initiate an IJP. An IJP should be initiated at **the earliest point of contact**. If the person appears at risk of becoming involved with the CJS/JJS, it should be implemented by a support member. If the person is already involved with the CJS/JJS, then it should be initiated by the first agency to identify that an IJP is appropriate. This requires a clear understanding that the person's disability, as defined in Chapter 2, relates to their potential involvement or actual involvement with the JJS/CJS.

An Individual Justice Plan is intended to identify the support, services, and support necessary to prevent criminal behavior from occurring or re-occurring. The IJP will reference other treatment or service plans that provide detailed information to effectively provide support. These plans can include a treatment plan, crisis plan, behavior support plan, medication management plan, aftercare plan, and similar service delivery documents. The plan may also identify supports and services such as supervision, case management, and other supports specific to the person and his or her disability.

Families and support networks of people with disabilities who are at-risk of becoming involved with the JJS/CJS or already justice-involved should consider the development of an IJP to outline behavior practices and responses that may prevent the person's involvement with the JJS/CJS or facilitate the person's participation in the justice system, should it occur.

A person's support network includes parents, guardians, supporters in a supported decision-making role, legal custodians, foster care personnel, providers, advocates, physicians, team members, human service center personnel, human service zone

personnel, educators, school personnel, and counselors, among others.

Points of contact at which development of an IJP may be identified and implemented for people with disabilities who are either at-risk of becoming or already justice-involved are (lists may not be all-inclusive):

- **Community Services:** this includes peer support specialists, mobile crisis units, crisis intervention teams, crisis lines, human service zone workers, human service center workers, police youth bureau personnel, shelter care, and attendant care providers, social workers
- **Education Services:** counselors, administrators, teachers, special education staff, para-professionals, IEP teams, school resource or safety officers
- **Treatment providers:** physicians, nurses, counselors, therapists, psychiatric residential treatment facility personnel, qualified residential treatment program personnel, social workers
- **Law Enforcement:** school resource officers, law enforcement officers, jail personnel
- **Court:** defense attorneys, prosecuting attorneys, judicial officers, people conducting competency assessments or fitness to proceed assessments, pre-sentence investigation assessors, Division of Juvenile Services personnel
- **Detention and Re-entry:** Detention facility staff, parole and probation officers, juvenile correction specialists, aftercare providers

Early identification and development of an IJP will maximize the impact for the benefit of both the person and the CJS/JJS. Any of the above may utilize this manual to facilitate the development and implementation of an Individual Justice Plan. Once an IJP is developed, involved parties should document the existence of the Plan in the appropriate systems.

Referral for Initiation of an IJP

Ideally, an eligible person will already be connected to services and support within his or her community. When this is the case there is often a case/program manager or care coordinator involved. Case managers or coordinators should know about the person's disability and circumstances and will be a good referral point for the initiation of an IJP. Asking a person if he or she has a case manager or receives services from an organization is one way to find a contact who may be able to initiate an IJP.

For people who appear eligible for IJP development and do not appear to have a case manager or coordinator, a local human service or community organizations may be able to facilitate the development of an IJP.

Chapter 5

WRITING THE INDIVIDUAL JUSTICE PLAN

This chapter will describe, in a step-by-step fashion how to construct an IJP. The IJP outline and examples are summarized in Appendix 5.

IJP TEAM

The person with a disability is at the center of the IJP Team. Team makeup is specific to each person.

Team members may include

- Case Management/Program Management
- Service providers
- Parents
- Guardians
- Supported Decision-Making Supporter
- Advocate
- Friends or other natural supports
- School personnel
- Parole or probation staff
- County custodian

PRESENTING PROBLEM

The specific behaviors that resulted in the person's involvement in the JJS/CJS should be described including how often they occur, the severity, history of past offenses, and the likelihood of reoccurrence.

The social implications of the behavior should also be assessed in terms of the impact on the person, other people, society, and property. The potential impact on the person may include negative impacts to education, housing, housing assistance, entitlement programs, services, prison, jail, parole/probation, finances, hospitalization/treatment, or other residential programs.

ASSESSMENT

The motivation or cause for the presenting problem needs to be thoroughly evaluated. The assessment phase outlines aspects of a person's life that should be considered. Within each area, some questions to consider are:

- Whether the person is experiencing a skill deficit that is contributing to the problem (communication, coping skills, social/emotional, boundaries, etc.)
- Environmental factors,
- The medical condition that impacts the person
- Whether changes in an area of their life may lessen or eliminate the problem; and
- Whether the area constitutes a strength for the person and whether it presents an opportunity to build upon to address the problem.

The following areas should be examined to determine how they contribute to the problem and identify potential solutions:

A. Residential

- Does the current living environment have an impact on the behavior?
- Does the current setting meet the person's needs in terms of the presenting behavior?
- Would a change in the living environment be appropriate/recommended?

B. Vocational

- Does the person's current job situation contribute to the behavior?
- Does it provide a source of stability and structure for the person?
- Is the behavior a concern within this setting?

C. Education/Training

- Does this person have skill deficits (e.g., social skills, learning deficits, communication) that contribute to the presenting behavior?
- What, if any, further education/training might address the behavior?

D. Medical/Physical Health

- Do medical needs or physical disabilities contribute to the behavior?
- Are there unmet needs in this area that may contribute to the behavior?
- Are medications taken and at proper dosage?
- Does the person maintain regular contact with a healthcare provider to support optimal health?

E. Behavioral Health

- Does the person have a mental illness or behavioral health concern that contributes to the behavior?
- Does the person have coping deficits that impact the behavior?
- Are services needed/appropriate to assist the person?
- Are psychotropic medications taken and at proper dosage?
- Is the person experiencing any barriers to accessing the necessary behavioral health supports?

F. Financial

- Does the person manage his/her own money?
- Is the behavior related to lack of funds or mismanagement of money?
- Are services needed/appropriate to assist the person?

G. Social/Recreation

- Does the person have excessive free time and/or lack of ability to organize free time that contributes to the behavior?
- Does the person have friends who may encourage the behavior?
- What services may assist the person in the positive development of skills in this domain?

H. Family/Natural Supports

- Does the person have an active and supportive family or other natural supports?
- Do family influences contribute to the behavior?
- Are there supports that family or other natural supports can provide to positively impact the current situation?

I. Identity/Cultural

- Is there actual or perceived bias or biases around a person's identity?
- Does the person's identity create factors that should be included in the assessment process?
- Are there cultural factors that should be included in the assessment process?
- Does culture or identity have an impact on the behavior?
- Are services needed/appropriate to assist the person?

J. Transportation

- Do transportation factors contribute to the behavior?
- Is there accessible transportation available in the community?
- Are services needed/appropriate to assist the person?

K. Advocacy

- Is the person his/her own legal decision-maker?
- Is the person able to ensure his/her rights are upheld?
- Does the person need accommodations within the JJS/CJS specific to his or her disability to fairly participate and receive a true measure of justice?
- Is an outside advocate needed/desired?
- Is a supported decision-maker² or guardian needed?
- If a guardian has been appointed, is the guardian able to ensure his/her ward's rights are upheld?

L. Further Assessment

- Is there further assessment or other relevant information that would assist in identifying or addressing the behavior?

RECOMMENDATIONS

Recommendations regarding resources available should be identified, clearly organized, and integrated into the CJS and community-based services. The least-restrictive, most effective services should be recommended for implementation. Specific service providers/responsible parties should be identified for each recommendation.

The following support options should be considered:

- A. Positive Behavior Supports:** Systematic use of reinforcements to strengthen appropriate alternative behavior and consequences to help address the illegal behavior.
- B. Counseling:** The person may benefit from a therapeutic effort such as one-to-one counseling, group therapy, or peer support.

² [Supported Decision-Making resources](#)

- C. Supervision and/or case management:** Increased supervision or case management services may be necessary to support a person within the community.
- D. Community Service:** Engaging in a relatively less desirable activity may serve to address the problem behavior. This is usually a prearranged placement by the court. (Example: picking up garbage in a local park).
- E. Hospitalization:** Inpatient psychiatric services may be necessary.
- F. Agency Transfer:** Another facility may be better equipped or provide more specialized treatment to address the behavior.
- G. Other treatment/training:** Further treatment or training may need to be considered.
- H. Psychotropic medication management:** Medication management issues may need to be addressed to ensure compliance, appropriateness of medications, and ongoing review by a physician.
- I. Restitution:** If the person is found guilty of a charge which involves damage to property or some other type of monetary loss to the victim, it may be appropriate for the person to make some type of restitution to the victim or do some type of service for the victim.
- J. Fines:** A monetary fine may have the desired impact on the person and result in addressing the problem.
- K. Restorative justice:** A theory of justice emphasizing the repair of harm caused by criminal behavior. It views crime beyond the breaking of the law and

acknowledges the harm caused to people, relationships, and the community. Restorative justice addresses the wrongdoing and the harm through a process of bringing parties together to discuss the harm that occurred and work together to determine how it can be repaired. Restorative justice can fundamentally transform people, relationships, and communities.

- L. Probation:** A probationary period may be considered. A recommendation regarding the level of supervision may be appropriate.
- M. Incarceration:** A sentence of incarceration may be indicated. This may include serving the customary sentence or a shorter but immediate jail sentence.

Based upon the outcomes, an IJP should be shared with entities that are involved. Throughout this process, there may be a need for continued involvement by the service system or case management.

OTHER RECOMMENDATIONS

In addition to the recommendations noted in the previous section, the IJP team may have other recommendations that would serve to lessen or eliminate the presenting problem.

ANTICIPATED OUTCOME

The plan should specify in descriptive terms what the outcome(s) of the current situation should be. This may be evident by a treatment or service plan or identified services. Additionally, the plan should consider the possible reoccurrence of the behaviors and should include a written description of what will take place should the behaviors occur again.

For example: If the person has a developmental disability and one could expect that it would be life-long, an anticipated

outcome may be that behavioral supports are developed and that with ongoing training, the person can learn appropriate behavior, which would then eliminate the behavior that places the person at risk of involvement in the criminal justice system.

INTEGRATION

An IJP should be integrated within the person's existing service plan by the appropriate service provider(s).

REVIEW OF THE IJP

A review process and responsible reviewer should be clearly outlined for each IJP (e.g., monthly, annually, or as needed). The responsible reviewer shall set meetings to review the IJP and provide notice to the person and the IJP team.

CONSENT

A person and their legal or supported decision-maker should be involved throughout the process of IJP development. Once the IJP is developed, the person and supported decision-maker/or legal decision-maker (guardian or custodian) must be fully informed of all components of the IJP. Written confirmation of this process and their consent must be documented on the IJP document.

CONFIDENTIALITY

A person's records are considered confidential information and should not be disclosed without proper authorization.

See [Appendix 5](#) for IJP examples and [Appendix 6](#) for sample forms.

Chapter 6

THE NORTH DAKOTA LEGAL SYSTEM

A person may enter the adult criminal justice system or juvenile justice system through a variety of doorways. The crime is generally reported to or witnessed by law enforcement and the person is considered a suspect. An investigation then begins and is conducted by law enforcement. Law enforcement then assesses the information gathered and determines if a crime has or has not been committed.

Adult Criminal Justice System

The case will be referred for prosecution by a city, state, or federal prosecutor if it is determined that a crime has been committed. A prosecuting attorney, or prosecutor, is the attorney that represents the city, state, or country.

A suspect becomes a defendant once he or she has been charged with committing a crime. An adult defendant may apply for and be provided indigent defense services (court-appointed attorney) by the ND Commission on Legal Counsel for Indigents when the person has a constitutional, statutory, or rule-based right to counsel and if the person is indigent, which is based on an assessment of income resources, non-income resources, and exceptional factors. A defendant may also hire his or her attorney for representation.

The defendant will enter a guilty or not-guilty plea, meaning they will tell the judge whether they did or did not commit the crime. A guilty plea will proceed straight to sentencing. If a not-guilty plea is entered, a motion hearing and either a jury trial or trial before the judge will occur. The defendant will either be acquitted, and the charges will be dismissed, or be found guilty and then subsequently receive a sentence.

Juvenile Justice System

The juvenile court process works in a similar manner when a person is suspected of committing a crime. Law enforcement will become involved and determine if a crime has been committed. Juveniles may be considered children in need of protection³ (formerly deprived), children in need of services (CHINS)⁴ (formerly unruly and truant), or delinquent.

Children in Need of Services (CHINS) are not prosecuted in the juvenile justice system, they are diverted to receive appropriate services as identified by the human service zone and the juvenile's parents or guardians. CHINS children are defined as those who are:

- Habitually and without justification truant from school,
- Habitually disobedient of the reasonable and lawful commands of the child's parent, guardian, or other custodian,
- Have committed an offense only applicable to a child,
- Are under the age of fourteen years and has purchased, possessed, smoked, or used tobacco or a related product; and need treatment or rehabilitation due to any of the above circumstances.

Children charged with committing acts of delinquency⁵ may be charged and proceed in juvenile court if diversion is not pursued before an informal adjustment or the filing of a petition.

Delinquency proceedings commence with filing a petition to determine whether the proceeding is in the best interest of the public and the child. An informal adjustment may be held before a petition is filed if it appears that proceeding without an adjudication would be in the best interest of the child, there is consent, and the case remains within juvenile court jurisdiction.

³ Source: [N.D.C.C. Chapter 27-20.1](#)

⁴ Source: [N.D.C.C. §27-20.3-01\(6\)](#)

⁵Source: [N.D.C.C. Chapter 27-20.4.](#)

Juveniles have a right to counsel (defense attorney) by the ND Commission on Legal Counsel for Indigents in all proceedings in which a petition is filed. Counsel for the child must be appointed, regardless of income, unless the child retains his or her counsel in any proceeding in which a child is alleged to be delinquent, a child in need of services, or a child in need of protection if the child is of sufficient age and competency to assist counsel. Hearings are conducted by a referee or judge without a jury and are prosecuted by the state's attorney.

The role of a juvenile's parent/guardian is also very important throughout these proceedings and is an integral part of the process. Whenever possible, efforts to ensure involvement should take place to ensure cohesive efforts.

A pre-dispositional assessment consisting of a risk and needs assessment along with any other appropriate screenings must be conducted before a disposition hearing. The court shall hear evidence whether a child needs treatment or rehabilitation upon a finding of delinquency. Disposition of a delinquent child includes findings to ensure: the child receives the treatment or rehabilitation the court deems most appropriate, repairing the harm caused to the victim or community, and safety of the community. The child may be ordered to complete probation, or if no less restrictive alternative can be found, may be committed to the Division of Juvenile Services for a period of time.

An IJP can be initiated by any of the parties involved in both the adult and the juvenile justice process. The above are bird's eye views of how the systems work which is by no means complete and may change based on future legislation or rule changes.

The Americans with Disabilities Act (ADA)

The Americans with Disabilities Act (ADA) may provide protections throughout these processes.⁶ The ADA gives civil rights protections to people with disabilities similar to those

⁶ Source: [US Department of Justice](#)

provided to people based on race, color, sex, national origin, age, and religion. It guarantees equal opportunity for people with disabilities in public accommodations, employment, transportation, state and local government services, and telecommunications.

Tribal Court

Each tribe has its own constitution and set of codified laws which govern conduct within its jurisdiction. Tribal courts have information as to what rules of court apply in that jurisdiction. Information about North Dakota Tribes and links to each Tribe is located on the Indian Affairs [website](#).

APPENDIX 1

HISTORY OF THE INDIVIDUAL JUSTICE PLAN

The Original IJP

In the spring of 1987, a group of professionals from the Fargo area met to discuss the development of a consistent response for people with developmental disabilities who may find themselves involved in the CJS. The goal of this group was to ensure that knowledge was obtained regarding the legal process and that the justice system has increased awareness of issues related to people with developmental disabilities. Another goal of this group was to develop a cooperative effort between professionals in the field and the criminal justice system so that clients' needs were first in people's minds. As commissioned by the Governor's Task Force on Developmental Disabilities, this group organized a statewide conference, held in June 1988. This was made possible through a grant from the North Dakota Developmental Disabilities Council. There was also the expectation that this process would include educational opportunities and promote integration for these systems.

Along with this training effort, the group developed a manual, which included a process that could be used to develop an IJP. In the development stages of this manual, information was obtained from a variety of relevant sources, including the DD community, judges, lawyers, and law enforcement officials. In addition, a wealth of information was gathered from other states.

It was the hope of this group that the IJP process would continue to develop, and that the increased knowledge between the two systems would provide for a consistent and person-centered approach.

Implementation Years

Throughout the next 17 years, the IJP process was utilized sporadically within the Developmental Disabilities (DD) system. Some agencies used variations of the initial processes as outlined in the original manual.

2007 IJP Manual Revision

In early 2004, the ND Protection & Advocacy Project (P&A) was asked to revise the IJP manual and bring this process to the forefront of services. Discussion regarding this resulted in a commitment by P&A to spearhead the task of revising the manual.

At this time the IJP process expanded the concept to other areas of disability (major mental illness and brain injury), along with ensuring the adequacy of information regarding all other IJP-related systems. The process began in June 2004 at which time P&A held the first IJP Stakeholders Meeting in Bismarck, ND. This large group was then represented by a steering committee, which was given the task of revising the manual and developing a training and implementation plan, which occurred over the next few years.

2022 IJP Manual Revision

Protection & Advocacy for Individuals with Mental Illness (PAIMI) Advisory Council members worked with P&A staff throughout 2021 to revise and update the IJP process and manual. The group expanded the scope of the IJP process by broadening disability categories, including descriptions of the juvenile justice process, and updating language to reflect the current community and systemic practices. The workgroup aimed to make the manual and process easy to understand and to use for all parties involved.

APPENDIX 2

TERMS AND DEFINITIONS

(Official definitions taken from ND Century Code where available)

Acquired/Traumatic Brain Injury (ABI/TBI)⁷

Damage to the brain or the coverings of the brain which produces an altered mental state and results in a decrease in cognitive, behavioral, emotional, or physical functioning.

Traumatic brain injury (TBI) is an injury to the brain, not of a degenerative or congenital nature, which is caused by an external physical force that may produce a diminished or altered state of consciousness and which results in an impairment of cognitive abilities or physical functioning. It can also result in the disturbance of behavioral or emotional functioning. Causes may include falls, motor vehicle accidents, being struck by an object, sports injuries, etc.

Acquired brain injury (ABI) is an injury to the brain that is not hereditary, congenital, or degenerative. ABIs may be caused by some medical conditions such as strokes, encephalitis, aneurysms, anoxia (lack of oxygen), drug overdose, near drowning, metabolic disorders, meningitis, or brain tumors.

Advocacy⁸

Action to assist or represent a person or group of people with disabilities in securing their rights, obtaining needed services, investigating complaints, and removing barriers to identified needs.

⁷ Source: [N.D.C.C. §50-06.4-01\(1\)](#) & <https://www.ndbin.org/brain-info/types-of-injury> visited July 2021

⁸ Source: [N.D.C.C. §25-01.3-01\(2\)](#)

Assisting in own defense⁹

The essence of the ability to consult with an attorney with a reasonable degree of rational understanding so that the defendant can confer coherently with counsel and formulate a defense.

Attorney-client privilege¹⁰

Confidential communications made to facilitate the rendition of professional legal services to a client are privileged and subject to nondisclosure. Various jurisdictions extend this principle to communications with faith leaders, doctors, and others.

Behavior Support Plan

A plan developed by an interdisciplinary team working with a person that focuses on behaviors that are of concern and strategies to replace the behaviors with more appropriate behaviors.

Cognitive/mental impairment¹¹,

A cognitive or mental impairment substantially limits one or more of the following: (1) Learning; (2) Self-direction; (3) Receptive or expressive language; (4) Ability to understand.

Confidential (meeting or records)¹²

All or part of a record or meeting that is either expressly declared confidential or is prohibited from being open to the public.

Consent¹³

To give assent or approval, to agree. This may range from agreeing to enter into contracts to sexual relations. The doctrine of informed consent in North Dakota law is "essentially the duty

⁹ Source: State v. VanNatta, 506 N.W. 2d 63 (N.D. 1993)

¹⁰ Source: ND Rules of Evidence, [502 Lawyer-Client Privilege](#), effective date 3/1/2014

¹¹ [N.D.C.C. §25-03.1-02\(11\)](#)

¹² Source: [N.D.C.C. §44-04-17.1\(3\)](#)

¹³ Source: Merriam-Webster's Dictionary of Law, <https://www.merriam-webster.com/dictionary/consent#legalDictionary> visited 7/21/21

of a physician to disclose sufficient information to permit a patient to make an informed and intelligent decision on whether to submit to a proposed course of treatment or surgical procedure.” See Flatt ex rel. Flatt v. Kantak, 687 N.W.2d 208, 211, 2004 ND 173 ¶ 6. See Appendix 2 for more information on consent.

Three elements basic to the legal definition of consent are capacity, comprehension of information, and voluntariness.

Correction or Reduction of Sentence¹⁴

Correction of Sentence

The sentencing court shall correct an illegal sentence at any time and may correct a sentence imposed illegally within the time provided for the reduction of sentence in Rule 35(b)(1).

Reduction of Sentence

The sentencing court may reduce a sentence (A) within 120 days after the sentence is imposed or probation is revoked, (B) or within 120 days after receipt by that court of a mandate issued upon affirmance of the judgment or dismissal of the appeal, (C) or within 120 days after entry of any order or judgment of the Supreme Court of the United States denying review of or having the effect of upholding a judgment of conviction or probation revocation. It may also involve changing a sentence from a sentence of incarceration to a grant of probation constitutes a permissible reduction of sentence under this subdivision. Relief under this Rule may be granted by the court only upon motion of a party or its motion and notice to the parties. If the sentencing court grants relief under this Rule, it shall state its reasons therefore in writing.

¹⁴ Source: [N.D. Rules of Crim. Proc. Rule 35 Correcting or Reducing a Sentence](#), effective date 3/1/2019

Court-appointed counsel

A lawyer hired and appointed by the court to defend a person against specific charges. Court-appointed counsel generally does not represent the person on other legal matters.

Criminal responsibility¹⁵

An individual is not criminally responsible for criminal conduct if, as a result of mental disease or defect existing at the time the conduct occurs:

- a. The individual lacks substantial capacity to comprehend the harmful nature or consequences of the conduct, or the conduct is the result of a loss or serious distortion of the individual's capacity to recognize reality; and
- b. It is an essential element of the crime charged that the individual act willfully.

For purposes of this chapter, repeated criminal or similar antisocial conduct, or impairment of mental condition caused primarily by the voluntary use of alcoholic beverages or controlled substances immediately before or contemporaneously with the alleged offense, does not constitute in itself mental illness or defect at the time of the alleged offense. Evidence of the conduct or impairment may be probative in conjunction with other evidence to establish mental illness or defect.

Culpable¹⁶

A determination that a person is sufficiently responsible for criminal acts or negligence and thus to be at fault and liable for the conduct. Sometimes culpability rests on whether the person realized the wrongful nature of his/her actions and thus should take the blame.

¹⁵ Source: [N.D.C.C. §12.1-04.1-01v](#)

¹⁶ Source: <http://dictionary.law.com>; [N.D.C.C. §12.1-02-02](#)

Decision-Making Capacity¹⁷

The ability to make a meaningful decision

- Understanding - Mental competence to understand what is happening, and to understand the consequence of their decisions/actions.
- Appreciation - Ability to appreciate the significance of disclosed information and potential risks and benefits based on a person's circumstances
- Reasoning - Ability to engage in an objective and rational decision-making process.
- Expression - Be capable of expressing your decision.
- Be of majority age, which is 18 years of age (although the same procedure should be encouraged with children to teach them how to make decisions and accept responsibility).

Defense Attorney¹⁸

The attorney representing the defendant in a lawsuit or criminal prosecution.

Delinquent act¹⁹

A child who has committed a delinquent act and needs treatment or rehabilitation.

Developmental Disability²⁰

A severe, chronic disability of a person which:

- a. Is attributable to a mental or physical impairment or combination of mental and physical impairments, including Down Syndrome;
- b. Is manifested before the person attains age twenty-two;
- c. Is likely to continue indefinitely;
- d. Results in substantial functional limitations in three or more of the following areas of major life activity:

¹⁷ Source: [Decision-Making Capacity Guidelines](#)

¹⁸ Source: <http://dictionary.law.com>

¹⁹ Source: [N.D.C.C. §27-20.4-1\(8\)](#)

²⁰ Source: [N.D.C.C. §25-01.2-01\(3\)](#)

- (1) Self-care;
 - (2) Receptive and expressive language;
 - (3) Learning;
 - (4) Mobility;
 - (5) Self-direction;
 - (6) Capacity for independently living; and
 - (7) Economic self-sufficiency; and
- e. Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong extended duration and are individually planned and coordinated.

Dispositional Stage²¹

Any proceeding after a ruling has been made finding delinquency in juvenile proceedings.

Diversion²²

An intervention strategy made by a person with authority that directs the child away from formal court processing to a specifically designed program or activity to hold the child accountable for the actions of the child and prevents further involvement in the formal legal system.

Due Process²³

- A course of formal proceedings (such as legal proceedings) carried out regularly and following established rules and principles - called also *procedural due process*
- A requirement that enacted laws may not contain provisions that result in the unfair, arbitrary, or unreasonable treatment of a person - called also *substantive due process*

²¹ Source: [N.D.C.C. §27-20.4-1\(11\)](#)

²² Source: [N.D.C.C. §27-20.4-01\(12\)](#)

²³ Source: <https://www.merriam-webster.com/dictionary/due%20process>

Fine²⁴

A financial penalty imposed by a judge on a party or attorney for violation of a court rule, for receiving a special waiver of a rule, as a fine for contempt of court, or as a penalty for committing a crime, paid to the court.

Guardianship²⁵

A guardian is a person or nonprofit corporation that has qualified as a guardian (caretaker) of a minor or incapacitated person. A guardian is appointed by the court. Guardianships can be full or limited in the amount of control granted to the caretaker and the areas of the ward's life subject to the guardian's control.

Incarcerate²⁶

- To put in prison
- Subject to confinement

Incompetency

A defendant lacks

- Sufficient present ability to consult with his or her lawyer with a reasonable degree of rational understanding; or
- A rational as well as factual understanding of the proceedings against him or her.

This includes a reasonable degree of rational understanding is the ability to confer coherently with defense counsel and provide information both relevant and necessary to the formulation of a defense. Source: State v. Gleeson, 2000 ND 205 ¶ 9, 619 N.W.2d 858; State v. VanNatta, 506 N.W. 2d 63 (N.D. 1993) ; See also N.D.C.C. §12.1-04-04(1).

²⁴ Source: <http://dictionary.law.com>

²⁵ Source: <http://dictionary.law.com> & [N.D.C.C. 30.1-26](#); [N.D.C.C. 30.1-27](#); [N.D.C.C. 30.1-28](#)

²⁶ Source: Merriam-Webster's Dictionary of Law, <https://www.merriam-webster.com/dictionary/incarcerate#legalDictionary> visited 7/21/21

Informal adjustment²⁷

A meeting held by the director of juvenile court or designee to resolve a low-level delinquent referral and is an alternative to the filing of a petition for formal processing.

Intellectual Disability²⁸

Significantly subaverage general intellectual functioning (IQ of 70 or less) that is accompanied by significant limitations in adaptive functioning in at least three of the following skill areas: communication, self-care, home living, social/interpersonal, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety. The onset must occur before age 21 years.

Least Restrictive Appropriate Setting²⁹

An available treatment or service that best meets the identified need and is no more restrictive of physical or social liberties than what is necessary to meet the need.

Least restrictive form of intervention (concerning guardianship)³⁰

The guardianship imposed on the ward must compensate for only those limitations necessary to provide the needed care and services and that the ward must enjoy the greatest amount of personal freedom and civil liberties consistent with the ward's mental and physical limitations. Supported decision-making should be utilized whenever possible to encourage autonomous decision-making.

Manifestation of a Person's Disability means asking if the conduct in question was caused by, or had a direct and substantial relationship to, the person's disability.

²⁷ Source: [N.D.C.C. §27-20.4-01\(22\)](#)

²⁸ Source: [Diagnostic and Statistical Manual of Mental Disorders \(DSM-IV\), N.D.C.C. §25-03.3-01\(3\)](#)

²⁹ Source: [N.D.C.C. §12.1-04-04\(2\)](#)

³⁰ Source: [N.D.C.C. §30.1-26-01\(3\)](#)

Mental Health Professional³¹

- A psychologist with at least a master's degree who has been either licensed or approved for exemption by the North Dakota Board of psychology examiners.
- A social worker with a master's degree in social work from an accredited program.
- An advanced practice registered nurse.
- A registered nurse with a minimum of two years of psychiatric clinical experience under the supervision of an expert examiner.
- A licensed addiction counselor.
- A licensed professional counselor with a master's degree in counseling from an accredited program who has either completed the advanced training beyond the master's degree as required by the national academy of mental health counselors or a minimum of two years of clinical experience in a mental health agency or setting under the supervision of a psychiatrist or psychologist.
- A physician assistant.

Mental Illness³²

Significant mental illness or emotional impairment as determined by a mental health professional.

Mentally Ill Person³³

A person with an organic, mental, or emotional disorder that substantially impairs the capacity to use self-control, judgment, and discretion in the conduct of personal affairs and social relations. The term does not include a person with an intellectual disability of significantly subaverage general intellectual functioning that originates during the developmental period and is associated with impairment in adaptive behavior, although a person who has an intellectual disability may also be a person

³¹ Source: [N.D.C.C. §25-03.1-02\(11\)](#)

³² Source: [N.D.C.C. §25-01.3-01\(13\)](#)

³³ Source: [N.D.C.C. §25-03.1-02\(12\)](#)

who has a mental illness. A substance use disorder does not per se constitute mental illness, although a person with a substance use disorder may also be a person with a mental illness.

Neurodevelopmental Disorders (NDD)³⁴

Multifaceted conditions characterized by impairments in cognition, communication, behavior, and/or motor skills resulting from abnormal brain development. Intellectual disability, communication disorders, autism spectrum disorder (ASD), attention-deficit/hyperactivity disorder (ADHD), and schizophrenia all fall under the umbrella of NDD.

Parole³⁵

The release of a convicted criminal defendant after he/she has completed part of his/her prison sentence, based on the concept that during the period of parole, the released criminal can prove he/she is rehabilitated and can "make good" in society. Parole generally has a specific period and terms such as reporting to a parole officer, not associating with other ex-convicts and staying out of trouble. Violation of the terms may result in revocation of parole and a return to prison to complete his/her sentence.

Petition³⁶

A document alleging delinquency under ND law.

Positive Behavior Supports³⁷

A broad process of interventions to help people choose more effective behavior and attain a higher quality of life. They are research-based, follow ethical practices, and protect the rights of people receiving support.

³⁴ Source: [Translational Psychiatry, 2013 Dec; 3\(12\): e329.](#)

³⁵ Source: <http://dictionary.law.com>

³⁶ Source: [N.D.C.C. Chapter 27-20.4](#)

³⁷ Source: [Positive Behavior Support](#), The ND Statewide DD Staff Training Program, April 2018

Predispositional Assessment³⁸

Any hearing or informal adjustment conducted before a court.

Pre-sentence investigation (PSI)³⁹

Before sentencing a defendant on a felony charge under sections 12.1-20-03, 12.1-20-03.1, 12.1-20-11, 12.1-27.2-02, 12.1-27.2-03, 12.1-27.2-04, or 12.1-27.2-05, a court shall order the department of corrections and rehabilitation to conduct a pre-sentence investigation and to prepare a pre-sentence report. A pre-sentence investigation for a charge under section 12.1-20-03 must include a risk assessment. A court may order the inclusion of a risk assessment in any pre-sentence investigation. In all felony or class A misdemeanor offenses, in which force, as defined in section 12.1-01-04, or threat of force is an element of the offense or in violation of section 12.1-22-02, or an attempt to commit the offenses, a court, unless a presentence investigation has been ordered, must receive a criminal record report before the sentencing of the defendant. Unless otherwise ordered by the court, the criminal record report must be conducted by the department of corrections and rehabilitation after consulting with the prosecuting attorney regarding the defendant's criminal record. The criminal record report must be in writing, filed with the court before sentencing, and made a part of the court's record of the sentencing proceeding.

Probation⁴⁰

A chance to remain free (or serve only a short time) given by a judge to a person convicted of a crime instead of being sent to jail or prison, provided the person can be good. Probation is only given under specific court-ordered terms, such as performing public service work, staying away from liquor, paying a fine, maintaining good behavior, getting therapy, and reporting regularly to a probation officer. Violation of probation terms will

³⁸ Source: [N.D.C.C. §27-20.4-01\(27\)](#)

³⁹ Source: [N.D.C.C. §12.1-32-02\(11\)](#)

⁴⁰ Source: <http://dictionary.law.com>

usually result in the person being sent to jail for the normal term. Repeat criminals are normally not eligible for probation.

Prosecutor/States Attorney⁴¹

The lawyer/public prosecutor that represents the government.

Psychotropic Medications

Medications that are prescribed by a physician to treat the symptoms of a mental illness.

Referral (juvenile)⁴²

A written report of alleged delinquent behavior of a child is received by the director of the juvenile court.

Re-entry planning⁴³

The process of preparing prisoners for release in ways that reduce their risk of re-offending. In reference to people with disabilities, this includes the establishment of appropriate supports and services within the community.

Restitution⁴⁴

A restoration of something to its rightful owner which may be payment of an amount of money equivalent to the injury or damage caused by the commission of a crime.

In determining whether to order restitution, the court shall consider the reasonable damages sustained by the victim or victims of the criminal offense, which damages are limited to those directly related to the criminal offense and expenses incurred as a direct result of the defendant's criminal action. This can include an amount equal to the cost of necessary and related

⁴¹ Source: [N.D.C.C. §11-16-01](#)

⁴² Source: [N.D.C.C. §27-20.4-01\(30\)](#)

⁴³ Source: [Transition from Prison to Community Initiative, Abt Associates and National Institute of Corrections](#)

⁴⁴ Source: Merriam-Webster's Dictionary of Law, <https://www.merriam-webster.com/dictionary/restitution#legalDictionary> visited on 7/21/21; [N.D.C.C. §12.1-32-08](#)

professional services and devices relating to physical and psychological care. The defendant may be required as part of the sentence imposed by the court to pay the prescribed treatment costs for a victim of a sexual offense as defined in chapters 12.1-20 and 12.1-27.2.

Treatment

Targeting interventions that focus on risk factors, improved mental health, and improved positive youth outcomes.⁴⁵

Truant

Refers to a student's absence from school as laid out in ND law.⁴⁶

Voluntary

Freedom from coercion, or duress, intentional or unintentional. Concurrent or substitute consent-someone else making the decision. The person should be free from any conflict of interest and unbiased. The person must act based on the best interest of the person involved. A person must be competent, adequately informed, and free from any coercion.

⁴⁵ [N.D.C.C. Section 27-20.4-01\(34\)](#)

⁴⁶ [N.D.C.C. Chapter 15.1-20](#)

APPENDIX 3

Resources and Services for People with Disabilities within the state of North Dakota

Connecting people with disabilities with supports and services is extremely important to prevent involvement in the criminal or juvenile justice system. Supports are also helpful in ensuring a robust method of support to address involvement and ensure the successful implementation of an Individual Justice Plan.

Resource information and supports and services for people with disabilities can be found at the following link:

<https://www.ndpanda.org/resources/individual-justice-planning-forms-and-documents>

APPENDIX 4

IJP WORKSHEETS & FILLABLE TEMPLATES

Both the IJP assessment and IJP document are available in fillable templates for ease of completion. The following outlines provide an overview of the content of the documents.

Fillable templates can be found at the following link:

<https://www.ndpanda.org/resources/individual-justice-planning-forms-and-documents>

Client Name_____
Individual Justice Plan

Presenting Problems
Assessment Summary

Residential_____

Vocational_____

Education/Training_____

Medical_____

Mental/Behavioral Health_____

Financial_____

Social/Recreation_____

Family_____

Identity and Cultural background_____

Transportation_____

Advocacy_____

Further Assessments Needed_____

Recommendations

Positive Behavior Supports_____

Counseling_____

Supervision/case management_____

Community Service_____

Hospitalization_____

Agency Transfer_____

Other treatment/training_____

Medication Management_____

Restitution_____

Fine_____

Probation_____

Incarceration_____

Other Recommendations

Anticipated Outcome

Integration

Review of the IJP

Consent

Confidentiality

Acknowledgment

I have reviewed and agree with all components of the Individual Justice Plan document. I am aware that I have the right to request changes to this document at any time. I am aware that some components of this IJP may be court-ordered and that I may not have the right to revise these components.

Signature of Client

Date

Signature of Parent/Guardian

Date

Signature of Witness

Date

List of IJP Team members:

IJP Assessment Worksheet

The following aspects of the person's life should be examined to determine how they contribute to the problem or potential solutions. Note: If yes, further information should be included in the IJP.

Residential

- Does the current residential environment have an impact on the behavior?
- Does the current setting meet the person's needs in terms of the presenting behavior?
- Would a change in the living environment be appropriate/recommended?

Vocational

- Does the person's current job situation contribute to the behavior?
- Does it provide a source of stability and structure for the person?
- Can the behavior be controlled in this setting?

Education/Training

- Does this person have skill deficits (e.g., social skills, learning deficits, communication) that contribute to the presenting behavior?
- What, if any, further education/training might eliminate the behavior?

Medical

- Do medical needs or physical disabilities contribute to the behavior?
- Are there unmet needs in this area that may contribute to the behavior?
- Are medications taken and at proper dosage?

Mental/Behavioral Health

- Does the person have a mental illness that contributes to the behavior?
- Does the person have coping deficits that impact the behavior?
- Are services needed/appropriate to assist the person?
- Are psychotropic medications taken and at proper dosage?

Financial

- Does the person manage his/her own money?
- Is the behavior related to lack of funds or mismanagement of money?

- Are services needed/appropriate to assist the person?

Social/Recreation

- Does the person have excessive free time and/or lack of ability to organize free time that contributes to the behavior?
- Does the person have friends who may encourage the behavior?
- What services may assist the person in the positive development of skills in this domain?

Family

- Does the person have an active and supportive family?
- Do family influences contribute to the behavior?
- Can family assist in appropriate behavior development?

Identity and Cultural background

- Are there cultural factors that should be included in the assessment process?
- Does culture have an impact on behavior?
- Are services needed/appropriate to assist the person?

Transportation

- How mobile is the person?
- Do transportation factors contribute to the behavior?
- Is there accessible transportation available in the community?
- Are services needed/appropriate to assist the person?

Advocacy

- Is the person his/her own legal decision-maker?
- Is the person able to ensure his/her rights are upheld?
- Is an outside advocate needed/desired?
- Is a guardian or Supported Decision Maker needed?
- If a guardian has been appointed, is the guardian able to ensure his/her ward's rights are upheld?

Further Assessment

- Is there further assessment or other relevant information that would assist in identifying or addressing the behavior?

Signature of Assessor

Date

IJP Recommendations Worksheet

Recommendations regarding resources available to the person should be identified, clearly organized, and integrated into the CJS/JJS and community-based services. The least-restrictive, most effective services should be recommended for implementation. Specific service providers/responsible parties should be identified for each recommendation.

The following support options should be considered (see below):

Positive Behavior Supports:

- Is there systematic use of reinforcements or strategies that would strengthen appropriate alternative behaviors and consequences to help address the behavior?

Counseling

- Would the person benefit from a therapeutic effort such as one-to-one counseling or group therapy?
- Would counseling or therapy provide a level of service or support that is not currently being met in the person's life?

Supervision/case management

- Would increased supervision or case management services assist with preventing the behavior from occurring?

Community Service

- Would the option of community service (e.g. engaging in a relatively less desirable activity) serve to suppress the problem behavior?
- Is this a recommendation that should be made to the courts?

Hospitalization

- Is there a need for inpatient psychiatric services?
- Is there a need for outpatient or partial care services?

Agency Transfer

- Would another facility be better equipped to provide more specialized treatment to address the behavior?

Other treatment/training

- Is there a need for further treatment or training?

Psychotropic medication management

- Are there medication management issues that need to be addressed to ensure compliance?
- Are there any unaddressed questions about the appropriateness of medications being taken?
- Is there a need for ongoing review by a physician?

Restitution

- Is it appropriate for the person to provide payment or service to the victim?

Fine

- Would the imposing of a monetary fine have the desired impact on the person and result in suppression of the problem?

Probation

- If probation is imposed by the court, are there any recommendations regarding the level of supervision?

Incarceration

- If incarceration is court-ordered, are there any risks or services that are needed to ensure the safety and well-being of the person?
- Are there any disability-related accommodations that are needed during a period of incarceration?
- Are there any alternatives to incarceration that should be presented to the court?
- Are there any other recommendations that should be considered as part of this IJP?

Signature of Assessor

Date

Recommendations for an IJP

The following decision process may assist with organizing recommendations relative to this section of an IJP:

If an at-risk behavior occurs, consider...

Increased
community
based services

Intensive
Intervention
Acute Care

Involve Case
Manager or
service system

Out-patient
versus
in-patient
hospitalization?

If arrest occurs:

Pre-hearing options

- * Charges filed
- * Attorney involvement
- * Fitness to proceed
- * Competence eval

Dismissal/Settlement
options

- * Plea negotiation
- * With prejudice
- * Without prejudice

Court options

- * Found not guilty
- * Found guilty

If found guilty:

- * Consider all areas of
recommendation for
sentencing alternatives
- * Pre-sentence
investigation

Throughout this process, it is important to understand the nature of a person's disability and what specific supports and services are needed.

APPENDIX 5-IJP EXAMPLES

Joe – Case Scenario #1 Individual Justice Plan

Presenting Problems

Joe is an 18-year-old male with a diagnosis of mild intellectual disability and depression. He recently graduated from high school with a modified diploma and is trying to find a job. He lives by himself in an apartment in the community. Joe began dating and is very happy because this is his first girlfriend. Joe and his girlfriend decide that they were going to have an intimate relationship. Later, the police arrive at Joe's doorstep and take him to the police station for questioning. Joe tells the police officer that he has been dating this girl for the summer and that they had intimate relations. Joe is now being charged with committing a sexual offense because of the age of his girlfriend. Joe has no idea what he did wrong; he does not understand that this was a criminal act.

IJP Assessment

Residential

Joe currently resides in his apartment with minimal support services. Because he chose to graduate at the age of 18, his ability to access adult Developmental Disabilities Services has been limited. As a result of this decision, Joe receives two hours per week of support and assistance. This time is spent budgeting and shopping as these are his most significant needs.

Vocational

Joe has been looking for a job, however, his job search has been slow because he is not able to read or write. Joe is dependent on his VR counselor and limited staff time to assist with filling out job applications. Joe is very interested in working and would like to earn money.

Education/Training

Joe graduated from high school when he turned eighteen. Joe did not like school as he didn't ever feel that he fit in. Joe has limited skills and it is thought that his transition plan did not prepare him well for life after graduation.

Medical

Joe is very healthy medically. He does not currently take any medications. Joe does require assistance with setting up medical appointments for routine medical exams as he does not initiate this without reminders.

Mental/Behavioral Health

He has experienced some episodes of depression over the past few years and has taken medication in the past. Joe is not able to self-medicate as he doesn't always remember to take his medications. Joe does not take any other medications at this time.

Financial

Joe's only source of income at this time is his Social Security money. One of Joe's greatest needs when living on his own was budgeting and money management. Joe does not have a clear understanding of how to manage his money and is not able to budget and pay his bills. When Joe first entered the community, he experienced some difficulties with his landlord because he was not paying his rent on time. Joe does require assistance with ensuring that his bills are paid on time.

Social/Recreation

Joe does a lot of things socially; however, he tends to gravitate towards people that are not always a good influence. Joe often looks for people that will pay attention to him. He also tends to find friendships with people that are quite a bit older and that have a greater understanding of life than he currently has. A great deal of staff time is

spent coaching Joe on how to make decisions concerning people that he is spending time with.

Family

Joe has family that lives in the same community that he lives in. He spends a great deal of time with them, however, is quite adamant about not wanting to be dependent on them for support and assistance.

Identity and Cultural background

Joe was born and raised in a small town in Minnesota. His family moved to this community about 12 years ago when his dad was relocated through the armed services. Joe likes living in this community and has chosen to stay here.

Transportation

Joe walks or rides his bike to pretty much everywhere that he goes. If not, he often will "bum" rides from friends. It is speculated that one reason that he tends to choose the friends that he does is that they will take him with them wherever they go. Joe has stated that he would like to someday get his driver's license. This may be compromised by his lack of ability to read and write.

Advocacy

Joe has been attending the local self-advocacy group in his home community. One thing that has been identified in this process is Joe's lack of understanding in social situations. Joe often will voice his frustration with advice or information that he is given. Joe has been educated on how to contact the local Protection & Advocacy office and he will do so if he has concerns or questions. Often Joe does so with complaints about advice or guidance that has been given to him. Most often, the advice given to him is sound and his desires could potentially get him into trouble.

Further Assessments Needed
Social Skills Assessment
Updated Psychiatric Evaluation

Recommendations

Positive Behavior Supports

Joe does not exhibit any behavioral issues that would warrant follow-up in this area.

Counseling

Joe has benefited from counseling in the past when his depression has been significant. With some of the currently stressful situations that Joe is going through right now, it is recommended that this be considered if the need arises. It is recommended that compliance with Psychiatric care be included in any court orders that are put in place for Joe.

Supervision/case management

Joe currently is receiving program management services through the Developmental Disabilities system. Joe states that he likes his Program Manager and also that she is helpful when needed.

One issue in this area is Joe's need for more staffing intervention. There are significant life skills that Joe is lacking. His ability to be successful in the community will be impacted by staff intervention at this point in his life.

Community Service

With the nature of the alleged crime and Joe's current situation, it isn't recommended that community service be included in Joe's plan. If probation is ordered, Joe will be limited in his ability to pay for the related fees. If this arises, community services may be a viable option in lieu of payment for these services.

Hospitalization

Joe does not have any history of hospitalization for medical or mental health. This aspect of services does not appear to be necessary or recommended.

Agency Transfer

Joe is doing well with his current service provider; however, there is a definite need for an increase in service hours. This would further allow for skill development to ensure that Joe has the support and services to live independently.

Other treatment/training

It is recommended that Joe be provided with training regarding sexual relationships, age of consent for minors, and healthy relationships. This could be accessed through the human service center.

Psychotropic medication management

Joe has not been taking medications for his depression for approximately 8 months. He has not seen his Psychiatrist in that timeframe either. It is recommended that Joe see his physician and that compliance with medication recommendations is adhered to. Past review of Joe's attendance at appointments and compliance with medication is not consistent. This may be an area for increased service and response.

Restitution

The crime that Joe is being charged with typically does not have a component of restitution involved. As a future reference, money is very important to Joe and if payments could be arranged with the court, restitution may be a feasible consequence.

Fine

Due to Joe's limited monetary income, any fine assessed would need to be paid in increments. A fine may have a powerful impact on Joe as money is important to him.

Probation

Probation for Joe would be a recommended option because it may provide support and learning. It is recommended that probation be supervised.

Incarceration

If Joe is found guilty, incarceration is a sentence attached to this crime. Joe would be very vulnerable and would be an at-risk client as he does not understand social situations. He would be influenced negatively by others and would become an easy target. He also has a limited ability to advocate for himself, which is compounded by his inability to read and write.

Other Recommendations

As these legal proceedings continue, those working with Joe must provide ongoing, good information to Joe's attorney so that he can develop and understand Joe's limitations and skills.

Anticipated Outcome

In talking with Joe's attorney, he is optimistic that the addition of an IJP to Joe's case would be beneficial. Joe's attorney has indicated that he will provide Joe's IJP to the States Attorney for consideration.

Integration

Joe's current Program Coordinator within his service provider has developed goals, objectives, and supports that are consistent with this IJP. She will also be arranging for the other assessments that are recommended.

Review of the IJP

Joe’s Program Coordinator and DD Program Manager will oversee and review/revise his IJP and service plan on an ongoing basis. Throughout the criminal proceedings, ongoing updates and changes may be needed. As updates occur, copies will be provided to Joe’s defense attorney so that they can be presented during the criminal proceedings. P&A advocacy staff will also be involved in the ongoing review of this document throughout the criminal proceedings.

Consent

Joe is currently his own legal decision-maker. This document has been developed with him and he agrees with all components. As changes are made, they will be done so with Joe and an updated consent form completed.

Confidentiality

Joe was educated on his right to confidentiality, and he was informed that this document will be kept confidential, as all his records are. Joe and his IJP team will determine where a copy of his IJP will be maintained. A release was obtained and signed by Joe that allows his Program Coordinator to provide copies of the IJP to his defense attorney.

Acknowledgment

I have reviewed and agree with all components of the Individual Justice Plan document. I am aware that I have the right to request changes to this document at any time. I am aware that some components of this IJP may be court-ordered and that I may not have the right to revise these components.

Joe _____ Date _____
Signature of Client

Signature of Witness

Date

List of IJP Team members:
Joe, Client
Susie, Program Coordinator
Dawn, DD Program Manager
Jackie, Joe's sister

Jim Case Scenario #2 Individual Justice Plan

Presenting Problems

Jim is a 38-year-old male who has a moderate intellectual disability and a diagnosed impulse control disorder. He has struggled with community placements for many years because of physical aggression related to his diagnosis of impulse control disorder. When in community placements, he has had behavioral programming that has focused on maintaining an environment where he maintains control. This has at times been paired with medications to assist with his anxiety and impulse difficulties, however, he has experienced side effects from medications, and changes in medications have taken place. During these periods of instability, he has "struck" the staff members who work with him, typically when they have made requests of him that he perceives as frustrating.

Assessment

Residential

Jim has spent a lot of his years living at the state institution for developmental disabilities. He has lived in the community numerous times, but these have not always been successful placements. Jim has currently been living in the community for four years and this placement has been relatively successful. Only recently, when a medication change occurred, did Jim become more unstable. He's recently had weekly incidents of striking staff who are working with him.

Vocational

Jim attends the local day services program and does perform some paid work through contracts. If kept busy, behavioral issues are not seen at work.

Education/Training

Jim does not have any education or training beyond the modified diploma that he received from his high school. Jim is capable of performing work with a job coach and does have a desire to do so.

Medical

Jim has a few medical issues that affect him regularly. He has ulcer difficulties and high cholesterol and takes medications for both conditions. He also takes psychotropic medications for behavior support.

Mental/Behavioral Health

Jim sees a Psychiatrist who monitors his behavioral issues and his medications. Jim has experienced side effects as a result of some psychotropic medications, so changes have recently been implemented. Unfortunately, changes of meds often lead to periods of instability that have resulted in Jim losing community placements.

Financial

Jim has some basic concepts of money and can manage small amounts. Money is very motivating to him, so this is often something that he works hard for. Jim's sister is his guardian and Representative payee. Jim receives assistance from his staff to manage a checkbook in which his spending money is deposited. If Jim receives a paycheck from the day services program, this is also deposited into his checkbook. Jim's sister maintains his checkbook that is used to pay his bills.

Social/Recreation

Jim enjoys spending time in the community, but he requires one-on-one supervision. Jim also has a history of making bomb threat calls through the 911 system, so supervision in the community is very important. Jim enjoys going out to eat and is known very well in his small, local community.

Family

Jim's parents are still living, however, they spend their winters in Arizona. As a result, his contact with them during this time is somewhat limited. Jim's sister lives about 30 miles from his home community, so he can see her regularly. Visits and contact with her are very important to her. Jim also enjoys visiting her rural farm and spending time with her kids.

Identity and Cultural background

Jim's parents have lived in North Dakota all their life. They have lived in their community for many years and this is beneficial to Jim. There are no further cultural issues that should be considered in the development of this plan.

Transportation

Jim's staff transport him to where he needs to go. Jim pays 50 cents for each ride that he receives. This has allowed for flexibility with Jim's activities.

Advocacy

Jim has limited abilities concerning his understanding of how to advocate for himself. It is quite typical for Jim to do whatever is told to him, even if this is not a good choice. His sister/guardian does a nice job of including Jim in decision making and often will contact advocacy staff for support and assistance.

Further Assessments Needed

No further assessments are recommended at this time.

Recommendations

Positive Behavior Supports

Jim does have a behavior support plan that addresses his assaultive behaviors and his phone calls to 911 with bomb threats. This plan includes a positive reinforcement program and techniques for staff to implement to de-escalate Jim if he becomes anxious. Allowing Jim to maintain control of his

environment is very important. This plan is included in his agency support plan and is reviewed monthly by the agency's behavior specialist.

Counseling

Jim has not had counseling in the past and this has not been recommended by any professionals working with him.

Supervision/case management

Jim's agency case manager will implement, monitor, and review his IJP in conjunction with his service plan monthly. Adjustments and updates will be made on an as-needed basis. Jim's DD Program Manager and his P&A advocate are also involved in the revision process as needed.

Community Service

Jim has performed community service work in the past concerning criminal charges of assault. This has been fairly successful but does require one-on-one agency staff supervision to ensure the safety of Jim and others that may be in the community service environment. This is a recommended option for sentencing in the future if seen fit by the court.

Hospitalization

Jim has not been hospitalized in a psychiatric unit, however, he has had numerous placements at the state institution. This high level of structure has been successful for Jim. A key to a community placement is to allow Jim independence while providing a foundation of structure.

Agency Transfer

Jim's current placement is the most successful placement that he has experienced. It is not recommended that any changes be made relative to this placement or the agency that is serving Jim.

Other treatment/training

Jim's team has placed his name on the waiting list for the social skills group at the local Human Service Center. It is thought that an increased understanding of social situations may help Jim learn alternative ways to deal with interactions with staff that are frustrating to him. It is estimated that Jim should be able to begin these classes within the next three months.

Psychotropic medication management

Jim currently takes two psychotropic medications and is dependent on staff for medications administration. If not provided by staff, Jim would not take any of his medications. When provided with assistance, Jim is very cooperative with taking his medications. It is recommended that this level of support is provided and that ongoing training regarding his medications and side effects be done as the meds are being administered.

Restitution

Due to Jim's limited understanding of his money, restitution has not had an impact on Jim in the past. If restitution is ordered by the court in the future, it is recommended that a payment plan be arranged and that Jim use his work paycheck for this purpose. This may create a greater understanding of the consequence versus his sister/rep payee making these payments. Non-monetary restitution is something that would be considered on a case-by-case basis and may have a level of validity.

Fine

As with the issue of monetary restitution, careful consideration should be given to how this is handled.

Probation

Jim has been involved in unsupervised probation in the past and he does not have an understanding of this process. The

compliance issue of probation was built into his community services and he did not understand its intent. An aspect of supervised probation may create an increased level of learning and accountability if ordered by the court.

Incarceration

Jim has not experienced incarceration in the past and it is not recommended that this take place. Jim is very vulnerable and would be at a very high level of risk in the criminal justice system.

Other Recommendations

None at this time.

Anticipated Outcome

The desired outcome of Jim's IJP is to outline appropriate responses that should be maintained to ensure that support and supervision are maintained. With a consistent level of support, Jim's IJP intends to ensure that he can remain in the community. The IJP also identifies potential at-risk behaviors and how future involvement in the CJS can be avoided.

Integration

There is a strong integration of Jim's IJP and his agency support plan. Many components of Jim's behavior support plan are outlined in his IJP. Jim's behavior support plan is also very descriptive as to the level of supervision that should be provided to Jim at all times.

Review of the IJP

Jim's agency program coordinator reviews his support plan and his IJP monthly. His DD Program Manager does complete a quarterly service review and an overview of his IJP is included in this process also.

Consent

Jim and his sister/guardian were involved in the development and ongoing monitoring of the IJP. All aspects of the IJP were written

Marie – Case Scenario #3 Individual Justice Plan

Presenting Problems

Marie is a 24-year-old female who recently sustained a closed head injury as a result of a motorcycle accident. Marie has experienced a great deal of difficulty with impulse control since the accident. She has also experienced difficulties with memory recall. This affects her ability to take her medications, attend appointments as required and maintain her services. Marie has assaulted people within her home and community, and law enforcement personnel. Marie has also had difficulty with parenting her children and has been verbally and physically abusive toward them. Marie is currently facing three counts of assault and felony child abuse charges.

Assessment

Residential

Marie currently resides within her family home with her husband and their two kids, ages 5 and 2. Marie has been back in her family home for the past 7 months, following rehabilitation services for 17 months.

Vocational

Marie does not currently receive any vocational services and is not interested in working outside of her home. Marie was a part-time hairdresser before her accident and does not wish to return to that profession. At this point, Marie chooses to stay home. Marie has completed interest surveys with Vocational Rehabilitation and is aware that this is a resource for her should she want assistance with returning to work.

Education/Training

Upon graduation from high school, Marie went to beauty school in New York City. She lived there for a while before returning to her home community. Marie then married her high school sweetheart and began working part-time for a

local salon. Marie's goal was to be a hairdresser and she enjoyed this career a great deal. Marie has not been interested in any further education or training since her accident.

Medical

Marie has spent a great deal of time with physicians and medical personnel over the past two years. Beyond the neurological and psychiatric issues that she currently faces, there are not any other health issues that require treatment or services. Marie has continued to receive outpatient Occupational Therapy that is focusing on memory recall and information maintenance.

Mental/Behavioral Health

Marie does have a diagnosis of severe depression and impulse control disorder. Both diagnoses occurred within three months of her accident. Marie currently takes psychotropic medication, however, is dependent on others to ensure compliance with this as she does not have the memory capabilities to remember to take her medications. Marie does have a medication reminder, however, when it sounds, she at times cannot recall what the sound is for. At this time, Marie's family ensures her medication compliance. This makes Marie angry a great deal of the time and causes power struggles between her and her husband.

Financial

Marie currently receives Social Security Disability benefits and her husband assists with the management of these funds. Marie's husband is a local physician and supports the family financially. Marie has not developed skills in the area of money management since her accident.

Social/Recreation

Marie is dependent on her staff for socialization and recreation. She spends time interacting with her children but requires supervision if this is for longer periods. Marie

has been observed to be quite verbally aggressive towards the kids and has also been observed to have physical interactions that are of concern.

Family

Marie's extended family lives about 5 hours from her. Her husband's family lives within the same community and is very helpful. Marie's mother-in-law provides daycare for them during the daytime and whenever needed. This provides support for Marie when she needs to attend therapies and medical appointments.

Identity and Cultural background

Marie's family is American Indian and is very involved in their culture. Marie's husband's family is Caucasian and has lived in North Dakota for many years. Understanding the family dynamics that play roles in both families is important. There have been conflicts as Marie's parents would like to care for the children. These are important things to consider when arranging for services and support for Marie.

Transportation

Marie has not renewed her driver's license since her accident. She is dependent on others for transportation, which typically is not a problem. Marie uses a cane with walking and her gait is somewhat unsteady. Walking long distances is also difficult as she tires easily.

Advocacy

Marie's husband sought services from Protection & Advocacy as they were not aware of what Marie's right to services was following her discharge from the rehab facility. Assistance was provided to ensure that Qualified Service Provider (QSP) services were established along with the supports to ensure that Marie could return to her family home. Criminal justice involvement also occurred when Marie assaulted two women who were in her yard. Advocacy services are currently being provided to ensure that Marie and her family understand the

legal system and to ensure that her right to due process is protected.

Further Assessments Needed

No further assessments are recommended at this time; however, Marie must receive assistance with maintaining her appointments with her neurologist and psychiatrist.

Recommendations

Positive Behavior Supports

Training and information have been provided to Marie's husband and the extended family on how a Traumatic Brain Injury affects a person. In addition, specific information and reaction strategies for Marie's depression and impulse control have been provided. De-escalation techniques have been successful in diffusing stressful situations with Marie.

Counseling

Marie has seen a counselor on a sporadic basis since her accident. This is not something that Marie has been compliant with currently. Marie has experienced difficulties with remembering information that is shared in these appointments and thus, the use of coping strategies has not been successful. It is unknown whether Marie will be able to develop further strategies concerning memory recall.

Supervision/case management

Marie has County HCBS services and a case manager who monitors and oversees the in-home care services. This has helped ensure that Marie can remain in her family home.

Community Service

Due to Marie's TBI, she would not be able to independently perform community service work, therefore, this is not a recommended sentencing alternative. Marie's brain injury is significant enough that she would not understand the correlation between community service and the legal charges.

Hospitalization

Marie has not required any further hospitalization since her accident, nor has she needed hospitalization for medical or mental health reasons.

Agency Transfer

Marie currently does not have an agency involved in her care. Her family has hired their in-home care staff on their own and has chosen to maintain this arrangement. County HCBS services provide the financial support for the staffing that Marie receives through the HCBS waiver program.

Other treatment/training

It is recommended that Marie continue with her outpatient Occupational Therapy as this does seem to be improving her memory recall and ability to communicate without frustration. There is concern that funding for her therapy may become an issue soon. Marie and her husband have been made aware that P&A may be able to assist with this issue.

Psychotropic medication management

Marie does take psychotropic medication two times per day. Her husband and/or in-home staff assist her with using the medication organizer that she has. There are frequent situations when Marie cannot identify what the sound is when her medication organizer goes off. It is hopeful that through some repetition, this may be improved.

Restitution

Imposing financial restitution is not a recommended option as Marie no longer understands concepts of money or that this would be imposed as a consequence of her actions. The legal changes that have occurred have not resulted in financial loss to the other parties, nor have they created emotional difficulties. This should be thoroughly discussed

with Marie's attorney before further recommendations are made.

Fine

If a fine is imposed as a result of legal charges, Marie would have the financial ability to pay the fine. The question would be, however, would this create a level of understanding for Marie that would prevent future behavior from occurring. As noted previously, Marie's brain injury would impact her ability to understand the consequence of the fine.

Probation

None at this time.

Incarceration

The legal charges that Marie is currently facing do not carry the penalty of incarceration. Should future issues arise, careful consideration should be given to this issue as Marie would be very vulnerable in this type of situation.

Other Recommendations

None at this time.

Anticipated Outcome

The purpose of Marie's IJP is to create a level of understanding of how Marie's TBI affects her along with the inclusion of her other disabilities. With an increased awareness of these issues and the potential issues that exist regarding Marie's involvement in the CJS, this plan can provide a level of structure for those providing care to Marie.

Integration

Marie does have a care plan document that is developed by the County that outlines her in-home services. There is an overlap of this document with Marie's care plan and thus both should be recognized as important documents that drive Marie's care and services.

Review of the IJP

Marie’s husband, family, and the County Case Manager have agreed to review and monitor the effectiveness of her IJP on an ongoing basis. The County plan is reviewed quarterly and thus the IJP review will formally occur with this. If legal charges continue to move forward, a copy of Marie’s IJP will be provided to her attorney to ensure that it is provided to the courts. Marie’s husband is also aware of his ability to request advocacy services from P&A if needed.

Consent

Marie’s husband has guardianship over legal, medical, and financial issues of Marie. This was first obtained temporarily after Marie’s accident and following that, a permanent order was obtained. Marie’s husband involves her in all decision making and thus consent was reviewed with them both. Marie and her husband agreed that the IJP has provided an increased understanding of Marie’s disabilities and how they affect her in the community.

Confidentiality

Marie and her husband/family were carefully informed of the confidentiality of County records. Releases of information for Marie’s attorney, P&A, and the County are on record in all places.

Acknowledgment

I have reviewed and agree with all components of the Individual Justice Plan document. I am aware that I have the right to request changes to this document at any time. I am aware that some components of this IJP may be court-ordered and that I may not have the right to revise these components.

Marie
Signature of Client

Date

Signature of Witness

Date

List of IJP Team members:

Marie, client

Manley, husband

Kristi, Center for Independent Living

Kenzie, County Case Manager

Korrie, HCBS Qualified Service Provider

Mike – Case Scenario #4 Individual Justice Plan

Presenting Problems

Mike has paranoid schizophrenia. This developed up out of Obsessive-Compulsive Disorder and he still has marked obsessions. This is complicated by strongly anti-capitalist views and a deep abhorrence of status ranking by and of humans. He values violent self-defense, death by violence, and is frequently despairing and self-loathing. He has no friends. Throughout his life, Mike has abandoned all recreations except for listening to music and watching movies. He would like friends but finds the social interactions far too painful. Legally he is prone to fights but the only people he has assaulted that weren't actively reprimanding him are police officers or his parents. Past offenses include fighting at school, striking his mother, and several assaults while at the hospital.

The current offense was caused by a confrontation that led to police involvement. When police tried to stop him, he threw a knife at one, threatened others, and also hit police vehicles with items. This resulted in charges of reckless endangerment, terrorizing, criminal mischief, and fleeing a police officer. These charges were dropped when he was found permanently not fit to proceed.

Assessment

Residential

Before hospitalization, Mike lived with his parents and has not ever lived independently. Due to psychosis and suicide potential, he should not live independently. With supervision, he can maintain minimal standards of room cleanliness.

Vocational

Mike has never been competitively employed. When his psychiatric condition is stable, he can maintain employment

in a sheltered workshop. He is not reluctant to work but his obsessions and paranoia have made this very difficult.

Education/Training

Mike is a high school graduate. It is not recommended he pursue any other education at this time because it tends to interfere dramatically with Mike's obsessions and decompensate him.

Medical

Mike's health is generally good. He has had no previous surgeries and requires no medications for any existing physical illness. He intermittently has diminished pain perception. He has extremely poor judgment. Medical decisions, including the timing of assessments, should be made by others.

Mental/Behavioral Health

Mike has had mental health problems since his early adolescence. He initially displayed depressive symptoms, but these turned into obsessions and compulsions and gradually became so severe the symptoms precipitated hospitalization. After almost one full year of treatment at the ND State Hospital (NDSH), he was discharged to his home community. While under care at NDSH it became clear that the early obsessions and compulsions were a precursor to severe schizophrenia. This schizophrenia was then treated to the degree that Mike was discharged to live with his parents. Despite medication compliance, he decompensated under the stress of living in the community. This deterioration resulted in a near-lethal encounter with the police and a re-hospitalization at NDSH.

Mike has very limited insight into his disorder. He tends to dislike his medication because of side effects and the implication he is damaged. Management of Mike's mental health needs is imperative to his potential success in the community.

Financial

Mike's only income is through sheltered employment and SSI. He can manage small sums of money, however, for his safety, he should not be given amounts greater than \$20.

Social/Recreation

As noted above, Mike has only interests in solitary activities such as listening to music and watching movies. Due to his paranoia, success has not been found when these events have been within a group of people. Instead, he seems to enjoy swimming with peers as this does not involve verbal social interactions.

Family

Family reunification attempts should be avoided due to the intense dynamics and high probability of dramatic failure.

Identity and Cultural background

Mike was born and raised in rural North Dakota. His Irish Catholic family is solidly middle-class. He is the oldest of his siblings. Being the eldest son of an Irish Catholic family in rural North Dakota carries expectations of strong moral character and high academic and job achievement. Mike's illness interferes with these expectations and he is therefore often at odds with his family and with himself.

Transportation

While Mike would like to drive independently, this has proven to be problematic as he would often put himself and others at risk. Public transportation, in Mike's view, isn't appropriate because of the stigma that is attached.

Advocacy

Mike may benefit from advocacy but is not likely to seek this without assistance. An advocate who is knowledgeable about Mike's mental health needs would be important so that Mike would be accepting of this support.

Further Assessments Needed

None at this time.

Recommendations

Positive Behavior Supports

Mike may benefit from a Positive Behavior Support Plan that lays out daily expectations. This should include compliance with mental health treatment and services. Mike requires ongoing psychiatric medications. This should also include the necessary services within Mike's residential and vocational settings.

Counseling

Because of Mike's paranoia, group counseling has not been a successful option for Mike. When stable, he has responded positively to individual counseling and support.

Supervision/case management

Mike has been successful with residing in a Transitional Living Facility. This environment provides the structure to ensure medication management and ongoing mental health services. Mike's Serious Mental Illness (SMI) case manager also has played an important role in navigating services, which has helped manage Mike's stress.

Community Service

Community service is not recommended for Mike as this may create instability within his community setting.

Hospitalization

Re-hospitalization may be required if Mike becomes non-compliant with medications or if break-through psychosis occurs. If any of Mike's psychosis or delusions include violence while taking his medications, immediate intervention needs to be taken to get Mike hospitalized.

Agency Transfer

Mike does not adjust well to change and therefore, changes in Mike's services once established are not optimal.

Other treatment/training

Vocational training is important to attempt to match Mike to a vocation that equals his intelligence. This might require quite a bit of mediation due to his mental illness and lack of any job experience or formal education after high school.

Psychotropic medication management

A psychiatrist should follow Mike's medications closely. Medication compliance is a concern, as is break-through psychosis. Psychotic episodes may lead to violence. Medication compliance is of concern and should be a mandate of service delivery.

Restitution

In the event, Mike damages the property he should pay restitution. The amount should be comparable to the income he makes, and he would require assistance in budgeting the necessary amounts.

Fine

As with restitution, this may be a viable option, but assistance with budgeting would need to be provided to ensure that Mike's financial needs are taken into consideration.

Probation

Due to Mike's paranoia and inability to effectively interact with others, probation would not be a positive option. This should be avoided if at all possible. If required, consideration should be given to how this is accomplished as this may cause decompensation which may lead to deterioration of Mike's mental health.

Incarceration

Incarceration for any long period will likely lead to psychotic deterioration and should therefore be avoided.

Other Recommendations

None at this time.

Anticipated Outcome

The goal for Mike, at this time, is to maintain his transitional living setting and to maintain his mental health. In assessing Mike's history and current needs, it is unknown whether other settings would be viable options. Careful attention needs to be given to ensure that Mike's environment remains as stable as possible.

Integration

Coordination and oversight of Mike's services need to be done to ensure that his treatment plan and services are maintained.

Review of the IJP

Mike's plan should be reviewed by his SMI case manager and psychiatrist at least quarterly as his stability can change quickly.

Consent

Mike is currently his own legal decision-maker, however, through recent assessment, it has been recommended that a limited guardianship be considered in the areas of medical, financial, and legal. A review of Mike's IJP has been completed with him and he has agreed to its content and his current services.

Confidentiality

Mike understands his right to keep his plan and mental health documents confidential. Mike has signed appropriate releases that allow for communication and sharing of documents between the involved parties.

Acknowledgment

I have reviewed and agree with all components of the Individual Justice Plan document. I am aware that I have the right to request changes to this document at any time. I am aware that some components of this IJP may be court-ordered and that I may not have the right to revise these components.

Mike _____
Signature of Client Date

Signature of Witness Date

- List of IJP Team members:
Mike, client
Mallory, SMI Case Manager
Mason, Peer Support Specialist
Maxim, Psychiatrist - consultative

Charlie – Case Scenario #5 Individual Justice Plan

Presenting Problems

Charlie is a 14-year-old African American teenage boy. He lives with his mother and sister in their family home and attends 9th grade at a public school in his urban community. Charlie's diagnoses include ADHD, Anxiety, and Oppositional Defiant Disorder. Charlie recently was cited and is involved in the juvenile court process from a school-based incident. He experienced challenges with his emotions while in a regular education class one day. The instructor asked him to leave and he went to the special education classroom. Charlie asked why he was kicked out of class and his behavior further escalated. He began yelling at his IEP Case Manager and threw a box of Kleenex. He was asked to go to a different area. He did not immediately respond, so school staff physically intervened and escorted Charlie to another room with a paraprofessional and his IEP Case Manager. No students were in the room. Charlie became more upset, and he hit both his IEP Case Manager and the paraprofessional. The school resource officer was called to the school. School personnel alleged assault and the school resource officer issued two citations for simple assault.

Assessment

Residential

Charlie lives with his mother and sister in their family home. No other family members live with them.

Vocational

Charlie is in 9th grade and does not yet have any career or employment goals after high school. He mows lawns in the summer and is paid for the work that he does.

Education/Training

Charlie is currently a 9th grader and attends public school. He has not been involved in any other education or training opportunities.

Medical

Charlie is very healthy and does not have any current medical and healthcare challenges that impact him other than his mental health.

Mental/Behavioral Health

Charlie does have diagnoses that include ADHD, Anxiety, and Oppositional Defiant Disorder. Charlie does not currently take any medication for his behavioral health. An appointment has been scheduled with an adolescent psychiatrist to discuss potential options; however, that appointment will not occur for an additional three weeks.

Financial

Charlie's mother is a single mom and she currently works two jobs. The family does, at times, experience difficulties with finances.

Social/Recreation

Charlie is a very social young man, and he enjoys spending time with others; however, he does have difficulties with maintaining relationships as his behavior creates challenges for peers. Charlie has been involved with the Parks & Recreation soccer program for several years; however, the coaching staff has identified that his behavior is of concern and has asked that he no longer participate. This has been very upsetting to Charlie.

Family

Charlie has a very supportive mother and younger sister who both live with him. Charlie's father lives out of state and is in the military. Charlie has very limited contact with him. Charlie's maternal grandparents live in the same

community that he does and are very supportive and involved with Charlie, his sister, and his mother. Charlie often spends time at his grandparents' home when his mother is working her evening and weekend job.

Identity and Cultural background

Charlie's mother is Caucasian. His father is African American and lives in a southern state within the US. Charlie does not have a great deal of knowledge about his father or his father's family. Charlie's racial ethnicity is something that bothers him because he does feel different than the majority of the students within his school. Charlie's mother has spent considerable time trying to ensure that Charlie is safe and is not affected emotionally by his race.

Transportation

Charlie does not have any current transportation as his transportation is provided by his mother. Charlie has identified a desire to obtain his learner's permit in the next year and obtain his driver's license at the point in time that he is able.

Advocacy

Charlie tends to be impulsive and often will react without understanding the consequences or the implications of his actions. As a result, he does require advocacy support from his mother and others to provide mentoring within this area. Charlie's team is working on role-playing and providing naturally occurring self-advocacy support when he encounters situations that may be upsetting to him.

Further Assessments Needed

Charlie has had some involvement from school personnel relative to these behavioral support needs; however, he does not have a formal behavior plan, nor comprehensive strategies to provide for de-escalation supports and methods of interaction and response that align with his diagnosis. Charlie would benefit from a comprehensive Functional

Behavioral Assessment (FBA) to further develop a comprehensive Positive Behavioral Support (PBS) Plan to address his disability-related needs.

Recommendations

Positive Behavior Supports

As noted above, Charlie would benefit from a comprehensive FBA and the development of a PBS plan to address his behavioral support needs.

Counseling

Charlie currently has expressed feelings of frustration and anger that stem from his race and disability. Consideration of therapy or counseling with someone who specialized in adolescent behavioral health should be considered.

Supervision/case management

Charlie does not currently receive any case management support. A formal referral to the Partnership Care Coordination program at the Human Service Center should occur. Charlie would also benefit from mentoring and peer support services.

Community Service

The juvenile court system is currently identifying how best to respond to the simple assault charges that have been filed by the school district. Community Service is not recommended for Charlie at this time as he would not be able to independently perform these activities. In addition, Charlie's disability is the contributing factor to the behavioral support needs that resulted in the juvenile citations; therefore, community service will not provide a deterrent in future behavior from occurring.

Hospitalization

Charlie has not required hospitalization or acute care behavioral health support. The team recommends that this

be avoided and that community support be put in place for Charlie and his mother.

Agency transfer

Charlie's team does not feel that the juvenile court system is the appropriate response for him and requests that the current charges be dismissed with the implementation of the above supports and the implementation of his IJP.

Other treatment/training

Charlie's IEP team should begin discussing the transition needs that he has, along with beginning to discuss Charlie's interests and potential long-term post-secondary education goals.

Psychotropic medication management

As noted above, Charlie is not currently taking any medication. He does have an upcoming appointment in which this will be discussed and considered.

Restitution

Charlie's funds are limited and only available in the summer. It is felt that financial restitution will not be effective for Charlie. If there should be an occurrence when potential restitution is needed, restorative justice options should be considered by Charlie's IJP team.

Fine

As noted above, Charlie's funds are limited and a fine is not recommended. Restorative justice options should be considered.

Probation

The IJP team recommends that Charlie's current charges be dismissed; therefore, not needing the intervention of juvenile probation staff.

Incarceration

Juvenile detention is not recommended for Charlie as the current juvenile citations do not warrant this and are related to his behavioral health needs.

Other Recommendations

Charlie's family would benefit from comprehensive wrap-around services to provide for support within their family unit. Further exploration of family-based supports should be considered by Charlie's IJP team.

Anticipated Outcome

It is anticipated that the involvement of Partnership Care Coordination staff, pediatric psychiatry, counseling and therapy, and wrap-around services, a comprehensive Functional Behavioral Assessment and Positive Behavioral Support Plan can be developed to address Charlie's behavioral support needs and further involvement of the juvenile justice system is not needed.

Integration

It is recommended that Charlie's IJP be coordinated with his IEP and be included as a supplemental document to the IEP so that there is consistency in the interventions and response to disability-related behaviors.

Review of the IJP

Charlie's IJP will be reviewed every month by his IJP team. As needed, his IEP team will be included in the review and coordination of services.

Consent

Charlie's mother, Carissa, and Charlie are both in agreement with his IJP and the support being sought and coordinated.

Confidentiality

APPENDIX 6 - SAMPLE TEMPLATES

Forms to complete the assessment, recommendations, and the Individual Justice Plan can be found at the following link:

<https://www.ndpanda.org/resources/individual-justice-planning-forms-and-documents>

**Individual Justice Plan (IJP)
Client/Legal Decision Maker Consent Form**

I have reviewed and agree with all components of the Individual Justice Plan document. I am aware that I have the right to request changes to this document at any time. I am aware that some components of this IJP may be court-ordered and that I may not have the right to revise these components.

Signature of Client

Date

Signature of Parent/Guardian

Date

Signature of Witness

Date

Individual Justice Plan (IJP) Referral Form

The following person has become involved in the law enforcement/criminal justice system. Through initial contact by law enforcement, it appears that this person may have a disability.

Based upon the potential for involvement in the criminal justice system, I believe that this person may benefit from an Individual Justice Plan (IJP).

Date: _____ Case Number: _____

Person's Name: _____

Officer's Name: _____

Note to Law Enforcement or other Personnel:

If you suspect any involvement of a disability, fax this form to the local State Human Service Center (listed on the following page). The receiving party will then provide screening and support for this process.

A sample referral form can be found at the following link:

<https://www.ndpanda.org/resources/individual-justice-planning-forms-and-documents>

North Dakota Human Service Centers

Region I (Serving the Counties of Divide, McKenzie & Williams)

Northwest Human Service Center

Phone: (701) 774-4600 or 1-800-231-7724

Fax: (701) 774-4620

Region II (Serving the Counties of Bottineau, McHenry, Peirce, Mountrail, Burke, Renville & Ward)

North Central Human Service Center

Phone: (701) 857-8500 or 1-888-470-6968

Fax: (701) 857-8555

Region III (Serving the Counties of Benson, Cavalier, Eddy, Ramsey, Rolette & Towner)

Lake Region Human Service Center

Phone: (701) 665-2200 or 1-888-607-8610

Fax: (701) 665-2300

Region IV (Serving the Counties of Grand Forks, Nelson, Pembina & Walsh)

Northeast Human Service Center

Phone: (701) 795-3000 or 1-888-256-6742

Fax: (701) 795-3050

Region V (Serving the Counties of Cass, Ransom, Richland, Sargent, Steele & Traill)

Southeast Human Service Center

Phone: (701) 298-4500 or 1-888-342-4900

Fax: (701) 298-4400

Region VI (Serving the Counties of Barnes, Dickey, Foster, Griggs, LaMoure, Logan, McIntosh, Stutsman & Wells)

South Central Human Service Center

Phone: (701) 253-6300 or 1-800-260-1310

Fax: (701) 253-3033

Region VII (Serving the Counties of Burleigh, Emmons, Grant, Kidder, McLean, Mercer, Morton, Oliver, Sheridan & Sioux)

West Central Human Service Center

Phone: (701) 328-8888 or 1-888-328-2662

Fax: (701) 328-8900

Region VIII (Serving the Counties of Adams, Billings, Bowman, Dunn, Golden Valley, Hettinger, Slope & Stark)

Badlands Human Service Center

Phone: (701) 227-7500 or 1-888-227-7525

Fax: (701) 227-7575

APPENDIX 7

DISABILITY AWARENESS

Characteristics of Intellectual or Developmental Disability

- Limited vocabulary, may have speech difficulties.
- Difficulty understanding or answering questions.
- Inability to read or write.
- Mimics responses or answers.
- Easily influenced by and anxious to please others.
- Difficulty making change, using the telephone, telling time, etc.
- Low frustration tolerance.
- Doesn't understand the seriousness of the situation.
- May not consider the consequences of her/his actions; acts impulsively.
- May not understand her/his rights.
- May be overly willing to confess.
- Difficulty recalling facts in detail.
- Tendency to be overwhelmed by police authority.
- May not admit having a disability.
- Says what she/he thinks others want to hear.

Tips on how to Interact with a Person who has an Intellectual or Developmental Disability

- Use People First Language - avoid words or phrases like "retarded" or "disabled person," instead use "person with a disability."
- Speak directly to the person, even if someone else is with them.
- Be patient; give ample time to respond to questions and process information.
- Keep sentences short and simple. Speak slowly and clearly.
- Avoid "yes" or "no" questions; ask open-ended questions.
- Ask the person to repeat information back to you.
- Avoid questions about time, complex sequences, or reasons for behavior.
- Be age-appropriate - treat adults as adults.
- When possible, say it and show it, use pictures, symbols, or actions to convey meaning.

Characteristics of Mental Illness

- Accelerated speaking or hyperactivity.
- Delusions and paranoia, such as false beliefs that she/he is a famous person or that others are trying to harm them.
- Hallucination, such as hearing voices or seeing, feeling, or smelling imaginary things.
- Depression or saddened mood.
- Inappropriate emotional response.
- Unintelligible conversation.
- Loss of memory, such as inability to remember the day, year, or where they are.
- Catatonia, indicated by lack of movement, activity, or expression.
- Unfounded anxiety, panic, or fright.
- Confusion.

Tips on how to Interact with a Person who has Mental Illness

- Approach in a non-threatening and reassuring manner. Make them feel they are in control.
- Introduce yourself by name first, then your authority.
- Determine if the person has a support system such as family, guardian, supported decision-maker, or mental health provider you can contact. If necessary, contact the local mental health crisis center.
- Keep interviews simple and brief. Be aware that rational discussion may not be possible on all topics.
- Be aware that the person may be experiencing delusions, paranoia, or hallucinations. However, they still may be able to provide information on details.
- Avoid standing too close or surrounding the person. Do not touch, even to offer reassurance unless necessary.
- Do not whisper, joke, or laugh in the presence of the person.
- Avoid direct eye contact, forced conversation, or indications of impatience.
- When possible, back off and allow the person to calm down if they are agitated.
- Break into nonstop talking by interrupting with simple questions, such as asking their name.
- Don't assume that unresponsive victims do not hear you or are being uncooperative. They may be experiencing hallucinations.
- Never try to convince victims that their hallucinations do not exist. Rather, reassure victims that the hallucinations will not harm them

and may disappear if they calm down. Acknowledge paranoia and delusions by emphasizing with them, but do not disagree or agree with their statements.

- Be honest. Well-intentioned deception will only increase fear and suspicion.

Distinguishing Intellectual Disability from Mental Illness

Intellectual disability and mental illness are often thought of as the same. However, they are two distinct, separate conditions. Sometimes a person may have both conditions (dual diagnosis). People with mental illness are usually of normal intelligence but may have difficulty functioning at normal levels. People with intellectual disabilities are more likely than others to experience mental health problems. Reasons for this include environmental factors, lack of learning opportunities, decreased coping skills, and the impact of the central nervous system on their disability. Some indicators of mental illness are also observed in people with developmental disabilities. The following table differentiates between intellectual disabilities and mental illness.

Intellectual and Developmental Disabilities	Mental Illness
<ul style="list-style-type: none"> • Not an illness. • A permanent condition; there is no cure. • Functioning can be improved through training and habilitation. 	<ul style="list-style-type: none"> • It IS an illness • Symptoms can be temporary. • There is no cure, but it can often be successfully treated with medications.
<ul style="list-style-type: none"> • The person has below-average intelligence with deficits in adaptive behaviors. 	<ul style="list-style-type: none"> • The person has normal intelligence, but difficulty functioning because of the illness.
<ul style="list-style-type: none"> • Becomes evident at birth or during childhood. 	<ul style="list-style-type: none"> • May occur at any age. Episodes may occur and then subside.
<ul style="list-style-type: none"> • Affects approximately 3% of the population. 	<ul style="list-style-type: none"> • Affects 16-20% of the population.
<ul style="list-style-type: none"> • It is not a disturbance of thought. • Behavior is consistent with the person's level of intellectual functioning. 	<ul style="list-style-type: none"> • Involves disturbances in thought processes and emotions. • Behavior may be irrational and change often.

Characteristics of a Traumatic Brain Injury

- Short or long-term memory deficits.
- Speech may be affected or slow in response.
- Difficulty thinking clearly or consistency in response.
- Emotional responses – may include sadness, anxiety, and impulsivity.
- Irritability or anger.
- Difficulties with concentration.
- Complaints of headaches.
- Balance or gait difficulties.

Tips on how to Interact with a Person who has a Traumatic Brain Injury

- Speak directly to the person, even if someone else is with them.
- Be patient; give ample time to respond to questions and process information.
- Keep sentences short and simple. Speak slowly and clearly.
- Avoid “yes” or “no” questions; ask open-ended questions.
- Ask the person to repeat information back to you.
- Avoid questions about time, complex sequences, or reasons for behavior.
- Be age-appropriate, treat adults as adults.
- Allow additional time to process information.

SAMPLE NOTIFICATION CARD

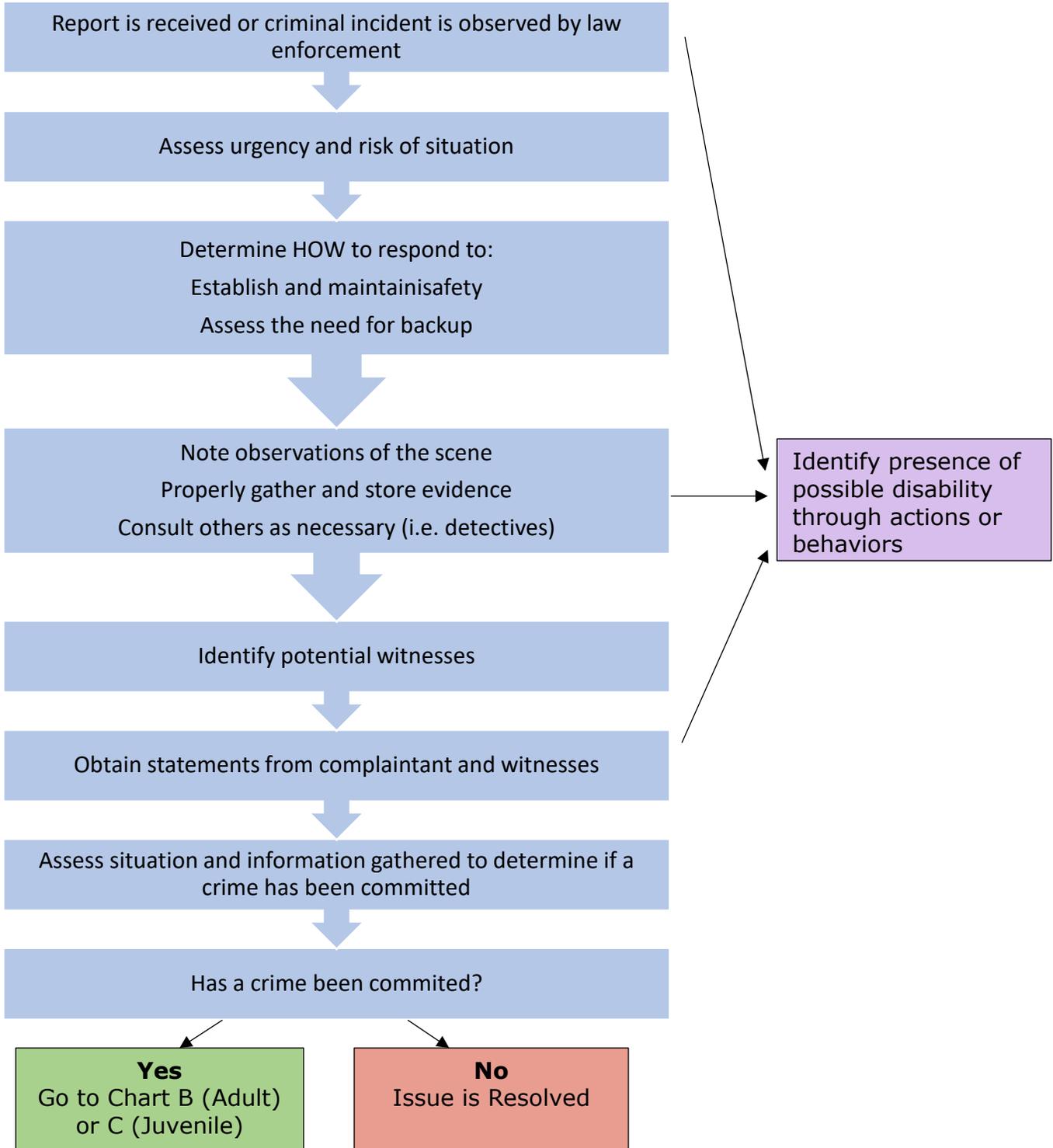
My name is: _____
I receive services from: _____ _____
If I encounter law enforcement, please call:
Name: _____
Phone Number: _____

Specific disability information can also be added when applicable. Some examples may include:

- I have a hearing impairment but can read lips, please look at me when speaking.
- I can communicate with you using my [name device, such as picture book, electronic device, etc.]
- I have a seizure disorder and may appear confused following a seizure. Please give me time to reorient to my surroundings.
- I cannot speak or hear, but I use sign language to communicate. Please seek a sign language interpreter if you do not know sign language.
- I have a disability and may not clearly understand the instructions, questions, or requests that you are making. Please call the person I have identified on my card and they will assist you with understanding how I communicate.
- I have a physical disability that affects my balance, body movements, and speech. Please do not assume that I have consumed alcohol or drugs.
- I have mental health needs and I am having difficulty at this time. Please contact my identified person on my card and they will assist me.

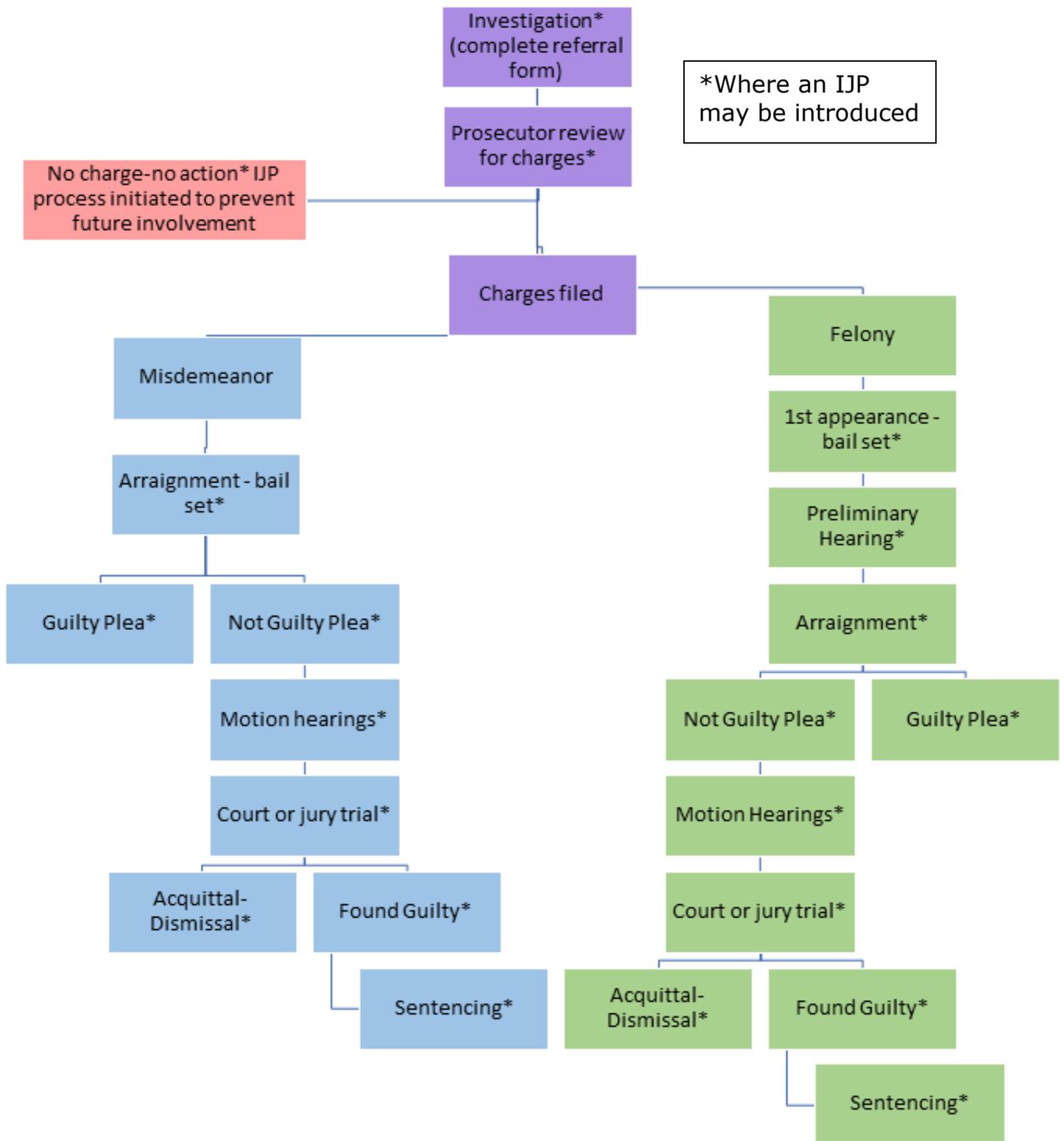
APPENDIX 8

ND LAW ENFORCEMENT INVESTIGATORY FLOW CHART (Chart A)



There may be a need to involve Human Service Center personnel, mental health professionals, treatment services or providers at any time in this process.

ND CRIMINAL ADULT PROSECUTION FLOW CHART (Chart B)



ND JUVENILE JUSTICE FLOW CHART (CHART C)

