



Virginia Department of
Behavioral Health &
Developmental Services

Practical Strategies for Solving Problems: Overcoming Barriers to The Provision of Restoration

Barriers to Outpatient Restoration

Barriers to providing outpatient restoration services come from various sources:

- The judiciary and clerks associated with the court
- Defense or prosecuting attorneys
- The defendant
- The defendant's family/caregivers
- The jail or detention center (for those defendants incarcerated during restoration)
- The restoration counselor's own agency
- Other

Barriers Caused by Court/Lawyers

Barrier	Solution
Court fails to provide restoration counselor with original CST evaluation	1. Send a letter (or call) to defense attorney and request copy of CST evaluation. Reference them to § 19.2-169.2 (A) which specifies restoration provider should be provided original CST evaluation.
	2. Send a letter (or call) to CWA and request copy of evaluation. See above for code reference.
	3. Call clerk of court.
	4. Send letter to judge requesting copy of evaluation. 5. If all efforts above fail and if you know who completed the original CST evaluation, have defendant sign release of information and try to get CST evaluation from evaluator.

Barriers Caused by Court/Lawyers

Barrier	Solution
Restoration counselor is not provided with collateral materials regarding offense or about defendant's mental health history	1. Send letter (or call) to the defense attorney requesting warrant, criminal complaint, and other pertinent records regarding the offense and any prior mental health records. Reference § 19.2-169.2 (A) which specifies restoration provider should be provided all records originally sent to the evaluator.
	2. Send a letter (or call) to CWA and request copy of the warrant, criminal complaint, and other pertinent records. See above for code reference.
	3. Call clerk of court for same.
	4. If attorneys fail to respond in a timely fashion, send a letter to the judge with copies to attorneys advising lack of timely response.

Barriers Caused by Court/Lawyers

Barrier	Solution
Upon receipt of court order, restoration counselor notices next court date is sooner than when defendant can reasonably be restored	1. If you have sufficient time, complete initial assessment and immediately write to judge (with copies to attorneys) notifying them of dilemma, providing an update, and asking for case to be continued until later date.
	2. If there is insufficient time to conduct initial assessment (i.e., hearing is a week away), contact a representative of the court (usually the clerk), to explain and ask for the case to be continued. Follow up with a letter to judge and attorneys to the same effect.
	3. If there is no response from the court, call defense attorney and explain dilemma and ask them to request a continuance.

Barriers Caused by the Defendant on Bond

Barrier	Solution
Unable to locate defendant	1. Call defense attorney since they likely have most accurate phone number/address
	2. Call clerk of court since defendant would have provided information to have been granted bond.
	3. If still unable to locate, write to judge with copies to Commonwealth Attorney & defense attorney to explain the problem.

Barriers Caused by the Defendant on Bond

Barrier	Solution
Defendant fails to attend sessions	<ol style="list-style-type: none"><li data-bbox="774 372 1856 611">1. Educate defendant (and family/ significant other if applicable) about importance of active participation and consequences of non-compliance.<li data-bbox="774 625 1798 863">2. Problem solve barriers to active participation (i.e. restoration counselor may need to leave phone messages reminding defendant of scheduled sessions).
	<ol style="list-style-type: none"><li data-bbox="774 935 1850 1110">3. If non-compliance persists, contact defense attorney and seek their assistance in gaining defendant's active participation.
	<ol style="list-style-type: none"><li data-bbox="774 1163 1779 1268">4. If defendant continues to miss sessions, write to judge (with copies to attorneys)

Barriers Caused by the Defendant on Bond

Barrier	Solution
Defendant on bond continues to resist active involvement with the restoration process	<ol style="list-style-type: none"><li data-bbox="738 297 1879 822">1. Educate defendant about the possible consequences of non compliance with court order:<ul data-bbox="772 482 1854 811" style="list-style-type: none"><li data-bbox="772 482 1564 525">▪ Contempt of Court – possible jail time<li data-bbox="772 525 1564 568">▪ Revocation of bond – possible jail time<li data-bbox="772 568 1777 646">▪ Judge orders inpatient restoration – lose freedom and benefits may be suspended<li data-bbox="772 646 1854 725">▪ Judge may find defendant competent and proceed to trial<li data-bbox="772 725 1854 811">▪ Tell the defendant that not coming to appointments does not mean that charges will be dropped
	<ol style="list-style-type: none"><li data-bbox="738 828 1879 1033">2. If defendant has support system, try to engage support system and educate them about consequences of defendant's non-compliance
	<ol style="list-style-type: none"><li data-bbox="738 1039 1879 1295">3. If defendant has relationship with other CSB service providers, see if they can help engage defendant

Barriers Caused by the Defendant on Bond or in Jail

Barrier	Solution
Defendant appears unmotivated to learn.	1. Work on establishing rapport and stress importance of engagement.
	2. Try teaching using different tools/techniques which teach to defendant's strengths.
	3. Assess that motivation issues aren't in fact signs/symptoms of mental illness or SA issues.
	4. Arrange for conference call with defense attorney to discuss problems with motivation.

Barriers Caused by the Defendant on Bond or in Jail

Barrier	Solution
<p>Defendant refuses medications or fails to take medications as prescribed and it clearly impacts restoration to competency.</p>	<ol style="list-style-type: none"><li data-bbox="784 308 1843 482">1. Address issues of compliance with defendant and/or caregiver. Arrange for psychiatric follow-up as necessary.<li data-bbox="784 644 1856 882">2. Educate defendant about possible consequences of medication non-compliance to include need for inpatient hospitalization and possible suspension of benefits.
	<ol style="list-style-type: none"><li data-bbox="784 922 1669 965">3. Enlist assistance of defense attorney.<li data-bbox="784 1043 1804 1282">4. If non-compliance continues and results in ongoing incompetency, write to judge explaining dilemma and offering suggested solutions.

Barriers Caused by the Defendant in Jail

Barrier	Solution
Defendant refuses to meet with restoration counselor	<ol style="list-style-type: none"><li data-bbox="797 382 1798 619">1. Ask officers if you can see defendant at his/her cell to explain importance of cooperation and possible consequences of non-compliance.<li data-bbox="797 719 1870 896">2. Investigate the likely reasons for refusal by talking to jail staff and/or making observations of defendant in the jail setting.<li data-bbox="797 976 1760 1022">3. Come back and try again some other day
	<ol style="list-style-type: none"><li data-bbox="797 1062 1779 1108">4. Call defense attorney and enlist their help<li data-bbox="797 1188 1779 1233">5. Write to judge (with copies to attorneys)

Barriers Caused by the Defendant in Jail

Barrier	Solution
Defendant in jail continues to resist active involvement with the restoration process	<ol style="list-style-type: none"><li data-bbox="730 329 1866 758">1. Educate defendant about the possible consequences of non compliance with court order (same as those on bond in community)<ul style="list-style-type: none"><li data-bbox="755 511 1649 554">▪ Contempt of Court – possibly more jail time<li data-bbox="755 554 1866 629">▪ Judge orders inpatient restoration – no guarantee time in hospital will be counted if eventually convicted<li data-bbox="755 629 1837 705">▪ Judge may find defendant competent and proceed to trial<li data-bbox="755 705 1715 748">▪ Tell defendant that charges will not be dropped
	<ol style="list-style-type: none"><li data-bbox="730 862 1779 1019">2. If defendant has support system, try to engage support system and educate them about consequences of defendant's non-compliance
	<ol style="list-style-type: none"><li data-bbox="730 1056 1760 1205">3. If defendant has relationship with other CSB service providers, see if they can help engage defendant

Barriers Caused by the Defendant's Family/Caregiver

Barrier	Solution
Restoration counselor suspects family/ care giver is not encouraging defendant to demonstrate full capacity.	1. Attempt to establish rapport with family and educate them about restoration process.
	2. Educate family that if outpatient restoration is not feasible, court may incarcerate or hospitalize defendant which could result in suspension of benefits/entitlements.
	3. Enlist assistance from defense attorney. 4. Send letter to judge explaining situation and making recommendations.

Barriers Caused by the Defendant's Family/Caregiver

Barrier	Solution
Family/caregiver answer for defendant instead of allowing defendant to respond on own.	1. Explain to family/caregiver that goal is to determine defendant's own capacity. While in court, family will not be able to respond for defendant.
	2. If defendant is uncomfortable meeting without family, have family member sit behind defendant (out of eye sight). Start with non-court related questions to encourage response and to allow opportunity to correct family member if they respond for defendant.
	3. Meet with defendant alone.

Barriers Caused by Jail

Barrier	Solution
<p>When restoration counselor arrives at jail, officers say defendant cannot meet alone with counselor.</p>	<ol style="list-style-type: none"><li data-bbox="633 291 1837 472">1. When scheduling first appointment, explain to jail staff the type of setting you will require. Try to address issues prior to your arrival.<li data-bbox="633 544 1818 725">2. Explain to officer the nature of your work with defendant, the fact it is court ordered, and the reasons you need a quiet, private space.<li data-bbox="633 796 1779 1043">3. If officer will not let you meet privately, meet with defendant the best you can to establish rapport and explain services. Later call and speak with jail supervisor.<li data-bbox="633 1115 1624 1296">4. If jail still won't cooperate, try to enlist assistance of court/Commonwealth Attorney/defense attorney.

Barriers Caused by Jail

Barrier	Solution
<p>Client clearly is in need of psychotropic medications but is not on medications and/or jail will not arrange for medications.</p>	<ol style="list-style-type: none"><li data-bbox="681 304 1850 411">1. Determine who provides psychiatric services in jail (i.e. jail staff, contract staff, CSB).<li data-bbox="681 429 1792 536">2. Speak with medical staff to ascertain barriers to psychotropic medications for defendant.<li data-bbox="681 555 1792 791">3. Advise staff of existence of the outpatient court order and benefits of providing aggressive treatment in the jail setting (outpatient vs. inpatient).<li data-bbox="681 809 1821 916">4. If necessary, speak with jail administrator to seek assistance.<li data-bbox="681 935 1827 1108">5. If jail continues to decline provision of psychiatric services, attempt to enlist assistance of defense attorney.<li data-bbox="681 1126 1628 1172">6. Write to judge and explain the dilemma.

Barriers Caused by Jail

Barrier	Solution
<p>Jail will not let restoration counselor bring laptop into jail.</p>	<ol style="list-style-type: none">1. When scheduling first appointment, explain to jail staff that you will be bringing in laptop as a teaching aid. If necessary speak with jail administrator to get permission to bring in and use.2. Compromise and offer to only bring in laptop a few sessions.3. If bringing in laptop is still not possible, do they have computer in law library and can you bring in jump drive?4. If necessary, work around lack of laptop availability.

Barriers Caused by Jail

Barrier	Solution
<p>When restoration counselor arrives at jail, he/she is made to wait extended period of time.</p>	<ol style="list-style-type: none">1. Explain to officers that you appreciate they are very busy and managing multiple demands.2. Ask if there are preferred times to come to jail to minimize conflicts with visitation, mealtime, count time, med call, etc.3. Remind jail staff that your work is being done in response to court order and that delays in service may upset judge.4. If delays are routine, ask jail supervisor to intervene.5. If delays continue, ask judge to issue order mandating jail bring defendant to clinic.



Barriers Caused by Own Agency

Barrier	Solution
<p>Client needs psychiatric assessment but currently there is long waitlist to see psychiatrist.</p>	<ol style="list-style-type: none"><li data-bbox="788 325 1827 434">1. Try to access appointment through standard procedures.<li data-bbox="788 511 1827 811">2. Advise supervisor of dilemma and remind him/her that treatment is being provided in response to court order. Remind supervisor that psychiatric services are an integral part of restoration services.<li data-bbox="788 888 1827 1005">3. If defendant has insurance investigate feasibility of referral to private psychiatrist.<li data-bbox="788 1082 1827 1258">4. Ensure awareness that the judge could issue “show cause order” to the CSB for failure to fully comply with order.

BARRIERS CAUSED BY OWN AGENCY

Barrier	Solution
Restoration counselor is not allocated sufficient time to provide restoration services	<ol style="list-style-type: none"><li data-bbox="819 361 1837 539">1. Advise supervisor of dilemma and remind him/her that treatment is being provided in response to court order.<li data-bbox="819 615 1866 858">2. Remind supervisor that order mandates that the CSB provide restoration services and that the CSB will be required to document services in a report to Court.<li data-bbox="819 933 1856 1168">3. Explain to supervisor that the CSB can receive reimbursement from DBHDS for time spent providing restoration services.

Barriers Related to Other Factors

- Restoration defendants have barriers to active engagement in treatment just like other defendants (i.e. transportation, unstable housing, financial strain, etc.).
- Restoration counselor should assess these issues. Referrals to other CSB services and other community services/programs are often required.
- Some of these defendants may have been in jail and benefits may have been suspended. They may need guidance about re-activating benefits.
- If restoration counselor encounters unusual situations, they should consult with the CSB O-P Restoration Coordinator. If needed, they can also consult with the DBHDS Forensic Office or the DBHDS hospital forensic coordinator.