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INNOVATION

# MENTAL ILLNESS IN THE COURT: THE THERAPEUTIC JUSTICE MODEL

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Carol Fisler

# The Challenge

How can we improve outcomes for people with mental illnesses in the justice system?

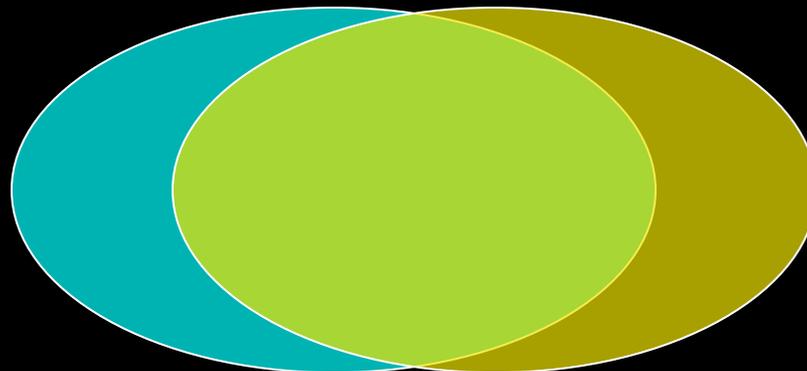
- Treatment courts: very promising results, but do we know why?
- Changing the behavior of offenders with mental illness: What works?

# Mental Illness & Courts:

## *Assumptions about Changing Behavior*

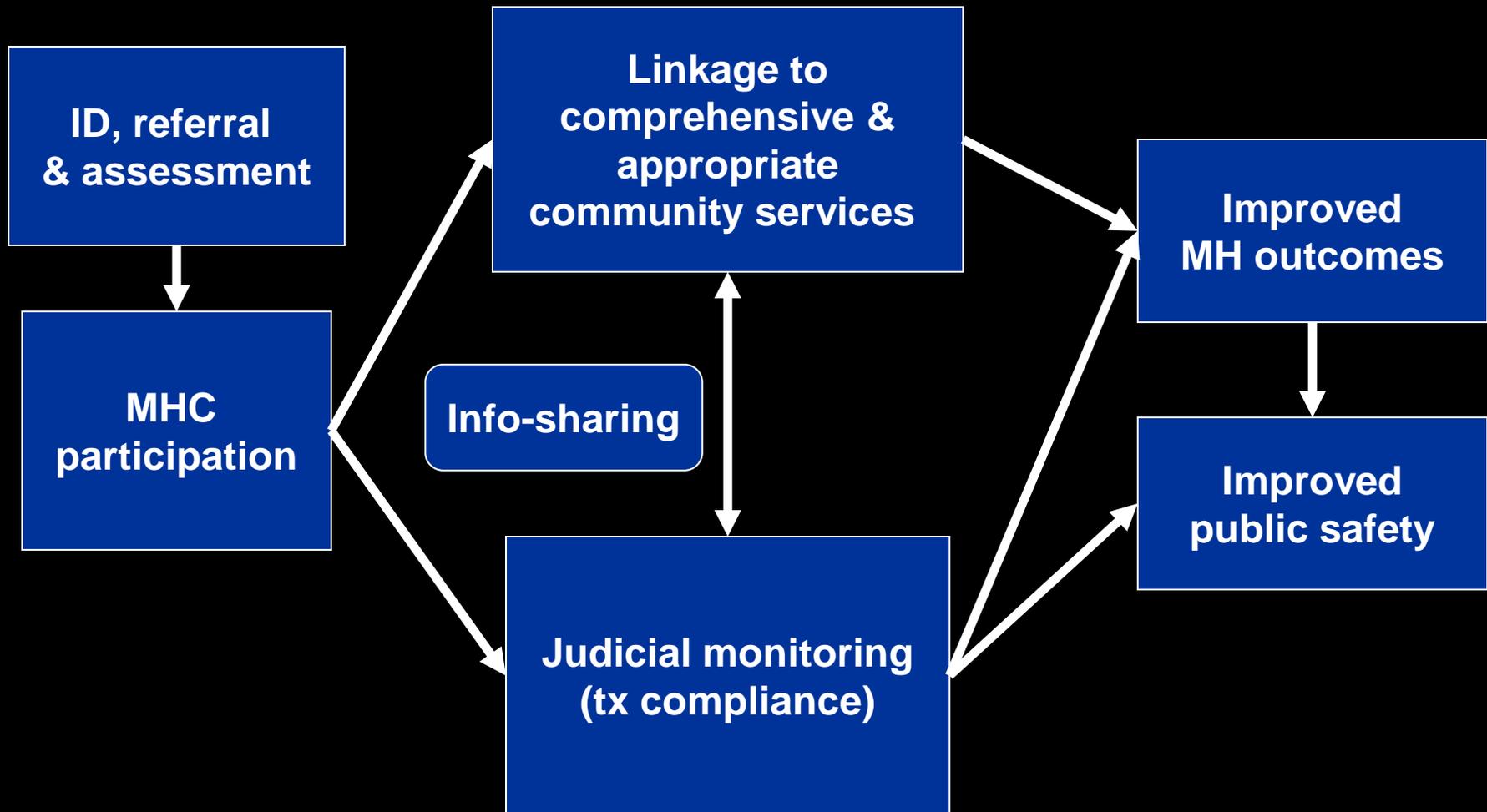
- Mental illness ↑ criminal behavior
- Treatment ↓ criminal behavior
- Criminal justice involvement = opportunity to connect to appropriate treatment
- Judicial supervision ↑ treatment retention & outcomes
- Treatment and judicial supervision ↑ public safety

**PUBLIC  
SAFETY  
GOALS**



**INDIVIDUAL  
TREATMENT  
GOALS**

# Mental Health Court Model



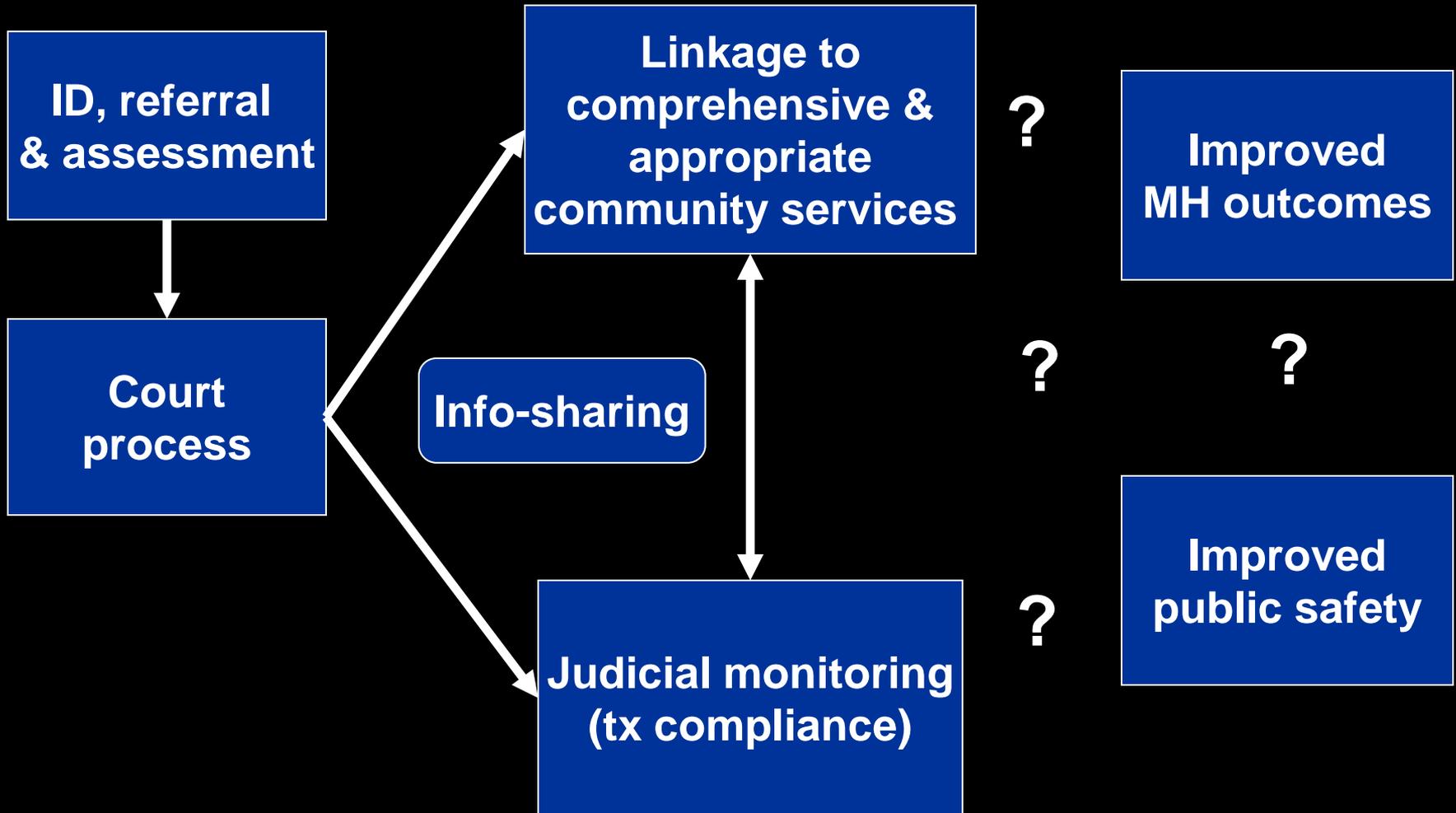
# Does the Model Hold Up?

- Promising research results
  - ↓ recidivism and days of incarceration during MHC participation and post-graduation
  - ↑ treatment linkages

BUT . . .

- Criminogenic, not clinical, factors are associated with re-offending & re-incarceration:
  - Criminal history, antisocial behavior, antisocial cognition, antisocial peers, family or marital discord, poor school or work performance, few leisure activities, substance abuse
  - Clinical factors: certain diagnoses; no MH treatment preceding MHC entry. NO effect: history of psychiatric hospitalizations, current symptoms, insight, self-reported treatment and medication adherence

# How Can We Get Improved Criminal Justice Outcomes?



# New Theories of Change

- **Procedural justice**
- Engagement in civic society
  - Domains: social, educational, labor, legal
  - Recovery model of mental health & mental illness
- Cognitive-behavioral treatment: court process may be an “accidental” intervention

# Procedural Justice

- Basic definition:  
**Perceived fairness of court procedures and interpersonal treatment while a case is processed.**
- Contrast with *distributive justice*: perceived fairness of the final outcome (*i.e.*, whether the litigant “won” or “lost”)
- **Litigants will internalize the values of a system they perceive as fair**

# Dimensions and Examples

- Voice: Litigants' side is heard; opportunity to speak during status hearings
- Respect: Litigants are treated with dignity and respect
- Neutrality: Decision-making is unbiased, trustworthy and consistent across cases
- Understanding: Litigants comprehend court language and decisions
- Helpfulness: Court shows interest in litigant's needs

# Procedural Justice: Examples

- **Voice:**

- *You felt you had the opportunity to express your views.*
- *People in the court spoke up on your behalf.*

- **Respect:**

- *You felt pushed around in the court case by people with more power than you.*
- *You feel that you were treated with respect in the court.*

- **Neutrality:**

- *All sides had a fair chance to bring out the facts in court.*
- *You were disadvantaged in the court because of your age, income, sex, race, or some other reason.*

# Procedural Justice: Examples

- **Understanding:**

- *You understood what was going on in the court.*
- *You understood your rights during the processing of your case.*

- **Helpfulness:**

- *Throughout your case, the court tried to understand your particular needs for services or any other needs you had.*
- *The court seemed very interested in helping you.*

*Source:* Items on this and the previous slide are all from Rossman et al. (2011), except for the sample helpfulness items, which are adapted from Frazer (2006).

# Why Might Procedures Matter?

- **In general, people care about whether others:**
  - Treat them with dignity and respect
  - Respect their rights
  - Are interested in their needs, concerns, or opinions
  - Listen to their input
  - Consider their input when making decisions
  - Avoid favoritism (to other parties or views)
- **This applies especially when those others are in positions of authority**

# Procedures vs. Outcomes

- **Most people still like to win:** *i.e.*, outcomes, or perceived distributive justice, matter too.
- **Procedural justice theory assumes that:**
  - People know they can't always win.
  - People will be more likely to accept losing if they perceive as fair the procedures and interpersonal treatment they received.

# Procedural Justice Research

- **Compliance:** Perceived PJ can increase compliance with court orders and reduce illegal behavior (e.g., Lind et al. 1993; Paternoster et al. 1997; Tyler and Huo 2002)
- **Procedural vs. Distributive:** Perceived PJ is more influential than perceptions of the outcome (win or lose) (see Tyler 1990; Tyler and Huo 2002)
- **Drug Courts:**
  - Baltimore experiment: More positive perceptions of PJ help explain ↓ crime & drug use (Gottfredson et al. 2009)
  - NIJ Multisite: More positive perceptions of PJ are associated with ↓ crime & drug use. Understanding is particularly important (vs. voice, neutrality, respect). Judge is the most important agent of PJ. (Rossman et al. 2011)

# Impact of the Judge

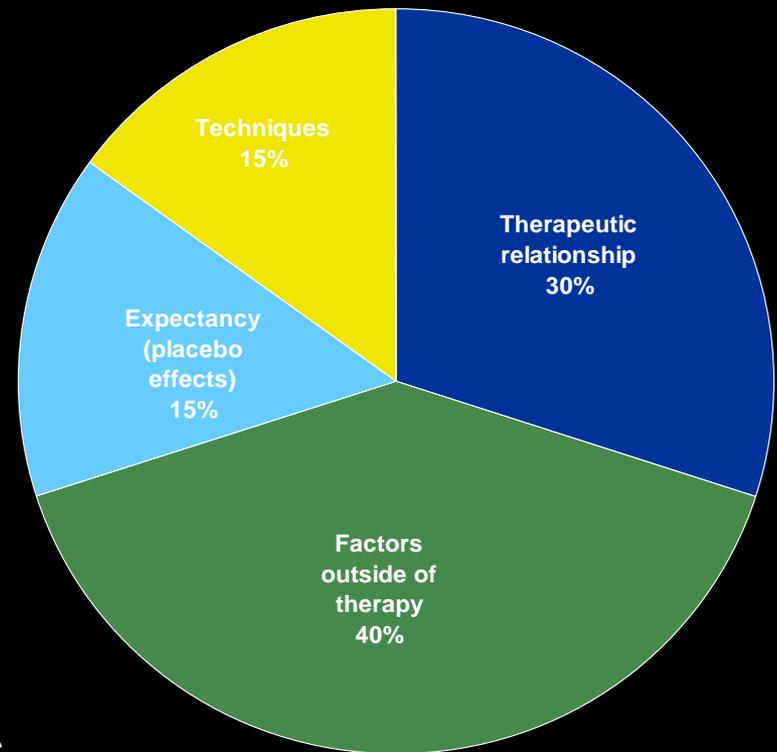
## The judge:

- Is knowledgeable about your case
- Knows you by name
- Helps you to succeed
- Emphasizes the importance of treatment and other activities
- Is not intimidating or unapproachable
- Remembers your situations and needs from hearing to hearing
- Gives you a chance to tell your side of the story
- Can be trusted to treat you fairly
- Treats you with respect

(Rossman et al. 2011)

# Therapeutic Alliance

- Quality of relationship with therapist
  - Client feeling heard
  - Client's agenda vs. counselor's agenda vs. court's agenda
  - Client feeling safe
  - Client feeling respected
  - Client believes treatment serves his or her own personally meaningful goals



# Not Only the Judge

- Probation and parole officers
  - Trust, caring, fairness, non-punitive stance
  - “Firm but fair” relationships lead to better CJ outcomes (Skeem et al. 2007, 2009)
- Members of the court team and court room staff
  - “Front door” effect in the courthouse

# Procedural Justice: What Matters

- Quality of interpersonal treatment (respect, dignity, empathy)
- Court design and procedures
- Transparency of court process & decisions
  - Participants will accept & internalize institutional and social norms

# Engagement in Civic Society: Medical vs. Recovery Tx Models

## Medical model

- Mental illnesses are biologically based brain disorders
- Treatment is fundamentally medical
  - Mental illnesses are chronic conditions, requiring symptom management
  - Medical experts drive treatment decisions
- Focus of court is treatment adherence

# Medical vs. Recovery Models

- Recovery: Development of a person's full life potential living as independently as possible and in harmony with the community
- Principles
  - Emerges from hope
  - Many pathways
  - Supported by peers
  - Supported through relationships
  - Involves individual, family and community strengths and responsibility
  - Person-driven
  - Holistic
  - Culturally based

# New Definitions

## Mental health:

The ability to pursue a dynamic equilibrium between the individual's needs and desires – within the frame of society's rules – to fulfill a meaningful life.

## Mental illness:

A person's temporary inability to pursue a meaningful life due to the presence of psychiatric problems severe enough to interfere with his performance in any one or more of the following spheres: social, labor, and academic

# Recovery and Criminal Justice

- Inherent tension, but not irreconcilable
- Old MHC language: incentives & sanctions, compliance
- New MHC language: alliance, motivation & engagement

# Cognitive Behavioral Therapies

- Growing research base: non-MI population: incarcerated & community
- Growing use: Justice-involved people w/MI
- Address thoughts, attitudes, behaviors
- Manualized interventions
  - Moral Reconciliation Therapy
  - Thinking for a Change
  - Reasoning and Rehabilitation

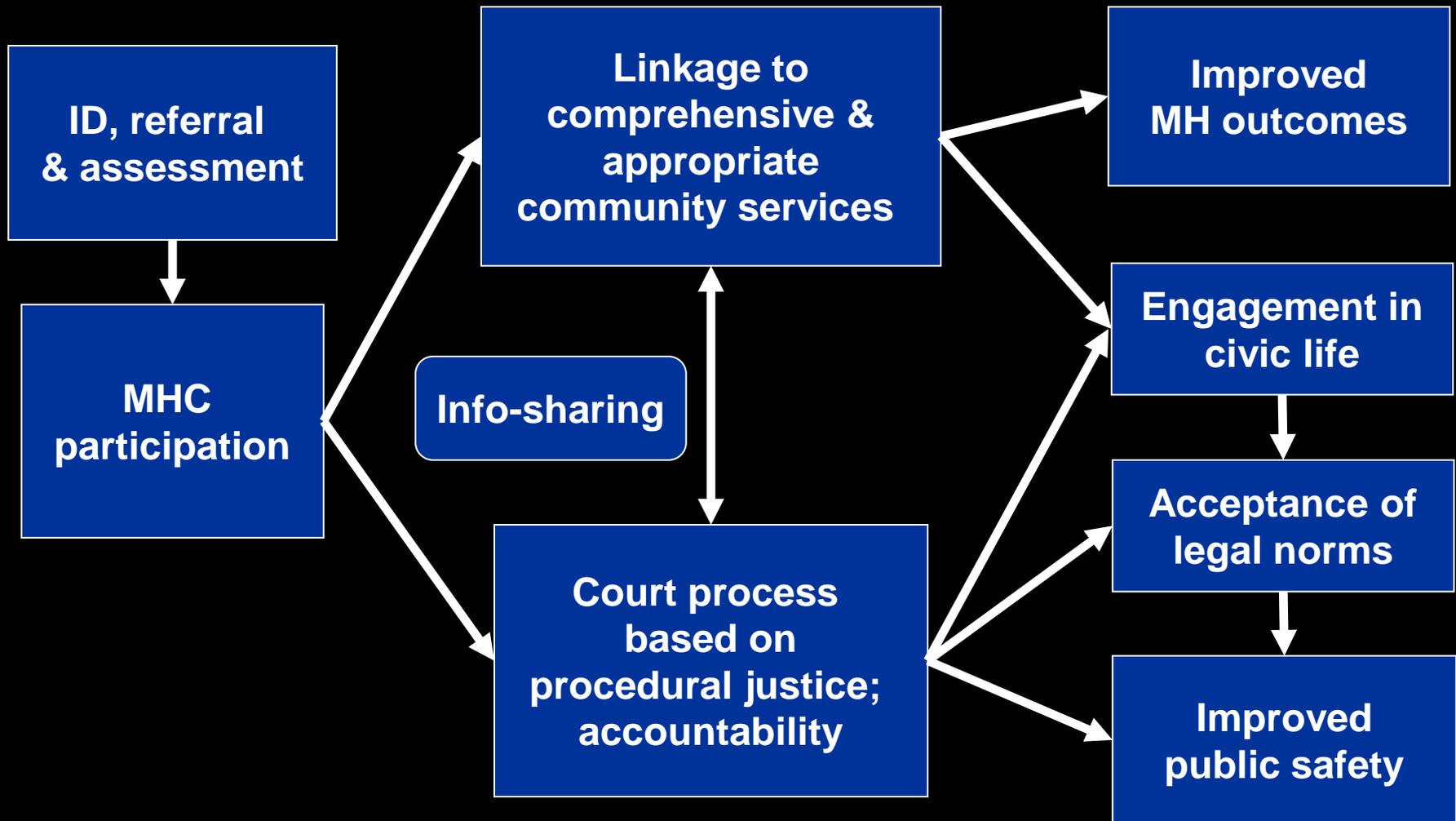
# Cognitive Behavioral Therapies

- CBT programs:
  - Focus on skill-building (e.g., coping strategies)
  - Self-control and self-management
  - Problem-solving approaches
  - Use of role play, modeling, feedback
  - Repetition of material, rehearsal of skills
- Hypothesis: MHC process replicates CBT intervention

# From Compliance to Alliance

- Emerging theory of behavior change
  - Lessons from treatment engagement
  - Procedural justice theory
  - Recovery approach to mental health
- Court holds defendant accountable while supporting engagement in individual's own recovery goals
- Individual internalizes values of court and society
- Individual is supported by meaningful alliances: court, treatment and community

# New Mental Health Court Model?



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Carol Fisler

[fislerc@courtinnovation.org](mailto:fislerc@courtinnovation.org)

646-386-4466

[www.courtinnovation.org](http://www.courtinnovation.org)