

How Attys Can Help As Addiction Cases Rise Post-Pandemic

By **Sue Bright**

The epidemic of addiction is a critical issue during the COVID-19 pandemic, although the coronavirus is much of what we hear about on the news. In fact, calls to the Substance Abuse and Mental Health Services Administration's Disaster Distress Helpline — a 24/7 national hotline dedicated to immediate crisis counseling — has seen a dramatic increase over the past few months.



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Experts predict an influx of legal cases related to the increase in alcohol and drug consumption in our country. Accessible addiction treatment is more critical than ever, and the legal system can serve as a helpful space for intervention. Many defer to psychological and social rehabilitation avenues for people entering recovery, but the truth is, there are also legal channels.

In establishing a solid defense for legal cases, take time to discuss the client's history with drugs and alcohol. Attorneys can play an important role in ensuring their clients begin the journey of recovery, opposed to involvement in the criminal legal system.

This is especially important in communities of color that have faced legal consequences, while others have received the benefit of treatment. Many individuals of color enter the criminal legal system due to poor access to mental health and substance use disorder care in their community.

It is estimated that 75% of all incarcerated individuals have a mental or substance use disorder, whether it's treated or untreated. Jails and prisons offer very limited treatment for these illnesses. Diversion to treatment provides the best outcomes but remains underutilized. One study found that if just 10% of people eligible for diversion were sent to addiction treatment programs rather than prison, we could save \$4.8 billion in the criminal justice system while reducing future crime and health care expenses.

Your clients may wish to discuss attending residential or outpatient treatment to dismiss or reduce charges and minimize any legal punishment. Treatment can go a long way in presenting their case to the judge and prosecutor in the best light. The court may also be willing to accept inpatient treatment as an alternative to mandatory jail time.

To most effectively refer clients to treatment, network within your local community. Ask colleagues who they would trust to send a loved one to treatment. Keep a referral list that is updated and visit the treatment programs to learn more before making a referral.

Over time you will build a network of programs that specialize in various areas, whether they're gender-specific, tailored for executives, or another niche. Keep notes on what insurance providers they accept to further support them. Keep in mind, it is unethical and illegal to accept kickbacks for referrals to treatment centers.

Common Legal Problems Related to Substance Misuse

While substance use disorder can cause a variety of legal problems, the following are ones we commonly see in patients at my clinic, and those who call us for help:

- Driving under the influence, or DUI, charges. In my state, California, DUI is the most prosecuted crime. Having multiple DUIs is a red flag for substance use disorder and will certainly lead to large fines and license suspension. As DUIs are a priorable offense, seeking treatment can reduce worsening punishments and legal consequences, or even support the DUI being struck from the client's record altogether.
- Loss of child custody. This can be tragic for both parents, and especially shame-inducing for mothers. We have worked with many mothers who are facing Child Protective Services cases; when the mother is actively working on her recovery, it bodes far better for her custody rights. When the parent is attending a residential treatment center that allows minor visitation, the care team can advocate on the patient's behalf to share progress and help support a positive ruling.
- Divorce litigation. Addiction is a family disease, and feelings of guilt, co-dependency and anger are common symptoms. The dissolution of a marriage requires professional legal help, and family law attorneys will see more cases of substance abuse as a cause. Knowledge of addiction and recovery can support the client through custody, division of assets, and alimony while keeping recovery as the primary goal.
- Loss of a professional license. Whether the client is a fellow lawyer, medical doctor, accountant, pilot or first responder, it can be devastating for them to have their professional license revoked due to their addiction. Ongoing drug and alcohol treatment and developing a sober network of people who can testify on the client's rehabilitative efforts are key to reinstatement of licensure.

We have seen the best success when clients check into treatment and start engaging in recovery activities sooner than later, especially when there are multiple offenses or a complicated conviction (e.g. having children in the car and extremely high blood alcohol concentration). Judges are often willing to postpone a court date if the client has voluntarily entered inpatient treatment. Clinicians can attend court alongside patients to advocate on their recovery process and rehabilitation. They can attest to negative urine drug screens as well.

It is more beneficial for an attorney to share what actions the client is currently taking to transform their life, versus promising a future result that may or may not occur. Entering treatment prior to the court date is an effective show of good faith while doing much to support the individual as well.

The client should be prepared to make significant behavioral changes as they turn their life around. There are multiple benefits for the individual in getting sober, including peer support from others during this stressful time, and prevention of future legal issues related to their substance use.

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