




Standard 12: Referral and Eligibility

See section 6 of binder

Learning Objectives

As a result of this session, you should be able to:

- Improve the process to identify and admit referrals to the program
- Define and document the eligibility criteria for the treatment court program, including the violent offender definition (if applicable)
- Ensure participants are aware program entry is **voluntary** and they are properly informed about the program

TARGET POPULATION

- The Drug Court team does not apply **SUBJECTIVE** criteria for or personal impressions to determine participants' suitability for the program.
- **MUST TARGET** High Risk / High Need participants
- If unable to target High Risk / High Need, offenders, the program develops alternate tracks with services that are modified to meet the risk and need of it's participants.
- **DO NOT MIX** participants with different risk or needs levels in the same counseling groups, residential milieu or housing unit.

Define Process to Decide Eligibility

In those cases where a charge or conviction is potential grounds for conviction, the following criteria shall be considered by the Triage Team to determine whether the person remains appropriate for acceptance into a treatment court:

- Use of force
- Repeated acts
- Age of the crime
- Age of the person at the time the crime was committed
- Successful treatment completion
- Victim agreement with placement in the treatment Court

Eligibility should be documented

CRITERIA	AIM Court	Drug Court	Mental Health Court	Veterans Court
Age	18+	18+	18+	18+
Demographic Restriction	Mothers with minor (or adult dependent) children	None	None	Past or current service member
County of Residence	Eau Claire	Eau Claire	Eau Claire	Chippewa Dunn Eau Claire
County of Charge	Any (Judge and DOC must agree to transfer to Eau Claire County)	Any (Judge and DOC must agree to transfer to Eau Claire County)	Any (Judge and DOC must agree to transfer to Eau Claire County)	Any (Judge and DOC must agree to transfer to Eau Claire County)
Type of Charge	Felony or Habitual Misdemeanor	Felony or Habitual Misdemeanor	Felony or Misdemeanor	Felony or Misdemeanor
Diagnosis	Meets DSM-IV criteria for alcohol/drug dependence and scores Probable or Highly Probable for Substance Abuse on the COMPAS	Meets DSM-IV criteria for alcohol/dependence and scores Probable or Highly Probable for Substance Abuse on the COMPAS	DSM-IV-TR mental health diagnosis (but not sexual paraphilia alone or if primary). Primary DD diagnosis will be considered but other avenues explored first. MH concerns appear to be driving factor in offense.	AODA or mental health treatment (including trauma) need identified
Risk Level	Moderate to High	Moderate to High	Moderate to High	Low Track – Low Regular – Mod – High
Probation or ES Status	Must be on probation/ ES for at least 18 months	Must be on probation/ ES for at least 18 months	Must be on probation/ ES for at least 18 months	Must be on probation/ ES for at least 6 months
Potential Exclusions	<ul style="list-style-type: none"> Convicted of serious sex offense, violent crime or delivery of controlled substances Lack of prior probation or treatment history 	<ul style="list-style-type: none"> Convicted of serious sex offense, violent crime or delivery of controlled substances Lack of prior probation or treatment history 	<ul style="list-style-type: none"> Convicted previously of violent felony or crime involving weapon Lack of prior probation or treatment history Person unable or unwilling to participate in treatment due to mental impairment Not likely to respond to treatment available 	<ul style="list-style-type: none"> Ineligible for VA benefits Convicted of serious sex offense, violent crime or delivery of controlled substances Records indicate Vets Court cannot provide needed level of care

Violent Offender

Things to think about:

- Funding source
- Grant requirements

TAD Grant

The TAD Grant places the following restrictions on program eligibility:

- The person has one or more prior convictions for a felony involving the use or attempted use of force against another person with the intent to cause death or serious bodily harm.
- The person has been charged with or convicted of an offense in a pending case and, during the course of the offense, the person carried, possessed, or used a dangerous weapon, the person used force against another person, or a person died or suffered serious bodily harm.

Excerpt from Sample of a Decision Grid

	Charged With	Convicted of
940.01 – First-degree intentional homicide	X	X
940.02 – First-degree reckless homicide		X
940.03 – Felony murder		X
940.05 – Second-degree intentional homicide	X	X
940.06 – Second-degree reckless homicide		X
940.07 – Homicide resulting from negligent control of a vicious animal		X
940.08 – Homicide by negligent handling of a dangerous weapon, explosives or fire		X
940.09 – Homicide by intoxicated use of a vehicle or firearm		X
940.10 – Homicide by negligent operation of a vehicle		X
940.12 – Assisting suicide	X	X
940.19 – Battery; substantial battery; aggravated battery Except 940.19(1) – misdemeanor Except 940.19(5)&(6) – see below		X
940.19(5) – Battery (great bodily harm with intent to cause great bodily harm)	X	X
940.19(6) – Battery (intent to cause bodily harm with substantial risk of great bodily harm to person 62+ or with physical disability)	X	X
940.195 – Battery to an unborn child; substantial battery to an unborn child; aggravated battery to an unborn child Except 940.195(1) – misdemeanor Except 940.195(5)&(6) – see below		X
940.195(5) – Battery to an unborn child (great bodily harm to unborn child or woman pregnant with the child with intent)	X	X
940.195(6) – Battery to an unborn child (intent to cause bodily harm by conduct that creates substantial risk of great bodily harm)	X	X
940.20 – Battery; special circumstances (e.g., battery by prisoners)		X
940.201 – Battery or threat to witnesses		X
940.203 – Battery or threat to judge		X
940.205 – Battery or threat to department of revenue		X
940.207 – Battery or threat to department of safety and professional services or department of workforce development employee		X

Example of policy

Example of Eau Claire County's policy:

- A referred person may be excluded from participation in a treatment court due to "violent offender" status only if the applicable charge or conviction is a felony.
- Automatic exclusions for past convictions shall apply only when the conviction occurred during the 10 years prior to referral. After the 10 years have passed, the conviction shall be considered potential grounds for exclusion.

Referral Form

- What information is needed on a referral form?
- DOB
- County of residence/Contact information
- Risk level – do they have a recent assessment?
- Dependence diagnosis - do they have a recent assessment?
- Current charge – previous convictions
- Prior treatment
- SID/SS Number?
- Others?

Referral Process

- Who makes the referral?
- Who has access to the referral form?
- Any roadblocks in receiving referrals?
- Who presents the referral?
- Who does the referral actually go to?
- Mapping the referral process & decision points
- Who reviews the referral?

Meeting with a Referral

- People feel what when referred to a treatment court – help them identify their fears of recovery
- Participation is voluntary
- How does a referral become informed on their choice to enter a Treatment Court ?
 - Participant handbooks
 - Observing Treatment Court

Issues to consider in your referral process

- Is your system objective or subjective ?
- Criteria for eligibility is clear and understandable
- What if there are no openings ?
- Are there concerns over equality / inequality ?
- How long does it take for a referral to be admitted into your program ?
- Do you allow victims to have a say in admission ?

Best Practice

- Referral to admission - best practice point is **50 days**

Question

On average, how long does it take from arrest to referral in your program?

- A. 20-40 days
- B. 40-60 days
- C. 60-80 days
- D. I don't know

Question

On average, how long does it take from referral to eligibility in your program?

- A. 20-40 days
- B. 40-60 days
- C. 60-80 days
- D. I don't know

Question

On average, how long does it take from eligibility determination to admission in your program?

- A. 20-40 days
- B. 40-60 days
- C. 60-80 days
- D. I don't know



Standard 13: Screening & Assessment

See section 6 of binder

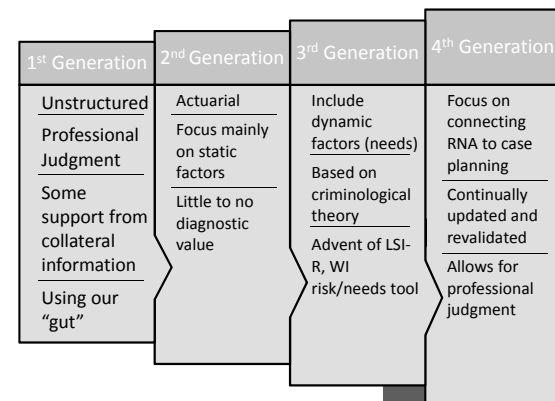


Learning Objectives

As a result of this session you should be able to:

- Identify the key components of a risk assessment and what a risk assessment is not
- Identify other narrow band assessment tools that allow treatment court staff to determine specific risk/need considerations
- Commit to using risk/needs assessment to inform entrance decisions and ongoing service delivery

Historical Timeline



Importance of Screening and Assessment

- To get the right people into program
- Focus on high risk-high need
- Targeting the wrong participants can do HARM



Goal is to Assess Objectively

Avoid using “nick names” when discussing referrals that are being assessed by the team



Decision

- Cutest kid in the state ?
- Cutest kid in the country ?
- Cutest kid in the world ?
- Very Cute, but it's mostly subjective ?

Answer is -

Quick Screen



What is Risk ?

- Risk is derived from a blending of answers to at least 40 different weighted questions which fuels the risk score.
- What 3 static factors that impact a Risk Score more than anything else?
 - A. Gender, Motivation, mental health diagnosis
 - B. Treatment history, mental health diagnosis, support in the community
 - C. Age, criminal history, age of first arrest

What is Need ?

Need scales identify and measure the most problematic areas of an offender's life

Needs are the "fuel" to the risk "fire"

Might be Bed Time?

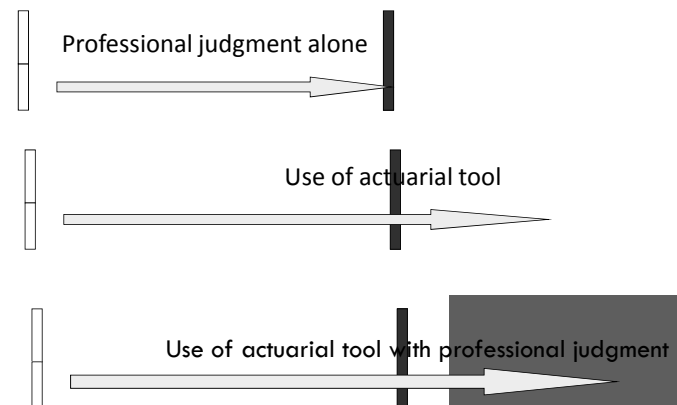


Why pay attention to Risk / Need ?

Always remember, high dosage for low risk clients can be potentially harmful to their outcomes.



Here's another reason:



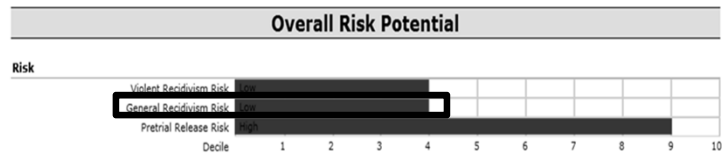
Source: Patricia M. Harris, "What Community Supervision Officers Need to Know About Actuarial Risk Assessment and Clinical Judgment," *Federal Probation*, Vol. 70, Nr. 2 (September 2006)

Example of Risk

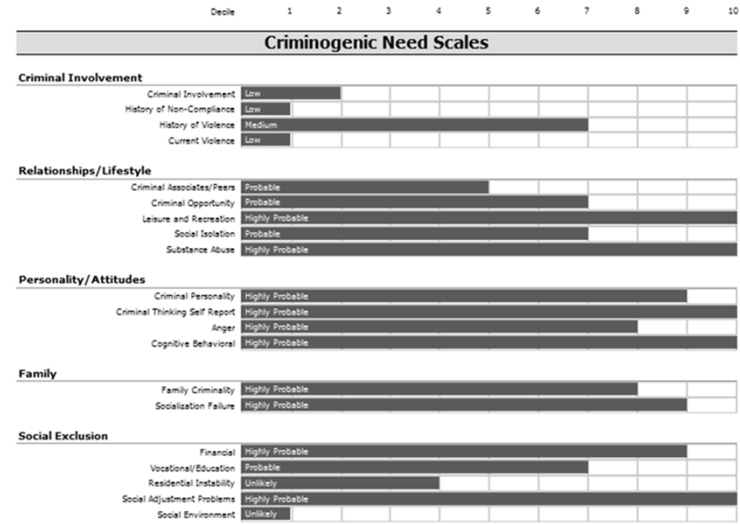
Female client with the following information:

- Very little criminal history, only 2 prior arrests.
- First arrest was at the age of 18.
- She is 27 years old.

What does this tell us?



Need Scale



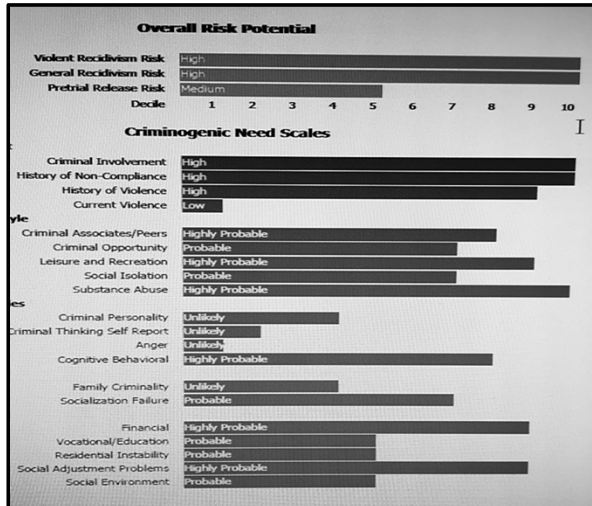
Risk/Need Example

- In this case the female shows low risk but does have higher needs. Would this person be eligible for your treatment court?
 - Yes
 - No
 - Not enough information

Collateral Information

- Referrals can sometimes struggle with honesty
- Do you gather collateral information as part of your screening / assessment process?
 - Yes
 - No
 - Not always

Remember Tony?

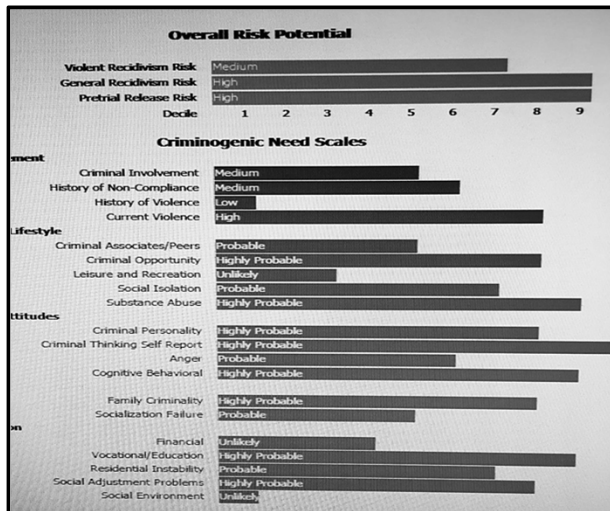


Screening Decision

Based upon the information you have, is Tony eligible for your program?

- A. Yes
- B. No

Remember Chelsea?



Screening Decision

Based upon the information you have, is Chelsea eligible for your program?

- A. Yes
- B. No

Screening Results - Chelsea

- TCU Drug Screen – 9 out of 9 (meets diagnostic criteria for suspected substance abuse dependency, indicates need for full substance abuse assessment)
- TCU Criminal Thinking Screen – meets criteria for cognitive behavioral treatment
- Trauma Screen – Does not meet criteria
- Mental Health Screen – meets criteria
- URICA - Action

Collateral Information

- Contacted Chelsea's attorney and found out that when she was 14 years old, her mother was sent to prison for a prostitution ring that Chelsea was involved in.
- Attempts to contact her father were not successful, but she did sign a release of information for him.

Final Decision ?

Is Chelsea Eligible for a Treatment Court ?

A. Yes

B. No

Please turn off your clicker when done!

Action Plan

- **Is Tony eligible for treatment court? Why or why not?**
- **What steps should you take to improve your referral system? Consider:**
 - Do your screening and assessment tools have validity ?
 - Who is trained to use these validated tools ?
 - Is there empirical evidence with your tools ?
- **What steps can you take to improve your screening / assessment system to meet the standard?**
 - Under what circumstances might we override the score?



Standard 4

TEAMS!!

See section 7 of binder





Learning Objectives

As a result of this session you should be able to:

- Be able to recognize when you are an effective team
- Understand your role and the roles of other team members
- Respect and work with each member of your team
- Make decisions as a team in response to participant behavior
 - (with the judge as the final decision maker, per due process requirements)

8 Characteristics of Highly Effective Teams

- A clear and elevating goal
- A unified commitment to the goal
- A results-driven structure
- The right people on the team

Evidence-Based Decision Making –
National Institute of Corrections

8 Characteristics of Highly Effective Teams

- Effective leadership
- A climate conducive to collaborating
- Standards of excellence
- External support and recognition

Evidence-Based Decision Making –
National Institute of Corrections

Treatment Court Team Composition

- Drug Court team is comprised of representatives from all partner agencies involved in creation of program
 - Judge
 - Program coordinator
 - Prosecutor
 - Defense counsel
 - Treatment representative
 - Community supervision officer
 - Law enforcement officer
 - Evaluator
 - Nurse or physician

What does the team do?

- Manage day-to-day operations
- Review participant progress during pre-court staffings and court status hearings
- Contribute observations and recommendations from areas of expertise and role
- Oversee delivery of legal, treatment and supervision services

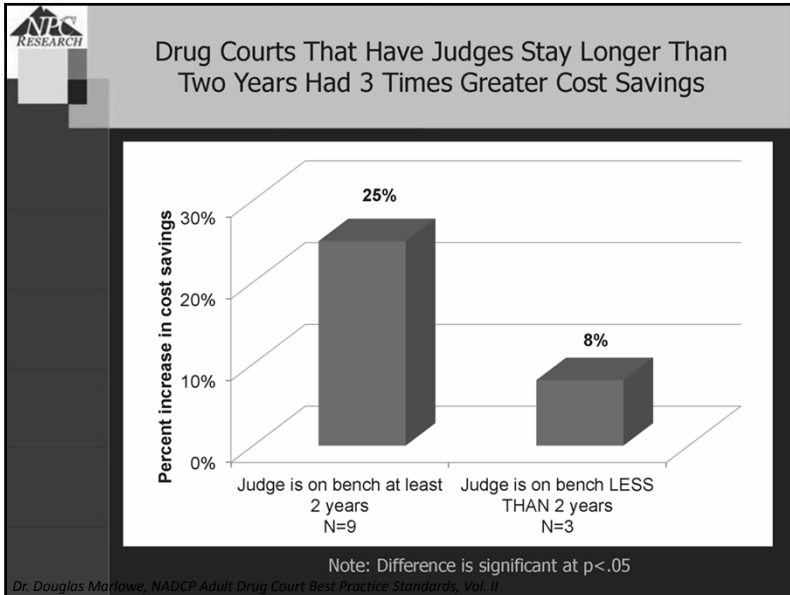
What does the team do?

- Judge considers perspectives of all in making decision, relying on experts in addiction, mental health, etc.
- Each member of team needs appropriate and continuing education in Treatment Court best practices and science behind addiction and behavior modification

Judge

We'll expand more about role of the judge in relation to Standard 5 next. For now, a couple points:

- The role of the Treatment Court judge is different from traditional role
- But still responsible to assure constitutional guarantees of due process, but in consultation with team members
- Judge has disproportionate impact on success of participants
- At least 4:1 (better 6:1) positive to negative response ratio
- Say every positive thing you can honestly say as often as you can!!



PROGRAM COORDINATOR

The hub of the process! Responsible for:

- maintaining documents and records of program
- overseeing fiscal and contractual obligations
- facilitating communication between team members and partner agencies

PROGRAM COORDINATOR

The hub of the process! Responsible for:

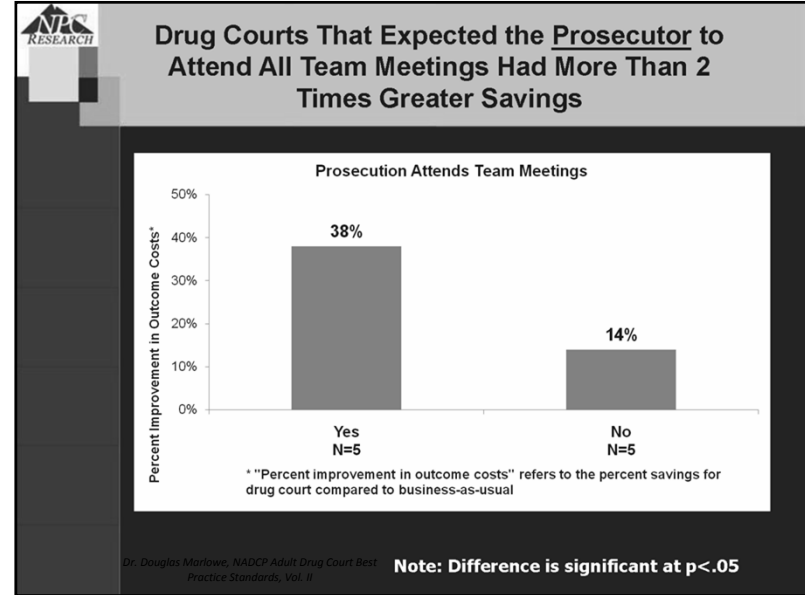
- ensuring policies and procedures are followed
- overseeing collection of performance and outcome data
- scheduling court sessions and staff meetings, and
- orienting new hires

PROSECUTOR

- Leadership very important
- Advocates on behalf of public safety & victim interests
- Hold participants accountable to obligations of program
- May also help to resolve other pending legal cases that impact participants' legal status or eligibility
- Without support of prosecutor, very difficult to create a best practices court

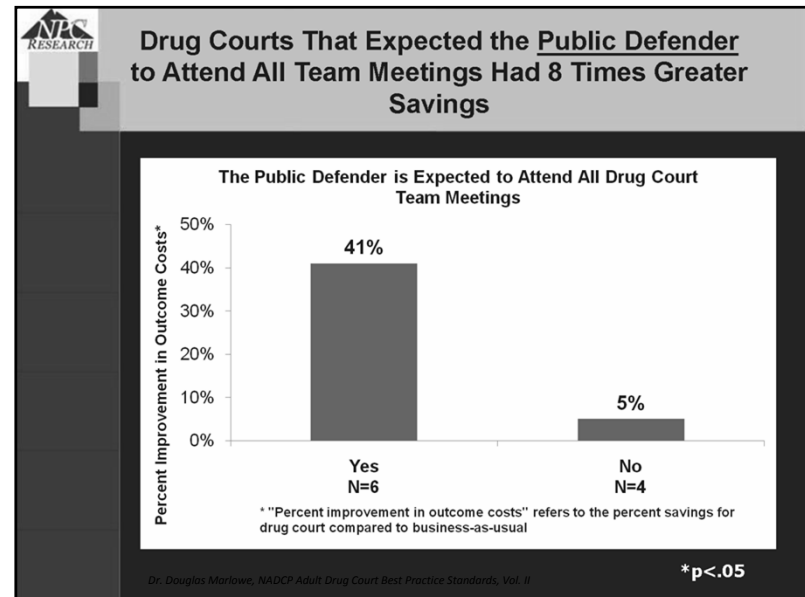
PROSECUTOR

- What if the prosecutor is not on board?
- Prosecutor as gatekeeper
- Is the District Attorney the only source of referral?
- What are some steps you can take to get everyone on board?



DEFENSE COUNSEL

- May differ depending on whether your court is pre- or post-conviction
- Ensures participants' constitutional rights are protected
- Advocates for participants' legal interests
- Participants need to provide informed consent to be represented by defense counsel serving on Treatment Court team
- Most complex role of team, especially in pre-conviction courts



DEFENSE COUNSEL

Pre-conviction courts:

- Participants have a duty to tell truth
- Defense attorney has duty of candor to court but also duty of confidentiality to client
- Sometimes defense counsel being asked to act more like a GAL
- Want a unified team in response to behavior

DEFENSE COUNSEL

Pre-conviction courts:

- Defense counsel may have the best idea of anyone of what's really going on with his/her client
- A consistent matrix of responses will help guide team and ease conflict for defense attorney
- Once revocation is at issue, traditional role comes to fore

DEFENSE COUNSEL

Post-conviction courts:

- Participation in the program is condition of probation or part of criminal sentence
- Participants are not entitled to defense representation unless face potential jail sanction or revocation of probation

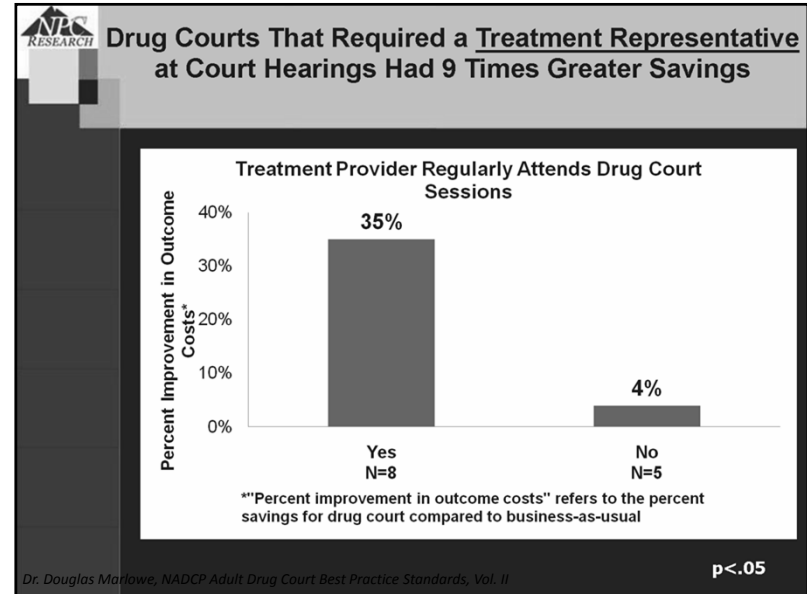
DEFENSE COUNSEL

Post-conviction courts:

- But post-conviction courts should include defense counsel on their team
- Improves outcomes significantly
 - Participants believe the process is more fair
 - Greater perception of fairness consistently associated with better outcomes

TREATMENT REPRESENTATIVE

- Addiction counselor, social worker, psychologist, or clinical case manager
- Receive clinical information from programs treating participants
- Report that information to the team
- Contribute clinical knowledge and expertise during team deliberations

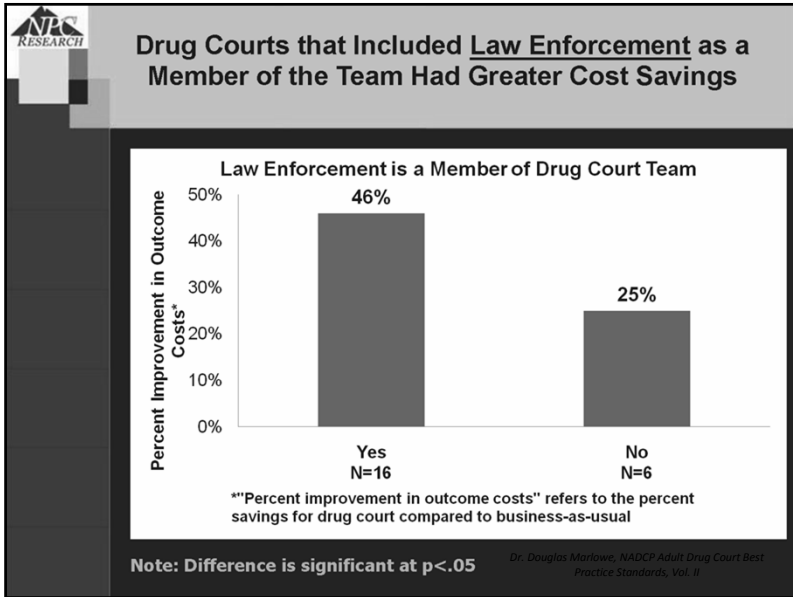


COMMUNITY SUPERVISION OFFICER

- Typically probation or pretrial services officer
- Some courts may rely on law enforcement
- Perform drug and alcohol testing
- Conduct home or employment visits
- Enforce curfews and travel restrictions
- Deliver cognitive-behavioral interventions to improve participants' problem-solving skills and alter dysfunctional criminal-thinking patterns


LAW ENFORCEMENT OFFICER

- Typically a police officer, deputy sheriff, highway patrol officer, or jail official
- Law enforcement is eyes and ears of Treatment Court on street
- May also assist with home and employment visits
- Serves as liaison between Treatment Court and police department, sheriff's office, jail, and correctional system






- ### EVALUATOR
- As a condition of grant funding, courts may be required to include an evaluator on team
 - Helps to ensure Treatment Courts collect reliable performance data to report to grant-making authorities
 - And to ensure quality program evaluation and improvement

- ### NURSE OR PHYSICIAN
- May be advised to include a nurse or physician if substantial numbers of participants
 - require medication-assisted treatment or
 - suffer from co-occurring medical or mental health disorders



Standard 5: Judicial Role and Interaction

See section 7 of binder

Learning Objectives

As a result of this session, you should be able to:

- Learn/reassess the role of the Judge on the treatment court team
- Choreograph the treatment court setting and environment
- Consider different Judicial styles/techniques as a treatment court Judge

Role of the Judge

- First and foremost, you are still a judge. Neither your independence nor your discretion is to be surrendered. Constitutional, statutory and ethical obligations remain.

But, the Treatment Court Judge Wears Many Hats:

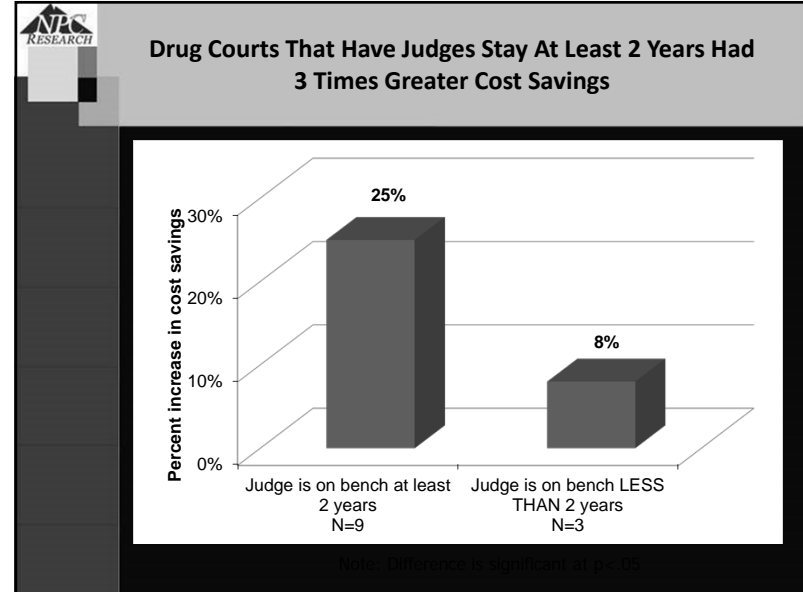
- Leader
- Communicator
- Educator
- Community Collaborator
- Institution builder

The Judge's role no longer ends at sentencing

- Judge as leader of the team.
- Continuity of relationship between judge and participant
- Relationship from acceptance in program throughout treatment and commencement and aftercare
- The message is "Someone in authority cares"

Length of Term

- Maintain continuity of the program
- Judge is knowledgeable about policies and procedures



Consistent Docket

- Same Judge throughout participants enrollment
- Back-up Judge versus Stand-in Judge

Length of Court Interactions

Drug Courts Where the Judge Spends an Average of 3 Minutes or Greater per Participant During Court Hearings had 153% greater reductions in recidivism



How?

- What did you do this week to stay sober?
- What does your next week look like?

Judicial Demeanor

- Offers supportive comments
- Stresses importance of clients commitment to treatment and other program requirements
- Express optimism

Procedural Fairness

- Knowledgeable of participant's case
- Know participant by name
- Encourage success
- Emphasize treatment
- Not intimidating
- Approachable
- Let participant tell their story
- Treat fairly and with respect
- Impartial – do not prejudge



Treatment Court Environment

What environmental elements are necessary to create and operate an effective drug court?

Variables in Courtroom Environment

- Ambient noise, distraction
- Participant amplified
- Closeness to bench

Variables in Courtroom Environment

- Participant next to lawyer
- Who is first addressed by judge
- Level of eye contact
- Physical contact
- Arranged seating
- Location of staff

Variables in Courtroom Environment

- Order of cases
- Time spent with participant
- Frequency of courtroom sessions
- Judge addresses gallery
- Participant addresses gallery

Judicial Styles

- Be Supportive
- Use Motivational Enhancements
- Avoid Confrontation

Relationships between Judge and Participants

- Positive Authority Figure
- Consistent
- Knowledgeable
- Empathy

Relationship Between Judge and Audience

DIRECTING COURTROOM THEATRE

- The judge has the ability to shape and reinforce individual accountability.
- By engaging the drug court audience and setting examples, the judge can communicate important principles.

Judge as Leader

- Calling the Meeting
- Listening to Input
- Building Consensus

Treatment Court Judge as Educator

- **Self Education**
 - Addiction and Psychopharmacology
 - Treatment Modalities
 - Drug Testing
 - Behavior Modification
 - Ongoing Cultural Proficiency
- **Team Education**
- **Community/Bench Education**
- **Media Education**

Judge as Community Collaborator

- It is frequently said that impartial judges should be neutral and detached, but this does not mean that judges have to isolate themselves, devoid of any contact with the community at large. ... Moreover, to place judges in a monastery or an ivory tower would diminish their judicial ability. Judges need to keep in contact with the outside world. Involvement in the outside world enriches the judicial temperament, and enhances a judge's ability to make difficult decisions. As Justice [Oliver Wendell] Holmes once said: "[The] life of the law has not been logic: it has been experience."
- *Shaman et al, Judicial Conduct and Ethics (2009)*

Judicial Leadership Outside of the Courtroom

Has been identified as one of these seven common challenges facing Drug Courts, particularly unique to treatment Court Judges. As a result:

- Judges need to be advocates for the program in the community
- Provide oversight of treatment and other services
- Continually monitor program activity

ADVICE

- Use the NDCI/NJC checklist
- Read the Judicial Benchbook
- Listen to the team, but use your discretion
- Don't shame or call names
- No anger
- Follow the experts recommendations
- Adhere to procedural due process
- Go to NADCP National Conference
- Attend the WATCP conference
- Enjoy the sense of pride you feel for your treatment court graduates!

Self Test (for Judges Only)

As a Treatment Court Judge I think my team views me as:

- A. Highly Effective
- B. Effective
- C. Somewhat Effective
- D. Needs Work
- E. Don't Know- Don't Care

Self Test (for Team Members Only)

If I felt my Judge was doing something ineffective or contrary to the State standards I believe I could talk to him or her about it:

- A. Yes
- B. No

Please turn off your clicker when done!

Acknowledgment

The majority of this program/slides were created and used with the permission of Ret. Judge William Meyer.

He literally wrote the book ie the Judicial Benchbook for Treatment Court Judges.

Breakout 4 - New Information on Tony....

- Tony has been consistently clean
- An undisclosed third party reveals to prosecutor that they saw Tony with a gun
- Prosecutor wants to terminate
- Should Tony be terminated? Discuss

Breakout 4 – MORE Information on Tony....

- We now learn that the defense attorney has information that Tony has been using all the time and flushing his system.
- Does the defense attorney disclose this information?
- Discuss!

Breakout 4

Start now and complete the rest later...

- Do a self-test on effectiveness of team (or list strengths & weaknesses)
 - See section 7 of your binder for *High Performance Team Assessment Form*
- Then discuss (judge talk last)
- 3 action items for how to improve your team



Standard 8: Training

See section 8 of binder



Learning Objectives

As a result of this session you should be able to:

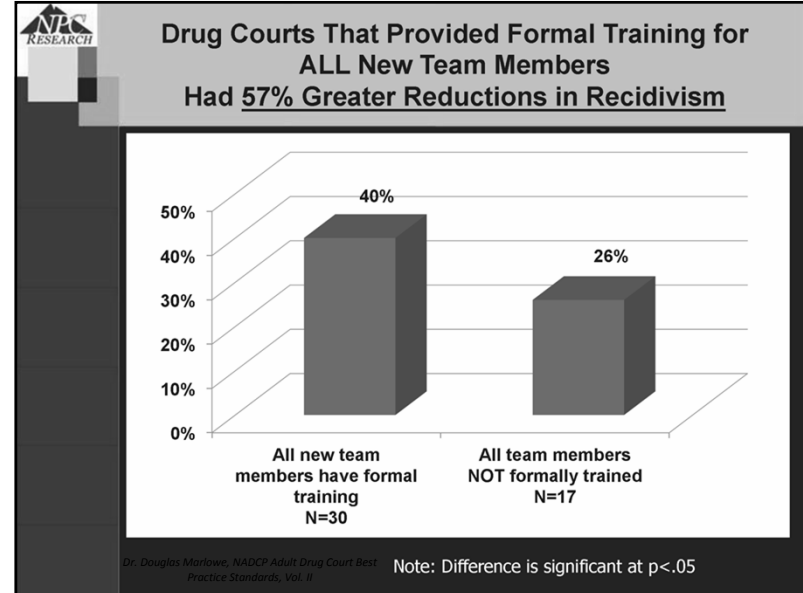
- Appreciate the importance of training for all treatment court members
- Commit to appropriately train all treatment court members

Standard 8: Training

To promote effective treatment court planning, implementation, and ongoing operations, treatment courts must assure continuing education of team members.

Standard 8: Training

- Every treatment court must provide implementation training before starting the court
- In addition to implementation training, operating procedures must define requirements for the continuing education of each team member
- Each treatment team member must establish and maintain a viable continuing education plan



Practice Points

- 1) At least every two years, treatment court teams should work with outside experts to assess team functionality, review all policies and procedures and assess the overall functionality of the court.
 - Program evaluation- outcome and process evaluation
 - NDCI technical assistance

Question

How much training should each treatment court member strive to obtain every year?

- A. 10 Hours
- B. 20 Hours
- C. 25 Hours
- D. 30 Hours
- E. 40 Hours**

Please turn off your clicker when done!

Practice Points

- 2) Each member of the treatment court should work towards obtaining 40 hours of training per year (Carey 2012, Carey 2008).

See resource list:

Advanced and subject matter training, discipline specific training, webinars, conferences (NADCP; WATCP), publications

Practice Points

3) The treatment court should plan for the transition of new team members and provide sufficient training. This training could include role specific training and training that provides an overview of treatment court similar to implementation training.

- Succession planning is essential
- Mentor one another and/or find a mentor in another court

Practice Points

- 4) Training should be viewed as an ongoing process
- 5) Each court should identify and build a relationship with a mentor court of its specific model
- 6) Treatment courts should regularly observe other treatment courts

Practice Points

7) Treatment courts should consider sending team members to role-specific training and other “formal” training provided by recognized national organizations

Practice Points

8) Treatment courts should make efforts to effectively use all available resources including state conferences, national conferences, webinars and other training resources.

- WATCP Annual Conference (Spring) & Coordinator's Conference (Fall)
- NDCI Free Webinars
- National NADCP Conference

Role Specific Training



2016 Drug Court Practitioner Trainings
Registration opens today!



If you are a new or current Drug Court judge, prosecutor, defense attorney or coordinator, please join NDCI in Reno, Nevada for practitioner-specific trainings in 2016. There is no better way to ensure that your Drug Court is operating at the highest standard than by joining your colleagues for these comprehensive trainings developed by the National Drug Court Institute and the National Judicial College.

Register for practitioner-specific trainings using the links below:

- Judges
March 7-10, 2016
- Drug Court Coordinators
March 21-25, 2016
- Prosecutors and Defense Counsel
August 8-11, 2016

Deadline for registration and payment is October 5, 2015




Practice Points

9) Treatment courts should emphasize training that reinforces a familiarity with and emphasis of the ten key components.




- Research and knowledge about treatment courts and treatment court services are always evolving, it is important to keep up to date with the newest findings.

Practice Points

10) Teams should identify an individual responsible for recording and maintaining records of the training received by the team



**Standard 6:
Due Process**
See section 8 of binder

Learning Objectives

As a result of this session you should be able to:

- Appreciate the due process and constitutional rights of the participants in the non-adversarial context of a treatment court.
- Apply due process protections in all aspects of the program.

Due Process

Provide written standards with criteria for:

- Admission
- Sanctions
- Incentives
- Phase advancement
- Treatment
- Graduation
- Termination/expulsion

Due Process

Inform participants of policies and procedures

Due Process

Have participants waive prohibition on ex parte communications.

- SCR 60.04(1)(g)(6): “A judge may initiate, permit, engage in or consider ex parte communications knowingly waived by a participant when the judge is assigned to a therapeutic, treatment or problem-solving docket in which the judge must assume a more interactive role with participants, treatment providers, probation officers, social workers, prosecutors, defense counsel, and others.”

Due Process

Honor participants’ right to be represented by counsel at every stage of the proceedings.

- Jail sanctions issue.
- Take special care in termination procedures:
 - Ample notice to get counsel for termination hearings.
 - Full waiver if participant wishes to proceed without counsel.
- Make sure participants understand that defense counsel on the team is not their individual attorney.

Due Process

Honor participants’ right to be heard at every stage of the proceedings

Due Process

Understand the role of each team member and appreciate the ethical obligations inherent in that role.

Due Process

Be on the record. SCR 71.01(2)

Due Process

Provide alternatives to deity-based community support meetings.

Due Process

Observe due process in drug testing.

- Instrumented confirmation of testing if result contested
- Chain of custody

Role Play

Due Process

Proposed Termination Process Protocols

- 1) Team Recommendation on Termination
- 2) Right to Notice
 - a) Of a hearing
 - b) Violations
- 3) Right to know procedure
- 4) Right to an Attorney

Due Process

- 5) Hearing before a Neutral* Judge:
 - a) Right to present evidence,
 - b) Right to cross examination,
 - c) Burden on the team to prove the basis for termination,
 - d) By preponderance of the evidence.

*Neutral Judge can be the Treatment Court Judge, but that judge can not be part of the team meeting deciding to recommend the termination.

Breakout 5

- Based on the role play, what due process issues did you identify? Discuss.
- Review current termination procedures and modify to account for due process issues
- Take home assignment
 - Identify training needs for team members
 - Determine how training will be tracked and monitored
 - Identify barriers to participating in training



Standard 14: Treatment

See section 9 of binder



WISCONSIN COURT SYSTEM



Learning Objectives

As a result of this session, you should be able to:

- Appropriately refer to treatment on a timely basis
- Provide the level of treatment that meets the needs of the participants based upon the screen / assessment
- Understand the importance of a treatment plan and what it should include
- Maintain and document fidelity to evidence-based practice in treatment services
- Identify and develop appropriate treatment resources in your community

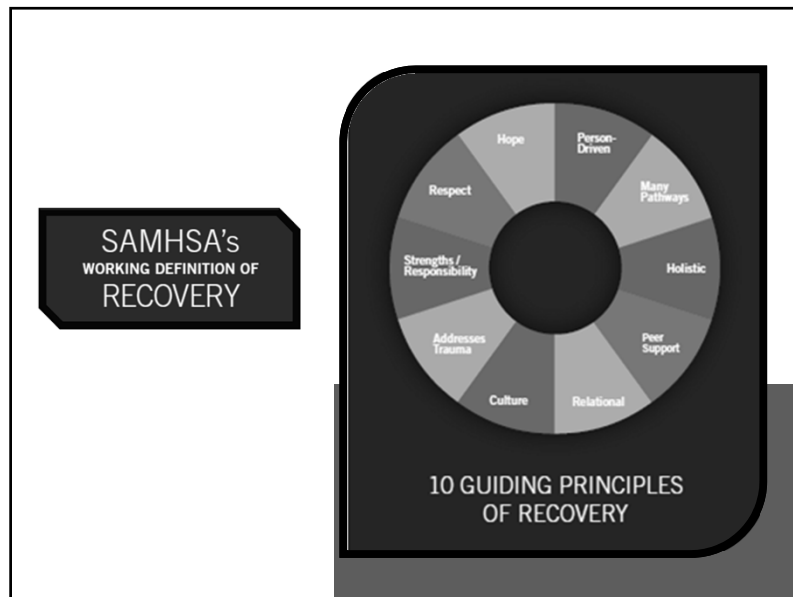
Addiction

- Addiction is a primary, chronic disease of brain reward, motivation, memory and related circuitry. www.asam.org

Addiction is characterized by:

- inability to consistently abstain
- impairment in behavioral control
- craving
- diminished recognition of significant problems with one's behaviors and interpersonal relationships
- dysfunctional emotional response

Like other chronic diseases, addiction often involves cycles of relapse and remission.



Decisions on level of treatment

- How is the participants' initial level of treatment determined in your program?

- A. Screens
- B. Clinical Judgement
- C. Prior Treatment History
- D. Assessment
- E. All of the above

Treatment based upon assessment

The level of care is assessed throughout the phases of treatment court – includes dosage
Standardized patient placement criteria governs the level of care that is provided

Continuing of Care Includes:

- Detoxification
- Residential
- Sober living
- Day treatment
- Intensive outpatient
- Outpatient services

In-Custody Treatment

- Participants are not incarcerated to achieve clinical or social service objectives such as obtaining access to detoxification services or sober living quarters

Referral to Treatment

- How long does it take for a participant to attend their first treatment session after admission to your treatment program?

- A. 1 – 7 days
- B. 7 – 14 days
- C. 14 – 30 days
- D. Longer than 30 days

Treatment Agencies

- Treatment agencies are primarily responsible for the delivery of treatment services for participants
- Treatment agencies should be licensed & trained clinicians in substance abuse counseling
- Treatment services must be HFS 75 certified
– Chapter 75 of WI Administrative Code
- Clinicians need to meet the DSPS requirements in WI for substance abuse counselors/clinicians
- Physicians have the addiction medicine or addiction psychiatry or closely related field specialty

Treatment Plan Content (HFS75)

1. The treatment plan shall describe the patient’s individual or distinct problems and specify short and long-term individualized treatment goals that are expressed in behavioral and measurable terms, and are explained as necessary in a manner that is understandable to the patient.
2. The goals shall be expressed as realistic expected outcomes.
3. The treatment plan shall specify the treatment, rehabilitation, and other therapeutic interventions and services to reach the patient’s treatment goals.
4. The treatment plan shall describe the criteria for discharge from services.
5. The treatment plan shall provide specific goals for treatment of dual diagnosis for those who are identified as being dually diagnosed, with input from a mental health professional.

Team Representation

- Clinically trained representatives are core members of the Treatment Court Team
- Expectations of treatment providers to regularly attend team meetings & status hearings

Is dosage important ?

Dosage and Intensity (Adults)

Structure 40% to 70% of high-risk offenders' time for 3 to 9 months.

	Low Risk	Moderate Risk	Moderate/ High Risk	High Risk
Dosage	Not applicable	100 hours	200 hours	300 hours
Duration	Minimal	3-6 months	6-9 months	9-18 months
Intensity	Minimal	Once/week	Twice/week	Three/week or residential

See: Bourgon, G. & Armstrong, B., 2005; Beech, Fisher, and Becket, 1998; Sperber & Latessa (forthcoming) 31

Treatment Modalities

Guided by use of Evidence-Based Selection Process including:

- Gender, trauma histories, and co-occurring psychiatric symptoms
- Links in handouts for evidence-based assessments

Treatment Modalities

- First phase- participants seen at least once a week by treatment provider or clinical case manager for one individual session
- All services should include individual sessions
- Mental health and addiction services should be treated with an integrated approach
- Treatment groups should have no more than 12 participants with at least two treatment providers is the drug court standard

Evidence-Based

These practices should be incorporated throughout the treatment court process:

- Trauma Informed Approach/Care
- Motivational Interviewing
- Gender-specific treatment

Trauma Informed Care Numbers

- More than 1/4 of Drug Court participants report having been physically or sexually abused in their lifetime or having experienced another serious traumatic event, such as a life-threatening car accident or work-related injury (Cissner et al., 2013; Green & Rempel, 2012).
- Among female Drug Court participants, studies have found :
 - more than 80% experienced a serious traumatic event in their lifetime
 - more than 50% were in need of trauma-related services
 - over 33% met diagnostic criteria for PTSD (Messina et al., 2012; Powell et al., 2012; Sartor et al., 2012).

Trauma Informed Care Numbers

- Individuals in the criminal justice system who have PTSD are approximately 1 ½ times more likely to reoffend than those without PTSD (Sadeh & McNiel, 2015).
- Individuals with PTSD are significantly more likely to drop out or to be discharged prematurely from substance abuse treatment than individuals without PTSD (Mills et al., 2012; Read et al., 2004; Saladin et al., 2014).
- Addressing trauma-related symptoms beginning in the first phase of Drug Court and continuing as necessary throughout participants' enrollment in the program is essential.

Evidence-Based Treatment

- Cognitive Behavioral Therapy (CBT)
- Contingency management
- Matrix Model
- Moral Reconciliation Therapy (MRT)
- Relapse Prevention Therapy (RPT)
- Motivational Enhancement Therapy
- Thinking for a Change
- Medication Assisted Treatment (MAT)- Vivitrol, Methadone, Suboxone

National Registry of Evidence –Based Programs and Practices (NREPP)-(SAMHSA)

Ways to Ensure Fidelity

- Audio taping sessions
- Clinical supervision
- Site visits and tours
- Approved/manualized treatment modalities are reviewed
- Review of participants treatment plans

Medications

- Use of Medication Assisted Therapy (MAT) for substance use disorders
- Psychotropic or MAT medications are based on medical need by a physician with expertise in addiction medicine, addiction psychiatry or closely related field
- Evidence of the benefits

Are your resources adequate ?

- If a treatment program does not have specific interventions in mind for enhancing clients' motivation, improving their insight, and developing their behavioral drug-refusal skills, then it may be time to find a new treatment program.

Peer Support Groups

- Participant encouraged to attend regular support groups or self-help groups such as Smart Recovery Model
- Linking with support group volunteers



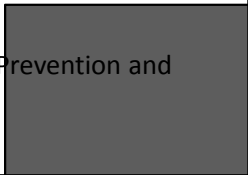
Continuing Care

- Final phase of treatment court and should Focus on relapse prevention
- Continuing support for at least 90 days after discharge from treatment court
- Does your treatment program have a continuing care phase?
 - A. Yes
 - B. No
 - C. Not sure



Complementary Treatment & Social Services

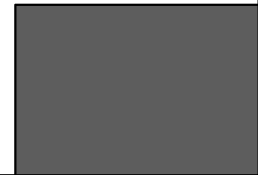
- Scope of Complementary Services
- Sequence and Timing of Services
- Clinical Case Management
- Housing Assistance
- Mental Health Treatment
- Trauma-Informed Services
- Criminal Thinking Interventions
- Family and Interpersonal Counseling
- Vocational and Educational Services
- Medical and Dental Treatment
- Prevention of Health-Risk Behaviors
- Overdose Prevention and Reversal



Evidence-Based?

Is your treatment evidence-based?

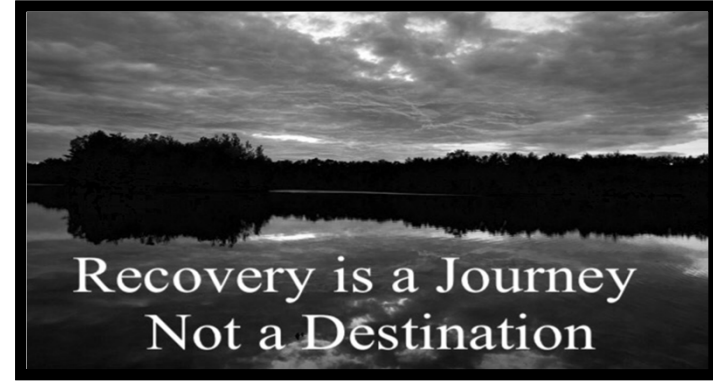
- A. Yes
- B. No
- C. Not sure



Evidence-Based?

Does your team use motivational interviewing (MI)?

- A. Yes
- B. No
- C. Not sure



Recovery is a Journey
Not a Destination



Standard 16: Case Planning

See section 9 of binder



WISCONSIN COURT SYSTEM



Learning Objectives - Case Planning

As a result of this session you should be able to:

- Ensure understanding of whose case plan it is
- Appropriately define goals that are measurable and realistic
- Ensure case plan targets criminogenic needs and defines resources to be used

What is Case Planning?

- Process by which the staff and the participant identify, agree upon and rank responsivity/criminogenic/ maintenance needs
- Based on validated risk and needs assessment tools and defines resources to be used
- Case plan addresses a broad range of participants needs and is NOT the treatment plan

Case Plan Components

- Fluid and dynamic document!
- Identify client risk level and criminogenic needs
- Defines participant responsibilities
- Target moderate/high need and responsivity factors first!
- Clearly/concisely articulate client goals related to his/her need – specific goals so participants know what is expected of them – build a roadmap
- Incorporate assessments of readiness for change
 - ***At minimum, case plan should be reviewed every six months***

How do you develop a case plan and keep it their goals and not ours?



Responsivity Needs

- When participants first enter Treatment Courts....
- One of the most pressing goals is to ensure that they remain in treatment and comply with other reporting obligations
- Requires Treatment Courts to resolve symptoms or conditions that are likely to interfere with attendance or engagement in treatment

Responsivity Needs

- Severe Mental Illness
- Homelessness or Unstable Housing
- Trauma
- Motivation
- Withdrawal
- Anhedonia (diminished ability to experience pleasure)
- Other Basic Needs, (dental, eye sight, clothing appropriate for weather, child support, unpaid fines, food share, health insurance, STD testing, transportation, cell phone, medical needs etc.)
- Target these needs → to prevent participants from failing or dropping out of treatment early
→increase retention
-

Criminogenic Needs

- If not addressed– participants will have an increased risk to reoffend
- Deliver after the participant has stabilized, once responsivity needs have been addressed
- Criminal Thinking often leads to failure in Treatment Courts

Targeting “Criminogenic Needs” - Interim

Big Four

1. Anti-social cognition
2. Anti-social companions
3. Anti-social personality/temperament
4. Family and/or marital

Lesser Four

1. Substance abuse
2. Employment
3. School
4. Leisure and/or recreation

Maintenance Needs

- Some needs, such as poor job skills, illiteracy, or low self-esteem, are often the result of living a nonproductive or antisocial lifestyle
- Rather than the cause of that lifestyle
- Treating noncriminogenic needs before treating responsivity or criminogenic needs is associated with increased criminal recidivism, treatment failure, and other undesirable outcomes

Maintenance Needs –Later/Final Phase

- Medical and dental
- Educations and vocational
 - could be criminogenic need
- Health risk behaviors
- Overdose risk

Maintenance Needs –Later/Final Phase

- Treat Responsivity and Criminogenic Needs first
- Address maintenance needs after a reasonable period of sobriety
- Require maintenance activities as a condition of graduation
- Assess changes → Treatment Courts must respond to changes in criminogenic needs, responsivity factors, and stability
- Explore new interventions that may be appropriate for participants

Development

- Who develops the case plan with the participant in your treatment program?
- A. Probation Agent
 - B. Coordinator
 - C. Case Manager
 - D. Judge

Developing a Case Plan

- Function: Assessment
- Tasks:
 - Initial determination of participant's needs, wants, strengths, resources
 - Initial determination of participant's psychosocial situation

Developing a Case Plan

- Function: Planning
- Tasks – In collaboration with the participant and the team:
 - Define participant goals
 - Develop strategies for each goal
 - Identify who is responsible for each action in the strategy
 - Establish timeframes

Developing a Case Plan

- Function: Linkage
- Tasks:
 - Identify services and supports needed for the participant to meet his or her goals
 - Make referrals to appropriate services and supports
 - Provide the participant with information or assist the participant in accessing needed services

Developing a Case Plan

- Function: Monitoring
- Tasks – Maintain ongoing communication with services and supports, and conduct ongoing assessments of the participant's progress to determine:
 - Is the participant using the service?
 - Is the appropriate service being provided at an adequate intensity?
 - Is the participant benefiting from the service?
 - If not, return to planning and linkage functions

Developing a Case Plan

- Function: Advocacy
- Tasks – Help the participant access services for which he or she is eligible through:
 - Education of service providers
 - Persuasive communication
 - Negotiation
 - Use of policy and rights-protecting laws and rules

Review of Case plan

- How often do you review your case plan?

- A. Every individual session
- B. Each week in staffing
- C. Monthly
- D. Quarterly

Please turn off your clicker when done!

Practice Points

- The language of the problem, goal, and strategy statements should be:
 - Specific
 - Understandable to the participant
 - Expressed in behavioral terms
- Case plan should include significant others and/or family members when appropriate.
- Case plan should be shared with prosocial supports by the participant as appropriate.

Practice Points

- The plan is a specific activity that links the problem with the goal.
- It describes the services, who will perform them, when they will be provided, and at what frequency.
- Case plan should be reviewed by a Treatment Court team member and the participant during all individual sessions.

Sample Case Plan

Case Plan

NAME: _____ OID #: _____ Date of Plan: _____

RISK/NEED AREA (LSI-R domain): _____

PROBLEM STATEMENT (Clear definition of risk/need factor): _____

LONG TERM GOAL: _____
(Must be achievable within the time frame of program involvement)

SHORT TERM GOAL: _____
(Must be achievable within thirty days)

Measurable Action Steps** <i>Specific and measurable steps to goal improvement</i>	Responsibility 1=Client/MS 2=PC/Case Manager 3=Other (specify)	Target Date (When will step be completed, specify)	Review Date (List date of meeting where the step will be reviewed)	Status*** 1=Achieved 2=Partially Achieved 3=Not Achieved 4=Insufficient Progress 5=Unsatisfactory Progress	Actual Completion Date

Client Signature: _____ Date: _____

Staff Signature: _____ Date: _____

Are there structural differences between different courts ?



Breakout 6

- Review and refine your treatment referral process
- Analyze the treatment services available in your community and discuss how to fill gaps
- Review and refine your case planning process

Standard 15 Monitoring with Drug Testing

See section 10 of binder



WISCONSIN COURT SYSTEM

Learning Objectives

As a result of this session, you should be able to:

- Appreciate the purpose and importance of drug testing for a treatment court program
- Assess the validity and legality of your drug test protocol
- Appropriately test your participants in your treatment court program

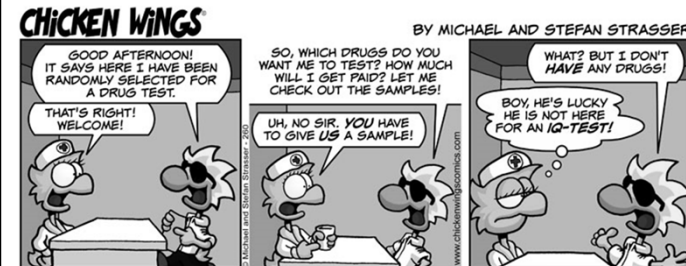
Cornerstone of Treatment Court Operations

- Monitor use through accurate and rapid detection
- Act as a deterrent for future use
- Provide incentive, support, and accountability to participants



Best Practice Procedures

- Random-2x/week
- Test as often as possible
- Drug detection times
- Observed by trained professional



Technologies Commonly Used

- Location
 - Onsite or laboratory
- Types of tests
 - Urine
 - Blood
 - Oral
 - Sweat
- Alcohol
 - EtG
 - EtS
 - Breathalyzer

Technology cont.

- Continuous Monitoring
 - Ankle bracelet (SCRAM)
 - Transdermal patch
- Know best detection times for each method and drug
- Interpreting test results
 - 2 step process
 - Screening
 - Confirmation

Maintaining Integrity of Program

- Characteristics of a good drug test
 - Scientifically valid
 - Therapeutically beneficial
 - Legally defensible



Common Types of Adulteration

- Dilution (e.g. water loading)
- Addition of a household chemical (e.g. bleach)
- Submission of another's specimen
- Use of diuretics
- Use of synthetic urine delivery devices (e.g. Whizzinator, Urinator, WizClear)



Protocols to Avert Adulteration

- Observation by witness of same sex
- Minimal volume requirements
- Limit amount of fluids consumed
- Establish time limit to produce sample

Procedures to Detect Tampering

- Observe:
 - Color-ensure it is urine
 - Appearance-things floating in it?
 - Odor-does it smell like apple juice?
 - Temperature-should be warm
 - pH
 - Specific gravity
 - Creatinine

ADULTERATION COLOR COMPARISON CHART

TEST AND READING TIME	ABNORMAL (LOW)	NORMAL	ABNORMAL (HIGH)
Creatinine (Cr) 60 seconds	Light gray	Medium gray	Dark gray
Nitrite (N) 60 seconds	Light gray	Medium gray	Dark gray
pH Immediate	Light gray	Medium gray	Dark gray
Bleach (B) 60 seconds	Light gray	Medium gray	Dark gray
Specific Gravity (S.G.) 60 seconds	Light gray	Medium gray	Dark gray



False Positives

- Presumptive positives **will** happen
 - Participants can dispute test results
 - No sanction unless confirmed
- Maintain records of prescribed medications to avoid any discrepancy
- Submit samples to lab for confirmation

Selection of Methods and Site

- Determine which drugs should be tested
 - Should not be limited to drugs of choice
- Establish location with privacy for witness observation
- Establish consistent testing times
- Drug testing policies and procedures should be written and shared with participants

Summary

- Efficient and accurate monitoring of drug court participant abstinence through use of effective drug detection protocols is crucial for long-term program effectiveness.
- Drug testing serves as a tool for treatment teams to direct appropriate interventions which support participant goals.
- Drug and alcohol testing provides an accurate, timely, and comprehensive assessment of unauthorized substance use throughout participants' enrollment in the Drug Court.



Standard 17: Applying Incentives and Sanctions

See section 10 of binder



WISCONSIN COURT SYSTEM



Learning Objectives:

As a result of this session, you should be able to:

- Appreciate basic principles of behavior modification.
- Apply those principles to develop specific incentives and sanctions to modify behavior

Principles of Behavior Modification

“Drug Courts improve outcomes for drug-abusing offenders by combining evidence-based substance abuse treatment with strict behavioral accountability. Participants are carefully monitored for substance use and related behaviors and receive escalating incentives for accomplishments and sanctions for infractions. The nearly unanimous perception of both participants and staff members is that the positive effects of Drug Courts are largely attributable to the application of these behavioral contingencies.”

Douglas Marlowe, JD, PhD

“Behavior Modification 101 for Drug Courts: Making the Most of Incentives and Sanctions”

NDCL: [Drug Court Practitioner Fact Sheet](#), September, 2012

Incentives

1. Reward, and therefore increase, desirable behaviors

2. Giving reward (positive reinforcement)

3. Taking something negative away

Sanctions

Reduce undesirable behavior

Giving Punishment

Taking something
positive away

Incentives and
Sanctions

Therapeutic
adjustments

Principles of Behavior Modification

Three key principles of behavior modification:

1. Certainty
2. Celerity
3. Fairness

Certainty

A. Consistency in reward and punishment enhances program effectiveness

Certainty

B. Policies and procedures must be specified clearly

Certainty

C. Certainty is most important. Therefore, monitoring is key.

Celerity

- Effects of sanctions and rewards begin to decline within hours or days after the target behavior.
- Treatment courts have better outcomes where participants return to court at least every two weeks for the first several months.
- Bring participants to court as soon as possible after an infraction.

Fairness

Shaping Behavior: Proximal v. Distal Goals

Proximal

- Behavior necessary for long-term objectives to be achieved
- Participant is already capable of performing

Distal

- Behavior that is ultimately desired
- Will take time to achieve

	Proximal	Distal
Sanction	High(er)	Low(er)
Reward	Low(er)	High(er)

Alcohol/Drug Use Example

- Dealing with alcohol/drug use and proximal and distal goals
- Dependent – abstinence is a distal goal
- If control has been demonstrated, abstinence is proximal

Use and Honesty

- Avoiding the mixed message: the use/honesty problem
- Always punish use if abstinence is a proximal goal.
- Use accompanied by dishonesty = greater punishment
- Praise honesty

Incentives and Phase Advancement

Strike a Balance

- Low-moderate rewards are effective
- Intermediate sanctions tend to be most effective

List of incentives and sanctions

Q: Chelsea has been in your program for three weeks. Yesterday morning she failed to show up for her UA test. What sanction do you impose?

- A. No sanction
- B. Daily testing for the next week
- C. Jail overnight
- D. 4 hours of community service
- E. Additional treatment

Q: Tony is in phase 3 of the program and has maintained sobriety for six months. He tests positive for meth and admits his use. What sanction do you impose?

- A. Daily testing for the next week
- B. A weekend in jail
- C. 20 hours of community service
- D. Additional groups and meetings each week
- E. Added treatment

Please turn off your clicker when done!

References

D.B. Marlowe, Behavior Modification 101 for Drug Courts; Making the Most of Incentives and Sanctions (NDCI Fact Sheet, September 2012)

NDCA Adult Drug Court Best Practice Standards, Volume I, Standards IV (2013)

NDCI Incentives and Sanctions (Materials from September 17-18, 2009 program)

Breakout 7

- Review your incentives and sanctions and consider modification and response grids
- Discussing tracking incentives and sanctions (connects to performance measures)
- Review policies and process on drug testing and ensure they are random and other goals are being met