



**Justice Speakers Institute**  
SPEAKING, TEACHING & TRAINING - WORLDWIDE

# Identifying the AODTC Team and the Role of its Members

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Judge of the Superior Court of California (Ret.)  
Legal Aid Queensland  
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# TEAMWORK

When You Feel Like A Fish Out Of Water  
You Probably Are

# Team Members

Judge

Attorneys

Probation/Community Supervision

Treatment

Mental health clinician

Case managers

Law enforcement

Program coordinator

# Prosecution's Role

- Protect and promote public safety
- Cannot charge without Probable Cause
- Duty to dismiss weak case
- Gatekeeper



**Jack McCoy, "Law & Order"**

## Net Widening

Studies in AZ and CA found  
no evidence DAs were overcharging  
and, in fact, in AODTCs, charges were  
being reduced to allow participation

Wiley, J. *et al.*, “Just Cause or Just Because? Prosecution and Plea-Bargaining Resulting in Prison Sentences on Low-Level Drug Charges in California and Arizona,” (2005)

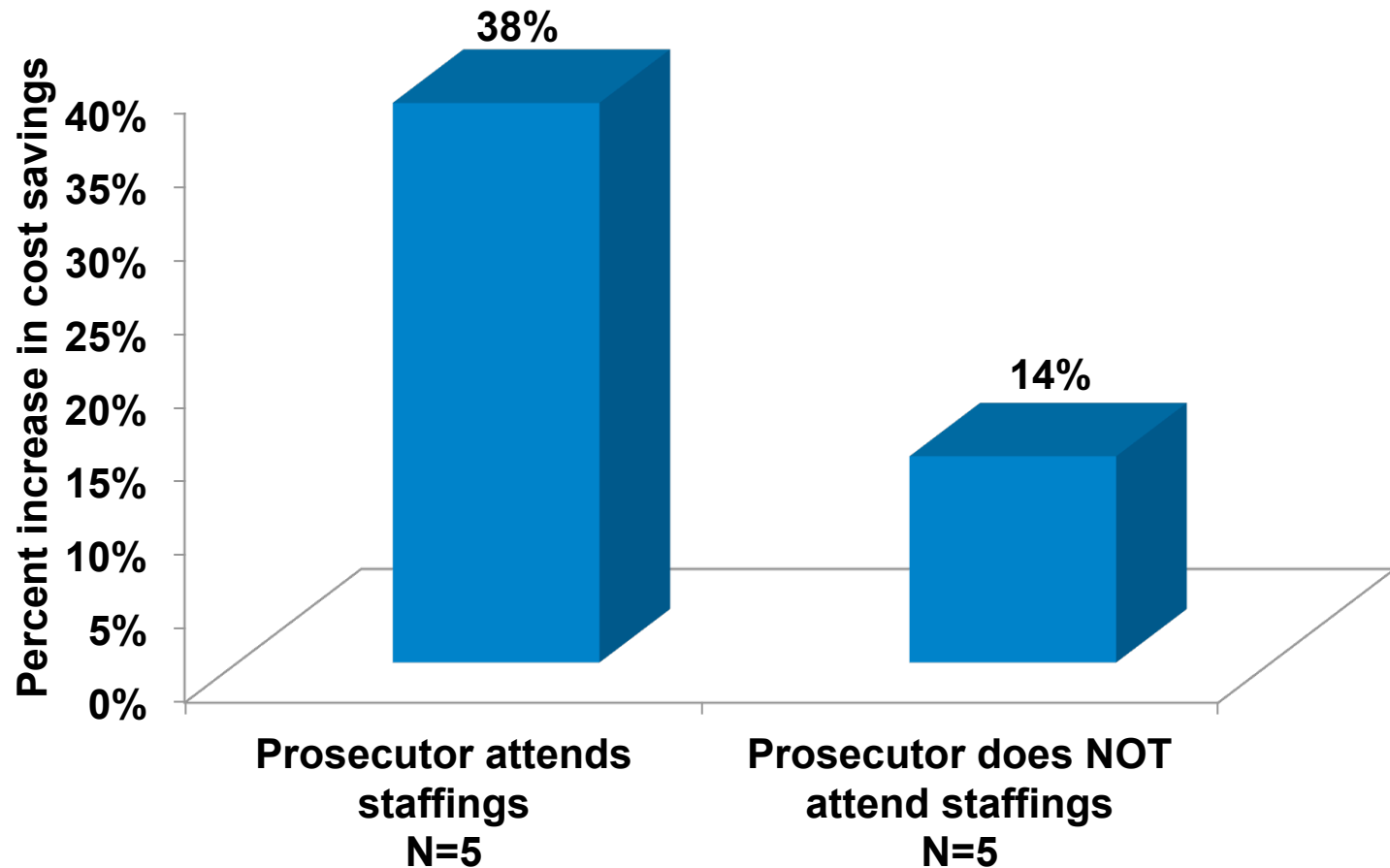
# Define:



# Prosecution Issues

- Must adopt less punitive approach
- Soft on crime ('hug a thug')
- Misperception of link between mental illness and violence
- “Buy in” from prosecutor required for program success
- Understand treatment
- Employ incentives and sanctions 4:1

## Drug Courts Where the Prosecutor Attends Staffings had a 171% Increase in Cost Savings



Note: Difference is significant at  $p < .05$



# You're not just a potted palm



# Defense Issues



Experienced, Intelligent Defense

# Defense Issues

Effect of **non-adversarial, collaborative approach**  
in AODTC (Key Component, 2)

Adversarial nature of traditional criminal courts may be  
roadblock to open communication and a hindrance to recovery  
Success of rehabilitating drug offenders depends on believing  
treatment is necessary

Comparello, Adam, Comment & Note, *Reaching Across Legal Boundaries: How Mediation Can Help the Criminal  
Law in Adjudicating "Crimes of Addiction,"* 16 OHIO St. J. on DISP. RESOL. 335, 335 (2013)

# Therapeutic Jurisprudence and AODTCs

Counterintuitive at first

Expand definition of advocacy

Train lawyers in problem-solving skills

“Holistic advocacy”

TJ societies in law school (Wm. & Mary, Indiana U. at Indianapolis)

TJ courses, curricula – Prof. Warren Brookbanks, U. of Auckland

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

e, “Problem Solving,” *op cit.*

# Defense attorneys support AODTCs

In one survey, defense counsel was overwhelmingly satisfied with AODTC  
97% reported they were glad to have AODTCs for their clients and agreed their clients were not hurt by the process  
97% also felt they did not have to abandon their traditional adversarial duties  
90% reported higher job satisfaction than when practicing traditionally

*ent Defense*, Nov./Dec. 1997 at 8

# The Role of the Judge in an AODTC





Judges are “well-intended but I think that’s just not their role.”



MD PD Nancy J. Forster, commenting on *Brown v. State* 5-18-09

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# 5 AODTC Judicial Skills

Leadership

Communication

Educator

Community Collaborator

Institution Builder





# Leadership

The role of a leader is to empower others, help others fix problems and serve others.

ly & Woodward (2007)

As the leader of the team, the judge is fully committed to the program, its mission and goals.

# Leadership, cont.

Hold team-building meetings and focus on program structure with the team

Expect all team members to participate in staffing.

# Communication



# Incentives & Sanctions

After input from the whole team, the judge should decide on incentives, sanctions and treatment responses.

The judge must stay abreast of research on motivational interviewing and behavioral change literature.

The judge delivers a coordinated response to participants in the courtroom.

# 5 Steps to Deliver the response

1. Explain the decision and the factors considered by the team
2. Review severity of the participant's substance dependence
3. Note the behavior being responded to
4. How the behavior is important to their recovery
5. Why the particular sanction and magnitude were selected (without disclosing confidential or therapeutic information)

# Judge is most important factor

- 80% of participants say they wouldn't have stayed in drug court if they did not appear before a judge

Drug Court Clearinghouse, American U.

- Interaction and delivery of response has most impact



# EDUCATION





# Drug Court Key Component #9

Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.

Continuing education institutionalizes the drug court and moves it beyond its initial identification with the key staff who may have founded the program and nurtured its development.

# Team Continuing Education

Participate in regular cross-training with the treatment team

Employ evidence-based practices and focus on strengths-based approaches

Be facile with the Nat'l Registry of Evidence-Based Programs and Practices [nrepp.samsha.gov](http://nrepp.samsha.gov)

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# Drug Court Judicial Skills

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# Continuing contact with the community

Continue to be in contact with the agencies you worked with when setting up the court

Develop and maintain resources

Improve interagency linkages

Build and maintain a bevy of collaborative partners in the community

## Continuing contact, cont.

Share efficacy of the AODTC with local civic organizations, other members of the judiciary, the legal community, and the community-at-large\*

Seek opportunities to illuminate media sources about the drug court\*

Be the spokesperson for the court

within the bounds of judicial ethics



- Service clubs (Rotary, Elks, Lions, etc.)
- Community events
- Schools
- Local TV or radio
- Guest columns
- Other?

# Drug Court Judicial Skills

Leadership

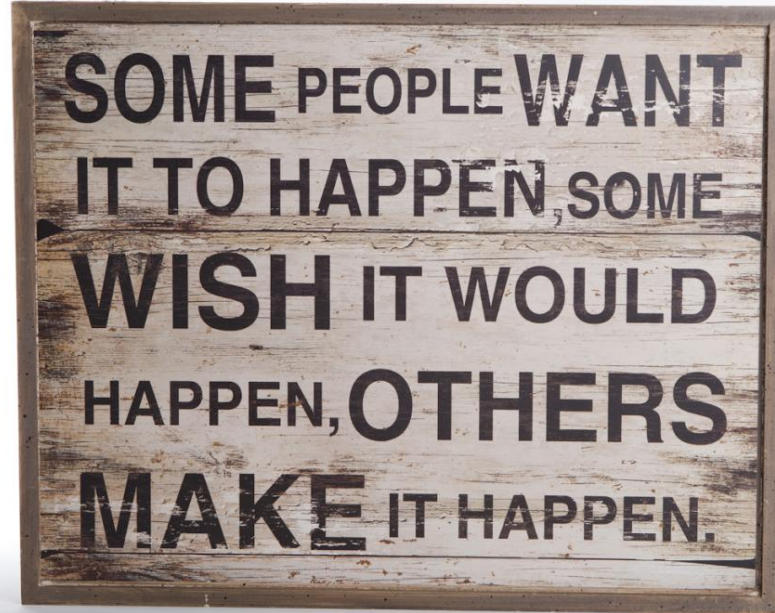
Communication

Educator

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# Write it down!





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Written policies and procedures are critical

Policy and procedure manual

Participant handbook

Client contract

Releases and orders (models in benchbook)

Incentives and Sanctions List

Rules for phase movement

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Maintain an institutional memory as assignments change

Maintain contact with former drug court judges

Have a succession plan (after you stay at least two years)

Create a legacy

# THE ROLE OF TREATMENT AND MENTAL HEALTH CLINICIAN

# Treatment



# Judges



## **We look to treatment to:**

- Provide the initial screening, assessment and treatment plan
- Explain the Addiction Severity Index (ASI)
- Advise on placement and level of care
- Explain the behavior of the participant that is seen by the court
- Give input on incentives and sanctions

## **We look to treatment to, cont.**

Supply a review of the recovery status of the participant

Communicate any cognitive defects the participant may have

Be responsive to co-occurring disorders

Help clients find motivation, insight and behavioral skills

Recommend therapeutic responses

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# **THE ROLE OF PROBATION/COMMUNITY CORRECTIONS**



# Probation/Community Corrections

The eyes and ears of the Court 87 % of the time

Be cognizant of both the public safety and public health sides of the profession

Provides accountability

Identify environmental threats

Provides link to services

## **Probation/Community Corrections, cont.**

Catch impending signs of relapse

Partner with treatment

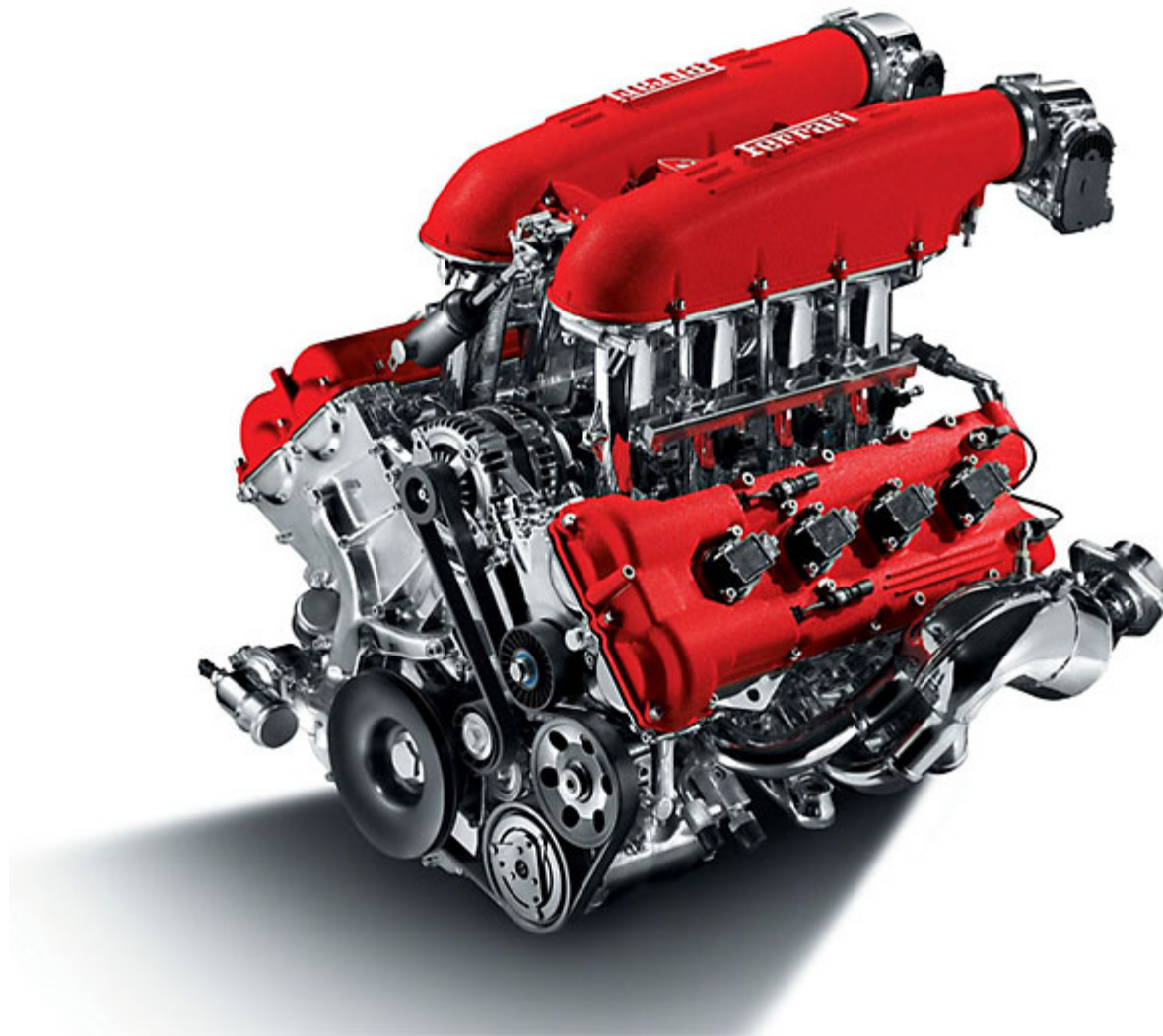
Enforce community obligations

Never ignore noncompliance

“Catch them doing something right”

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# THE ROLE OF THE COORDINATOR



# Coordinator

Data keeper M-I-S

Informs all partners of every facet of the participant's status

Prepares reports for the Court

Coordinates Court documents

Makes sure communications are secure

Coordinates community contacts

## Coordinator, cont.

- Works directly with the participants if coordinator is also the case manager
- Provides insight to the participants
- Is the recipient of lots of information from a variety of sources and can serve as the “warning light” for the team

## Avoiding Problems

Early identification of participants

Assess risk of harm to public safety

Assess risk of failure to appear

Examine your own prejudices

Preconceived notions, biases, and stereotypes about people with AOD abuse and/or mental disorders can prevent fairness and impartiality toward those who have them

# The Team Approach

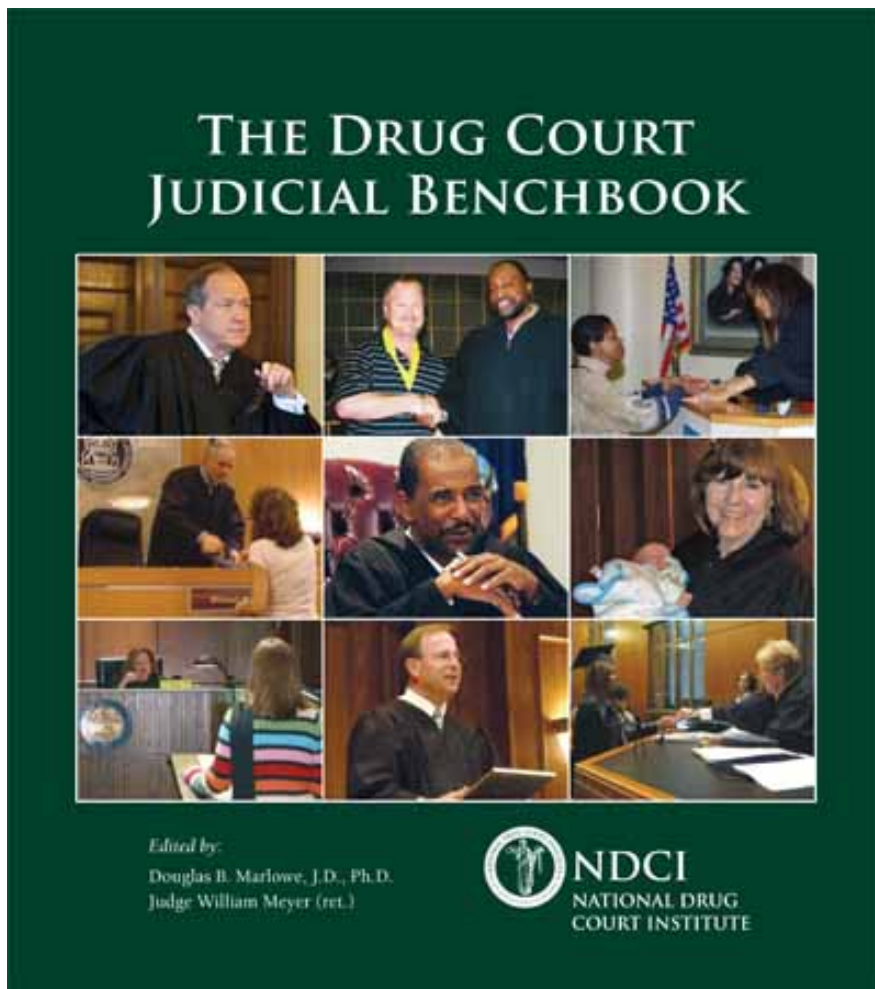
- **With whom does the final decision rest?**
- **What is the reporting mechanism?**
- **Individual agency responsibilities**
- **Jurisdiction of the court**



# Who's driving the BUS?



# Resource



- Download a pdf version at: <http://www.ndci.org/publications/more-publications/-drug-court-judicial-benchbook>

# **Solution-Focused Judging Bench Book**

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