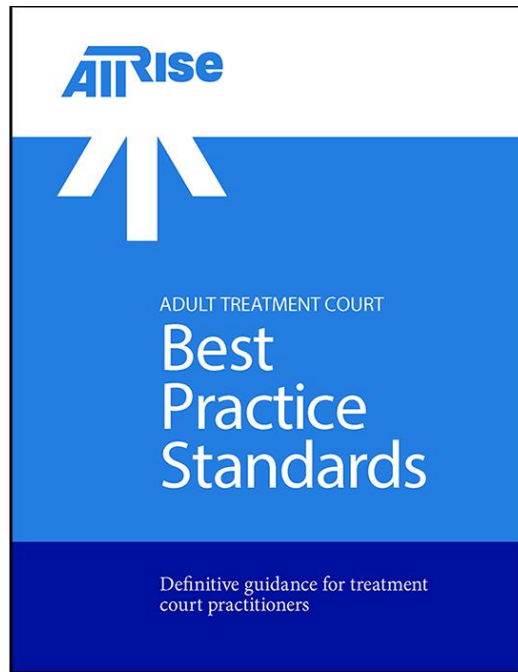




MAY 22, 2024

Ethics And Legal Issues For Supervision, Treatment, and Other Professionals

Adult Treatment Court Best Practice Standards Standard VIII- Multidisciplinary Team



INTERDISCIPLINARY EDUCATION

- Treatment providers must understand criminal justice issues
- Criminal justice staff must understand treatment issues
- AllRise.org

Rules and Roles

Foundation and Framework



The ABA Criminal Justice Standards

STANDARD 3-1.2 FUNCTIONS AND DUTIES OF THE PROSECUTOR:

(e) The prosecutor should be knowledgeable about, consider, and where appropriate develop or assist in developing alternatives to prosecution or conviction that may be applicable in individual cases or classes of cases.....

STANDARD 4-1.2 FUNCTIONS AND DUTIES OF DEFENSE COUNSEL:

(f) Defense counsel should be knowledgeable about, consider, and where appropriate develop or assist in developing alternatives to prosecution or conviction that may be applicable in individual cases, and communicate them to the client.

The ABA Criminal Justice Standards

STANDARD 3-1.2 FUNCTIONS AND DUTIES OF THE PROSECUTOR:

...The prosecutor's office should be available to assist community efforts addressing problems that lead to, or result from, criminal activity or perceived flaws in the criminal justice system.

STANDARD 4-1.2 FUNCTIONS AND DUTIES OF DEFENSE COUNSEL:

...Defense counsel should be available to assist other groups in the community in addressing problems that lead to, or result from, criminal activity or perceived flaws in the criminal justice system.

The ABA Criminal Justice Standards

STANDARD 3-1.2 FUNCTIONS AND DUTIES OF THE PROSECUTOR:

(f) The prosecutor is not merely a case-processor but also a problem-solver responsible for considering broad goals of the criminal justice system. The prosecutor should seek to reform and improve the administration of criminal justice...

STANDARD 4-1.2 FUNCTIONS AND DUTIES OF DEFENSE COUNSEL:

(e) Defense counsel should seek to reform and improve the administration of criminal justice...

Rules – Federal and State

FEDERAL

- Constitution
- American Disabilities Act
- HIPAA
- 42 CFR Part 2

STATE

- Constitution
- Statutes
- Court Rules
- Case Law
- Probation
- Policies

Constitutionality

First Amendment – Alcoholics Anonymous

Treatment courts can **refer** participants to deity-based programs such as Alcoholics Anonymous[®], but courts cannot **require** participation in such programs without violating the First Amendment.



Constitutionality

First Amendment – Alcoholics Anonymous



IT DOESN'T MATTER:

- Treatment court is voluntary
- AA doesn't require belief in God, just a higher power
- It's just a reference to God
- Treatment providers require AA, not the treatment court

COURTS HAVE UNIFORMLY HELD THAT REQUIRING ATTENDANCE AT AA/NA VIOLATES THE FIRST AMENDMENT

Constitutionality

First Amendment – Alcoholics Anonymous



RECOMMENDATIONS:

- Courts have held that if a secular alternative is available, there is no First Amendment violation by referring to AA/NA.
- Secular alternatives include, among others, LifeRing Secular Recovery[®], Rational Recovery[®], Smart Recovery[®]



Medications For Addiction Treatment

- Medication- refers to any FDA-approved medication used to treat addiction
- ASAM recommends MAT be understood as medications for addiction treatment

2022 DOJ Actions



- [Justice Department Finds that Pennsylvania Courts Discriminated Against People with Opioid Use Disorder](#)
- “Individuals with Opioid Use Disorder are protected by the ADA but too often face discrimination rooted in stereotypes and myths rather than in science. This is exactly the sort of discrimination the ADA was designed to prevent,” said Assistant Attorney General Kristen Clarke of the Justice Department’s Civil Rights Division. “Ensuring that court-involved individuals with Opioid Use Disorder have access to the medications they need is critical to support recovery efforts and to break the cycles of opioid addiction that have harmed families and communities across our country. Ensuring that courts are employing science-driven and data-informed approaches to this crisis is an important priority for the Civil Rights Division.”

2022 DOJ Actions



- [U.S. Attorney's Office Settles Disability Discrimination Allegations with the Massachusetts Trial Court Concerning Access to Medications for Opioid Use Disorder](#)
- Under the terms of the agreement, all 25 of the Massachusetts drug courts will implement the Trial Court's new policy in which
- **only licensed prescribers or opioid treatment programs (OTP) will make decisions regarding a participant's treatment plan, including the type of medication and dosage. Treatment plans will be developed by the licensed prescriber or OTP after conducting an individualized assessment for each participant. Drug courts and their personnel will not interfere with these individualized assessments, and will not express a preference for, or mandate, one form of MOUD over another.**
- Drug courts and their personnel may only require that participants with OUD comply with the treatment recommendations of a licensed prescriber or OTP. Additionally, drug courts will ensure compliance with the policy, including implementing a new procedure for reviewing complaints about decisions related to MOUD, regardless of the source of the complaint.

Medications

- Medication-assisted treatment improves outcomes, and includes buprenorphine, methadone, and naltrexone (Vivitrol).
- Participants are prescribed psychotropic, or substance use disorder medications based on medical necessity by a treating physician with related experience.
- Treatment courts discourage participants from obtaining mood-altering medication from general practitioners.

Prescription Medications

Standard IV. Incentives, Sanctions, and Service Adjustments (H):

"The treatment court does not deny admission, impose sanctions, or discharge participants unsuccessfully for the prescribed use of prescriptions, including MAT, psychiatric medications, and medication for other diagnosed medical conditions such as pain or insomnia."

Monitoring Prescription Medication

- Observe medication ingestion
- Conduct random pill counts
- Use medication event monitoring devices
- Monitor urine or test specimens for expected presence
- Use abuse-deterrence formulations, if available (e.g., injections)
- Review prescription drug monitoring program reports
- Observe medication ingestion using facial recognition, smartphone, or other technology

Federal Guidance & Grant Requirements Medications For Addiction Treatment



Beginning in 2015, treatment courts receiving federal funding must attest in writing that they will not deny an otherwise eligible participant's use of MAT and they will not require discontinuance of medications as a condition of graduation.

All Rise Position Medications For Addiction Treatment

BEST PRACTICE STANDARD I(E):

“...numerous controlled studies have reported significantly better outcomes when addicted offenders received medically assisted treatments including opioid antagonist medications such as naltrexone, opioid agonist medications such as methadone, and partial agonist medications such as buprenorphine.”

BOARD POSITION STATEMENT:

Treatment court professionals must:

- Learn about MAT
- Consult with experts on MAT options
- Eliminate blanket prohibitions of MAT
- Recognize that MAT decisions are based on medical evidence
- Impose consequences for abuse or unlawful use of MAT medications



Legal Challenges Medications For Addiction Treatment

MAT PROHIBITIONS ARE INVALID UNDER:

- Americans with Disabilities Act (ADA)
- Rehabilitation Act of 1973
- Fourteenth Amendment due process guarantees
- Eighth Amendment cruel and unusual punishment

Rules - Ethical



- Principles of Medical Ethics of the AMA as applicable to Addiction Medicine (ASAM)
- NAADAC/NCC AP Code of Ethics
 - Peer Recovery Support Specialists
- APPA Code of Ethics for the Field of Community Corrections
- ABA – Model Code of Judicial Conduct, Model Rules of Professional Conduct, Standards for Criminal Justice

The Treatment Roles

Ethics In Treatment Court



Treatment Provider Role



- Obtain and maintain consent to release information
- Utilizes appropriate mental health, substance use disorder, and other relevant assessment tools
- Manages delivery of treatment services
- Administers behavioral or cognitive-behavioral treatments that are documented in **manuals and have been demonstrated to improve outcomes**
- **Provides clinical case management** – at least one individual session per week during the first phase of the program
- Provides relapse prevention and continuing care
- Develops a continuing care plan with participants
- Shares Information with the Treatment Team

Treatment



Providing Individualized Treatment

THE MOST EFFECTIVE PROGRAMS

Retain sufficient flexibility to accommodate individual differences in each participant's response to treatment

NPC Research 2012

Sharing Information



- Assessment results pertaining to a participant's eligibility for treatment court and treatment and supervision needs
- Attendance at scheduled appointments/sessions
- Drug and alcohol test results conducted by the treatment center, including efforts to defraud or invalidate
- Attainment of treatment plan goals
- Evidence of symptom resolution or exacerbation
- Evidence of treatment-related attitudinal changes
- Attainment of treatment program phase requirements

Sharing Information



- Compliance with supervision requirements that treatment professional may be aware of (e.g., electronic monitoring, home curfews, travel limitations, stay aways, etc.)
- Adherence to legally prescribed and authorized use of medicines
 - if relevant to team decisions
- Procurement of unauthorized prescriptions or addictive or intoxicating medications
- Commission of or arrests for new offenses that treatment professionals may be aware of
- Menacing, threatening, or disruptive behavior

Treatment Ethics Scenario



- Before the team meeting, Mark, the therapist, is talking to David, the pretty good lawyer.
- David asks Mark about one of Mark's clients, Ronny (not a client to David). David tells Mark about some trauma stories that Ronny told him in the hall.
- David wants to know if Mark really believes those stories or if Ronny is talking for attention.

Treatment Ethics Scenario



- Mark has a client named Sara that has been sexually assaulted by her brother, uncle, and father since she was five years old. Any time Sara resisted the abuse (either verbally or physically), she was locked in a closet for days at a time, not even being let out to use the bathroom. Sara has tested positive and is openly defiant in court. The team is recommending jail as a sanction.

DOES MARK GIVE INFORMATION ABOUT THE TRAUMA, AND IF SO, HOW MUCH?

Treatment Ethics Scenario



- Mark has a client named Sara who is struggling with a loss in her family and her husband that has cheated on her. Her Depression symptoms and severity have increased as has her Substance Use Disorder symptoms. Should she be moved through the phase even though she has been "clean" and done the time in the phase.

WHAT IS THE CLINICAL RESPONSIBILITY.

Peer Support Roles



PEER SPECIALISTS AND PEER SUPPORT SPECIALIST

- Provide 1-on-1 peer support, facilitate support groups, share experiences, linkage to services and resources, advocacy, training and supervision.
- Perform a wide range of tasks to support individuals in living their own lives and directing their own treatment and recovery process.

PEER RECOVERY COACHES

- Provide 1-on-1 peer support guiding, and mentoring individuals seeking to achieve and sustain long-term recovery from substance use disorder and enhance their quality of life.
- Perform a wide range of tasks to support individuals in identifying and developing their own recovery goals, recovery pathways, and recovery plans.

Peer Support Roles



PEER MENTORS

- Building 1-on-1 relationships, providing encouragement, motivation, and support to individuals seeking to establish or strengthen their recovery.

VETERAN MENTORS

- Mentoring fellow veterans by offering support with accessing treatment, securing housing, obtaining employment, furthering education, accessing transportation, applying for benefits, contesting discharge status, and connecting with other services and resources.

PEER NAVIGATORS AND BRIDGERS

- Helping individuals understand system processes and how to effectively navigate systems to obtain services needed and access helpful resources.

Peer Ethics Scenario



Lilly is a Peer Recovery Coach for Nowhere USA Drug Treatment Court. Lilly has just been assigned a new participant (Keri), who happens to be her best friend from high school. Lilly and Keri have lost touch since graduation, which was two years ago.

WHAT COMPLICATIONS COULD OCCUR FROM THIS RELATIONSHIP?

Peer Ethics Scenario



David is a Peer Specialist who is constantly having vehicle problems. David has taken his car to every shop in town over a check engine light, but it still won't go off. Kerry, one of David's participants in his support group, told David that she is a licensed mechanic, and she can fix the car at around the same price that the other mechanics in town have charged.

SHOULD DAVID GIVE HER MORE MONEY OR HAGGLE WITH HER ABOUT THE PRICE?

The Federal Law

Confidentiality



Confidentiality – The Federal Law

CFR 42 PART 2

- 42 Code of Federal Regulations – Part 2 (revised)
- Addresses the stigma of seeking treatment for SUD
- Prohibition of redisclosure
- Requires notification of confidentiality/ consent release forms
- Applies specifically to AOD related information

HIPAA

- Health Insurance Portability and Accountability Act (1996)
- Designed to simplify and standardize the complexity of administrative information management
- Protect and secure patient information
- Applies to all health-related information

Sharing Information



HIPAA AND 42 C.F.R. PART 2 DO NOT PROHIBIT TREATMENT PROFESSIONALS OR CRIMINAL JUSTICE PROFESSIONALS FROM SHARING INFORMATION RELATED TO SUBSTANCE USE AND MENTAL HEALTH TREATMENT.

- These statutes control how and under what circumstances treatment professional (and other covered entities) may disclose such information
 - Voluntary, informed, and competent waiver of patient's confidentiality and privacy rights; or
 - Court order (in the absence of patient waiver)

Sharing Information



- In treatment courts, treatment professionals (and others who are subject to HIPPA and 42 C.F.R. Part 2 stipulations) **MAY** share specified information with other team members pursuant to a valid waiver (or court order).
- Scope of disclosure must be limited to the **MINIMUM** information necessary to appraise participant progress in treatment and complying with the conditions of the program.

Sharing Information

– State Laws and Rules



- Confidentiality of treatment information is also regulated by each state's laws.
- States have unique constitutional amendments, statutes, and case law that address the privacy of treatment information, as well as the public records law and policies of the states' court systems and probation departments.
- Consult with the leaders of your courts systems, probation departments, and legal community.

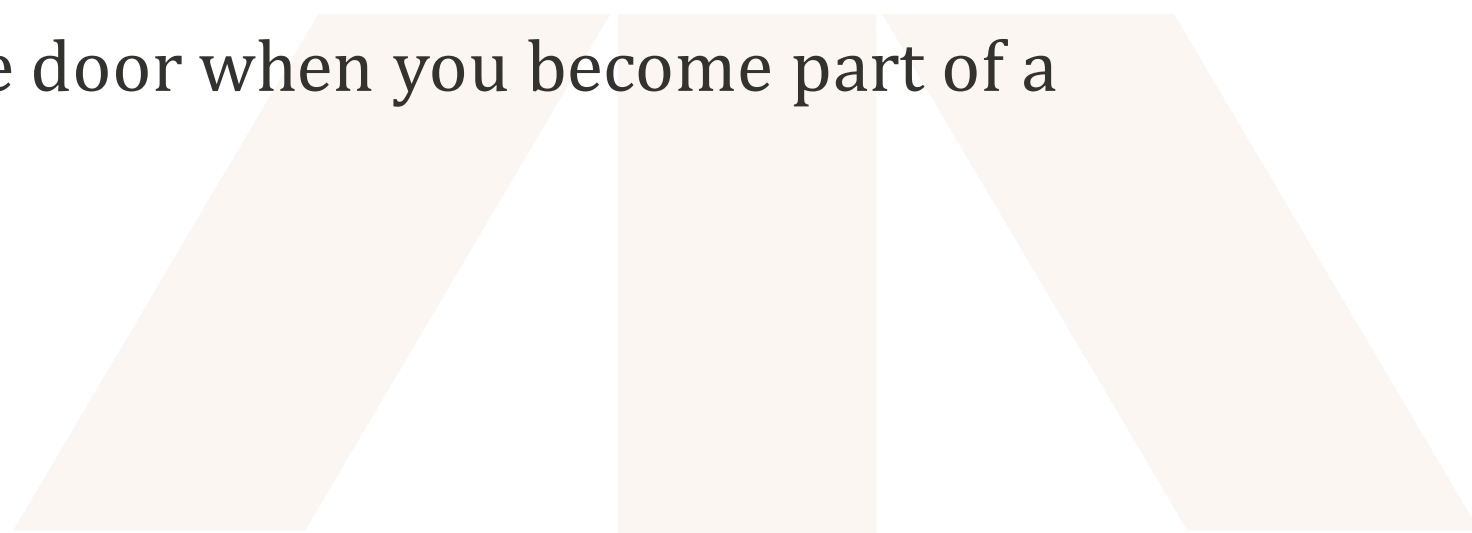
The Legal Roles

Ethics In Treatment Court

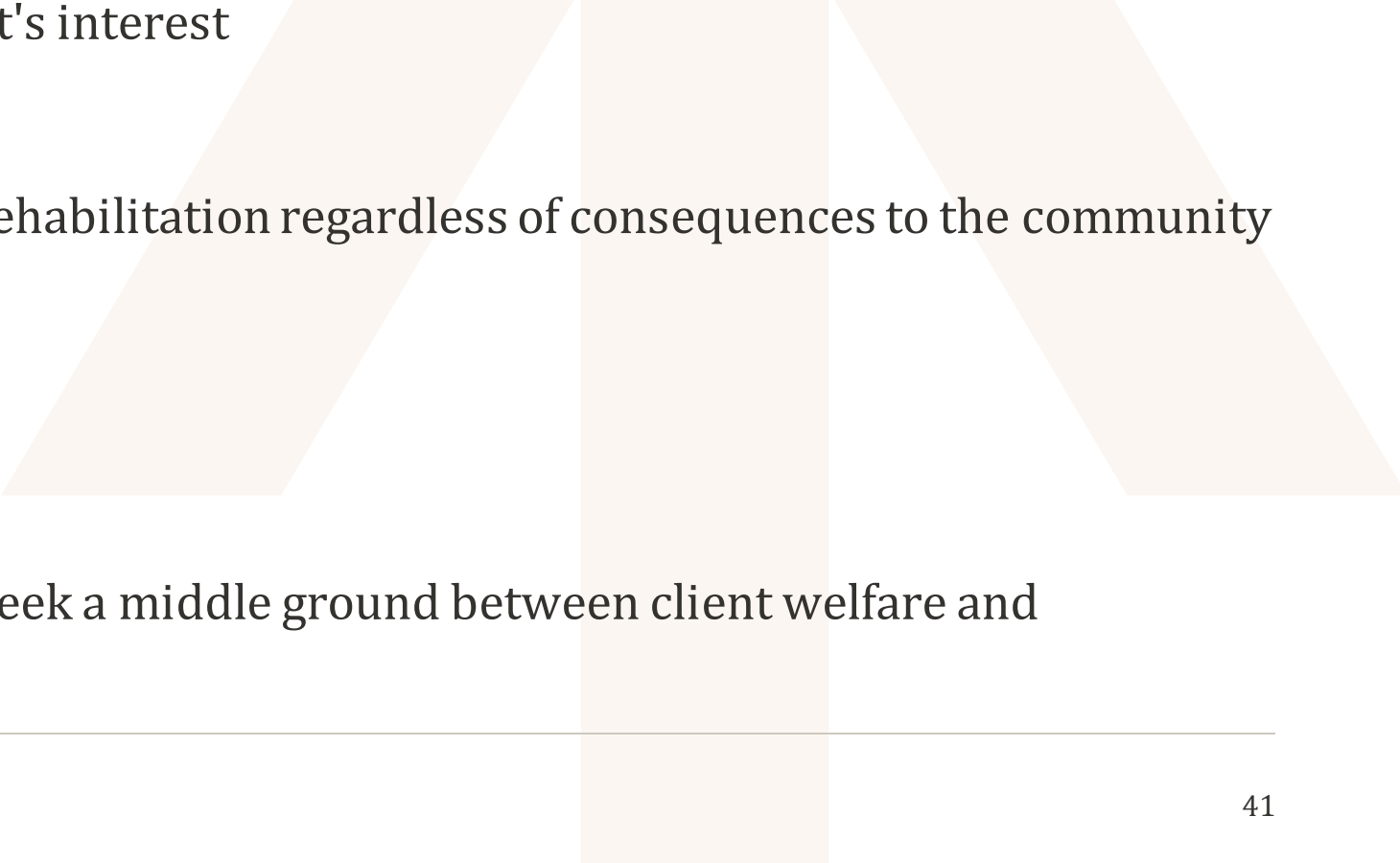


Community Supervision Overview

- Good Supervision Practices are Good Supervision Practices.
- You do not leave them at the door when you become part of a treatment court team



Four Types of Probation Officer

1. The punitive or law enforcement officer
 - Places society's interests above client's interest
 2. The social worker officer
 - Focuses on offender treatment and rehabilitation regardless of consequences to the community
 3. Passive time saver
 - Concerned about themselves
 4. The combined officer
 - Combines treatment and control to seek a middle ground between client welfare and community protection
- 

Ethic of Care



- Goal to reintegrate individuals into the community
- Recognize individual's basic rights and values, but it does not elevate them above those of society.

Perspective Volume: 20 Issue: 3 Dated: Summer 1997 Pages: 26-32 Author(s) M E Jones; A J Lurigio

APPA and Code Ethics



- I will render professional service to the justice system and the community at large in effecting the social adjustment of the offender
- I will uphold the law with dignity, displaying an awareness of my responsibility to offenders while recognizing the right of the public to be safeguarded from criminal activity.
- I will strive to be objective in the performance of my duties, recognizing the inalienable right of all persons, appreciating the inherent worth of the individual and respecting those confidences which can be reposed in me.

APPA and Code Ethics continued



- I will conduct my personal life with decorum, neither accepting nor granting favors in connection with my office
- I will cooperate with my co-workers and related agencies and will continually strive to improve my professional competence through the seeking and sharing of knowledge and understanding.
- I will distinguish clearly, in public, between my statements and actions as an individual and as a representative of my profession

APPA and Code Ethics continued



- I will encourage policy, procedures and personnel practices, which will enable others to conduct themselves in accordance with the values, goals and objectives of the American Probation and Parole Association
- I recognize my office as a symbol of public faith, and I accept it as a public trust to be held as long as I am true to the ethics of the American Probation and Parole Association.
- I will constantly strive to achieve these objectives and ideas, dedicating myself to my chosen profession.

Community Supervision

- Use validated risk and need assessment tools.
- Go **BEYOND** compliance monitoring.
- Develop plans and goals based on need and responsivity factors.



Community Supervision





Community Supervision

- Conduct yourself professionally 24/7.

YOU ARE AN EXAMPLE.



Probation Practices In Treatment Courts



December 2016

Vol. XI, No. 4

Drug Court Practitioner Fact Sheet

Tips for Transferring Probation Practices to Drug Court Programs to Enhance Participant and Program Outcomes

By Kimberly A. Cobb, M.S.
Research Associate, American Probation and Parole Association

At the time this fact sheet was written, Ms. Cobb was research associate for the American Probation and Parole Association (APPA). APPA is the preeminent professional organization for probation, parole, and community justice agencies. APPA is a departmental unit within the Council of State Governments (CSG), and has contracted with CSG for the purposes of providing complete staff services. The association has highly trained and educated staff with several decades of cumulative experience and knowledge of community justice services, specializing in conducting research and evaluation and providing quality training and technical assistance to probation and parole professionals on the latest evidence-based strategies and practices in the field.

Historically, professional ideologies of crime have had significant impacts on the role of probation in working with drug- and alcohol-involved individuals in the criminal and juvenile justice systems. These ideologies have ranged from the 1960s, when the "get tough on crime" movement dictated severe sentences, to the 1970s, when it was proclaimed that "nothing works," to what we have today, which is commonly referred to as the era of evidence-based practices. This dramatic evolution and fluctuation in ideologies has affected the role of probation in significant ways. The role of today's probation officer can be described as a dual one (Trotter, 1999), in that they are charged with serving as officers of the court and enforcing probationer compliance, yet they are also charged with assisting probationers on their path to behavior change. Recent research indicates that when probation officers, in any supervision context, use a balanced approach to supervision (i.e., compliance and behavior change functions), their supervisees experience more positive outcomes (Dowden & Andrews, 2004; Paparozzi & Gendreau, 2005; Petersilia & Turner, 1993).

Drug court programs have remained steadfast in supporting and promoting programs that are grounded in their originating 10 Key Components. These components outline a core set of practices for programs to follow while also providing a measure of flexibility that allows individual drug court programs to meet the needs and/or trends of their local communities (National Association of Drug Court Professionals, 1997). Over the past decade, the National Association of Drug Court



E-Learning

Core Correctional Practices (CCP) are a set of skills for correctional practitioners that have been shown to help the therapeutic potential of those on court supervision. This module educates those working in treatment courts on the fundamentals of CCP.



Supervision Ethics Scenario



Your client brings you a gift at Christmas time to thank you for all your help.

HOW DO YOU RESPOND?

Supervision Ethics Scenario



You are conducting a home visit and the non-English speaking grandmother attempts to serve you food.

HOW DO YOU RESPOND?

Supervision Ethics Scenario



Your client confides in you with some personal information.

DO YOU SHARE IT WITH THE TEAM?

Judge Overview



RELATIONS WITH PARTICIPANTS

- Ex Parte Contacts

Relations With Participants



- **DO NOT** take participants to support meetings
- **DO NOT** visit participant homes
- **DO NOT** invite participants to your home to play video games
- **DO NOT** collect participant UAs

STAY IN YOUR LANE!

Relations With Participants Recommendations

BUT, I WANT TO SHOW MY PARTICIPANTS THAT I CARE...”

If there was a picnic and the district attorney, defense counsel, law enforcement, other members of the drug court team, and drug court participants were present and the judge made a cameo appearance and said a few words of encouragement, such conduct would not violate the Canons.

Ex Parte Communication

- *Ex parte* communication is information a judge receives about a pending case when both the prosecutor and defense attorney are not present. *Ex parte* communication is improper and prohibited.
- To address this rule in treatment courts, many states have enacted exceptions in their professional conduct rules to allow for *ex parte* communication:
- “A judge may initiate, permit, or consider *ex parte* communications expressly authorized by law, such as when serving on therapeutic or problem-solving courts, mental health courts, drug courts. In this capacity, judges may assume a more interactive role with parties, treatment providers, probation officers, social workers, and others.”

Ex Parte Communication Recommendations

- Disclose *ex parte* information to the entire team
- Establish channels of communication (e.g. require participants to talk with their attorney or probation officer before communicating with the court).
- Maintain ethical boundaries, even if there is an exception to the rule
- Use e-mails to communicate information between team members
- Require participants to read letters or assignments in court

The Drug Court Court Judicial Benchbook

THE DRUG COURT JUDICIAL BENCHBOOK



Edited by:
Douglas B. Marlowe, J.D., Ph.D.
Judge William Meyer (ret.)





Defense Overview

New Publication!

 Treatment
Court Institute

MONOGRAPH:

Critical Issues for Defense Attorneys in Drug Courts

Jamie Kvistad, J.D.

Heidi Rettinghouse, J.D.

with Steve Hanson, Anna Donnerbeck Jariku, and
Jennifer K. Johnson

Revised edition, April 2023

Treatment Court Institute
Alexandria, Virginia



Critical Duties

- ✓ Obtaining Informed Consent – *ensuring clients understand.*
- ✓ Encouraging Success – *encouraging honesty and pursuit of recovery.*
- ✓ Safeguarding Due Process – *treatment courts are courts.*
- ✓ Advocating for Participants' Interests – *primary allegiance to the participants.*

Critical Duties

- ✓ Protecting Confidentiality – *ensuring confidential treatment information is shared lawfully; Attorney/Client privilege.*
- ✓ Protecting Use Immunity – *no information substantiates criminal charges.*
- ✓ Advocating Equal Protection – *routine monitoring of equity in access and completion.*

Ethical Considerations

- ✓ Competence – *requires specialized knowledge, skill, and preparation.*
- ✓ Diligence – *once the client enters the program, representation expands to include successful program completion. Does challenging every violation help achieve the client's goals?*
- ✓ Confidentiality – *attorney/client privilege transcends collaboration.*

Ethical Considerations

- ✓ Candor Toward the Tribunal
 - ✓ *Never cross the line into dishonesty on the client's behalf.*
 - ✓ *Never reveal information without the client's consent.*
- ✓ Communication
 - ✓ *Prompt, frequent, and continuing communication with the client.*
 - ✓ *Effective use of communication skills to present information to the client.*
 - ✓ *Establish communication expectations with the team and the client.*

Communication – Common Ethical Issue

Pre-court staffings are confidential; what information do I share with my client?

- A. Everything; it violates my duty to withhold any information from my client.
- B. I share all factual information but maintain confidentiality with my fellow team members.

Establish communication expectations with the team and the client.

Defense Ethics Scenario



Drug Court Participant Jane Doe asks the team defense counsel for a minute in which to speak with her. The attorney takes Jane Doe to a private location, and Jane tells counsel that she has been able to successfully adulterate her urines in order to pass the drug screens. Jane knows that she is eventually going to be discovered and is fearful of the consequences. She asks the defense counsel for assistance moving forward.

Does Defense Disclose This Information To The Rest of The Team?



NO

The defense counsel advises Jane that she needs to, first, stop using the adulterating substance. Next, Counsel advises the participant to self-report the violation as soon as possible, and that Counsel will be there during the treatment team meetings to advocate on her behalf.

Defense Ethics Scenario



Drug Court Participant Jane Doe is informed that she is receiving a jail sanction for allegedly attempting to use a vial of another person's urine during a drug screen. The court schedules a sanctions hearing. Jane admits to counsel that she did try to use another person's urine and has been successful in doing so in the past. Even though Jane has admitted to committing the violation to Counsel, she wants to proceed with the hearing because she thinks the prosecutor "can't prove it."

Does Defense Zealously Represent Jane During The Hearing and Argue Any Evidentiary Defects?

YES

However....

- What if Jane wants to testify that she did not use another's urine?
- Counsel cannot permit her to testify falsely.

Defense Ethics Scenario



Participant calls Defense Counsel with concerns that she may be placed into residential treatment. The client is devastated at the thought of no one caring for her beloved pets should she go into residential treatment. The treatment professionals on the team are recommending that the client be placed into residential treatment.

Does Defense Counsel advocate for an alternative to Residential Care?



YES

Counsel has an ethical duty to advocate for the stated interests of the participants.

Navigating Ethical Challenges¹

- Respect Colleagues
- Educate First, before adversarial position
- Raise issue informally, and then formally, before there is a case in dispute
- Clarify the nature of the ethical conflict
- Take reasonable steps to resolve the conflict
- Always be prepared to step back to education
- Abiding vs. contributing to sub-standard care and practices

¹From Doug Marlowe MAT, Ethics and Law

Memorandum of Understanding

- Direct contracts can be made by the courts with community organizations providing formal services, such as residential and outpatient treatment services, job training, and life skills training
- These are written agreements with other agencies or organizations for services and coordination

SAMPLE MEMORANDUM OF UNDERSTANDING

AGREEMENT between *(list all organizations involved)*.

The parties to this Agreement endorse the mission and goals of the treatment court in order to enhance public safety, ensure participant accountability, and reduce the cost to society. By addressing criminal thinking, substance/alcohol use disorders, trauma, and mental and physical health, the participants will realize improved quality of life. The parties recognize that for the goals and mission of the treatment court to be successful, cooperation and collaboration must occur within a networks of systems.

The parties to this Agreement understand that the confidentiality of participants' alcohol and drug treatment records are protected under Federal regulations: Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2 and the HIPPA Privacy Rule, 45 CFR 160, 162, and 164. The parties agree to comply with all confidentiality requirements.

PROGRAM GOALS

Improve the lives of participants with substance use disorders in the criminal justice system through the integration of intensive supervision, alcohol and drug treatment, mental health services, alcohol and drug testing, and case management services with criminal justice system processing.

The parties agree that the program will follow the *10 Key Components of Drug Courts* in which the respective agencies will work cooperatively. They are:

1. Drug courts integrate alcohol and other drug treatment services with justice system case processing.
2. Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
3. Eligible participants are identified early and promptly placed in the drug court program.
4. Drug courts provide access to a continuum of alcohol, drug and other related treatment and rehabilitations services.
5. Abstinence is monitored by frequent alcohol and other drug testing.
6. A coordinated strategy governs drug court responses to participant compliance.
7. Ongoing judicial interaction with each drug court participant is essential.
8. Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
9. Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.
10. Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court effectiveness.

INDIVIDUAL AGENCY RESPONSIBILITIES AND STAFF COMMITMENTS

Treatment Court Judge

1. The Judge will ensure a cooperative atmosphere for attorneys, probation officers, law enforcement, and treatment providers to stay focused on the task of providing participants with treatment and rehabilitation opportunities.
2. The Judge will ensure the integrity of the treatment court is maintained by having an understanding of the program's policies and procedures.
3. The Judge will participate as an active member of the Staffing Team and will chair the treatment court team.
4. The Judge will assist in motivating and monitoring the participants of the treatment court.
5. The Judge will gather information from the treatment court team and make all final decisions on incentives, sanctions that effect the participants.

Additional Scenarios

Ethical Dilemmas



Treatment Ethics Scenario



David, the fantastic lawyer who recently underwent counseling for beating up Mark, the so-so therapist, approaches Mark before the team meeting to discuss the sanctions that could be handed out to Ronny. Mark and David believe that they should form a coalition because they think Ronny is being treated too harshly. Mark reveals to David issues that Ronny has brought up in therapy to tell the team, and Mark won't be breaking confidentiality because Mark feels like he will be protected under attorney/client protection as long as he gives David a dollar as they did in, "Better Call Saul." And "LA LAW"

Peer Ethics Scenario



Scott, a Veteran Mentor, demands to sit in on the team meeting to ensure that the team "understands Veteran Culture."

WHAT INFORMATION SHOULD SCOTT RECEIVE?

Defense Ethics Scenario



Participant Jane Doe contacts the defense attorney to complain about the treatment adjustment to residential treatment following her recent relapse. Jane feels that residential is too restrictive of a setting based upon the circumstances of her relapse. She is also concerned about the care of her animals. Jane also states that Treatment Agency B, which is not affiliated with the drug court program, is willing to provide her nonresidential treatment. Jane wants counsel to file a motion asking that the Judge order her treatment be transferred to the other agency. Jane does not want to leave the drug court program; she just wants to receive treatment from Agency B.

Does Defense File This Motion?

NO

Counsel informs Jane that the treatment adjustment ordered by the Judge was based upon the recommendations of the drug court treatment providers. Counsel advises Jane that she will bring her concerns regarding residential treatment to the team for further consideration and/or will seek the team's assistance in alleviating Jane's concerns. Counsel reminds Jane of the Rules and Procedures Handbook and the Participant's Agreement that she executed prior to entering the program, which establish that all participants receive treatment from the program's designated providers.

Defense Ethics Scenario



Participant Jane Doe is informed that she is receiving a jail sanction for allegedly attempting to use a vial of another person's urine during a drug screen. The court schedules a sanctions hearing. Jane admits to counsel that she did try to use another person's urine and has been successful in doing so in the past. Even though Jane has admitted to committing the violation to Counsel, she wants to proceed with the hearing because she thinks the prosecutor "can't prove it."

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Questions?

