

UNDERSTANDING TEAM ROLES

**Exploring Our Roles, Duties
& Ethical Obligations**

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The Multidisciplinary Team

- A collaborative dynamic
- Each member of the team has a unique perspective and something essential to contribute.
- Everyone participates.
- We respect boundaries and stay in our lanes!
- Yes, we disagree— but we always present a united front.
- We often experience ethical challenges associated with our roles.

Using scenarios from actual treatment court cases, we will explore each key team role and explore common legal and ethical challenges related to:

- Collaboration & Decision-making
- Confidentiality
- Conduct



Collaboration & Decision-making Challenges

WWYD: Who must attend staffing?

The judge, team deputy, CM/probation officer and treatment counselor regularly attend staffing. The team DA and defense attorney are frequently absent due to other court duties. The judge was a former defense attorney, and the DA feels the team deputy can advocate the state's position.

Is this acceptable?

If not, why not?

WWYD: Is this acceptable? If not, why not?

1. Though not ideal, it is acceptable.
2. It's not acceptable because *ex parte* communication with the judge is not legally allowed.
3. Not acceptable. The judge needs the input and full participation of every team member.
4. Both #2 and 3.

All Team Members Must Attend Staffing

- The judge needs the input and full participation of every team member.
- Without full representation at staffing, the court will be subject to receiving *ex parte* communications.
- Research revealed the participation of the entire team at staffing had a significant positive impact on graduation rates and cost savings.

TREATMENT COURT JUDGE

- The decider-in-chief.
- Treatment court doesn't alter traditional roles or legal/ ethical obligations. It enhances them.
- Considers team input, seeks consensus but makes all final decisions on incentives/ sanctions.
- No voting or "majority rule."

Participant Jim has used yet again. The treatment provider says Jim is dealing with some tough trauma issues and should continue his IOP treatment. The team prosecutor says, “No, it’s time for residential. Jim’s continued use could pose a safety risk.” The team PO and deputy agree. The defense attorney says that’s not fair because plenty of other participants have used and didn’t have to go to residential, and Jim has a great job in sales and would lose his job if he goes to residential. The judge, concerned with the safety of Jim and the community, agrees with the prosecutor.

WWYD: What should happen here?

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1. Jim should continue IOP because that's the treatment provider's rec.
2. Jim should go to residential because that is the judge's decision.
3. Jim should go to residential because that is what the majority of the team thinks should happen.
4. Both #2 and #3

TRUST TREATMENT

Though judges must approve necessary referrals to treatment service...

- We should not depart from the treatment team's recommendation of care.
- Listen to our experts! Treatment recs must only come from treatment.
- It is NOT appropriate for non-treatment staff to advocate LOC! LOC is determined by licensed clinicians using validated tools, ASAM criteria.
- We advocate from within our area of expertise.

Trust treatment but also verify:

- Is treatment using manualized, EB curricula?
- Do clients receive sufficient dosage? Licensed clinicians with CJ experience?
- Provide oversight, ask questions.

COMMUNITY SUPERVISION

- The eyes and ears of the team
- Responsible for direct, day-to-day EB supervision of participant
- OVs, testing directives
- Collaborates with treatment
- Referrals for services
- Modeling/ practicing recovery skills
- A lot of data entry!

Probation Officer: Ann

- On the way to her 2:00 p.m. OV, CM sees DWI Court client exiting driver's side of her boyfriend's truck (no IID, no ins).
- Client's license is suspended. She is not supposed to be driving— and especially not without an interlock!
- Client admits she's been driving the truck for weeks. `

What should PO Ann do next?

1. Put it in the staffing sheet for the team to discuss at next week's court review.
2. Email the judge/ team after the client leaves.
3. Walk the client over to court to see the judge now. Notify the team ASAP.
4. Call the police and make a report for DWLI.

Team Best Practices

- Two big mandates:
 - ✓ Collaborative team decision-making
 - ✓ Respond immediately to behavior
- In an emergency, especially if public safety is at risk, immediacy takes priority
- Communicate with the entire team as soon as possible
 - Technology (Zoom, text, email, FaceTime) has made this easy
 - Allows team to respond quickly
 - Fosters due process

Decision-making Challenges

The treatment court model urges collaboration and joint decision-making.

The more quickly we respond to behavior, the more effective the response.

We must balance the need to respond quickly in emergencies with team collaboration (and DP).

Use technology to keep the team in the loop.

Confidentiality Challenges

WWYD: Dan, Defense Attorney

- One of Dan's Ph. 3 clients, Amy, 37, has been informed that her last UA was positive for marijuana. The judge intends to give her a 3-day jail sanction. Amy denies use and tells Dan it was second-hand smoke. When Dan says, "That's not a thing, Amy", she admits use but says, "I read on the internet that it helps with PTSD. I can't go to jail. I'm terrified. Please, **do not** tell the judge".
- Dan, concerned about her mention of PTSD, thinks the team should know about this.

WWYD: What should Dan do?

1. Tell the judge and the team everything, despite Amy's instruction not to do so.
2. Ask the judge to appoint a different lawyer because there is a conflict between his duty to the team and his duty to the client.
3. Encourage Amy to be honest. Say nothing at staffing about Amy's admission though.
4. Encourage Amy to be honest, say nothing to the team. Advise Amy she has a right to reject the jail sanction and request a hearing.

TEAM DEFENSE ATTORNEY

- Represents the clients, not the team.
- Must be mindful of the client's due process rights, but encourage clients' honesty and accountability
- Shares team goals of public safety, program completion and health and wellbeing of clients.
- Must be careful about client confidentiality.
The attorney's silence can speak volumes

Representation Challenges

The team defense attorney has ethical obligations that cannot be abandoned: protecting constitutional rights and maintaining client confidentiality

To the nonlawyers, this can appear as a frustrating and unnecessary roadblock to recovery goals.

TREATMENT COUNSELOR

- Identifies and provides a continuum of care for participants
- Addresses barriers (MH / physical health, language)
- Monitors progress, makes treatment recs to team
- Services include detox, residential treatment, SOP, IOP, cognitive education, boosters and aftercare.
- Monitors/reassesses treatment needs.

Amy & the Counselor: What can/should the Counselor tell the team?

- Ph. 3 client, Amy, has been informed that her last UA was positive again for marijuana. Frustrated, the team wants to give Amy a 3-day jail sanction.
- Amy adamantly denies use at first then tells her counselor, Eva, “I was repeatedly assaulted by my ex who handcuffed me and kept me locked in a room for 3 days.
- She stated, “I can’t sleep. I keep having flashbacks. I use weed to help with PTSD. I can’t be locked up again. I’m terrified.”

It Gets Worse...

- Weeks after the incident, Amy discovered she was pregnant.
- For years, she had tried to conceive unsuccessfully.
- She felt she had no choice but to terminate the pregnancy. She is distraught over this decision and worries she will never conceive again.
- Amy is adamant. “Please, don’t tell the judge that I used. I don’t want anyone to know any of this”
- Eva knows the team is determined to give the jail sanction— a very BAD idea! What should she do?

WWYD: In addition to advocating for treatment, not jail, what should Eva do?

1. Tell the judge and the team everything, despite Amy's instruction not to do so.
2. Respect Amy's wishes, say nothing but advocate for treatment, not jail. Encourage Amy to be honest.
3. Ask for a private meeting with the judge to explain exactly why Amy shouldn't go to jail.
4. Tell the team about the imprisonment/sexual assault motivating her use. Don't mention the pregnancy.

The Scope of Disclosure is the “Minimum Information Necessary”

- Determining the “minimum information necessary” to disclose to the team is can be very difficult. Every case is different.
- The team needs enough info to craft effective responses to behavior that will support treatment goals.
- Treatment providers MUST have training in the drug court model & their role. NADCP has an outstanding 2-day training for treatment: <https://www.ndci.org/resource/training/treatment-provider-training/>

TREATMENT COUNSELOR

- Your treatment partner's input is essential.
- Participates heavily in staffing, attends court hearing, too.
- Extremely mindful of client confidentiality but shares enough information so the team can respond effectively
- Will not, and should not, share everything.

Confidentiality Dilemmas

Building trust and maintaining confidentiality is a treatment priority. Sharing info without permission may damage the therapeutic alliance.

The team cannot craft appropriate responses to participant behavior without sufficient treatment information.

Best Practices: What Treatment Should Share With the Team

At a minimum, the following data elements should be shared:

- ✓ Attendance at scheduled appointments
- ✓ Assessment results pertaining to a participant's program eligibility, treatment and supervision needs
 - ✓ (Provide a diagnosis)
- ✓ Drug and alcohol test results, including efforts to defraud/ invalidate tests
- ✓ Case management, treatment plan and attainment of goals, such as completion of a required counseling regimen
- ✓ Homework assignments completed or currently working on

Best Practices: What Treatment Should Share, cont'd.

- ✓ Current level in treatment
(and what they need to do to move forward)
- ✓ Any barriers to progress
- ✓ Evidence of symptom resolution, such as reductions in drug cravings or withdrawal symptoms
- ✓ Evidence of treatment-related attitudinal improvements (insights or motivation for change)
- ✓ Adherence to legally prescribed and authorized MAT
- ✓ Unauthorized prescriptions for addictive or intoxicating medications
- ✓ Threatening, or disruptive behavior

TEAM PROSECUTOR

- Is always mindful of the ultimate goal: **PUBLIC SAFETY**
- Works with team defense attorney to resolve issues up front.
- Is equally committed to protecting due process
- May review new cases, determine legal eligibility, and report findings to team.
- Attends staffing and gives input re sanctions/ incentives
- Makes recommendations regarding the participants continued enrollment in the program.

LAW ENFORCEMENT

- The role varies:
 - May do background investigations of potential participants
 - May follow-up on warrants
 - Monitor participant compliance with unannounced house visits, curfew checks.
- Develops a rapport with participants
- Participates in staffing and court
- **A voice of public safety on the team**
- Liaison with the LE community
- Eyes and ears in the community

Obligations to Employers & the Team

Team Prosecutor Alex's supervisor wants to see his file on a participant as there is an investigation about new criminal activity. He may be able to "cut her a break" if the file looks good. The file contains highly sensitive medical and MH info.

Can Alex hand over the file?

Team Deputy Matt knows a warrant is about to be issued for the arrest of a participant who is scheduled to promote to the next phase today. His department policy is clear: all information pertaining to warrants is strictly confidential.

What should Matt do?

Confidentiality Goes Both Ways for LE and the Prosecutor

**They cannot share
confidential information
about our participants
with their colleagues.**

**They cannot share
information with the team
their employers deem
confidential (such as
impending warrants,
investigations, charges).**

Confidentiality is Huge!

- HIPAA and 42 C.F.R. Part 2 permit information related to SU and MH treatment to be shared with the TEAM only when there is a voluntary, informed waiver of patient's confidentiality and privacy rights or a court order
- Most team members work for other agencies (DAO, PD, Sheriff, Probation)
- We can't share confidential info with our colleagues!

Conduct Challenges

PROGRAM COORDINATOR

- Maintains accurate and timely records
- Oversees fiscal and contractual obligations
- Facilitates communication between team members, stakeholders and partner agencies
- Ensures that policy and procedures are followed
- Oversees collection of performance and outcome data
- Schedules court sessions and staff meetings
- Orients new hires

COORDINATOR: JANET

- Janet is passionate about treatment court and is a great favorite of the participants and the team. In recovery herself, she often offers rides to participants to AA meetings.
- As the team is short handed, she often will assist Frank, the probation officer, with observing/ collecting female UA's and even helps Frank out conducting home visits.

Has Janet exceeded her role's boundaries?

1. Yes, because Janet should not be giving participants rides to AA.
2. Yes, because Janet should not be making assisting probation with UA's and home visits.
3. Both #1 and #2.
4. No, because all Janet's actions are appropriate as a team member.

Stay in Your Lane

- Each team member has a specific role and duties.
 - Respect each other, respect boundaries!
- Best practice: Team role MOU, clearly defining roles/ duties, signed by all. Publish in Handbook and Policy and Procedure manual
 - If the thing you want to do is not in your listed duties, don't do it!
- What if you think a teammate– or the team-- is acting out of bounds?
 - Speak up. If necessary, report it to the appropriate authority– especially if causing harm.

It is everyone's responsibility to stop illegal and harmful policies & practices

- **MAT:** It is illegal (and harmful!) to bar entry to those using prescribed MAT, to require they taper/cease as a condition of graduation, to limit use of only certain types of MAT
- **Sanctions and Due Process:** It is illegal to deny evidentiary hearings when facts are in dispute. DP is not just for jail sanctions!
- **Preventative detention:** Holding participants in custody without DP to prevent harm is an unconstitutional, illegal practice. Seek alternatives from treatment
- **Terminations:** it is illegal to deny evidentiary hearings, to require waiver of DP rights as a condition of entry
- **Recovery Support:** it is illegal to mandate AA or other religious-based recovery groups

We Are a Team.

- Treatment court does NOT change our individual legal & ethical responsibilities.
- We collaborate and share our opinions.
- We respect our experts on the team– and the judge’s final decision.
- We stay in our lanes. We follow the law.
- No matter what, we present a united front outside of the staffing room.
- We are sensitive to and respect our teammates’ professional obligations.
- We always remember we are real courts, and the rules apply.

QUESTIONS?

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