



"CAN'T WE ALL JUST GET ALONG" IMPROVING TEAM COMMUNICATION AND COLLABORATION

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WHAT IS THE CULTURE OF CRIMINAL JUSTICE SYSTEM?



Winning versus Losing
Right versus Wrong
Guilty versus Innocent
Visible versus Invisible

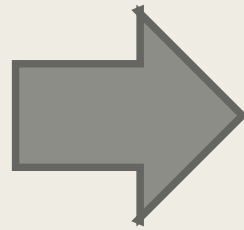


Problem-Solving Courts are Creating a New Culture

WHAT IS YOUR
ROLE?

- *Beyond Adversarialism* (K. Snedker, 2018)
- Shifting from the traditional adversarial to problem-solving in a team
- In order to come-up with the best solutions you need a team that works well together

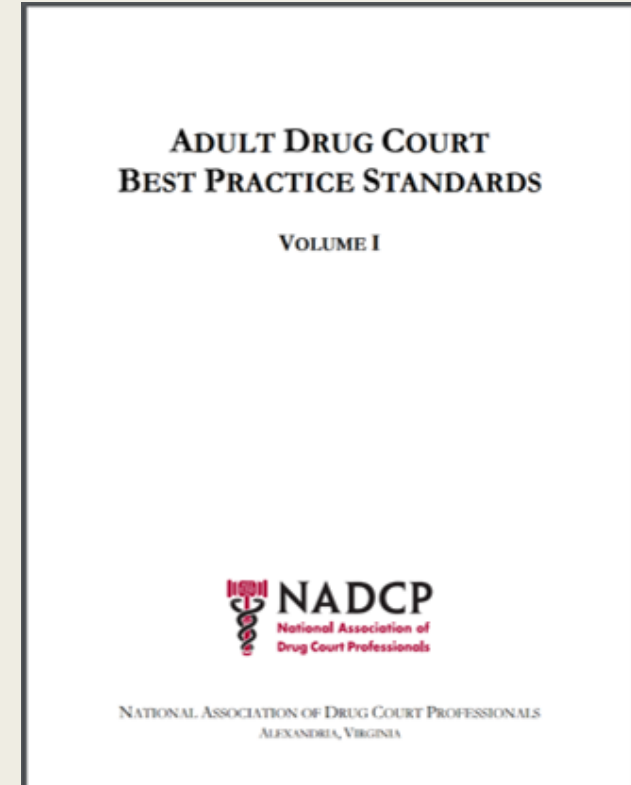
How do we go from...



Multidisciplinary Teams in Problem-Solving Courts DEFINED:

“A dedicated multidisciplinary team of professionals *manages* the day-to-day operations of the Drug Court, including *reviewing* participant progress during pre-court staff meetings and status hearings, *contributing* observations and recommendations within team members’ respective areas of expertise, and *delivering* or overseeing the delivery of legal, treatment and supervision services.”

(ADULT DRUG COURT BEST PRACTICES)



Why does the Team matter?



Studies about Team Composition in Drug Courts reveal:

- There is a substantial influence on outcomes
- And the possibility
 - *to produce significantly greater reductions in criminal recidivism.*
 - *To be more cost effective*

when the following professionals are dedicated members of the Drug Court team and participate regularly in precourt staff meetings and status hearings

(Carey et al., 2008, 2012; Cissner et al., 2013; Rossman et al., 2011; Shaffer, 2010):

How do we build the TEAM?

Things for you to consider:

- Team membership
- Acknowledging personality types
- Respecting roles and “Staying in your lane”
- Advocacy v. Adversarial
- Communication and overcoming challenges
- Allow different problem-solving styles
- Collaborate by thinking divergently
- Negotiate assertively to assist with TEAM decisions
- Team trainings and change behaviors



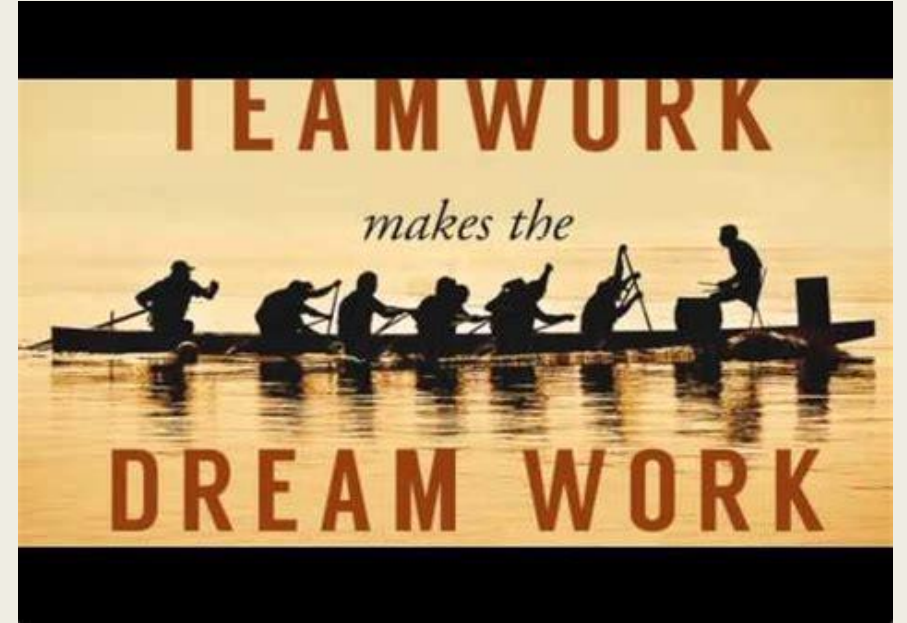
What are the personalities of the members?

- **Adversarial** – combative argument in favor of one position
- **Collaborative** – due process and working together for client participation
- **Apathetic** – lack of concern or interest
- Can describe any person on the TEAM
 - *Close your eyes and imagine that one person of the TEAM...*
 - *Which one are you?*
 - *How can we make it better?*



What makes a GREAT team?

- How do you celebrate achievement?
 - Idea Driven not Ego Driven
 - The ideas matter to you
- How do you process different POV?
 - More perspectives allow change to happen faster
 - More information, better solutions
- *Therapeutic Jurisprudence:*
 - Stability and trust = Consistent and effective team
- Apple CEO Video



<https://www.youtube.com/watch?v=EZPYLZ7I6gs>

Do you know your role?

- Everyone has their own ethical obligations.
- Everyone represents diverse professional philosophies and interests.
- Each team member must understand and respect the boundaries and responsibilities of other team members.

The NDCI provides a **core competency guide** (available from the National Drug Court Resource Center) for drug court teams that outlines the respective roles and responsibilities of each drug court team member.



Advocacy and Participation should be the Focus for Defense



- **nonadversarial** does not have the same meaning as **nonadvocacy**
- advocacy occurs primarily in staffings as opposed to court hearings

This allows for court time for intervening with participants rather than arbitrating uncontested facts or legal issues

(Christie, 2014; Portillo et al., 2013).

Communication is the Most Important Factor for Success

- Participants and staff rate communication among team members as one of **the most important factors for success** in Drug Courts (Frazer, 2006; Gallagher et al., 2015; Lloyd et al., 2014).
- **Participants** complain frequently that they are forced to repeat the same information to different professionals and to comply with excessive and inconsistent mandates stemming from different agencies (Goldkamp et al., 2002; Saum et al., 2002; Turner et al., 1999).
- Ongoing communication among staff ensures participants receive consistent messages, reduces unwarranted burdens on participants, and prevents participants from falling through the cracks or eluding responsibility for their actions by providing different information selectively to different team members.



Team Communication and Avoiding Apathy



- Team members have an obligation to contribute relevant observations and insights and to offer suitable recommendations based on their professional knowledge, experience, and training.
- A team member who remains silent in staffings or defers habitually to group consensus is violating his or her professional obligations to participants and to the administration of justice

Caution: **don't allow group-think to interfere with due process**

(Freeman-Wilson et al., 2003; Holland, 2010; NACDL, 2009; Tobin, 2012).

How does communication go wrong?



Cognitive Bias – A pattern of thought that causes someone to reason unrealistically

- **Availability Bias** – *the tendency to judge the likelihood of an event by the ease with which relevant examples come to mind*
- **Anchoring Bias** – *chains you to an idea simply because that idea is present*
- **Confirmation Bias** – *Causes you to focus on information that confirms your preconceptions while ignoring information that challenges them*
- **Search satisfying** – *Tendency to stop searching for explanations once you have found one*
- **Confidence Illusions** – *Frequently infect professionals conscious of their own expertise.*

How can you communicate more effectively?

- Go for being understood not just heard.
- Build your Communication Skills:
 - *Listening*
 - *Empathizing*
 - *Asking Questions*
 - *Finding and Telling Stories*
 - *Painting a Picture*
 - *Giving Information*
 - *Implying through Tone of Voice and Body Language*
 - *Making Arguments*
- Threshold Skill is knowing when to argue and when to do something else instead.



Assertive Confrontation versus Arguing

- What is the goal?
 - *To get other people to come up with solutions in order to avoid arguments and getting hooked into unproductive situations.*
- Are you being defensive?
- How do you deal with defensiveness?
 - *There is a difference between being assertive and aggressive*



"Why do you always get defensive whenever I attack you?"

Assertive versus Aggressive

- Others needs
- I statements
- Takes responsibility
- Acquiescent/accommodating
- I lose you win

- My needs
- You statements
- Places blame of responsibility on other person
- Puts people on defensive
- I win you lose

Chose to be Assertive = Win, win, no lose

People will feel their needs are being met and they are being heard

How can the TEAM problem-solve effectively?

Different Skills:

- Learn from experience
- Treat the entire problem as an integrated whole
- Identify the few things that really matter
- Identify the decisive event
- Don't be afraid to take calculated risks
- Help your mind wander
- Resist the temptation to act on nonstrategic motivations



How can you collaborate more effectively?

- *Convergent thinking– narrows inquiry to find the single right answer*
- *Divergent thinking– broadens the inquiry by thinking in several directions at once to find more answers*
- *Effective professionals think both ways*
- *“In a Different Voice” by Carol Gilligan*

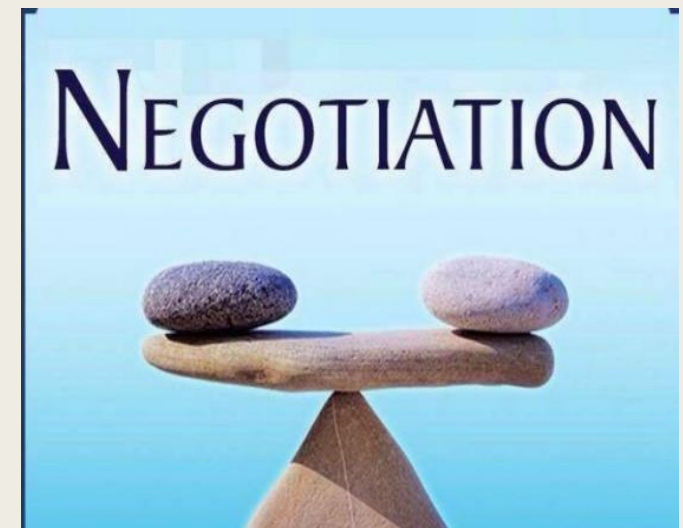
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- *Fixed versus Growth Mindset Video*



How can you negotiate more effectively?

- **Adversarial approach** – focuses on the rights and powers of the parties
 - *Aggressive*
 - *Zero-sum, distribution of limited resources*
 - *Each party takes a position of entitlement*
- **Problem solving** – focuses on the interests of the party
 - *Assertive*
 - *Integration of resources each side brings to the table so that each side ends up better off*



So, can everyone be a winner?

- *“The only limits that exist are the ones in your own mind.”*
- Put Your Bias Aside
 - *Don’t choose the obvious answer!*
 - *A problem-solving approach could get more for your client*
 - *Use solution generation and solution evaluation to negotiate a settlement or deal that will meet interests of all the parties*
- Be Willing to Compromise
 - *Develop a BATNA rather than a Bottom-line*
 - *Focus on interests not positions*
 - *Don’t let your ego drive your position.*



Your opponent is also your team member!

How can the TEAM learn most effectively?

- Trainings

- *Functional team training*
- *Specialized trainings*
- *Cultural trainings*



- Retreats with independent moderators

- Specialization

- Don't forget the Basics! (Best Practices)

How does the TEAM achieve the ultimate mission alignment?

Time for change = Put it ALL into Practice:

- Team development is a process (Tuckman Model)
 - *Functioning as a Problem-Solving Instrument*
 - *Forming, Storming, Norming, Performing*
- Consensus building achieves shared goals
 - *Example: Last Year's Conference*
- Follow Your Teamwork Strategies



The Essential Change Team Behaviors



- Have agility
- Believe in one another
- Communicate well
- Be detail oriented
- Have enthusiasm
- Be fearless
- Be goal oriented
- Be honest
- Innovative
- Joke around

(NIATx)



“Feelings of worth can flourish only in an atmosphere where individual differences are appreciated, mistakes are tolerated, communication is open, and rules are flexible—the kind of atmosphere that is found in a nurturing family.” -Virginia Satir



Thanks for coming, we welcome feedback and questions!

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REFERENCES

Stefan Krieger and Richard K. Neumann Jr., *Essential Lawyering Skills* (5th ed., Wolters Kluwer 2015).

Karen A. Snedker, *Therapeutic Justice: Crime, Treatment Courts and Mental Illness* (Palgrave Macmillan 2018).

Drug Court Judicial Benchbook, The Drug Court Team:

https://www.ndci.org/sites/default/files/nadcp/14146_NDCI_Benchbook_v6.pdf

Adult Drug Court Best Practice Standards, Multidisciplinary Teams:

<http://www.nadcp.org/wp-content/uploads/2018/03/Best-Practice-Standards-Vol.-II..pdf>