



Leading the Way: Prosecuting to Recovery

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Learning Objectives

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

- List the Core Competencies for a Prosecutor in a Specialty Court;
- Explain the importance of Risk/Need/Responsivity Principles;
- Recognize how Specialty Courts fit into the traditional role of public safety; and,
- Describe how the Specialty Court Prosecutor needs to think differently



- Initial challenges
- What we learned
- Anecdotal data promising
- Challenges changed over time

68%

Reduction in Recidivism

\$9.43 Cost Benefit

every dollar spent on DIVERT Court, \$9.43 of costs can be saved by society

<http://faculty.smu.edu/tfomby/DivertFinal.pdf>



DIVERT Court

We were all complicit in
“moving the case”





A Different Kind of Animal

An effective prosecutor in a Specialty Court has a different mindset





A Different Kind of Animal

Non-Adversarial Courts

- Therapeutic approach
- Teamwork with Judge, defense attorneys, & the Specialty Court team
- Works toward recovery and productive citizenship rather than incarceration
- Belief in the effectiveness of alternative courts



Core Competency #1

Participates fully as a Specialty Court team member



COMPETENCY 1: Participates fully as a Specialty Court team member, committing him or herself to the program mission & goals

PLANNING PROCESS

- Assists in scheduling planning meetings conducive to the schedule of each specialty court team member
- Compromises with team members regarding structure of program (including creating a program mission along with goals and objectives) during planning process meetings
- Assists in gathering data relevant to the population that would be impacted by specialty court
- Develops efficient method of conducting legal screens on potential specialty court participants
- Actively demands participant accountability
- Assists in creating and executing all participant waivers and contracts



COMPETENCY 1: Participates fully as a Specialty Court team member, committing him or herself to the program mission & goals

OPERATIONAL COURT

- Promptly conducts legal screens on offenders recommended to specialty court
- Assists in executing all participant waivers and contracts
- Advocates for prompt sanctions in response to negative client behavior
- Protects integrity for specialty court program by monitoring effectiveness of community supervision
- Maintains up-to-date record of participant performance
- Moves for dismissal of participant from program based on factual history of non-compliance (when appropriate)



Core Competency #2

Operate in a non-adversarial manner



COMPETENCY 2: The prosecutor, while in Specialty Court, participates as a team member, operating in a non-adversarial manner, promoting a sense of a unified team presence.

PLANNING PROCESS

- Attends regularly scheduled planning meetings
- Compromises with team members regarding structure of program (including creating a program mission along with goals and objectives) during planning process meetings
- Assists in gathering data relevant to the population that would be impacted by specialty court
- Develops professional rapport with team members based on information sharing
- Actively participates in team building exercises



COMPETENCY 2: The prosecutor, while in Specialty Court, participates as a team member, operating in a non-adversarial manner, promoting a sense of a unified team presence.

OPERATIONAL COURT

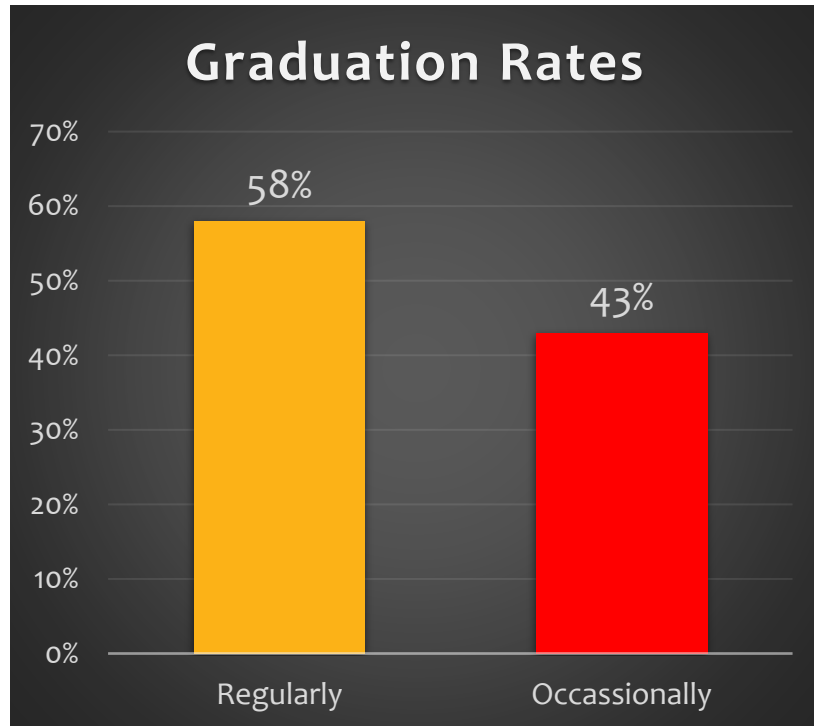
- Attends regularly scheduled court staffings
- Solicits information regarding participant progress, or lack thereof, from all team members
- Share information regarding status of the drug court and individual clients with drug court team members
- Maintains up-to-date record of participant performance



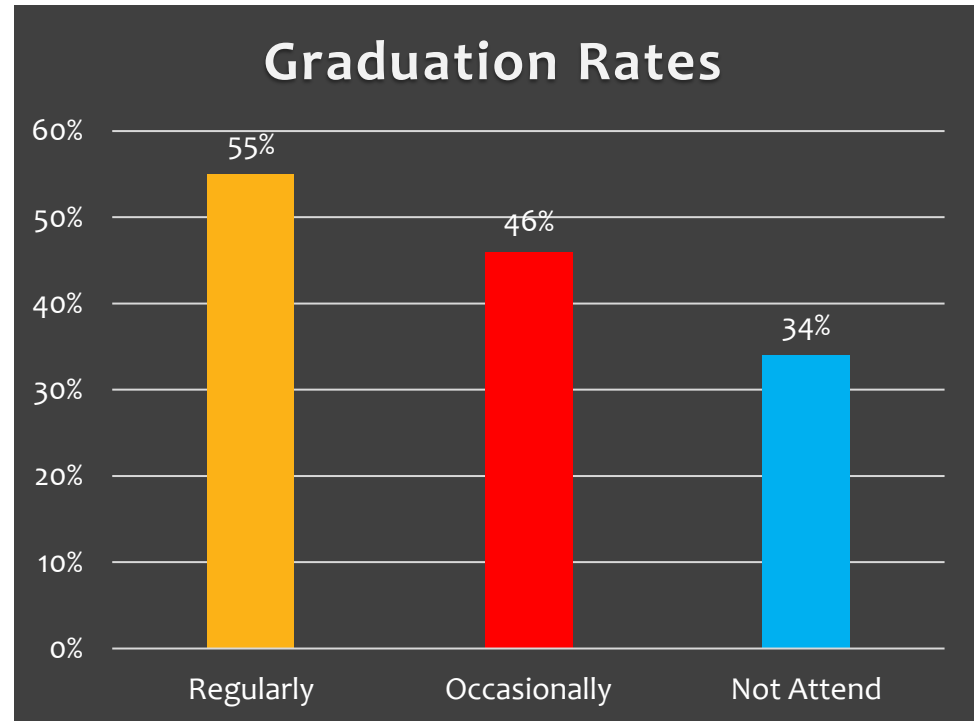
Research confirms

Presence of the district attorney at staffing and review dockets matters

DA Attends Staffing

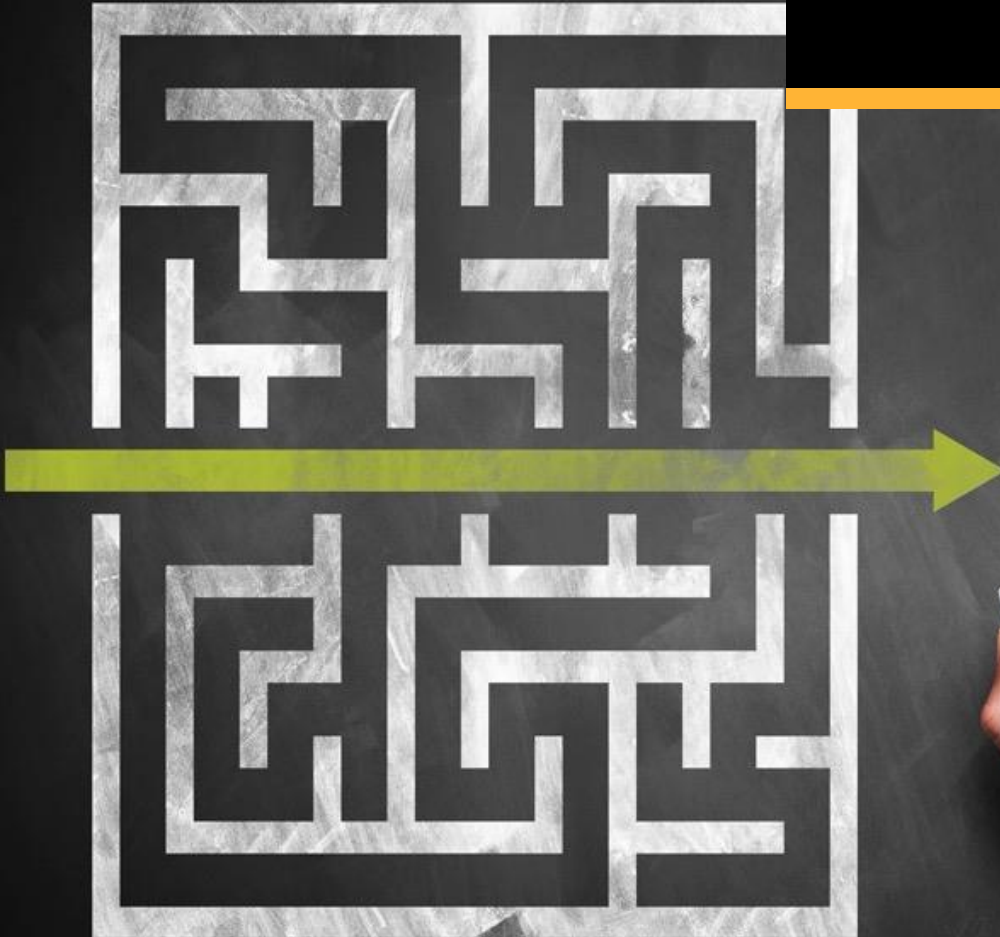


DA Attends Court Sessions



Core Competency #3

Effective Responses to Client Behavior



COMPETENCY 3: As part of the Specialty Court team, in appropriate non-court settings (i.e. staffing), the prosecutor advocates for effective incentives and sanctions for program compliance or lack thereof.

PLANNING PROCESS

- Attends regularly scheduled planning meetings
- Assists in researching use of incentives and sanctions in specialty court setting
- Actively participates in seeking appropriate incentives and sanctions that benefit local community
- Compromises with team in creating incentives and sanctions and assures final decisions are memorialized



COMPETENCY 3: As part of the Specialty Court team, in appropriate non-court settings (i.e. staffing), the prosecutor advocates for effective incentives and sanctions for program compliance or lack thereof.

OPERATIONAL COURT

- Attends regularly scheduled staffings
- Requests appropriate incentives and sanctions, based on participant behavior
- Researches efficacy of specialty court's behavior modification techniques
- Argues for swift response to participant behavior
- Maintains up-to-date record on prior incentives and sanctions given to assure



Sanction Matrix - Court Responses

Step 1 - Identify the Behavior

Low	Moderate	High	Very High
Late for event Dress inappropriately No Journal Failure to complete assignment	Unexcused Absence Risky Behavior First Missed UA Failure to obtain job/enroll in school/GED	2 nd or more Missed UA Alcohol Use Drug Use Tamper w/ UA/device Lying/Willful Deception	Criminal Behavior Arrest

Step 2 - Determine the Response

	LOW	MODERATE	HIGH	VERY HIGH
Phase 1	Level 1	Level 2	Level 3	
Phase 2	Level 2	Level 2	Level 3	
Phase 3	Level 3	Level 4	Level 5	
Compliance Track	Level 3	Level 3	Level 4	

Step 3 - Choose the Sanction

	Level 1	Level 2	Level 3	Level 4	Level 5
Judicial Reprimand	Judicial Reprimand	Judicial Reprimand	Judicial Reprimand	Judicial Reprimand	Judicial Reprimand
Thinking Report	Thinking Report	Thinking Report	Thinking Report	Thinking Report	Thinking Report
CSR	≤4 hrs	≤8 hrs	≤16 hrs	≤ 24 hrs	
R&B		8 hrs	16 hrs	24 hrs	
Jury Box			Jury Box	Jury Box	Jury box
Jail			≤ 48 hrs jail	≤ 3 days jail	≤ 5 days jail
Other			Zero Tolerance	Termination Notice	Termination

Response Matrix

Matrix is a guide

Behavior responses

- Court
- Treatment
- Supervision

Treatment Responses determined per individualized treatment plan (ex below)

Level 1	Level 2	Level 3	Level 4	Level 5
Daily Journaling Read 12 Step Excerpt Recovery Collage Homework Assign Increased Individual	Level 1 plus: 12 Step Mtgs Psychoedu Class Dev SMART goal Trx behave contract	Level 1, 2, plus: Device 12 step work Trx Team Review Cost/Benefit Analysis Bye to drug letter	Level 1, 2, 3, plus: Relapse Prev Plan Re-assessment Family Session School Cnslt contact	Level 1, 2, 3, 4 plus: Discharge

Supervision Responses

Level 1	Level 2	Level 3	Level 4	Level 5
Address in rpt appt Keep planner	Level 1 plus: Home Visit Additional rpt day	Level 1, 2 plus: Increase ETGs/UAs Transitional Housing	Level 1, 2, 3 plus: Supervisor consult	Level 1, 2, 3, 4 plus: Discharge



Incentive Matrix -

Step 1 - Identify the Behavior

Easy	Moderate	Difficult
Compliance Attendance at treatment Attendance at other appts Report to UA Payment Complete Journal Entries	Health/Prosocial Employment Progress in Education Progress in Trx	Specific Target Abstinence Treatment Goals Completed Court Phase Goals Completed Pay Final Restitution Payment

Step 2 - Determine the Response

	Easy	MODERATE
Phase 1	Small	Medium
Phase 2	Small	Medium
Phase 3		Small
Compliance Track		

Step 3 - Choose the Incentive

Small	Medium	
CSM Verbal Praise Judicial Verbal Praise "Leave Court Early Group" Raffle Ticket	Any small or: Judicial Recognition Sticker for Jrnl Spin the Wheel: Gift card, 2 CSR credit hrs, candy Leave ct early, standing ovation	Any small, medium or: Phase Advancement or Compliance Track Certificate & Leave Court Early

Responses to Client Behavior

Matrix is a guide



Core Competency #4

Ensures community safety concerns



Competency 4: Ensures community safety concerns by maintaining eligibility standards while participating in a non-adversarial environment which focuses on the benefits of therapeutic program outcomes.

PLANNING PROCESS

- Participates with entire team in creating eligibility criteria for potential drug court participants
- Analyzes population for whom specialty court might be most effective based on current offender characteristics

OPERATIONAL COURT

- Moves for dismissal of specialty court participants who no longer meet eligibility criteria
- Monitors participant behavior for compliance and continued eligibility



Core Competency #5

Monitors offender progress



COMPETENCY 5: Monitors offender progress to define parameters of behavior that allow continued program participation and suggest effective incentives and sanctions for program compliance.

PLANNING PROCESS

- Attends regularly scheduled planning meetings
- Builds effective means of information sharing with entire team in order to make informed choices for participants
- Compromises with team in creating program procedures and protocol
- Assures each specialty court participant is fully advised of requirements of program prior to agreeing to participate
- Assists in completion of all client contracts and waivers



COMPETENCY 5: Monitors offender progress to define parameters of behavior that allow continued program participation and suggest effective incentives and sanctions for program compliance.

OPERATIONAL COURT

- Attends regularly scheduled staffings
- Solicits information from team members regarding client compliance
- Vehemently encourages sanctions for client noncompliance and seeks incentives for client compliance
- Files motions or other legal document in order to remove noncompliant participants
- Offers encouragement to participants while reminding them of consequences of noncompliance



COMPETENCY 5: Monitors offender progress to define parameters of behavior that allow continued program participation and suggest effective incentives and sanctions for program compliance.

Video – Specialty Court Team Concept



COMPETENCY 6: Is knowledgeable about addiction, alcoholism and pharmacology generally and applies that knowledge to respond to compliance in a therapeutically appropriate manner.

PLANNING PROCESS

- Attends regularly scheduled planning meetings
- Assists in selecting competent and informed treatment provider
- Assists in drafting memorandum of understanding with treatment provider that assures effective information sharing and compliance with all regulations
- Researches effective treatment modalities for offender population
- Creates open dialogue with treatment provider to ensure appropriate treatment
- Researches and studies publications regarding addiction, alcoholism and pharmacology



COMPETENCY 6: Is knowledgeable about addiction, alcoholism and pharmacology generally and applies that knowledge to respond to compliance in a therapeutically appropriate manner.

OPERATIONAL COURT

- Continues to research effective treatment modalities
Conducts regular quality assurance to ensure appropriate treatment
Attends and actively participates in all court sessions and staffing



Paul Cary – “Google is your friend!”



- Check out NADCP/NDCI websites and download as much as you can.
- Watch the webinar seminars – especially on ETG/ETS (ethyl glucuronide/ethyl sulfate), designer drugs and dilution by Paul Cary.
- Subscribe to different drug testing sites for info.
- Go to an open 12-step mtg and read the basic text.

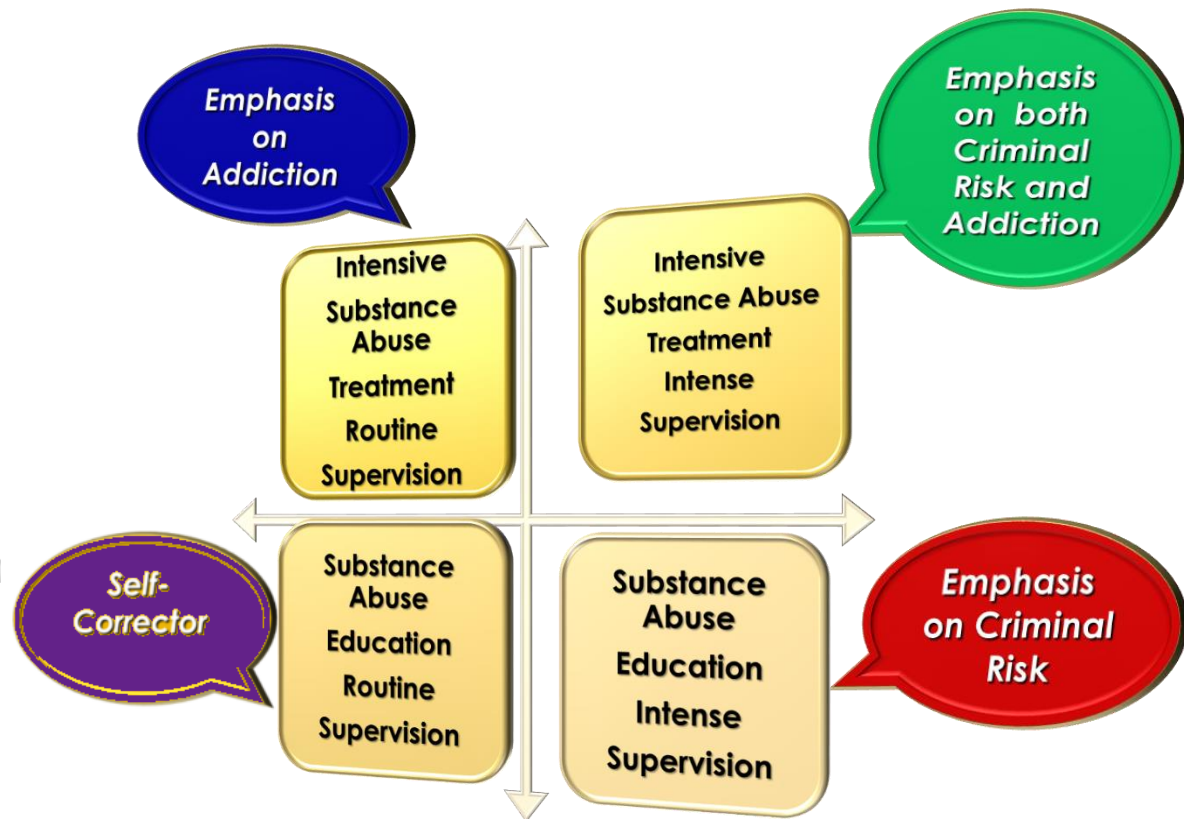


Three Elements to the Risk Principle

Assessments drive
recommendations



- Target offenders with higher probability of recidivism
- Provide most intensive supervision to higher risk offenders
- Intensive supervision for lower risk offender can **increase recidivism**



What Are Criminogenic Risks and Needs?

- **Risk Needs Responsivity (RNR) Model:** Derived from research showing that the best outcomes are achieved in the criminal justice system when:
 - 1) The intensity of supervision matches the individual's risk for recidivism
 - 2) Interventions focus on the specific conditions that contribute to the individual's involvement with crime
- **Risk:**
 - Does NOT indicate that someone is harmful, violent, or dangerous
 - Refers to the probability of committing a new offense
- **Needs:**
 - Refers to risk factors for criminal recidivism that are potentially changeable/treatable
 - Focuses on treatment needs and social service needs
 - Needs do not cause crime, but they can interfere with change and rehabilitation if not addressed
 - Focus on ensuring the individual receives the services they do need and in the right order.
- <https://www.prainc.com/risk-need-responsivity>



- Normed & Validated
- Measures the following areas:
 - Criminal History
 - Education, Employment, and Financial Situation
 - Family and Social Support
 - Neighborhood
 - Substance Use
 - Peer Associations
 - Criminal Attitudes and Behavioral Patterns



TRAS Assessment



Core Competency #7

Knowledgeable of gender, age and cultural issues



DIVERSITY
AND
INCLUSION

COMPETENCY 7: Is knowledgeable of gender, age and cultural issues that may impact the offender's success.

PLANNING PROCESS

- Assists in selecting team members who are gender, age and culturally aware
- Attends training opportunities to inform team members about cultural competence

OPERATIONAL COURT

- Continues to attend training opportunities to inform team members about cultural competence

<https://www.ndci.org/wp-content/uploads/2019/02/Equity-and-Inclusion-Toolkit.pdf>



Core Competency #7

Are you aware of how exclusionary criteria affect your underserved group?
If no, go to pages 7 and 8



Screening tools are designed to help staff identify who is most appropriate for treatment court. Do you have a screening tool?
If no, go to page 8

Equity & Inclusion

Do you know why individuals are not being admitted?
If no, go to pages 8-10

Do you know which group is underserved?
If no, go to pages 4-5

Do you have a written list of criteria to determine who might be eligible?
If no, go to page 6

EQUIVALENT ACCESS ASSESSMENT *and* TOOLKIT



Core Competency #8

Contributes to community education and local resource acquisition



COMPETENCY 8: Contributes to the team's efforts in community education and local resource acquisition.

- **PLANNING PROCESS**

- Evaluates whether any potential funding sources exist within the prosecutor's office
- With other team members, attends local civic organizations, bar association and other community meetings

- **OPERATIONAL COURT**

- Assist in researching any potential funding streams
(Form a local non-profit?)



Core Competency #9

Contributes to education of peers, colleagues
and the judiciary



COMPETENCY 9: Contributes to education of peers, colleagues and judiciary in the efficacy of Specialty Courts.

PLANNING PROCESS

- Informs judiciary and local bar association about specialty courts
- Seeks public speaking opportunities to speak about specialty courts
- Discusses specialty courts with colleagues

OPERATIONAL COURT

- Oversees integrity of specialty court program through quality assurance
- Disseminates information about specialty court as frequently as possible

IDEAS:

- Participate in your state organization/training
- Spearhead and collaborate with legislative efforts
- Educate the stakeholders in your community





So What Can I Do To Be A Proactive District Attorney?

Think outside the box



- Become active in pre-screening
- Work with your criminal justice dept or other agencies at the jail
- Notify arraignment judge and/or fellow DAs
- Work with pre-trial release, bonding companies, court coordinators and the defense Bar
- Scan intake or charges ready to be filed for potential candidates



#1 Encourage Applicants





#2 Educate Your Office and Others

- Write articles for local criminal law publications
- Hold training events for all assistant district attorneys in your office





#3 Encourage Graduation and Pro-social Behavior



REACTIVE
PROACTIVE

#4 Proactive Approach

Identify & Explore Opportunities



A Specialty Court District Attorney is:

- A better lawyer
- A better person
- More satisfied at work



Thank you

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