

# EFFECTIVE JUDGING FOR BUSY JUDGES



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JUDICIAL COLLEGE

BLAZ



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# EFFECTIVE JUDGING FOR BUSY JUDGES

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*This project was supported by Grant No. 2004-DD-BX-1463 awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The Assistant Attorney General, Office of Justice Programs establishes the policies and priorities, and manages and coordinates the activities of the Bureau of Justice Assistance, Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. Points of view or opinions contained within are those of the author(s) and do not necessarily represent the official position or policies of the U.S. Department of Justice.*

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## ACKNOWLEDGEMENT

Under a grant from the Bureau of Justice Assistance, staff from The National Judicial College (NJC) in Reno, Nevada, created this book and bench card. Dennis B. Jones and Robin E. Wosje from NJC invited 20 judges and court professionals working in the problem-solving court area to NJC on May 10-12, 2005, to a working summit entitled “Institutionalizing Problem-solving Practices in All Courts.” The list of participants is included at the end of this piece. Participants were selected because of their experiences and expertise in developing, operating, and studying problem-solving courts. Their work during the three-day Summit formed the basis for the material contained in the bench card and the book. During the Summit, Heidi Kolbe from The Kolbe Company facilitated group discussion and used special meeting management hardware and software to facilitate collection of over 65 pages of material and data from the participants during the three days. Her assistance was invaluable.

# CONTEXT

The purpose of this book and the bench card that accompanies it is to assist judges who would like to use problem-solving principles and methods in their courts, regardless of their assignment. It is intended for use by judges who want to try one or two techniques as well as judges who would use this information to begin the first step of what becomes a longer journey – using all the methods. The contents are general in nature and the bibliography at the end provides information on resources for those who wish to know more. This document may contain more information than you need. If, however, you take the first step in each of your hearings it is more effective judicial communication to ask one or more of the questions provided on the bench card, you will be taking a meaningful first step.

## OVERVIEW

Drug courts were developed in the late eighties and early nineties when judges and others became concerned with what they saw as the “revolving door” in cases where alcohol or other drug abuse was involved. Many defendants were appearing before judges year after year for substance abuse-related offenses, despite the incarceration, fines, and probation/parole supervision that courts ordered in those cases. Several judges believed there had to be a better way to deal with these cases. Drug treatment courts were created to implement innovative strategies to deal with the special issues associated with recurrent cases. The courts that used these methods became known as problem-solving courts. Since then, the problem-solving approach has been used in mental health courts, domestic violence courts, teen courts, and other specialty courts and dockets. Judges in varying judicial assignments from around the country have reported using problem-solving principles and methods successfully in all of the following types of cases and hearings:

### PARTS OF A CASE

- First appearances/arraignment
- Preliminary hearing
- Trial
- Plea and sentencing
- Probation violation hearings
- Pretrial release
- Legal competence
- Review hearings

### CRIMINAL

- Status offenses
- Elder abuse
- Alcohol and other drug cases
- Felony and misdemeanor charges
- Traffic violations

### CIVIL

- Temporary restraining orders
- Neighborhood complaints
- Small claims
- Collection actions
- Pro se cases
- Family disputes
- Unlawful detainers
- Pretrial and settlement conferences in personal injury and malpractice

### FAMILY LAW/DOMESTIC RELATIONS

- Visitation
- Paternity and child support
- Divorce
- Adoption
- Parental termination
- Child custody
- Domestic violence
- Juvenile
- Dependency and neglect cases
- Delinquency cases
- Permanency
- Truancy
- Children in need of services - status offenses

### PROBATE

- Conservatorships
- Guardianships
- Involuntary civil commitments

## WHY USE A PROBLEM-SOLVING APPROACH?

A survey conducted in 2000 by David Rottman and Randall Hansen on behalf of the National Center for State Courts (NCSC)<sup>1</sup> corroborated and refined the findings of the 1999 national survey undertaken by the NCSC on public perception of the courts.<sup>2</sup> It concluded:

Perceptions that courts are too costly, too slow, unfair in the treatment of racial and ethnic minorities, out of touch with the public, and negatively influenced by political considerations are widely held. Overall, more Americans believe that the courts handle cases in a poor manner than believe courts handle cases in an excellent manner.<sup>3</sup>

The survey also noted that generally African Americans are the most critical and the least satisfied with the status quo.<sup>4</sup> It found that a solid majority of those surveyed support the expanded judicial officer role associated with both problem-solving courts and treat-

ment and other interventions. The survey indicated that African Americans had both the highest level of support and the greatest increase in satisfaction for this expanded role. The survey found strong support for the courts, including trained counselors and social workers as part of court staff, bringing offenders back to report to the judge on their progress, and coordinating with local agencies that work with offenders.<sup>5</sup> This allows judges to become more informed decision makers.

There are tremendous opportunities for the judicial branch to respond positively to the critically unmet needs identified in these surveys. These needs appear to respond favorably to techniques that have already been successfully used in many of the problem-solving courts. Expanding the use of these techniques into other courts and making their use more widespread has great promise. The Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) have recognized this promise. In 2000

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<sup>1</sup> David B. Rottman and Randall M. Hansen, *How Recent Court Users View the State Courts: Perceptions of Whites, African Americans, and Latinos* (hereafter referred to as Rottman & Hansen Survey)

<sup>2</sup> National Center for State Courts, *How the Public Views the State Court: A 1999 National Survey*, presented at The National Conference on Public Trust and Confidence in the Justice System May 14, 1999, Washington, D.C. (hereafter referred to as 1999 Survey).

<sup>3</sup> Rottman & Hansen Survey, pg. 1.

<sup>4</sup> *Id.*

<sup>5</sup> Rottman & Hansen Survey, pg. 3.

and again in 2004 (and the mental health courts resolution in 2006), CCJ and COSCA called for “the broad integration over the next decade of the principles and methods employed in the problem-solving courts into the administration of justice to improve court processes and outcomes.”<sup>6</sup>

*This book is organized using the same format as the bench card under the primary sections of Establishing an Outcome Focus, Case Assessment, and Establishing a Road Map.*



### **A. Establishing an Outcome Focus**

Most judges operate their courtrooms with a “process” focus. They deal with issues presented, apply all applicable rules and statutes, and proactively move cases forward based on the premise that “justice delayed is justice denied.” Problem-solving judges combine the “process” focus with an “outcome” focus. They focus on resolving the issues that brought the parties to court as well as applying all applicable rules and statutes. Often this means becoming much more familiar with the parties and their issues, and exploring options to reduce the likelihood of future contacts with the justice system. Combining a process focus with an outcome focus may require a cultural change in the court. This cultural change needs to include all the primary parties involved in the case (e.g., the attorneys on both sides; the staff in the courtroom, including the clerk, bailiff and court reporters; probation officers; family court counselors; or others who may be involved in the hearings). It will be helpful to meet with all principal participants, go over with them what you intend your approach to be, and seek their input and suggestions before moving forward. If you plan to make only minor adjustments, this level of coordination should be sufficient.

If you wish to make significant changes, however, you may also need to coordinate with your presiding judge or court administrator as the changes you are making may reduce the number of cases you can hear on particular calendars, as well as creating additional hearings in some cases. How far you take this process will be partially dependent on the cooperation/permission of those in authority in your court. Specific suggestions on introducing an “outcome focus” follow in the section entitled “Establishing a Road Map.”



### **B. Conversation with Defendant/Participant**

Problem-solving principles and methods have been used successfully in cases where there are alcohol or other drugs, mental health, violence, family, or life-skill problems underlying the case. As a result, the discussion you have with the defendant/participant is intended to discover, in a very brief period of time, whether one or more of these problems exist in the case.

The amount of time available to make this assessment may be 30 seconds in the case of an arraignment calendar, or much longer in a dependency hearing. What has been provided on the bench card and what is discussed here is an approach that can be applied in a cursory manner in 30 seconds but will require more time to do well. The elements of the initial preliminary assessment are contained below.

Look the defendant/participant in the eyes and have a brief conversation with the individual. This requires that you focus on the defendant, ask several questions, and listen intently to the answers. Combining the existing process focus with the desired outcome focus begins with this first step. You may not have enough time to do more than ask the first question, but if you can get an answer to that question you will have begun to apply an outcome focus.

<sup>6</sup> 2000 CCJ Resolution 22, 2000 COSCA Resolution 4, pg. 2, section 4.

**Question 1:**

Do you have special problems such as substance abuse, homelessness or mental illness that I should know about with regard to this case?

**Question 2:**

Do you have a case manager, counselor, therapist, or psychiatrist in the community? If so, when will you see this person next?

**Question 3:**

Does anyone in your family or with whom you live have issues with alcohol or other drugs, or mental health?

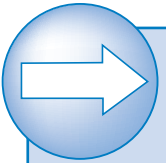
**Question 4:**

Do you have a guardian, conservator, or payee?

**Question 5:**

Was there a another person harmed physically or property damage in this case and, if so, what was the damage?

*The road map you establish for this case will be based on the answers to these few questions as well as what you may discern from the way the answers are given, additional information you may pick up from others who are present in the courtroom, what the attorneys say, your clerk, and documents included in the file.*

**C. Create a Road Map**

In using problem-solving principles and methods in multiple settings such as drug courts, mental health courts, teen courts, domestic violence courts, and child support courts, practitioners have identified seven elements that seem to be consistently included regardless of the court setting. They are:

**Problem-solving Court Elements**

1. Team approach with court/judge as leader.
2. Strategic use of incentives, sanctions, and treatment modifications.
3. Partnerships with public agencies and community based organizations to facilitate the delivery of services.
4. Integration of screening/assessment/treatment/rehabilitation services with justice system processing that occurs as close to the initiating event as possible.
5. Frequent monitoring of participants' progress applied as close to the behavior as possible.
6. Ongoing multi disciplinary education and training of judges, staff, and community.
7. Ongoing, appropriate judicial interaction with case participants.



# THE SEVEN ELEMENTS

*The following outline is a compilation of ideas from judges who sit in a wide variety of assignments in courts across the country and have successfully used problem-solving principles and methods in their courts:*

## **ELEMENT 1 - Judicial Interaction with Case Participants**

*The first step in moving from a “process” focus to a combination “process and outcome” focus is evaluating the manner in which you interact with case participants. Your ability to use the techniques included in the problem-solving elements outlined above will vary depending on your assignment, local legal culture, resources available, and your skill level. You may decide to go no further than personally implementing some of the suggestions in this section. There may be suggestions in this or other elements that go much further in implementing an outcome focus than you are interested in doing now. Go only as deeply into each element as you feel comfortable.*

**Create trust with participants through your conversations with case participants.**

- Consistency and fairness are important. Do not promise or threaten what you cannot or will not deliver.
- Ask for information (e.g., program progress, life issues, sobriety, medication compliance, participants concerns, etc.) directly from the litigant with permission of his or her counsel. Use the questions outlined on the bench card.
- Any information available to you and counsel prior to the court appearance from probation, treatment, etc. will help you formulate relevant questions and demonstrate to the litigant that you are familiar with him or her as an individual.
- Be cognizant of sensitive and confidential issues (e.g., HIV status, past trauma, dependency, sexual orientation, etc.).
- Use dialogue (i.e., active listening, good questions, feedback, and affirmation) to motivate behavioral changes.

**Engage family members where appropriate**

- Gauging whether or not family members will be supportive is sometimes difficult. Assessment of family participation should be periodically reviewed to make sure the family isn't adding to the problem and that they are not working at cross-purposes with the court.
- In some cases, you may not have the time to do this or may not know the family members.

**Provide feedback to the participant about his or her progress.**

- Providing feedback is dependent upon some degree of collaboration with treatment providers who must provide meaningful information to the court.
- Have service providers appear in court to augment written information. It may take time and confidentiality waivers to get the service provider to have enough trust in the system/program to provide that information to the court.

**Consciously decide the order of cases on the docket if possible.**

- Positive dispositions in pending cases may have a therapeutic effect for others waiting for their cases to be heard.
- Review the cases on the docket each day and arrange to call the cases in a manner that allows you to coach/motivate/support the individual participant while allowing others similarly situated to hear the same lesson. Drug courts hold graduation for successful participants while incarcerated defendants are present, so the latter can learn from the success of others and see there is hope for their situation.
- Calling up participants who have accomplished milestones (6 months sobriety, etc.) can send an effective message to the audience.
- Be aware that you are not just educating the defendant but also the media, probation, law enforcement, attorneys, families, etc.

**Learn your participants' needs; if possible, the scheduling of review sessions should meet the participants' schedules.**

- You may rely on probation and treatment providers to recommend when court reviews should occur.
- It will take some time for you to determine which defendants require more frequent or less frequent status hearings.
- Be flexible and meet the needs of all parties as far as possible.

**Monitor the participants or locate another qualified professional to do so. Research suggests that judicial monitoring is more effective than monitoring by others. This will inevitably require more of your bench time in the form of status hearings.**

**Provide timely access to your services for addressing emergent issues.**

- Use email and other information technology and have a system set up for team members so they know if they can interrupt you or give information.
- Your availability depends upon how many cases have emergent issues, so plan accordingly.

## **ELEMENT 2 - Team Approach with Court/Judge as Leader**

*The next step in expanding the process orientation of your court involves the members of your court staff and other participants in the system.*

**Provide judicial leadership.** Delicately balance being the leader of the project and inspiring meaningful participation by others. Soliciting views about what may not work as well as what will work will assist you in achieving that balance. Collaboration is essential for effective leadership.

**State the outcome you wish to achieve.** The outcome should be Specific, Measurable, Achievable, Realistic, and Timely (SMART).

**Identify the team that already exists in the courtroom** which may include clerk, bailiff, public defender, district at-

**torney, and probation officer.**

**Describe the perceived benefits to each team member.**

- Describing the benefits may be the most critical part of the process. All potential team members need to know how the process will enable them to accomplish their objectives.
- Create an atmosphere that fosters honesty and trust. Sometimes team members will give answers they think you want to hear, so caution against this approach.

**Identify other people who might participate in the process.**

- The team can assist in identifying other appropriate participants necessary for a good outcome.
- The target population and the program goals will partly determine the makeup of the team.
- Don't overlook other players like court officers, non-courtroom clerks, transport officers, and court attorneys, for example, who can help set the tone of the courtroom. Identify other resources that may be necessary depending upon the case (e.g., department of corrections, medical or mental health departments, child protective services or pretrial services).
- In relevant cases, identify supervisors or administrators who can persuade others to participate. Also, persuade service providers to make appearances in court and take part in the court hearings.

**Determine how each player can contribute to the new “outcome” orientation and be consistent about each player’s mission.**

- Don't compromise the prosecutor's and defense attorney's professional responsibilities. Remain a neutral party while balancing the benefits sought for the defendant, the community, and the victim.
- Be sensitive to turf issues and build trust. Assist buy-in by the team by establishing a common mission ensuring that each team member feels like an integral part of the solution and not just there to implement **your** plan.

**Retain control of the process. If you are in control, there is more likely to be a change in the culture. Define the intersection between your values and the values of the local legal culture. You are the most likely person to have a global view of the changes needed to implement the goals.**

**Consider the amount of time you have on the calendar and the time demands on other team members.**

**Conduct regular meetings with your team.**

- The time commitment and other cost/benefit analyses are always an issue to address.
- While formal meetings may be difficult to schedule given time and caseload constraints, there are other informal ways to accomplish this goal. For example, consider coming to court five minutes early, having conversations during breaks, or staying on the bench after court has adjourned to discuss how to do business in a problem-solving way. Use appropriate technology to encourage communication such as conference calls, email and distribution lists.

**Recognize limitations of the particular court and team.**

- Court and team limitations take time to be understood and addressed.
- Each team member's expectations may vary and change over time, which sometimes results in frustration. This dynamic and flexible process sometimes requires you to actively encourage the team.
- Change in team membership may change dynamics in a way that upsets the team. Recognizing and planning for transitions is mandatory.

**Identify current resources and be able to define service gaps.**

- Build strong relationships with community agencies, legislators, and universities to obtain funding and collaborate on grants. Each jurisdiction has its own inherent barriers to reprioritizing resources.
- Identification of your court's particular needs is crucial. Once defined, develop relationships that will assist in meeting the needs.

**Ongoing assessment of the team to determine strengths and weaknesses is vital.**

**Adapt team meetings depending upon the circumstances in your jurisdiction.**

- Team consultation/meetings can be ad hoc and may be convened while court is in process.
- Alternatively, you may wish to schedule meetings on a regular basis to review the progress and to focus on areas that need improvement.

## **ELEMENT 3 - Strategic Use of Both Incentives and Sanctions**

*This element and the three that follow allow you to establish strategies for addressing the answers you receive to the questions you ask. This new "outcome" orientation is premised on using not only incarceration, but alternatives to incarceration based on the unique circumstances of the participants in each case. This section discusses potential incentives and sanctions and how you might use them.*

**Use evidence-based behavioral modification techniques.**

- If this is an area where you do not have much experience, you may wish to enhance your skills through education.
- Review the extensive literature in this area.
- Recognize that behavioral modification techniques are time intensive and require practice.

**Couple sanctions with positive reinforcement (incentives).**

- Using positive reinforcement or incentives results in longer lasting behavioral change than the use of sanctions (including incarceration) alone.
- Ensure that the incentives are tangible. Simple praise is a strong motivator when used appropriately; sometimes it is the first praise the litigant has received for his or her behavior, making it very powerful.

**Inform the participants and counsel that you use a range of incentives and sanctions depending upon the needs of the participants and the nature of the case. Clearly express what you are going to do, especially if you are going to treat a case differently than the norm.**

**Inform the litigant that a judicial response will result from compliance or non-compliance. You may not be able to tell a participant what the exact incentive or sanction will be but giving a range of possibilities will inform the participant of potential consequences of their actions.**

**Proactively respond to litigants' behavior using evidence-based behavioral modification techniques.**

**Ensure that your responses are timely in relationship to the behavior. Periodic compliance monitoring will assist you in ensuring timeliness. The power of incentives and sanctions is lost if too much time passes from the behavior to the consequence.**

Seek input from, and give consideration to the attorneys, the litigant, and any relevant persons before deciding an appropriate response.

- Consider victim input when dealing with victims of violent crimes, domestic violence cases, etc.
- Modify treatment plans when the participant is not responding to the current program.
- Ensure that the penalties for non-compliance are no greater than the person would have received absent this new approach.

## **ELEMENT 4 - Partnerships with Public Agencies and Community Based Organizations to Facilitate the Delivery of Services**

*You are encouraged to ask questions that will provide you with greater insight into the participants' needs in each case. Informed decision making will likely result in a positive outcome for the participants, the court, and society. For this to occur, you need resources and alternatives that you can consider, depending on the information you discover about the case and the participant. This section and the one that follows provides an overview of how you can develop additional resources in your community to apply to your cases.*

*You may be able to build on the earlier efforts of the bench or court staff in your jurisdiction. If your jurisdiction has a problem-solving court, the judge who established it likely already has done some or all of the things described below, and you may be able to take advantage of that work.*

**Start a dialogue/relationship with people within your sphere of influence, i.e., mental health, probation, jail, defense bar, prosecutor's office, child welfare, treatment agencies, faith based organizations, etc. This may be easier if this is an approach used by all judges on the bench.**

**Use partnerships with public agencies and non-profit organizations to assist you in finding community-based solutions to support the court (developing models/systems/processes).**

- This time-consuming effort will reap large rewards with a sustained effort over time.
- Consider using memoranda of understanding (MOU) or agreements to foster cooperation between agencies and the court.
- Consult with legal staff at the state court administrator's office or other local legal counsel responsible for advising the judiciary before signing an MOU. Even if the MOU is not signed, its contents will be helpful in defining the roles of the MOU parties.
- **Caution:** You will not have judicial immunity from suit for actions taken outside your traditional role as a judge, so ensure that you consult with the appropriate professionals.

**Use the judicial role to bridge gaps between systems.**

- You may see gaps in service between service providers. By using the influence of your office, you can close those gaps and provide better overall treatment options for the participants appearing in court.
- You are in the best position to initiate discussion between agencies about gaps in services and systems because you are in the best position to see the problems. Often gaps are caused by competing agencies. As a neutral third party with authority, you can persuade the competing agencies to address the problem from a holistic view and ask them to collaborate to solve it.

## **ELEMENT 5 – Providing Screening/Assessment/Treatment/Rehabilitation Services that Occur as Close to the Initiating Event as Possible**

*As soon as possible after the initial hearing, continue the screening process that you began when you asked the questions on the bench card. The partnerships that were established in Element 4 will assist in establishing the processes to complete the screening and assessment.*

### **Develop basic referral resources.**

- Inventory what resources are available in your community for treatment, recovery, and rehabilitation and put them into a directory for your use on the bench.
- Partner with a local university or law school to get an intern to create the directory.
- Before using a particular service or making direct referrals, scrutinize the agency. Not all agencies provide the same level or quality of service.
- Have a representative from the referral resource available in the courtroom. It is an effective means of linking a resource to an individual.
- Alternatively, consider making a specific person (e.g., bailiff, attorney, or volunteer) responsible for helping link individual litigants to community resources in the courtroom.

**Open lines of communication with other judges, the community, and existing court liaisons from outside agencies, enhancing your ability to get timely feedback, including reports, from the various agencies.**

**Collaborate with the community and agencies that can assist with identifying needs, such as schools. Creating linkages with other agencies can meet several goals such as case prioritization for rapid intervention, identification of resources, and building community support for the court program.**

### **Advocate for community needs.**

- Team with service providers to educate the community about the need for services so that the service system doesn't become overwhelmed with additional work from court referrals. Note that "traditional" criminal justice litigants are also being served by community providers, so factor that into the equation.
- Government agencies and non-governmental agencies are already providing a myriad of services. There is competition for these services from other agencies such as probation, corrections, and social services and caution is needed to avoid misunderstandings and turf issues. Orders you make may slow down or eliminate the availability of existing services to other agencies.

## **ELEMENT 6 - Frequent Monitoring of Behavior and Incentives/Sanctions Applied as Close to the Behavior as Possible**

*Monitoring of participant behavior can be done by you, a member of your staff, an ancillary agency such as the probation department, or through a governmental or non-governmental organization. This will be developed during your planning process.*

**Request reports as needed and as court time allows. In the civil or domestic arena, the resources and infrastructure may not be available without cost to the litigants. Consequently, you may need to develop alternative ways to access the needed information.**

### **Delegate where possible.**

- Remember the primacy of the judicial role/voice: some things can't be delegated to surrogates if you want to communicate that you are in charge and that you care about effective case outcomes.



- If time restraints exist that preclude your direct involvement, at least ensure that the delegate is competently providing, evaluating, and monitoring the necessary services.

**Remain flexible by holding status hearings to review and modify treatment options based on ongoing progress and assessments.**

**Set up realistic goals and expectations commensurate with the presenting problem, e.g., mental illness, substance abuse, or co-occurring mental disorders.**

**Become familiar with the literature about the effectiveness of problem-solving techniques in various case types.**

**Acquire timely, relevant, and meaningful reports/test results from treatment providers/community agencies for each review hearing, including a progress report on community service completed by the participant.**

- Ask the reporting agencies to standardize the report format and to forward the information electronically, assuming this may be done with appropriate firewalls and privacy screens.
- Set up the reporting mechanism early. Without meaningful and timely information, the reviews have little impact.

**Educate yourself on literature on positive reinforcement and develop a mechanism for providing positive reinforcement appropriate for the participant.**

- Positive reinforcement, when used appropriately, can be an effective means of encouraging compliance.
- Educate yourself about the nature of addiction, domestic violence, mental illness, chronic quality-of-life offending, and other relevant issues in addition to the effects of positive reinforcement.
- Consider that it may be inappropriate to publicly congratulate or applaud a defendant who is making good progress in certain cases (e.g., domestic violence).

**Incentives and sanctions should be timely, consistent, certain, and appropriate (commensurate with behavior and presenting problem) so as to hold the litigant accountable, move the litigant towards the desired outcome, and protect the public safety.**

## **ELEMENT 7 – Ongoing Education of Judges, Staff and Community**

*One of the most important aspects of making improvements in how the justice system works and how judges are able to improve that system is through education of judges, their staff, and the community. Below are some recommendations on how judges can seek education outside their current areas of expertise as well as some ideas about how to implement informal education within the court. Further, there are recommendations for judicial and community education.*

### **Staff Education Recommendations**

- Survey staff to determine their educational needs.
- Consider the use of “brown bag” luncheon presentations for staff and judges.
- Provide in-service sessions where community-based providers are invited to describe available services.
- Exchange articles and other resources via email among staff members.
- Use the courtroom as a classroom, i.e., communicate basic values and principles in a consistent manner during court sessions.
- Cross-train by inviting different staff members to share expertise with the whole group.
- Seek out available state judicial branch education.

- Be aware of training opportunities within existing non-judicial staff associations and encourage participation (e.g., clerks' associations, attorney associations).
- Consider education that is relevant and functions appropriately for staff.
- Webcasts, podcasts, and other distance/electronic learning media are available on a variety of subjects.

### **Judicial Education Recommendations**

- Copy and steal everything (CASE). Using others' forms, checklists, methods, etc. does not constitute plagiarism.
- Visit other courts utilizing problem-solving techniques to learn about roles, forms, implementation, and style.
- Work with state judicial branch programs at annual conferences or other educational forums to create educational content.
- Attend a national program such as the National Drug Court Institute ([www.ndci.org](http://www.ndci.org)), National Association of Drug Court Professionals ([www.nadcp.org](http://www.nadcp.org)), the Counsel of State Governments ([www.consensusproject.org](http://www.consensusproject.org)), National Council of Juvenile and Family Court Judges ([www.ncjfcj.org](http://www.ncjfcj.org)), the National GAINS Center (<http://gainscenter.samhsa.gov>), and The National Judicial College ([www.judges.org](http://www.judges.org)) and visit their websites and subject matter clearing houses for more information.
- Exchange articles and other resources via email among judges.
- Establish "brown bags" or other short educational opportunities for judicial officers with the knowledge of your chief, presiding, or administrative judge,.
- Develop a resource list of mentor judges to whom interested judges may speak for guidance and assistance.
- Incorporate education about problem-solving principles and practices into new judge educational programs.

### **Community Education Recommendations**

- Invite the community to observe problem-solving courts.
- Encourage universities, law schools, and other teaching institutions to offer coursework on problem-solving court practices and principles and internships, and provide credit to students for observing problem-solving court hearings.
- Ask professional organizations (e.g., police, social workers, correction, probation, psychology, psychiatry, lawyers, addiction professionals, etc.) to provide continuing educational credits for teaching their members about problem-solving court practices.
- Specifically target legislative and executive leaders for education and feedback about problem-solving principles and practices (with support from your court management office).
- Request that functioning problem-solving courts mentor new courts.
- Identify public health and other professional conferences that relate to problem-solving practices and sign up to be a presenter.
- Utilize Law Day as an opportunity to educate the community about problem-solving courts.
- Use outreach officers (treatment professionals) to perform community needs assessments and provide education.
- Create informal opportunities for judges and other court personnel to interact with the community.
- Educate and work with the media to inform the community about problem-solving principles and practices.
- Use in-court opportunities to educate court users and litigants about court process and outcomes, e.g., kiosks, brochures, tapes, DVDs, and orientations.
- Distribute public relation brochures regarding problem-solving principles and practices to any relevant agency or office in more than one language if you are able to do so.



- Educate judges and other team members about public outreach. Link with diverse speakers who are appropriate to the community.
- Lead by example.

## Conclusion

*There are numerous studies that report similar positive results in various courts using problem-solving principles and methods:*

- Reduced recidivism in criminal cases
- Savings in the high cost of jail/prison beds
- Great public support
- Higher participant satisfaction than in courts not using the techniques
- Higher judicial satisfaction when working as a problem solver
- Savings in public funds for reduction in services that would have been rendered to defendants/litigants and their family members for such things as public assistance, publicly supported medical care, juvenile detention, juvenile out-of-home placement costs, and second generation offender costs

In 2000 and again in 2004 the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) passed joint resolutions that called for the “broad integration over the next decade of the principles and methods employed in the problem-solving courts into the administration of justice....”

This bench card and bench book provide assistance to judges who want to use the techniques that have become known as problem-solving methods in their courts. The bench book begins by discussing how to make the transition from a “process” focus to an “outcome” focus. It then provides an overview of the judge’s conversation with a defendant/litigant that may serve as the launching point for the judge’s transition to an outcome focus. It concludes with a description of how to establish a plan or road map in each particular case that will provide a more positive outcome. The bench book and the bench card are designed to provide assistance for the judge who wants to try one or two methods, and for the judge who is interested in using all of the problem-solving principles and methods.

# REFERENCE LIST

Below is a list of publications, videos, and websites that will be helpful in finding additional information about each of the topics. If you would like a more extensive reference list, please visit the downloads page at the NJC website at [www.judges.org/downloads](http://www.judges.org/downloads) and download the Effective Judging Reference List.

## CO-OCCURRING DISORDERS

### *Publications*

Goldkamp, John S. and Cheryl Irons-Guynn, *Emerging Judicial Strategies for the Mentally Ill in the Criminal Caseload: Mental Health Courts in Fort Lauderdale, Seattle, San Bernardino, and Anchorage*, BUREAU JUST. ASSISTANCE (Feb. 2001) NCJ #182504.

*Substance Abuse Treatment for Persons with Co-Occurring Disorders*, CENTER FOR SUBSTANCE ABUSE TREATMENT IMPROVEMENT PROTOCOL (TIP) 42 DHHS Pub. No. (SMA) 05-3922. (2005).

### *Video*

*Dual Diagnosis*, NAT'L INST. ON DRUG ABUSE (NIH Pub. No. 94-3596) (1994).

### *Websites*

#### **National GAINS Center**

[www.gainsctr.com](http://www.gainsctr.com)

A national center for the collection and dissemination of information about effective mental health and substance abuse services for people with co-occurring disorders who come in contact with the criminal justice system.

## Substance Abuse and Mental Health Services Administration (SAMHSA)

[www.samhsa.gov](http://www.samhsa.gov)

SAMHSA is the federal agency charged with improving the quality and availability of prevention, treatment, and rehabilitative services to reduce illness, death, disability, and cost to society resulting from substance abuse and mental illnesses.

## JUVENILE JUSTICE

### *Publications*

Boesky, Lisa Melanie, *Juvenile Offenders with Mental Health Disorders: Who Are They and What Do We Do With Them?* AMERICAN CORRECTIONAL ASSOCIATION (2002).

Conry, Julianne and Diane K. Fast, *Fetal Alcohol Syndrome and the Criminal Justice System*, BC FAS RESOURCE SOCIETY (2000).

Grisso, Thomas and Lee A. Underwood, *Screening and Assessing Mental Health and Substance Use Disorders Among Youth in the Juvenile Justice System*, NATIONAL CENTER FOR MENTAL HEALTH AND JUVENILE JUSTICE (December 2004) NCJ # 204956.

McGee, Charles M. et al., *Applying Drug Court Concepts in Juvenile and Family Court Environments, A Primer for Judges*, ST. JUSTICE INST. (June 1998) NCJ #179318.

### *Websites*

National Council of Juvenile and Family Court Judges (NCJFCJ)

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

NCJFCJ is a membership organization that provides education, resources, and technical assistance to juvenile and family court judges.

## MENTAL ILLNESS

### *Publications*

Amador, Xavier and Johanson, Anna-Lisa, *I Am Not Sick: I Don't Need Help!* BOOKS FOR LIFE (2000).

*Criminal Justice/Mental Health Consensus Project*, COUNCIL OF STATE GOVERNMENTS (June 2002).

*Diagnostic and Statistical Manual of Mental Disorders, 4th Ed.*, Text Revision, AMERICAN PSYCHIATRIC ASSOCIATION (2000).

Jamison, Kay Refield, *An Unquiet Mind*, RANDOM HOUSE (1995).

Osher, Fred C., M.D. and Irene S. Levine, Ph.D., *Navigating the Mental Health Maze: A Guide for Court Practitioners*, COUNCIL OF STATE GOVERNMENTS, THE (May 2005).

*Psychotherapeutic Medications 2006: What Every Counselor Should Know*, MID-AMERICA ADDICTION TECHNOLOGY TRANSFER CENTER, UNIVERSITY OF MISSOURI-KANSAS CITY (2006).

Whitaker, Robert, *Mad in America* PERSEUS PUBLISHING (2001).

## **Websites**

### **American Psychiatric Association**

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

Home page of the American Psychiatric Association, a medical society specializing in the diagnosis and treatment of mental and emotional illnesses and substance abuse disorders

### **American Psychological Association**

<http://helping.apa.org>

A comprehensive help center designed to help psychologists, students, and the general public access mental health information and services

### **Criminal Justice/Mental Health Consensus Project**

<http://consensusproject.org>

This project is a nationwide effort to help those involved in the criminal justice system improve their response to people with mental illness who become involved in, or are at risk of involvement in, the criminal justice system.

### **DSM IV**

[www.behavenet.com/capsules/disorders/d4class.htm](http://www.behavenet.com/capsules/disorders/d4class.htm)

Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition

### **National Alliance for the Mentally Ill**

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

A grassroots organization of consumers, families, and friends of people with severe mental illnesses

### **National Institute of Mental Health (NIMH)**

[www.nimh.nih.gov](http://www.nimh.nih.gov)

Mission is to diminish the burden of mental illness through research

### **National Mental Health Association (NMHA)**

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

Home page of the National Mental Health Association, a nonprofit organization addressing all aspects of mental health and mental illness

### **TAPA Center**

[www.gainsctr.com/flash\\_site/tapa](http://www.gainsctr.com/flash_site/tapa)

The TAPA Center assists in developing programs to divert people with mental illness from jail into community-based treatment and support.

## **PROBLEM-SOLVING COURTS**

### ***Publications***

Baar, Carl and Freda F. Solomon, *The Role of Courts: The Two Faces of Justice*, 15 THE COURT MANAGER 19 (2000).

Casey, Pamela and William E. Hewitt, *Court Responses to Individuals in Need of Services: Promising components of a service coordination strategy for courts*, NATIONAL CENTER FOR STATE COURTS (2001).

## **Websites**

### **Center for Court Innovation (CCI)**

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

CCI is a nonprofit think tank that helps courts and criminal justice agencies aid victims, reduce crime, and improve public trust in justice. The Center combines action and reflection to spark problem-solving innovation both locally and nationally.

### **National Center for State Courts (NCSC)**

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

NCSC is an independent, nonprofit organization dedicated to the improvement of justice.

### **National Criminal Justice Reference Service (NCJRS)**

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

NCJRS is a federally-sponsored information clearinghouse for people around the country and the world involved with research, policy and practice related to criminal and juvenile justice and drug control.

## **SUBSTANCE ABUSE**

### ***Publications***

*Defining Drug Courts: The Key Components*, DRUG COURTS PROGRAM OFF., OFF. OF JUST. PROGRAMS (Jan. 1997) NCJ #165478.

Hora, Peggy Fulton et al., *Therapeutic Jurisprudence and the Drug Treatment Court Movement: Revolutionizing the Criminal Justice System's Response to Drug Abuse and Crime in America*, 74 NOTRE DAME L. REV. 439 (Jan. 1999) NCJ #177020.

*Principles of Drug Addiction Treatment: A Research-Based Guide*, NAT'L INST. ON DRUG ABUSE (OCT. 1999) NCJ #179006.

Shavelson, Lonny, *Hooked*, THE NEW PRESS (2001).

*Street Drugs: A Drug Identification Guide*, PUBLISHER GROUP, LLC, (2005).

*Treatment Drug Courts: Integrating Substance Abuse Treatment With Legal Case Processing*, CENTER FOR SUBSTANCE ABUSE TREATMENT IMPROVEMENT PROTOCOL (TIP) 23 DHHS Pub. No. (SMA) 00-3475 (2000) [original 1996 print NCJ #179825].

### ***Video***

*Drug Abuse and the Brain*, NAT'L INST. ON DRUG ABUSE (VHS 57) (1998).

## **Websites**

### **AA World Services**

[www.alcoholics-anonymous.org](http://www.alcoholics-anonymous.org)

Home page of AA General Services Office

**American Society of Addiction Medicine (ASAM)**

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

Increase access to and improve the quality of addictions treatment

**American University Justice Programs, Drug Court Clearinghouse (DCC)**

[www.american.edu/justice](http://www.american.edu/justice)

The DCC maintains a comprehensive clearinghouse of operational and evaluative materials on adult, juvenile, family, and tribal drug courts and provides on-site technical assistance to drug court programs.

**Center for Substance Abuse Research, University of Maryland (CESAR)**

[www.cesar.umd.edu](http://www.cesar.umd.edu)

CESAR is dedicated to addressing the problems substance abuse creates for individuals, families, and communities.

**Join Together On-Line**

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

Information Website on reducing substance abuse and gun violence

**National Association of Drug Court Professionals (NADCP)**

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

NADCP is a voluntary membership organization that promotes and advocates drug courts and provides for collection and dissemination of information, technical assistance, and mutual support to association members.

**National Drug Court Institute (NDCI)**

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

Promotes education, research, and scholarships for drug courts and other court-based intervention programs

**National Institute on Drug Abuse (NIDA)**

[www.nida.nih.gov](http://www.nida.nih.gov)

NIDA's mission is to lead the nation in bringing the power of science to bear on drug abuse and addiction.

**Physicians and Lawyers for National Drug Policy**

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

Provides a non-partisan platform for expressing and disseminating informed, evidence-based professional opinion on policies and practices relating to substance abuse

# INSTITUTIONALIZING PROBLEM-SOLVING PRACTICES IN ALL COURTS: A WORKING SUMMIT

MAY 10-12, 2005

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