

# The Unique Role of the Judge in Juvenile Drug Treatment Courts:

## ADVICE FROM THE FIELD



In August 2016, the National Council of Juvenile and Family Court Judges (NCJFCJ) held a focus group comprised of juvenile drug treatment court (JDTC) judges from around the country to discuss their unique role as a judge in the juvenile justice system *and* leading a JDTC team. This benchcard summarizes the advice they would give to new JDTC judges and/or to JDTC judges who are simply trying to better understand their role in this problem solving court.

## Why does the juvenile justice system need a JDTC?

The JDTC is a specialized docket within the juvenile justice system that provides targeted services to youth who have concurrent delinquency and substance use disorders. JDTCs are part of the larger body of problem solving courts which are characterized by a team approach, frequent judicial monitoring, and the use of strength-based behavior modification techniques to reduce crime and substance use. JDTCs, and the diverse professionals who work in them, address the gaps in service matching and supervision that the traditional system could not accomplish without the interaction of the team<sup>1</sup>. The research literature, as well as anecdotal information from JDTC judges confirms that effective utilization of the team approach is a key factor in any successful JDTC<sup>2</sup>. The JDTC team generally consists of a judge, a coordinator, probation officers or case managers, prosecutor, defense attorney, and treatment providers. In the team approach these professionals meet together to not only design the JDTC program, but also to staff the individual youth cases each week. It is during these staffings that the team works to come to consensus regarding appropriate responses to the youth's behavior.

1 Core team members include: Judge, Coordinator, Clinical Treatment Supervisor or Provider, Juvenile Probation Officer or Supervisor, State's Attorney, Public Defender, School Representative, Evaluator.

2 *Adult Drug Court Best Practice Standards: Volume Two*. Multidisciplinary Team pg. 38-51. Published by the National Association of Drug Court Professionals (2013).

## What is the purpose of the JDTC judge?

The purpose and role of the JDTC judge aligns with the foundational premises of the juvenile justice system (i.e., a non-adversarial system, focused on habilitation); however a pendulum swing in the 80's and 90's led the system down a punitive and adversarial path. Current research and advice from the field states that JDTC judges have two primary purposes: 1) serve as the leader of the team of diverse professionals who make up the JDTC team; and 2) forge connections with the JDTC youth and their families.<sup>3</sup>

## What should a JDTC judge know?

A JDTC judge should have a firm grasp on the following four topics to effectively lead a JDTC team and make evidenced-based decisions regarding the youth in their courts:

1. Adolescent substance use and substance use treatment<sup>4</sup>
2. Adolescent development (e.g., adolescent decision-making; motivating factors)<sup>5</sup>
3. Racial and ethnic disparities and how to ensure equal access to services<sup>6</sup>
4. The use of data in making decisions<sup>7</sup>

3 *Greater Than the Sum of Their Parts: Clarifying Roles, Responsibilities, and Expectations of Juvenile Drug Court Teams*: Judges pg. 5. Published by the National Council of Juvenile and Family Court Judges (2016).

4 For more information visit NCJFCJ's Adolescent-Based Treatment Database at: <http://www.ncjfcj.org/our-work/adolescent-based-treatment-interventions-and-assessment-instruments>

5 For more information visit Facts for Families (Adolescent Development Part I and II): American Academy of Child and Adolescent Psychiatry at: [http://www.aacap.org/AACAP/Families\\_and\\_Youth/Facts\\_for\\_Families/FFF-Guide/Normal-Adolescent-Development-Part-I-057.aspx](http://www.aacap.org/AACAP/Families_and_Youth/Facts_for_Families/FFF-Guide/Normal-Adolescent-Development-Part-I-057.aspx)

6 For more information visit the Burns Institute's Racial and Ethnic Disparities webpage at: <http://www.burnsinstitute.org/what-is-red/>

7 For more information download/review *Continuous Quality Improvement Guide for Juvenile Justice Organizations* at: <http://www.ncj.org/Publication/Continuous-Quality-Improvement-Guide-for-Juvenile-Justice-Organizations.aspx>

## What types of skills and/or attributes should a JDTC judge possess?

There is a common saying in problem-solving court circles – “good judge, good court,” and in many ways this is true. The efficacy of a JDTC does depend, in large part, on the judge. The judge’s role as a leader on the JDTC team can drive teams to follow recommended practices and make data-driven decisions. However, the opposite side to this is true as well – judges can also lead teams down a path that is not driven by data and/or research. During the focus group, the JDTC judges listed recommended skills and attributes that a judge should possess or work hard to develop.

### Skills or Knowledge (things a judge can learn from training or technical assistance)

Juvenile drug treatment court judges should receive training on:

- Adolescent substance use
- JDTC recommended practices
- Juvenile justice in general (i.e., current recommended practice)
- Effective management, facilitation, and public relation strategies
- Trauma informed care
- Collaborative leadership
- Shared information and communication across agencies

### Attributes or Traits (things a judge can practice or improve upon)

Juvenile drug treatment court judges should strive to incorporate the following traits when working with the JDTC team, as well as youth and families:

- Active listening skills
- A sense of positivity, passion, and creativity
- An open-minded attitude toward behavior change and adolescent development
- An ability to build relationships
- An ability to be patient and empathetic
- A respectful attitude

## What are some common challenges that judge might face while presiding over a JDTC?

### Ultimate Decision Maker

#### Challenge:

While the goal for JDTC teams is to reach consensus regarding responses to youth behavior, in some cases, the diverse group of professionals on the JDTC team may not agree on responses and/or recommendations for placement or supervision and have difficulty reaching consensus during pre-court staffing. In those cases, the team looks to the judge to be the tie breaker. But the role of the judge is to be more than just a tie breaker, he/she should work to build consensus among the team while remembering that he/she is always the ultimate decision maker.

#### Advice:

- Take a proactive approach to this challenge by working with the team to create ground rules re: information sharing and decision points.
  - ▷ Schedule a meeting with the team outside of pre-court staffing to affirm team roles/responsibilities and how decisions will be made as a team<sup>8</sup>.
- Provide teams with clear guidance about the type of supporting information (and how it will be reported during pre-court staffing) needed to make an evidence-based decision (e.g., assessment diagnosis, past interventions, etc.)

### Community Outreach

#### Challenge:

Many JDTC judges are active in their communities and pressure other judges to follow suit. In addition, JDTC teams depend on their judges to promote the court and bring stakeholders to the table to assist in resource development and sustainability. This is second nature to some judges; however many judges feel uncomfortable in this role.

<sup>8</sup> Use the Appendices (pg. 14-15) in *Greater Than the Sum of Their Parts: Clarifying Roles, Responsibilities, and Expectations of Juvenile Drug Court Teams* to assist with facilitating this conversation with the team.

### Advice:

- Understand the ethical boundaries for judges and court personnel and work within those boundaries to engage the community.
- Work with the team to develop an “elevator speech” that can be used during community outreach activities.
- Draft goals with the team – what does the team want to achieve by working with the community? This includes setting benchmarks so the team can track success and progress<sup>9</sup>.

## Ethical Considerations

### Challenge:

The team approach is a key factor in successful JDTCs; however, it does bring a number of ethical considerations (e.g., ex parte communications, neutrality, etc.).

### Advice:

- Understand the ethical cannons in the jurisdiction/state.
- If an active judge is rotating or transitioning in a new judge, it is important to set a specific meeting to discuss ethical considerations before the new judge begins working with the team.
- Work with the program’s attorneys to draft clear guidelines and procedures for ex parte communications and information sharing (note: these should be codified in the policy and procedure manual<sup>10</sup>).
- Develop a termination process in collaboration with the team and the district or presiding judge to avoid conflict of interest issues, especially if there is only one judge in smaller, rural jurisdictions.

<sup>9</sup> For more information download and review *7 (Easy) Steps to Community Engagement and Resource Development* – found on page nineteen of the *7 Series: 7 Articles with 7 Easy Steps to Improving Your Juvenile Drug Court* at: <http://www.ncjfcj.org/resource-library/publications/7-series-7-articles-7-easy-steps-improving-your-juvenile-drug-court>

<sup>10</sup> For more information download and review *7 (Easy) Steps to Confidentiality and Information-Sharing in Juvenile Drug Court* – found on page fourteen of the *7 Series: 7 Articles with 7 Easy Steps to Improving Your Juvenile Drug Court* at: <http://www.ncjfcj.org/resource-library/publications/7-series-7-articles-7-easy-steps-improving-your-juvenile-drug-court>

## Building Rapport with Youth and Families

### Challenge:

Research indicates that in problem solving courts, rapport with the judge can have an impact on outcomes for participants. While this type of interaction may come naturally to some, for others it can be difficult to create a relationship with program clients.

### Advice:

- Make a point to look for strengths in each youth and family and enlist the entire team in this endeavor.
- When reviewing program progress use the “sandwich” approach to give feedback – positive-negative-positive.
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- Greet each youth and family as they approach for their review.
- If parents are in attendance it is important to engage with them regarding the youth’s progress, problem-solving, and input regarding goals, etc.

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- **Judge Garold Smith**,  
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The **National Council of Juvenile and Family Court Judges** (NCJFCJ), provides cutting-edge training, wide-ranging technical assistance, and research to help the nation's courts, judges, and staff in their important work. Since its founding in 1937 by a group of judges dedicated to improving the effectiveness of the nation's juvenile courts, the NCJFCJ has pursued a mission to improve courts and systems practice and raise awareness of the core issues that touch the lives of many of our nation's children and families.

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