

THE ROLE OF THE JUDGE AS A TEAM LEADER



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JUDICIAL BIAS CHECK

Problem Solving Courts can be impacted by bias at multiple points of the operation of the program. They include:

1. At Program Entry

- Subjective or unclear program entry requirements can lead to discriminatory practices by race, age, sexual orientation, geography, etc.

2. In Responding to Behavior

- Disparities may appear in the application of sanctions (who receives incarceration sanctions), as well as who receives incentives and who does not.

3. At Disposition for Program Failures

- Multiple factors may influence the disposition a participant receives upon program removal or failure. The primary factor may be the terms upon which the participant entered the program. Disparities may occur in terms of who goes to prison versus who receives a community sanction.

To raise awareness of possible bias Judges may:

1. At Program Entry:

- Ensure team is aware of disparities who among eligible populations who enter the program and those who do not.
- Track reasons for rejecting eligible participants who do not enter the program.
- Periodically review program screening process.

2. In Responding to Behavior:

- Ensure the utilization of sanctions and incentives is recorded and tracked.
- Periodically (e.g., quarterly, semi-annually, annually) review the data with the team.
- Emphasis on case plan factors, and assessment information in responding to behavior.

3. At Disposition for Program Failures:

- Consistent with terms of any plea agreement, program rules regarding termination process, motion by defense counsel, etc. hold a termination hearing.

