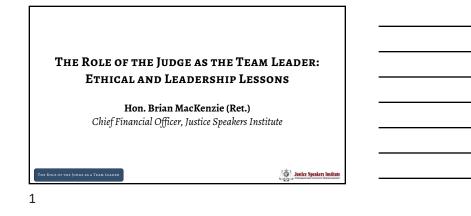
COLORADO PROBLEM SOLVING COURT JUDGES









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COLORADO PROBLEM SOLVING COURT JUDGES



Is There A Conflict Between PROBLEM-SOLVING COURTS AND THE DUTIES OF A JUDGE?

• Key Component # 2: "Legal rights such as due process and equal protection are never 'trumped' by therapeutic concerns even though the court's action may be anti-

therapeutic."

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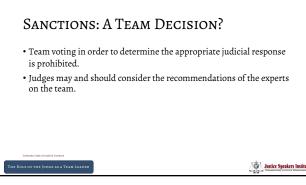
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JUDICIAL ETHICS

• Preamble of the Colorado Code of Judicial conduct (Code) requires that a judge perform the duties of judicial office impartially, competently, and diligently.

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COLORADO PROBLEM SOLVING COURT JUDGES



Ex-Parte Communications	
 Latin term meaning "by or for one party." The term refers to an attorney's communication with: 	
 A judge or arbitrator without notice to, and outside the presence of, the other parties; or, 	
• Another party outside the presence of that party's attorney.	
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JUDICIAL EX PARTE

• A judge shall not initiate, permit, or consider ex-parte communications, or consider other communications made to the judge outside the presence of the parties or their lawyers, concerning a pending or impending matter.

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COLORADO PROBLEM SOLVING COURT JUDGES







JUDICIAL ETHICS: OUT OF COURT CONTACT

• Must not associate;

• Must not have social contact; and,

• Matter of Blackman, 591 A.2d 1339 (N.J. 1991).

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COLORADO PROBLEM SOLVING COURT JUDGES

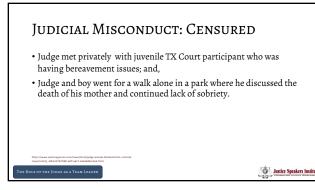


Judicial Misconduct: Removal	
• Judge met privately with probationers;	
• Did not inform probation officers; and,	
• Assisted in collecting a urine sample.	
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JUDICIAL MISCONDUCT: REMOVAL

- Judge invited participant to family events;
- Judge allowed him to handle a gun and go target shooting with judge's son; and,
- Participant was a felon and it is a felony for him to possess a firearm.

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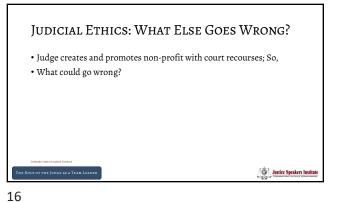




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COLORADO PROBLEM SOLVING COURT JUDGES





Judicial Misconduct: Censured And Removed

- Formed Association of Comprehensive Collaborative and Equitable Supervision and Services ("ACCESS");
- Lent the prestige of judicial office to advance the interests of the judge; and,
- Conduct that had the effect of coercing defendants into participating in the treatment court.

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Judicial Misconduct: Resigned & Indicted

- Holding participants in custody without counsel or hearing;
- Indefinite sentences;
- Loss of privileges like visits and phone calls; and,
- Lied about her actions to state agency.

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COLORADO PROBLEM SOLVING COURT JUDGES



Judicial Misconduct: Removal

- Judge informed arrest warrant would be served after court;
- Didn't want participant in custody; and,
- Allowed him to escape through her chambers.

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JUDICIAL MISCONDUCT: REMOVAL

- Judge kept Drug Court participants past the two-year limit;
- Jailed participants for contempt of orders of the drug court; and,
- Denied participants the right to counsel.

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COLORADO PROBLEM SOLVING COURT JUDGES

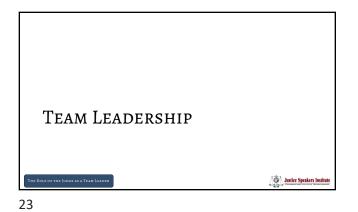


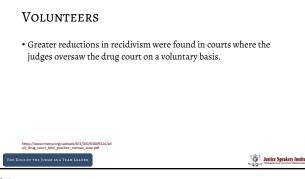
AVOIDING PROBLEMS

- Review your Canons and Codes;
- Check for any opinions specific to PS courts;
- Ask for ethics opinions on issues of concern;
- Examine your own prejudices; and,
- Preconceived notions, biases, and stereotypes about people with AOD abuse and/or mental disorders can prevent fairness and impartiality toward those who have them.

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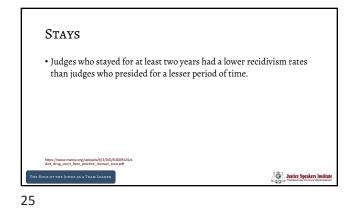
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COLORADO PROBLEM SOLVING COURT JUDGES





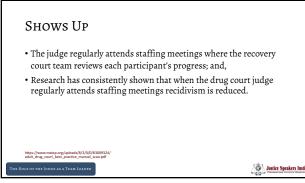
The Longer the Better

- Reduction in recidivism improved dramatically during the judge's second year;
- Judges require time and experience to learn how to perform their jobs effectively; and,
- For this reason, annually rotating assignments is contraindicated.



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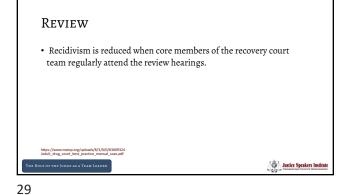


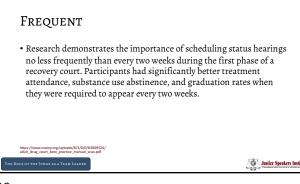
Staffing

- Recidivism is reduced when all of the core members of the recovery court team regularly attend staff meetings;
- This helps to ensure that timely information about participants' is communicated to the team; and,
- The judge has the primary responsibility for ensure team member attendance.

https://www.matcp.org/uploads/8/3/0/0/83009324 /adult_drug_court_best_practice_manual_scao.pdf re Role of The JUDGE AS A TEAM LEADER

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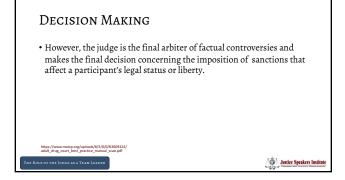


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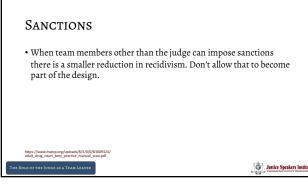
COLORADO PROBLEM SOLVING COURT JUDGES



Decision Making	
• Encourages team interaction with a goal of consensus. The collaborative nature of drug courts brings together experts from various disciplines. Their expertise and shared information allow the judge to make better-informed decisions.	
https://www.ndci.org/sites/default/files/ndci/Hora-Staicup.pdf	
THE ROLE OF THE JUDGE AS A TEAM LEADER	<u>e</u>
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Sanctions	
 Sanctions are imposed immediately after r Court imposes sanctions in advance of a cl court hearing. 	
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• At a review hearing appropriate, graduated and immediate rewards for compliance work better than sanctions. The impact of rewards is enhanced when the judge is the sole provider of those rewards.

https://www.matcp.org/uploads/8/3/0/0/83009324/ adult_drug_court_best_practice_manual_scao.pdf

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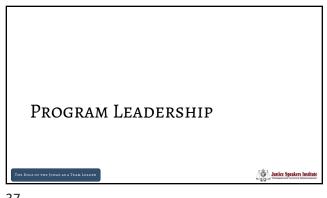


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COLORADO PROBLEM SOLVING COURT JUDGES





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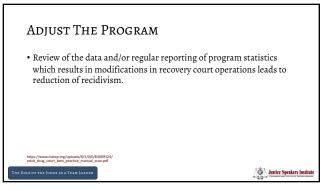
Develop the Program

- Initiates planning process;
- Bring together agencies/stakeholders to evaluate court processes/procedures;
- Collaborates to coordinate innovative solutions; and,
- Becomes a program advocate to create develop support for the program.

ROLE OF THE JUDGE AS A TEAM LEADER

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COLORADO PROBLEM SOLVING COURT JUDGES



Continuing Contact With The Community

- Formal Partnerships With Community Organizations: 133% Greater Cost Savings;
- Continue to be in contact with the agencies who worked to set up the court;
- Develop and maintain resources; and,
- Improve interagency linkages.

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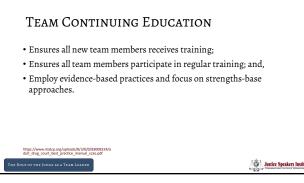
WRITE IT DOWN!

- Written policies and procedures are critical Policy and Procedure Manual;
- Participant Handbook;
- Client contract;
- Releases and orders;
- Incentives, Sanctions and Treatment Adjustments' Lists; and,
- Rules for phase movement.

https://www.ndci.org/wp-content/uploads/20 Benchbook-2017-Update.pdf

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COLORADO PROBLEM SOLVING COURT JUDGES



Build a Treatment Court That Lasts

- Maintain an institutional memory as assignments change;
- Maintain contact with former judges/other team members;
- Have a succession plan (after you stay at least two years); and,
- Create a legacy.

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Thank You For Your Kind Attention

FOR MORE INFORMATION Contact: Hon. Brian MacKenzie (Ret.)

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