
Incentives and Sanctions, and the Behavior Response Guide

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Department of Justice

Adapted from an original presentation developed by Shannon Carey, Ph. D, Helen Harberts, J.D. ,
Honorable Diane Bull and NPC research



EVIDENCE-BASED DECISION MAKING (EBDM) - BEHAVIOR RESPONSE GUIDE

Disclaimer

This document is meant to be used by treatment courts as guidance for determining appropriate responses for behavior. Programs will need to personalize the document with information that is program-specific. This document is not meant to limit judicial independence or professional judgment.

Developed by the EBDM Behavior Response Workgroup
April 15, 2019

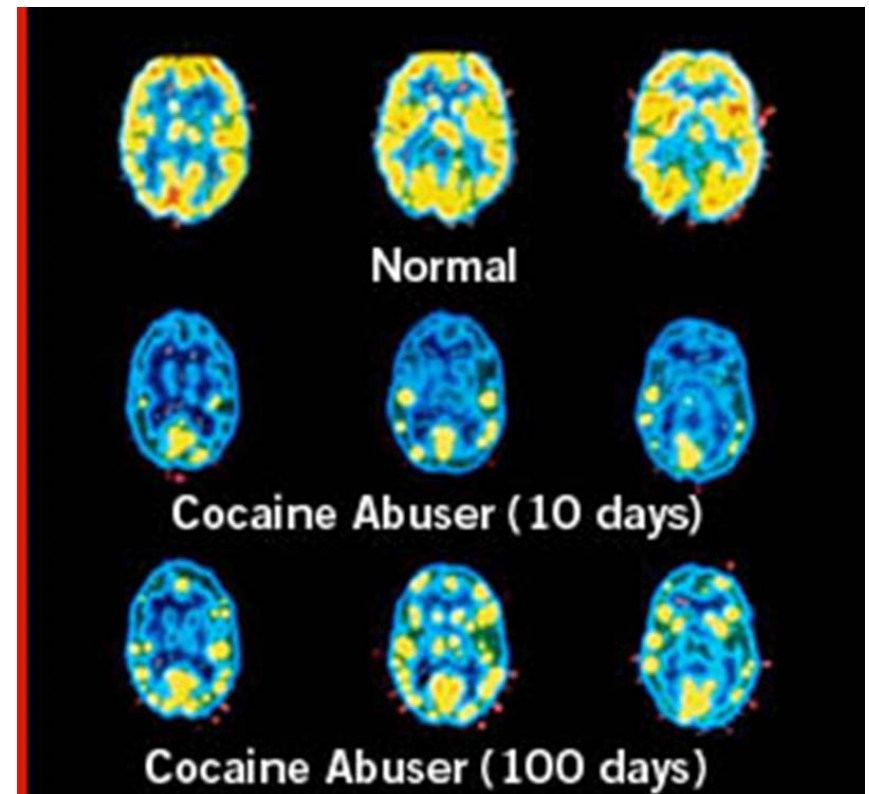
First and foremost...

REMEMBER WHAT WE'RE DEALING WITH

The enemy (addiction) is a difficult opponent

Brains take time to heal

Change is hard



The Beginning

“All behavior is followed by a consequence, and the nature of that consequence modifies the organisms tendency to repeat the behavior in the future.”

- B. F. Skinner



Behavior Modification

- SANCTIONS – Decrease or STOP behavior
- INCENTIVES – Increase or START behavior
- THERAPEUTIC ADJUSTMENTS – Treats addictive and criminal behavior
- SUPERVISION & DRUG TESTING – Monitors behavior

Certainty

Consistent Detection

- Behavior is connected to immediate consequence

Reliable Detection

- Detection allows the gathering of information needed by the Judge and team to determine an appropriate response

Form **1040** Department of the Treasury—Internal Revenue Service **2002** (999)

U.S. Individual Income Tax Return

For the year Jan. 1-Dec. 31, 2002, or other 12-year beginning period ending _____, 2002, ending _____

Label (See instructions on page 21.) Your first name and initial _____ Last name _____
 If a joint return, spouse's first name and initial _____ Last name _____

Use the IRS label. (See instructions on page 21.) Home address (number and street). If you have a P.O. box, see page 21 _____
 City, town or post office, state, and ZIP code. If you have a foreign address, see page 21 _____

Presidential Election Campaign (See page 21.) Yes No

Filing Status (See page 21.) 1 Single 4 Head of household
 2 Married filing jointly (even if only one had income) 3 Married filing separately. Enter spouse's SSN above _____
 Check only one box. _____

Exemptions (See page 22.) 6a Yourself. If your parent (or someone else) can claim you as a dependent on their return, do not check box 6a. _____
 6b Spouse. _____
Dependents: 6c 6d 6e 6f 6g 6h 6i 6j 6k 6l 6m 6n 6o 6p 6q 6r 6s 6t 6u 6v 6w 6x 6y 6z

If more than five dependents, see page 22.

Income (See instructions on page 21.) Attach Forms W-2 and W-2c here. Also attach Form 1099-R if tax was withheld. If you did not, see page 21.

7 Wages, salaries, tips, etc. (Attach Form(s) W-2) _____
 8a Taxable interest. Attach Schedule B if required. _____
 b Tax-exempt interest. Do not include on line 8a. _____
 9 Ordinary dividends. Attach Schedule B if required. _____
 10 Taxable refunds, credits, or offsets of state and local income taxes (See instructions on page 21.) _____
 11 Alimony received _____
 12 Business income or (loss). Attach Schedule C or C-EZ. _____
 13 Capital gain or (loss). Attach Schedule D if required. If not required, see instructions on page 21. _____
 14 Other gains or (losses). Attach Form 4797. _____
 15a IRA distributions _____
 15b Annuities _____
 16a Rental real estate, royalties, partnerships, S corporations, trusts, etc. A farm income or (loss). Attach Schedule E. _____
 16b Employment compensation _____
 16c Social Security benefits _____
 16d Taxable annuities _____
 16e Taxable interest _____
 16f Taxable dividends _____
 16g Taxable alimony _____
 16h Taxable business income or (loss) _____
 16i Taxable capital gain or (loss) _____
 16j Taxable other gains or (losses) _____
 16k Taxable IRA distributions _____
 16l Taxable annuities _____
 16m Taxable rental real estate, royalties, partnerships, S corporations, trusts, etc. A farm income or (loss) _____
 16n Taxable employment compensation _____
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 16u Taxable capital gain or (loss) _____
 16v Taxable other gains or (losses) _____
 16w Taxable IRA distributions _____
 16x Taxable annuities _____
 16y Taxable rental real estate, royalties, partnerships, S corporations, trusts, etc. A farm income or (loss) _____
 16z Taxable employment compensation _____

21 Total income. List type and amount (see page 20) in the far right column for lines 7 through 21. This is your gross income. _____

22 Total deductions. List type and amount (see page 20) in the far right column for lines 22 through 27. This is your adjusted gross income. _____

23 Taxable income. Subtract line 22 from line 21. This is your taxable income. _____

24 Tax. See instructions on page 21. _____

25 Refundable credits. See instructions on page 21. _____

26 Non-refundable credits. See instructions on page 21. _____

27 Total credits. Subtract line 26 from line 25. _____

28 Refundable amount. Subtract line 27 from line 24. This is your refundable amount. _____

29 Total tax. Add line 24 and line 27. _____

30 Refundable amount. Subtract line 28 from line 29. This is your refundable amount. _____

31 Total tax after refundable amount. Subtract line 30 from line 29. This is your total tax after refundable amount. _____

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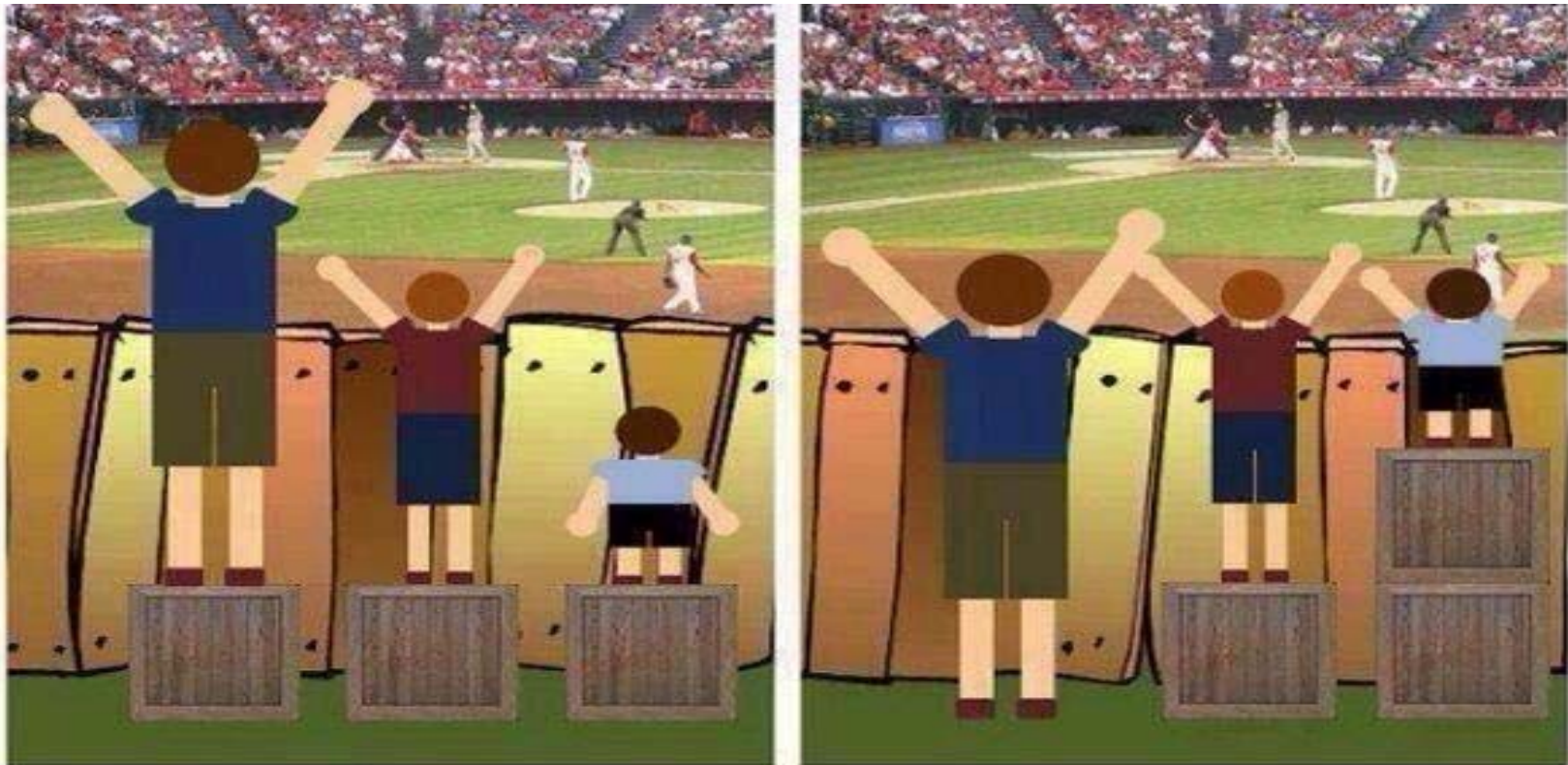
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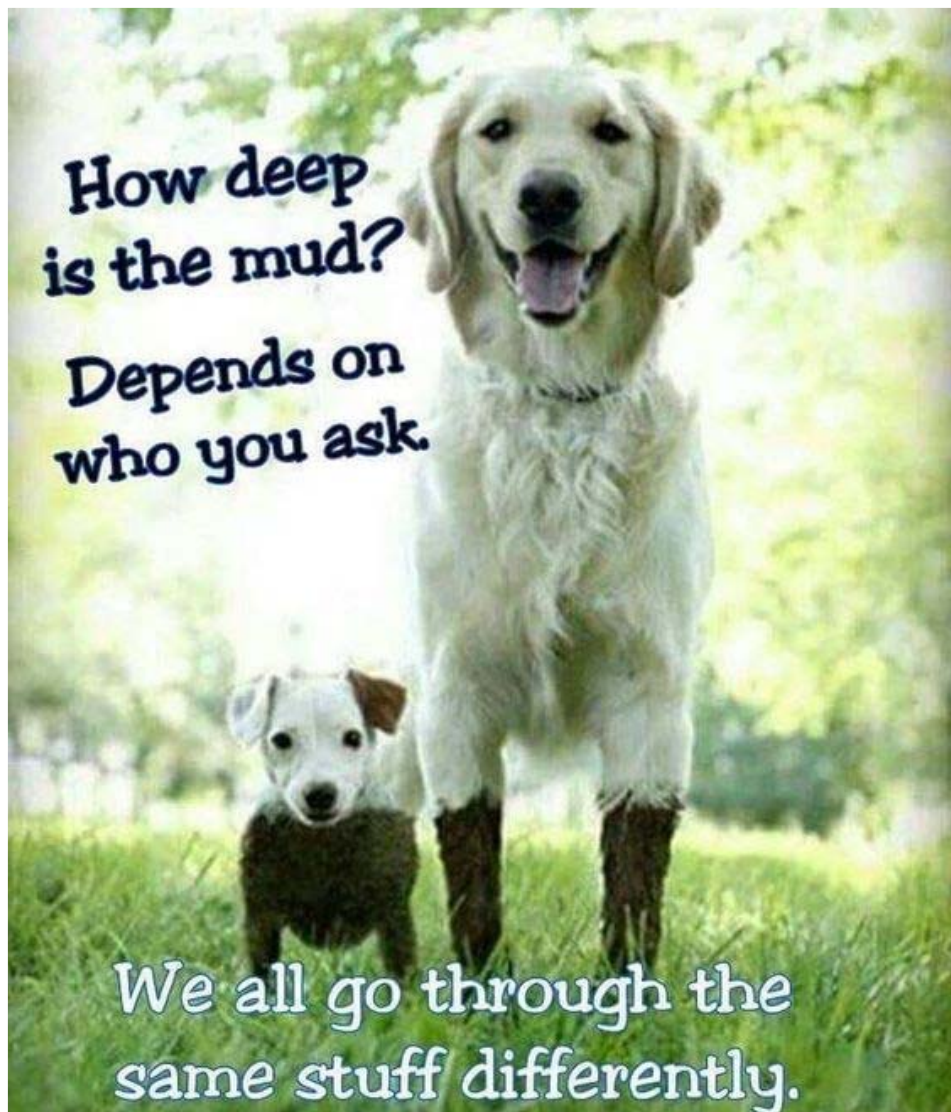
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Reliable Detection

- Urine drug testing at least 2x per week
- Random testing ALL 7 days, including holidays
- Continuous detection methods (patches, bracelet)
- Test for various drugs and alcohol, regardless of “drug of choice”
- Electronic monitoring
- Home visits
- Include Law Enforcement on the Team
- Frequent Meetings – Case manager, supervision, treatment

Fair does not mean the same





Staffing

Understand: this is about them, not you.

***Responses are in the eyes of the behaver,
not you.***

What the Team Brings



Changing Behavior Requires Information

Key Elements of a Staffing / Court Report

Static Information

- Name
- Case number
- Program entry date
- Offense/Conviction that triggered program entry
- Prior record
- Driver's license status
- Family members
- Military service completions

Key Elements of a Staffing / Court Report

Dynamic Information

- Sobriety date
- Current program phase
- Risk/Needs level
- Current barriers
- Individual goals
- Changes in employment
- New achievements (treatment completion, service work, etc.)
- Drug testing results
- Probation and Law Enforcement updates
- Treatment progress reports
- Prosocial accomplishments
- Sober support network
- [Records of recent incentives, sanctions, changes in treatment and supervision](#)

Staffing Considerations

BEHAVIOR RESPONSES:

- **WHO** are they in terms of risk and need?
- **WHERE** are they in the program (phase)?
- **WHY** did this happen (circumstances)?
- **WHICH** behaviors are we responding to?
 - Proximal or distal?
- **WHAT** is the response choice/magnitude?
- **HOW** do we deliver and explain the response?

TREATMENT / SUPERVISION CHANGES?





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Meet Susan

- Susan has been in your drug court program for 1 month. She has been consistently testing positive for cocaine, but she has just provided her first negative drug test. She was also 10 minutes late to her probation appointment. This is the first time she has been late.



Responsivity Factors and Reasonable Expectations

Initial Needs and Barriers <i>Factors that need to be addressed to increase the participants ability to engage in treatment</i>	Responsivity Factors <i>Individual factors that affect the achievement of treatment goals</i>	Criminogenic Needs (Big 4/Lesser 4) <i>Individual characteristics that directly relate to the likelihood to re-offend and commit another crime</i>
<ul style="list-style-type: none"> • Housing • Clothing • Physical health • Detoxification • Transportation • Child care • Self-care 	<ul style="list-style-type: none"> • Anxiety/depression • Poor social skills • Self-esteem • Inadequate problem-solving skills • Concrete-oriented thinking • Mental illness • Poor verbal skills • Age, gender, race/ethnicity • Motivational factors • Learning styles 	<ul style="list-style-type: none"> • Anti-social cognition • Anti-social personality • Anti-social companions • Family/marital • Substance abuse • Employment • Education • Leisure/recreation

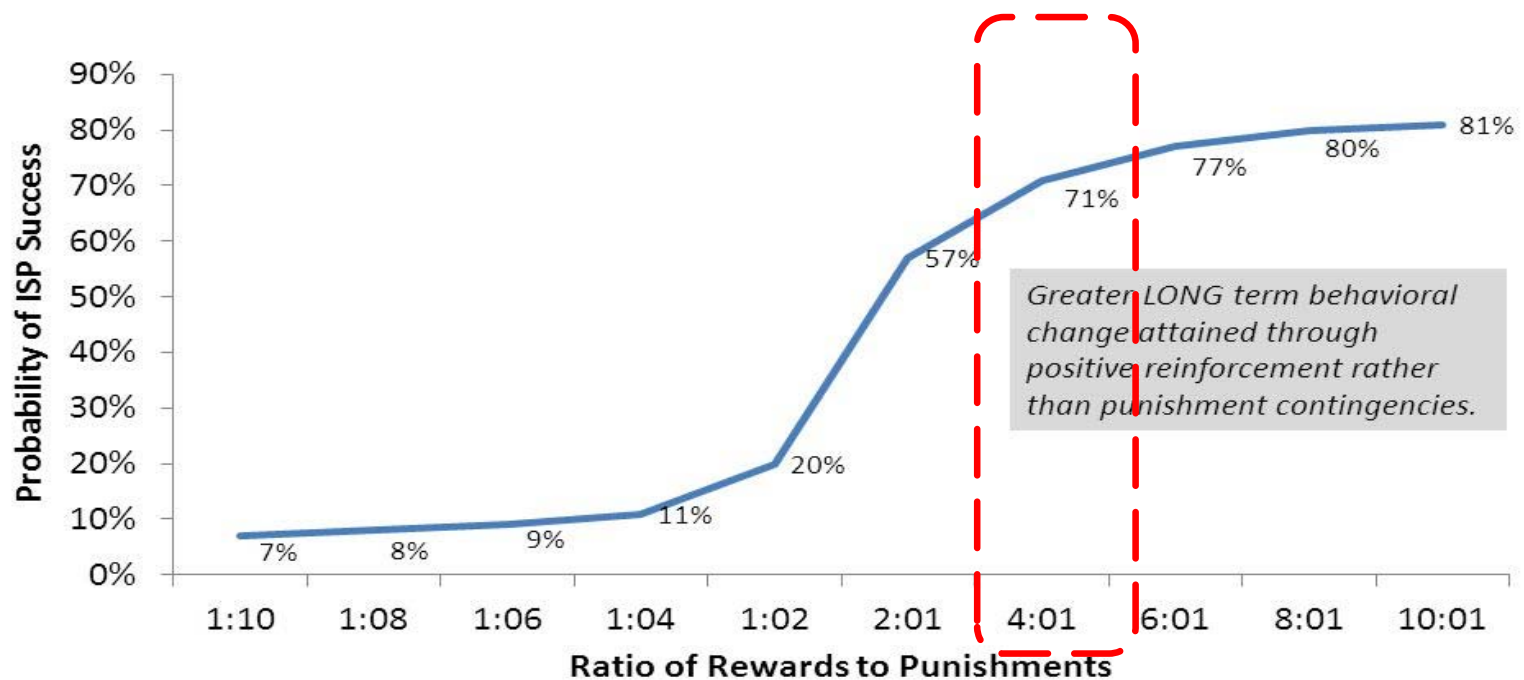
Proximal? Distal?

Determining Proximal and Distal Behaviors

Did the behavior demonstrate commitment towards achieving or departure from the following goals?

	Phase 1 Acute Stabilization	Phase 2 Clinical Stabilization	Phase 3 Pro-social Habilitation	Phase 4 Adaptive Habilitation	Phase 5 Continuing Care
Proximal	<ul style="list-style-type: none"> -Attending appointments -Engaging in treatment -Comprehension of program rules -Completing assignments -UA testing -Begin building recovery network -Start changing people, places, and things -Address housing -Building trust and honesty 	<ul style="list-style-type: none"> -Proximal goals of prior phase -Support group attendance -Building recovery skills -Employment/education plan -Short stretches of sobriety -Continue building recovery network -Address medical issues -Address financial issues 	<ul style="list-style-type: none"> -Proximal goals of prior phases -Active employment or attending school -Positive, sober activities -Longer stretches of sobriety -Maintaining recovery network -Begin criminal thinking program 	<ul style="list-style-type: none"> -Proximal goals of prior phases -Longer stretches of sobriety -Relapse prevention -Maintaining recovery network -Address ancillary services 	<ul style="list-style-type: none"> -Proximal goals of prior phases -Stable housing -Stable employment/school -Alumni group participation -Articulate continuing care plan
Distal	<ul style="list-style-type: none"> -Complete abstinence -Employment/education -Maintaining recovery -Stability 	<ul style="list-style-type: none"> -Complete abstinence -Employment/education -Maintaining recovery -Stability 	<ul style="list-style-type: none"> -Complete abstinence -Stability -Maintaining recovery 	<ul style="list-style-type: none"> -Complete abstinence -Stability -Maintaining recovery 	<ul style="list-style-type: none"> -Maintaining recovery

Ratio of Rewards to Punishments and Probability of Success on Intensive Supervision



Source: Widahl, E. J., Garland, B. Culhane, S. E., and McCarty, W.P. (2011). Utilizing Behavioral Interventions to Improve Supervision Outcomes in Community-Based Corrections. *Criminal Justice and Behavior*, 38 (4).

Incentive Matrix

<u>Graduated Incentives</u>				
Severity of Behavior				
		Participation Behavior	Engagement Behavior	Pro-Social Behavior
Proximal	First few times behavior is displayed	Medium	Medium/High	High
	Behavior is becoming more frequent	Medium/Low	Medium/Low	Medium/High
	Behavior is being consistently displayed	Low	Low	Medium
Distal	First few times behavior is displayed	Medium/High	High	High
	Behavior is becoming more frequent	Medium	Medium	Medium/High
	Behavior is being consistently displayed	Low	Medium/Low	Medium/Low

Sanction Matrix

<u>Graduated Sanctions</u>				
Severity of Behavior				
		Participation Risk	Sobriety Risk	Public Safety Risk
Proximal	First few times behavior is displayed	Low	Low/ Medium	Medium
	Behavior is becoming more frequent	Low/ Medium	Medium	High
	Behavior is being consistently displayed	Medium	Medium/ High	High
Distal	First few times behavior is displayed	Low	Low	Medium
	Behavior is becoming more frequent	Low	Low/ Medium	Medium/ High
	Behavior is being consistently displayed	Low/ Medium	Medium	High

Effective Sanctioning

“4:1” Only Works
if the “1” is occurring



Punishment is **NOT**
the goal of imposing
sanctions

What will they learn
from the sanction?



**CHANGING
BEHAVIOR IS
THE GOAL**

Factors Influencing Response Level

Mitigating Factors	Aggravating Factors
<ul style="list-style-type: none">● Lack of compliance due to physical or mental impairment, as validated by a medical professional● Actively and consistently has demonstrated positive engagement and progress with treatment court goals● Higher level sanction would significantly de-stabilize positive adjustment● Extenuating personal circumstances/significant life stressors● Time span between violation and discovery is substantial● Engaged in self-correcting behavior specific to the violation on own volition● Accepting full responsibility for actions/honesty● Coercion/duress/self-defense● Responsivity needs influencing behavior	<ul style="list-style-type: none">● Violation is directly related to current offense● Continued pattern of previous criminal behavior● Vulnerability of victim or others● Extreme cruelty or injury to victim or others● Weapon or implied weapon usage● Evidence of escalating mental health symptoms and/or drug/alcohol addiction● Chronic pattern of violations● Escalating pattern of violence● Critical threat to self, participant or community safety

Determine the Response

TREATMENT COURT INCENTIVES AND SANCTIONS						
High Incentive	Medium Incentive	Low Incentive	Category	Low Sanction	Medium Sanction	High Sanction
		-“Good effort this week.” -“I appreciate you being on time.” -“I can tell you are working hard to make improvements.”	Verbal*	-“How do you think this behavior has hurt you?” -“Why is it important to be on time?”		
-Phase advancement -Graduation	-Appointment as in-program peer mentor -All-Star list -Fishbowl Drawing -First up in court -Early release from court	-Sobriety chips, keychains, tokens, stones -Handshake, applause -Certificates of achievement -Letters of commendation -Posted accomplishments -Points, stickers	Symbolic Programmatic	-Written assignments -Letters of apology -Court observations -Activity logs -Journaling -Behavior focused homework	-Team Roundtables -Loss of program sobriety time -Community service	-Delay of phase advancement -Phase extension -Termination
-Travel privileges -Weekend passes -Overnight passes -Ambassadorships -Removal of electronic monitoring	-Less frequent probation/case manager contacts -Less frequent status hearings -Later curfew -Relaxed area restrictions -Self-help group facilitator		Community Liberty or Standing	-Imposed curfew/earlier curfew -Increased person or area restrictions -Increased program contacts	-Holding cell (return at end of day for court) -Community service -Loss of travel privileges	-Electronic monitoring -No contact orders -Home detention -Day reporting -Flash jail sanction (1-5 days) -Loss of leadership position -Saturday reporting

* Verbal responses should be focused on specific behaviors, not critiques of the person

Withholding a sanction is also an effective behavior management technique as an incentive for positive behavior. For example, sanctions for drug use might be suspended to reward honesty and help-seeking behavior.

Phase Demotion or Advancement Delay

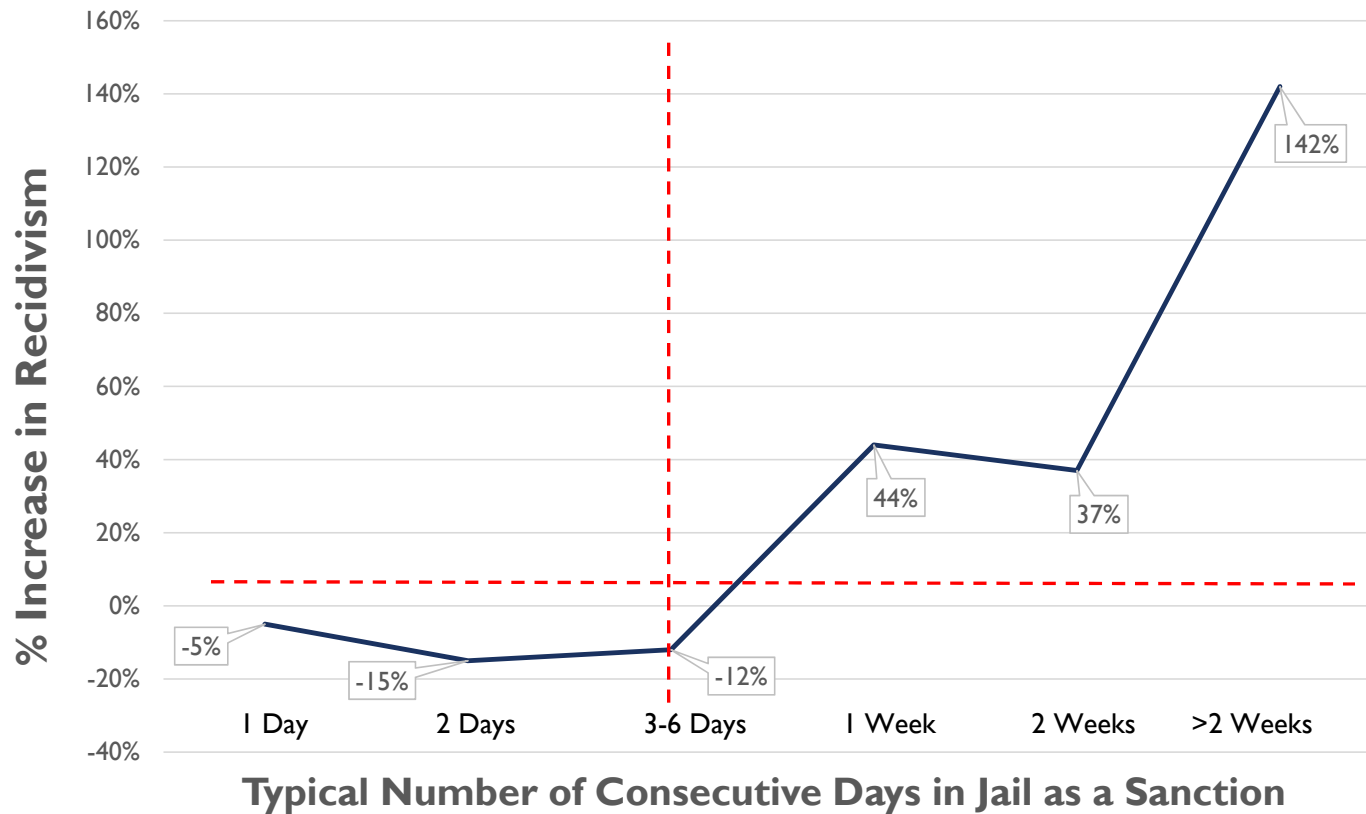
- Phase Demotion VERY RARELY be used, IF EVER
- Phase delay/hold
- Match the level of infraction with a similar magnitude sanction
- *Judicial Benchbook*, “The success of any drug court will depend largely on its ability to apply a meaningful range of intermediate rewards and sanctions”

Jail Sanctions



- Often not effective
- Can make a participant's situation much worse
- Should be reserved for serious infractions
 - Public Safety
 - Illegal Activity

Courts that typically impose jail sanctions longer than 6 days have higher recidivism rates



Upcoming WI Standards Trainings

- New Team Member Training (September 2019)
 - Intended for new team members joining already established treatment courts
- Standards 101 Training (Spring 2020)
 - Intended for entire teams beginning to plan or have recently implemented a treatment court program
- Advanced Standards Trainings (Fall 2020)
 - Intended to dive deeper into components of the WI Treatment Court Standards

SAVE THE DATE!

The Wisconsin Department of Justice, in partnership with the Office of Court Operations, is excited to offer a....

FREE TREATMENT COURT STANDARDS TRAINING

(For Individual **NEW** Team Members)

This training is for **NEW** team members who have joined an established treatment court and need training on the WI Treatment Court Standards.

Critical Information to Include:

- » A Better Understanding of the Wisconsin Treatment Court Standards and Your Role
- » A Break Out Session with Other Individuals in Your Discipline
- » A Standards 101 Training will be held in 2020/2021 for whole teams.

September 10th
Blackhawk
Technical College
Janesville, WI

September 18th
Fox Valley
Technical College
Appleton, WI

September 25th
Wisconsin Indianhead
Technical College
Rice Lake, WI

Registration & Agenda Coming Soon