



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

## 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

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## Determine Participant Responsivity Factors and Reasonable Expectations

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Determine the appropriateness of program expectations and participant behavior based on initial needs and barriers, responsivity needs, and criminogenic needs. Based on the chart below, determine if the behavior being required is a reasonable expectation of the participant. If not, the response level will need to be altered. These factors should be considered, but should not be used to exclude a participant from the program.

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

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## Determine Proximal and Distal Goals

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*Proximal – goals attainable in a short period of time*

- Stepping stones toward behavior necessary for long-term objectives to be achieved; participant is already capable of performing; increases motivation; allows ongoing feedback; makes long-term goals more manageable.

*Distal – goals accomplished over an extended period of time*

- Goals established to support long-term, sustained recovery; increased self-confidence and self-assurance; build resiliency; and assist in identifying strengths and weaknesses.

**Distal goals can become proximal as a participant advances in the treatment court program.**

## Comprehensive Case Planning

Case planning is intended to reduce risk by targeting criminogenic needs. Case planning also prioritizes interventions based on need. Responsivity factors should also be considered and addressed throughout the program. Case plans should include proximal and distal goals and be updated as risk, needs, and goals change.

### Determine Phase and if Behavior is Related to a Proximal or Distal Goal

Depending on what phase the participant is currently in, determine whether the behavior is related to a proximal or distal goal. It is important to remember that only observable behaviors should be considered. NDCI recommends having 5 phases, minimum days in the phase and minimum days of sobriety before advancing to the next phase.

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

Some information provided in this chart was used with permission from *Revisiting Phases: Risk Matters*, National Drug Court Institute, January 2017.

## Determine Behavior Characteristics

The grids below give recommended response levels based on the client’s goals and behaviors. If you are determining positive behaviors that you want to encourage, follow the Graduated Incentives grid. If you are determining negative behaviors that you want to discourage, follow the Graduated Sanctions grid. To use the charts below:

- Determine if the behavior is proximal or distal and frequency of behavior (the rows)
- Determine severity of behavior (the columns)
- The intersection will determine the recommended response level (low, medium, high)

<b>Graduated Incentives</b>				
<b>Severity of Behavior</b>				
		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

<b>Graduated Sanctions</b>				
<b>Severity of Behavior</b>				
		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

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**Participation Behavior:** Behaviors that support direct participation in the associated program

**Engagement Behavior:** Behaviors that demonstrate engagement with the goals of the program outside of the specific setting of the program itself

**Pro-Social Behavior:** Behaviors that demonstrate building relationships with others that encourage the goals of the program

**Participation Risk:** Behaviors that negatively impact participation in the associated program

**Sobriety Risk:** Behaviors that may contribute to relapse for the client’s specific area of intervention

**Public Safety Risk:** Behaviors that may contribute to a public safety concern, both in regards to the program’s specific area of intervention and/or more generally

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### *Factors Influencing Response Level*

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Once the recommended response level to the violation is determined utilizing the grid, the team should review the aggravating and mitigating factors chart to determine if the response level should be changed. Use professional judgement to determine if there are factors present that could dictate a change in response level.

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

**Aggravating Factors** increase the severity of a behavior. If aggravating factors are present, it may be appropriate to increase the response level.

**Mitigating Factors** decrease the severity of a behavior. If mitigating factors are present, it may be appropriate to decrease the response level.

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### *Sanction and Therapeutic Response*

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When holding participants accountable for their behavior, it is important for treatment providers to also evaluate whether an adjustment to the participant’s treatment plan is necessary in order to address the behavior. Increased treatment must not be considered a sanction. It is important that therapeutic responses be delivered by the treatment provider to help prevent an aversion to treatment. Programs that do not have the participant’s treatment providers as members of the team should ensure treatment providers are notified when sanctions are imposed. This will afford them the opportunity to amend their therapeutic approach as appropriate. Additionally, courts should not impose amendments to the treatment plan (e.g., require the participants to attend additional treatment groups) without first consulting a clinical practitioner.

## Determine the Response

Use the *Incentives and Sanctions* chart to select specific incentives or sanctions based on the recommended response level after considering aggravating and mitigating factors.

TREATMENT COURT INCENTIVES AND SANCTIONS						
High Incentive	Medium Incentive	Low Incentive	Category	Low Sanction	Medium Sanction	High Sanction
		<ul style="list-style-type: none"> <li>-“Good effort this week.”</li> <li>-“I appreciate you being on time.”</li> <li>-“I can tell you are working hard to make improvements.”</li> </ul>	<b>Verbal*</b>	<ul style="list-style-type: none"> <li>-“How do you think this behavior has hurt you?”</li> <li>-“Why is it important to be on time?”</li> </ul>		
<ul style="list-style-type: none"> <li>-Phase advancement</li> <li>-Graduation</li> </ul>	<ul style="list-style-type: none"> <li>-Appointment as in-program peer mentor</li> <li>-All-Star list</li> <li>-Fishbowl Drawing</li> <li>-First up in court</li> <li>-Early release from court</li> </ul>	<ul style="list-style-type: none"> <li>-Sobriety chips, keychains, tokens, stones</li> <li>-Handshake, applause</li> <li>-Certificates of achievement</li> <li>-Letters of commendation</li> <li>-Posted accomplishments</li> <li>-Points, stickers</li> </ul>	<b>Symbolic Programmatic</b>	<ul style="list-style-type: none"> <li>-Written assignments</li> <li>-Letters of apology</li> <li>-Court observations</li> <li>-Activity logs</li> <li>-Journaling</li> <li>-Behavior focused homework</li> </ul>	<ul style="list-style-type: none"> <li>-Team Roundtables</li> <li>-Loss of program sobriety time</li> <li>-Community service</li> </ul>	<ul style="list-style-type: none"> <li>-Delay of phase advancement</li> <li>-Phase extension</li> <li>-Termination</li> </ul>
<ul style="list-style-type: none"> <li>-Travel privileges</li> <li>-Weekend passes</li> <li>-Overnight passes</li> <li>-Ambassadorships</li> <li>-Removal of electronic monitoring</li> </ul>	<ul style="list-style-type: none"> <li>-Less frequent probation/case manager contacts</li> <li>-Less frequent status hearings</li> <li>-Later curfew</li> <li>-Relaxed area restrictions</li> <li>-Self-help group facilitator</li> </ul>		<b>Community Liberty or Standing</b>	<ul style="list-style-type: none"> <li>-Imposed curfew/earlier curfew</li> <li>-Increased person or area restrictions</li> <li>-Increased program contacts</li> </ul>	<ul style="list-style-type: none"> <li>-Holding cell (return at end of day for court)</li> <li>-Community service</li> <li>-Loss of travel privileges</li> </ul>	<ul style="list-style-type: none"> <li>-Electronic monitoring</li> <li>-No contact orders</li> <li>-Home detention</li> <li>-Day reporting</li> <li>-Flash jail sanction (1-5 days)</li> <li>-Loss of leadership position</li> <li>-Saturday reporting</li> </ul>

\* 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.**

TREATMENT COURT INCENTIVES AND SANCTIONS (CONTINUED)

High Incentive	Medium Incentive	Low Incentive	Category	Low Sanction	Medium Sanction	High Sanction
<ul style="list-style-type: none"> <li>-Supervised day trips</li> <li>-Supervised social gatherings</li> <li>-Family Day</li> </ul>	<ul style="list-style-type: none"> <li>-Self-improvement services</li> <li>-Resume writing assistance</li> <li>-Job interview prep</li> <li>-GED assistance</li> <li>-Meal prep or nutritional classes</li> <li>-Yoga or exercise classes</li> </ul>	<ul style="list-style-type: none"> <li>-Toiletries</li> <li>-Clothing</li> </ul>	<b>Life Skills</b>	<ul style="list-style-type: none"> <li>-Written assignments</li> <li>-Video assignments</li> <li>-Obtain ID card</li> <li>-Open a bank account</li> </ul>		
<ul style="list-style-type: none"> <li>-Dismissal of the charge</li> <li>-Vacation of a guilty plea</li> <li>-Reduction in the charge</li> <li>-Avoidance of jail/prison</li> <li>-Curtailment of a probation term</li> <li>-Expungement of arrest of conviction</li> </ul>			<b>Legal</b>			<ul style="list-style-type: none"> <li>-Termination</li> <li>-Revocation of probation</li> <li>-Return to regular criminal justice process for sentencing</li> <li>-Stayed sentencing imposed</li> </ul>
<ul style="list-style-type: none"> <li>-High denomination gift cards</li> <li>-Concert/sports tickets</li> <li>-Tattoo removal</li> <li>-Savings bonds</li> <li>-Home improvement or car repair assistance</li> <li>-Waiver of fines/fees</li> <li>-Gym, health club, YMCA memberships</li> <li>-Bicycles</li> </ul>	<ul style="list-style-type: none"> <li>-Medium denomination gift cards</li> <li>-Movie passes</li> <li>-Haircuts</li> <li>-Makeup/cosmetics</li> <li>-Bowling, skating, other recreational passes</li> <li>-Diapers</li> <li>-Quilts, blankets, towels</li> <li>-Gas cards</li> <li>-Groceries</li> <li>-Intro memberships to gyms or spas</li> </ul>	<ul style="list-style-type: none"> <li>-Low denomination gift cards</li> <li>-Bus token, cab voucher</li> <li>-Healthy foods/candy/gum</li> <li>-Reading/coloring books</li> <li>-Planners</li> <li>-School/art supplies</li> <li>-Frames/picture albums</li> </ul>	<b>Tangible</b>		<ul style="list-style-type: none"> <li>-Monetary fees for associated program costs</li> <li>-Fees for services provided for costs incurred</li> </ul>	

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