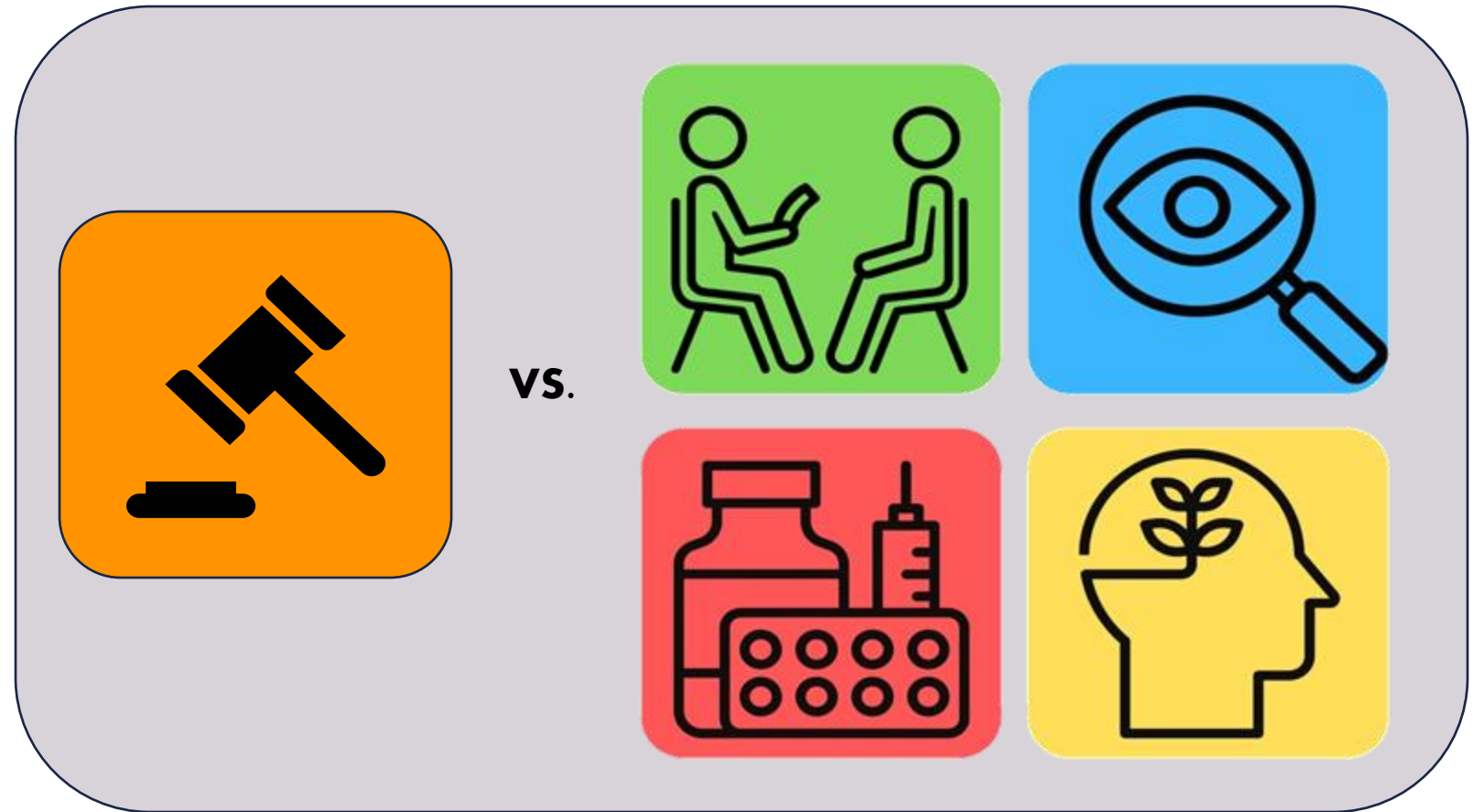


When to **Sanction,** When to **Support**

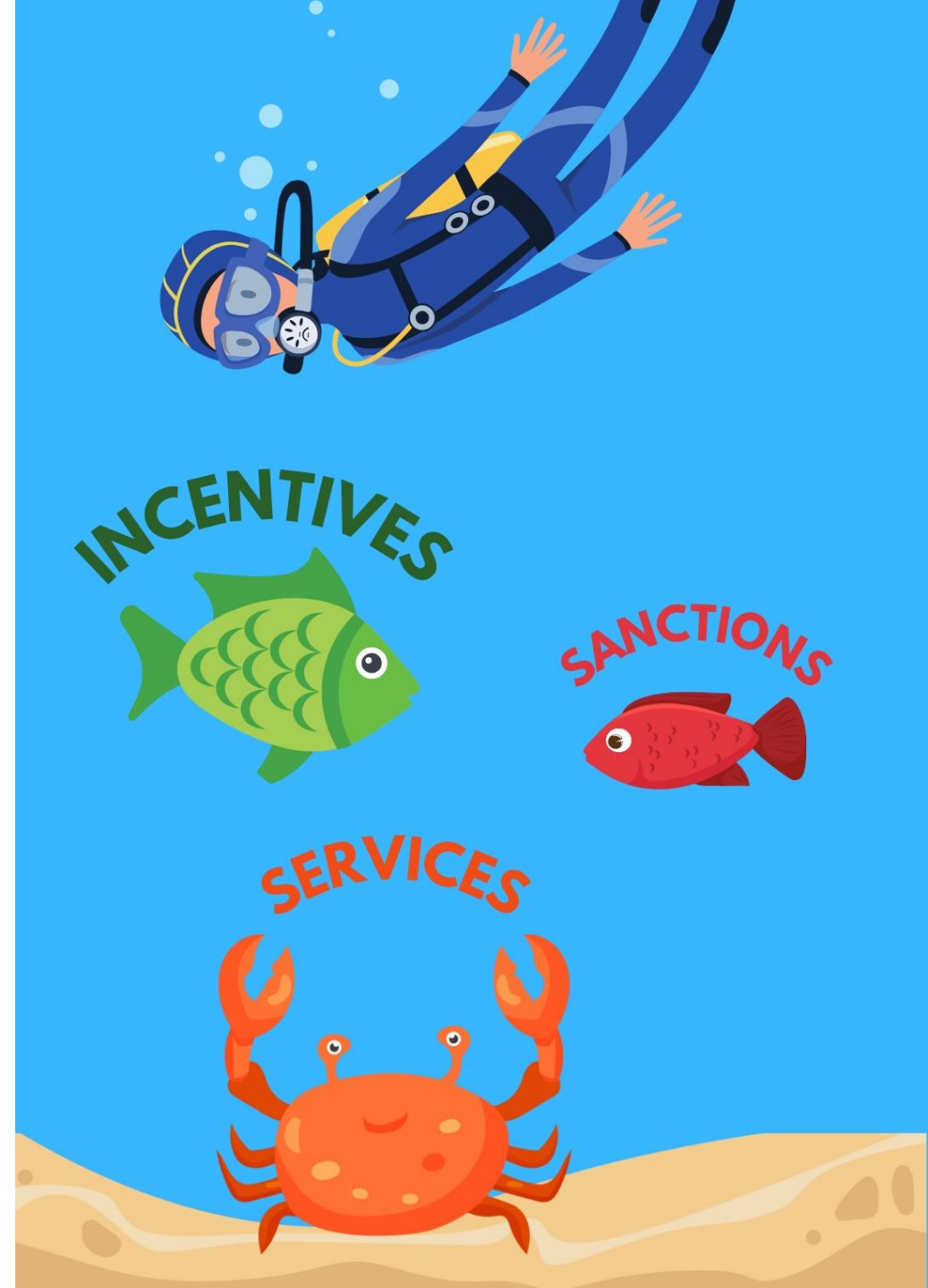


Unlocking Effective Court Responses to Inappropriate Behavior

© Hon. Diane Bull, Ret.
Hon.DianeBull@gmail.com

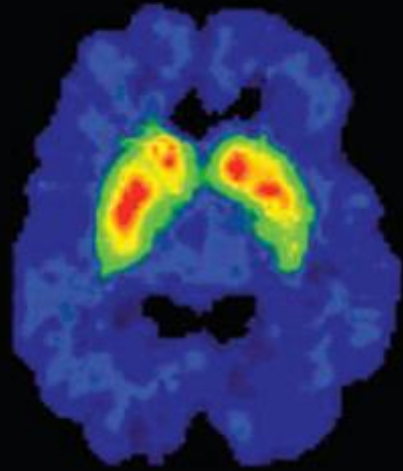
What we'll cover:

- Review key features of our array of behavioral responses, focusing on **how to respond effectively to noncompliant behavior**
- Review **fundamentals of behavior modification**
- Put our terrific tools to work in a *deep dive* of real-life treatment court scenarios

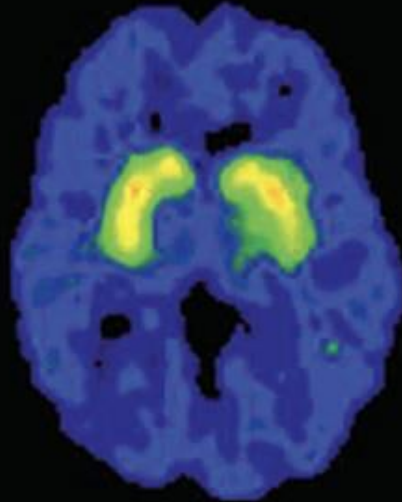


We have a tough adversary.

BRAIN RECOVERY WITH PROLONGED ABSTINENCE

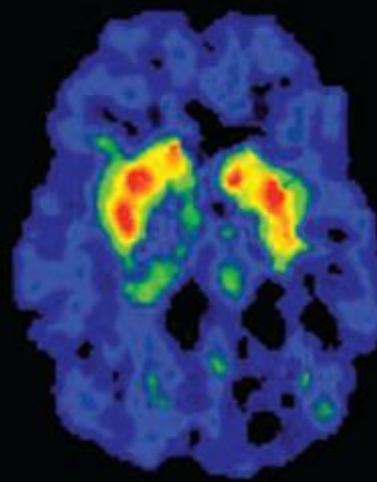


HEALTHY
CONTROL



PATIENT WITH METHAMPHETAMINE
USE DISORDER

1 MONTH OF
ABSTINENCE



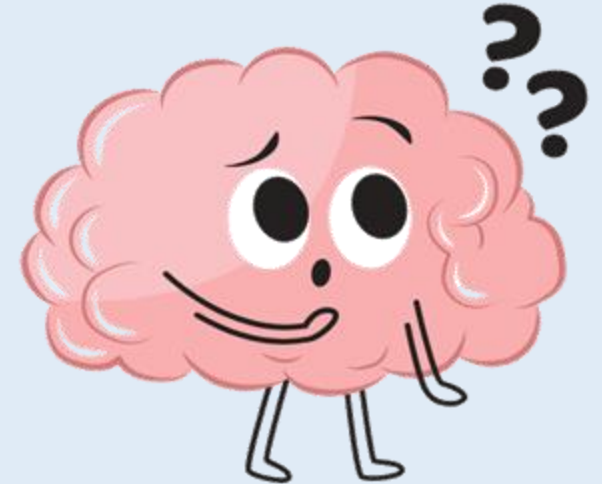
14 MONTHS OF
ABSTINENCE

- Change is especially hard for HR/ HN individuals.
 - Addiction (mod-severe SUD) is a chronic, complex disease.
 - **Recurrence is likely:** 40-60%
 - Impacted brains take a long time to heal. Humans are not hard-wired for change.
 - Be patient—expect stumbles & epic fails
- **What helps?**

Using Our Response Tools Correctly

- **Engagers:** Responses to compliance/noncompliance that **motivate**
 - **Incentives:** are rewards for compliance that encourage **repetition**
 - **Sanctions:** punishment that **stops** avoidable (proximal) noncompliance

- **Skill builders:** Service responses that **HELP** with struggles achieving **difficult** (distal) behaviors
 - Adjustments in **treatment**
 - Adjustments in **supervision**
 - **Learning** assignments/ teaching responses



- **Building skills & confidence is EVERYTHING!**
- We frequently use **ALL** these tools together—**even if not a perfect week**

Contingency Management Works

- A highly effective strategy that **rewards positive behaviors (even if other mistakes were made)** and imposes **consequences for noncompliance**
- Based on decades of research, successfully applied to HR/HN treatment court populations
- **Significantly improves outcomes:**
 - Longer periods of treatment retention
 - Longer periods of abstinence
- **Focus:** See & **REWARD** progress especially when other things have gone wrong
- **#1 Mistake:** We hyperfocus on noncompliance.



Do BOTH. Respond to ALL noncompliance, appropriately. Reward ALL progress.

The Terminology is Confusing

We tend to refer to *all* responses to noncompliance as a “**sanctions**”

Many of these responses are actually **service responses**, not **sanctions**.

➤ **Service adjustments HELP** participants develop skills to achieve **distal** behavioral goals

- Adjustments in **treatment**: HELP
- Adjustments in **supervision**: HELP
- **Learning** assignment: HELP
- **Sanctions** are **punitive** responses to failure to achieve **proximal** (“now”) behaviors.
- They **STOP** behaviors that the participant has the current skills to avoid
- **Important**: Team & participants must understand the difference!



What's our purpose: **help** or **punish**?

Sanctions: proximal fail

- Verbal disapproval/reprimand
- *Unpleasant* community service
- Moderate liberty restrictions:
 - Curfew, home confinement/
GPS to restrict freedom
 - Suspended privileges (driving,
travel, etc.)
- “Sit” sanctions (observe boring
court, sit there with no devices)
- Flash incarceration, 1-6 days (**no
preventative detention!**)

Services: distal struggles

- Verbal discussion, engagement
- *Instructive* community service
- Curfew to facilitate home visits
- Changes in services: More
contacts with treatment,
supervision, testing
- Learning/teaching responses:
 - Essays, reports
 - Journalling, homework
 - Time management, budgeting

If it's hard to distinguish, make it clear!

- Participants often don't recognize or value prosocial behavior
- They often see service responses as sanctions
- **Explain WHAT** we liked/did not like and **WHY**. Be specific!
- Explain services are HELP!
- **Always end on a positive note!**
- Without the learning opportunity, the effect of the response is weak.



Sandwich: Court is a place of accountability, learning, and hope!

Don't forget incentives!

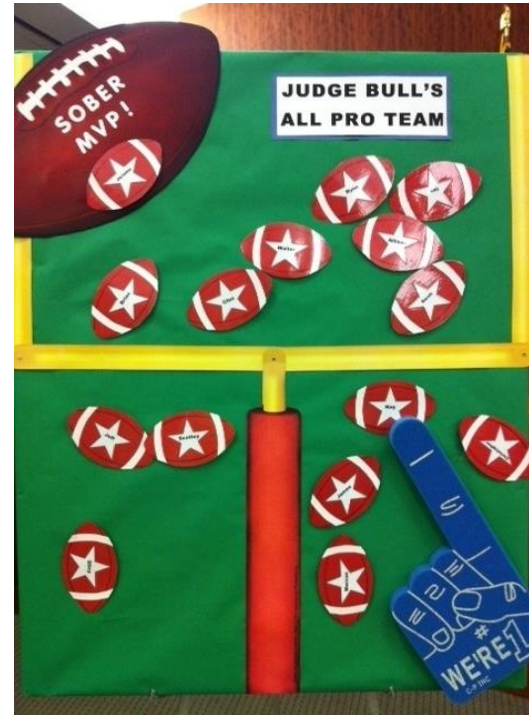
- Must far outnumber sanctions. At least 4:1
- **Programs that focus on sanctions** have lower graduation rates, higher recidivism
- Incentives model what TO do—that's where learning occurs
- Feel good, validating, “flip the script”, build confidence
- **Standards:** Reward ALL progress, ~~even~~ especially baby steps, every time, until managed, then continue to reward intermittently.



EVIDENCE-BASED INCENTIVES

Positive Reinforcement

- ✓ Social approval
 - ✓ Judge, team, peers
- ✓ Public recognition
- ✓ Tokens
- ✓ Opportunity to win
- ✓ Tangible items, gift cards



Negative Reinforcement

- Reduced burden (CS)
- Reduced fees
- Increased time/ freedom (Fast Pass, Zoom Court, curfew ext.)

You've got it made
in the shade!!
Subtract 8 HOURS of
community service.

**YOU'RE #1 !
GO 1ST AT
COURT
REVIEW !**

Sanctions

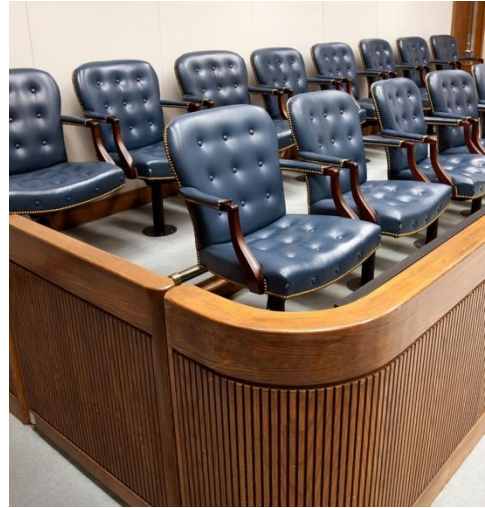
- What to look for: Sanctions are **punitive**, used to **STOP** *avoidable* noncompliance now (short term)
- An essential component of accountability
- “A program without sanctions would closely resemble chaos.”



SANCTIONS **STOP** (SHORT TERM)

Punishment:

- ✓ Verbal disapproval
 - ✓ Unpleasant CS
 - ✓ "Sit" sanctions
- ✓ Curfew
 - ✓ House arrest, GPS
 - ✓ Jail, 1-6 days max



Response Cost: (Take away privileges)

- Return to more restrictions (curfew, travel, contacts)
- **NEVER** demote or force a restart
- **NEVER** reduce prosocial supports (family time, etc.)

Research: **Don't Boil the Frog** **Unpleasant, Not Harmful.**

- If punishment is perceived by PARTICIPANT as a **reasonable cost** of doing what they want, **behavior will not change.**
- If punishment is perceived as **TOO unpleasant**, anger, frustration, learned helplessness, disengagement-- **& ceiling effects occur.** Harmful!
- **Goldilocks Principle:** Sanctions are most effective in the **MODERATE** (*not too soft, not too tough*) zone-- something the person can do *before the next court date* that is unpleasant but **not harmful**



What is moderate?

Research: **After several verbal warnings**, move to a wide array of moderate sanctions.

What is "MODERATE"?

Give them a chance to turn it around quickly-- something that can be completed **before the next court date**:

- ✓ 3-7 days of curfew
- ✓ 3-7 days GPS/ house arrest
- ✓ 4-8 hours "sit sanction"
- ✓ 4-24 hours community service

Don't wanna
do that again.



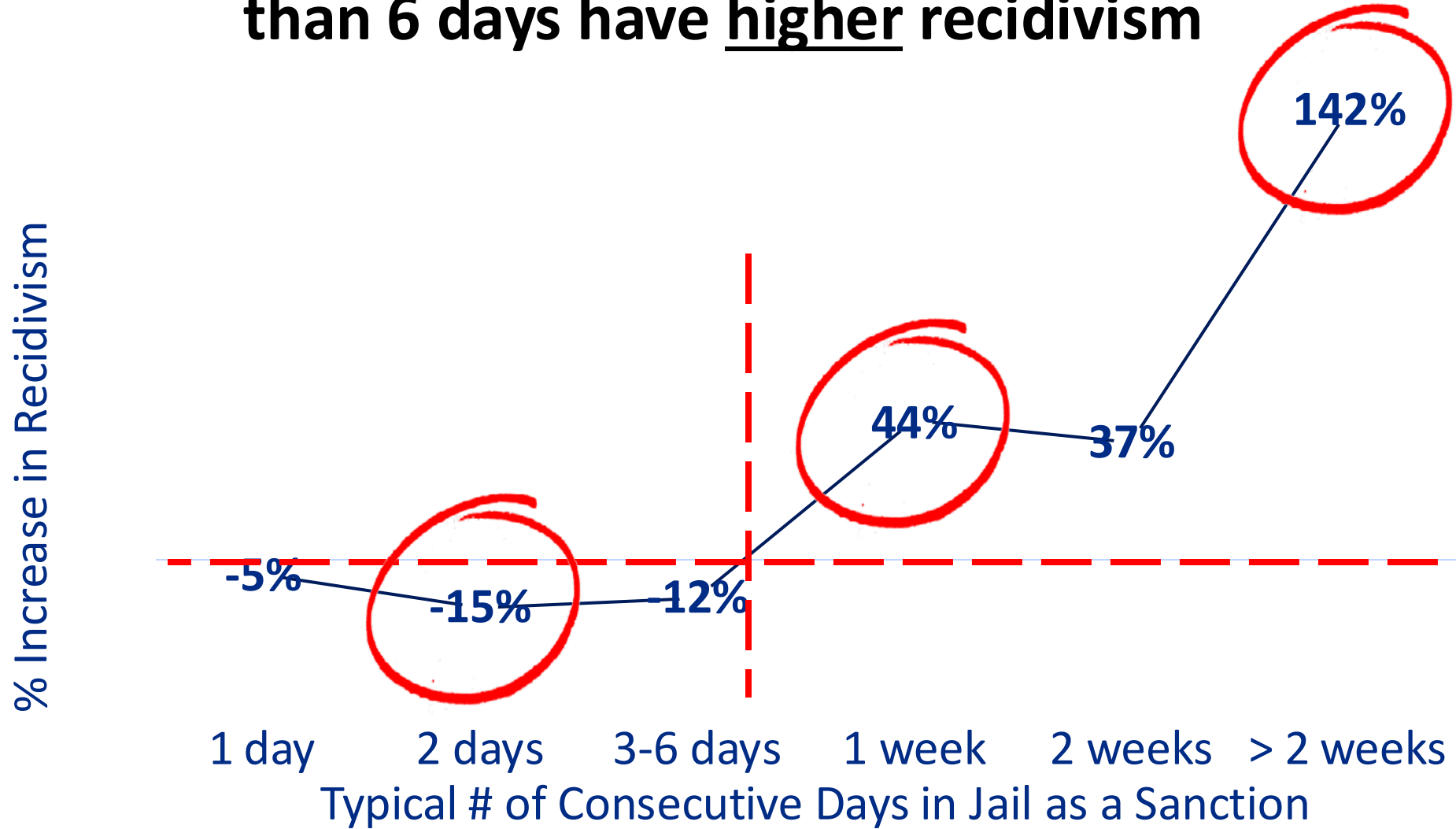


Why We Rarely Use Jail Sanctions in Treatment Court

- Doesn't change HR/HN behavior.
- Doesn't teach the message well
 - ✓ Disrupts treatment, employment, family, prosocial behavior
 - ✓ Jail = antisocial people, behaviors, ideas; not a drug-free place
 - ✓ Reinforces negative self image, failure
- Reserve jail for illegal, dangerous behavior, infractions that compromise program integrity.



HR/HN: Courts that typically impose jail longer than 6 days have higher recidivism



Not the best public safety choice in the long run

Things **Sanctions** Don't Do

➤ Things Sanctions DON'T do:

- Don't teach what TO do
- Don't build confidence or skills
- Don't reinforce *change in a new identity* as a person in recovery
- Don't have lasting impact

➤ Negative Potential Impact:

- Learned helplessness
- Ceiling effects
- Demoralizing, perfectionism
- Abstinence Violation Effect
- Reinforces negative self-image

Always ask: *What will help this person move forward* in recovery and accountability?

Common Pitfalls When Using Sanctions

- **Don't wait for Court:** Avoid delay. Respond immediately—behavior changes rapidly. **We miss learning opportunities when we wait**
- **Don't overuse sanctions. Don't overlook progress.**—habituation, disengagement, resentment, frustration. Incentives instill hope
- **Don't ignore noncompliance**—inconsistency looks like bias & feels chaotic. Always respond *appropriately*
- **Don't forget to explain WHAT & WHY:** Create learning
- Avoid **severe punishments**—they don't improve (& may worsen) outcomes. **Stay in the moderate zone.**



About Sanctions

- **They are just one tool & not our best one.** Limited use.
- If the only thing we did was respond to inappropriate behavior, we missed an opportunity to build confidence, skills & hope.
- What GOOD things is client doing?
 - Did we give **incentives**, too?
- What do we want the client to LEARN?
 - **Is a sanction the best way to teach this lesson?**
 - **Consider services, even for proximal fails**



Sanctions are appropriate when participants can, but *don't*.

Violation: Joe, Ph.1, skips a drug test even though he had timely notice, transportation, and has successfully completed several tests already.

Is showing up “proximal” for Joe? **Sanction** or **service**? **Both**?

Why a Sanction: Showing up is proximal. It's not a lack of knowledge or resources—it's a willful decision not to comply.

- A **mild sanction** (e.g., verbal reprimand or a few hours of community service) reinforces early expectations

But was a sanction the best response choice?

Why a **service response** (learning assignment) might be better:

- It's early days & Joe is **still adjusting to structure and accountability** expectations. We often miss how steep the learning curve is for some
- A learning assignment (e.g., writing a reflection on the importance of drug testing) **may help Joe internalize *why* testing matters**
- If this is a first or rare violation, a learning approach **can build insight and strengthen engagement *before*** escalating to sanctions.

Providing Support with Service Adjustments

Learning Assignments

Supervision Adjustments

Treatment Adjustment



LEARNING

Enhancements

- ✓ Cognitive exercises with staff
 - ✓ **Behavior Chain**
 - ✓ **Cost/Benefit Analysis**
 - ✓ **Role playing exercises**
- ✓ Homework chats
- ✓ Journaling, activity log
- ✓ Time management plan, budget
- ✓ Thinking Report
- ✓ Research paper, essay
- ✓ Volunteer projects (*Client's choice*)

Not sanctions! Help.

ASSIGNMENTS



TREATMENT RESPONSES

Enhancements

Recommended ONLY by clinician based on assessment(s):

- ✓ Re-assessment of clinical needs
- ✓ Increased LOC, more contacts
- ✓ Additional groups (trauma, etc)
- ✓ MAT referral
- ✓ Peer support
- ✓ Family counseling, parenting, etc

Not sanctions! Help.

Reductions

- Move from intensive outpatient to outpatient
- Fewer treatment groups
- Decreased 1:1 clinical contacts
- Shifting focus to vocational skills, employment, education, and/or volunteerism

Not incentives! Progress.

SUPERVISION ADJUSTMENTS

Enhancements

Recommendations by trained supervision officer, assessments

- ✓ Re-assessment of risk/needs
- ✓ Increased contacts, home visits
- ✓ More/ different testing
- ✓ Technology
- ✓ Referrals to meet needs
- ✓ Curfew, GPS, travel restrictions

Not sanctions! Help.

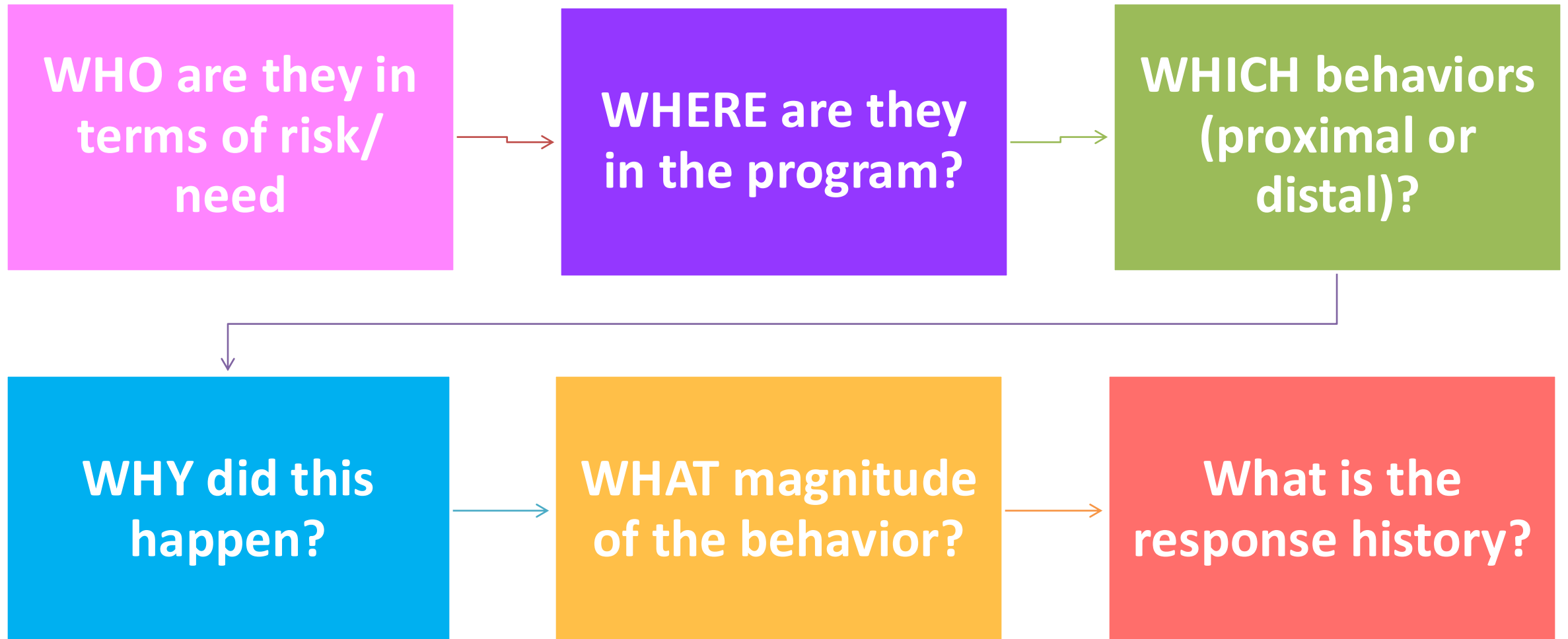
Reductions

- Fewer contacts
- Extended curfew
- Decreased testing

**Not incentives!
Progress.**



We Don't Choose a Response Until We Know...



WHO are they?

➤ **High Risk to Fail** (reoffend, fail to complete plan, to graduate, to reunify in FTC):

- Antisocial thoughts, emotions drive the behavior.
- Following the rules is HARD
- They need **more** supervision & ancillary services (HELP) to succeed.

➤ **High Treatment Need:** (SUD, MH)

- Disease drives the behavior.
- Abstinence, self-regulation is very HARD.
- They need a LOT of EB treatment, delivered correctly, by trained professionals.

➤ **Other barriers?** (Trauma, MH, TBI, poverty, etc)

WHO are they in terms of risk & need?

WHERE are they in the program (phase)?

WHY did this happen (circumstances)?

WHICH behaviors (proximal or distal)?

WHAT response choice/ magnitude?

HOW do we deliver and explain response?

WHICH: proximal, managed or distal?

WHO are they in terms of risk & need?

WHERE are they in the program (phase)?

WHY did this happen (circumstances)?

WHICH behaviors (proximal or distal)?

WHAT response choice/ magnitude?

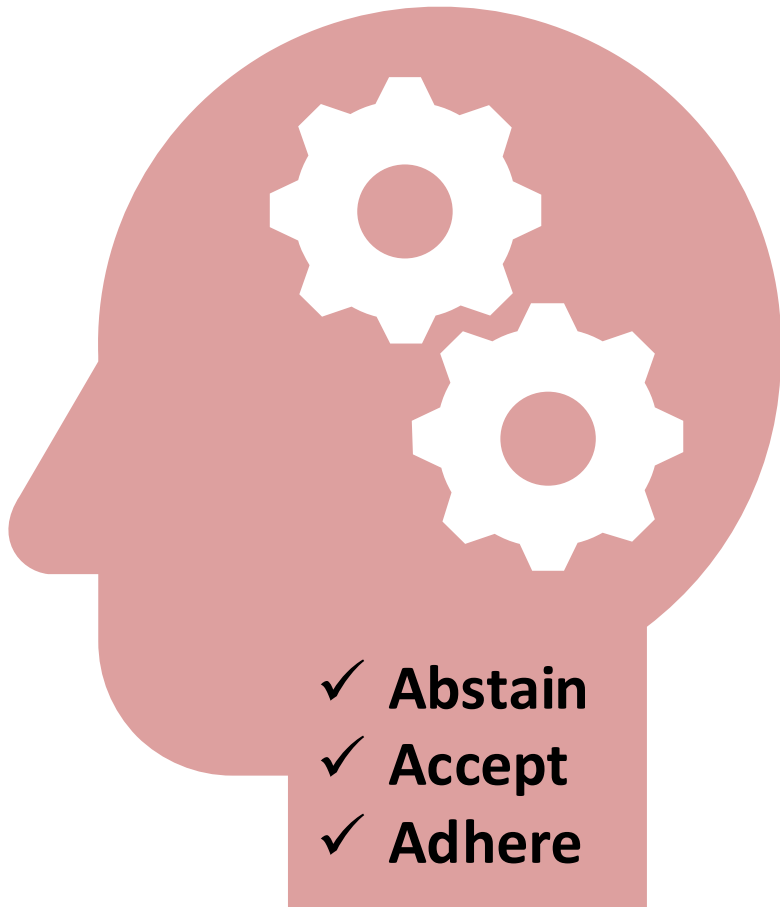
HOW do we deliver and explain response?

Proximal means NEAR or SOON.

- **Proximal does NOT mean EASY** (e.g., honesty)
 - Honesty takes time, practice & trust
- It's what the individual participant is capable of, and has the tools available to do, TODAY
- **It's going to be different for everyone.**
- Proximal at program start is **what we need them to do 1st** -- before we tackle bigger goals.
- When proximal goals can be maintained for an extended period, they are **MANAGED ("NOW")** behaviors.
- **Managed does NOT mean PERFECT**: ~90%, with occasional missteps

What are Distal Behavioral Goals?

Distal = Distant, Later



- What the individual participant is **NOT** capable of TODAY, but can be done later with **HELP**
- Skills must be learned and practiced a lot **BEFORE** distal goals can be achieved!
 - Ex. Treatment goals: **attend** first, then **participate**, then **engage**
- There will be many mistakes before these things can be achieved
- **What is proximal & distal is always changing**

What Can/Can't **HR/HN** Do Now or Soon

CAN'T do for a **LONG** time:

- Extended consecutive sober days
- Engage in treatment
- Gain insight into disease, give back
- Embrace recovery, conquer denial
- Benefit from recovery support groups, sponsor
- Build recovery support network
Sober leisure activities
- Employment; pay fines, fees

CAN do **NOW** or **SOON**:

- Attend treatment, court, OV's, lab, make daily call-ins
- Be on time
- Be home for curfew
- Be cooperative
- Produce a valid urine sample
- Tell the truth?



Putting it All Together: **Sanction** or **Service**?

- Ph. 1, Bill, tested positive 3 times this week for meth (Abstinence is...?)

- **Services:** Abstinence is way **distal**. Discuss, eval for MAT, more contacts, practice refusal skills

- Ph. 2, Sue, has transportation, missed OV because sister is visiting from out of town, did not seek excuse (Showing up, asking permission is...?)

- **Sanction:** Attendance is **proximal**. Verbal reprimand & warning. If repeated behavior: moderate sanction

- Ph. 4, Jean, skipped her recovery support meetings this week because work was crazy and she was tired. This is out of character for Jean who never misses meetings (Attending meetings is ...?)

- **Both?** Yes, this is a proximal violation that could warrant a sanction, but this is also a huge red flag. Consult treatment. Reassess.

WHERE are they?

WHO are they in terms of risk & need?

WHERE are they in the program (phase)?

WHY did this happen (circumstances)?

WHICH behaviors (proximal or distal)?

WHAT response choice/ magnitude?

HOW do we deliver and explain response?

➤ **Phase 1: Acute Stabilization**

Welcome, orient, put out fires, assess, plan

➤ **Phase 2: Psychosocial Stabilization**

Stable housing, reliable attendance, build alliance, **clinical stability**

➤ **Phase 3: Prosocial Habilitation**

Prosocial routine & skills, increasing abstinence efforts, engage in treatment

➤ **Phase 4: Adaptive Life Skills**

Life skills, productive role, **early remission**

➤ **Phase 5: Recovery Maintenance** (Abstain, + recovery capital, restorative justice)

Who decides what is managed, **proximal or distal? Clinical stability?**

Not the judge, not supervision, or lawyers! Listen to Treatment!



ATCBPS: “The judgment of **trained treatment professionals** is required to determine:

- 🔑 What goals are **proximal, distal, or managed**
- 🔑 When participants have been **clinically stable** long enough for previously distal goals to be considered proximal
- 🔑 Whether a **reemergence or exacerbation of symptoms** may have temporarily returned some proximal goals to being distal.”

WHY did this happen?

- **Were the triggering circumstances out of their control or carefully engineered?**
 - Has this behavior occurred before or was this the first time?
 - Did disease drive the behavior? Emotions or disordered thinking?
- **Have they had sufficient treatment and programming to avoid the behavior?**
- **Was this person clinically stable at the time?**

WHO are they in terms of risk & need?

WHERE are they in the program (phase)?

WHY did this happen (circumstances)?

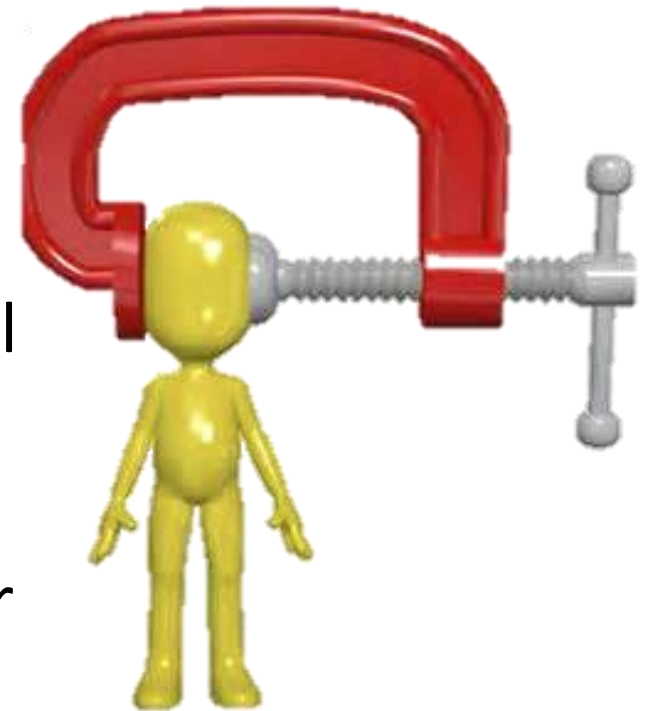
WHICH behaviors (proximal or distal)?

WHAT response choice/ magnitude?

HOW do we deliver and explain response?

WHAT Magnitude

- **How serious is the behavior?—Irresponsible, unhealthy, risky, highly dangerous or illegal**
 - **Proportionality:** The response should fit the seriousness of the behavior. Overreacting can erode trust, program credibility, and fairness.
 - **Time:** Consider the amount of time between behaviors. If remote, don't "ratchet up" the punishment response
 - **Public Safety and Recovery Risk:** Dangerous or illegal actions require swift, often stronger responses to protect the participant & public.
 - Minor lapses might call service adjustments rather than sanctions.



WHAT Response History

Is this a first-time slip, a rare occurrence, or a repeated pattern?

- **Patterns vs. Isolated Incidents:** Verbal warning. A first-time lapse may signal a need for education or support.
 - Repeated lapses may reveal barriers, lack of skills, or disengagement requiring different interventions.
- **Graduated Responses:** Increasingly intensive responses for recurring problems rather than using the same sanction repeatedly, which loses effectiveness over time.
- **Promotes Accountability with Empathy:** Recognizes the difference between normal learning curves in recovery and chronic defiance or disengagement.



Putting it All Together: Look at the Big Picture

- **Incentives** REPEAT good decisions
- **Sanctions** STOP proximal fails
- **Services** HELP help make all this easier
- For best outcomes, we use all these responses **TOGETHER**.



How Will We Know If All This is Working?

➤ We **MUST** collect data (internally & externally)– on everything

- Behaviors, ALL responses, ratios
- Timeliness of responses
- Consecutive abstinent days
- Treatment retention
- Outcomes: completion, termination, recidivism
- Equity & inclusion

➤ **Commit to ongoing monitoring, assessment, and refinement**

➤ **Incorporate** research and best practices into program design



Awesome Handouts!

- Decision Guide & video tutorial
- Bench cards
 - Staffing consideration
 - Proximal & Distal
 - Response Delivery
- Staffing resources
 - Report template
- Incentives resources
 - *Incentives on a Dime Guide*
 - Useful forms
- Sanction resources
 - Sample forms
- Termination criteria resources

Positive Behavior

Focus on: "What do we want the participant to learn from this?"

Step 1. Identify the Behavior

Proximal (Expect Sooner)	Moderate	Distal (Expect Later)
<ul style="list-style-type: none"> Attendance at treatment Attendance at other appointments Home for home visits Report to UA Timeliness Payment 	<ul style="list-style-type: none"> Honesty Testing Negative Participating in Prosocial Activities Attending recovery support meetings Employment Progress toward Tx Goals Progress in Tx 	<ul style="list-style-type: none"> Complete TX LOC Extended Abstinence/Neg. Tests Treatment Goals Completed Phase Goals Completed Program Goals Completed Building a recovery support network

Step 2. Determine the Response Level (Consider participant progress and skills learned)

		Low	Moderate	High
Distal ↓ Prox	Phase 1	Level 1	Level 2	Level 3
	Phase 2	Level 1	Level 2	Level 3
	Phase 3		Level 1	Level 3
	Phase 4		Level 1	Level 3
	Phase 5		Level 1	Level 3

Step 3. Choose the Responses (Paired with Judicial Approval/Verbal Praise)

3a. Learning Assignments (Teaching Responses)

Level 1	Level 2	Level 3
<ul style="list-style-type: none"> Behavior Chain What did you learn chat 	<ul style="list-style-type: none"> Behavior Chain Cost/Benefit Analysis Reassess LOC 	<ul style="list-style-type: none"> Behavior Chain Mentor Other Pa Reassess LOC

3b. Supervision Adjustments

Level 1	Level 2	Level 3
<ul style="list-style-type: none"> Change in Curfew Status Increased flexibility in scheduling Increased choice in community service 	<ul style="list-style-type: none"> Reduced Contacts Reduction in Home Visits 	<ul style="list-style-type: none"> Reduced Contact Reduce Home Vis Reduce External Devices

3c. Incentive Response (Always with Judicial Approval)

Level 1	Level 2	Level 3
<ul style="list-style-type: none"> Celebratory text from judge/supervision/team member Fish Bowl Decision Dollars Handshake Small tangible items (Candy) On the A Team 	<ul style="list-style-type: none"> Choice of Gift Certificate Example for others in court Written Praise Positive Peer Board Certificate Reduction in CS hours Reduction in program fees 	<ul style="list-style-type: none"> Framed Certificate Travel Pass Larger Gift Certificate Position as Mentor Participants

*NFC Research: Contact Shannon Carey (carey@nrcresearch.com). Adapted from a matrix originally developed by the Harris County TX. The is recommended before use. Please do not change or revise without permission. While individual responses can change, the steps and their

TREATMENT COURT CASE STAFFING SUMMARY			
picture	Client:	DOB:	Staffing Date:
	Case #:		Officer:
	Phase: 2	CSR Hours:	Sobriety Date:
	Intake Date:	Charge:	Referral method:
Risk/Criminogenic Need	Status/Progress/Plan <i>*Focus on Goals for Top 3</i>		
1. History of antisocial behavior (Criminal History)			
2. Antisocial personality patterns (Consider Trauma History)			
3. Antisocial Cognition (Criminal Thinking)			
4. Antisocial Associates			
5. Family/Marital Situation			
6. School/Work Performance			
7. Living Situation			
8. SUD-MH/Treatment progress *(ASAM: 6 dimensions of clinical assessment)			
STAGES OF CHANGE			
Benchmarks accomplished towards phase advancement			
Barriers to services and intervention/plan			
Summary of Successes			
Summary of Infractions			
Recovery Capital Update: (Personal (Physical & Human), Social, Community/Cultural)	Personal: Social: Community Cultural:		
Recommended Court Responses	Incentive: Other responses:		

When to **Sanction**, When to **Support**



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to Inappropriate Behavior

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