

Applying Collaborative Justice Court Principles and Practices

Faculty Guide



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Notes to Faculty

I. Introduction

This faculty guide has been drafted to incorporate a great deal of flexibility, both substantively and pedagogically, with the understanding that court jurisdictions throughout the country will vary considerably in their needs, interests, and resources. Its intended audience is the judge who is not already sitting in a problem-solving court and who is not necessarily interested in creating one—i.e., the judge who sits in a conventional courtroom, whether criminal, civil, family, juvenile, mental health, or other.

Members of the Advisory Committee for this project are proponents of the appropriate transferability of problem-solving court principles and practices into conventional courtrooms, but they are also keenly aware that individual judges will vary considerably in their willingness or ability to adopt this notion, based on a number of legitimate factors. Thus, the goal is to offer conventional courtroom judges an opportunity to explore various concepts within the context of their own individual circumstances, identify potential problems, and create a classroom environment that encourages, but does not demand, collaborative problem-solving as a model for court improvement. Ethical and cultural considerations should be acknowledged and addressed throughout the course.

II. How to Use This Faculty Guide

A. “As-Is”

In the form set forth in these materials, this is designed as a two-day course for judges who have not sat in a collaborative justice court. Participants will have some general knowledge of problem-solving court concepts, but it is assumed that they do not have specific knowledge based on personal experience. It is also assumed that they do not know the history of the development of problem-solving courts in the United States and that they may approach the subject of the transferability of problem-solving court principles with a degree of skepticism. Thus, a review of the circumstances leading to the development of collaborative justice courts is included because those circumstances likely still exist in some traditional courts. If, however, your jurisdiction requires that the course be condensed to one day or less, see recommendations in section II.B, below, for ways to adapt this faculty guide. A full course overview may be gleaned by reviewing the Table of Contents, parts I through IV. Each part spans approximately one-half day of instruction.

For each subsection, course content is set out in the middle column of this material, time frames are given in the left-hand column, and teaching aids (including commentary and reference to Microsoft PowerPoint slides, use of audiovisuals, and participant materials) are noted in the right-hand column.

With regard to course content, it is recommended that faculty highlight or underline the instructions that you intend to use, or outline a set of your own instructions in the right-hand column. Sample scripts are intended for guidance only and are *not* intended to be read verbatim; adapt them to your own style and words. Recommended course content—for example, the description of key characteristics of problem-solving courts found at pages 6 - 10 of Tab I, is also not meant to be read or recited. Pick and choose from the text what you find valuable, but use your own words. And, finally, the teaching points, ethical issues, and cultural considerations are for your background reading and use during class, as appropriate. Further background reading on cultural considerations, motivational interviewing, and special issues regarding domestic violence may be found at Tab 8.

B. Adaptations

1. For judges who have previously sat in a problem-solving court

Judges who have experience in a problem-solving court may be particularly drawn to the concept of transferring problem-solving principles into conventional courtrooms. If participants fall predominantly into this category, the course may be easily adapted to a one-day format. See Adaptation #1 at page 16, below.

2. A condensed version for general exposure

Judges who attended the pilot training of this course suggested that a three-hour, condensed version be designed either for local benches or for inclusion as a half-day track in education programs of larger scope. See Adaptation #2 at page 18, below.

3. For judges in policy-making roles

This faculty guide may also be adapted for presiding, supervising, administrative, or other judges in policy-making roles. Adaptation #3 at page 20, below, includes a collaborative justice court overview; an expanded discussion of costs, recidivism, and other benefits; and current and future trends.

III. Recommendations on Selection of Faculty

It is recommended that three experienced faculty members teach this course (in addition to short appearances by experts, as indicated in the faculty guide, if feasible). These faculty are best selected from various backgrounds, including past assignment in a collaborative court. Consider seeking at least one faculty member who has some experience outside the collaborative court context in using problem-solving principles. This person may or may not have sat in a

problem-solving court. Also consider the advantage of selecting a diverse faculty based on gender, race, geographical region, court size, urban/rural, and so on, to achieve varying but effective teaching and communication styles. Faculty members should meet face-to-face at least once before teaching the course (after a chance to review the faculty guide), to divide lead responsibility for course segments and, if feasible, “walk through” or practice various segments.

IV. Recommendations on Seating and Teaching Methods

This faculty guide envisions a small class of 10–20 participants seated at tables of 5–6 per table. Depending on the size of your class, you may wish to adapt the proposed teaching methods. For example, in a small group of, say, 8–10 participants, plenary discussions may be substituted for small group discussions. In large groups of more than 20 participants, especially where seating at tables is not feasible, participants can still discuss case studies in twosomes or in groups of 3 or 4. Small group discussions are important because they model the collaborative process that is so important to the effective implementation of the principles being discussed.

V. Use of Case Studies

The case studies included in this faculty guide were written to be fairly generic, relevant to the instructional material they supplement, and applicable to multiple court assignments. They are intended to increase in complexity and controversy, or seeming complexity and controversy, as they appear in this material. However, they are somewhat interchangeable in that many teaching points can be brought to bear on any one of them. Thus, you might use all or some of them, in whole or in part, or might adapt them to better suit your audience or jurisdiction. For example, during the pilot program, a case study raised on the first day by a participant was substituted for Case Study #3 in these materials.

VI. Recommended Speakers

For the segment on Sanctions and Incentives (Part III-A), the following speakers are recommended: Mr. C. West Huddleston III, Director, National Drug Court Institute; Mr. Carson Fox, National Drug Court Institute Fellow; Judge William G. Meyer, National Drug Court Institute Fellow; and Dr. Douglas B. Marlowe, Director of Law and Ethics Research at the Treatment Research Institute and University of Pennsylvania.

For speakers on current research on drug and other problem-solving court costs, recidivism, and caseloads, the following speakers are recommended for the presentation under Suggested Adaptation #3 (for judges in policy-making roles): Ms. Pam Casey, National Center for State Courts; and Mr. Mike Rempel, Center for Court Innovation.

Adaptation #1—For judges who have previously sat in a problem-solving court

Duration: 1 day

Number of faculty: At least 2, preferably 3

Seating: Rounds of 5–6 per table

Planning: It is assumed that judges who have previously sat in problem-solving courts will differ from participants who have not in two important respects: (1) they will already be familiar with most of the material in Part I, based on personal experience, and (2) they will attend the course more favorably disposed to the concept of transferring problem-solving practices into conventional courts. They may also have already attempted such a transfer and will come to the course with experiences to contribute. It is recommended that most class time be devoted to group discussion (both small and large) and that participant contributions be woven into, if not substituted for, the case studies set forth in these materials. A sample course agenda follows (references to the basic faculty guide and faculty notes are in parentheses):

- 8:30 Introduction of faculty; course overview (Part I: 8:30; slides #s 1 and 2)
- 8:35 Introduction of participants (Paragraph 1 under opening exercise; slide #3)
- 8:40 Play audio or video of Judge True: One Judge's Perception (Part I: 9:00)
- 8:50 Briefly summarize Circumstances Leading to Collaborative Justice Courts (Part I: 9:25; slide #s 5, 6, 7, 8, and 11)
- 9:00 Play video: What Are Collaborative/Problem-Solving Courts? (Part I: 9:45)
- 9:20 Identify Shared Principles (Part I: 10:45; slide #13)
- 9:30 *Break*
- 9:40 Are Collaborative Courts Working? (Part I: 11:10–11:40; summarize; use Fact Sheet; draw from participant experience)
- 9:55 Problem-Solving Principles and Practices That Might Be Incorporated Into Conventional Courts (Part I: 11:40–12:00; slide #s 13 and 16)

(*Note:* From this point on, proceed through the principles referring to slide #16, using the case studies provided or case studies suggested by faculty or participants. You will not be able to do all the exercises within the shorter time frames, but try to resist the temptation to reduce the amount of time devoted to small group discussion. End each segment with at least one concrete, practical suggestion.)

- 10:10 Integration of Services and Partnerships With Public Agencies and Community-Based Organizations (Part II: 1:10; Case Study #1; slide #17; introduce ethical and cultural issues early)
- 10:50 *Break*
- 11:00 Collaborative Input for Decision Making (Part II: 2:20; Case Study #2; slide #18)
- 11:30 Judicial Supervision of Mandates (Part II: 3:25; Case Study #3; slide #19)
- 12:00 *Lunch*
- 1:00 Sanctions and Incentives (Part III: 8:30; use separate PowerPoint presentation, delete group activity and report-back; faculty present Ten Science-Based Principles of Changing Behavior Through the Use of Reinforcement and Punishment; ask participants to suggest application of each principle to conventional courts)
- 1:45 Interaction Between Defendant/Parties and Judge (Part III: 10:15; Case Studies #s 4, 5, and 6; slide #s 20, 21, and 22; discussion)
- 2:00 *Break*
- 2:10 Interaction Between Defendant/Parties and Judge (continued) (Part III: communication segment, slide #s 23, 24, and 25; add Skills Demonstration, Part III: 10:55, and Skills Practice, Part III: 11:00)
- 2:50 Focus on Both Process and Outcomes (Part III: 11:35; Case Study #7; slide #26; faculty summarize facts, then ask one participant to take each side and argue it—delete small group discussion)
- 3:00 *Break*
- 3:10 Summarize National Judicial College Summit material; refer to Meeting Summary (Part III, last two pages)
- 3:15 Concrete Application of Problem-Solving Principles—Possibilities, Questions, and Critique (Part IV: 1:00; use form at Tab 7, page 39; spend remaining time in small and large group discussion)
- 4:20 Summary, Wrap-Up and Evaluation (Part IV: 4:15)
- 4:30 *Adjourn*

Adaptation #2—A condensed version for general exposure

Duration: 3½ hours

Number of Faculty: At least 2, preferably 3

Seating: Rounds of 5–6 per table or hollow U shape if group size is 18 or fewer

Planning: This adaptation is for inclusion in education programs where only 3 to 3½ hours are available, presentation at local court programs or retreats, or inclusion as a segment in longer courses such as trial or case management. Despite the condensed time frames, it is recommended that as much class time as possible be devoted to group discussion (both small and large group) and that participant experiences, questions, and actual current circumstances be incorporated. A sample course agenda follows (references to the basic faculty guide and faculty notes are in parentheses):

- 8:30 Introduction of faculty; course overview (Part I; 8:30–8:35; slide #s 1 and 2)
- 8:35 Background: Opening Exercise (Part I: 8:35–9:00; slide #s 3 and 4; reduce table discussion to 5 minutes)
- 8:55 Play audio or video of Judge John True: One Judge’s Reflections (Part I: 9:00)
- 9:05 Background: Discussion (Part I: 9:10; proceed quickly—no need to use flip chart)
- 9:15 Setting the Stage: Circumstances Leading to Collaborative Justice/Problem-Solving Courts (Part I: 9:25; slide #s 5, 6, 7, 8, 9, 10, and 11)
- 9:25 Play video: What Are Collaborative/Problem-Solving Courts? (Part I: 9:45; after video, do not describe each type of court—skip to Shared Principles)
- 9:45 Identify Shared Principles (Part I: 10:45; reduce class discussion by half; slide #13)
- 9:55 Are Collaborative Courts Working? (Part I: 11:10; ask participants to read the Fact Sheet—do not dwell on research or statistics; acknowledge that this course assumes that collaborative justice courts are working, so the goal is to see what practices of value can be transferred to conventional courts)
- 10:00 *Break*

- 10:15 Problem-Solving Principles and Practices That Might Be Incorporated Into Conventional Courts (Part I: 11:40; slide #16; reduce class discussion by half)
- 10:25 Distribute Case Studies #s 1–6 (ask participants to read all six case studies, in order, and jot down whether any of the principles or practices on slide #16 might be brought to bear on the ultimate outcome of these cases; either delete the discussion questions from the case studies or ask participants to read the questions but spend no time answering them)
- 10:35 Proceed through the principles, in order, drawing at least one concrete, practical idea from the group or the basic faculty guide for each principle; ask participants to refer either to the case studies or to their own cases and circumstances during discussion; proceed very quickly through all the principles except for one (it is recommended that you focus on the fifth principle—Interaction Between Defendant/Parties and Judge—because it is probably the most easily transferred. Acknowledge that this overview will give participants only general exposure to the remaining concepts and that more depth and education would be needed before attempting to incorporate them into practice. Add teaching points and ethical/cultural considerations from the basic faculty guide as appropriate.
- (5 min) Integration of Services and Partnerships With Public Agencies and Community-Based Organizations (Part II: 1:10)
 - (5 min) Collaborative Input for Decision Making (Part II: 2:20)
 - (5 min) Judicial Supervision and Monitoring of Mandates (Part II: 3:25)
 - (5 min) Sanctions and Incentives (Part III: 8:30; ask participants to read the Ten Science-Based Principles of Changing Behavior Through the Use of Reinforcement and Punishment, after which faculty give one or two examples of how the principles might be applied in a conventional court)
 - (50 min total) Interaction Between Defendant/Parties and Judge
 - (10 min) Overview (Part III: 10:15; slide #s 23, 24, and 25)
 - (5 min) Skills Demonstration (Part III: 10:55)
 - (35 min) Skills Practice (Part III: 11:00)
- 11:50 Summary/Wrap-Up (Part III: 11:35; skip case study #7; adapt and combine material on Focus on Both Process and Outcomes, the National Judicial College Summit, and the summary at Part IV; 4:15, including “testimonial” from your own experience)
- 12:00 Evaluations/Adjourn

Adaptation #3—For judges in policy-making roles

Duration: 3½ hours

Number of presenters: 2, in addition to an expert on current research

Planning: This adaptation is for presentation to presiding, supervising, administrative, and other judges in policy-making roles. Goals include giving policy-makers (1) an overview of the subject area, including the circumstances leading to collaborative justice courts, their basic characteristics, and common principles; (2) an analysis of current research on the benefits of collaborative justice courts, including costs, caseloads, recidivism, and public opinion; (3) a basic understanding of the concept of transferability of problem-solving principles and practices into conventional courts and calendars; and (4) a brief glimpse into current and future trends. It is highly recommended that an expert on the current research regarding the benefits of problem-solving courts present the segment on costs, caseloads, recidivism, public opinion, and the like. Suggested speakers are listed at VI on page 15 of these notes. A sample presentation agenda follows (references to the basic faculty guide and faculty notes are in parentheses):

- 8:30 Introduction of presenters/presentation overview (adapt from basic faculty guide; identify goals)
- 8:35 Play audio or video of Judge John True: One Judge’s Reflections (Part I: 9:00)
- 8:45 Describe the Opening Exercise of the basic faculty guide and tell how judges respond to the “best” and “worst” questions (Part I: 8:35–9:25)
- 8:55 Circumstances Leading to Collaborative Justice Courts (Part I: 9:25; briefly summarize; slide #s 5, 6, 7, 8, and 11)
- 9:05 What Are Collaborative/Problem-Solving Courts? (Part I: 9:45; play video)
- 9:25 Ask for questions on specific problem-solving courts or types of courts; discuss (alternatively, ask participants to describe the problem-solving courts in their jurisdictions)
- 9:40 Identify Shared Principles (Part I: 10:45; slide #13)
- 9:50 *Break*
- 10:05 Are Collaborative Courts Working? (Part I: 11:10–11:40; *caveat*, this topic should be presented by an expert in the literature so that information is current and the presentation goes into adequate depth—an example of such a PowerPoint presentation, given by Mike Rempel of New York’s Center for Court Innovation at the pilot course in San Diego, is included in Tab 5)

11:05 Overview of the concept of transferability

- (5 min) Problem-Solving Principles and Practices That Might Be Incorporated Into Conventional Courts (Part I: 11:40–12:00; delete group discussion; slide #16)
- (5 min) Refer to National Judicial College Summit Meeting Summary (Part III, last two pages; include Meeting Summary in materials)
- (30 min) Give at least one example, along with appropriate teaching points that include ethical and cultural considerations, for each principle; ask for participant input and discussion

11:45 Current and Future Trends (Part IV: 3:30; slide #27; highlight models 2 and 3)

11:55 Summary and Wrap-Up (Part IV: 4:15)

12:00 Adjourn

Bibliography

Source material for this faculty guide included numerous publications from the Center for Court Innovation (www.courtinnovation.org), the National Drug Court Institute (www.ndci.org), the National Center for State Courts (www.ncsconline.org), and the Judicial Council of California (www.courtinfo.ca.gov). Reference to the publications lists for these organizations will provide more than can be listed here. Of these sources, this faculty guide relied extensively on:

Collaborative Justice in Conventional Courts: Opportunities and Barriers, Center for Court Innovation and Judicial Council of California, 2004.

Painting the Current Picture: A National Report Card on Drug Courts and Other Problem-Solving Court Programs in the United States, National Drug Court Institute, May 2004 and May 2005.

Problem-Solving Courts: Models and Trends, by Pamela M. Casey and David B. Rottman, National Center for State Courts, 2003.

In addition, this faculty guide relied heavily on the following two resources:

Institutionalizing Problem-Solving Practices in All Courts: A Working Summit, National Judicial College, Reno, Nevada, May 10–12, 2005; Meeting Summary by the Kolbe Company.

Judging for the 21st Century: A Problem-Solving Approach, National Judicial Institute, Ottawa, Ontario, Canada, 2005.

The following were also sources:

“Judicial Satisfaction When Judging in a Therapeutic Key,” Hon. Peggy Fulton Hora and Deborah J. Chase, J.D., Ph.D., *Contemporary Issues in Law* 7 (1) 2003/2004.

The Therapeutic Impact of the Judge in Collaborative Court Programs, Dr. Donna L. Boone, Director, Therapeutic Court Programs, William and Mary School of Law, May 2005.

	<p><i>from and, should you choose to implement one or more of them, practical knowledge on how to implement them in ways that most benefit you, your staff, the court, victims, offenders, and the community.</i></p>	
8:35–9:00	<p><u>Background: Opening Exercise</u></p> <p>➤ By way of introducing both the participants and the subject matter, ask participants to introduce themselves by stating their name, county, current assignment (broadly speaking, not in detail), and whether they are now sitting or have ever sat on a drug court or other collaborative court assignment. If so, which one and for how long?</p>	PP slide #3
(5 min)		
(5 min)	<p>➤ Next, ask participants to take two or three minutes to answer four questions on a 3 x 5 card (ask them not to include their names on the card and tell them in advance that they will be sharing this information at their tables and the cards will be collected and used by faculty during the course):</p> <ol style="list-style-type: none"> 1. How many years on the bench? 2. Current assignment? 3. What do you like most about your current assignment (or, what is most rewarding, interesting, satisfying, etc.)? 4. What do you like least about your current assignment (or, what is most distressing, frustrating, least satisfying, etc.)? 	Hand out 3 x 5 cards
(5 min)	<p>➤ Allow three minutes for writing.</p>	PP slide #4 (questions)
(10 min)	<p>➤ Ask participants to pass their card to the left around their table and continue to pass each card to the left <u>after reading it</u>, until each person gets his or her original card back.</p> <p>➤ Ask participants to discuss at their tables the information reflected on the cards and identify the most frequent “most like” and “least like” responses.</p>	Blank PP screen [Faculty note: Touch “B” on your keyboard to blank the screen during exercises. Press “B” again to resume.]
9:00 (10 min)	<p><u>Background: One Judge’s Reflections</u></p> <p>➤ Ask participants to watch/listen to the video/audio on the DVD (give no further introduction).</p> <p>➤ After viewing or listening to DVD, describe DVD.</p> <p>➤ Sample:</p> <p><i>This tape is based upon a recent article written by a relatively new California judge. It tells of his own personal frustrations, but it also</i></p>	Video or audio [Faculty note: You may choose between showing the video or just using the audio here.]

<p>9:10</p> <p>(15 min)</p>	<p><i>captures much of the literature describing circumstances that led to the development of collaborative courts in the late 1980s. Let's compare Judge John True's comments with those written a few minutes ago by your colleagues.</i></p> <p><u>Background: Discussion</u></p> <ul style="list-style-type: none"> ➤ Ask someone from each table to report their table's top one or two "most likes" and "least likes" and generally summarize his or her earlier table discussion, comparing the table's "least likes" to Judge True's comments. As you progress from table to table, ask for the reporting only of anything <u>different</u> from what has already been said. ➤ Bridge to next section by summarizing/listing the "what I like least" and the "what I like best" statements recorded on the flip charts. ➤ Sample: <p><i>It appears that we all agree that our system is basically a good one—perhaps the best there is. But we also acknowledge that our system, as good as it is, can be improved.</i></p>	<p>[Faculty note: One faculty member capture the essential words from "what I like least" comments on one flip chart, e.g., revolving door, hopeless cases, outside agencies lack interest, not enough services, heavy caseloads, no time, unprofessional attorneys, etc. A second faculty member capture the essential words from "what I like best" comments on a second flip chart, e.g., settling cases, doing justice, finding solutions, making a contribution, etc.]</p>
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9:25– 9:35	<p><u>Setting the Stage: Circumstances Leading to Collaborative Justice/Problem-Solving Courts</u></p>	PP/mini-lecture
(2 min)	<p>➤ Summarize the situation leading to the development of collaborative courts, tying to comments made by participants during previous discussion.</p> <p>➤ Sample:</p> <p><i>A great deal has been written about the circumstances leading to the proliferation of hundreds of collaborative courts over the past decade and a half. We will summarize and condense the literature here.</i></p> <ul style="list-style-type: none"> ▪ <i>As a historical “backdrop,” between 1970 and 1990, our society experienced:</i> <ul style="list-style-type: none"> —<i>a breakdown of social and community institutions, including the deinstitutionalization of persons with a mental illness</i> —<i>increased drug use and the “war on drugs,” resulting in redefined criminal codes, escalated penalties, zealous enforcement, and skyrocketing drug-related case filings</i> —<i>a surge in the incarcerated population, resulting in prison and jail overcrowding</i> —<i>trial court centralization and consolidation, resulting in a gap between courts and communities</i> —<i>trends emphasizing accountability of public institutions</i> —<i>advances in the quality and availability of therapeutic interventions</i> —<i>changing social mores (e.g., the “broken window theory” that altered the perception of the importance of low-level crime, increased public fear of crime, increased awareness and prosecution of domestic violence, and increased public support for a combined rehabilitative and punitive approach to drug-related offenses)</i> 	PP slide #5
(1 min)	<ul style="list-style-type: none"> ▪ <i>Between the same years, the justice system experienced:</i> <ul style="list-style-type: none"> —<i>staggering increases in criminal filings involving drug possession and related criminal activity, domestic violence, “quality of life” crimes, and mental illness</i> —<i>increasing frustration with standard approaches and the large number of cases that seemed to be “disposed repeatedly but not resolved” (high recidivism rates; the “revolving door” syndrome)</i> —<i>the underfunding of probation departments, resulting in large numbers of unsupervised cases, lack of follow-up to orders, and inadequate reporting</i> ▪ <i>The National Drug Court Institute describes some of the precursor conditions to the emergence of drug courts in particular as follows:</i> 	<p>[Faculty note: This segment can also be “collapsed” into the next segment by describing each type of court along with its precursor conditions.]</p>
		PP slide #6
		PP slide #s 7 & 8

(2 min)	<p>—many offenders in the criminal justice system were not identified as having alcohol and other drug (AOD) problems and were released without referral to treatment</p> <p>—assessments for AOD use were often made months after arrest, if at all, and those who were referred to treatment did not always benefit</p> <p>—treatment programs were often full and waiting lists were long</p> <p>—the relationships between treatment providers and criminal justice agencies were often inadequate or nonexistent</p> <p>—referrals, when made, often occurred months or years after the offense, and there was little inducement to comply</p> <p>—the majority of those ordered to treatment did not remain long enough to yield results</p>	
(1 min)	<ul style="list-style-type: none"> • The following terms are sometimes used to describe the theoretical underpinnings of various changes within the justice system that contributed to the rise of problem-solving courts: 	PP slide #9
(1 min)	<p><u>Community justice</u>, which (1) coordinates activities at the neighborhood level, (2) decentralizes authority and accountability, empowering communities and local agencies, and (3) involves citizens in the justice process</p>	PP slide #10
(1 min)	<p><u>Restorative justice</u>, which (1) involves individuals harmed by the offense (victim, offender, families, communities), (2) views crime problems within their social context, (3) has a preventive problem-solving orientation, and (4) emphasizes flexibility/creativity</p>	
(1 min)	<ul style="list-style-type: none"> ▪ In addition, advances in medical science, psychology, and technology brought new solutions to old problems. When we talk later about problem-solving court principles and practices, you will see that these “court innovations” have often been the direct result of innovations and advances in other fields. ▪ And finally, individual judges became motivated to seek better outcomes: 	
(1 min)	<p>—Quote from New York Chief Judge Judith S. Kaye</p> <p>“In many of today’s cases, the traditional approach yields unsatisfying results. The addict arrested for drug dealing is adjudicated, does time, then goes right back to dealing on the street. The battered wife obtains a protective order, goes home and is beaten again. Every legal right of the litigants is protected, all procedures followed, yet we aren’t making a dent in the underlying</p>	PP slide #11 to be read silently (copy at Tab 8 p. 1)

	<p><i>problem. Not good for the parties involved. Not good for the community. Not good for the courts.”</i></p> <ul style="list-style-type: none"> ▪ <i>Thus, problem-solving courts evolved through the efforts of people, within and outside the justice system, to produce case dispositions of lasting benefit to victims, communities, and offenders. They evolved in an effort to solve both new and different problems as well as old, recurring problems in new and different ways.</i> ▪ <i>Put another way, while the proliferation of problem-solving courts may be attributed to multiple causes and various courts have targeted different problems, they have all sought to use the court's authority to address three things:</i> <ul style="list-style-type: none"> —<i>the social problems of communities,</i> —<i>the underlying problems of individual litigants, and</i> —<i>the structural problems of the justice system.</i> ▪ <i>We will take a 10-minute break, after which we will have a look at what came of their effort.</i> 	
<p>9:35– 9:45</p>	<p>BREAK (10 minutes)</p>	
<p>9:45</p> <p>(1 min)</p>	<p><u>What Are Collaborative/Problem-Solving Courts?</u></p> <ul style="list-style-type: none"> ➤ Introduce videotape. ➤ Sample: <i>What do collaborative/problem-solving courts look like? Watch this video montage of a sample of collaborative courts in action. Fifty of California's 58 counties have at least one collaborative court, and many counties have more than one [substitute data from your jurisdiction], so think about your own jurisdiction as you watch the video and see if these examples match your experience. Courts represented on the tape include:</i> <ul style="list-style-type: none"> ▪ Adult Drug Court ▪ Community Court ▪ Homeless Court ▪ Mental Health Court ▪ Juvenile Peer Court ▪ Juvenile Violence Court ▪ Juvenile Drug Court ▪ Juvenile Dependency Drug Treatment Court 	
<p>9:46</p>	<ul style="list-style-type: none"> ➤ Play video of Collaborative Justice Courts in Action (length: 19 min). 	<p>Video</p>
<p>10:05</p>	<ul style="list-style-type: none"> ➤ Describe the key characteristics of problem-solving courts, giving a <u>brief overview</u> of the following models and allowing for illustrative 	

	<p>comments from participants. <u>Do not read</u> from the text below, and do not attempt to cover every element of all the models. Pick out a salient point or two from each model and ask participants who have had experience in any of the models to elaborate:</p> <p>➤ Sample</p> <p><i>Collaborative/problem-solving courts vary considerably from jurisdiction to jurisdiction and by different case types within jurisdictions, but all focus on closer collaboration with the service communities in their jurisdictions and stress a collaborative, multidisciplinary, problem-solving approach to address the underlying issues of individuals appearing in court.</i></p>	
(3 min)	<p><i>We will point out some of the defining elements of various problem-solving court models, and encourage those of you who indicated earlier that you had experience in these courts to elaborate. Consider, as we describe them, whether some of these principles or practices might be viable in your courtroom.</i></p>	
(5 min)	<ul style="list-style-type: none"> ▪ <u>Drug Courts</u> <p><i>The first drug court was established in 1989 in Miami, Florida. By May 2005 there were 1,630 drug courts in operation in the United States (_____ in California), and another _____ in the planning stages. In essence, drug courts integrate case processing and drug treatment services in an effort to reduce both legal and clinical recidivism, that is, repeated criminal activity and continued drug use, among nonviolent offenders who are drug-involved. [_____, you indicated earlier that you sat in a drug court. Would you please describe that court to us?]</i></p> <p>[Alternatively, select a few key points from the text below.]</p> <p>As described in the National Center for State Courts' "Problem-Solving Courts: Models and Trends":</p> <p>Most drug courts employ a cooperative, nonadversarial approach. Typically the prosecutor, defense attorney, treatment providers, law enforcement officers, probation officers, program coordinators, and case managers operate as a team when addressing individual case issues. The team supports the judge who oversees the individual's progress in treatment. The judge uses positive reinforcement and sanctions to encourage positive behavioral changes. If the individual successfully completes the drug court program, the original charges are dismissed, the plea is stricken from the record, or the individual's sentence is reduced, depending on the type of drug court program.</p>	<p>PP slide #12, bullet 1</p>

	<p>The majority of drug courts employ a combination of two or more types of the following programs: pre-plea, post-plea/deferred judgment, post-adjudication, and probation violators. (Office of Justice Programs Drug Court Clearinghouse, 2001)</p> <p>A list of the Ten Key Components of Drug Courts as defined by the National Drug Court Institute is found at Tab 7, page 2.</p> <ul style="list-style-type: none"> ▪ <u>Community Courts</u> <p>* [_____, you indicated earlier that you sat in a community court. Would you please describe that court to us?]</p> <p>* Alternatively, select a few key points from the following text:</p> <p>Community courts link the criminal courts with local communities in a collaborative approach to “quality of life” crimes (e.g., littering, sleeping in a public place, graffiti, noise violations, loitering). Increased resources are devoted to “minor” misdemeanors, and community service and treatment are the most common sanctions. Sentences normally commence immediately, offender compliance is strictly monitored, and noncompliance is often strictly sanctioned. Offenders may have access to multiple treatment and social services through collaboration between government and nonprofit agencies.</p> <ul style="list-style-type: none"> ▪ <u>Homeless Courts</u> <p>* [Repeat invitation to participant to describe, etc.]</p> <p>The first Homeless Court was established in 1997 as an outgrowth of San Diego’s Veterans Stand-Down Program, a program designed to offer services to the disproportionate number of homeless persons who are veterans.</p>	<p>Tab 7, p. 2</p> <p>PP slide #12, bullet 2</p> <p>PP slide #12, bullet 3</p>
(5 min)	<p>Homeless Courts are special court sessions held in shelters or other facilities that serve the homeless. Their primary goal is to resolve outstanding criminal misdemeanor warrants (principally for “quality of life” crimes) that effectively block homeless persons from receiving social services and obtaining housing and employment.</p> <p>Sentencing often involves participation in treatment, counseling, and/or volunteer service in lieu of fines and incarceration.</p> <ul style="list-style-type: none"> ▪ <u>Mental Health Courts</u> 	<p>PP slide #12, bullet 4</p>

<p>(5 min)</p>	<p>* [Repeat invitation, etc.]</p> <p>Mental Health Courts or calendars seek to divert criminal defendants who have a mental illness away from incarceration and into treatment. Although procedures in these courts vary considerably, their goals are similar:</p> <ul style="list-style-type: none"> —to reduce repeated criminal activity among mentally ill offenders (legal recidivism) —to reduce psychiatric hospitalization among mentally ill offenders (clinical recidivism) —to preserve public safety —to reduce inappropriate incarceration of the mentally ill and promote their well-being —to relieve the burden on the Department of Corrections of inmates with mental illness <p>Participation is voluntary and emphasis is on early identification and intervention, an interdisciplinary, team approach, client-centered treatment focusing on individual needs, and regular court monitoring.</p> <ul style="list-style-type: none"> ▪ <u>DUI/DWI Courts</u> 	<p>PP slide #12, bullet 5</p>
<p>(3 min)</p>	<p>* [Repeat invitation, etc.]</p> <p>DUI and DWI Courts apply drug court principles to alcohol/drug dependent offenders who are arrested for driving under the influence (driving while impaired).</p> <ul style="list-style-type: none"> ▪ <u>Domestic Violence Courts</u> 	<p>PP slide #12, bullet 6</p>
<p>(5 min)</p>	<p>* [Repeat invitation, etc.]</p> <p>Domestic violence courts and calendars are sometimes included under the rubric of problem-solving courts, but there are several important distinctions to be drawn between them. As stated in “Problem-Solving Courts: Models and Trends”:</p> <p>“Court professionals and others are hesitant to put Domestic Violence Courts under a problem-solving umbrella. Compared to other problem-solving courts, the offenses involved are violent, not non-violent (and often victimless); court proceedings are primarily adversarial [depending on the structure of individual courts], not therapeutic; and the perpetrator’s behavior is viewed as learned rather than rooted in treatable addiction.”</p> <p>However, common goals include increasing both victim safety and</p>	

(5 min)	<p>offender accountability. Shared practices may include dedicated judges and staff, specialized intake services, early access to advocacy and services for victims, integrated information systems, screening for related cases, and close monitoring of compliance with court orders pre- and post-disposition.</p> <ul style="list-style-type: none"> ▪ <u>Juvenile Collaborative Justice Courts</u> <p>* [Repeat invitation, etc.]</p> <p>Various models integrate collaborative justice court principles into the juvenile justice system. These include:</p> <ul style="list-style-type: none"> —Peer/Youth Court —Youth Violence Court/Dating Violence Court/Family Violence Court —Juvenile Drug Court —Youth Mental Health Court —Family/Dependency Drug Court —Programs that incorporate restorative justice principles <p>Most juvenile justice models are patterned on adult models with emphasis on immediate and continuous assessment and intervention, ongoing and consistent court monitoring and supervision, and access to treatment when appropriate. In youth violence courts special focus is on ensuring the safety and providing support for the victim; family and dependency treatment courts identify and address parental substance abuse as a primary factor in selected abuse, neglect, and dependency cases.</p> <p>Peer/Youth Courts are unique in that they allow youths who admit to having committed a misdemeanor, or, in some cases, a low-level felony offense, to be sentenced by peers (under judicial supervision). These courts are youth driven, often engaging youth in the roles of prosecuting and defense attorneys, bailiff, clerk, and jurors. They involve numerous public agencies and have strong educational components.</p> <ul style="list-style-type: none"> ▪ Other problem-solving courts not pictured in the videotape include: <ul style="list-style-type: none"> —Reentry Drug Court —Truancy Court —Elder Court —Gambling Court —Gun Court 	PP slide #12, bullet 7
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<p>10:45</p> <p>(10 min)</p>	<p><u>What Shared Principles Distinguish Collaborative/Problem-Solving Courts From Conventional Courts?</u></p> <p>➤ Identify the shared principles that distinguish collaborative/ problem-solving courts from conventional courts. Allow approximately 10 minutes for a large group response. Use 5 additional minutes for a faculty summary, using PowerPoint slide #13.</p> <p>➤ Sample:</p>	
<p>(5 min)</p>	<p><i>Problem-solving courts focus on both treatment and accountability. Through a proactive, interdisciplinary, team-based approach, these courts allow adequate time to evaluate and identify individualized, needs-based treatment plans, identify treatment and other resources, and help defendants obtain treatment. They hold defendants accountable through compliance-monitoring and the imposition of graduated sanctions and rewards. Their shared principles can be summarized as follows:</i></p> <ul style="list-style-type: none"> ▪ A problem-solving focus: case outcomes that achieve tangible results for victims, offenders, and the community; ▪ A proactive judicial role (both inside and outside the courtroom); ▪ A nonadversarial, team approach to decision making; ▪ Integration of treatment and social services into the court process; ▪ Enhanced access to information through technology and linkages, enhanced intake and evaluation procedures, frequent court appearances, and on-site professional staff; ▪ Ongoing judicial supervision of the treatment process; ▪ The use of sanctions and rewards to increase compliance; ▪ Direct interaction between litigants and the judge; and ▪ Community outreach. <p>➤ Announce a 10-minute break, after which we will talk about whether the collaborative courts are working.</p>	<p>PP slide #13</p>
<p>11:00– 11:10</p>	<p>➤ BREAK (10 minutes)</p>	
<p>11:10</p>	<p><u>Are Collaborative Courts Working?</u></p> <p>➤ Refer back to the list generated during the opening exercise.</p> <p>➤ Describe the benefits of “doing business differently,” acknowledging that research is ongoing.</p> <p>➤ Sample:</p> <p><i>Recall the list of frustrations generated when we began this morning.</i></p>	<p>Flip charts</p>

<p>(5 min)</p>	<p><i>Have problem-solving courts solved any of these problems? The revolving door syndrome? Lack of services? Have they met their <u>own</u> goals of solving the underlying problems that cause legal and clinical recidivism? And, to the extent that they have, at what cost?</i></p> <p><i>We acknowledge that early research in this area was inconclusive and that many research findings are still preliminary, in part because variations on the problem-solving model have evolved so rapidly. We also acknowledge that problem-solving courts are not without their detractors and we will raise concerns related to these courts when we talk more specifically this afternoon. However, the benefits of “doing business differently” are many, clear, and supported by ongoing, reliable research. They fall into four general categories: (1) benefits to the court and justice system in terms of cost, caseloads, and time efficiencies; (2) reduced rates of recidivism; (3) public support; and (4) personal gratification for both judges and staff.</i></p>	<p>PP slide #14</p>
<p>(5 min)</p>	<p>➤ With regard to (1) and (2) above (costs, caseloads, time efficiencies, and reduced rates of recidivism), ask participants to read silently the Fact Sheet at Tab 7, page 4 of their materials. It is reproduced below in 10-point type:</p> <p><u>Fact Sheet</u></p> <p>➤ <u>Costs:</u></p> <p>In May 2004, the National Drug Court Institute (NDCI) published <i>Painting the Current Picture: A National Report Card on Drug Courts and Other Problem-Solving Court Programs in the United States</i>, reporting then current cost benefit research on drug courts in Washington State; California; New York; Multnomah County, Oregon; Dallas; and Saint Louis, Missouri. In all cases, NDCI reported that “a state taxpayer’s return on the upfront investment in drug courts is substantial.” Benefits were realized from estimated reductions in recidivism (e.g., avoided criminal justice system costs and avoided costs to victims, or “victimization costs”), saved incarceration costs, costs offset by participants’ payment of fines and fees, and other savings, including those realized in higher wages and related taxes paid by drug court graduates.</p> <p>NDCI’s May 2005 <i>Painting the Current Picture</i> cites positive cost benefit ratios for drug court participants as reflected in the U.S. Accountability Office (GAO) publication of February 2005 (see below, re: recidivism). It also cites cost benefits to society, in addition to the reduction in the costs of human tragedy, in drug courts’ contributions to the number of confirmed births of drug-free babies to active female drug court clients during the preceding 12 months.</p> <p>The California Administrative Office of the Courts has conducted two drug court cost studies since 1998. Research conducted between 1998 and 2002 revealed the following:</p> <p>—Criminal justice costs avoided through collaborative justice averaged</p>	<p>Tab 7, p. 4</p>

approximately \$200,000 annually per court for each 100 participants.

—All drug courts in the study showed “cost avoidance” at their trial courts after the first year of operation. Two of the three courts studied showed reduced trial court costs that began in the first year and were conservatively estimated at \$50,000 per court over the course of the study.

—With 90 adult drug courts operating statewide as of 2002, and drug court caseloads conservatively estimated at 100 participants per year, the annual statewide cost savings for adult drug courts suggested by these data is \$18 million per year.

In an October 2004 report entitled *California Drug Courts: A Methodology for Determining Costs and Benefits; Phase II: Testing the Methodology*, eight of the nine drug courts studied produces net benefits over a four-year period (see below, re: recidivism). Although savings varied among sites from about \$3,200 to \$20,000 per participant, the state realized a combined net benefit of \$9,032,626 for the 900 participants who entered those drug courts.

➤ Case Processing

In a September 2003 report by New York’s Center for Court Innovation entitled *The New York State Adult Drug Court Evaluation*, the following was reported with regard to the impact of drug courts on case processing:

—Initial case processing speed: Drug court cases reach initial disposition more quickly than conventional courts. Participants in all six drug courts spent significantly less time from arrest to initial disposition/program entry than comparison defendants.

—Total time pending: When in-program participation time was included in the calculation, processing time for participants was far longer than for comparison defendants (because of the length of the drug court program). Hence, to achieve positive impacts such as lower recidivism, drug courts require a significant up-front investment of court resources.

➤ Recidivism

(From “Drug Court Evaluations: Looking at the Trend Line,”
Drug Court Reporter, National Center for State Courts, Spring 2005)

“Early outcome evaluations of drug courts often produced very positive results, but many were methodologically flawed. More recent studies, incorporating more sophisticated methodological designs, however, are continuing to show positive results.”

The Government Accountability Office (GAO) released its latest report on drug court evaluations in February 2005. The GAO reviewed 117 evaluation studies conducted between May 1997 and January 2004. Less than a quarter of these studies met the GAO’s criteria for methodological rigor, but those that did indicated that drug courts remain a promising intervention. The GAO’s review of 27 evaluations of 23 different drug court programs indicated:

<p>(5 min)</p> <p>(5 min)</p>	<p>—Less recidivism for both new arrests and new convictions among drug court participants than among individuals in an appropriate comparison group (these differences were significant for 10 of 13 programs that examined rearrest rates and 10 of 12 programs that examined reconviction rates).</p> <p>—Reduced recidivism for a period of time following drug court completion (according to most of the evaluations).</p> <p>In California’s October 2004 report, recidivism rates averaged 17 percent for drug court graduates, 29 percent for all drug court participants, and 41 percent for a comparison group of offenders.</p> <p>➤ Add data from your jurisdiction, if available; ask for questions or comments regarding the Fact Sheet.</p> <p>➤ With regard to public support, indicate that public opinion strongly supports problem-solving courts.</p> <p>➤ Sample (examples are placed in brackets beneath each paragraph—feel free to substitute examples from your jurisdiction):</p> <p><i>Public support for problem-solving courts has grown steadily over the past decade, along with a public opinion trend toward treatment and away from incarceration for conviction of nonviolent drug-related and quality-of-life crimes. Public and legislative support for drug courts often rests on principles that combine the values of treatment and rehabilitation with the values of accountability and public safety.</i></p> <p><i>[In November 2000 the California electorate voted overwhelmingly in favor of Proposition 36, which mandated drug treatment rather than incarceration for those convicted of drug possession. As a result, \$120 million per year for five years was allocated for drug treatment.]</i></p> <p><i>Similarly, public response to other collaborative justice court models has been extremely positive.</i></p> <p><i>The National Center for State Courts study How Recent Court Users View the State Courts: Perceptions of Whites, African Americans, and Latinos (2000) found that:</i></p> <p>—<i>A solid majority of the public backs new court and judicial roles associated with problem-solving and treatment.</i></p> <p>—<i>Support for these new roles is strongest among African Americans and Latinos. For example, more than 80 percent of those groups support courts’ hiring counselors and social workers, compared to about two-thirds of whites.</i></p> <p>—<i>The highly positive response of African Americans to changes that would increase the involvement of the courts in</i></p>	
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people's lives is a marked contrast with the negative views African Americans generally have of judges and the courts.

[Comprehensive evaluations of community courts in Midtown Manhattan and Hennepin County, Minnesota, indicate that the public responds favorably to community court components, specifically, strict monitoring (Midtown) and treatment services (Hennepin County). In ways that the costs of community courts exceed those of traditional courts (e.g., higher staffing levels, expanded pretrial services such as interviews with defendants, longer sentences served by those who fail to meet the conditions of their alternative sanctions), the public believes that the benefits of community courts exceed their costs.]

[One example may serve to show why: As an adjunct to the Red Hook Community Justice Center in New York, the Red Hook Public Safety Corps engages 50 national service volunteers, mostly local residents, to work on crime prevention and victim assistance projects. By "reaching out to victims, cleaning up local eyesores, and fixing broken windows," this project is based on the Red Hook Community Justice principle that the courts can do more for the community than respond to crime after it occurs. In addition to the visible benefits of hundreds of thousands of hours of service to the community in schools, medical clinics, senior centers, and police precincts, the Public Safety Corps offers its members an opportunity to learn meaningful work skills and go on to full-time employment or higher education.]

Perhaps, in part, because problem-solving courts engage the community much more in their operations than do traditional courts, they have been called an "oasis of good will and public support" in the dismal landscape of public trust and confidence in our courts nationwide.

- **Mention that many judges seeking reelection have attributed success to their association with problem-solving courts.**
- **Mention the importance of being conscious of the public's perception of the courts, especially during times when the judiciary is under attack. Note the relationship between public trust and confidence and the independence of the judiciary.**
- **With regard to **job satisfaction**, indicate that even though judicial job satisfaction is not a fertile field for social science research, a recent article published in *Contemporary Issues in Law* (vol. 7, issue 1, 2003/2004) entitled "Judicial Satisfaction When Judging in a Therapeutic Key" reports findings from three separate surveys.**

<p>(5 min)</p>	<p>➤ Sample:</p> <p><i>Findings from three separate surveys on judicial job satisfaction indicate that judges in drug courts and integrated family law courts, which incorporate various problem-solving principles, have greater job satisfaction than judges in traditional criminal and family law courts. The single greatest predictor of job satisfaction was the judges' attitudes toward the litigants appearing before them. Drug court judges were more likely to believe that the litigants were positively motivated to solve their problems and had a good chance to improve if assisted by the court. They were also more likely to feel respected by litigants and feel that the litigants were grateful for the court's assistance.</i></p> <p><i>In the article reporting these findings, the authors suggest that judicial job satisfaction also carries over to staff, litigants, and counsel; is a predictor of litigant satisfaction; and ultimately has a positive impact on public trust and confidence in the courts.</i></p> <p>➤ Anecdotal evidence suggests the same. Use one or two of the following quotes, ask for participant comments, and/or testify to your own experience or observations:</p> <ul style="list-style-type: none"> ▪ From <i>Judges and Problem-Solving Courts</i> (Center for Court Innovation, 2002): <ul style="list-style-type: none"> —“Judges see a lot of failure and not many successes, but since I've been at the drug court, I've seen quite a few successes and that spurs me on.” Judge Joseph Valentino, Buffalo, NY —“You really have a chance to make a big difference in the lives of people.” Judge Sharon Chatman, California ▪ From <i>Judging for the 21st Century: A Problem-Solving Approach</i> (National Judicial Institute, Canada, 2004): <ul style="list-style-type: none"> —“Judges who recognize their potential impact...are likely to become better, more satisfied judges, with improved outcomes.” Justice Paul Bentley, Ontario Court of Justice 	
<p>11:35</p>	<p>➤ <u>Support of the Leadership</u></p> <p>➤ Indicate the support of problem-solving courts by the leadership of state court systems within the United States. Substitute for the first paragraph below a statement, if available, by a court leader in your state.</p>	<p>PP slide #15 Materials</p>

<p>(2 min)</p>	<p>➤ Sample:</p> <p><i>Chief Justice Ronald M. George of California made the following statement in his State of the Judiciary Address to the California Legislature in 2004:</i></p> <p><i>“Collaborative justice courts, focusing on less serious drug offenses, mental health, domestic violence, and juvenile matters, have been remarkably successful at turning around lives. Fifty out of our 58 counties have created some 250 collaborative justice courts that have proved to be a highly effective tool. They change the offender for the better and dramatically reduce the prospects of his or her return to court on new charges—while protecting society by making communities safer and reducing expenditures for hospitals, jails, and prisons. The drug court graduations I have attended are invariably inspiring. They feature individuals who have made a new start, forsaking drugs and crime in favor of education, gainful employment, and reunited families.”</i></p> <p><i>In the year 2000, the Conference of Chief Justices and the Conference of State Court Administrators (CCJ/COSCA) passed resolutions in support of problem-solving courts, calling for “the careful study and evaluation of the principles and methods employed in problem-solving courts and their application to other significant issues facing state courts.” The resolution also encouraged, “where appropriate, the broad integration over the next decade of the principles and methods employed in the problem-solving courts into the administration of justice to improve court processes and outcomes.”</i></p>	
<p>(2 min)</p>	<p><i>In July 2004, CCJ/COSCA reaffirmed its 2000 resolutions and further resolved to “encourage each state to develop and implement an individual state plan to expand the use of the principles and methods of problem-solving courts into their courts.”</i></p> <p><i>In May 2005, the U.S. Senate passed Senate Resolution 136 designating May 2005 as National Drug Court Month. This legislation, which states that “drug courts increase treatment retention and reduce substance abuse and crime among drug-involved adult offenders,” was introduced by Senators Biden (D/DE), Coburn (R/OK), and Sessions (R/AL).</i></p>	
<p>11:40</p>	<p><u>Problem-Solving Principles and Practices That Might Be Incorporated Into Conventional Courts</u></p> <p>➤ Ask participants to look back at PP slide #13 (the shared principles problem-solving courts).</p>	<p>PP slide #13</p>

<p>(10 min)</p>	<ul style="list-style-type: none"> ➤ Facilitate a discussion with the full group. Begin by asking the following questions: <ul style="list-style-type: none"> ▪ Of the shared principles and practices of problem-solving courts discussed today, which are already used to some extent or which might be used in more traditional courts? ▪ Of those principles and practices that might be used, what barriers do you see to their implementation? ➤ Start with the first question. After a full group discussion of 3 to 4 minutes, list the problem-solving principles and practices identified by other U.S. and Canadian judges as those most likely to be effectively integrated into conventional courts: <ul style="list-style-type: none"> ▪ Integration of services and partnerships with public agencies and community-based organizations ▪ Collaborative input for decision making ▪ Judicial supervision of mandates and the strategic use of sanctions and incentives ▪ Interaction between defendants/parties and the judge ▪ Focus on both process <i>and</i> outcomes ➤ Indicate that we will focus on these principles for the rest of the course. ➤ With regard to the second question, ask participants to list the barriers they see to the implementation of the practices and principles listed on PP slide #16. 	<p>PP slide #16</p> <p><i>[Faculty note: From this point, refer to this slide, not slide #13 for shared principles.]</i></p>
<p>(10 min)</p>	<ul style="list-style-type: none"> ➤ One faculty member lists the barriers on a flip chart, without screening them or debating their merits. These may include: <ul style="list-style-type: none"> ▪ Time constraints ▪ Actual and perceived lack of resources ▪ Resistance by “key players,” such as probation, public defender, district attorney, court administration, judicial leadership ▪ Feeling among colleagues that any “innovation” in my court will result in more work for them ➤ State that this afternoon, while remaining cognizant of the real and in some cases seemingly insurmountable barriers to their implementation, we will look further for ways to use and adapt the problem-solving principles to our individual circumstances, in hopes of attaining some of the outcomes these courts have achieved. Ask participants to continue to give some thought between now and then to which methods they think would work; barriers, if any, to their implementation; and strategies for overcoming those barriers. 	<p>Flip chart</p>

12:00 noon	<u>Lunch</u>	
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**Applying Collaborative Justice Court
Principles and Practices
Part II**

Time	Content	Teaching Aids
<p>1:00 p.m.</p> <p>(10 min)</p>	<p><u>Problem-Solving Principles and Practices That Might Be Exported Into Conventional Courts (continued from the morning)</u></p> <ul style="list-style-type: none"> ➤ Ask for further thoughts on the questions discussed before lunch: <ul style="list-style-type: none"> ▪ Of the shared principles and practices of problem-solving courts discussed yesterday, which are already used to some extent or which might be used in more traditional courts? ▪ Of those principles and practices that might be used, what barriers do you see to their implementation? ➤ Acknowledge that there are as many ways to do this as there are individual judges, and that something that works in one jurisdiction may not work in another. ➤ Also acknowledge that in all cases, application of problem-solving court principles must be consistent with the ethical and professional obligations of judges and all concerned. ➤ <i>Note to faculty:</i> Time is allotted for discussion of each of the five principles. A case study is provided for each principle, followed by a learning activity. Below each activity are possible responses to the problems posed by the case study. These are provided only as backup to class discussion and need not be raised if the discussion adequately addresses the issues. Following the learning activity are teaching points. These may be used by faculty as background, reference, discussion prompts, or material to be interwoven into classroom discussion/commentary. Relevant ethical and cultural issues are listed at the end of each segment or in Tab 7, p. 34–38, and should be incorporated into the discussion as appropriate. 	<p>PP slide #16</p>

1:10	<p><u>Integration of Services and Partnerships With Public Agencies and Community-Based Organizations</u></p>	<p>Case Study #1 PP slide #17</p>
(15 min)	<ul style="list-style-type: none"> ➤ Distribute Case Study #1 (Arrestment Calendar) ➤ Ask participants to read the case study, take a few minutes to think about their answers to the three questions at the bottom of the page (listed also below), then discuss their answers at their tables. 	<p>[Faculty note: Feel free to substitute, for any one of the case studies, a case study drawn from your own experience or that of the participants.]</p>
(10 min)	<ul style="list-style-type: none"> ➤ Facilitate a full group discussion regarding each question in turn by first asking each table to “report” on any consensus reached during small group discussion (integrate teaching points, below, as appropriate). 	
(10 min)	<ul style="list-style-type: none"> ▪ What would normally happen to this case in your court? In your jurisdiction would you address the question of restitution for the broken window? 	
(10 min)	<ul style="list-style-type: none"> ▪ Assume Eric has pled guilty and does not want an attorney. You are fairly sure, if not convinced, that he is an alcoholic. How would you confirm your hunch? Are you concerned that at 24 he appears to be homeless? Is there anything more you could do to affect the long-term outcome of this case? What if Eric had requested an attorney? 	
(5 min)	<ul style="list-style-type: none"> ▪ (Additional question, not asked on the hand-out): Arrestment calendars are often large and move very quickly. Do you ever pay attention to the “affect” of a defendant or whether or not he or she makes eye contact with you? Isn’t little affect and no eye contact common? Should you care? 	
(5 min)	<ul style="list-style-type: none"> ▪ Are there other situations, types of cases, or proceedings or circumstances, in which you already “integrate services” into traditional court processes? 	
(5 min)	<ul style="list-style-type: none"> ▪ What ethical and cultural considerations should you consider? 	
	<ul style="list-style-type: none"> ➤ Possible responses re: affecting the long-term outcome (faculty and class participant responses may be sufficient—use these as a backup): <ul style="list-style-type: none"> ▪ How can I get an assessment? How do I know what to do if I don’t understand what the problem is? ▪ Can we send Eric to a program we know will do an assessment and order him to report back in two weeks? ▪ Perhaps the least we can do is know our resources, e.g., find out what goes on in treatment, including victim programs. ▪ Send defendant to AA or NA as a condition of probation. 	

	<ul style="list-style-type: none"> ▪ Collaborate with a local hospital to send defendant on Friday/Saturday night to watch people being brought in as a result of drunk driving accidents. ▪ Ask mental health to provide education. ▪ Ask a service club to donate shirts and ties for court appearances. Ask bailiff to teach defendants how to tie a tie. ▪ Assign defendant to a rehab hospital to work with people with brain injuries from alcohol-related accidents. Have defendant write an essay about this experience. ▪ In some jurisdictions, assessment is required in treatment standards for domestic violence cases and certain vehicle code violations. ▪ Order restitution along with a review in six months, along with drug treatment; or, in the alternative, order a community service work program. ▪ Have a list of homeless shelters available and send Eric to one. ▪ Have court compliance unit supervise, if possible. <p>➤ Teaching points related to the integration of services and community partnerships (select as relevant to discussion and distinguish between suggestions that can be implemented without additional resources and those that would require additional resources):</p> <ul style="list-style-type: none"> ▪ Start a dialogue/relationship with people within your sphere of influence, e.g., mental health, probation, jail personnel, defense bar, prosecutors, child welfare, treatment providers. ▪ Identify clients who need treatment/intervention early. <ul style="list-style-type: none"> —How do you identify them? What are the cues? —Can you get an assessment in your jurisdiction? —What can be done with cases from a procedural standpoint in the meantime? ▪ Develop a mechanism for early identification and assessment of needs. <ul style="list-style-type: none"> —This is effective, but takes time, effort, contacts, and money. —Think: who will pay? What will the resource get out of it? ▪ Link clients with available services as early in the process as possible. ▪ Identify resources within the court system, locally, statewide, and nationally. Examples include other collaborative justice courts, victim services, CASA. ▪ Become aware of the function and services of the 	
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	<p>probation department.</p> <ul style="list-style-type: none"> ▪ Learn about the current systems/people/models/practices already in place. ▪ Use existing community relationships to educate and build a network; sometimes universities or teaching hospitals may be resources for unique case problems; reach out to faith-based resources; consider VA facilities and services. ▪ Educate yourself and staff about resources and subject matter and about the community context of issues. ▪ Create an inventory of what resources are available in the community for treatment, recovery/rehabilitation, and restoration. <ul style="list-style-type: none"> —Develop/access a community resource book. —Utilize a community services directory on the bench. —Consider ways to assess and ensure the quality of services; try to rely on social services and probation; build in participant assessment of perceived adequacy. —Identify who will do this work (other court or outside staff? legal intern? social services? public defenders? probation?); the judge will need help. Some counties have an administrative position or agency funded to keep a resource manual current. ▪ Find out something about a particular service or program before making a direct referral to it. Try to rely on probation or social services. ▪ How do you avoid the ethical dilemma of preferring one program over another (the judge should not refer persons directly to specific programs)? <ul style="list-style-type: none"> —As long as a program is licensed or certified, the judge can ask the attorney or pro per to select from a list of available programs or can refer to treatment and let probation decide. —One court called a meeting of all providers and asked them to set up a system by which they would alternate being present in court for referrals (four at a time, for example); this approach also filled the gap between the court order and the client's first contact with a treatment provider. ▪ What to do about "bad" programs? <ul style="list-style-type: none"> —Work with probation to establish program criteria. —One court asked the DA to certify programs in areas not licensed by the state. —The court sets standards and requirements for reports, e.g., the questions that must be answered, etc. 	
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	<p>If reports are inadequate, the program receives no further referrals.</p> <p>—Where a drug court exists in your court, its advisory committee may include a member of the county Alcohol and Drug program, in which case complaints re: overcharging, sexual misconduct, etc., will be known.</p> <p>—At the very least, there should be a procedure in place to find out whether programs meet court expectations.</p> <ul style="list-style-type: none"> ▪ The judge may be in the best position to convene a dialogue between agencies about gaps in services and systems. Judge can serve as a neutral third-party where agencies are competing. Community-focused planning, when convened by the judge, can resolve longstanding issues that get in the way of providing needed assistance. ▪ Impose conditions on orders, bonds, and pretrial release. ▪ Be cognizant of different goals and barriers of stakeholders. ▪ These initiatives may be difficult for an individual judge to accomplish without a coordinated approach from the court. ▪ Educate the community about the need for services and use the media (with caution) as an ally to promote the needs of both the problem-solving approach and the community. <p>➤ Ethical considerations</p> <ul style="list-style-type: none"> ▪ Talk to other problem-solving judges/trial court administrators about ethical issues. ▪ There are ethical issues re: community outreach. ▪ Discussion re: ethical considerations when drug, medical, or psychological treatment is mandated by the court; should include the interplay between federal (e.g., HIPPA, CFR) and state confidentiality laws, evidentiary privileges, and ethical duties, both those of counsel and the judge; waivers and the requirement that they be knowing and voluntary; permitted and mandatory disclosures without consent; and the role and function of MOUs in the problem-solving court context. ▪ Favoring one program over another. ▪ Selecting one client over another for services. ▪ Conflict of interest. ▪ <i>Ex parte</i> communication. <p>➤ Incorporate cultural issues as appropriate (see Tab 7, p. 34)</p>	
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- Question throughout how cultural factors may influence:
- Who, among defendants and other parties, makes you want to employ problem-solving techniques
 - How the offer of problem-solving interventions will be perceived, received, and acted on
 - Communication (both ways), resistance, motivation, and assumptions regarding these
 - The efficacy of various sanctions and incentives as well as the success or failure of various treatment programs
 - Whether there are demographic disparities in program populations, referrals, or outcomes

➤ Summarize discussion of Case Study #1 by giving one or more concrete suggestions re: transferring the relevant problem-solving principle into a conventional court or calendar. Draw from the class discussion, if possible, or from the list provided at Tab 7, page 25.

➤ Sample:

We have heard a lot of good ideas with regard to ways we might favorably affect the outcome of Eric's case. It is good to have an assessment. But it is not so hard to know that this young man has an alcohol problem. You might identify him as a potential high-risk defendant...one who will be back. In fact, he's already been back. You might put him at the end of the calendar just to spend a little more time with him. Maybe have him sit in the jury box, and meanwhile have someone from AA come over and talk to him. You might set up a special calendar for high-risk people. At the very least you can look at him, even for a few seconds. Make eye contact. Let him know that you know that it's the third time he's been here in a year. If he has an attorney, talk to both of them: "Mr. or Ms. Attorney, your client is here for the ___ time in ___ months. Don't you think it's time we did something different? I want you to go out into the hall and come up with a solution. I want you to look at the list of treatment providers, the shelter list, and the AA meetings we have in this county and I want you to recommend something to me that will help your client instead of keeping him coming back through what's beginning to look like a revolving door."

With regard to treatment and other programs, find out about them before referring people to them. At the very least, find out what they do, learn whether they work, and ask to see their outcomes.

2:10–
2:20

➤ **BREAK** (10 minutes)

<p>2:20</p> <p>(10 min)</p> <p>(20 min)</p> <p>(10 min)</p>	<p><u>Collaborative Input for Decision Making</u></p> <ul style="list-style-type: none"> ➤ Distribute Case Study #2 (Delinquency) ➤ Ask participants to read the case study and jot down any thoughts they have regarding (1) what's going on with this young woman, (2) how can they find out, (3) whom they want to ask, and (4) what conditions they might make to her release. In addition, ask participants to consider not only what they would do in this specific case, but also whether they would want to do something for this <u>type</u> of case on a group level. ➤ Ask one participant, preferably someone who has sat in juvenile court and/or as presiding judge, to be prepared to play the role of presiding judge later in the session. ➤ Facilitate a full group discussion on the following issues (integrate teaching points, below, as appropriate): <ul style="list-style-type: none"> ▪ What seems to be going on here? ▪ What additional information do you need/would you like to have? ▪ Are resources currently available in your jurisdiction to provide the information you seek? ▪ If not, are there ways you might seek interagency or community assistance? ▪ If not, based only on the information that you have, what might you do to affect the long-term outcome of this case? ▪ Removing the facts implying mental health and/or drug issues, what might you do to affect the long-term outcome? ▪ If you release Alice, what conditions would you impose? ▪ Are there other situations, types of cases, or proceedings, or circumstances, in either the juvenile or adult court, in which you already broaden the base of your decision making, use a team approach to case processing, or use a less adversarial process than you would in a conventional courtroom? ▪ After discussion of the case study, ask whether anyone would want to target juvenile delinquency, drug, or pregnancy cases for collaborative case processing. Why? Or why not? ➤ Possible responses re: affecting the long-term outcome (faculty and class participant responses may be sufficient—use these as a backup): 	<p>Case Study #2 PP slide #18</p>
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<p>(10 min)</p>	<ul style="list-style-type: none"> ▪ We need more information. Try to get both mental health and drug assessments. These are normally available in juvenile court. ▪ Traditionally, we would find out something from probation, perhaps something about her living conditions, and information re: school (e.g., tardies, absences, etc.). If grandmother is present, we can learn more from her. ▪ With or without the drug and/or mental health issues, go into the community and find mentors or groups for adolescent offenders. Rotary/service clubs? Retired people? Big Brother/Big Sister? ▪ With regard to cases similar to this one, it is possible that attention paid to this small target population might yield very positive results? <p>➤ Ask a participant who seems positively inclined to apply problem-solving principles to a small group of delinquency cases involving pregnant teens to try to convince the participant selected earlier to role-play the presiding judge that this is a good idea. Highlight the following points, whether or not they are raised in the role-play:</p> <ul style="list-style-type: none"> ▪ You will need the support of the presiding judge, even more than that of your colleagues, when you attempt to make almost any kind of collaborative change. ▪ Approach the presiding judge with as much data and supporting information as possible. ▪ Consider starting small, on an issue such as this one, which is not labor intensive for your colleagues, which does not involve upsetting anyone, and where results are <u>really</u> positive. ▪ If a meeting with interested persons is to be held, ask the presiding judge to be present. <p>➤ Teaching points related to collaborative input for decision making (select as relevant to discussion and distinguish between suggestions that can be implemented without additional resources and those that would require additional resources):</p> <ul style="list-style-type: none"> ▪ Collaborative input for decision making is also called the “team approach,” or “non- or less-adversarial” approach, in some problem-solving courts. It refers to a group of people engaged in the problem-solving process, united in the goal to make informed decisions at all stages of the process. ▪ However, the problem-solving approach is not meant to 	
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supplant the adversarial process, where due process would require it or it is otherwise appropriate under the circumstances. Acknowledge that there is some controversy regarding the potential abrogation of the rights of criminal defendants in the context of problem-solving courts, and that great care must be exercised to protect these rights.

- A problem-solving approach may be based on a macro level, or just on the one particular case before you.
- If this is to be a truly collaborative process, identify and convene the team before identifying the problem to see if there is a shared concern. Each potential team member must understand how the process will benefit him or her.
- At all stages of the fact-finding and decision-making process, know your resources and consider ways to expand them.
- Identify the potential team that may already exist in the courtroom (e.g., court officers, clerks, transport officers, court attorneys—those who help set the tone in the courtroom).
- Identify resources that are already part of the justice system (e.g., probation, family court services, CASA, victims assistance, alternative or appropriate dispute resolution services), agencies/providers/organizations that already serve the courts in other capacities (e.g., Department of Social Services, mental health providers, Department of Corrections, alcohol treatment providers), and agencies that have common goals (e.g., Stop Child Abuse Now, MADD). You may need to identify supervisors/administrators who can persuade others, but you may be surprised at how much they will give you if you ask.
- Consider other potential resources, such as the problem-solving court, if one exists “down the hall”; significant others; extended family members; and case managers.
- Identify resource deficits; try to solve resource deficiencies collaboratively with the resources you have.
- Obtaining collaborative input for decision making takes more time. Consider both your own time constraints and demands on others, then weigh these against the probability that better-informed decisions create better outcomes, which will result in saved time in the long run.
- If formal meetings are difficult because of time and caseload constraints, there are informal ways to do business in a more problem-solving way; come to court

<p>(5 min)</p>	<p>five minutes early, have conversations during breaks, or stay on the bench after court has adjourned to debrief.</p> <ul style="list-style-type: none"> ▪ The judge must keep control of the process; he or she may be assisted by leadership training. ▪ To the extent that court or other resources are impacted, the presiding/administrative judge should be included, or at least advised, of general process. <ul style="list-style-type: none"> —Establish open communication with presiding or administrative judge —Suggestion: Go to the presiding judge after you have defined the problem and developed proposed solutions. ▪ Collaborative input for decision making, or a team-based approach to problem identification and solutions, will be more difficult in courtrooms where the prosecution and defense attorneys rotate or are always different. Still, judges can change court culture over time with perseverance and education of attorneys and staff. ▪ Training self and team is essential. Consider multi- and cross-disciplinary training. ▪ Need to develop evaluation techniques to determine whether new methods are making a difference— independent evaluation of both process and outcomes, though difficult to come by and expensive, is best. <p>➤ Ethical considerations</p> <ul style="list-style-type: none"> ▪ Confidentiality issues re: mental health and drug assessments ▪ <i>Ex parte</i> communications ▪ Ethical obligations of defense attorneys to their clients <p>➤ Incorporate cultural considerations as appropriate (see Tab 7, p. 34).</p> <p>➤ Summarize discussion of Case Study #2 by giving one or more concrete suggestions re: transferring the relevant problem-solving principle into a conventional court or calendar. Draw from the class discussion, if possible, or from the list provided at Tab 8, p. XX.</p> <p>➤ Sample: <i>What have we decided we can do to help Alice? Whom would we need to bring together, probation and CPS? We need information from the grandmother, we need a school report. Could we feed her into the dependency system? There is a high-risk factor for Alice's baby. We might keep the case in</i></p>	<p>Materials at p. XX</p>
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<p>3:15– 3:25</p>	<p><i>delinquency and order necessary medical services, etc., as a condition of probation. Or, we might give a call to the dependency judge and get the case removed to dependency. A dependency investigation might reveal the need to place Alice in a group home for pregnant teens.</i></p> <p><i>On the macro level, it would be good to have a policy, procedure, or system in place for triaging these high-risk cases. You can start small, with an idea that is not labor intensive for other judges.</i></p>	
<p>3:25</p> <p>(15 min)</p>	<p>➤ BREAK (10 minutes)</p> <p><u>Judicial Supervision of Mandates and the Strategic Use of Sanctions and Incentives</u></p> <p>➤ Distribute Case Study #3 (Felony)</p> <p>➤ Ask participants to read the case study and discuss their answers to the questions, as they occur on the page, at their tables.</p>	<p>Case Study #3 PP slide #19</p>
<p>(15 min)</p> <p>(10 min)</p>	<p>➤ Ask for responses, one per table. Also ask how an assessment for possible addiction might occur in different jurisdictions and what could be done with the case from a procedural standpoint in the meantime. Expect a variety of responses and encourage analysis that addresses the potential equal protection and due process dilemmas created by imposing a state prison sentence.</p> <p>➤ Introduce the subject of judicial supervision of mandates in conjunction with the use of a coordinated system of sanctions and incentives to help the court adequately respond to a client’s compliance or noncompliance, incorporating the points below. Make this mini-lecture as interactive as possible, drawing questions and comments from participants, giving concrete examples of things you or others have done, and posing hypotheticals from a variety of assignments.</p> <ul style="list-style-type: none"> ▪ The basic premise is that desired outcomes are more likely to occur with appropriate monitoring and supervision. ▪ The goal is to match types of cases and desired outcomes with the appropriate type and frequency of supervision. For example, research shows that regular reporting may work better in some types of cases, while as-needed reporting works better in others (this will be discussed further). 	<p>Interactive lecture</p>

	<ul style="list-style-type: none"> ▪ A judge can monitor cases in various ways, including: <ul style="list-style-type: none"> —Face-to-face, in court —Through information gathered by others, e.g., court staff —Through mechanisms set up by programs/providers ▪ To get relevant, meaningful reports/test results from treatment providers and community agencies, consider standardizing the report format and collecting information electronically. ▪ Goals and expectations, including those related to monitoring and supervision, should be realistic, achievable, and commensurate with presenting problem, e.g., mental illness, substance abuse, co-occurring, DUI, domestic violence. ▪ Reports should occur as frequently as needed and as court time allows. <ul style="list-style-type: none"> —Acknowledge that this may be difficult unless new procedures are adopted (causing reports to be filed, for example), and these procedures may need to be adopted court-wide. —The judge may need to develop alternative ways to access needed information. ▪ The court should remain flexible to hold status hearings to review and modify treatment options based on ongoing progress and assessments. <ul style="list-style-type: none"> —This may be difficult given time constraints. The judge may need to find new ways to structure the docket. ▪ To ration <u>judicial time, the judge should delegate supervision, if appropriate</u>, so long as the person monitoring/supervising is competent (may include probation, social services, a caregiver, treatment provider, etc.); but remember primacy of judicial role. ▪ Appropriateness of the delegation may relate to the type of presenting problem. Two examples serve to illustrate: <ul style="list-style-type: none"> —A homeless person may be court-phobic, and monitoring of compliance might be accomplished by a community or faith-based organization. —A person with a mental illness who is ordered to counseling or to a group may report to someone with whom he or she has an established relationship, e.g., a psychiatrist or social worker. ▪ Research shows that several related concepts play an important role in attaining desired outcomes when monitoring is delegated: <ul style="list-style-type: none"> —The need for a consistent relationship between the client/offender and a single individual 	
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(10 min)	<ul style="list-style-type: none"> —The primacy of the judicial voice —The ability to have access to the judge if necessary ➤ Ask participants to think back on the last three scenarios (Eric, age 24; Alice, age 16; and Eric, age 26) and consider what kind(s) of monitoring/supervision might have been effective. Discuss. 	
(5 min)	<ul style="list-style-type: none"> ➤ Ask participants to discuss situations in which they already monitor or supervise case progress/outcomes or raise hypothetical situations in which they might consider doing so. Faculty will add examples and critique. ➤ Incorporate ethical/cultural issues as appropriate 	
(10 min)	<ul style="list-style-type: none"> ➤ Summarize discussion of Case Study #3 by giving one or more concrete suggestions re: transferring the relevant problem-solving principle into a conventional court or calendar. Draw from the class discussion, if possible, or from the list provided at Tab 87 p. 25. ➤ Indicate that tomorrow morning there will be a presentation on the current research on sanctions and incentives—what works, what doesn't, and why. 	
4:30	<u>Adjourn</u>	

**Applying Collaborative Justice Court
Principles and Practices
Part III**

Time	Content	Teaching Aids
<p>8:30 am</p> <p>(2 min)</p> <p>(5 min)</p>	<p><u>Sanctions and Incentives</u></p> <ul style="list-style-type: none"> ➤ The following is a summary of the presentation on sanctions and incentives given by Carson Fox, National Drug Court Institute Fellow, on September 8, 2005. However, it is <u>highly</u> recommended that you invite a speaker to present this segment of the curriculum, if for no other segment. The speaker, several of whom are recommended in the Notes to Faculty at pre-Tab I, should have knowledge of current research on what makes people modify their behavior, including the Ten Science-Based Principles published by the National Drug Court Institute. He or she should not be expected to follow the summary set forth below, but may find it helpful. ➤ Introduce segment on the aspects of scientific research on behavior modification that can be generalized to human behavior. The question for judges in both the collaborative and conventional court context should be, as it has been for researchers for the past 60 years, “What makes people modify their behavior?” ➤ Ask whether any participant in the class has ever had a behavior they wanted to modify but found difficult to do so, or a habit they couldn’t stop. Pause for answers—give one of your own if no one volunteers. Answers might include: <ul style="list-style-type: none"> ▪ Workaholism ▪ Biting fingernails ▪ Eating while watching TV; overeating ▪ Smoking ▪ While traveling, breaking promise to self to eat well and exercise ▪ Not exercising ➤ Acknowledge that behavior change can be extremely difficult, even if we are not struggling with AOD addiction. 	<p>Expert speaker (if possible)</p> <p>Separate PowerPoint Presentation (labeled PP2) at Tab 5</p> <p>PP2 slide #1</p> <p>PP2 slide #2</p>

(2 min)	<ul style="list-style-type: none"> ➤ Acknowledge the pervasiveness of AOD addiction in courts other than drug courts: <ul style="list-style-type: none"> —Ask for estimates of the percentage of AOD-addicted persons in mental health courts (judges often estimate more than 95 percent). —Ask for estimates of the percentage of AOD-addicted persons in jails and prisons (judges often estimate more than 85 percent). ➤ Acknowledge the power of some addictive substances: <ul style="list-style-type: none"> —It is known that methamphetamine lights up simultaneously all receptor sites in the brain that intake pleasure. ➤ Acknowledge what we're up against: <ul style="list-style-type: none"> —For addicted people, remaining addicted is easier than changing. —Given the pervasiveness and power of addiction, judges need more leverage on their side than has been traditionally available. ➤ Introduce the Ten Science-Based Principles of Changing Behavior Through the Use of Reinforcement and Punishment: <ul style="list-style-type: none"> ▪ Drug courts work. ▪ Sanctions and incentives work. ▪ To achieve accountability, a review of the research will reveal that both sanctions and incentives are important, but incentives are even more important than we may have realized. ▪ These principles are, to use a metaphor, like 10 slices of the same pie. They fit together and sometimes blend together, but they also stand alone. 	<p>PP2 slide #3</p> <p>Tab 7 p. 6</p>
(1 min)	<ul style="list-style-type: none"> ➤ Divide the 10 principles by the number of tables and ask each table to consider the principles assigned to it (e.g., if there are 3 tables, give Table 1 principles 1–3, give Table 2 principles 4–6, and give Table 3 principles 7–10). Ask participants at each table to: <ol style="list-style-type: none"> 1. Read their assigned principles; 2. Discuss their principles briefly and determine how they might be applied outside the collaborative court context; and 3. Be prepared to explain their principles to the entire group. ➤ Alert participants that the principles may seem in some instances obvious and in other instances somewhat 	<p>PP2 slide #4</p>
(1 min)	<ul style="list-style-type: none"> ➤ Alert participants that the principles may seem in some instances obvious and in other instances somewhat 	

<p>(8 min)</p>	<p>counterintuitive. Give 8 minutes for this exercise.</p> <ul style="list-style-type: none"> ➤ Reconvene entire group and ask a reporter at each table to identify that table's assigned principle(s), explain each principle, and identify ways, if any, that the principle(s) might be applied outside the problem-solving courts. ➤ Incorporate the following concepts in response to group reports: <p>1. <u>Immediacy and certainty of sanctions are more important than severity.</u></p>	
<p>(7 min)</p>	<ul style="list-style-type: none"> ➤ Example: Imagine being told that there will now be sensors placed along the freeways that can detect whether you exceed the speed limit. For every three miles above the speed limit you drive, \$40 will be automatically deducted from your bank account. Would this affect your driving? Compare this to the uncertainty of being caught speeding under the current system. Speeding may or may not be detected, but if it is, the punishment is likely to be much more severe, when you consider fines, time off work, insurance implications, etc. ➤ Sanctions should not be painful, humiliating, or injurious. ➤ It is generally thought that people are more susceptible to treatment during the period of time immediately following arrest, because arrest creates a "crisis situation" and a sense of urgency. ➤ Application outside of collaborative justice courts: <ul style="list-style-type: none"> ▪ Probation violation hearings could be brought more quickly by cutting the time between violation and (1) being detected and (2) filing and court appearance. 	<p>PP2 slide #5</p>
<p>(7 min)</p>	<p>2. <u>Sanctions and incentives are in the eye of the behaver.</u></p> <ul style="list-style-type: none"> ➤ One size does not fit all—for punishment to be effective it must "fit the criminal." ➤ Incarceration is not always the defendant's least-preferred sanction. ➤ Incarceration or the possibility of it as a sanction tends to be a greater motivator of behavior change for those who have more to lose (e.g., those who have jobs, family, children, ties to the community). For those who have nothing to lose, positive reinforcement has proven particularly effective. ➤ Application outside of collaborative justice courts: <ul style="list-style-type: none"> ▪ Increased monitoring of compliance in treatment or other 	<p>PP2 slide #6</p>

(7 min)	<p>programs <u>combined</u> with positive reinforcement of success can be effective.</p> <ul style="list-style-type: none"> ▪ Add assessment information into presentence reports in order to incorporate already collected information into court response. <p>3. <u>Sanctions and incentives must be of sufficient intensity to be effective.</u></p> <ul style="list-style-type: none"> ➤ The effect of giving the same sanction <u>or</u> incentive repeatedly wears off over time. ➤ Both graduated sanctions <u>and</u> incentives work in drug court; but, <u>caveat</u>, some rewards may interfere with a person's intrinsic motivation (see number 8, below). ➤ Having an assessment system in place at the very beginning of the process is the key to knowing what is important to the participant. ➤ The judge must also have a sufficient array of tools/services at his or her disposal. ➤ Application outside of collaborative justice courts: <ul style="list-style-type: none"> ▪ Start at less than the maximum sanction or incentive—don't start with the highest limit. For example, if one week jail time is the maximum penalty on probation violation, start with weekend jail time, then two consecutive weekends, etc. 	PP2 slide #7
(7 min)	<p>4. <u>Responses should be delivered for every behavior.</u></p> <ul style="list-style-type: none"> ➤ The smaller the ratio of punishment to infractions, the more consistent and enduring is the suppression of the undesired behavior. ➤ Rewards need not be tangible. Even the <u>chance</u> of receiving a reward may be an incentive. ➤ This is difficult to accomplish, even in a collaborative court. In a noncollaborative court, for example, many if not most jurisdictions have no probation services in misdemeanor cases. A more realistic goal is to <u>reduce</u> the ratio of punishment to infractions. ➤ Application outside the collaborative justice courts: <ul style="list-style-type: none"> ▪ One judge asks the DA in every case whether alcohol and other drugs are involved. If so, AOD is targeted in conditions of probation, AA or NA is required, and regular times are set for review. 	PP2 slide #8
(7 min)	<p>5. <u>Responses should be delivered immediately.</u></p> <ul style="list-style-type: none"> ➤ Delay in imposition of sanctions can allow other behaviors to interfere with the message of the sanction. ➤ Again, this is difficult to accomplish. A more realistic goal is 	PP2 slide #9

<p>(7 min)</p>	<p>to reduce the time between the undesired behavior and the imposition of sanctions.</p> <ul style="list-style-type: none"> ➤ Application outside the collaborative justice courts: <ul style="list-style-type: none"> ▪ Juvenile drug courts are creating ways to make sanctions more immediate by setting up after-school and evening calendars. <p>6. <u>Undesirable behaviors must be reliably detected.</u></p> <ul style="list-style-type: none"> ➤ Failure to detect drug use, in effect, puts a person on an intermittent schedule of rewards/sanctions, which is ineffective in changing behavior. ➤ Judges need to be educated re: reliable testing and to become creative re: random testing. ➤ Application outside collaborative justice courts: <ul style="list-style-type: none"> ▪ Consider various random testing ideas: (1) order weekend testing and/or home visits, (2) ask clerk to notify a certain number of probationers or those on bail at random each week that they are required to test within a week, then follow up. ▪ Create a “call-in” system whereby probationers are assigned a number or letter. They then call in once a day to a recorded message that selects a number or letter at random for testing that day. 	<p>PP2 slide #10</p>
<p>(7 min)</p>	<p>7. <u>Sanctions and incentives must be predictable and controllable.</u></p> <ul style="list-style-type: none"> ➤ Expectations must be clearly articulated. ➤ There must be a perception that you have rules and follow them; perceived certainty of consequences does have a deterrent effect. ➤ Perception is based not only on what does occur but on what the participant expects will occur. ➤ Failure to specify targeted behaviors and the consequences for noncompliance can result in “learned helplessness” where defendants can become aggressive, withdrawn, or despondent. ➤ Written contracts and agreements can be effective. In fact, failure to have written contracts and agreements can lead to program failure. ➤ Application outside of collaborative justice courts: <ul style="list-style-type: none"> ▪ Juveniles in the delinquency system may have experienced being punished by their parents when they did nothing wrong. The certainty of consequences for clearly defined behavior is critical here. ▪ The same applies to adults. Remember that written communication does not always work, because of 	<p>PP2 slide #11</p>

(7 min)	<p>language and literacy barriers.</p> <p>8. <u>Sanctions and incentives may have unintended consequences.</u></p> <ul style="list-style-type: none"> ➤ Both excessive or inappropriate sanctions and extrinsic rewards for behavior that is intrinsically motivated can reduce motivation and cause unanticipated side effects. ➤ Praise is the most effective way to heighten intrinsic motivation. ➤ Appropriate questions include: When does someone stop needing externally imposed motivation? Which participants benefit from more frequent court contact and which do not? ➤ Judges should keep current with behavioral research and carefully observe outcomes resulting from their procedures. ➤ Application outside the collaborative justice courts: <ul style="list-style-type: none"> ▪ In juvenile dependency courts consider whether there are so many simultaneous hurdles for reunification that many families are set up for failure. Consider setting hearings (or requesting attorneys and case workers to check in) sooner than the date when failure becomes dispositive. ▪ Disparities in treatment of similarly situated defendants without an articulated rationale will be viewed as unfair, as will similar treatment of differently situated defendants (e.g., misdemeanants and felons). Perceived unfairness will result in defiance. 	PP2 slide #12
(7 min)	<p>9. <u>Behavior does not change by punishment alone.</u></p> <ul style="list-style-type: none"> ➤ Effects of punishment are temporary, and the punished behavior returns when the punishment ends. ➤ Punishment is most effective when used in combination with other techniques such as positive reinforcement. ➤ Application outside of collaborative justice courts: <ul style="list-style-type: none"> ▪ Consider opportunities presented by probation revocation hearings. The judge has more discretion here than at sentencing to fashion contingencies that combine both sanctions and incentives. 	PP2 slide #13 PP2 slide #14
(7 min)	<p>10. <u>The method of delivery of the response is as important as the response itself.</u></p> <ul style="list-style-type: none"> ➤ Certain styles of interaction result in more compliant behaviors. These include empathic communication, articulated enthusiasm regarding the effectiveness of a prescribed course of treatment, and a motivational rather than confrontational approach. 	PP2 slide #15

- Motivational interviewing techniques include allowing the participant to talk, asking open-ended questions, and summarizing, or “playing-back” what the participant says. They do not include warning, confronting, or giving unwelcome advice.
- **Application outside the collaborative justice courts:**
 - This principle has wide application outside the collaborative justice courts, even in the face of time constraints and heavy calendars.
- Teaching points related to the presentation outlined above
 - Incentives and sanctions should be timely, certain, and appropriate.
 - Timely in relationship to the triggering behavior (this is difficult without compliance monitoring).
 - Certain with regard to triggering behavior (response will vary based on individual circumstances).
 - Proportional to the reason for court involvement.
 - Sanctions should be used in conjunction with positive reinforcement.
 - The effect of sanctions tends to evaporate after the sanction is removed; the use of positive reinforcement results in longer-lasting behavioral change.
 - Judge should seek input from and give consideration to attorneys, litigant, and any relevant persons before deciding an appropriate response.
 - This includes the victim, when dealing with violent crime (e.g., domestic violence).
 - True even if litigant disagrees with others, including judge.
 - Unlike drug court, where clients are seen on a regular basis, review might depend on recommendations from probation and/or treatment. If so, there must be timely access to the judge for addressing emergent issues.
 - This implies additional hearings, which are affected by time limitations of court.
 - There must be a mechanism or system set up (e.g., e-mail) for contacting/informing the judge.
 - Judge should inform the litigant that a judicial response will result from compliance or noncompliance with mandates
 - Litigants should be informed of their responsibility, and they should know what is going to happen if they do not meet it.
 - Research is clear that making expectations clear results in better compliance.

PP2 slide #16

	<ul style="list-style-type: none"> ▪ Judge should inform litigants and counsel that the judge uses a range of possible responses, depending on the needs of the litigant and nature of the case. <ul style="list-style-type: none"> —Some drug courts have developed a chart depicting the range of sanctions and rewards. ▪ Incentives may be tangible or intangible. <ul style="list-style-type: none"> —Simple praise from a judge is a strong motivator when used appropriately. —There are cases (e.g., domestic violence) where it is inappropriate to publicly congratulate or applaud defendant. Judges must inform themselves on the nature of addiction, domestic violence, mental illness, and chronic “quality-of-life” offenses. ▪ Communication between the judge and litigant can motivate behavioral change, when done appropriately. <ul style="list-style-type: none"> —Depends on judge’s communication technique and content. —The way the judge delivers his or her response can be as important as the response itself. —Some Axis II diagnoses might challenge this notion in certain circumstances. ▪ Sanctions and incentives must be perceived to be fair; judges need to be able to articulate the reason for individualized responses. <ul style="list-style-type: none"> —Judges should be aware of the impact of their responses on similarly situated litigants; dispositions of pending cases will impact others in the courtroom. —Use the opportunity to educate other persons present in court (e.g., other defendants/participants, probation, attorneys, law enforcement, the public, the media if present). <p>➤ Ethical Issues</p> <ul style="list-style-type: none"> ▪ Difficult to know limits re: sanctions (e.g., contempt in dependency?). It is essential to consider the legal and constitutional dimensions of sanctions in a nontraditional court. ▪ Judges should not be overly coercive or punitive. <p>➤ Incorporate cultural issues as appropriate.</p> <p>➤ Explain that after the break and during the segment on communication skills, we will demonstrate the effective use of sanctions and incentives.</p>	<p>[Faculty note: If you have used the PP2 slide presentation, you will need to close that program and return to the</p>
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10:00– 10:15	BREAK (15 minutes)	initial PowerPoint program here.]
10:15	<u>Interaction Between Defendant/Parties and Judge</u>	Case Study #s 4, 5, & 6 (Tab 6)
(5 min)	<ul style="list-style-type: none"> ➤ Distribute Case Study #s 4, 5, and 6 ➤ Ask participants to read all three case studies, but focus only on the questions for the case study assigned to their table. Faculty assign one case study per table for purposes of discussing the questions. 	PP slide #s 20, 21, & 22
(10 min)	<ul style="list-style-type: none"> ➤ Facilitate a full group discussion regarding each case study, asking participants to volunteer their answers to the questions. ➤ Suggestions re: these case studies might include: <ul style="list-style-type: none"> ▪ Where there is no unified family court and no information system to provide access to records, you can set up informal systems via fax and e-mail to provide to other courts all orders re: the same families. ▪ In very small courts, two or three judges can divide up the families (surnames A–G, H–P, etc.) and hear all issues related to those families (“one-judge, one-family”). ▪ Regarding Case Study #4, participants should review the reference sheet regarding domestic violence, and the discussion should include application of the principles from the reference sheet. The role-play of this case study could be presented by the faculty; or the faculty could facilitate a follow-up discussion of the participant role-play. 	
(2 min)	<ul style="list-style-type: none"> ➤ Introduce the subject of interaction between the defendant/parties and the judge. <ul style="list-style-type: none"> ▪ Acknowledge that this is, to some extent, a controversial topic. The role of counsel cannot be undermined, and if criminal defendants are unrepresented pretrial, the court must be sensitive to self-incrimination and eliciting information that could be used against defendant at sentencing. 	
(2 min)	<ul style="list-style-type: none"> ▪ Invite participants to list examples of in-court situations in which judges already speak directly to litigants. These might include taking a plea, pretrial hearings, mediation, settlement conferences, chambers conferences, and the growing number of hearings in which one or more parties are self-represented. Note that the judge’s role in jury 	

<p>(5 min)</p>	<p>selection in California and other states involves a great deal of interaction between the judge and potential jurors.</p> <ul style="list-style-type: none"> ➤ Acknowledge that increasing the interaction between the defendant/litigant and judge, like other principles and practices discussed in this course, should be considered only “as appropriate” and within the context of the role of counsel and the fundamental rights of criminal defendants. Ask: <ul style="list-style-type: none"> ▪ When might such interaction be appropriate and under what circumstances? Facilitate discussion that acknowledges the limitations and ethical issues related to each suggestion; add points given below if they are not raised by participants; incorporate teaching points as relevant. <ul style="list-style-type: none"> —When making your expectations clear. The research is clear that if you make your expectations clear, you will get better compliance. Clarity and compliance increase when participants understand not only court orders, but also the context in which the orders are made, that is, “what’s going on” in the courtroom and its relevance to them. This often requires using plain language; translating “legalese” into simple, everyday terms; and understanding the extent and indicators of limited literacy. —When seeking information regarding program progress, life issues, sobriety, medication compliance, participant concerns, and program assessment. —When seeking input on the need for further services. —When educating participants about program and treatment options. —When educating participants about consequences of compliance and noncompliance. —When giving feedback to participants on their progress (as assessed and provided by service providers). —When educating others in the courtroom (e.g., those waiting for similar proceeding, attorneys, probation, law enforcement, parents, the media if present). ➤ Teaching Points <ul style="list-style-type: none"> ▪ Judge must be mindful of attorney-client confidentiality issues; permission should be sought from counsel unless permission is implicit or local legal culture accepts direct dialogue. ▪ Interaction between judge and criminal defendants 	
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requires support of the defense bar, some of whom may be resistant to the idea. Defense attorneys will have different concerns, depending on the reasons for the interaction and its timing.

- With regard to review hearings, it will depend on whether the non-problem-solving general jurisdiction court has the time and resources to conduct them and whether reliable sources of information re: participant behavior are available.
- With regard to the fact-finding process:
 - Be cognizant of and sensitive to confidential issues (AIDS, past trauma, sexual orientation); this will depend, in part, on what the judge can learn in advance (e.g., investigation by social services, probation, law enforcement, treatment providers, etc.).
 - It is important to listen and watch for reactions and questions from participants. Some judges hold hearings on the record in chambers that allow participants to say things they would not otherwise disclose. The things they say can explain much of their behavior. Caveat: this must be done with attorneys present and care must be taken both inside and outside the courtroom not to “go too far” in probing issues of past trauma.
- With regard to educating participants about program and treatment options:
 - An assessment must be done before treatment options are explored.
 - The judge must be aware of various treatment options, understand their appropriateness, and have the skill set to discuss treatment options constructively with participants.
 - Education can take place by providing handbooks or brochures, or through explanation by the judge or court personnel (translated where needed).
- With regard to educating participants about the consequences of compliance and noncompliance:
 - Failure to explain consequences of behavior results in learned helplessness, which may, in turn, result in “fight or flight” response.
- With regard to giving participant feedback on his or her progress (as provided by service provider):
 - This is predicated on some degree of collaboration with treatment providers.
 - It also assumes updated and accurate information from service providers—they must provide meaningful reports.

<p>(1 min)</p>	<p>—How to obtain this information in a court not otherwise structured to receive it, as drug courts are? Can you get the service provider to appear? It may take time and confidentiality waivers. Unless involved only in single cases or within a narrowly defined target group, is this impractical in a general assignment court?</p> <ul style="list-style-type: none"> ▪ With regard to the educational element: <ul style="list-style-type: none"> —Should consideration be given to docketing similar cases together or consciously deciding the order of cases? (Obviously, this assumes that you know in advance what cases are scheduled.) ▪ Time will be a factor in a busy court. If feasible, address the target group en masse. <p>➤ Assuming that there <u>are</u> instances in which interaction between defendant/litigant and the judge is appropriate, which communication skills are most effective in motivating behavioral change and ensuring compliance with court orders? Identify four communication elements that motivate behavior change:</p> <ul style="list-style-type: none"> ○ Active listening ○ Good questions ○ Feedback ○ Affirmation 	
<p>(1 min)</p>	<p>Identify three elements of procedural fairness that enhance the likelihood that participants will comply with court orders:</p> <ul style="list-style-type: none"> ▪ Empathy ▪ Respect ▪ Impartiality <p>➤ Sample:</p> <ul style="list-style-type: none"> ▪ <i>Active listening, good questions, feedback, and affirmation motivate behavior change.</i> ▪ <i>When dialogue engenders trust by demonstrating empathy, respect, and impartiality, it enhances the likelihood that a participant will comply with court orders</i> 	<p>PP slide #23</p> <p>PP slide #24</p>
<p>(10 min)</p>	<p>➤ Review the following basic communication skills before doing the practice exercises below (or intersperse a description of the skills listed below in your critique of the practice exercises). Be sure to <u>model</u>, not just describe, your examples.</p> <ul style="list-style-type: none"> ▪ <u>Active listening</u> is usually defined as having four elements: (1) acknowledgment, (2) listening (for both content and emotion), (3) probing, if necessary, and (4) paraphrasing, restatement, or summarization. <ul style="list-style-type: none"> —<i>Acknowledgment</i> may be as simple as eye contact, 	<p>PP slide #25</p> <p>Tab 7, p. 20</p>

nod of the head, a salutation (e.g., “good morning”) accompanied by parallel nonverbal cues (e.g., neutral or forward lean, smile, neutral/engaged tone of voice).

—Active listening is sometimes called “*reflective listening*” when it focuses on the feelings behind the surface content of the words. If a juvenile says, “It’s not fair that my parents get drunk on weekends and I get punished for taking a sip of beer,” a reflective response might be: “So you are angry that your parents are sabotaging your success by setting a bad example.” Other examples include: “So you...” / “It sounds like you...” / “You’re feeling...” / “It seems to you that...”

—*Probing* seeks elaboration or clarification; open-ended questions are most effective.

—*Questions* can be either open- or close-ended. Open-ended questions cannot be answered with a “yes” or “no” (e.g., “Tell me more about...” / “How so?”). Close-ended questions can be (e.g., “Have you been attending group meetings regularly?” instead of “How often are you attending AA?”).

—*Restatement or reflecting back* invites further information and clarification (e.g., “You say that you are doing better in your group and are attending school regularly”).

—*Summarization* restates back both the speaker’s statements and the listener’s understanding (e.g., “In summary, I heard that your home life is in turmoil, work is going OK, and you feel better about your classes and support group”). In addition to reflecting the speaker’s words back, it can also connect potentially discordant pieces of information, allowing the speaker to see the “bigger picture.”

- Acknowledgment responses (made during participants’ responses) such as nods of the head, “uh-huh” responses, or “I see,” encourage speakers to continue speaking. The judge might want to clarify that these gestures or comments indicate that he or she is listening to and understands the speaker (not necessarily that he or she agrees with the speaker or condones negative behavior).
- Affirmations are statements of appreciation and validation, such as: “That’s a good idea,” or “I appreciate how hard this must have been for you come here today.”

➤ Justice Paul Bentley, Ontario Court of Justice, offers the

following examples of active listening in *Judging for the 21st Century: A Problem-Solving Approach*, as paraphrased (*Faculty note*: use if needed):

- Give participants the opportunity to speak, listen attentively, refrain from rushing speakers, and seldom interrupt.
 - Ask clarifying questions and make comments that acknowledge that you want to know about and understand a person's position.
 - Refer to the participant's position in giving reasons for your decision.
 - Read verbal and nonverbal cues such as facial expressions, body language, or tone of voice, which could signal a participant's discomfort, confusion, or emotional state.
 - Maintain body language that indicates that you are paying attention: maintain eye contact, sit up straight, focus on the speaker.
 - Ask court participants if they have any questions.
- Also, before doing the exercises below (or by interspersing suggestions in your critique of the practice exercises), ask for participant suggestions regarding the ways a judge normally demonstrates empathy, respect, and impartiality. Faculty, add your own examples. Further examples (those regarding empathy and respect again, as paraphrased, from Justice Bentley) include:
- Empathy
 - Ask questions of court participants that indicate an interest in their position.
 - Relate events to court participants' lives; for example, in a domestic violence context, instead of talking about a "cycle of violence," ask if defendant has children and talk about how his or her behavior will impact the children.
 - Acknowledge not only the facts of a case, but also participants' emotional responses to court events (e.g., "I can see that this is frustrating").
 - Acknowledge your own emotional responses to cases and court events (e.g., "I am confused by what happened here," or "It makes me quite sad to see how things have turned out").
 - Convey a sense of caring, compassion, and respect for all participants.
 - Treat all participants fairly and consistently, respecting due process rights.
 - Be aware of your own biases and predetermined ideas.
 - Respect
 - Speak slowly and clearly, loud enough to be heard by

<p>10:55 (5 min)</p> <p>11:00</p>	<p>everyone (not only lawyers).</p> <ul style="list-style-type: none"> ▪ Speak in words and tones that convey concern for the participant as a person, without pity or condescension. ▪ Refer to defendants by title and name (e.g., Mr. Smith, Ms. Jones) rather than by first name, by the term “defendant,” or by case number. ▪ Pronounce names correctly; when in doubt, ask court participants for guidance in pronouncing names. ▪ Refrain from sarcasm. ▪ Have high expectations: hold defendants accountable for their words and actions; expect them to be on time; refuse to accept excuses or inconsistent information. ▪ Encourage dialogue rather than making speeches. <p>▪ <u>Impartiality</u> Active listening, good communication skills, and the demonstration of empathy and respect, as discussed above, build trust and confidence in the court’s neutrality. Richard Zorza, who has written extensively on issues related to self-represented litigants, identifies further techniques that lead to “transparency,” that is, ways to help the public (defendants, litigants, other court participants) understand that the judge and the system are “neutral” (paraphrasing):</p> <ul style="list-style-type: none"> ▪ <u>Structural transparency</u>: Structuring and explaining the courtroom process so that each side has the greatest opportunity to be heard; ▪ <u>Sequential transparency</u>: Breaking the proceeding into steps or phases and explaining what is happening at each step; ▪ <u>Inquiry</u>: Asking the parties whether they understand what is expected, what has been decided, and the consequences of that decision; and ▪ <u>Consistency</u>: Making decisions that are predictable, not necessarily symmetrical, but rather based on a neutral set of rules that has been articulated. <p>➤ Skills Demonstration (faculty): Tell participants that the faculty will briefly demonstrate some of the communication skills discussed previously, including active and motivational interviewing techniques. Design, ad lib, or use/adapt one of the sample role-plays found at Tab 8, pages XX–XX, of an in-court discussion between the judge and a defendant, litigant, victim, or other party to a proceeding. (This will model what you are going to ask participants to do next.)</p>	<p>Sample role-plays at Tab 8, pp. 2–5.</p>
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(8 min)	<ul style="list-style-type: none"> ➤ Skills Practice (Participants): Divide the six communication exercises among the tables (e.g., one, two, or three per table—if more than six tables, tables may duplicate the exercises). Ask participants to take 8 minutes to decide how they will demonstrate these in a role-play (the goal is to have participants actually <u>role-play</u> what they would say in each instance, not <u>describe</u> what they would say). ➤ Critique each exercise for: (1) participants' ability to demonstrate active listening skills (acknowledgment, listening, probing, restatement), (2) verbal content, and (3) empathy, respect, and impartiality. Highlight the positive in each role-play. ➤ Ask for alternatives; for example, ask "How would someone else handle this one?" or "What would be another way to say it?" ➤ Faculty, be prepared to model good responses if none is forthcoming from the group or a participant falls short of your expectations (samples set forth below or give your own example). 	Communication Exercise at Tab 8, p. 1 (tear page into 6 parts)
(4 min)	<ul style="list-style-type: none"> ▪ Demonstrate giving an intangible reward. <ul style="list-style-type: none"> —Possible example: "Congratulations, Ben. You have been in the _____ program for _____. The program indicates that you have _____ and are now eligible to _____. What have you gained from this experience?" 	
(4 min)	<ul style="list-style-type: none"> ▪ Demonstrate giving a tangible reward. <ul style="list-style-type: none"> —Possible example: "Those of you here today have completed the Clean Beaches project and have contributed a great deal to our city's well-being. Mayor _____ is here today to thank you personally and to offer you something that the city is able to give you in return." ▪ Demonstrate giving a sanction with positive reinforcement. <ul style="list-style-type: none"> —Possible example: "You are going to be incarcerated for 10 days because you _____. We hope that this will give you time to think about _____, because you have shown that you are capable of _____. In _____ days we will discuss _____." 	
(4 min)	<ul style="list-style-type: none"> ▪ Demonstrate explaining that there is a range of judicial responses to both compliance and noncompliance with court orders. <ul style="list-style-type: none"> —Possible example: "Now there are some rules in this court, and I want to explain them to you. The expectation 	

<p>(4 min)</p>	<p>is that you will _____. It's a choice <u>you</u> have to make, because we have a range of consequences, and how you participate in the program will determine the consequences. At one end of the range, if you _____, you can expect _____. At the other end of the range, if you _____, you can expect _____.”</p> <ul style="list-style-type: none"> ▪ Demonstrate articulating the reason for giving one person a different sanction or incentive than that given to someone else present in court <ul style="list-style-type: none"> —Possible example: [After judge orders weekend incarceration and defendant objects, asking if there are other options.] “No, there aren’t at this point. You have been in this program four months, and you have seen a lot of different responses to a lot of different behavior. As you know, every person is different. You are different from everyone else in this room and they are different from you. So what the team does is, we sit down as a team and look at the whole picture, and figure out what we can do that would be best for you as an individual in your particular situation...” 	
<p>(4 min)</p>	<ul style="list-style-type: none"> ▪ Demonstrate a discussion of service, sentencing, or treatment option with a defendant, victim, or other litigant. <ul style="list-style-type: none"> —Possible example: “Thank you very much for coming today. We do make a point of giving those persons who have been victims of these crimes an opportunity to speak their views. That is the purpose of having you here. Now, there is going to be a sentencing and it is very important to me that you understand all of the options...” 	
<p>(1 min)</p>	<ul style="list-style-type: none"> ➤ Incorporate ethical and cultural issues as appropriate. ➤ Summarize Communication Segment: ➤ Sample: <p><i>It has been shown repeatedly, through user surveys, National Center for State Court surveys on Public Trust and Confidence and evidence-based research on compliance with court orders, that interaction between the judge and defendant/litigant can have a profound positive impact on case outcomes. What is more, the <u>way</u> a judge interacts through verbal and nonverbal communication has been shown to be a main, if not <u>the</u> main, determinant of behavioral change and positive outcomes.</i></p> 	
<p>11:35</p>	<ul style="list-style-type: none"> ➤ <u>Focus on Both Process and Outcomes</u> 	<p>Case Study #7 (Tab 6)</p>

<p>(3 min)</p>	<ul style="list-style-type: none"> ➤ Distribute Case Study #7 ➤ Summarize the facts of Case Study #7 as follows (one faculty member role-plays Judge Green, the presiding judge) ➤ Sample: <i>Here is Case Study #7, which I will summarize for you. I am Judge Green, your presiding judge. You are all members of the bench. Now this problem has come to me in an interesting way. I've been watching the caseload, and the low-level, misdemeanor caseload is going off the scale. The judge in this department has come to me saying, "I can't handle it...please get someone in to help me."</i> <p><i>At the same time, civic groups have come to me and asked for help in Drinker's Gulch. "Windows are being broken, people are urinating in the doorways...something has to be done! Or we'll all move out—there'll be nobody left. Do something about it!"</i></p> <p><i>Law enforcement has come to me saying, "Your damn judges are too soft on crime! We want these prostitutes and trespassers and everybody who's driving the merchants crazy locked up! Stop giving them CTS and letting them out of jail! Cut this nonsense out." The Police Chief says to me, "Judge, you know, I do not have enough officers to patrol this area. I'm getting incredible pressure and I want something done about it. The perception on the street is that your judges are letting everybody out. You're not doing a thing about our problem!"</i></p> <p><i>Finally, I have the Hispanic and African-American communities writing me long letters saying that there is discriminatory enforcement of the law in this area, and asking what I am going to do about it.</i></p> <p><i>Now I am turning to you and I'm telling you that I need help figuring out what to do.</i></p>	<p>PP slide #26</p> <p>[Faculty note: If you do a role-play, participants will not need to consider or discuss the specific questions listed on the handout.]</p>
<p>(3 min)</p>	<ul style="list-style-type: none"> ➤ Divide the class into two groups. <ul style="list-style-type: none"> ▪ Ask Group A to think about the best arguments they can make for why Judge Green should create a community court or some other collaborative court solution to all these "quality-of-life" crimes. Group A should try to convince Judge Green to change the way he or she is running the court—the sky's the limit. ▪ Members of Group B, on the other hand, don't want to 	

<p>(5 min)</p> <p>(3 min per group)</p>	<p>change the way the court is run. They should come up with the best arguments for why Judge Green should do nothing, or, at the very most, temporarily add resources to the misdemeanor calendar.</p> <ul style="list-style-type: none"> ▪ Both groups will be asked to make and support their recommendations to Judge Green. Allow 5 minutes for small group discussion. ▪ Ask each group to make their recommendations; discuss. ▪ Ask for a show of hands regarding what the class participants would advocate in real life. 	
<p>(1 min)</p>	<ul style="list-style-type: none"> ➤ Summarize (sample): <i>These are the real problems facing a presiding judge, but change can be difficult and it will be slow. You will need the support of your presiding judge and your colleagues in order to implement systemic changes and you will need to marshal your arguments to gain their support. Sometimes it is best to make small, incremental changes where you can, or try pilot programs to demonstrate the long-term benefits of change.</i> ➤ <i>Note to faculty:</i> On May 10–12, 2005, in Reno the National Judicial College held a meeting entitled “Institutionalizing Problem Practices in All Courts: A Working Summit.” While recognizing barriers and limitations to exporting problem-solving practices into conventional courts, attendees, many of whom now sit in conventional courtrooms having sat in problem-solving courts, acknowledged that there was still value in its consideration, indeed, that there are many practices they employed in their earlier problem-solving court assignments that they now use in their conventional courtrooms to great advantage. Much of the content of this curriculum was derived from the Reno discussion. We end the day with a portion of the meeting summary that describes the fundamental difference between problem-solving and conventional courts. Problem-solving courts, or collaborative justice courts, focus on outcomes (changing the underlying problems), not on process. Can our conventional courts, especially those that lack adequate staffing, funding, resources, and/or support, find a better balance between process and outcome by taking something of value from these courts? 	<p>[Faculty note: At the pilot program, most participants, including those in Group A, did not vote to set up a community court.]</p>
<p>(5 min)</p>	<ul style="list-style-type: none"> ➤ Summarize the immediately preceding paragraph in your own words, and ask participants either to read the National Judicial College meeting summary to themselves or to highlight elements of the summary that, in your opinion, 	<p>Tab 7, p. 22 (Meeting Summary)</p>

12:00 noon	<p>best represent a focus on outcomes.</p> <ul style="list-style-type: none">➤ Ask for participant response and indicate that we will talk more about these recommendations after lunch in the context of the participants' current assignments, calendars, and courtrooms. Ask: Are any of these recommendations feasible in your courtroom?➤ <u>Lunch</u>	
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**Applying Collaborative Justice Court
Principles and Practices
Part IV**

Time	Content	Teaching Aids
<p>1:00 pm</p> <p>(15 min)</p> <p>1:15</p>	<p><u>Concrete Application of Problem-Solving Principles: Possibilities, Questions, and Critique</u></p> <ul style="list-style-type: none"> ➤ Invite participants to consider, for the next few minutes, ways they have decided to, they might, or they wish they could (except for certain barriers) incorporate or apply in their own courts the problem-solving principles or practices discussed up to this point. They can also pose a problem for group discussion, solutions to which might enable them to incorporate or apply one or more of the problem-solving principles. Suggest that they jot their ideas down on the form provided; tell them that they will be asked to discuss their ideas in a discussion that will follow in 10 minutes. Add that 10 full minutes will be allotted in case any of them would like to develop a series of things they want to do (more like an action plan). Also add that faculty will work with them both during this exercise and <u>after</u> this course in an advisory capacity, on request—more about this later. ➤ Inform participants that their forms will be collected, copied, and returned to them, because faculty will use their ideas in future courses. (If this is something faculty agrees to do, check back with them in six months to discuss any issues they may have.) ➤ Allow a full 10 minutes for this exercise, even though some participants will finish much sooner. Be available to participants on a one-on-one basis for consultation. ➤ Ask participants to discuss their ideas at their tables. Faculty members should sit at the tables, or rove from table to table if there are more tables than faculty. Offer encouragement, suggestions, and critique. After 15 minutes or so, gauge whether discussions are going well, and, if so, decide how much more time to allot to the small group discussion. Announce this to the class and remind participants that the expectation is that everyone at each 	<p>Form at Tab 7, p. 39</p>

<p>2:00 at the latest</p>	<p>table have an opportunity to discuss his or her ideas. The goal is that the small group discussions will model real problem-solving in a collaborative mode. If the discussions lack vitality, give participants a brief amount of time to wrap up discussions at their tables and pull the discussion back to the full group.</p> <ul style="list-style-type: none"> ➤ Facilitate full group discussion on participant ideas. If most of the time has been spent in small group discussion, ask each participant to summarize each of his or her ideas in one or two sentences (problem identified, solution, barriers, and suggestions for overcoming barriers). If most of the time is spent in plenary session, ask participants to discuss his or her ideas, then engage the class in problem-solving. Here too, offer encouragement, suggestions, and critique. Reinforce teaching points articulated earlier; add teaching points not covered earlier, as relevant. ➤ Collect participant forms, have them copied, and return forms to participants after break. 	
<p>2:30–2:45</p>	<p>BREAK (15 minutes)</p>	
<p>2:45</p>	<ul style="list-style-type: none"> ➤ Continue discussion re: concrete applications. 	
<p>3:30</p>	<p><u>The Bigger Picture; Future Trends</u></p> <ul style="list-style-type: none"> ➤ Introduce the final course segment. The goal here is not only to inform participants about current innovative practices and trends, but also to place the issues addressed in this curriculum into perspective. ➤ Sample: <p><i>The final course segment will look at ways in which problem-solving court principles and practices are benefiting courts system-wide, and how cost savings and other benefits are extending beyond the specialized courts to more jurisdictions both state- and nationwide. We will look at three different models to give you the big picture and a look at future trends. Considering these trends may also show how any collaborative justice court practices that you implement fit into the range of models now being implemented throughout the country.</i></p>	<p>PP slide #27</p>

<p>(15 min)</p>	<ul style="list-style-type: none"> ➤ <u>Model #1: Transferability</u> ➤ Define transferability as “Exporting collaborative justice/problem-solving practices to a wide range of cases, calendars, and courts.” (This is what we have been talking about during the last day and a half.) ➤ Transferability also implies building an infrastructure to support the exporting of problem-solving practices into traditional courts. Ask participants to brainstorm what this might entail (drawing in part from prior in-class discussion) by listing all the ways the court or others outside the court might assist them to export problem-solving practices into their courtrooms. Co-faculty member capture list on a flip chart. Try not to comment or critique until participants run out of ideas. Answers might include: <ul style="list-style-type: none"> ▪ Setting up self-help centers ▪ Use of handbooks, information centers, Internet, videotapes to educate litigants about the process, their options, and so on ▪ Creating assessment referral centers ▪ Creating on-site follow-up sites (where court orders are reviewed to ensure litigant understanding) ▪ Setting up volunteer lawyer panels ▪ Setting up TRO clinic ➤ Faculty, add your own examples and observations. For infrastructure requiring financial resources, identify potential funding sources. 	<p>PP slide #27, bullet 1</p> <p>Flip chart</p>
<p>(15 min)</p>	<ul style="list-style-type: none"> ➤ <u>Model #2: Expanding Collaborative Court Caseload for Certain Types of Cases</u> ➤ Faculty, describe various examples with which you are familiar; note that the term “court” and “calendar” are sometimes used interchangeably when discussing these caseloads, e.g., mental health, domestic violence. Ask participants to add examples (incorporate discussion of ethical considerations throughout). In California, examples may include: <ul style="list-style-type: none"> ▪ Prop 36 Court, a modified drug court in which elements of the drug court model are used in a less-intensive form so that large numbers of cases can be served. ▪ Substance Abuse Recovery Management System (SARMS) in San Diego County; STARS in Sacramento County; and Juvenile Dependency Drug Treatment 	<p>PP slide #27, bullet 2</p>

<p>(15 min)</p>	<p>Court in Santa Clara County, in which every juvenile dependency case is assessed for parental substance abuse and treatment.</p> <ul style="list-style-type: none"> ▪ Various models in Los Angeles and Riverside Counties' juvenile delinquency courts in which all juveniles with substance abuse problems are referred to treatment and modified drug court, regardless of the offense. <p>➤ Facilitate large group discussion re: the desirability and feasibility (or lack thereof) of implementing any of these models in participants' courts.</p> <p>➤ Ethical considerations:</p> <ul style="list-style-type: none"> ▪ Consider ethical issues when incarceration is used as a sanction (e.g., contempt) in a noncriminal context such as juvenile dependency. ▪ Underscore the voluntary nature of some of these models. <p>➤ <u>Model #3: Linking and Expanding the Collaborative Justice Courts</u></p> <p>➤ Define model</p> <p>➤ Sample:</p> <p><i>Model #3 envisions strengthening and expanding the collaborative justice courts by linking them:</i></p> <ul style="list-style-type: none"> ▪ <i>To other courts</i> ▪ <i>To each other within a larger system</i> ▪ <i>To each other across court types (for crossover cases)</i> ▪ <i>Across jurisdictions or statewide (for interjurisdictional issues)</i> <p>➤ Faculty, describe various examples with which you are familiar; ask participants to add examples (incorporate discussion of ethical considerations throughout).</p> <p>➤ In California, examples may include</p> <ul style="list-style-type: none"> ▪ Linkage between domestic violence and drug courts (Santa Clara and San Joaquin Counties) ▪ Dual diagnosis/mental health programs ▪ Unified Family Courts ▪ Orange County plan to link all specialized courts together in one building 	<p>PP slide #27, bullet 3</p>
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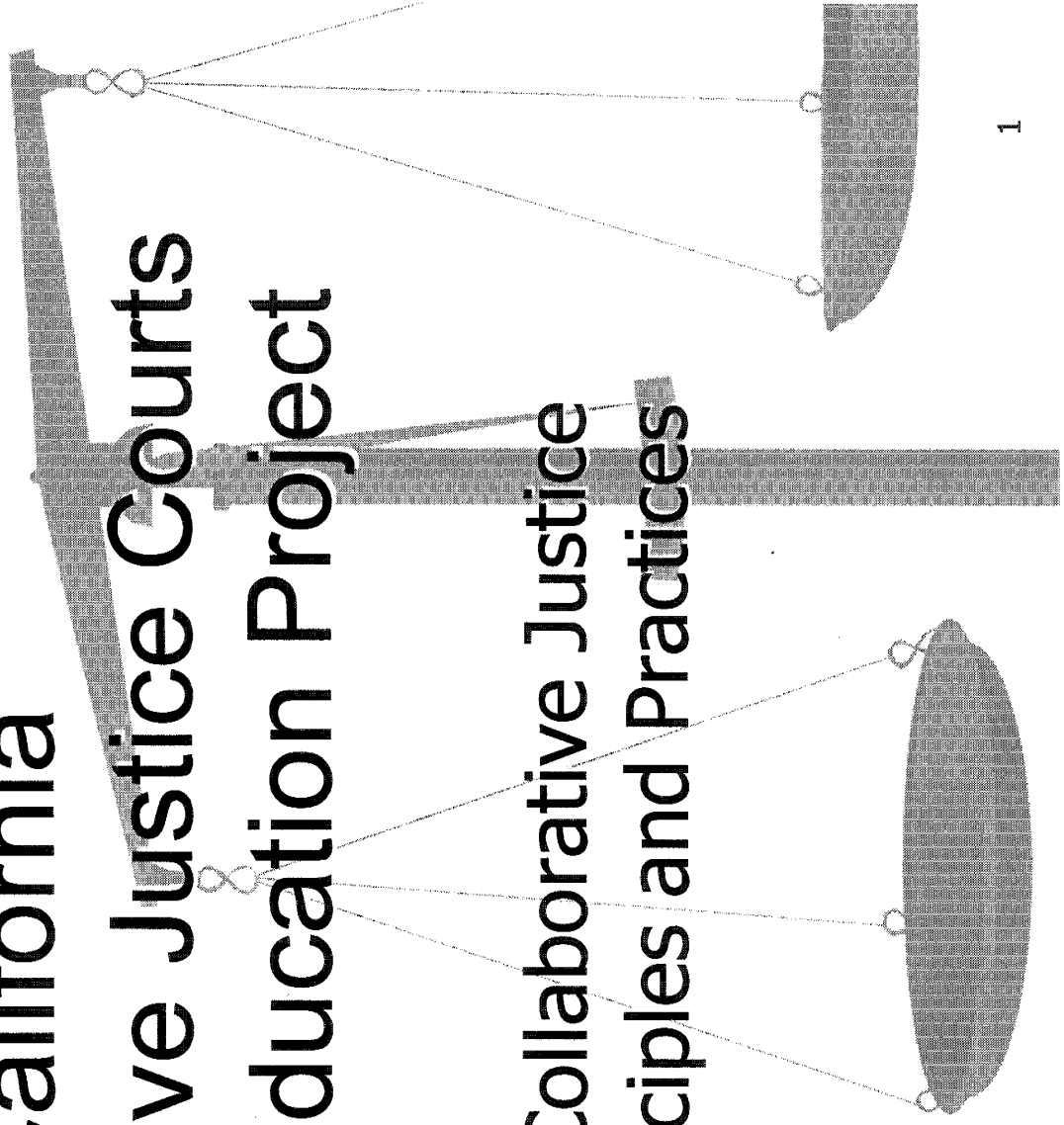
	<ul style="list-style-type: none"> ➤ Facilitate large group discussion re: the desirability and feasibility (or lack thereof) of implementing any of these models in participants' courts. ➤ Ethical considerations: <ul style="list-style-type: none"> ▪ Confidentiality issues ▪ Concerns about linking civil and criminal courts <p><u>Summary and Wrap-Up</u></p>	
4:15	<ul style="list-style-type: none"> ➤ Each faculty member thanks participants and offers one final thought. This might be an example or a "testimonial" from your own experience—something that gave meaning to your work or something that inspired you, words of encouragement, or words of advice. ➤ One faculty member should indicate the extent to which faculty members are willing to make themselves available for future consultation/mentoring. This might include giving out faculty phone numbers or e-mail addresses and encouraging students to contact faculty, with faculty pledging to "mentor" those who request it (whereby mentor would initiate at least one follow-up call within six months), and so forth. 	
4:25	<ul style="list-style-type: none"> ➤ Evaluations 	
4:30	<p><u>Adjourn</u></p>	

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1. Main PowerPoint
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3. Problem-Solving Court Research PowerPoint

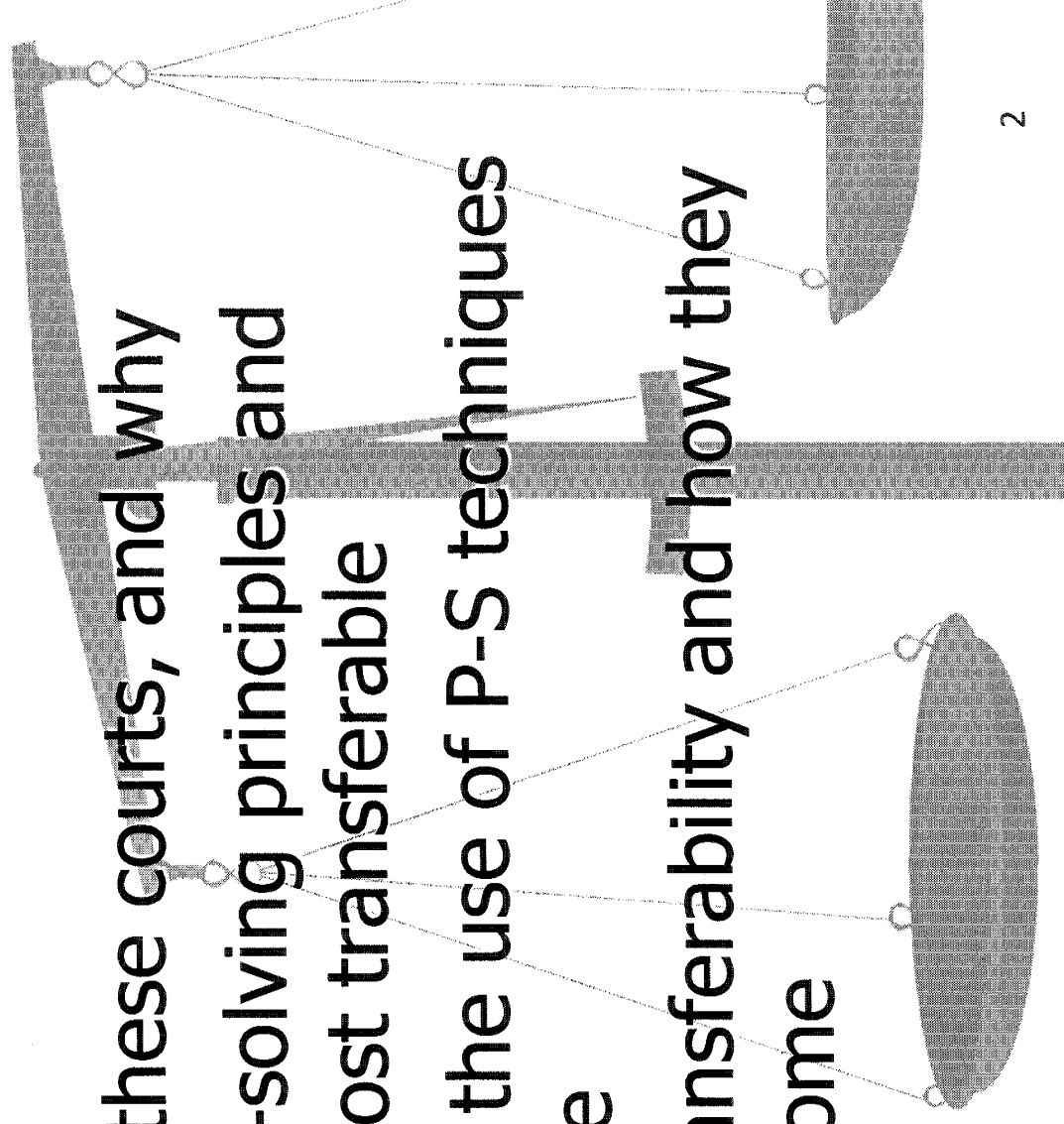
California Collaborative Justice Courts Judicial Education Project

Applying Collaborative Justice
Court Principles and Practices



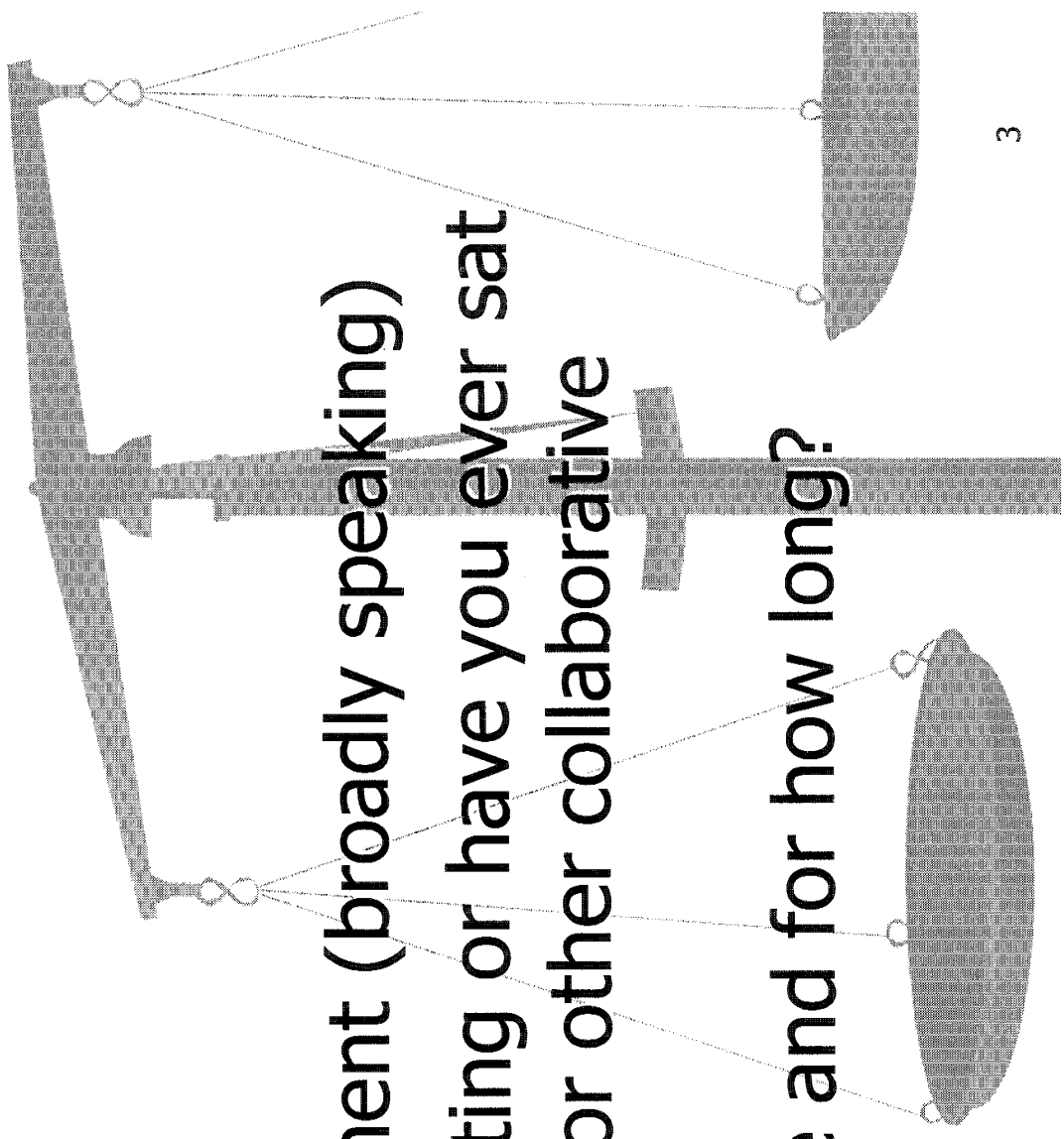
During this course, we will identify and discuss:

- What works in these courts, and why
- Which problem-solving principles and practices are most transferable
- How and when the use of P-S techniques is most effective
- Obstacles to transferability and how they might be overcome



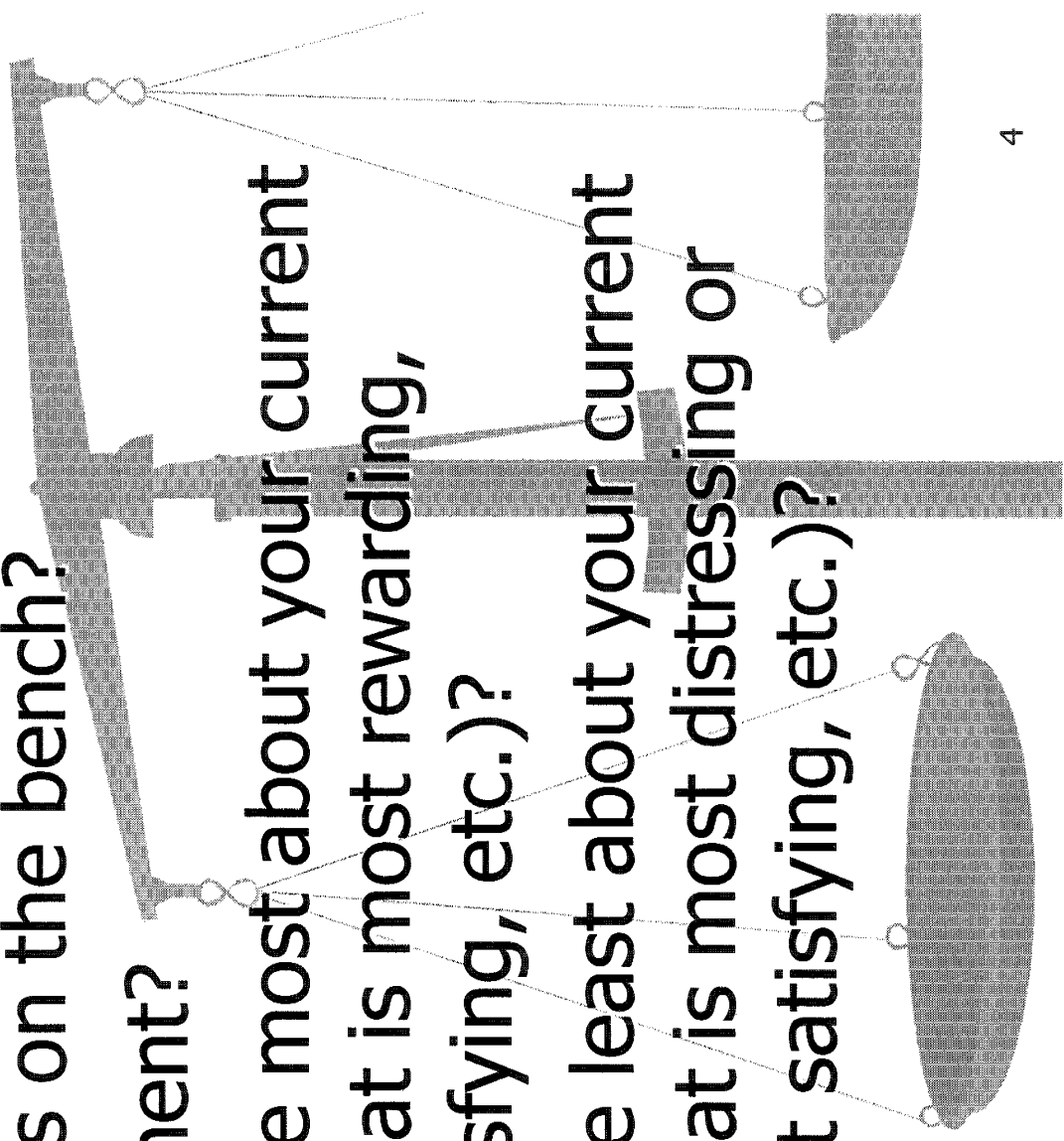
Introductions

- Name
- Court/county
- Current assignment (broadly speaking)
- Are you now sitting or have you ever sat in a drug court or other collaborative court?
- If so, which one and for how long?



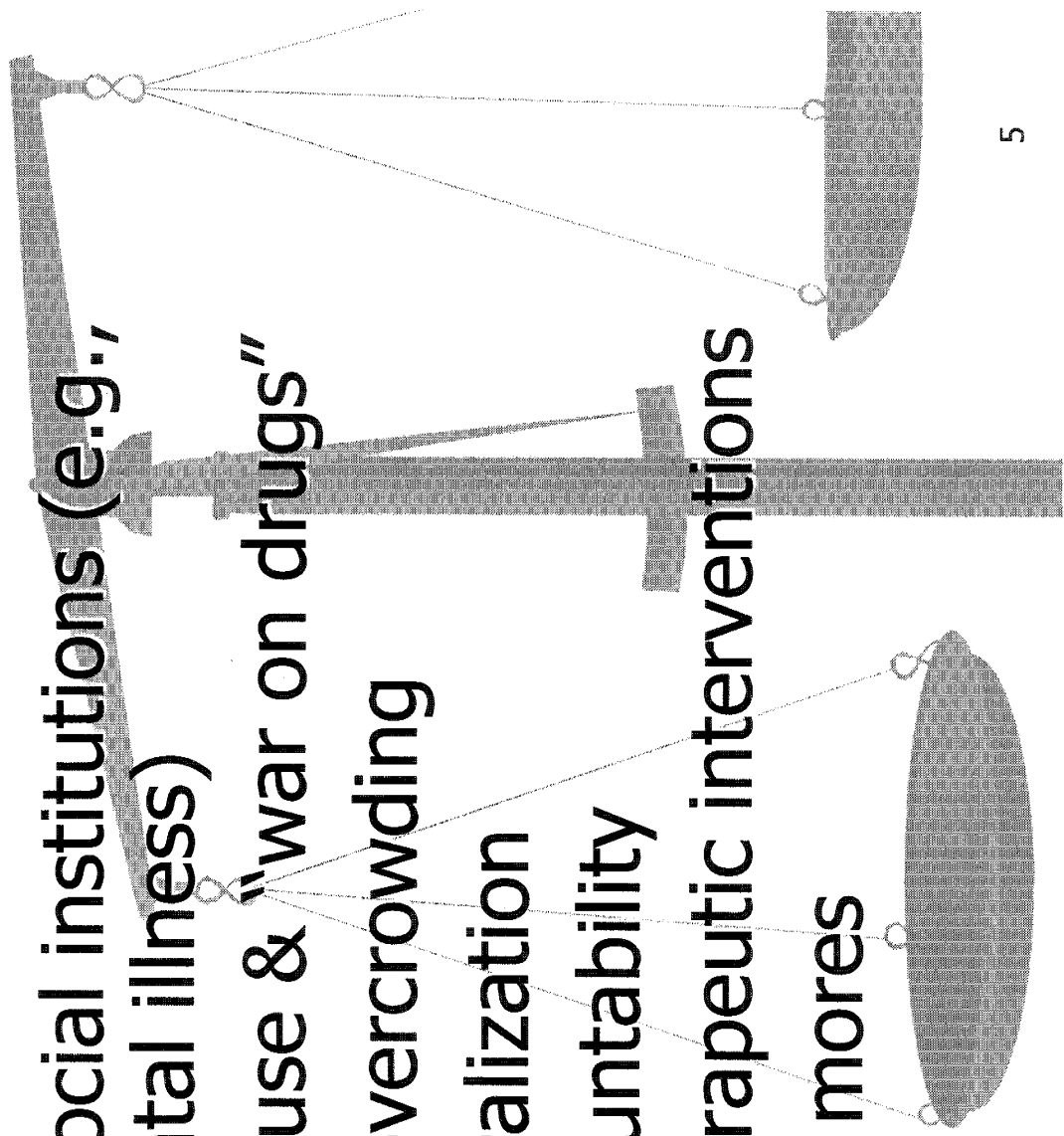
3 x 5 Card

- How many years on the bench?
- Current assignment?
- What do you like most about your current assignment (what is most rewarding, interesting, satisfying, etc.)?
- What do you like least about your current assignment (what is most distressing or frustrating, least satisfying, etc.)?



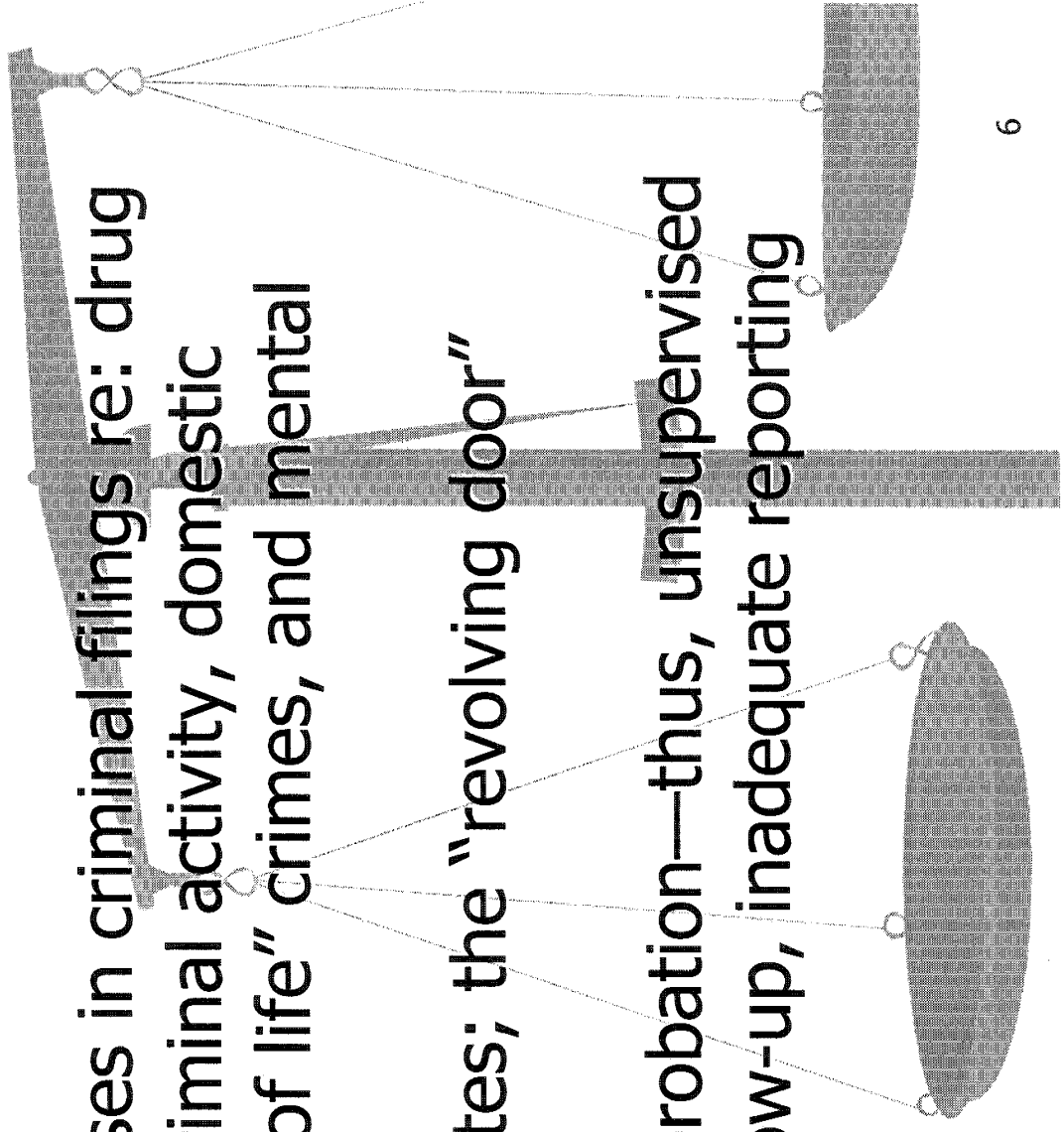
Between 1970 and 1990

- Breakdown of social institutions (e.g., persons w/ mental illness)
- Increased drug use & "war on drugs"
- Prison and jail overcrowding
- Trial court centralization
- Trends re: accountability
- Advances in therapeutic interventions
- Changing social mores



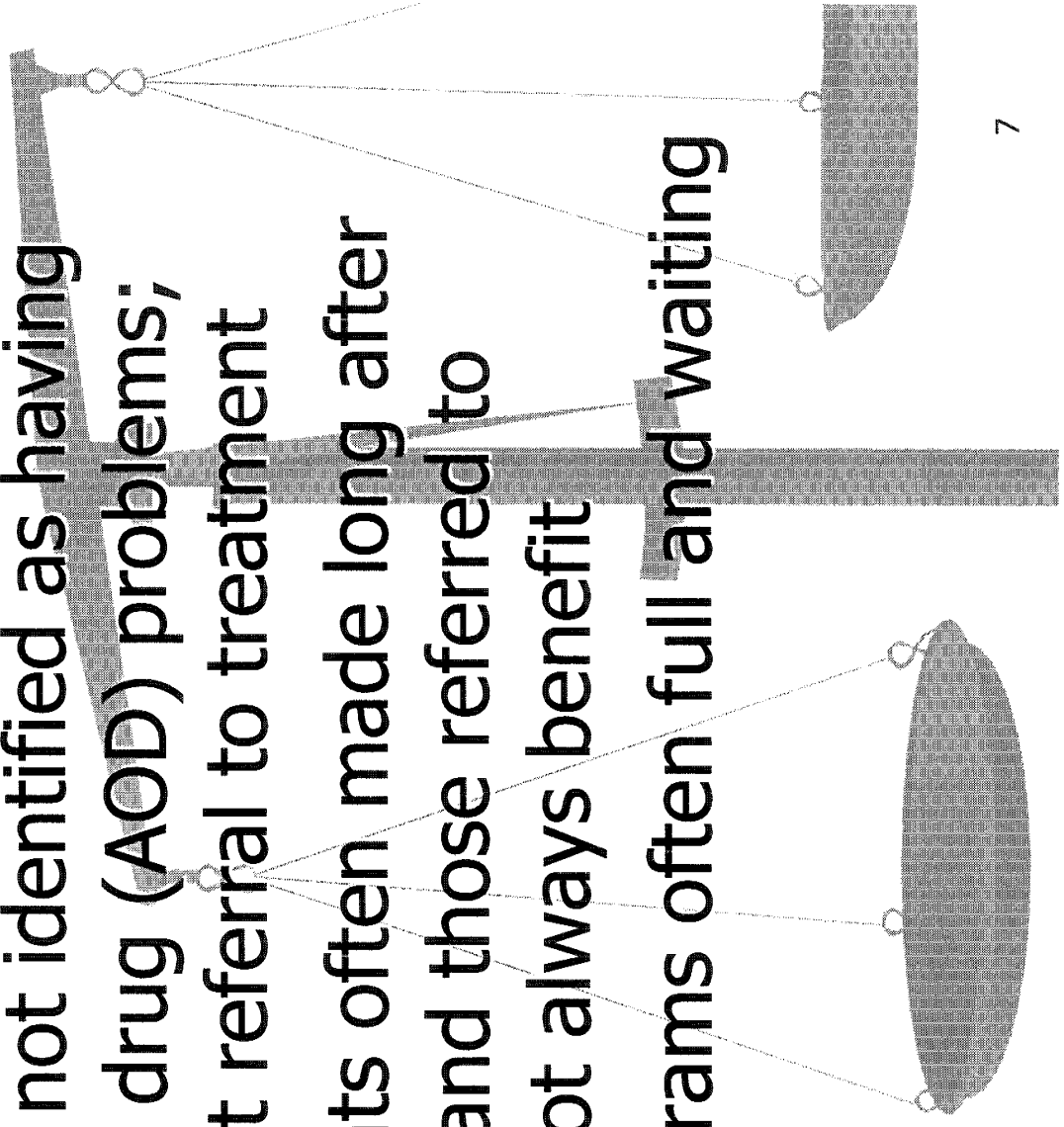
Between same years, the justice system experienced:

- Staggering increases in criminal filings re: drug use and related criminal activity, domestic violence, “quality of life” crimes, and mental illness
- High recidivism rates; the “revolving door” syndrome
- Underfunding of probation—thus, unsupervised cases, lack of follow-up, inadequate reporting



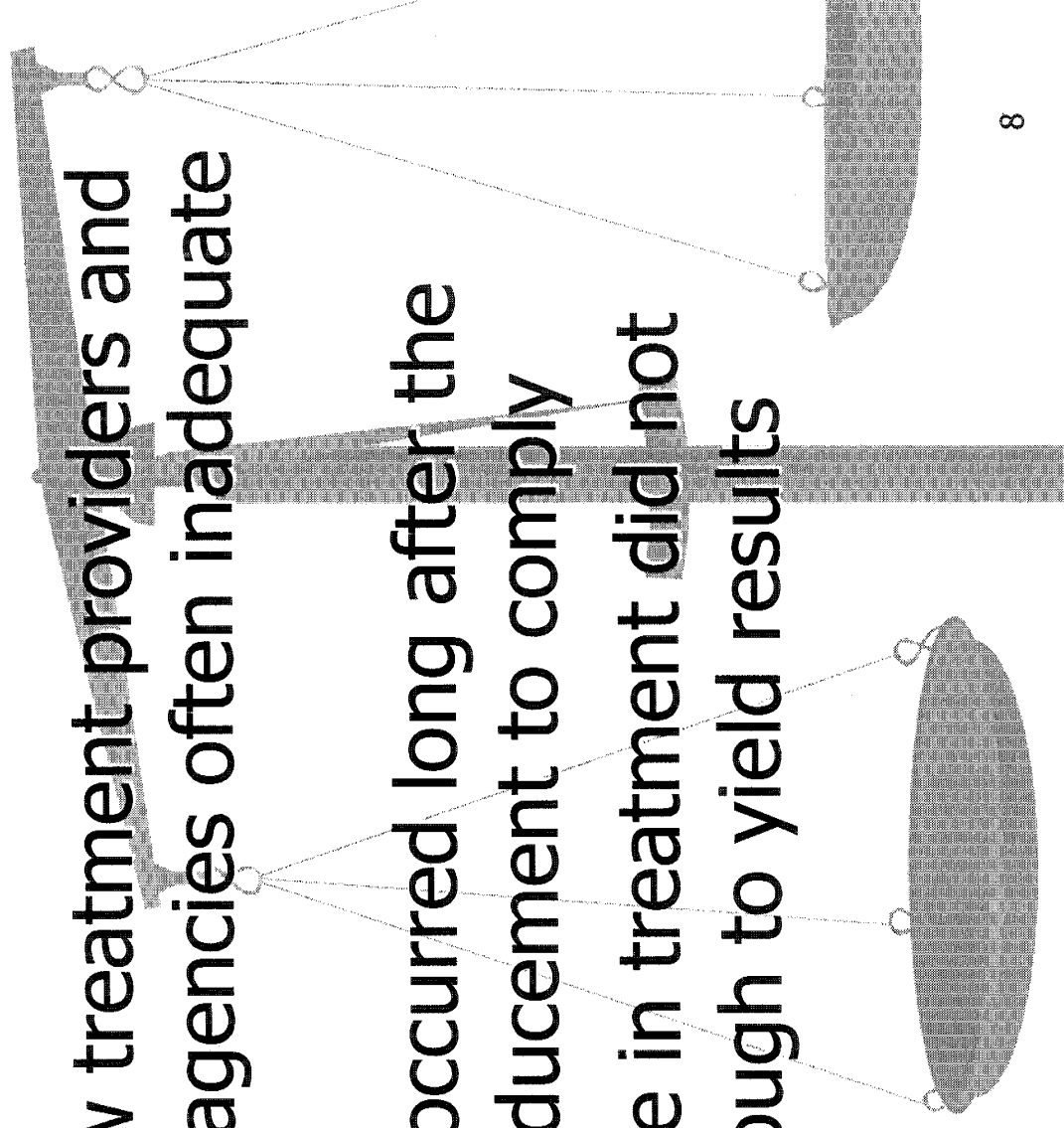
Drug court precursor conditions:

- Many offenders not identified as having alcohol or other drug (AOD) problems; released without referral to treatment
- AOD assessments often made long after arrest, if at all, and those referred to treatment did not always benefit
- Treatment programs often full and waiting lists long



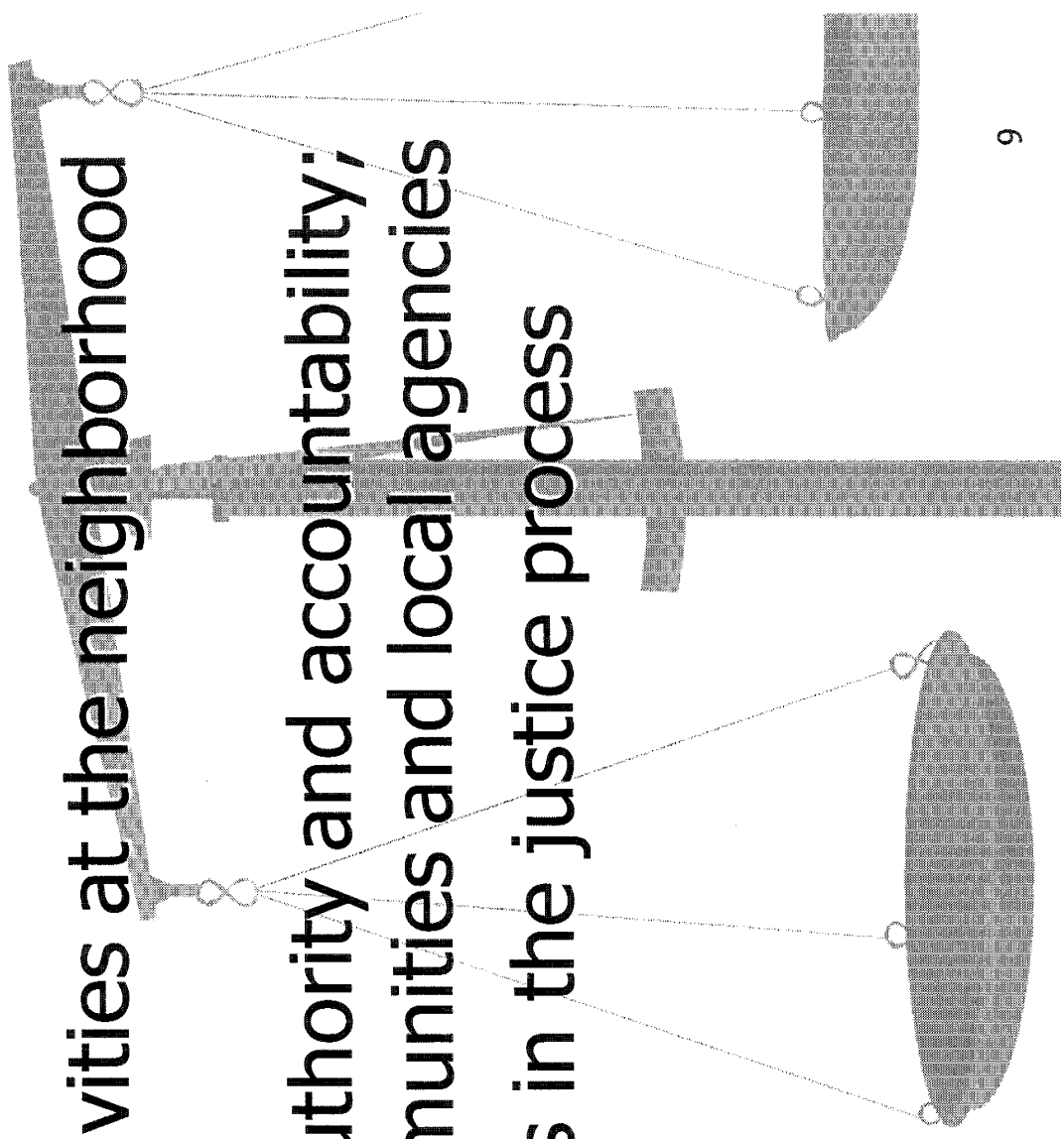
Precursor conditions (cont.):

- Relationship b/w treatment providers and criminal justice agencies often inadequate or nonexistent
- Referrals often occurred long after the offense; little inducement to comply
- Majority of those in treatment did not remain long enough to yield results



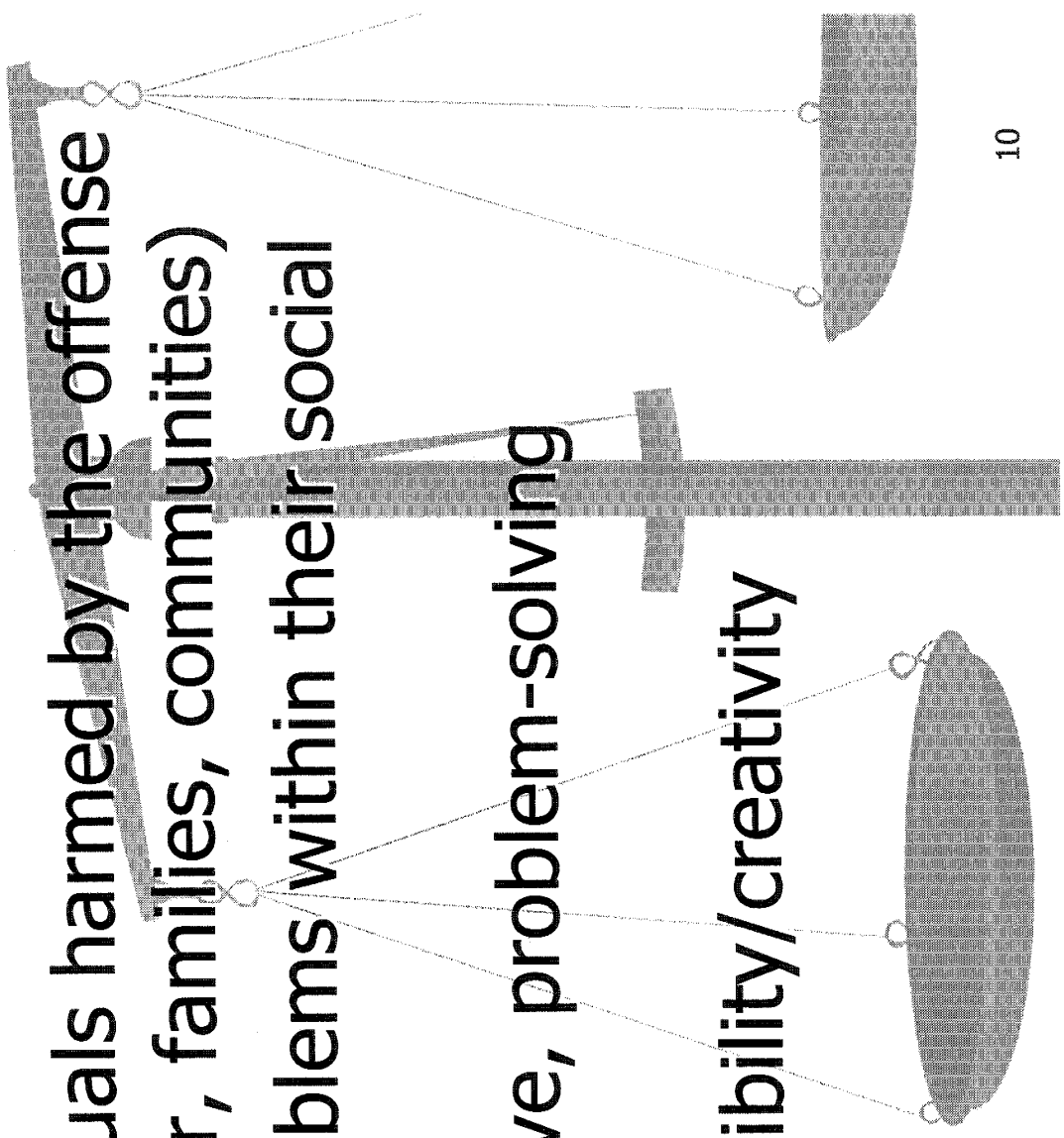
Community Justice:

- Coordinates activities at the neighborhood level
- Decentralizes authority and accountability; empowers communities and local agencies
- Involves citizens in the justice process



Restorative Justice:

- Involves individuals harmed by the offense (victim, offender, families, communities)
- Views crime problems within their social context
- Uses a preventive, problem-solving approach
- Emphasizes flexibility/creativity



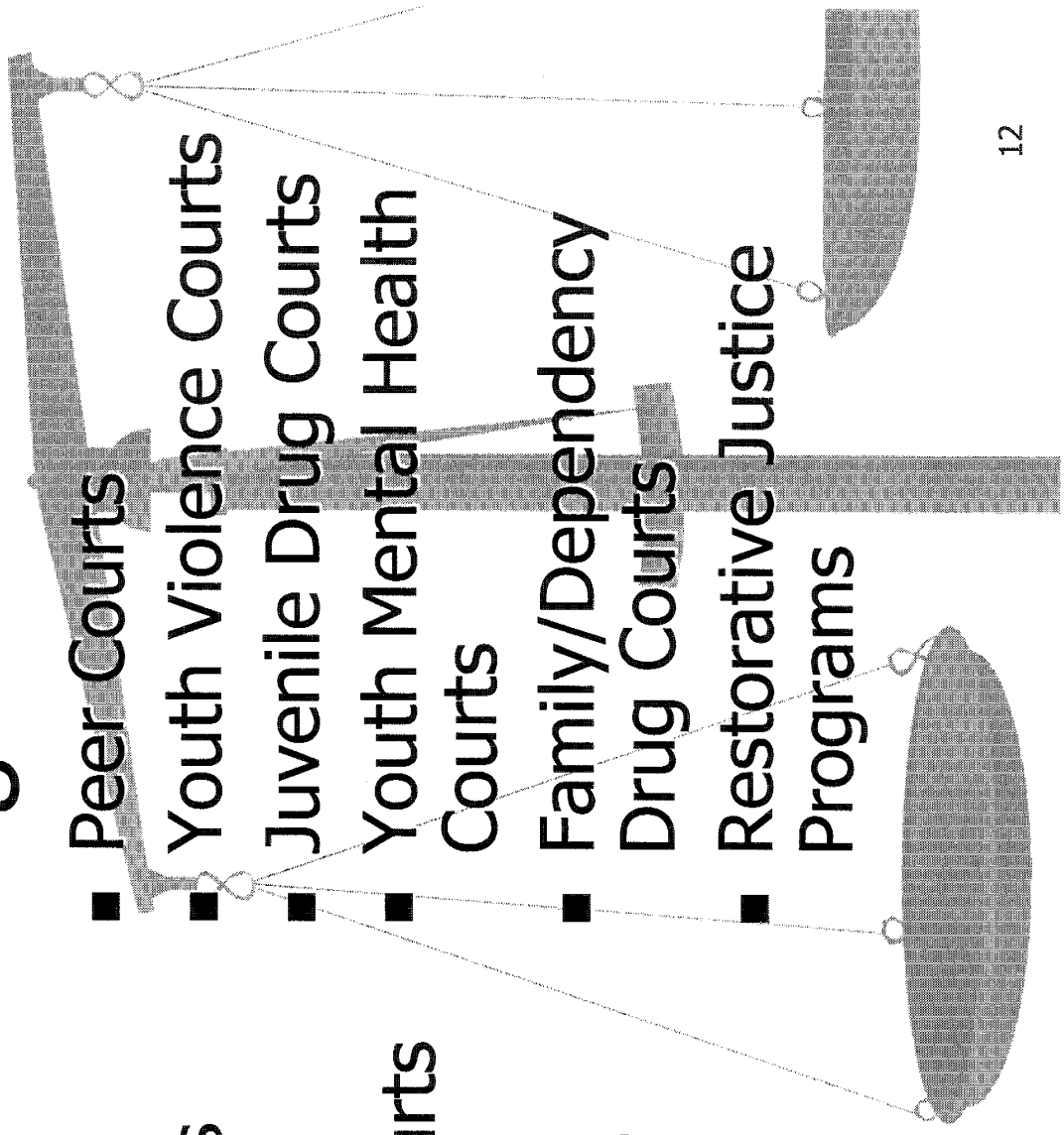
"In many of today's cases, the traditional approach yields unsatisfying results. The addict arrested for drug dealing is adjudicated, does time, then goes right back to dealing on the street. The battered wife obtains a protective order, goes home and is beaten again. Every legal right of the litigants is protected, all procedures followed, yet we aren't making a dent in the underlying problem. Not good for the parties involved. Not good for the community. Not good for the courts."

New York Chief Judge Judith S. Kaye

What Are Collaborative Justice/ Problem-Solving Courts?

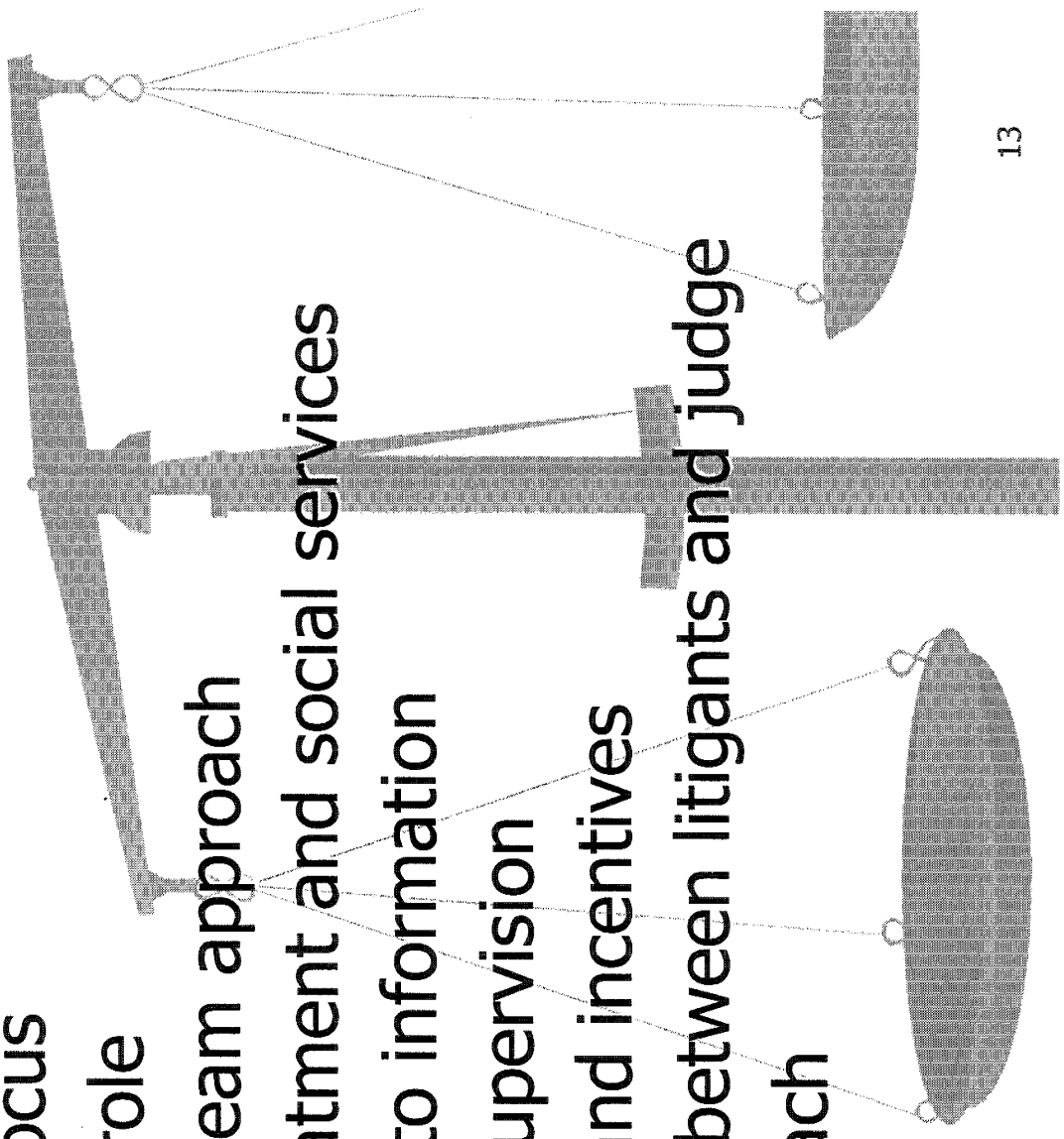
- Drug Courts
- Community Courts
- Homeless Courts
- Mental Health Courts
- DUI/DWI Courts
- Domestic Violence Courts

- Peer Courts
- Youth Violence Courts
- Juvenile Drug Courts
- Youth Mental Health Courts
- Family/Dependency Drug Courts
- Restorative Justice Programs



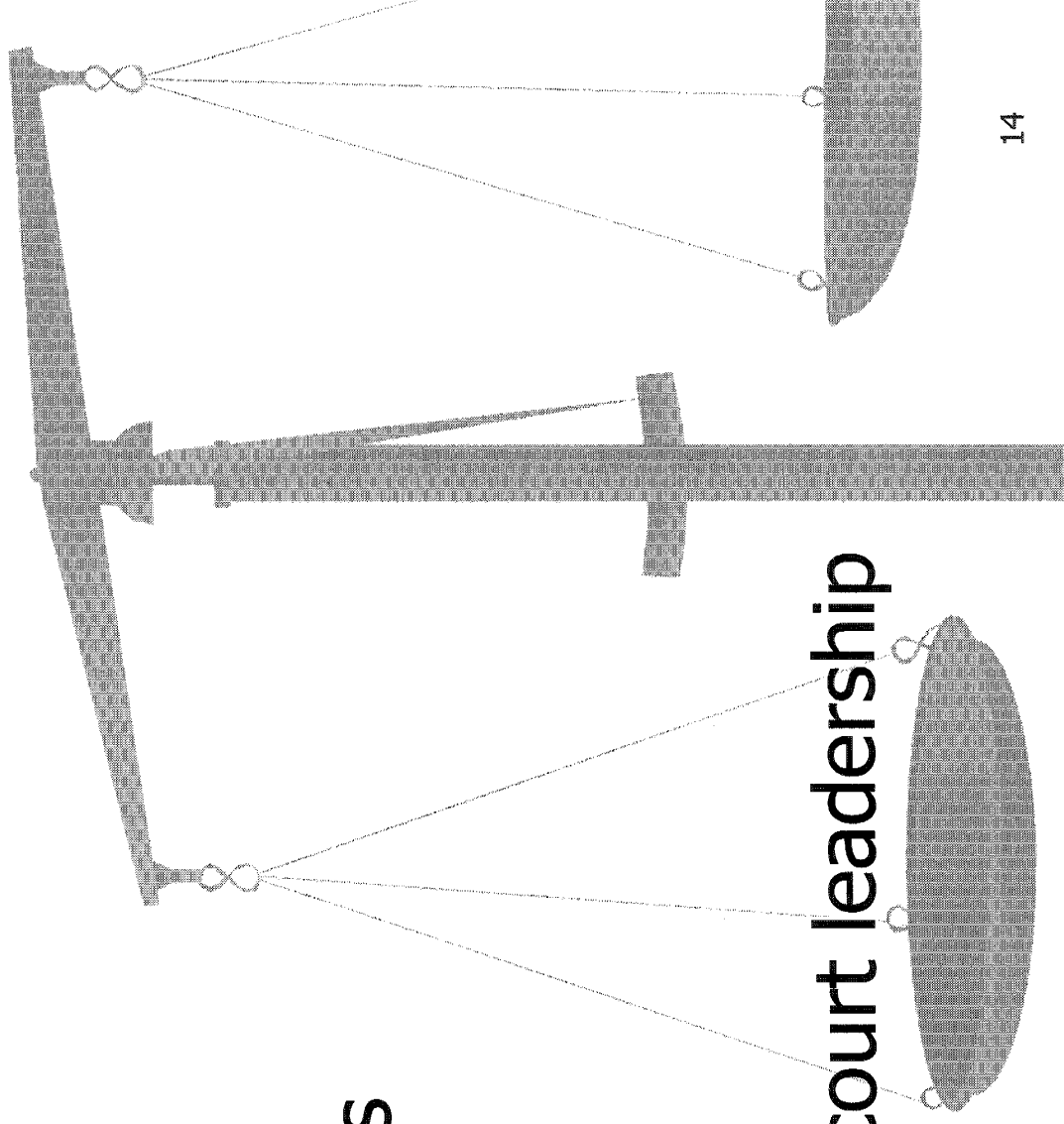
Shared Principles:

- Problem-solving focus
- Proactive judicial role
- Less adversarial, team approach
- Integration of treatment and social services
- Enhanced access to information
- Ongoing judicial supervision
- Use of sanctions and incentives
- Direct interaction between litigants and judge
- Community outreach



Are Collaborative/Problem-Solving Courts Working?

- Costs
- Caseloads
- Time efficiencies
- Recidivism
- Public support
- Job satisfaction
- Support of the court leadership



“Collaborative justice courts, focusing on less serious drug offenses, mental health, domestic violence, and juvenile matters, have been remarkably successful at turning around lives. Fifty out of our 58 counties have created some 250 collaborative justice courts that have proved to be a highly effective tool. They change the offender for the better and dramatically reduce the prospects of his or her return to court on new charges—while protecting society by making communities safer and reducing expenditures for hospitals, jails, and prisons. The drug court graduations I have attended are invariably inspiring. They feature individuals who have made a new start, forsaking drugs and crime in favor of education, gainful employment, and reunited families.”

*California Chief Justice Ronald M. George
2004 State of the Judiciary*

Address to the California State Legislature

Most likely to be integrated into other calendars:

- Integration of services and partnerships with public agencies and community-based organizations
- Collaborative input for decision making
- Judicial supervision of mandates and the strategic use of sanctions and incentives
- Interaction between defendants/parties and the judge
- Focus on both process and outcomes

Case Study #1

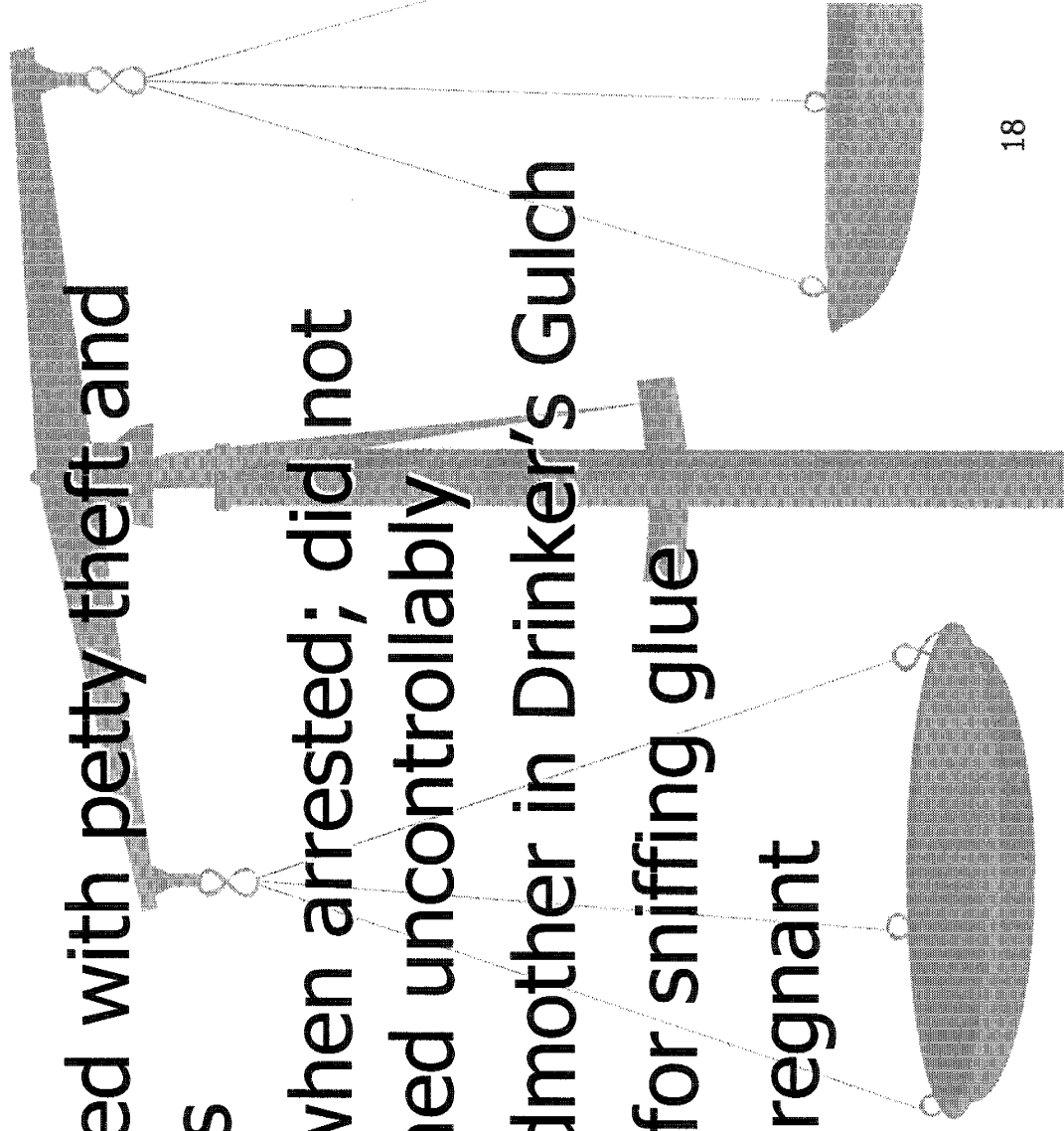
Arraignment

- Eric, 24, charged with vandalism and being drunk in public
- Several prior alcohol convictions
- Pleads guilty; does not want attorney
- Admits he was drunk when arrested for breaking warehouse windows
- In court before as minor in possession
- No job, disheveled appearance, no affect

Case Study #2

Delinquency

- Alice, 16, charged with petty theft and graffiti violations
- Cutting school when arrested; did not resist, but laughed uncontrollably
- Lives with grandmother in Drinker's Gulch
- In court before for sniffing glue
- Appears to be pregnant



Case Study #3

Felony

- Eric, now 26, charged with felony possession of heroin
- Eric asks for treatment; defense attorney asks for assessment
- Def. accepts plea; conditions=10 days detox and residential treatment
- Is discharged from residential program after 5 months for failing to "rat" on roommate
- Prosec. wants prison sentence; defense objects

Case Study #4

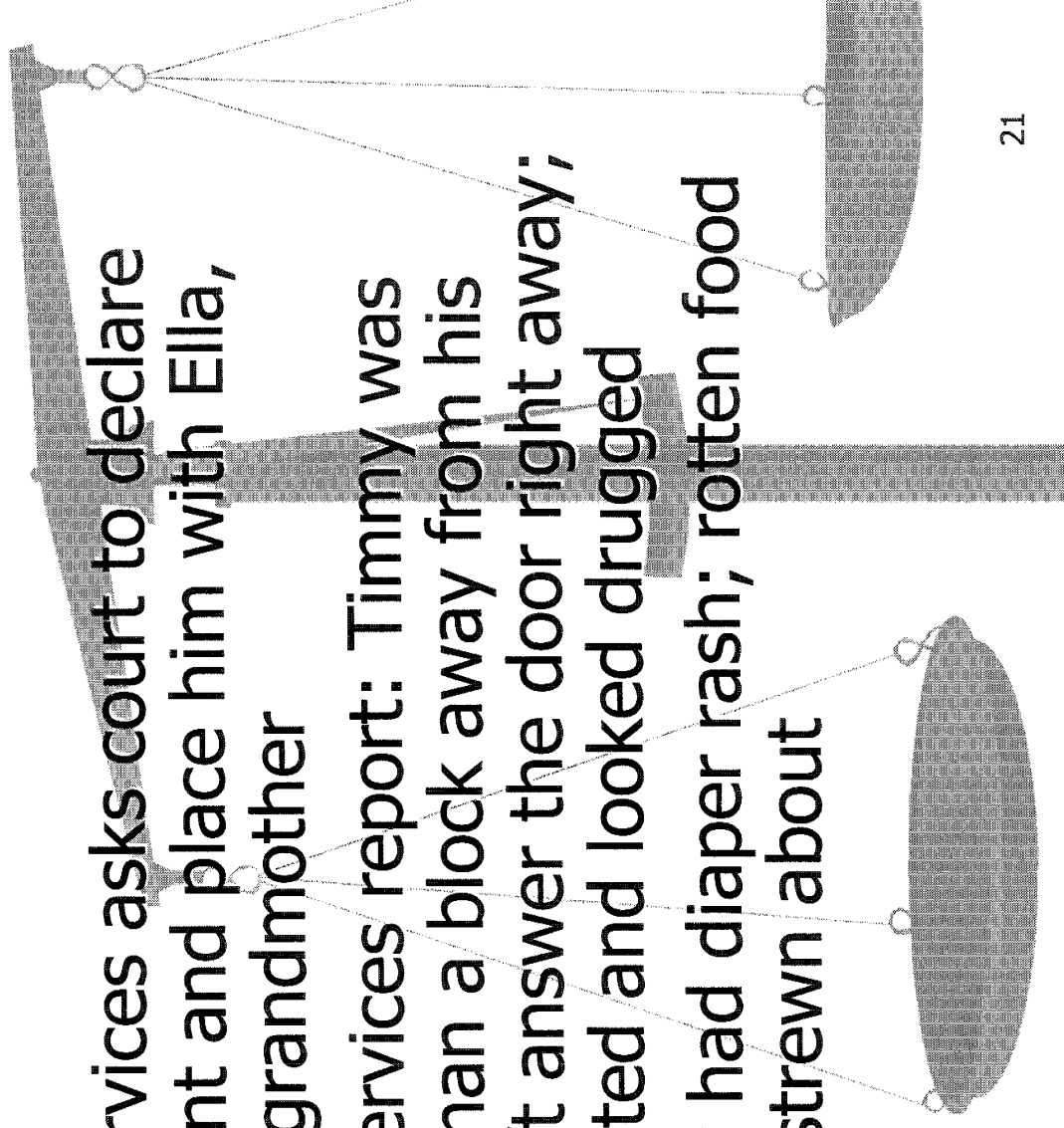
Family Law

- Roger, 46, and Joyce, 44, in dissolution proceeding; both are unrepresented
- Children: Eric, age 24; Alice, age 16; and Timmy, age 3
- Roger seeks custody of Alice and Timmy; alleges that Joyce has prescription drug problem
- Joyce alleges that Roger is verbally abusive (affidavit alleges threats of violence); she seeks custody of Timmy but believes that Alice should stay with her grandmother

Case Study #5

Dependency

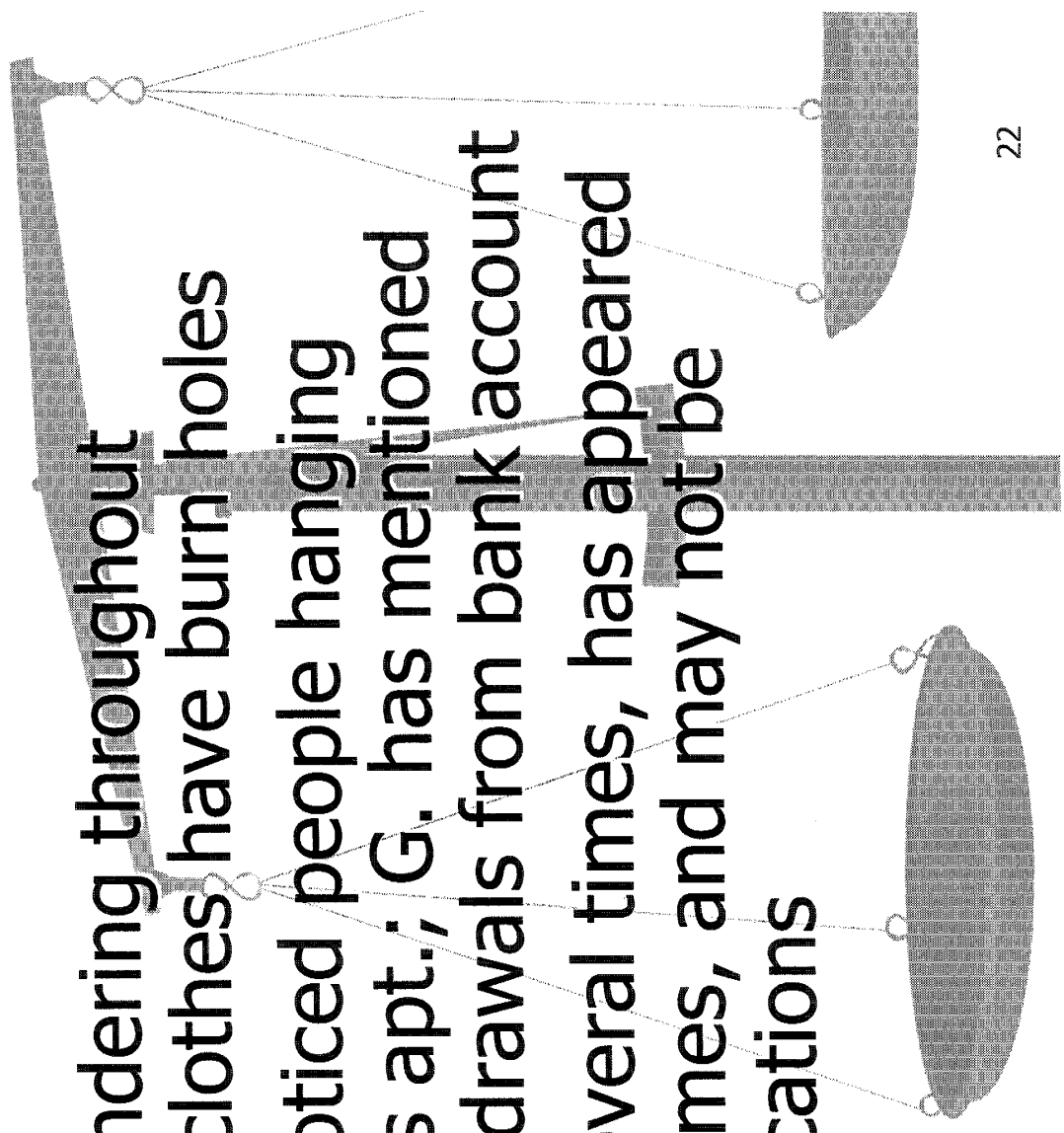
- Dept. of Social Services asks court to declare Timmy a dependent and place him with Ella, Timmy's paternal grandmother
- Child Protective Services report: Timmy was wandering more than a block away from his home; Joyce didn't answer the door right away; she acted disoriented and looked drugged
- Ella's dec.: Timmy had diaper rash; rotten food in fridge; clothes strewn about



Case Study #6

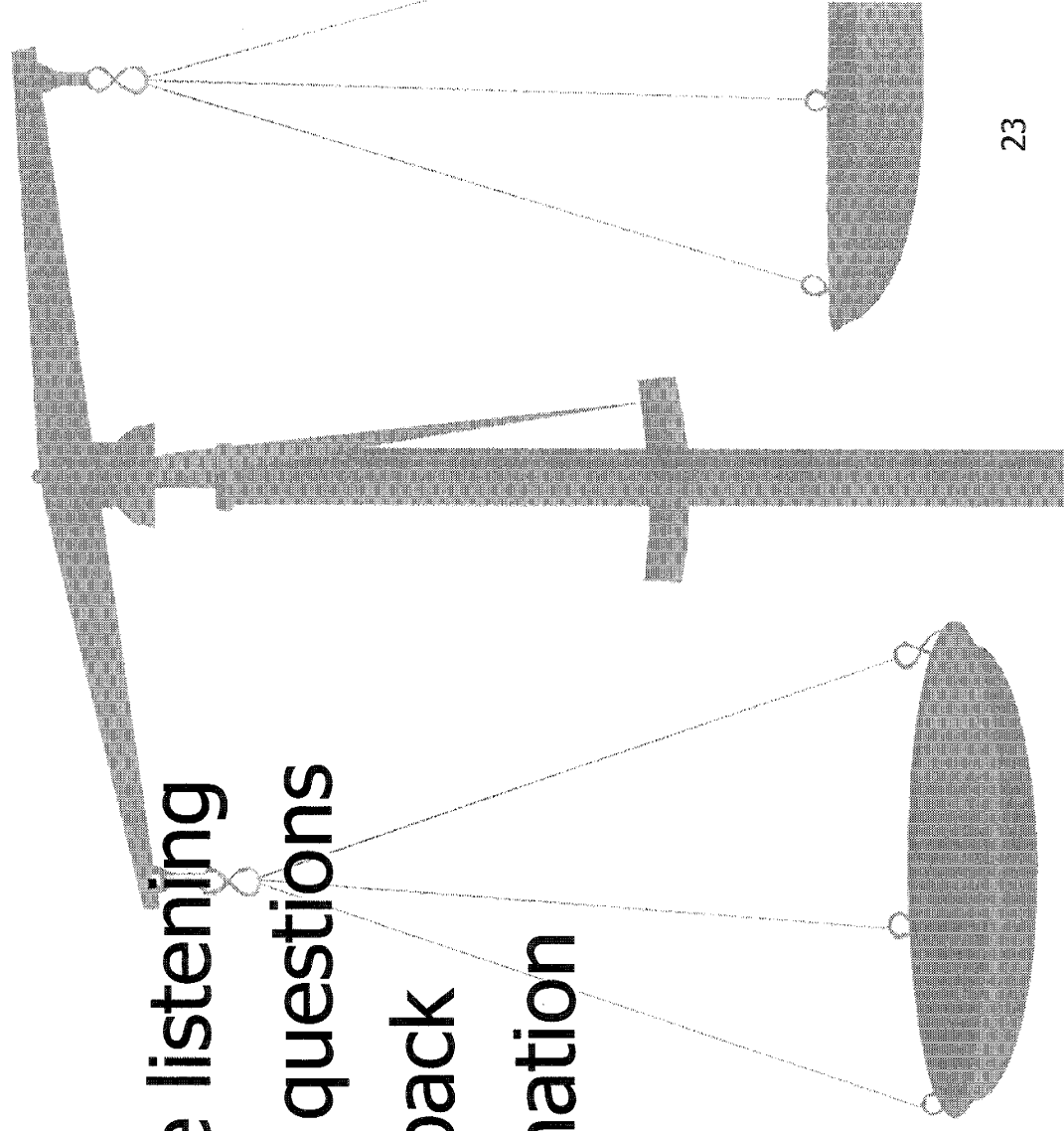
Conservatorship

- George, 74, wandering throughout neighborhood; clothes have burn holes
- Neighbor has noticed people hanging around George's apt.; G. has mentioned substantial withdrawals from bank account
- He has fallen several times, has appeared incontinent at times, and may not be taking his medications



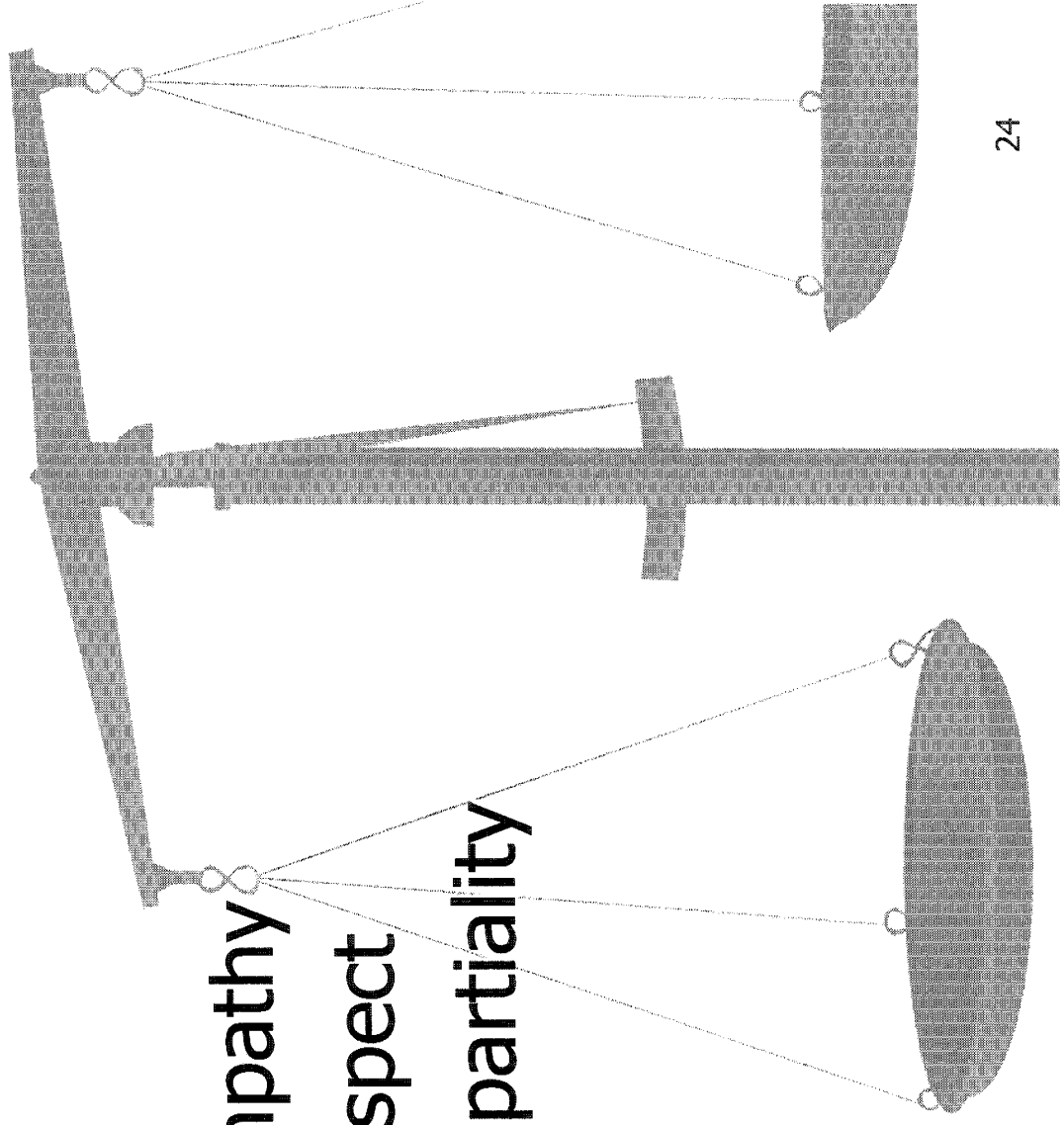
Communication Elements That Motivate Behavior Change

- Active listening
- Good questions
- Feedback
- Affirmation



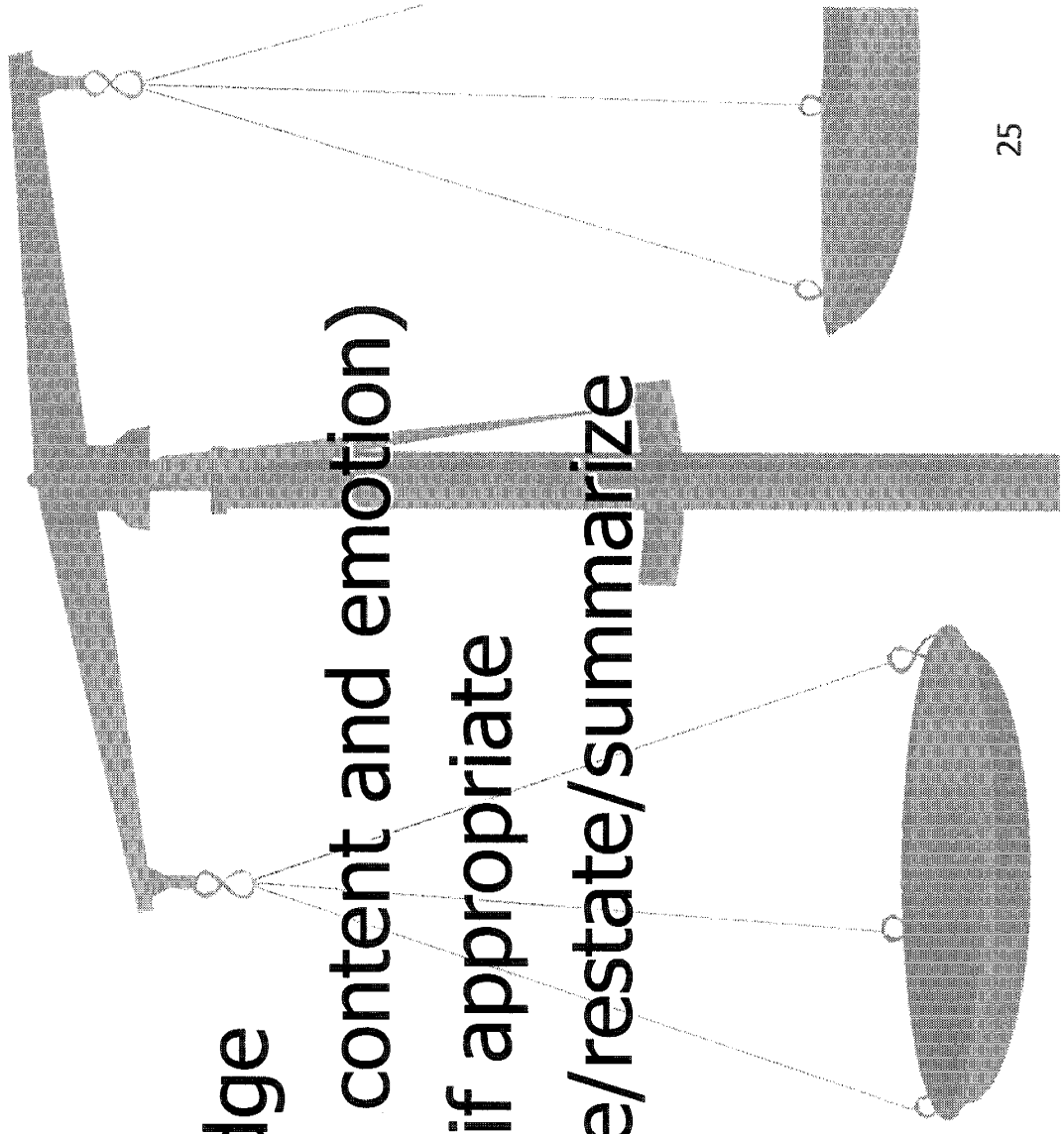
Elements of Procedural Fairness That Enhance Compliance

- Empathy
- Respect
- Impartiality



Active Listening

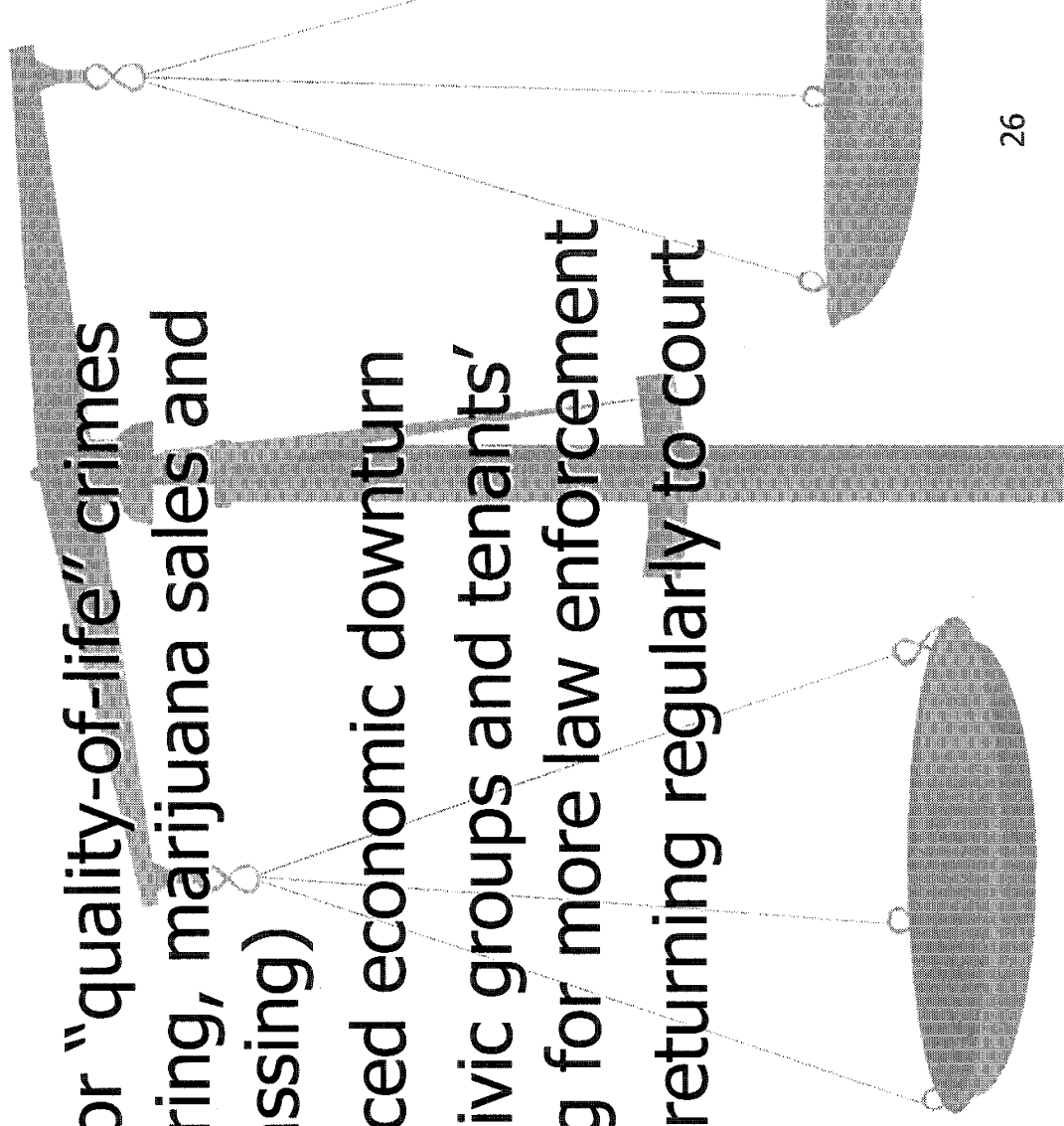
- Acknowledge
- Listen (for content and emotion)
- Question, if appropriate
- Paraphrase/restate/summarize



Case Study #7

Community

- Increased filings for “quality-of-life” crimes (prostitution, loitering, marijuana sales and possession, trespassing)
- Area has experienced economic downturn
- Complaints from civic groups and tenants’ associations asking for more law enforcement
- Same defendants returning regularly to court



Future Trends

- **Transferability, including infrastructure**
- **Expanding collaborative/problem-solving court caseload for certain types of cases**
- **Linking and expanding the collaborative justice/problem-solving courts**

