

**MINNESOTA SUPREME COURT
CHEMICAL DEPENDENCY TASK FORCE**

**REPORT ON ADULT
AND JUVENILE
ALCOHOL AND
OTHER DRUG
OFFENDERS**

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**STATE OF MINNESOTA
IN SUPREME COURT
ADM-05-8002**

STATE COURT ADMINISTRATOR'S OFFICE
COURT SERVICES DIVISION
105 MINNESOTA JUDICIAL CENTER
25 REV. DR. MARTIN LUTHER KING JR., BLVD.
SAINT PAUL, MN 55155
(651) 297-7587

EXECUTIVE SUMMARY

A. MAJOR PRINCIPLES AND THEMES

Before summarizing the Task Force's major recommendations, it is important to set out a number of recurring principles and themes that have infused the Task Force's discussions of the many challenges posed by AOD-addicted offenders who come into Minnesota's courts. These principles and themes underlie all Task Force recommendations.

1. AOD addiction is a treatable chronic disease. People who suffer from AOD addiction can and do recover, at the same success rates as for other chronic illnesses (e.g., asthma, diabetes, hypertension, etc.); and the process of recovery from addiction often involves relapse.
2. When attempting to address AOD problems, it is important to recognize that AOD addiction most often impacts the whole family. Therefore, the traditional fragmented approach to these issues in the courts (and the criminal and juvenile justice systems generally) – where adult cases are processed separately from juvenile cases, and both are processed separately from child protection cases, etc. – is not the most effective way to address the AOD and mental health problems that constitute the underlying causes of a high percentage of all cases coming into the courts.
3. The Task Force does not propose the effective decriminalization of alcohol and other drug offenses, or that all such offenses be diverted. Further, the Task Force does not wish to interfere with the exercise of prosecutorial discretion regarding traditional diversion programs, although such programs could certainly develop at local levels as part of a problem solving strategy. Rather, most problem solving approaches are intended to make conditions of probation, and the monitoring of offenders on probation, more effective.
4. Effective implementation of a judicial problem-solving approach often requires a “paradigm shift” among the various participants who are needed in order to implement the approach – e.g., judge, prosecutor, defense counsel, probation / corrections, social services, law enforcement, etc. However, although the traditional roles of participants are substantially modified, they are not relinquished. It is important to maintain the distinct roles of each problem-solving approach team member – in order, for example, to preserve the constitutional rights of problem-solving program clients. Adequate training is essential for effective implementation of any judicial problem-solving approach.

5. Violent offenders should not be involved in problem solving courts. Persons convicted of homicide, criminal sexual misconduct, and other violent, serious crimes should be sentenced pursuant to the sentencing guidelines. Along these same lines, the Task Force does not recommend modification of this State's aggressive prosecution of DWI offenders. However, generally each local jurisdiction should have autonomy and discretion to determine, through a collaborative and ongoing process among all participant entities, the target population for its problem-solving court(s).
6. A distinction can and should be made between high risk and low risk AOD-addicted offenders ("high risk" and "low risk" referring to their relative risk of re-offending). This distinction is important because different types and degrees of interventions are more effective for high risk as opposed to low risk offenders.
7. In order to effectively deal with the range of AOD-addicted offenders, it is best to utilize a continuum of interventions which enables the court to identify and implement the most appropriate type and degree of intervention for each offender.
8. Appropriate, culturally sensitive, gender-responsive, and court-supervised treatment can be effective in fostering recovery and reducing recidivism among AOD offenders.
9. All problem-solving approaches need to be subject to rigorous and standardized evaluation. Any problem-solving court program must incorporate an evaluation component, and one that integrates with the broader statewide evaluation methodology/-ies currently being developed.
10. All treatment and other judicial interventions with AOD-addicted offenders must take into consideration the specific needs of the individual who is the subject of the intervention. Special attention must be paid to gender and culture-specific treatment needs.
11. Adequate, consistent, and evidence-based chemical dependency and mental health assessment tools and practices are critical for success in dealing with AOD-addicted offenders.
12. Co-occurring disorders (i.e., the co-occurrence of both addiction and mental health issues) are very common among AOD offenders. They need to be taken into account when identifying appropriate judicial interventions.
13. Effective collaboration among participants is essential to the success of any problem-solving approach.

14. Alcohol is a drug. The magnitude of the problems caused by alcohol-related offenses dwarfs that of all other drugs, including methamphetamine.
15. Poly-drug use (including alcohol) is the norm and not the exception among AOD-addicted offenders, and must be taken into account in any effort to identify and implement more effective judicial interventions.
16. Effective judicial intervention for juvenile AOD offenders is critical in light of the connection between juvenile AOD use and later adult addiction and criminality, and as a consequence of the destructive impact of juvenile AOD use and addiction on the developing adolescent brain.
17. Broader implementation of problem-solving approaches for AOD offenders in Minnesota's courts will result in greater emphasis on a restorative approach focused on intensive supervision and treatment for AOD offenders, with retribution in the form of incarceration being reserved for non-compliance, termination from the program, or those persons for whom problem-solving approaches are simply not appropriate.
18. The Task Force recognizes that the availability of and access to resources necessary for implementation of problem-solving approaches varies across the state, especially between metro and non-metro counties. In particular, the shortage of resources in many rural counties of Minnesota can create significant challenges. The existence of this disparity requires development of specific strategies for implementation of the Task Force's recommendations in rural areas.

B. SUMMARY OF MAJOR TASK FORCE RECOMMENDATIONS

- I. ***Problem-Solving Approaches: The Task Force calls for a broad and fundamental shift in how Minnesota's courts deal with AOD-addicted offenders, including greater collaboration among criminal and juvenile justice system participants (while not relinquishing their core roles and responsibilities) and creation of a comprehensive multi-phased plan to institute these changes.***

The Task Force recommends a broad and fundamental shift – a paradigm shift – in the way that Minnesota's courts currently deal with AOD-addicted offenders for whom imprisonment is not initially appropriate or warranted. It involves recognition of the nature of addiction – how it affects the brain, and how it can be most effectively treated – which in turn calls for a change in the way that courts deal with AOD-addicted offenders. The Task Force also recommends the creation of a comprehensive plan for broader development of problem-solving approaches for dealing with AOD-addicted offenders in Minnesota's courts. This recommendation is based upon

research which demonstrates and experience that indicates that problem-solving approaches (for example, drug courts) most effectively address the underlying causes of addiction-related criminal and juvenile behavior, and thus offer the best prospect for fostering recovery and reducing recidivism among AOD-addicted offenders.

The Task Force also recommends that the Judicial Branch begin exploring the most effective way to integrate problem-solving approaches into current court operations. Though this systemic shift will take time and require significant commitment from all parties, the Task Force is convinced that the price of not changing has been high, and should not be acceptable to policymakers or the citizens of Minnesota. Other states including Missouri, California, and New York are successfully moving in this same direction.

A vital component of the paradigm shift advocated by the Task Force is the need to institutionalize collaborative relationships at all levels. However, movement toward a collaborative model does not mean relinquishing the core roles and responsibilities of each participant or entity. Prosecutors can never lose sight of their commitment to public safety, and defense counsel must always maintain their commitment to protecting the due process and other constitutional rights of each person coming through the court system. The judge must ultimately maintain his or her constitutional charge as a neutral arbiter of justice. What is essential is that the response of the entire system be coordinated so that when an offender relapses or commits another crime the response can be swift, the sanction can match the behavior, and the following intervention can provide greater support while requiring rigorous accountability.

- II. ***Juveniles:*** *As with adults, the Task Force strongly recommends the development and implementation of a plan for making problem-solving approaches for juvenile AOD offenders more broadly available throughout the state.*

While the traditional juvenile justice system already functions in a manner resembling the problem-solving model when compared to the adult criminal justice system, critical additions or improvements must be made to increase success rates for juveniles with AOD problems. Specific recommendations include:

1. Explore giving Juvenile Drug Courts authority to require chemical dependency assessments for parents and to require AOD-addicted parents to enter treatment, in order to better support the progress and recovery of the young person.
2. Provide treatment that is specifically tailored to juveniles based upon promising practices.

3. Utilize recovery schools as a resource for juveniles in problem-solving courts, probation (when AOD problems have been identified), and the juvenile justice system generally.
4. Focus available resources on developing pilot family drug courts, including early assessment utilizing the one--judge, one--family model, and treating underlying family issues.

III. ***Methamphetamine: The most effective long-term judicial response to the current methamphetamine crisis is the same overall strategy being recommended by the Task Force for all AOD offenders: broader development of judicial problem-solving approaches.***

Strategies for a broad judicial response to the problems caused by methamphetamine offenders should not be developed in isolation. They are a part of the recommended comprehensive response to the problems caused by all AOD-addicted offenders. Focusing undue attention on methamphetamine (or any other single drug) hinders the development of an effective, rational, long-term strategy which addresses the impact of all AOD-addicted offenders on the criminal justice system.

IV. ***DWI Offenders: The most effective long-term judicial response to DWI offenders is the same overall strategy being recommended by the Task Force for all AOD offenders: broader development of judicial problem-solving approaches.***

The Task Force believes that problem-solving approaches, similar to those recommended in the National Highway and Traffic Safety Administration's "10 Promising Practices" compendium, are necessary to significantly address this seemingly intractable problem. In order for any DWI interventions to be effective, they must be collaborative, they must hold the offender accountable with swift and certain intervention, and they should minimize risks to public safety to the greatest degree possible. Like other AOD offenders, DWI offenders must be processed as quickly as possible.

V. ***Restorative Justice / Other Interventions: The Task Force recognizes that no one approach (such as drug courts, or any other single type of intervention) is appropriate for every AOD offender and every courthouse.***

Thus, the Task Force recommends that courts explore utilizing a continuum of interventions--including restorative justice, intensive supervision programs and staggered sentencing--that are proving to be effective with different groups of offenders.

VI. ***Funding and Resources: The Task Force recommends a multi-phased approach for funding widespread development of problem-solving approaches for AOD-addicted offenders.***

- A. Phase I: Initial Legislative Support to Lay the Critical Foundation for Broader Change: *The Task Force recommends that the judiciary seek 2006 legislative funding for the following three items: training, a study of funding streams, and to pilot a multi-county problem-solving court model.*

This phase would involve a relatively modest funding request – approximately \$750,000 – for:

- Training for local and regional multidisciplinary teams on the problem-solving approach for AOD offenders; and,
- A study of existing funding streams in order to recommend a more uniform and cost-effective structure for broader implementation of problem-solving approaches for AOD offenders; and,
- Filling critical gaps in available treatment and other services for current problem-solving courts, including services necessary to allow those courts to expand into pilot multi-county collaborative efforts.

- B. Phase II: Development of Key Elements of a Comprehensive Plan to Present to the Legislature in 2007, Based upon the Results of Phase I and Further Developments.

This phase would build on the efforts of Phase I in order to take the development of problem-solving approaches to the next level. It involves taking the findings and recommendations of the Phase I study and creating a comprehensive plan for funding more broad-based development of problem-solving approaches. It would also involve integrating the findings from the Phase I multi-county pilot(s) to refine the multi-county model. Finally, the local and regional training of multidisciplinary teams will lay the groundwork for further expansion of problem-solving approaches. The ultimate goal of Phase II will be to present a comprehensive, collaborative plan to the 2007 legislature for funding and broad-based development of problem-solving approaches in Minnesota's courts.

Some specific options that might be considered for inclusion in the Phase II plan could be:

1. An expanded analysis of gaps in treatment and other services around the state that would inhibit broader development of problem-solving approaches, especially multi-county efforts.

2. As in Phase I, seek funding to fill the identified gaps, and tie eligibility for these funds to the implementation of multi-county efforts in order to develop the best and most cost-effective model(s).
3. Use funding sources to encourage other best practices, such as partnering with managed-care entities to ensure adequate and consistent training, and exploring potential requirements for AOD education for managed-care personnel.
4. Explore the possibility of funding post-release treatment services, intensive supervision and drug testing as a follow-up to in-prison treatment.
5. Commission a state-level study to analyze the costs of renovating or building new jails in comparison to the potential reductions in need for jail space that could be realized through the implementation of problem-solving approaches. The goal of such a study would be to make alternative recommendations to counties that are currently looking into building a new jail or adding to an existing one.
6. Seek funding in the Judicial Branch budget to augment support at the State Court Administrator's Office for problem-solving approaches, including the development of a statewide management-information system (MIS) and both outcome and cost-benefit evaluation.
7. Additional local and regional multidisciplinary training, including advanced training in problem-solving approaches, as well as training on effective marketing of problem-solving approaches at the state and local level in order to support the long-term sustainability of local and regional efforts.
8. Create a comprehensive strategy for the sustainability and funding of problem-solving approaches, including multi-year funding plans at the state and local (county / district) court level.
9. Create a state-level funding oversight / coordination committee.

C. Phase III: Broad Implementation: Implement the comprehensive plan developed in Phase II.