



JUSTICE PROGRAMS OFFICE  
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BJA Drug Court Technical Assistance Project

# The Role of Prosecutors in Drug Treatment Courts

Tuesday, November 15, 2016

1:00pm-2:30pm Eastern

**Presenters:**      **Mike Loeffler, Esq. – Creek County, OK**



**Hon. Christine Carpenter – Columbia, MO**



# A Drug Court Prosecutor is:

- A Guardian of Public Safety



A Drug Court Prosecutor's primary objective remains protecting the Public.



# The “GATEKEEPER”

- That tired old phrase...



# A Good Gatekeeper is:

- A Gatekeeper from the start
- During the planning process or while revising an existing program



# Develops a Target Population

Eligibility and exclusion criteria for the Drug Court are predicated on empirical evidence indicating which types of offenders can be treated safely and effectively in Drug Courts. Candidates are evaluated for admission to the Drug Court using evidence-based assessment tools and procedures.

## **Drug Court Best Practices Standard #1**

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# A Good Gatekeeper:

- Targets the right population to start with



# Aware of Risk-Need

- **High Risk Offenders:**
  - Have relatively poorer prognosis for success in standard rehabilitation programs and typically require intensive/sustained interventions
  - Do not mean “violent offenders”



# Aware of Risk-Need

- **High Need Offenders:**
  - Clinical syndromes or disorders
    - Compulsively addicted to drugs or alcohol cravings
    - Binge patterns
    - Withdrawal
  - Major psychiatric disorders
  - Functional impairments
    - Lack of job skills
    - Illiteracy



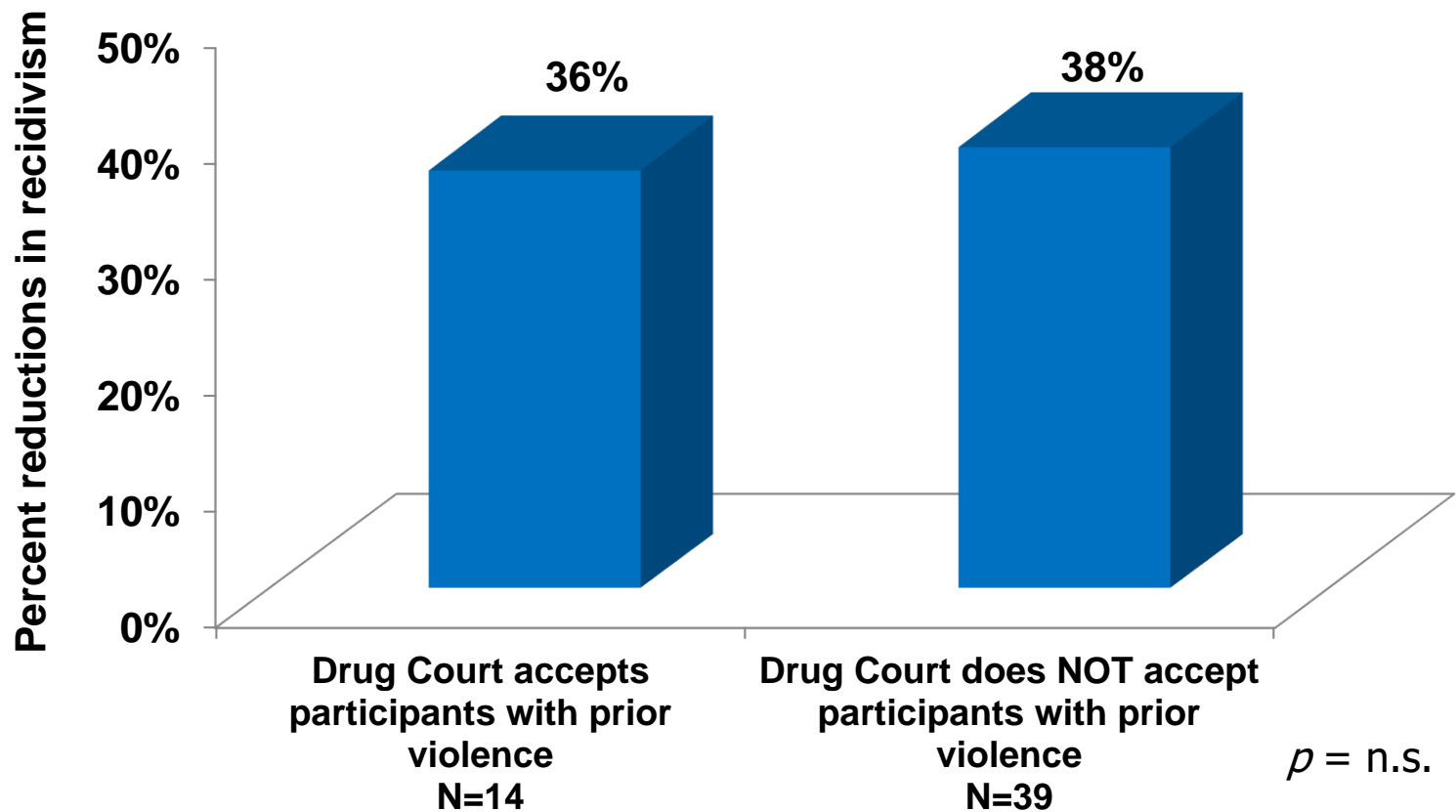


# Aware of Risk-Need

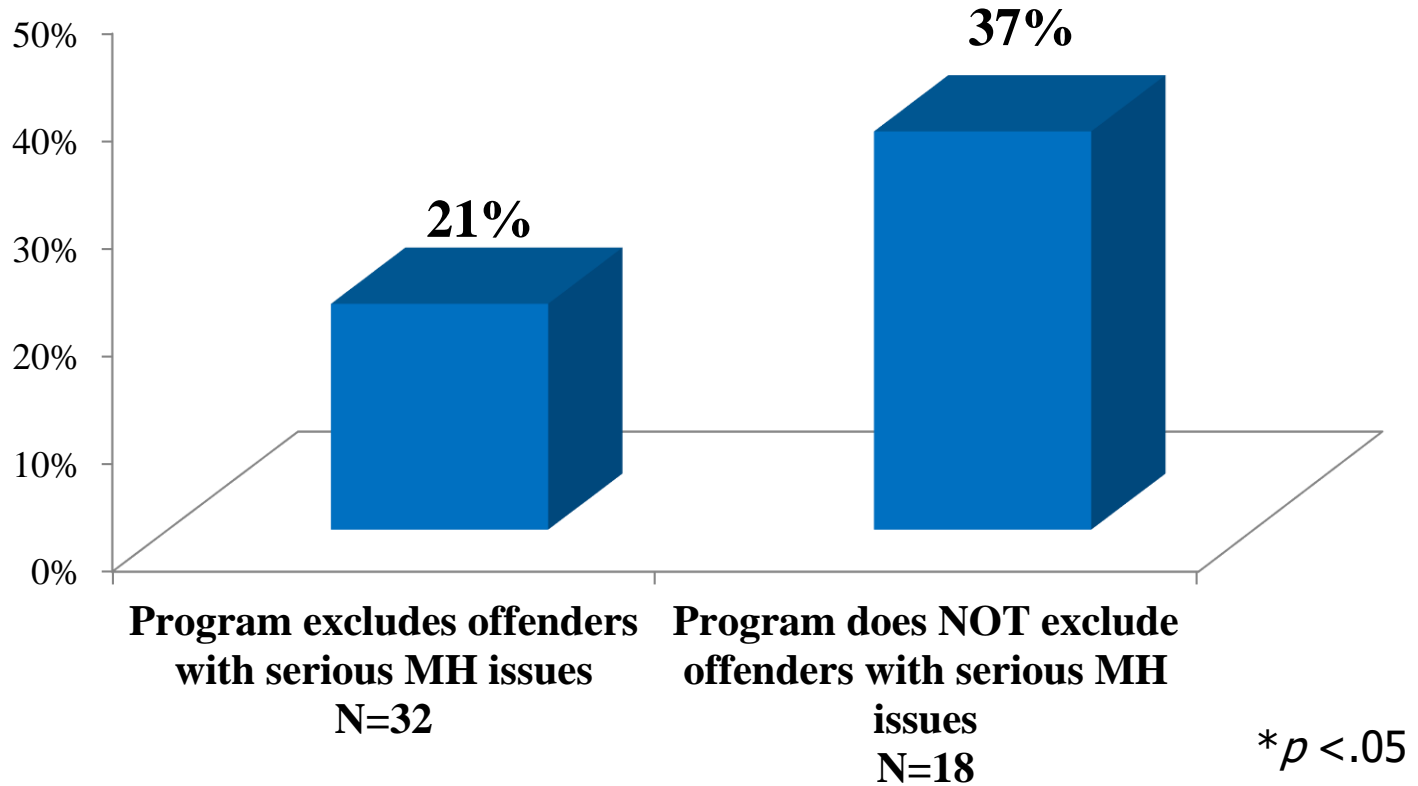
- **High Need Offenders:**
  - The higher the need level:  
the more intensive the treatment or  
rehabilitation services should be



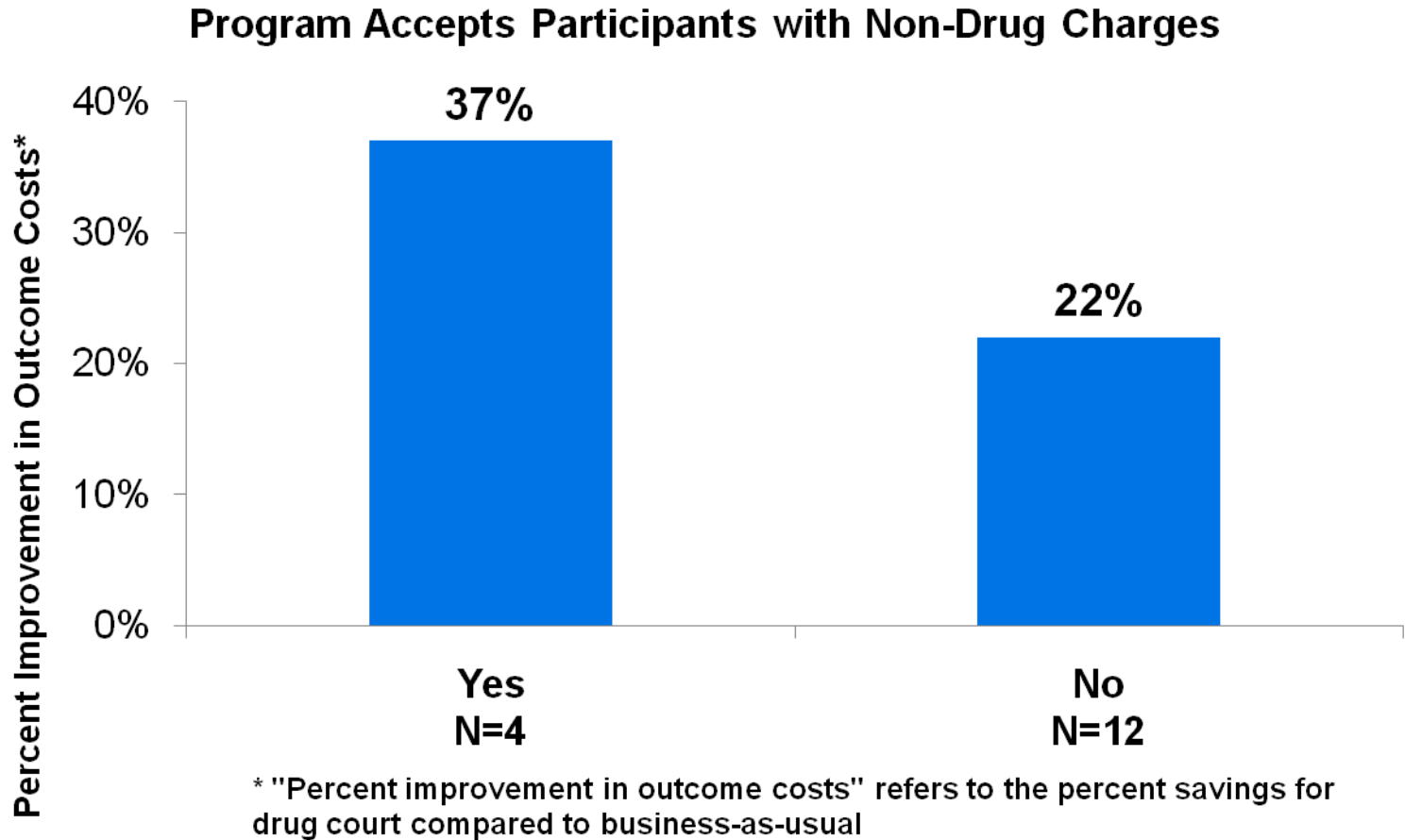
# Drug Courts That Accepted Participants With Prior Violence Had Equivalent Reductions in Recidivism



# Drug Courts That Excluded Participants with Serious Mental Health Problems Had Over 50% Less Cost Savings



# Drug Courts That Accepted Participants With Non-Drug Charges Had Nearly Twice the Savings



**Note 1: Difference is significant at  $p < .05$**

**Note 2: Non-drug charges include property, prostitution, violence, etc.**

# Aware of Risk-Need

- Risk-Need determination is an objective measure made by qualified persons employing scientifically normed risk/needs assessment



**Mixing need levels is  
contraindicated**



# Aware of Racial Disparities

- African Americans are under-represented and graduate at a lower rate than others in Drug Courts
- Drug Courts have an affirmative obligation to investigate if their programs have racial disparities and take steps to alleviate those disparate outcomes

Painting the Current Picture, Copyright © 2016, NADCP, pp46



# A Conscientious Gatekeeper is:

- A Gatekeeper during the program



# Puts the Adversary System in Proper Context

- Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights—Key Component #2





# Advocates for Effective Incentives and Sanctions

- Consequences for participants' behavior are predictable, fair, consistent, and administered in accordance with evidence-based principles of effective behavior modification.

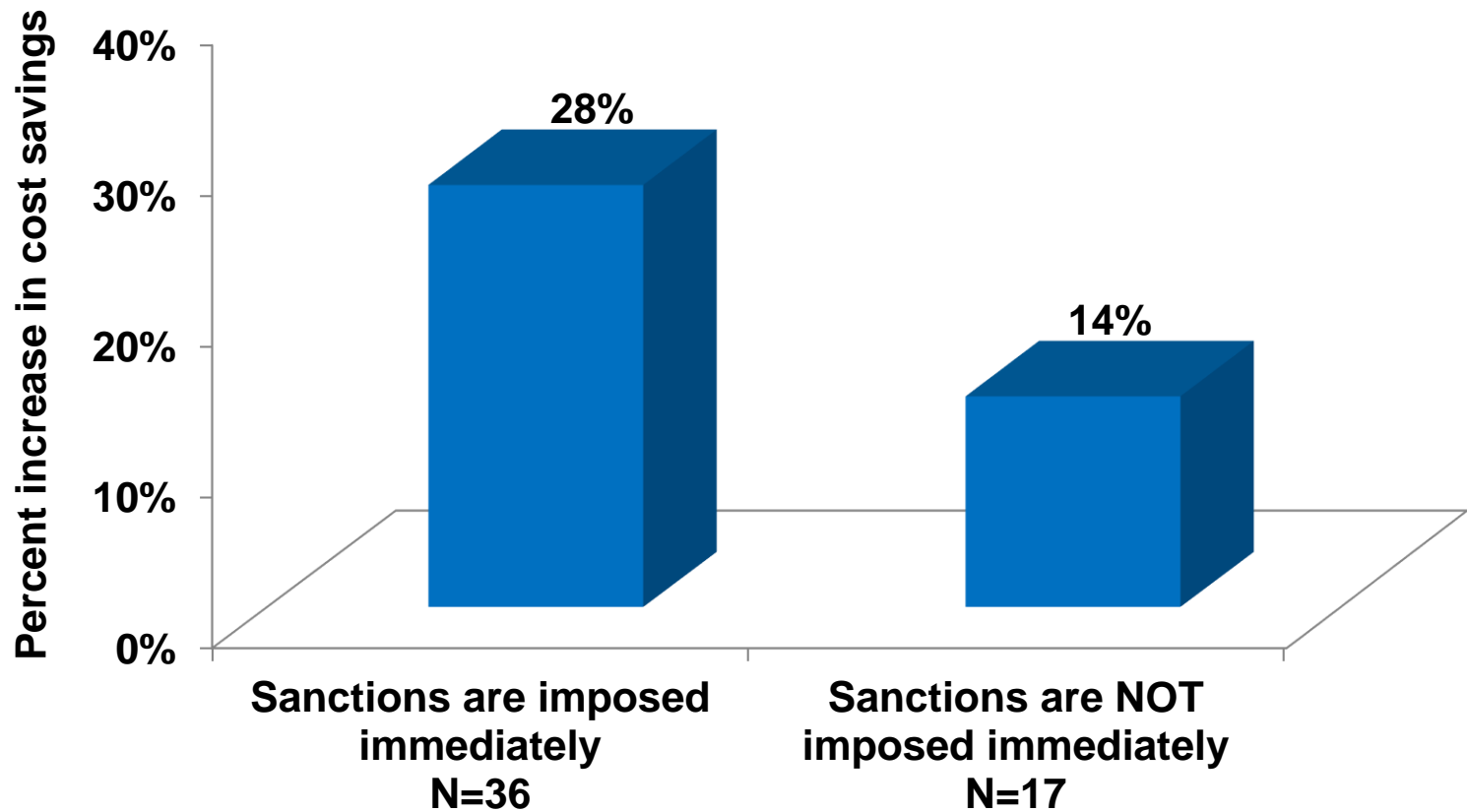
Drug Court Best Practice Standard IV  
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# Advocates for Effective Incentives and Sanctions



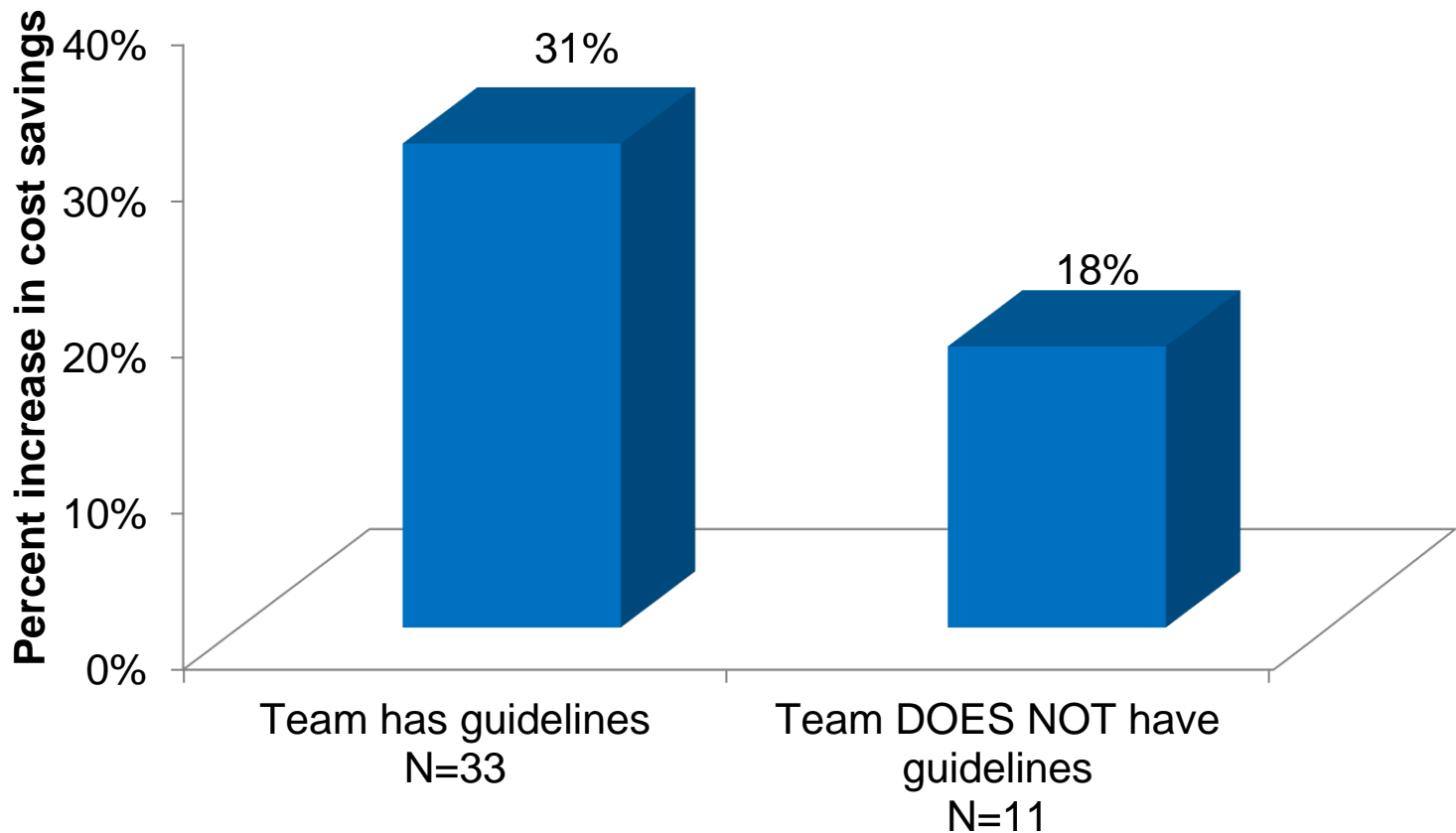
# Drug Courts Where Sanctions Are Imposed Immediately After Non-compliant Behavior had a 100% Increase in Cost Savings



Note 1: Difference is significant at  $p < .05$

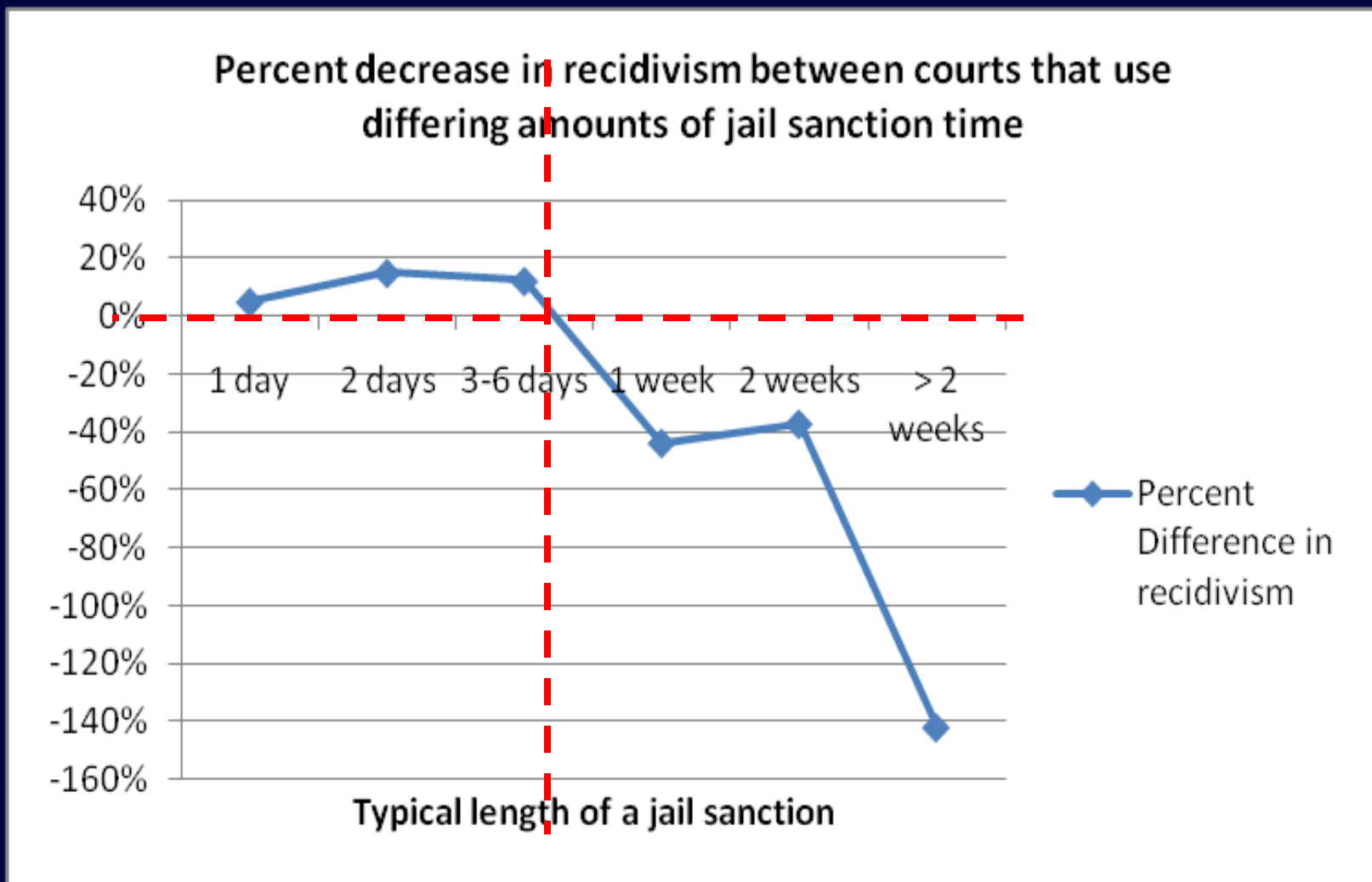
Note 2: Immediately = Before the next regular court hearing (or one week or less to court hearing)

# Drug Courts Where Team Members are Given a Copy of Written Guidelines For Sanctions And Rewards Had 72% Higher Cost Savings



Note 1: Difference is significant at  $p < .15$  (Trend)

# Courts that use jail greater than 6 days have worse (higher) recidivism



# Termination

The Ultimate Sanction

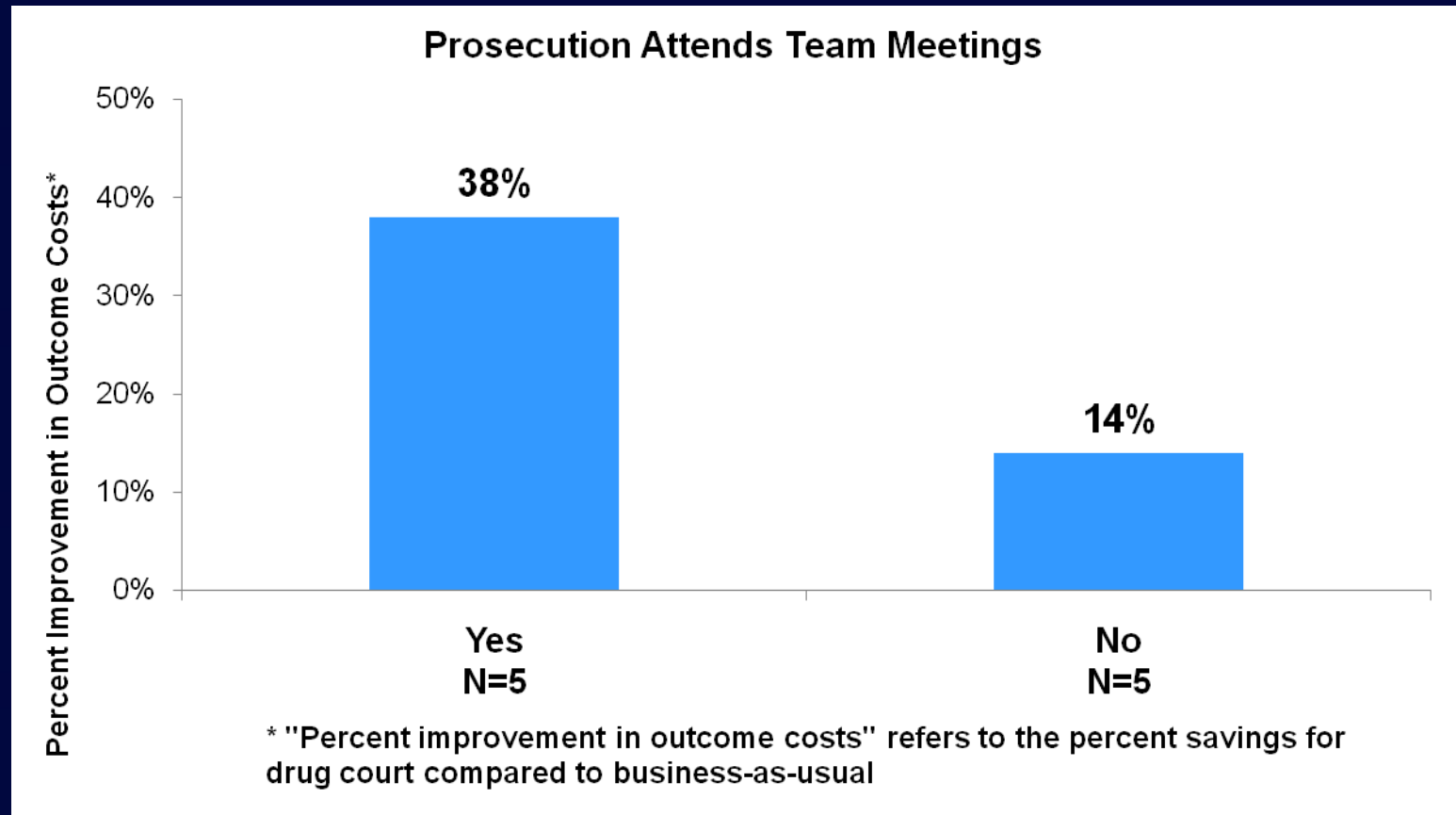


# Is a Team Player:

The Drug Court Prosecutor  
is a good teammate



# Drug Courts That Expected the Prosecutor to Attend All Team Meetings Had More Than 2 Times Greater Savings



**Note: Difference is significant at  $p < .05$**

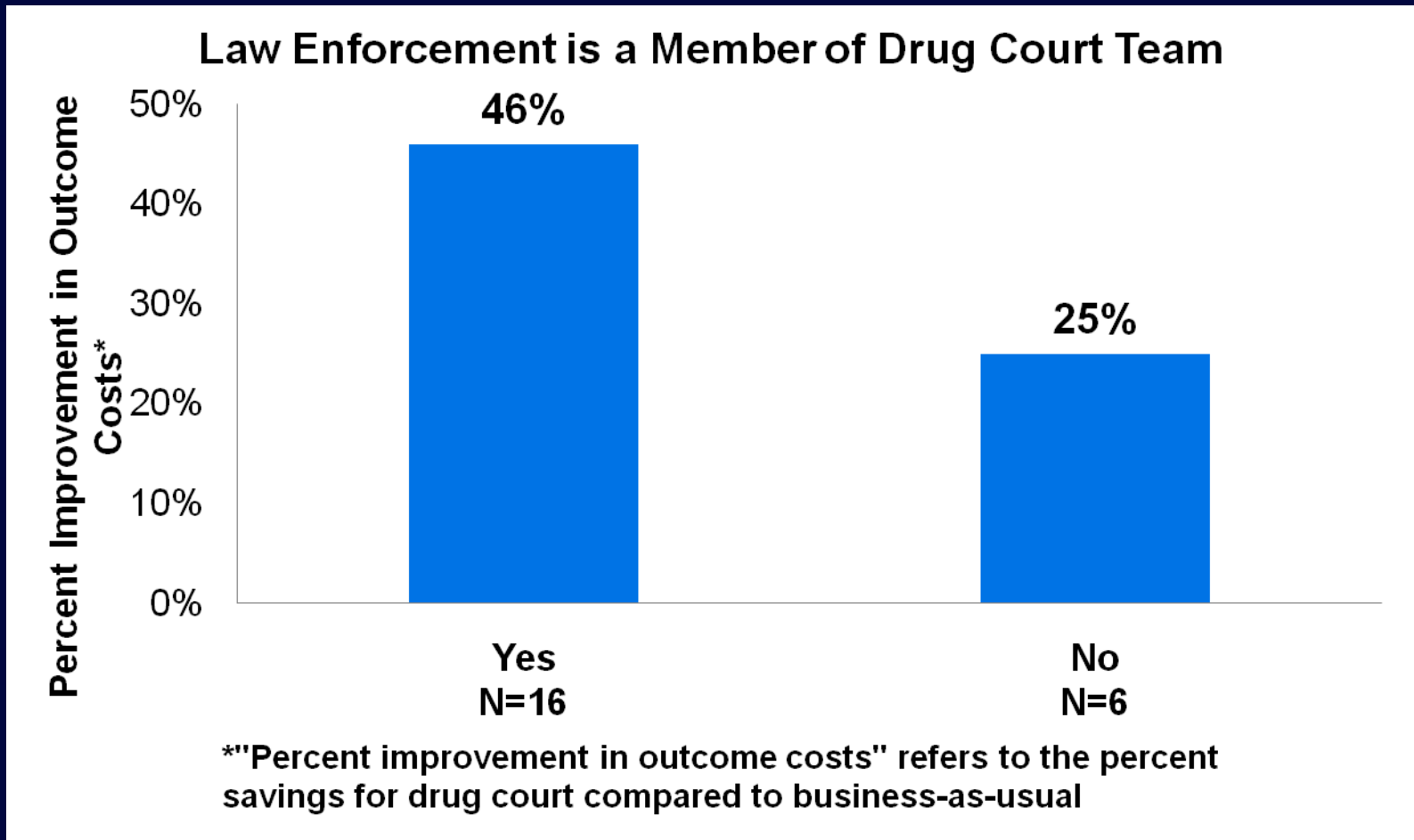


# The Team's Liaison with Law Enforcement

The Drug Court prosecutor is the program's main link with all law enforcement agencies.



# Drug Courts that Included Law Enforcement as a Member of the Team Had Greater Cost Savings



**Note: Difference is significant at  $p < .05$**

# Intellectually Sharp

- A Drug Court Prosecutor remains current on Drug Courts research and is knowledgeable about addiction and psychopharmacology.



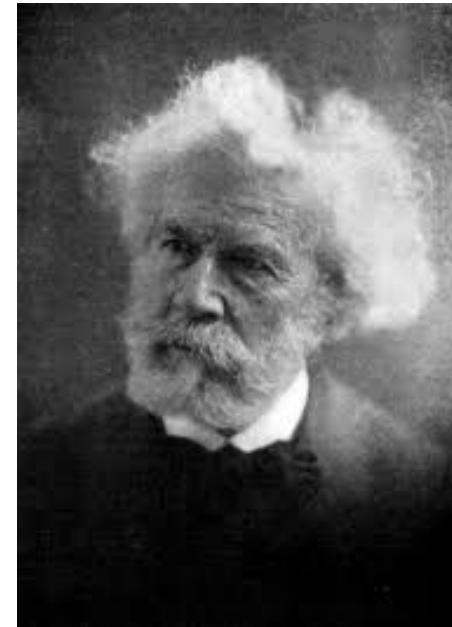
# Remains Vigilant

- A Drug Court Prosecutor monitors program fidelity and seeks to improve the program wherever possible.



# An Astute Politician

- A Drug Court Prosecutor:
  - Provides political cover, legitimacy for the drug court
  - Is a powerful advocate for its sustainability
  - Identifies and mentors his/her successor



# A Tireless Advocate

- Monitors program fidelity and seeks to improve the program wherever possible
- Uses advocacy skills in both traditional and nontraditional ways to support/improve the Drug Court



# Always Wears the White Hat

- Always scrupulously ethical
- A drug court prosecutor provides focus, safeguards participants' due process, equal protection and other statutory rights, such as confidentiality



# The More Things Change the More They Stay the Same

## Ethical Challenges for Drug Court Prosecutors

- Relationships with Participants
- Obligations to Court





# Contact Information

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