

## **NACDL Problem-Solving Court Task Force Mission Statement**

Problem-solving courts focus attention and resources on specific crimes and criminal behaviors, as well as the root causes of such behaviors. Examples of such courts include drug courts, mental health courts, and domestic violence courts. With over 2,000 existing problem-solving courts in the United States and the prospect of jurisdictions utilizing this model's practices and principles in conventional courtrooms, the need to study and understand how these courts function and their overall impact on the criminal justice system has become manifest.

Typically problem-solving courts eschew the adversarial model in favor of a "team approach," where the defendant's recovery from a behavioral problem plus concerns for public safety become the shared goals of the defense, prosecution, judges, corrections and treatment providers. The court actively directs and supervises the defendant's rehabilitative efforts through the dual use of frequent reporting coupled with a range of sanctions for violations.

In the problem-solving court setting, defense attorneys have encountered the most serious conflict, since their traditional role as zealous advocates are subordinated to the recovery process. This in turn raises a profound ethical dilemma: to whom does the defense attorney owe allegiance – the client or the rehabilitation team? Put another way, what is the defense attorney's ethical obligation when there is a collision of rehabilitative goals with the client's constitutional and freedom interests? This singular problem occurs simultaneously with other conflicts peculiar to the problem-solving courts model, namely the steep price of admission which requires defendants to (1) plead guilty, (2) waive Fourth Amendment rights and (3) waive Fifth and Sixth Amendment rights. Lack of confidentiality ascribable to defendant statements and the absence of immunity may result in incriminating statements being utilized against a defendant in later criminal proceedings.

Balancing the concerns of the problem-solving courts' rehabilitative goals with the defendant's constitutional rights and defense counsel's ethical concerns, the NACDL shall form a Task Force that will:

1. Identify specific problem-solving courts, with particular emphasis on drug courts, as they are the most established and widespread form of problem-solving courts. The task force will examine their role in the criminal justice system and assess their overall effectiveness;
2. Make recommendations for reducing the conflicts between rehabilitative goals and fundamental constitutional rights;
3. Identify the specific ethical dilemmas encountered by defense counsel;
4. Identify new processes and initiatives which can be instituted to permit the combined goals of rehabilitation and preservation of constitutional standards of representation;
5. Disseminate best practices and guidelines which will ensure that rehabilitation can be achieved within a constitutional framework; and,
6. Examine any additional issues pertaining to the use and growth of drug courts and other problem-solving courts and their methodologies as determined by the Task Force.