

Unpacking the Black Robe Effect in AOT

The “Black Robe Effect” in assisted outpatient treatment (AOT) refers to the impact a court-order has on both the participant and the treatment team. For the treatment team, a court order moves a participant to the top of their list, ensuring that they are prioritized for services and assertive outreach, while for the participant, a court order provides a level of accountability not present in voluntary services.

AOT is an involuntary intervention primarily for people with severe mental illness and anosognosia.¹ Anosognosia, also called lack of insight, is a common symptom in disorders that involve psychosis and/or mania, including schizophrenia spectrum disorders and severe bipolar disorder. It is estimated to impact up to half of individuals with these conditions.¹ Anosognosia is notably different from denial and distinct from other types of cognitive impairments that can accompany these conditions.

***Anosognosia and denial:** People who are in denial about having a mental illness recognize that something about their mental state has changed but would not call this change an ‘illness’ and do not think treatment would help. Someone with anosognosia, on the other hand, typically has no idea that there has been any change or decline in their mental state, behavior, or functioning. Anosognosia is thought to be the most common reason for treatment refusal and treatment non-adherence for people with severe mental illness.²*

While psychosocial treatment and medications are often able to decrease the frequency and intensity of hallucinations and delusions, insight into one’s symptoms may not improve even with regular and consistent treatment. In these cases, the knowledge that a court order is in place may be the only thing that keeps people connected to life-saving treatment. This is why some have cited the “black robe effect” as the underlying mechanism that makes AOT effective.³⁴⁵

***Perspective from a judge:** “The “black robe effect” does play a role in the assisted outpatient treatment (herein “AOT”) program in a number of ways. Initially, a participant is court-ordered to participate in AOT and comply with a treatment plan. Just the knowledge of the existence of the order to the participant creates a black robe effect to comply. The black robe effect also enforces accountability of the program provider to provide services and medications to the participant as ordered by the court. Court hearings with the judge also encourage compliance by the participant,*

¹ Not all individuals with anosognosia are appropriate candidates for AOT. For questions about eligibility criteria, contact aot@tac.org.

either through praise and encouragement or more stern reminders to comply. In essence, the black robe effect can be felt on a wide range of levels.” — Hon. Cynthia Lu

The court order also impacts the treatment team by requiring them to deliver services to people who are often underserved by outpatient treatment services. If treatment providers are not delivering necessary services or fulfilling their responsibility to create a person-centered care plan, a judge has the authority to compel the treatment team to submit evidence that they are supplying required services or ask them to provide additional services.

Perspective from a case manager: *“As a case manager working with this population, I considered the court order as a tool to open the door to engagement. The hospital was the last place my clients wanted to be so I used that to join with them and develop a treatment plan that would reduce the likelihood of re-hospitalization. The court order also impacted my work, prioritizing the participant for more outreach. I knew my work was under more scrutiny from the mental health authority as well as the court.” — Amy Lukes, former AOT case manager*

While a highly involved judge is not necessary for the success of an AOT program, the presence of a compassionate authority figure leading the court may help to augment the impact of the “black robe effect.” Research from problem-solving courts, such as drug courts and mental-health courts, suggests that the judge plays an important role in recovery for people involved in these programs. While all team members, including probation officers and the treatment team, are essential for helping problem-solving court defendants meet court requirements,⁶ the judge has been shown to play a particularly central role in defendant success.⁷

Research into the effectiveness of problem-solving courts has produced a large body of literature focusing on the importance of the role of the judge. For example, research conducted across over sixty adult drug courts has shown that defendants who spent at least three minutes interacting directly with the judge experienced 153% greater reductions in recidivism than those who spent less than three minutes interacting directly with the judge.⁸⁹ Those who spent even more time experience even greater reductions in recidivism, with studies finding that spending seven or more minutes directly interacting with the judge triples the reduction in recidivism.¹⁰ While three to seven minutes may not seem like much time, these judicial interactions have a lasting impact on defendants. Across multiple studies, drug court defendants have reported that the quality of their interactions with the judge is one of the most important elements of their success in the drug court program.¹¹

Perspective from a participant: *“I was court ordered into AOT in May of 2019. Although I have never struggled with anosognosia, or with drug or alcohol addiction, AOT has helped me in other ways; it has given me the tools needed to go the past six years with no hospital visits. Court orders are not always a negative thing, when done with compassion to truly help someone. The Richland County AOT Judge, Phil Mayer, and his AOT Team, gained my full trust within just a few weeks of entering the program. Due to Judge Mayer's well-wielded authority over me and over the treatment team, mixed with his humanist compassion: I was encouraged to keep taking my meds; my student loan debt was forgiven; I was connected to NAMI; I was reconciled with the local police; I was given a voice when my treatment and counseling needed adjusting; and my strengths and talents as a person were praised and helped to develop. A court order not only saved me from death, it also got*

me out of the revolving door of hospitalizations and bad interactions with police and improved my treatment and quality of life.” — Bradley N. Tarr, AOT Graduate

That being said, not all judges equally improve participant outcomes. Defendants paired with judges who interact in a respectful, fair, understanding, enthusiastic, compassionate, and consistent manner experience greater reductions in both recidivism and substance use.¹² Defendants who experience supportive comments from the presiding judge also experience better outcomes than those who receive shaming or hostile comments.¹³

Concluding thoughts

The term “Black Robe Effect” refers to a court order’s impact on the participant and the treatment team. The court order ensures that the participant has an incentive to attend appointments, while also ensuring that providers prioritize connecting AOT participants with person-centered care. This “Black Robe Effect” can be further augmented by the presence and authority of a compassionate judge. To connect with judicial officers who have experience overseeing AOT dockets, please contact aot@tac.org.

¹Silver, S., Hancq, E.S., (2023). Anosognosia. *Treatment Advocacy Center*. https://www.tac.org/reports_publications/anosognosia/

²Silver, S., Hancq, E.S., (2023). Anosognosia. *Treatment Advocacy Center*. https://www.tac.org/reports_publications/anosognosia/

³Weinberger, J. (2017, November 27). Courts are using the powerful “black robe effect” to treat severe mental illness. Should they? *Vox*. <https://www.vox.com/policy-and-politics/2017/11/27/16689142/courts-mental-illness-assisted-outpatient-treatment>

⁴Brennan, C. (2022, August 4). Amid Fears of Crime and Mental Illness, States Move to Expand Forced Treatment. *The Appeal*. <https://theappeal.org/assisted-outpatient-treatment-criminalization-mental-illnes/>

⁵Cook, M. (2020, October 24). ‘Black robe effect’ drives success of state’s first court-ordered treatment program in Doña Ana County. *The Las Cruces Bulletin*. <https://www.lascrucesbulletin.com/stories/black-robe-effect-drives-success-of-states-first-court-ordered-treatment-program-in-doa,5102>

⁶Cook, M. (2020, October 24). ‘Black robe effect’ drives success of state’s first court-ordered treatment program in Doña Ana County. *The Las Cruces Bulletin*. <https://www.lascrucesbulletin.com/stories/black-robe-effect-drives-success-of-states-first-court-ordered-treatment-program-in-doa,5102>

⁷Portillo, S., Rudes, D.S., Viglione, J., & Nelson, M. (2013). Front-stage stars and backstage producers: The role of judges in problem-solving courts. *Victims & Offenders*, 8(1), 1–22.

⁸National Association of Drug Court Professionals. (2018). Adult drug court best practice standards, volume I text revision. <https://allrise.org/wp-content/uploads/2023/06/Adult-Drug-Court-Best-Practice-Standards-Volume-I-Text-Revision-December-2018.pdf>

⁹Carey, S.M., Mackin, J.R., & Finigan, M.W. (2012). What works? The ten key components of drug court: Research-based best practices. *Drug Court Review*, 8(1), 6–42.

¹⁰Carey, S.M., Mackin, J.R., & Finigan, M.W. (2012). What works? The ten key components of drug court: Research-based best practices. *Drug Court Review*, 8(1), 6–42.

¹¹National Association of Drug Court Professionals. (2018). Adult drug court best practice standards, volume I text revision. <https://allrise.org/wp-content/uploads/2023/06/Adult-Drug-Court-Best-Practice-Standards-Volume-I-Text-Revision-December-2018.pdf>

¹²National Association of Drug Court Professionals. (2018). Adult drug court best practice standards, volume I text revision. <https://allrise.org/wp-content/uploads/2023/06/Adult-Drug-Court-Best-Practice-Standards-Volume-I-Text-Revision-December-2018.pdf>

¹³National Association of Drug Court Professionals. (2018). Adult drug court best practice standards, volume I text revision. <https://allrise.org/wp-content/uploads/2023/06/Adult-Drug-Court-Best-Practice-Standards-Volume-I-Text-Revision-December-2018.pdf>