

National Drug Court Institute Review

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National Drug Court Institute

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INTRODUCTION

The Editorial Board is pleased to introduce the first issue of the *National Drug Court Institute Review (NDCIR)*. Our mission is to provide scientific research and analysis as well as commentary of importance to the drug court practitioner. We are indebted to the Robert Wood Johnson Foundation for its financial support for this seminal issue.

Published semi-annually, the *NDCIR*'s goal will be to keep the drug court practitioner abreast of important new developments in the drug court field. Drug courts demand a great deal of time and energy of the practitioner. There is little opportunity to read lengthy evaluations or keep up with important research in the field. Yet, our ability to marshal scientific and research information and "argue the facts" can be critical to a program's success and ultimate survival.

The NDCIR will build a bridge between law, science and clinical communities, providing a common tool to all. A headnote and subject indexing system will allow access to evaluation outcomes, scientific analysis and research on drug court related areas. Scientific jargon and legalese will be interpreted for the practitioner into a common language. A research section in each issue will be devoted to short, to-the-point summations of recent evaluations and research. The practitioner will be able to quickly grasp research outcomes and find them again when the need arises through the Review's cumulative indexing.

Although the *NDCIR*'s emphasis will be on scholarship and scientific research, it will also provide commentary from experts in the drug court and related fields on important issues to drug court practitioners.

In this issue:

Dr. Steven Belenko of Columbia University's National Center for Addiction and Substance Abuse (CASA), provides the first comprehensive academic review of the research, evaluations and literature in the drug court field.

DR. SALLY SATEL GIVES US THE FIRST EVER ANALYSIS OF THE ROLE OF THE DRUG COURT JUDGE, ANALYZING COURTROOM ENVIRONMENTS OF 15 DRUG COURTS AND DESCRIBING 17 VARIABLES FOUND IN EACH.

THE FIRST TWO EVALUATIONS EVER PUBLISHED ON JUVENILE DRUG COURTS ARE SUMMARIZED FOR THE PRACTITIONER BY MICHELLE SHAW AND DR. KENNETH ROBINSON.

NADCP President, and former Oakland drug court judge, Jeff Tauber provides commentary on the future of drug courts, arguing for their expansion into drug court systems that involve all drug-using offenders.

This is the introductory issue of the *National Drug Court Institute Review*. We hope you will enjoy it, use it as a resource and as a research tool. This is your publication, and we urge you to submit research, evaluations and commentary to the Review for publication and to contact us at the Institute with your comments and suggestions.

National Drug Court Institute Review

Editorial Board

THE NATIONAL DRUG COURT INSTITUTE

The National Drug Court Institute Review is a project of the National Drug Court Institute. The NDCI was established under the auspices of the National Association of Drug Court Professionals and with the support of the Office of National Drug Control Policy and the Drug Courts Program Office of the U.S. Department of Justice. Its founding corporate sponsors, Roche Diagnostic Systems, Inc. and Dupont-Pharma, have provided essential financial support for the National Drug Court Institute.

The National Drug Court Institute's mission is to promote education, research and scholarship in the field of drug courts and other court-based intervention programs.

Historically, education and training in the drug court field have only been available at regional workshops and the annual national conference; analysis and scholarship was largely limited to anecdotes and personal accounts.

That situation has changed. Evaluations exist on dozens of drug court programs. Scholars and researchers have begun to apply the rigors of scientific review and analysis to the drug court model. There is now a level of experience and expertise necessary to support an institute.

In the next year, the NDCI will launch comprehensive education and training programs for judges, program administrators and treatment providers, convene a Drug Court Research Advisory Committee in partnership with the National Institute of Drug Abuse (NIDA)

that will develop a scientific research agenda for the field, and publish the first full volume of the *National Drug Court Institute Review*.

ACKNOWLEDGEMENTS

As a drug court judge and later as president of NADCP, I looked forward to the day when the drug court field would be more than a collection of isolated practitioners who relied on anecdotal or personal experience to justify their program decisions; when drug courts would be acknowledged as a field of importance, worthy of its own chronicles and its own institute of learning and scholarship. I believe that the *National Drug Court Institute Review* may mark the place in time when the drug court field came of age.

I wish to thank all those who have contributed to this historic issue of the *National Drug Court Institute Review* (NDCIR). To General Barry McCaffrey for his leadership and support, but also his belief in our vision of the National Drug Court Institute; to the Robert Wood Johnson Foundation for its financial support of this project; to Assistant Attorney General Laurie Robinson and Drug Courts Program Office Director Marilyn Roberts for their support of the field and this institute; to Doctors Steven Belenko, Ken Robinson and Sally Satel for their contributions both as writers and Editorial Board members. Finally, I would like to acknowledge C. West Huddleston, and Michelle Shaw whose hard work and dedication made this project possible.

Jeffrey Tauber

Acting Director

National Drug Court Institute

RESEARCH ON DRUG COURTS: A CRITICAL REVIEW

By Steven Belenko, Ph.D.
The National Center on Addiction
and Substance Abuse (CASA)
At Columbia University

Columbia University's National Center on Addiction and Substance Abuse (CASA) has provided the first major academic review and analysis of drug court research to date. The author has reviewed 30 evaluations pertaining to 24 drug courts across the nation and concluded that "a number of consistent findings emerge from available drug court evaluations." Importantly, the CASA study is the first to specifically look at the effectiveness of the drug court model on offenders when they are participating in the drug court program, comparing the drug court model to other forms of community supervision. The study found that drug courts provide closer, more comprehensive supervision and much more frequent drug testing and monitoring during the program, than other forms of community supervision. More importantly, drug use and criminal behavior are substantially reduced while offenders are participating in drug court.

Dr. Belenko is one the nation's foremost researchers and writers on drug court programs and the impact of drug abuse on the criminal justice system. Dr. Belenko is a Senior Research Associate at the National Center on Addiction and Substance Abuse at Columbia University, where he authored a major study on drug abuse and prison populations Behind Bars: Substance Abuse and America's Prison Population: (1998). Founded in 1992, CASA is a nationally recognized policy research center that conducts major research, policy and program demonstration initiatives in the substance abuse field.

ARTICLE SUMMARIES

EVALUATION (EV)- CONSISTENT FINDINGS

[1] Despite the different drug court statutes, jurisdictional differences, methods used by evaluators and the limitations of some data, a number of consistent findings emerge from available drug court evaluations.

EV-RETENTION RATES

[2] Retention rates for drug courts are much greater than the retention rates typically observed for criminal justice offenders specifically, and treatment clients in general.

EV-POPULATION DEMOGRAPHICS

[3] Although it is generally thought that drug courts target “first-time offenders” many drug court participants have substantial criminal histories and many years of substance abuse.

EV- SUPERVISION

[4] Drug courts provide closer, more comprehensive supervision and much more frequent drug testing and

monitoring during the program than other forms of community supervision.

EV- COST-SAVINGS

[5] Drug courts generate savings, at least in the short term, from reduced jail/prison use, reduced criminality and lower criminal justice costs.

EV- DRUG USAGE

[6] Drug use is substantially reduced while offenders are participating in drug court.

EV-RECIDIVISM DURING PROGRAM

[7] Criminal behavior is substantially reduced while the offenders are participating in drug court.

EV- RECIDIVISM

[8] Based on more limited data and to a lesser but still significant extent, drug courts reduce recidivism for participants after they leave the program.

EV-DESIGN WEAKNESSES

[9] The author analyzes existing evaluation designs, identifies weaknesses and

makes recommendations for improvements.

INTRODUCTION AND BACKGROUND

There has been great national interest in drug courts since the first one began operations in Dade County, Florida in 1989.¹ The collaborations between the justice and treatment/public health systems epitomized by drug courts may offer considerable hope for a long-term reduction in drug-related crime and lower jail and prison populations.

The general notion of dedicating specified courtrooms solely to drug cases is not new. Indeed, special drug case courtrooms operated both in Chicago and New York City in the early 1950s. In the early 1970s, when heroin was the primary drug of abuse among offenders, New York City set up special "Narcotics Courts," in response to the passing of harsher drug laws. For the most part, however, these earlier efforts provided only limited access to drug treatment for offenders.

Most drug courts did not emerge out of a vacuum; other methods and programs have been tried over the past 20 years to link offenders to drug treatment at various points of the criminal justice process.¹⁻³ Some drug courts evolved from existing programs or efforts to engage defendants in treatment, such as Treatment Alternatives to Street Crime (TASC) program interventions, limited diversion programs, conditions of pretrial release, conditions of probation or in conjunction with intermediate sanctions. But these earlier efforts were often fragmented, inconsistently or inappropriately used or not viewed as sufficiently effective. Supervision of treatment often rested on several agencies, and consequently, it was

¹ In this paper, the term "drug court" refers to dedicated courtrooms that provide judicially-monitored treatment, drug testing and other services to drug-involved offenders. Specialized courts that provide expedited case management or accelerated case processing for drug cases, without integrated treatment, are not part of this review.

difficult to monitor treatment progress or compliance with court-imposed conditions.

As of April 1998, drug courts had been implemented in some 275 jurisdictions.⁴ The drug court model differs in important ways from previous efforts to provide drug treatment to offenders with underlying drug problems. In the drug court model, the various components of the criminal justice and substance abuse treatment systems work together to try and use the coercive power of the court to promote abstinence and prosocial behavior.⁵⁻⁹ By comparison, for the types of non-violent drug offenders generally targeted by drug courts, the typical adjudication process would result in a probation or short jail sentence, with little treatment or close community supervision.

The structure and procedures of drug courts also result in closer and more frequent supervision of offenders than typically seen under the standard probation or pretrial supervision that most nonviolent drug offenders experience, especially earlier in their criminal careers. The studies and data reviewed in this paper confirm that court appearances, drug tests, supervision and treatment contacts are much more frequent under the drug court model than under other forms of community supervision.

The key goals of most drug courts are to reduce drug use and associated criminal behavior by engaging and retaining drug-involved offenders in programmatic and treatment services; to concentrate expertise about drug cases into a single courtroom; to address other defendant needs through clinical assessment and effective case management; and to free judicial, prosecutorial and public defense resources for adjudicating non-drug cases.

The drug court model usually entails:

- ❖ judicial supervision of structured community-based treatment;

- ❖ timely identification of defendants in need of treatment and referral to treatment as soon as possible after arrest;
- ❖ regular status hearings before the judicial officer to monitor treatment progress and program compliance;
- ❖ increasing defendant accountability through a series of graduated sanctions and rewards;
- ❖ mandatory periodic drug testing;

The drug court model incorporates a more proactive role for the judge, who in addition to presiding over the legal and procedural issues of the case, functions as a reinforcer of positive client behavior. Although the judge is the central player in the program, most drug courts seek to function as a team in which prosecutors, defense attorneys and counselors work together to help offenders overcome their drug problems and resolve other issues relating to work, finances and family. Defendants who complete the drug court program either have their charges dismissed (in a diversion or pre-sentence model) or their probation sentences reduced (in a post-sentence model).

Drug courts have proliferated over the last few years. One important impetus was the Violent Crime Control and Law Enforcement Act of 1994, which contained provisions calling for federal support for the planning, implementation and enhancement of drug courts for nonviolent drug offenders. This federal support has helped to accelerate the growth of drug courts. Between 1995 and 1997, the U.S. Department of Justice, through its Drug Courts Program Office, provided a total of \$56 million in funding to drug courts. This included 151 planning grants to help jurisdictions develop a drug court design, 99 implementation grants to start new drug courts and 29 enhancement grants to expand existing drug courts.¹⁰

The strong support of many national leaders such as Attorney General Janet Reno and General Barry McCaffrey, Director of the Office of National Drug Control Policy, has also raised the visibility of drug courts. The Fourth Annual Training Conference of the National Association of Drug Court Professionals (NADCP) in June 1998 is expected to attract about 2,000 participants. This compares with about 400 participants who attended NADCP's first training conference in January 1995.

These developments, and the continuing recognition that (1) substance abuse is a major contributing factor to crime and social problems, and that (2) the traditional emphasis on enforcement and punishment of drug offenders has had little impact on substance abuse, suggest that drug courts will play an increasingly visible role in the nation's response to drug-related crime.

OVERVIEW

Given the strong national interest in drug courts, it is important to review what is known about their operations and impacts, especially as compared to more traditional methods of adjudicating, sentencing and supervising drug offenders.

The purpose of this review is to determine whether the existing research on drug courts provides a consensus on their efficacy. Although drug courts have been in operation for a relatively short period of time compared to traditional methods of supervising offenders in the community, and program models are still evolving, sufficient research now exists that allows a more informed assessment of the extent to which they are achieving their primary goals of engaging and retaining drug offenders in treatment, reducing criminal justice costs, reducing the use of incarceration for nonviolent drug offenders and reducing drug use and recidivism among offenders.

In July 1997, the U.S. General Accounting Office (GAO) issued a report to the U.S. Congress providing an overview of the characteristics of drug courts and an assessment of their effectiveness.¹¹ The report was based primarily on a GAO survey of 134 of the 140 drug courts in operation as of December 31, 1996, and the results of 20 evaluations of 16 drug courts that were available as of March 1997.

The GAO documented the growth of drug courts and noted the diversity of characteristics, structure and retention rates. Although noting that the existing evaluations were generally positive in their assessment of drug court outcomes, the GAO report concluded that there were insufficient data and research to definitively determine whether drug courts were effective in reducing recidivism and drug relapse. The report expressed several concerns about the design and scope of existing evaluations. Among the concerns were that most did not include comparison groups, most did not include follow-up data on drug relapse or post-program recidivism, that the courts that were evaluated differed in their operations, target populations and treatment services, and that the courts evaluated were relatively new and the observation periods short.

The present review updates and expands the GAO report. Included are a number of new evaluations that have been completed in the year since the GAO report was prepared, including several additional evaluations that include comparison groups and several that have updated recidivism rates. For example, the GAO report recognized that 4 of the 6 studies reviewed which included recidivism outcome comparisons between drug court participants and comparison groups, found lower post-program rates for the drug court clients. One of the two studies cited by the GAO that found no difference (Maricopa County, Arizona), has since been updated with three

years follow-up data, and rearrest rates for the drug court sample were found to be significantly lower than for the probation-only control group.¹² An updated version of the other study mentioned in the GAO report as finding no significant recidivism effects (Broward County, Florida) does find significantly lower rearrest rates for graduates than for the comparison group over a one-year follow-up period.¹³

METHODS

For this review, as many evaluation reports as could be identified were collected and critically reviewed. Copies of reports in the collection of the Drug Court Clearinghouse and Technical Assistance Project at American University, and in the author's personal collection, were included. In addition, several other research reports were obtained directly from NADCP. For general characteristics of the operations of a larger number of drug court programs, findings from the 1997 and 1998 national surveys conducted by the American University Drug Court Clearinghouse and Technical Assistance Project also were reviewed. All reports completed and received by May 15, 1998 were included in this review. Other evaluation reports may exist that are not known to the Drug Court Clearinghouse, NADCP or the author; these were not included in this review.

Both published and unpublished evaluations were reviewed. Most drug court evaluations have been written for the local drug court or for funding agencies and have not been published in peer-reviewed or other professional journals. Although some progress or monitoring reports prepared by the drug court staff were included in the documents reviewed, more weight was given to reports conducted by outside evaluators. In all, 30 evaluation reports covering 24 drug courts (including two juvenile

drug courts) were reviewed. Table 1 provides a list of the evaluations included in this review.

Where possible, comparisons to the conclusions contained in the July 1997 GAO report are made. All evaluations used in the GAO report were included in the current review. In addition, updated versions were available of six of the 20 studies reviewed by the GAO. Nine new studies that have appeared since that report was prepared are included, as well as two evaluations that had been completed prior to the GAO report but that had not been included in that review.

The evaluations were reviewed for quality, comprehensiveness, appropriateness and accuracy of the measures used and appropriateness of the comparison group. In synthesizing the findings, more weight was given to well-designed studies with adequate data collection methods. Although findings from specific evaluations are cited for illustrative purposes, the purpose of this article is not to provide a detailed review of individual evaluations but rather to synthesize the findings and identify common conclusions that can be drawn from the research.

TYPES OF DRUG COURT EVALUATIONS:

Drug court research has incorporated three types of analyses. The most common has been a process or operations evaluation that examines and describes the operations of the drug courts as they have been implemented. Such an evaluation recently began being required for drug courts receiving implementation grants for the U.S. Department of Justice, Drug Courts Program

Table 1: List of Drug Court Evaluations Reviewed

Jurisdiction	Report Title	Author	Organization	Date of Report
Maricopa County, AZ	Unpublished Data	Susan Turner	RAND	July 1997
Maricopa County, AZ	Drug Court or Probation?: An Experimental Evaluation of Maricopa County's Drug Court	Elizabeth Piper Desche- nes, Susan Turner, Peter Greenwood	RAND	June 1995
Alameda County, CA	Oakland Drug Court Assessment		The National Center for State Courts	June 1996
Alameda County, CA	An Evaluation of The Oakland Drug Court After Three Years	Judge Jeffrey S. Tauber	Oakland-Piedmont- Emeryville Municipal Court	January 1995
Los Angeles County, CA	A Process Evaluation of Los Ange- les County Drug Courts	Elizabeth Piper Desche- nes, Sam Torres	California State Uni- versity, Long Beach- Department of Crimi- nal Justice	October 1996
Riverside County, CA	The Riverside County Drug Court: Final Research Report for the Riverside County Probation De-	Dale K. Sechrest, David Shichor, Kim Artist, Georgette Briceno	Criminal Justice De- partment, California State University, San	April 1998

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Jurisdiction	Report Title	Author	Organization	Date of Report
Santa Barbara County, CA	Year 1 Evaluation of the Santa Barbara County Substance Abuse Treatment Courts: Report Summary	Merith Cosden, Stacey Peerson, Linda Crothers	University of California, Santa Barbara	1997
Santa Clara County, CA	Santa Clara County Courts Drug Treatment Court: Third Progress Report, One Year Period (March 1, 1996-March 31, 1997)		Santa Clara County Drug Treatment Court	March 1997
Santa Clara County, CA	Santa Clara County Juvenile Drug Treatment Court Evaluation		Community Crime Prevention Assocs.	April 1998
Ventura County, CA	An Initial Evaluation and Analysis of the Ventura County Drug Court Program	John C. Oberg		April 1996
Denver, CO	An Evaluation of the Denver Drug	Robert Granfield, Cindy	Department of Socio-	January 1997

	Court: The Impact of a Treatment-Oriented Drug Offender System	Eby	ogy, University of Denver	
DC Superior Court	Preliminary Results from the Evaluation of the DC Superior Court Drug Intervention Program for Drug Felony Defendants	Shannon Cavanagh, Adele Harrell	The Urban Institute	November 1997
Jurisdiction	Report Title	Author	Organization	Date of Report
Delaware	SODAT-Delaware Inc. Drug Court Diversion Program Annual Report	Emily A. Reed	SODAT-Delaware Inc.	April 1995
Wilmington, DE	Evaluation of the Juvenile Drug Court Diversion Program	Marsha L. Miller, Evelyn A. Scocas, John P. O'Connell	Statistical Analysis Center, State of Delaware	March 1998
Broward County, FL	A Performance Review of the Drug Court Treatment Program	Board of County Commissioners	Broward County	February 1995
Broward County, FL	Predicting Graduation From Broward County's Dedicated Drug Treatment Court	Mara Schiff, W. Clinton Terry, III	Department of Criminal Justice, Florida Atlantic University;	May 1997

			School of Policy and Management, Florida International Univ.	
Broward County, FL	Broward County's Dedicated Drug Treatment Court: From Post-Adjudication to Diversion	W. Clinton Terry, III	School of Policy and Management, Florida International University	1998
Dade County, FL	Assessing the Impact of Dade County's Felony Drug Court: Final Report	John S. Goldkamp, Doris Weiland	Crime and Justice Research Institute	August 1993
Jurisdiction	Report Title	Author	Organization	Date of Report
Monroe County, FL	Process Evaluation of the Drug Court Diversion & Treatment Program in Florida's Sixteenth Judicial Court	William J. Woolf, Jr., The Court Administration	Sixteenth Judicial Circuit Court Administration	January 1998
Honolulu, HI	Evaluation of the Hawaii Drug Court: Final Report for The Judiciary	Duane Okamoto, Gene Kassebaum, Mark Anderson	Okamoto Consulting Group	January 1998

Boston, MA	The Boston Drug Diversion Court: Eleven-Month Tabulation of Client Statistics	Jack McDevitt, Marla Domino, Christie Harris, Bill Sousa	The Center for Criminal Justice Policy Research, Northeastern University	May 1996
Baltimore, MD	A Short-term Outcome Evaluation of the Baltimore City Drug Treatment Court Program	Denise C. Gottfredson, Kris Coblenz, Michele A. Harmon	Department of Criminology and Criminal Justice, University of Maryland	June 1996
Jackson County, MO	Evaluation of the First Year of Operation of the Jackson County Drug Court	N. Andrew Peterson	Ewing Marion Kaufman Foundation	December 1994
Clark County, NV	Clark County Drug Court: 42-Month Summary		Choices Unlimited Las Vegas	April 1996
Jurisdiction	Report Title	Author	Organization	Date of Report
11 th Judicial District (Farmington) NM	Eleventh Judicial District Drug Court Pilot	Hon. George A. Harrison, Carol A. Kunkel, Gregory T. Ireland	11 th Judicial District Drug Court	January 1998

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Multnomah County, OR	An Outcome Program Evaluation of the Multnomah County S.T.O.P. Drug Diversion Program	Michael Finigan	Northwest Professional Consortium	January 1998
Multnomah County, OR	S.T.O.P.: Drug Diversion Program/Program Impacts and Evaluation	Multnomah County Dept. of Community Corrections	Multnomah County Dept. of Community Corrections	April 1994
Travis County, TX	Process Evaluation: SHORT Program 1993-1994	Cindy Roberts-Gray	Resource Network	December 1994
Travis County, TX	The Travis County Drug Diversion Court: A Preliminary Outcome Evaluation	William R. Kelly		January 1996
King County, WA	Evaluation of the King County Drug Diversion Court		Urban Policy Research, M Bell, Inc., Toucan Research	1995

Office under the 1994 Violent Crime Act.

Process or Operations Evaluation

This type of evaluation describes the drug court as it has actually been implemented and usually includes basic descriptive information about the participants and program operations. Some evaluations have compared the characteristics of and outcomes for drug court clients to other drug offenders in the same jurisdiction and to the planned drug court target population. Basic program outcomes, such as percentage retained in the drug court for various time periods and graduation and dropout rates, are a part of most drug court process evaluations. The types and amounts of treatment and other services received are sometimes summarized, as is client performance while in the program.

Operations evaluations are important for describing key indicators, such as how the drug court program has been implemented, whether it is meeting its operational goals and objectives, the characteristics of offenders who participate, the services provided and the participant outcomes.

Cost Savings Analysis

One assumption made about drug courts is that they are less costly than traditional means of adjudicating drug offenders. This assumption seems reasonable given that many felony drug offenders are sentenced to prison, recidivism rates are high and chronic drug offenders are unlikely to reduce their drug use or associated criminality without some type of extended treatment intervention.

Although traditional forms of sentencing, such as prison or probation, are rarely asked by legislators or policy makers to demonstrate their cost effectiveness, drug courts tend to be under much closer scrutiny. Hence, in order to justify continued funding levels, or to increase funding levels for expansion, many drug courts have estimated the costs of drug court operations in comparison

to standard adjudication. One difficulty of doing this is that a fair comparison would have to take into account the long-term impacts of drug court participation on drug use, recidivism, employment, health and family stability. Some drug courts may cost more per participant per year than traditional probation, for example, but better outcomes for drug court clients (such as reduced recidivism or increased employment and earnings) and shorter supervision periods generate significant cost savings over the long-run.

Unfortunately, there have been no completed drug court evaluations that have included a comprehensive analysis of costs and benefits. In part, this reflects the fact that calculating these long-term benefits and subtracting that from the costs of a drug court is an expensive and lengthy undertaking, requiring an impact evaluation with follow-up interviews and complex analyses of social and individual benefits. Some studies have compared the costs of the drug court to the costs of processing and sentencing drug offenders through traditional routes, estimating actual or potential cost savings based on such factors as reduced jail or prison utilization, lower recidivism rates and lower probation supervision costs.

Impact Evaluations

The final evaluation strategy examines the impact of drug courts on the lives of its clients compared to similar drug offenders processed through traditional courtrooms.

The collection and analysis of recidivism data is crucial for addressing public safety concerns about placing felony drug offenders (even those without violent histories) into community-based drug treatment. Based on previous research on drug offenders and drug courts, we can hypothesize that drug-involved offenders given treatment and other services will have lower rearrest rates than similar offenders not provided with these services.

In this type of evaluation, post-program outcomes are analyzed for a sample of drug court offenders relative to an appropriate comparison group. Examples of comparison groups used by drug court researchers have included similar drug offenders adjudicated before the local drug court began, eligible offenders who were referred to the drug court but did not enroll and matched samples of drug offenders sentenced to probation.

Drug court evaluations have used several different measures to calculate recidivism rates. Most simply calculate the percentage of individuals rearrested after going through the drug court program. The follow-up period varies by the study, but most have tried to include at least one year of follow-up. Some studies have calculated the average number of rearrests per client, or the length of time to the first rearrest. More sophisticated recidivism analyses would adjust rearrest rates for "time at risk" by discounting for any time spent in jail or prison, and would include a fixed follow-up period for all subjects, but no studies to date have done this. Most studies compare only drug court graduates to a comparison sample, which tends to inflate the overall effect of the intervention, while a few make the more appropriate comparison between all drug court enrollees and the comparison sample. Another problem in some studies has been that due to small drug courts or limited data collection periods, the sample sizes are fairly small, making interpretation of the findings more difficult.

RESULTS

[1] Despite the different drug court structures, jurisdictional compositions, methods used by drug court evaluators and the limitations of some of the data, a number of consistent findings emerge from the available drug court evaluations. Drug courts have been more successful

than other forms of community supervision in closely supervising drug offenders in the community through frequent monitoring and close supervision including mandatory frequent drug testing, placing and retaining drug offenders in treatment programs, providing treatment and related services to offenders who have not received such services in the past, generating actual and potential cost savings and substantially reducing drug use and recidivism while offenders are in the program. Based on more limited data and to a lesser but still significant extent, drug courts reduce recidivism for participants after they leave the program. Perhaps equally important for the future of the criminal courts system, drug courts have demonstrated the feasibility of employing a team-based, problem solving approach to adjudicating offenders with drug problems in a way that appears to reduce system costs and improve public safety.

This consistency of findings across evaluations provides a level of confidence in making some general conclusions about the operations and efficacy of drug courts.

In this section the key findings synthesized from existing evaluations are summarized.

DRUG COURT OPERATIONS:

1. Drug courts are able to engage and retain felony offenders in programmatic and treatment services

The offender populations participating in drug courts have had extensive histories of substance abuse but little prior treatment. According to initial findings from the 1998 drug court survey conducted by the Drug Court Clearinghouse and Technical Assistance Project at American University, only 26% of drug court participants had been in prior substance abuse treatment, although 72% had been in jail or prison.¹⁴ These rates are similar

to overall rates found for arrestees: according to data from the U.S. Department of Justice Drug Use Forecasting system, only 24% of adult felony arrestees had ever been in drug treatment, including about 26% of those arrested for felony drug sale or possession. Only 8% of juvenile (under age 18) arrestees had ever been in treatment.¹⁵

[2] Retention rates for drug courts (which by definition imply retention in drug treatment) are much greater than the retention rates typically observed for criminal justice offenders specifically, and treatment clients in general. Based on the American University drug court survey data and some of the research reports, it is estimated that about 60% of those who enter drug courts are still in treatment (primarily outpatient drug-free) after one year. Although most drug courts require a minimum program length of one year, the percentage of all admissions that actually graduate from drug court is somewhat lower than the one-year retention rate. The GAO report estimated a minimum 48% average program completion or graduation rate for those that enter drug court; that figure did not include those who were still active in the drug court, so actual graduation rates are higher. Some evaluations that examined graduation rates found higher rates, some found lower.

In addition, the typical drug court model recognizes that most drug-involved offenders have other service needs in addition to treatment. Most of the drug court evaluations that have examined the delivery of ancillary, non-treatment services found that such services were made available and accessed by drug court clients. However, specific data on the percentage of clients who have accessed particular services is generally not available but would be important to document in future evaluations.

In contrast, the most recent national evaluation of treatment outcomes found that half of those admitted to outpatient drug-free programs stayed less than three

months.¹⁶ One-year retention in residential therapeutic communities ranged from 10-30% in one review.¹⁷ A study of treatment retention among parolees in New York State found that only 31% of parolees referred to community-based treatment remained in treatment after six months.¹⁸

The treatment evaluation literature is clear that retention is one of the key predictors of positive post-treatment outcomes.¹⁹⁻²² Unfortunately, many of the drug court research studies reviewed make it difficult to calculate one-year retention or program graduation rates because of a limited observation period, unclear time periods or other data problems. Elements of the drug court model that may increase retention in treatment (such as graduated sanctions and rewards, judicial supervision and acceptance of relapse) have not been studied but merit further research.

It was also somewhat difficult to compare retention or graduation rates across studies because not all used the same cut-off period, observation time varied and clients had varying amounts of potential time in the program. In some reports the observation period was not clear, and in others it would be too short to allow calculation of a meaningful retention rate. Other studies mixed graduates and active participants, and only a small number of studies have had a long enough or a clear enough follow-up period to make it possible to calculate a graduation/completion rate among all admissions.

One drug court evaluation illustrates how length of time in treatment (or “dosage”) may affect outcomes. For the Multnomah County (Portland, OR) Drug Court an evaluation found that the longer time the participant spent in treatment the lower the post-program recidivism.²³ This finding is consistent with general findings in the treatment outcome literature and suggests that the positive impacts of drug courts may be increased by strategies and

procedures that increase the length of participation in treatment.

2. Serving the target population

[3] John Goldkamp writes that: it is important for drug courts to identify appropriate target populations and to create procedures for screening and enrolling offenders that maximize the likelihood of “hitting the target” population.⁸ In general, the drug court evaluations find that the programs have succeeded in enrolling the targeted number of clients with the desired eligibility criteria. Interestingly, although it is generally thought that drug courts target “first-time offenders,” many drug court clients have substantial criminal histories and many years of substance abuse histories. While the drug court model can be an effective intervention that stops or delays the onset of a chronic career of drug abuse and criminality, such “first-timers” are generally not sentenced to prison. It is the older more “experienced” offender for whom successful treatment intervention can have the greatest impact on prison populations and generate the most substantial savings in reduced crime and criminal justice system costs.¹⁵

Drug use patterns also differ greatly across drug courts. For example, the primary drug of abuse reported by participants includes alcohol (Delaware), methamphetamine (Santa Clara, CA), cocaine or crack (Key West, FL), and heroin (Boston, MA).

3. Client supervision and monitoring

[4] The data indicates drug courts provide more comprehensive and closer supervision of the drug-using offender than other forms of community supervision. According to a number of evaluations and American University’s national drug court survey, most drug courts provide close supervision of offenders through regular court hearings, mandatory frequent drug testing and regular reports from treatment providers. The American University’s 1997 Drug Court Survey Report found that 55% of

drug courts require at least two drug tests per week during phases I and II of the program, 35% require weekly tests and 10% require a test every other week during participationⁱⁱ²⁴. By comparison, drug testing prior to the implementation of the drug court was much less frequent: under probation supervision, 52% of the jurisdictions reported monthly testing, 8% tested weekly, 6% did not test at all and 33% tested on a less frequent, random or as-needed basis.

The typical drug court requires regular status hearings before the judge to assess progress in the program, review drug test results and make decisions about sanctions and rewards. Such hearings tend to be more frequent during the first two phases of the typical three-phase drug court program. The American University, 1997 Drug Court Survey Report found that in 74% of the 81 drug courts responding, hearings were held at least bi-weekly during the first two phases; for most of the remaining drug courts (24%) status hearings were primarily monthly.²⁴ In the same survey, nearly all drug courts (88%) reported that a minimum of weekly contact with a treatment provider is required throughout the entire program.

Again, this level of monitoring and supervision is much more frequent than under typical probation or pre-trial supervision. For example, only 8% of the reporting jurisdictions stated that prior to drug court implementation routine court appearances were held for those under community supervision.²⁴ Seventy-three (73%) of probationers had face-to-face meetings with their probation officers on a monthly or less frequent basis. One-third of the jurisdictions offered intensive probation supervision,

ⁱⁱ Drug court phases are described in American University's 1997 Drug Court Survey Report: (Vol.1 p 60): Phase I generally ranges between 30 and 90 days; phases II and III generally last between 2 to 4 months each.

however, only 5% of all probationers nationwide were in intensive probation.²⁵

Recently published findings from a national survey of probationers conducted by the U.S. Department of Justice confirms that relatively few offenders receive services while on probation, and supervision contacts are less frequent than in drug courts. For example, at the time they were interviewed, only 25% of probationers reported that they were required to undergo drug testing, 16% were in a substance abuse treatment program, 5% were in other counseling programs and 3% were in an educational program.²⁶ One quarter of felony probationers had had no contact of any type with their probation officer during the past month.ⁱⁱⁱ

COST SAVINGS:

[5] One of the important empirical questions about drug courts is whether the costs of operating such programs are less than the economic benefits or cost savings that accrue because incarceration time is reduced or drug treatment reduces the likelihood of relapse and recidivism. A number of drug court evaluations have attempted to estimate such cost savings, some using quite simple calculations and assumptions, others using more sophisticated methodologies that try to project future savings in public health and welfare as well as criminal justice costs.

The general consensus from the evaluations reviewed is that drug courts generate savings in jail costs, especially for pretrial detention. In addition, several evaluations have found savings in probation supervision, police overtime and other criminal justice system costs. One study that employed a more comprehensive methodology and multiple outcome measures,²⁷ estimated sub-

ⁱⁱⁱ Overall, about 2/3 of probationers (2 million persons) may be characterized as alcohol and drug involved. (BJS, 1995)²⁵

stantial long-term cost savings attributable to the drug court.

Michael Finigan estimated that a one-year admissions cohort of 440 drug court clients produced criminal justice system cost savings for Multnomah County of \$2,476,795 over a two-year period (net of the annual \$1 million cost of operating the drug court program).²³ Adding savings in victimization, theft reduction, public assistance and medical claims costs to the criminal justice costs, it was estimated that the drug court produced a cost savings for the state of \$10,223,532 over two years. For the 102 individuals going through the Riverside County (CA) drug court in one year, the estimated total annual savings is \$2,047,608 (\$2,501,958 in jail/prison/parole costs averted, versus a program cost of \$310,710 for one year of treatment and \$143,640 in court processing costs).

It is perhaps not surprising that such economic benefits have been found for drug courts. Many drug court clients have spent time in prison and would have served some pre-trial incarceration time for their current case if not in the drug court. The Honolulu Drug Court evaluators estimated that 43% of the drug court clients would have been incarcerated in the absence of the drug court, and estimated averted costs at between \$677,000 and \$854,000. Other drug courts serve a population that is primarily probation-bound, but even this group would likely serve some time in pretrial detention awaiting case disposition, or receive short jail sentences in addition to probation, in the absence of a drug court.

There is an emerging body of research that concludes that drug treatment is cost-beneficial for populations similar to that served by drug court. Research by the RAND Corporation on the relative cost-effectiveness of treatment, domestic enforcement, interdiction and source country control found that for heavy users of cocaine, treatment interventions would cost one-seventh as much

as enforcement to achieve the same reduction in cocaine use.²⁷⁻²⁸ A comprehensive study of the economic benefits and costs of drug treatment in California found that the economic benefits of treatment were seven times higher than the costs of treatment.²⁹ A recent analysis by The National Center on Addiction and Substance Abuse at Columbia University of the economic benefits of comprehensive treatment and aftercare for prison inmates, estimated that each inmate who successfully completes a one-year prison-based treatment program and remains drug-free and employed after release, generates \$68,800 in economic benefits, compared to a treatment and aftercare cost of \$6,500.¹⁵ Finally, a study in Oregon found that the societal and economic benefits from alcohol and drug treatment continued for at least three years post-treatment.³⁰ For the most part, these studies find that substantial economic benefits accrue even assuming treatment completion rates that are much lower than achieved by drug courts.

In part because of the recency of the drug court movement and the limitations in the resources available for evaluation, none of the drug court evaluations to date have been comprehensive enough or of long enough duration to enable a full calculation of the long-term costs and benefits of drug courts. Such analyses, modeled on Finigan's work on the Portland Drug Court, will be important for documenting the overall economic benefits of drug courts.

CLIENT IMPACTS:

A number of evaluations have collected data on drug use and recidivism while clients are in the drug court program. A smaller number have examined post-program outcomes compared to a comparison or control group. Several general conclusions can be drawn from the research findings:

1. Drug Use Based on Urine Tests

[6] Based on urine test results, drug use is substantially reduced while drug court offenders are in the program. For example, the Santa Clara County Drug Court evaluation found that only 5.4% of urine tests of drug court participants tested positive over a ten-month period, compared to 10.2% of tests for non-drug court offenders in electronic monitoring, 13.2% of tests for offenders on intensive supervision probation and 24.5% of tests for probationers under general supervision. In the Ventura County Drug Court program, only 9% of 966 urinalysis tests of participants during the first eight months of the program were positive.

Preliminary findings from the most recent American University drug court survey found that, for the 13 courts that reported urinalysis test results, an average of 10% of the tests were positive.¹⁴ In contrast, in the same jurisdictions the average percentage of positive tests for similar defendants not in the drug court but under probation supervision was 31%.

A few evaluations have examined post-program drug use -- these studies found that post-program drug use is lower for drug court participants than for comparison group cases. The experimental evaluation of the Washington, DC Drug Court by the Urban Institute reports preliminary findings that sanctions in the drug court (without much treatment) reduces drug use compared to standard court processing. The experimental evaluation of the Maricopa County (AZ) Drug Court found that drug court participants were more likely to have had recent drug treatment three years after drug court participation than the standard probation control group.

2. Recidivism

[7] Based on analyses of rearrest rates while clients are participating in the Drug Court, most of the

evaluations find that criminal behavior was substantially reduced during participation in the program. For example, only 4% of participants in the Delaware adult drug court were rearrested during treatment, while the Santa Clara County Drug Court reported a rearrest rate of 3% for participants. Where comparison groups were utilized, criminal behavior was shown to be much lower for clients while participating in the program. The Ventura County evaluation showed a 12% rearrest rate compared to a 32% rearrest rate for the comparison group (over an 8-month period); The Jackson County, MO evaluation found a 4% rearrest rate compared to a 13% rearrest rate for the comparison group (over a 6-month period).

[8] All evaluations that have compared post-program recidivism for drug court graduates and comparison groups find much lower recidivism rates. However, the more appropriate comparison should be made between all drug court participants (whether or not they graduated) and a comparison group. Several evaluations have made this comparison, and again, lower rearrest rates were found for drug court clients. However, it is not surprising that the differences are not as large as for graduates only. In one study (Baltimore Drug Court), the evaluators also examined technical probation violation and warrant rates for drug court clients and a comparison group. For two of the three types of drug court referrals in the Baltimore Drug Court (district court and violation of probation cases) both the technical violation and warrant rates were lower for drug court participants. For circuit court participants, these rates were higher than for the comparison sample.

Table 2 summarizes recidivism findings for those studies that have tracked rearrests for all drug court participants, and included a comparison group. For eight of the nine studies, post-program recidivism rates were lower for drug court participants. One study (Denver)

found only a small effect; this report did not contain sufficient detail about the sample characteristics or the drug court eligibility criteria to explain why the recidivism effects for this court were so modest compared to the other studies. Of the eight other studies, two of the three that provided such information reported that the differences in recidivism rates between the drug court and the comparison groups were statistically significant. The differences for the Delaware Juvenile Drug Court, although large, were not statistically significant, possibly reflecting the small sample size for the drug court participants.

3. Other Outcomes

A few evaluations have gathered employment data, and these generally found that drug court participants are more likely to gain employment while participating and upon graduation. The limited data in this area makes it difficult to draw many conclusions about the employment effects of drug courts. Examples of findings include those from the Delaware Adult Drug Court, where at the end of first year, 79% of drug court graduates were employed (full and part-time), in school or both, compared to 62% of non-graduates.

SYSTEM IMPACTS:

One of the important differences between drug courts and other types of criminal justice-based treatment interventions is the unique linkages and partnerships that are formed between the judiciary and other criminal justice agencies and substance abuse treatment programs. Another aspect of drug courts that departs from the traditional criminal justice structure is the encouragement of a

TABLE 2: SUMMARY OF POST PROGRAM RECIDIVISM OUTCOME

Drug Court	Author	Comparison Sample	Follow-up Period	% Arrested	
				Drug Court	Comparison
Maricopa County, AZ	RAND	Offenders randomly assigned to probation track (n=364).	36 months	33.1	43.7
Oakland, CA	Tauber	Defendants referred to Diversion between 1/1/90 and 3/8/90, prior to establishment of treatment oriented drug court (n=110).	36 months	.75 ^a	1.33 ^a
Riverside County, CA	Sechrest, et. al.	Randomly selected offenders who committed a felony drug offense prior to 7/1/96 who were identified as possible candidates for drug court had it existed at that time (n=243).	drug court participants: up to 21 months. Comparison group: up to 27 months.	13.4	33.0

Denver, CO	Granfield and Eby	Two comparison groups of 100 offenders each were selected from the pre-drug court years of 1993 and 1994	12 months	53.0 ^b	58.0 ^b
Drug Court	Author	Comparison Sample	Follow-up Period	% Arrested	
				Drug Court	Comparison
Wilmington, DE (Juveniles)	Miller, et. al.	Randomly selected juveniles arrested for misdemeanor drug possession during the first half of 1995, prior to the implementation of the drug court (n=90).	12 months	33.3 ^c	51.1
Dade County, FL	Goldkamp and Weiland	Sample II: presumably eligible defendants who did not enter drug court (n=89). Sample III: defendants with felony drug cases who were ineligible for the program (n=199).	18 months	33.2	48.7 ^d

		Sample V: defendants with felony drug cases selected from a period of three years before implementation of drug court (n=302).			
Baltimore, MD	Gottfredson, et. al.	Comparison group drawn from District and Circuit Court drug court participants and VOP parole and probation violations cases proceeding the implementation of treatment drug court. Screening standards were used to create a sample similar to treatment drug court participants (n=529).	6 months	District Court: 22.6 Circuit Court: 26.5 VOP: 18.5	District Court: 27.1 Circuit Court: 30.4 VOP: 30.2
Multnomah County, OR	Finigan	Sample of drug possession arrestees who were considered eligible for program but did not enter (n=150).	24 months	.59 ^a	1.53 ^a

Travis County, TX	Kelly	Program-eligible defendants who were arrested prior to the implementation of the program (n=27).	12 months	38.0 ^e	41.0
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^a Average number of arrests per defendant.
^b Proportion of offenders who were rearrested after sentencing.
^c At the time of evaluation, only 18 drug court participants had been out of treatment for 12 months.
^d Weighted average of felony drug comparison samples II, III, and V.
^e Recalculated by the author for all participants. Kelly reports a one- year recidivism rate of 22% for program graduates and 43% for program dropouts.

non-adversarial relationship among the key courtroom actors and the agreement of all participants on the common goal of reducing drug problems among offenders. Although these qualitative impacts are somewhat difficult to measure, a number of drug court evaluations have cited the successful development and implementation of criminal justice/treatment partnerships and high degree of satisfaction among the drug court staff with the inter-agency relationships.

Some studies have cited problems that have arisen. Most commonly, such problems relate to conflicts between prosecutors and defense attorneys over responses to relapse or treatment compliance. In addition, problems have sometimes arisen between treatment providers and the drug court judge or drug court staff. Typically, such problems revolve around information flow between the treatment provider and the court or around differences of opinion on treatment decisions, such as moving a client to the next treatment phase or response to poor treatment progress. For the most part, drug courts are cognizant of these problems and have taken steps to resolve them. The drug court judge, of course, plays a crucial role in resolving disputes or conflicts among the various participating agencies and individuals.

Other positive system impacts have been noted in drug court evaluations that seem to reflect the operational structure and philosophy of drug courts. Based on observations and interviews with participants, a number of evaluations have noted the development of partnerships between the court and community, increased cooperation among various criminal justice agencies and their personnel and the development and expansion of a “problem-solving” approach to justice.

CONCLUSIONS

This article has summarized findings from the existing evaluations of both older and newer treatment courts. Although the evaluations vary considerably in scope, methodology and quality, the results are consistent in finding that:

- (1) drug courts have been successful in engaging and retaining felony offenders in programmatic and treatment services who have substantial substance abuse and criminal histories but little prior treatment engagement;
- (2) drug courts provide more comprehensive and closer supervision of the drug-using offender than other forms of community supervision;
- (3) drug use and criminal behavior are substantially reduced while clients are participating in drug court;
- (4) criminal behavior is lower after program participation, especially for graduates, although few studies have tracked recidivism for more than one year post-program.
- (5) drug courts generate cost savings, at least in the short term, from reduced jail/prison use, reduced criminality and lower criminal justice system costs; and
- (6) drug courts have been quite successful in bridging the gap between the court and the treatment/public health systems and spurring greater cooperation among the various agencies and personnel within the criminal justice system, as well as between the criminal justice system and the community.

[9] However, there are several gaps in our knowledge about drug courts that future research should ad-

dress. Some of these points were also made in the 1997 GAO report.

First, data should be collected on post-program outcomes for a longer follow-up period. Only one study thus far has tracked multiple outcomes for as long as three years with a comparison group (RAND Maricopa County evaluation); another study has collected recidivism data for up to four years after program entry, including convictions as well as rearrests, although no comparison group was included (National Center for State Courts Oakland evaluation).

Second, with the exception of the RAND Maricopa County study, there have been few studies that have included follow-up data on outcomes other than rearrest. Multiple outcome measures are preferable to single measures to gauge the impact of a treatment-based intervention. In addition, more comprehensive data about drug court clients are needed to increase our understanding of the factors that are associated with success or failure in a drug court. It is especially important to have more data on drug use and treatment history, as well as other behavioral, psychological and social measures gathered from client interviews.

Third, no extensive cost-benefit analyses have been conducted on drug courts. Comparative estimates of the costs of processing drug offenders through the regular court system should be made, including the costs of arrest processing (presumably the same as for drug court clients), prosecutorial case review, arraignment and court hearings (lower and upper courts), bail or pretrial release review, public defense, pretrial supervision including detention, jail sentence, probation sentence and prison sentence.

Fourth, there has been insufficient research on drug court treatment services that allows the determination of the specific factors that affect treatment outcomes.

A few studies have analyzed program outcomes by client characteristics and a few have used multivariate techniques. Given the importance of treatment retention, future research should analyze the types and amounts of treatment services and client characteristics and how these relate to length of time in treatment and treatment completion. The specific characteristics and dynamics of drug courts, especially the role of the judge and the use of graduated sanctions and rewards, may explain the encouraging retention rates found in drug courts. However, more research is needed to determine how these factors work to increase retention, what role client characteristics and perceptions play, and how drug courts can be modified to further improve retention and program completion rates.

Fifth, it would be helpful to develop baseline measures that describe how drug offenders have historically been adjudicated in the drug court jurisdictions. Few evaluations have done this. Unless there are existing data about the dispositions and sentences of offenders prosecuted for drug possession (or whatever the drug court-eligible offenses in a particular jurisdiction), this would require the collection of new data. However, the effort would be worthwhile, in order to establish "baseline" outcomes, to provide some comparison group data and to support any future efforts to estimate cost savings from the drug court. The annual drug court surveys conducted by American University's Drug Court Clearinghouse and Technical Assistance Project have provided some worthwhile data on these issues.

Sixth, it should also be stressed that many drug courts are still rather new and therefore still in a formative stage. For some courts, procedures and operations, and possibly the target population, will undergo changes over the next couple of years. Follow-up evaluations need to

be conducted to see whether changes in the drug court or other trends affect their operations or impacts.

Finally, only two studies thus far have used an experimental design with random assignment to evaluate a drug court program. However, for one of these evaluations (Maricopa) the drug court is a post-sentence model, so that findings cannot necessarily be generalized to diversion-model drug courts. In the other evaluation that has used an experimental design (The Urban Institute's evaluation of the Washington, DC Drug Court) there have been problems in providing the planned treatment services in the designated treatment track. Accordingly, the only comparisons thus far have been made between the sanctions track (with limited treatment) and the standard processing track. Again, the sanctions-only track is not a model that is generalizable to most drug courts. Additional evaluations using experimental designs in various drug court models are important to provide more conclusive data on the efficacy and impact of drug courts.

It is recognized that for various reasons, experimental designs will not be feasible in all drug court evaluations. In that case, careful consideration must be given to the selection of a comparison sample to ensure that it is as closely matched as possible to the drug court sample. This means not only achieving comparability on demographic, offense type and criminal history characteristics, but also trying to match on other key factors such as substance abuse and treatment history, motivation for treatment, and case characteristics (*e.g.*, offense seriousness, strength of evidence, likelihood of conviction).

Evaluators need to plan for large enough sample sizes in order to generate sufficient statistical power to draw reliable conclusions about the impact of the drug court. Depending upon the number and type of outcome measures used, this may require sample sizes of at least 100 drug court clients and a similar number of

comparison offenders. Such sample sizes will be difficult to achieve in smaller jurisdictions unless evaluations are conducted over multi-year periods.

As drug courts gain more experience and evaluations are updated, we will learn more about the short and long-term impacts of drug courts. In addition, several well-designed studies of more established drug courts are now under way, including several national evaluations being funded by the National Institute of Justice. These studies should yield more comprehensive data on the operations and efficacy of drug courts over the next few years.

The popularity and consequent expansion of drug courts presents a great opportunity, as well as many challenges, for jurisdictions to craft creative and effective responses to the large numbers of drug-involved offenders. Among the ongoing challenges are:

- ❖ The need to learn more about the efficacy of treatment-oriented courts, including their long-term impacts on drug use and recidivism, cost-effectiveness, optimal planning and implementation strategies and optimal program models;
- ❖ The importance of furthering our understanding of the elements of substance abuse treatment that are most effective and creating better mechanisms for matching criminal justice clients to treatment;
- ❖ The opportunity to learn more about the treatment, public health, and social service needs of offender populations and to determine the best means of delivering services to them.

Drug courts have played an important role in recent years in fostering a changing role of criminal courts toward a more problem-solving approach. Such a perspective recognizes the importance of dealing with underlying substance abuse problems, especially for the non

violent drug offenders that have been driving much of the huge growth in America's prison populations.¹⁵ The research thus far indicates that drug courts provide more comprehensive and closer supervision of drug-involved offenders in the community than other forms of community supervision (including probation and parole) and deliver a higher "dosage" of drug treatment and related services than previous criminal justice-based programs. It is this close supervision and treatment engagement that may account for the promising outcomes reported by drug court evaluations thus far.

Over the next few years, as more rigorous and longer-term evaluations become available, we will learn much more about the long-term impacts of drug courts. However, given the substantial body of other research that demonstrates the effectiveness and economic benefits of substance abuse treatment, there is reason to be sanguine that future research findings on drug courts will continue to be positive.

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**OBSERVATIONAL STUDY OF
COURTROOM DYNAMICS
IN SELECTED DRUG COURTS**

By Sally L. Satel, MD^{iv}

In this ground breaking article, Dr. Sally Satel (93) reviews the literature in the field, interviews drug court judges and program participants and observes 15 courtroom settings in an attempt to describe and analyze the role of the drug court judge. This far ranging article of first impression looks at what makes a good drug court judge, the psychological implication of the drug court judicial model and how the drug court environment can effect program outcomes.

Dr. Satel is a practicing psychiatrist as well as a lecturer at Yale University School of Medicine. She has written extensively on drug abuse and cocaine addiction. Her clinical and research expertise is in addiction medicine. She has worked in the Washington, DC Drug Court as a Staff Psychiatrist and consultant.

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ARTICLE SUMMARIES

JUDGE-ROLE

[10] Unlike the traditional judge, the current drug court judge is directly involved in the treatment and supervision of offenders.

JUDGE-ROLE CODIFIED

[11] NADCP “Key Components” describe the role of the drug court judge.

JUDGE- “JUDGE EFFECT”

[12] A study illustrates the significance that involving a judge in an already established treatment program may have on the success of the participants. Another assessment revealed that conviction rates varied each year depending on which judge presided over the court.

JUDGE- SELF ASSESSMENT

[13] Twelve drug court judges are surveyed on “what are the six most important characteristics of an effective drug court judge.”

JUDGE- COUNTER TRANSFERENCE

[14] The judge’s attitudes toward participants can be complicated by the judge’s

subconscious feelings triggered by the participants.

JUDGE- PARTICIPANT ATTITUDE

[15] Participants generally believe that the involvement of the drug court judge is critical to their success in the program.

JUDGE- PARTICIPANT PSYCHOLOGY

[16] Insight into the mental life of the addict is necessary for drug court practitioners.

JUDGE- COURT ENVIRONMENT

[17] The author isolated 17 courtroom and process variables believed to promote successful drug court interactions and applied them to 15 drug court environments.

JUDGE- COURT ENVIRONMENT

[18] The judge helps communicate the message by controlling the court environment, including the order of calling participants, the seating arrangement, amplification of dialogue and the like.

INTRODUCTION

The judge is considered the symbolic and functional centerpiece of the drug court program. Intuition dictates that, the more effective the judge, the more successful the drug court in curbing crime and drug use. Just how significant is the drug court judge in the process? How different are the interactions of the drug court judge with offenders before the court from that of the traditional judge?

This article will examine these questions and provide a first impression of a very practical issue. It will define the drug court judge's role, describe the nature of his or her relationship with the participant and in turn, the participant's relationship with the judge. It will also consider the therapeutic impact of the judge's actions on the participant. Finally, it will provide an empirical assessment of the interactional and environmental variables of the drug court setting in 15 drug courts.

THE JUDGE'S ROLE

[10] In the pre-drug court era, when judges ordered offenders into drug treatment as a condition of sentencing or probation, they were largely uninvolved with monitoring the offender's compliance with treatment conditions. In fact, it was typical for offenders to be terminated from treatment without the judge being made aware of it.¹

Drug courts are a significant departure from that past system. The process has been transformed by involving the judge directly in the treatment and supervision of the defendant. During regularly scheduled status hearings, which take place in an open courtroom, the judge holds the defendant publicly accountable for his progress in treatment. The judge uses progressive sanctions and

incentives to reward success and discourage certain behaviors. Sanctions follow violations and are applied as close to the time of failure as possible. Ideally, the sanctions become incentives to compliance.

THE VIEW FROM THE FIELD:

To date, the peer-reviewed literature on drug courts is scant, but conferences and agency publications have been host to considerable discussion about the role of the drug court judge.^{2,3,4} In fact, many observers and judges themselves have attributed the success of drug courts in large part to the investment of the judges and the nature of their relationships with defendants. However, until now, there has been no systematic effort to characterize the judge-participant relationship. When a search of the post 1983 PsycINFO database for articles containing the words “drug” and “court” was queried, no mention of any article that touched on the topic of judge-defendant interaction was found. Nor was there any mention of mental health professionals empirically examining the dimensions or variations of such a relationship.

In drug court, the judge works to keep participants engaged in treatment.⁴ Every dirty urine drug screen or missed appointment is met with a sanction, with the severity of these sanctions escalating if infractions recur. This conforms to what behaviorists have long appreciated, that behavior is shaped most effectively when punishments are swift and sure but not necessarily severe. The strategy demonstrates to the participant that his actions are taken seriously and that he predictably controls his fate. The judge is guided in this process by an algorithm that may be rigid or flexible depending upon the particular drug court.

Traditional court-mandated treatment, on the other hand, is generally a few unacknowledged, strikes-and-you're out affair. That is, the first few dirty urine drug

screens go unpunished, but the next one lands the defendant in jail or prison to serve out his or her deferred sentence.¹ Ignoring lapses and then, in a seemingly capricious way, coming down hard is a notoriously poor way to shape accountability.

The drug court judge's role is unconventional in other ways. First, the depth of involvement with the defendant is unprecedented. Not only does the judge review the progress of defendants many times over the course of the treatment, but he or she engages the defendant directly. These exchanges may take the form of praise or encouragement. If the participant has committed an infraction (*e.g.*, a dirty urine drug screen or missed appointment) the judge may seek an explanation and then admonish the participant and impose a sanction. The judge, unlike a clinician explicitly, represents moral authority.

According to psychiatrist and drug court consultant Michael Smith of New York's Lincoln Hospital, "the drug court model creates a very healthy and transparent system of authority. The actions of the judge depend directly on the patient's own performance; it's all observable: the urine screens, the attendance, how the patient relates to staff and other patients."⁵ "The symbolic impact of the black robe can't be underestimated; it shows defendants that the system takes the defendant's conduct seriously," explains former Judge Jeff Tauber, now President of the National Association of Drug Court Professionals. A survey conducted by the Drug Court Clearinghouse, American University confirms this. From its surveys, it found that "eighty percent of participants indicated they would not have remained if they did not appear before a judge as part of the process."²

Second, the nature of the relationship challenges the time-honored role of judicial impartiality. Traditional judges may bristle at the thought of developing a coopera-

tive relationship with the defense, prosecution and treatment provider – not to mention with the defendant himself or herself. They see their job as determining guilt or innocence and meting out punishment, rather than collaborating with other court personnel for a therapeutic purpose. Judges Peggy Hora and William Schma find this limiting. It is “judging in a non-traditional form,” they write, “that becomes an invigorating, self-actualizing and rewarding exercise instead of an isolating, unsatisfying experience of watching the same people repeatedly cycle through.”⁶

Third, the drug court judge has the latitude to shape a courtroom drama. He or she can orchestrate the timing and sequencing of cases heard and perhaps most dramatic, can arrange for these dynamics to have an impact on participants seated in the courtroom and – more important – on those defendants who are sitting in the jury box as a sanction.

JUDGE’S ROLE CODIFIED:

[11] In January 1997, the Office of Justice Programs (OJP) at the U.S. Department of Justice released a key document called “Defining Drug Courts: The Key Components.”⁴ The OJP was assisted in this effort by a committee formed by the National Association of Drug Court Professionals called the Drug Court Standards Committee. The purpose of the “Key Components” is to provide benchmarks....“describing the very best practices, designs and operation of drug courts.” “Because drug courts are evolving,” the committee writes, “the field would benefit most from general, practical guidance on how to get established, what to consider, whom to include and how to proceed.”

Key Component # 7 is especially relevant to this paper. It states: “Ongoing judicial interaction with each drug court participant is essential.” It reads as follows:

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- ❖ A drug court judge must be prepared to encourage appropriate behavior and to discourage and penalize inappropriate behavior.
 - ❖ Ongoing judicial supervision also communicates to participants – often for the first time – that someone in authority cares about them and is closely watching what they do.
 - ❖ Frequent status hearings give the participant a sense of how he or she is doing in relation to others.
 - ❖ Having a significant number of drug court participants appear at a single session gives the judge the opportunity to educate both the offender at the bench and those waiting as to the benefits of program compliance and consequences for noncompliance.

EVIDENCE OF A “JUDGE EFFECT”:

[12]The drug court judge’s non-traditional role is assumed to be critical to the process and thus, to the outcome of the court. Indeed, several quasi-natural “experiments” suggest that different drug court judges may have demonstrably different effects on participant outcome.

A study of the Stillwater, Oklahoma drug court experience illustrates the significance that involving a judge in the program may have on the success of participants.⁷ Before its drug court was established in March 1995, Payne County, Oklahoma, had a district attorney-run treatment program (ATTAC). Treatment program philosophy and content remained constant through the transition from ATTAC to a drug court format. The major innovations associated with the drug court were a single judge dedicated to drug court cases and the imposition of intermediate sanctions. Preliminary pre and post-data analysis shows impressive reductions of over 50% in dropout rate, dropout recidivism and graduate recidivism rates. Follow-up data for the ATTAC program and the drug court were available for two years and one year, re-

spectively. The addition of a drug court judge to the existing sanctions program appears to be very significant in terms of improving the overall outcome.

An assessment by the National Center for State Courts of the Oakland Drug Court from 1991 (the first full year of the drug court program) through 1994 revealed that conviction rates varied each year depending on which judge presided over the court. A different judge presided over drug court each year, while no other significant changes in the program occurred during the study period. The assessment found that in 1991, there was a 1.6% participant conviction rate, in 1992, the conviction rate was 10.2%, in 1993, 5.8% of participants were convicted and in 1994, 7.0%.⁸

Another study illuminates the variability of judicial attitude and response to drug court participants. Under one Denver Drug Court judge, 66% of participants got “good and passable reviews” and 14 % were sent to jail over the course of a year. Under his successor, only 40% received “good and passable reviews” and 40% went to jail. This drug court program was stable over the years examined, save for the switching of judges. It is possible that the second judge was more strict than the first, but because the program used a fairly rigid sanctions algorithm, the influence of judicial discretion was minimal.⁹

JUDICIAL SELF-ASSESSMENT:

[13]With drug courts in 49 states, the District of Columbia, Guam and Puerto Rico, there exists considerable variability in drug court environment and style of proceeding. This ranges from crowded dockets in huge courtrooms where participants are managed in a brisk, assembly-line fashion, to more intimate courts where the atmosphere resembles a fellowship meeting. Regardless of the variability, judges tend to see their roles similarly.

In preparation for an advisory meeting that took place last February at the home office of the National Association of Drug Court Professionals (NADCP), the Association asked a dozen judges to answer the question: “What are the six most important characteristic of an effective drug court judge?” There were 21 classes of responses from nine individuals, but a few appeared regularly on the lists. In order of descending frequency these were:

- ❖ The ability to be empathic or to show genuine concern;
- ❖ Knowledge about drug addiction and pharmacology;
- ❖ Team leadership (consensus building; team player, leader or motivator);
- ❖ Acceptance of an unconventional role;
- ❖ Consistency in applying sanctions (or in explaining rationale);
- ❖ Knowledge of the addict community and street life in your jurisdiction;
- ❖ Sense of humor;
- ❖ Ability to communicate;
- ❖ Commitment to the enterprise;
- ❖ Willingness to learn/ humility;
- ❖ Ability to impose sanctions, comfort with “tough love” approach; and
- ❖ Having experienced personal crises.

Other responses, mentioned once each were awareness that the traditional system was ineffective; displaying a judicial bearing; ability to sell the program to the community; ability to balance interests of the client with public safety; patience; knowledge of local social service referral options; ability to spot a “con artist”; ability to work with diverse clientele; and an awareness that the impact of drug court was made in a public venue.

Results from the author’s non-representative interviews complement this list in some ways and depart from it in others. For example, no judge spontaneously men-

tioned that knowledge of addiction or pharmacology was a particularly important attribute, yet it was often ranked first in the NADCP questionnaire. Judges chiefly valued the relationship between themselves and the participant. The notion that drug court participants have few “honest, straightforward and caring relationships” in their lives was mentioned as an impetus for the judge to be engaged with them. One judge said he did not see himself as “imposing punishment but as providing help. Through judicial coercion, I try to get them to be sober for a long period of time. If it’s long enough, and they can figure out how to lead productive lives during that time, then hopefully they can translate that into a lifelong knowledge.” Another said, “I am a cheerleader. My job is to motivate people.”

Being the leader of a team was also emphasized. In almost all cases, the bench and treatment providers experienced initial friction (*i.e.*, struggles over the treatment staff relinquishing control over the participant and disclosing clinical information to the judge). However, this was resolved within one to two years. One judge saw his primary function as “keeping people interested in the drug court program so that they would continue to go to treatment.” All judges interviewed were invested in treatment but not necessarily in acupuncture. None, however, was opposed to the use of acupuncture and most had volunteered to undergo the procedure to see what it was like.

The third most common function of a drug court judge was to organize a community of recovering people. Meting out sanctions and shaping behavior with incentives and punishments were not cited as prominent functions of the judge, though, as activities, they were taken seriously by the judges. “Keeping the addicts going to treatment is the purpose of the drug court judge,” said one judge.

JUDICIAL PERCEPTIONS OF TREATMENT:

A 1990 study by the New York City Criminal Justice Agency examined factors and perceptions affecting judges' decisions regarding the adjudication of crack and powdered cocaine offenders.¹⁰ Eighty two percent of the 71 judges interviewed agreed that diversion of selected crack cocaine, related defendants would be a reasonable option "if effective treatment existed." Among judges who identified a preferred type of treatment referral, 77% named residential programs. They felt that those most likely to benefit were defendants who showed "motivation" to receive treatment. Interestingly, data does not support this all-too intuitive belief. Indeed, numerous studies have shown that patients coerced into treatment do as well or better than those who volunteer for it.¹¹ Furthermore, judges had expressed disappointment with treatment, citing its failure to follow up with the court, verify patient participation and administer urine drug screens. It is no coincidence, then, that integration of information and collaboration between criminal justice and treatment services are substantial departures for the judiciary and the very hallmark of drug court programs.

PSYCHOLOGICAL IMPLICATIONS FOR THE JUDGE:

[14] Judges' attitudes toward participants can be complicated. The Freudian concept of transference refers to the patient's "transferring" tightly held attitudes (beliefs) and emotional dispositions forged in childhood onto new individuals in their lives. Since parent-child relationships are the first attachment that a child develops, they almost always influence all later relationships, including formal helping relationships in adulthood. The therapist's interpretation of the transference allows the patient to better distinguish between remnants of past relationships and the real association between himself or herself and the therapist.

Counter-transference is the inverse of transference; it describes the therapist's reaction to the patient. In the context of drug court, "judicial" countertransference would thus refer to the personal reactions that are invoking in the judge by the participant (in the clinical setting, by analogy, it would refer to the therapist's response to the patient). Classically, these reactions are unconscious – that is, outside the awareness of the judge (or therapist) – but are manifested in ideas, feelings or behaviors that are inappropriately intense (in the positive or negative direction) or somehow not fully rational.

For example, a female participant who is flirtatious and seductive may "convince" the judge to give her a light sanction for a transgression. He does so, but when she fails again, the judge is not simply annoyed, but furious. Why? As it happens, this participant unwittingly re-enacted the behavior of the judge's own teenage daughter who, too, acts like "daddy's little girl" when she misbehaves. Against his better judgement, the father (our judge) will let her off easy only to be faced with the daughter's subsequent acting out. This leaves him feeling helpless, betrayed and enraged.

Indeed, drug court is fertile ground for the unfolding of psychological drama. Perhaps, for example, the judge is a recovering alcoholic or has loved a one who is addicted to drugs. This could stir up inappropriately strong feelings of sympathy, impatience or even hostility toward a participant who happens to remind him of his or her former self (or his or her loved one). Consider the participant who casts the judge in the parental role. He or she may elicit deep feelings in the judge, rooted in the latter's own experience as a parent or a once-needed child. Or consider the participant who related to the judge in a provocative manner – or, more precisely, in a manner that the judge finds provocative – stemming from an (uncon-

scious) desire to be punished or controlled or to elicit concern through censure.

These kinds of psychodynamic scenarios are more likely to get played out in a drug court, with its somewhat relaxed structure, than in a standard court where proceedings, expectations and personnel roles are clear, traditional and fairly predictable. The expression of the participant's psychological conflicts and needs naturally find outlet in a setting where a potent figure (the judge) actively probes for personal details and takes a visible interest in their lives. While it would be a grave mistake for the judge to fashion himself or herself as a therapist – better to be seen as a moral authority with the flexibility to be practical and compassionate while demanding accountability – the judge should be aware that the unconventional nature of his or her relationship with participants can engender complex reactions in himself or herself.

PARTICIPANT'S ASSESSMENTS OF THEIR RELATIONSHIPS WITH THE JUDGE:

[15] As important as the drug court judge is to the court process, dynamics and outcome, there remains a variable that plays an equally paramount role in drug court – the participants. Focus groups, surveys and exit interviews allow us to learn about the participant's impressions of the drug court experience. Urban Institute researchers conducted focus groups with participants of the Washington, DC Drug Court.¹² The researchers found, not surprisingly, that the certainty of consequences was psychologically powerful and important to the participants. "The reason the sanctions track people did so well is because they knew what the judge would do. And he did it," said senior researcher Adele Harrell who conducted focus groups with study participants. She also

credited the “swiftness of the penalties – they had to report to court immediately for a urine drug screen failure – and their fairness.” That is, they understand that there are consequences for their behavior, a truly important realization for permanent change. Furthermore, Harrell learned from the focus groups that “the defendants believe that the judge takes a personal interest in them.” As one man summed it up for her, “you get a dirty urine, man, you’re going to jail. They’re letting you know... you know the chances.”

In some cases, when participants tell evaluators that the judge “really cares,” the true meaning of this superficial endorsement is not always clear. In optimal instances, this means that the judge is genuinely engaged with the participants and has become a central and respected figure in their drug court and recovery experience. In these situations, motivation to succeed may stem partly from a desire to “make the judge proud of me.” A participant in the Denver Drug Court told evaluators that, “[When] the judge recognized that I’ve been here so long it was like he was proud, it was strange, like a father kinda. There’s no doubt in my mind that his is different [from other court experiences]. When I relapsed and got disciplined, he said, ‘well, you still owe me a day.’ But he didn’t do it out of vindictiveness, you know, like a spanking or something. Actually, it was what I needed.”¹³

On the other hand, some participants have indicated to this author that a caring judge is a lenient judge. Judicial credibility can be severely damaged when, in effect, the judge invites defendants to pull the wool over his eyes. “When a judge gets into the buddy-advocate role he can be reluctant to impose sanctions. Also, believe it or not, I’ve seen judges underestimate how manipulative addicts are and get tricked into being too lenient,” a case manager at treatment court in New York told me. Oftentimes, when a participant states that a judge “really ca-

res”, these participants have made the all too common mistake of confusing the failure to demand accountability with compassion. Yet another interpretation of “caring” is simply that the drug court judge is more involved in their personal situation than a traditional judge who sentences them and/or sends them to jail.

It is clear in the American University 1997 Drug Court Survey Report that drug court participants identify the purpose and importance of sanctions. It queried 256 participants from 53 drug courts and found that the highest percentage (82%) responded that “the possibility of sanctions (being) imposed if you didn’t comply with the program” was “very important.” Seventy-five percent said it was “very important” that “a judge monitors my progress.” Unfortunately, there was no elicitation of spontaneous comments; the participants were limited to five responses, none of which referred to their interaction with the judge.⁶ However, as mentioned earlier, 80% said that they would not have remained in the drug court program if they were not required to appear before a judge as part of the process.

THE MIND OF THE ADDICT:

[16] Insight into the mental life of the addict is helpful to the drug court judge and other criminal justice personnel whose aim is to reduce subsequent crime through changing offenders’ behaviors. Partly, this change will be effected through behavior modification (sanctions, consequences and rewards), but it will also be influenced, to some degree, by the relationship with the judge. Nevertheless, there are aspects of the addicts’ attitudes and actions that can make it difficult for the judge to form a relationship. It is not uncommon, for example, for a participant to choose drug court simply because he or she wants to avoid jail and to imagine that he or she will simply go through the motions (“get over and get by”).

This kind of gaming, while not specific to drug addicts, is a classic manipulation which judges are used to dealing with, but until they preside over a drug court, are unaccustomed to breaking through and working with.

Psychiatry does not recognize a so-called “addictive personality type,” yet some psychological traits are fairly typical of addicts; among them (1) low tolerance for stress and emotional turmoil, and (2) poor behavioral control. While not unique to addicted individuals, such traits and associated features are likely manifested as poor impulse control, inability to delay gratification, action-orientation (rather than reflection), poor ability to plan and anticipate consequences of actions, misreading of interpersonal situations and damaged capacity to trust. Commonly, addicts have frustrated, hurt and disappointed family and friends to the point where few people have faith in their capacity to transform.

The profound problems of self-governance suggest that limit-setting, consistency and firmness are critical aspects of judicial behavior. From the clinical standpoint, the constellation of frailties described above explains why most therapists avoid classical insight-oriented therapy (*i.e.*, in-depth, anxiety-provoking, psychodynamic psychotherapy) with individuals who are currently using drugs or who are recently recovered: they usually cannot tolerate the intensity of the treatment and may turn to drugs to “medicate” the stress it produces.

Also, gaining immediate control of an addict’s day-to-day behavior requires a here-and-now orientation, practical problem solving and the acquisition of cognitive-behavioral relapse prevention skills. For addicts – as well as some other individuals whose behavior is self-destructive – insight can follow change, it need not precede it as conventional psychodynamic theory has it – and thus formal exploration of deep-seated psychological conflicts is contraindicated. To put it another way, it often

takes a period of abstinence for the addict to understand why he or she needed drugs in the first place.

This key point may conflict with the popular notion that addiction is a primary illness rather than a symptom of deeper personal distress. Nonetheless, it is important for judges (and treatment providers) to recognize that drugs once played an adaptive role in the participants' lives. This so-called "self-medication hypothesis" of addiction, which holds that drugs provide some kind of relief – from loneliness, boredom, depression, anxiety, guilt, feelings of failure – explains why addicts are usually so ambivalent about giving them up in spite of the damage they eventually cause.¹⁴

One important function of treatment, therefore, is to help patients understand what his or her drug did for them so that they can meet those psychological needs of gratification, self-soothing or self-stimulation, in other, more constructive ways. Gradually, as the participant realizes that the costs of drug use outweigh the benefits, they become "motivated" to change. Yet, motivation is not critical for change. Many drug court participants have no desire to be in treatment; it was chosen on the basis of expediency. They are resistant to treatment. Nevertheless, they remain in treatment because of the threat of sanctions and/or jail, and while they are literally captive in the program, they acquire genuine, internal motivation. They come to recognize that there are alternative lifestyles and they too have the capacity to change.

DESCRIPTIVE ANALYSIS OF THE INTERACTIONAL AND ENVIRONMENTAL VARIABLES OF THE DRUG COURT SETTING

METHODOLOGY:

[17] The goals of this descriptive analysis are to (1) identify interactional variables between judge and drug court participant, (2) identify environmental variables in a drug court setting and (3) document variability within a sample of drug court programs.

Selection of Drug Courts

Given travel budget limitations, the investigator chose drug courts based on proximity to home or other locales frequented. These sites were (1) District of Columbia Drug Court (Pretrial Services). This site had the added advantage of rotating judges, so the courtroom dynamics of two judges could be examined; (2) Brooklyn Treatment Court, Kings County, New York; (3) New Haven Drug Court, New Haven County, Connecticut; (4) Fort Lauderdale Drug Court, Broward County, Florida; (5) Miami Drug Court, Dade County, Florida; (6) Marathon Drug Court, Marathon Key, Florida. Filmed sessions were obtained from Bakersfield Court, California; San Diego; Denver; Kalamazoo, Michigan; and interviews with judges from Los Angeles County, Oakland; Pensacola; and Richmond, Virginia. This provided an opportunity to observe 15 courtrooms and to interview 14 judges. In all, over 500 judge-participant interactions were observed.

Process Evaluation

Specific variables relating to the judge-participant interaction are listed in Table 1. The investigator sat in the front row of each courtroom and completed the check list for each participant reviewed by the judge as well as for the judge's engagement with participants seated in the jury box.

Procedural Characteristics

The investigator met with the judges to (1) solicit their opinions as to the importance of the variables being examined in this study; (2) collect suggestions for new

ones; and (3) inquire about their impression of their relationship to the participant, guiding models and understanding of addiction.

Interview with Judges by Phone

To complement the observational data, nine judges were contacted by phone and/or interviewed in person when they attended a two-day meeting at the offices of the National Association of Drug Court Professionals.

Variables

Seventeen courtroom characteristic and process variables believed to promote successful drug court interactions were chosen based on many discussions with judges and observations of drug court environments and interactions. Listed below are the variables and the rationale for their inclusion. (See Table 1)

RESULTS OF OBSERVATIONS AND INTERVIEWS:

Table 1 presents the range of variables in this non-representative sample. Interviews with the judges suggested that drug court processes were often dictated more heavily by the magnitude of the workload than by the judge's conception of how a drug court should be run.

For example, all judges appreciated the idea that participants could benefit from remaining throughout the entire session, but only three judges, all with modest-sized drug courts, felt they could require them to stay for the period that their court was in session. Also, all but one judge endorsed the idea of ordering cases to achieve a psychological impact, but only a little over half did so. (See Table 2) Among the other half, judges either planned to do so soon or felt that the caseload was so big that it would be impractical to do more than take cases as they come in or by alphabetical order. Also, all judges wanted to be able to call a participant in to see him or her the day after a significant infraction, but since some courts met

TABLE I: VARIABLES AND RATIONALE FOR INCLUSION

VARIABLE	RATIONALE
Ambient noise, distraction	Impediments to engagement of individuals and community.
Participant miked	Emphasizes primacy of participant.
Closeness to bench	Relevant to intensity of judge-participant exchange.
Participant next to lawyer	Dilution of judge-participant exchange.
Who is first addressed by judge	Emphasizes primacy of participant.
Level of eye contact	Intensity of exchange.
Physical contact	Aspect of exchange.
Remain throughout session	Opportunity to educate by example, reinforce norms and solidify group cohesion.
Arranged seating	Vehicle for setting example.
Order to cases	Opportunity to reinforce norms.
Fixed sanction algorithm	Aspect of consistency.
Review on short notice	Capacity for immediate response, emphasizes sense of judicial watchfulness.
Time spent with participant	Level of engagement, opportunity to develop relationship.
Frequency of courtroom sessions	Opportunity to develop relationship.
Judge addresses gallery	Reinforces sense of court as a community.
Participant addresses gallery	Reinforces community.

Outside contact	Level of engagement.
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TABLE 2: VARIABLES BY DRUG COURT:

Variable:	Court A^v	Court B	Court C	Court D	Court E	Court F	Court G	Court H	Court I
Ambient noise, distraction (1-5)	4	5	2	3-4	1	1	1-2	3	2
Participant miked	No	No	No	No	No	No	Yes	No	No
Closeness to bench	12 Ft	12 Ft	6-8 Ft	20 Ft	10-12 Ft	10-12 Ft	6 Ft	12 Ft	12 Ft
Participant next to lawyer	No	No	No	Yes	No	Yes	No	Yes	Yes
Who is first addressed	Personnel	Participant	Participant	Personnel	Participant	Participant	Participant	Personnel	Participant
Level of eye contact	Intermittent	Sustained	Sustained	Sustained	Sustained	Sustained	Sustained	Intermittent	Sustained
Physical contact	Graduation	Graduation	Yes	Yes	Graduation	Graduation	Yes	NA	YES
Remain throughout session	No	Yes	Yes	No	No	No	New Clients	No	No
Arranged seating	Jury Box	Jury Box	Jury Box	Jury Box	No	No	Jury Box	No	Jury Box
Order to cases	Yes	Yes	Yes	No	No	Yes	Yes	No	Yes
Fixed sanction algorithm	No	No	No	No	No	No	No	Yes	Yes
Review on short notice	Yes	Yes	No	Yes	Yes	Yes	yes	Yes	Yes
Time spent with participant	1 min.	1-2 min.	1-2 min.	1-5 min.	2-10 min.	1-7 min.	5-10 min.	1-10 min.	1-5 min.
Frequency of courtroom sess.	Monthly	Weekly/BI.	Monthly	Monthly	Monthly	Monthly	Biweekly	Monthly	Monthly

^v Court Identities (A)-Ft. Lauderdale, (B) San Diego, (C) Marathon, (D) Miami, (E) Pensacola, (F) New Haven, (G) Kalamazoo, (H) DC-Fox, (I) DC-Lopez, (J) Bakersfield, (K) Denver, (L) Oakland, (M) Richmond, (N) Brooklyn, (O) Los Angeles

Judge addresses gallery	No	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Participant addresses gallery	No	Yes	Yes	No	No	No	Yes	No	No
Outside contact	No	No	Yes	No	No	No	No	No	No

TABLE 2: VARIABLES BY DRUG COURT CONTINUED:

	Court J	Court K	Court L	Court M	Court N	Court O
Ambient noise, distraction (1-5)	3-4	5	2	1	3	3-5
Participant miked	Yes	Yes	No	Yes	No	No
Closeness to bench	6-8 Ft	10 Ft	12 Ft	15 Ft	15 Ft	4-5 Ft
Participant next to lawyer	No	No	No	No	No	No
Who is first addressed	Personnel	Participant	Participant	Participant	Participant	Participant
Level of eye contact	Sustained	Intermittent	Sustained	Intermittent	No	Sustained
Physical contact	Yes	Graduation	Graduation	Graduation	Graduation	Yes
Remain throughout session	No	No	Yes	No	No	New Clients
Arranged seating	Jury Box					
Order to cases	No	No	Yes	No	Yes	Yes
Fixed sanction algorithm	No	Yes	Yes	No	Yes	Yes
Review on short notice	Yes	Yes	Yes	No	Yes	Yes
Time spent with participant	1-5 min.	1-5 min.	1-3 min.	1-5 min.	1-5 min.	3-8 min.
Frequency of courtroom sess.	Weekly	Monthly	Biweekly	Monthly	Monthly	Bimonthly
Judge addresses gallery	Yes	No	Yes	No	No	Yes
Participant addresses gallery	Yes	No	Yes	No	No	Yes
Outside contact	Yes	No	Yes	No	No	No

only weekly or even monthly, that kind of swift response was not always possible.

Almost all judges sought to make sustained eye contact with participants, to minimize ambient noise so that everyone could hear the exchange and to spend as much time as they could with someone who was not doing well in the program. If there were physical contacts, most preferred that it be limited to graduations. Male judges were wary about any contact with female participants, noting that breaching personal-space boundaries could complicate their work with women who were already confused about the meaning of male contact.

There was disagreement on the virtue of fixed sanction algorithms. Most said that they did not want to be constrained, but four felt that a relatively fixed schedule was most fair. These were also the judges with some of the busiest courts.

Directing Courtroom Theater

[18] One of the virtues of drug court, according to Judge Jeffery Tauber of NADCP, is that “the drug court is theater and the drug court judge has the opportunity to tell a story.” Accordingly, the courtroom proceedings can be shaped to reify and reinforce the essence of drug court: individual accountability and restorative justice. By engaging the drug court “audience” and setting examples, the judge can communicate certain principles, namely, that behaviors have consequences and that he or she has faith in the participants’ abilities to change.

The judges interviewed directed the drama of their courtroom in various ways. Only one said he paid little attention to the organization of the proceedings or to the arrangement of judicial symbols and actions. The others identified the following as features of the drug court environment that were designed and executed with their psychological impact in mind: (1) the order in which cases

were called; (2) the order in which the judge addressed the “players” (*e.g.*, the participant, his lawyer and treatment provider); (3) assignment of those to be sanctioned or rewarded to a special section of the courtroom; (4) the use of video recording.

Order of Cases

The ordering of cases helps determine the composition of the audience and what information is imparted at any given time. Ordering cases has a practical side, (*e.g.*, those in custody may have to return to jail at a certain time and must be disposed of first), but it can also be a deliberate arrangement designed to impart meaning. By dealing with those in custody first (often absconders) everyone sees that the judge will indeed set limits and penalize individuals. “Those who are doing well can’t afford to get cocky. They have to know that I will give out sanctions when they are called for,” said one judge. Clearly, the judge who rarely sanctions, violates participant expectations and thereby erodes trust in the relationship and in the drug court mission overall. Calling sanctions cases first enhances the aversiveness – the shaming quality – of sanctions. A stable audience is present and the message that “bad behavior results in bad consequences” is reiterated to all. The following are examples of other case ordering scenarios:

- ❖ A drug court in California calls employed participants first in order to minimize the amount of time they are absent from work and to reward them for re-entry into society. Next to come before the judge are the “success stories” (those who are doing well and/or being advanced to the next phase of their programs). Then the judge sanctions the participants who have been out of compliance and, finally, he takes the remainder of the calendar (offenders

who are newly entering the drug court program, etc.).

- ❖ In the Reno, Nevada Drug Court, the graduates go first, then those in custody (offenders who were newly arrested or absconders brought back on warrants), then others.
- ❖ In the New Haven, Connecticut Drug Court, the judge imposes no particular order on cases.
- ❖ In the Marathon, Florida Drug Court, everyone remains, and the participants who are to be sanctioned are seated in the jury box. At the end of the session, the judge has each come before her, and she imposes a sanction.

Illuminating the Judge-Participant Dialogue

A number of judges indicated that this exchange is the main event of the drug court session. Thus, minimizing noise and distraction is a priority. In some courtrooms the participant, as well as the judge, speaks into a microphone. Not only does this signify respect for the process, but it helps the participant focus – especially when personal and sensitive matters are being discussed – and enables other participants to follow along more easily. To this end as well, some judges discourage the presence of the attorneys. When attorneys are present, these judges always address the participant first and maintain eye contact.

Creating a Sense of Community

While some judges confine themselves to their relationship with the participants, others take a more expansive approach, which involves members of the entire courtroom. This is why, for example, some feel strongly that the participant should have a microphone to ensure that everyone can hear. Along these lines, one judge expressed unease with the current arrangement in his court wherein participants stand directly in front of him with

their back to the spectators. He would prefer the participant to be “off to the side so the placement would allow us to be more open to the view of the audience.”

When drug court jurisdictions are small and participants are familiar with one another from their neighborhood, it is easier to create the kind of “AA atmosphere” that judges sometimes seek. One judge actively welcomed members of the public and described friendly exchanges between himself and a recovered addict from the neighborhood. This judge would occasionally call on the gentleman to act as an “on-site crisis sponsor” for participants who were wavering in their commitment to drug court.

Seating Arrangement

The jury box often seats participants who are being sanctioned. “Jury duty” itself constitutes a sanction in many courts though the box may also hold other individuals in custody that have just been arrested, returned to court on a warrant or who are waiting to be admitted to the program or to receive a sanction.

Video

The Denver, Colorado, Drug Court has two, large split-screen television sets mounted near the gallery so that the audience can see both judge and participant and hear the proceedings. The Bakersfield, California, Drug Court routinely videotapes all sessions for purposes of educating other judges. At graduation, participants receive “before” (addict and criminal) and “after” (drug-free, employed, law-biding) still-photos of themselves taken off of the video. For promotional and educational purposes, the judge made a half-hour videotape that chronicles the progression of an in-

dividual participant using footage of sessions filmed over her tenure in drug court.

Use of Language

Although a number of judges said they viewed addiction as a disease, they universally adopted the language of will and personal responsibility when talking to participants.

Other Activities Intended to Strengthen the Judge-Participant Bond

Physical Contact -

Judges sometimes hug participants after graduation. During the course of a session, some judges may call the participant up to the bench, exchange a few words and shake hands.

Out-of-Courtroom Activities -

Judges may attend or arrange picnics or Christmas parties. One judge leads participants on a one-mile run after the monthly court.

Individual Meeting -

One judge meets with each graduate in his chambers to congratulate him or her, talk about their future and so on. Some judges meet with participants seated in the jury box after everyone else has been dismissed. Others invite the participant up to the bench to talk privately or meet with him along with other court staff afterward in their chambers.

CONCLUSION:

The drug court has ushered in a new model of judge – one who can exercise a more flexible and consciously therapeutic rapport with the drug-using offender.

Clearly, further analysis and study of this new model is needed. For example, once aspects of the judge-participant relationship are elucidated, they could be ma-

nipulated and tested in drug court settings by future investigators. Researchers could employ focus groups to assess the impression of the judge's actions on participants and, ultimately, correlate this with outcome. The ideal set-up for comparison evaluations would be a stable drug court treatment program with an explicit sanction algorithm overseen either by judges who rotate or by more than one judge simultaneously presiding over status and sanctions hearing. Though the "drug court model" does create concerns that some judges may attempt to act as therapists, the seemingly extraordinary potential of this model, warrants its continued development and study.

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**SUMMARY AND ANALYSIS OF THE
FIRST JUVENILE DRUG COURT EVALUA-
TIONS:
THE SANTA CLARA COUNTY DRUG
TREATMENT COURT AND THE DELA-
WARE JUVENILE
DRUG COURT DIVERSION PROGRAM**
By Michelle Shaw and
Dr. Kenneth Robinson

Until now, there has been little research coming out of the scientific community relating to the juvenile drug court field. Now comes the first two published evaluations on juvenile drug courts.

Though the programs are relatively new, the study periods short and the number of participants few, there is a good deal that we can learn from these evaluations about juvenile drug courts in general and juvenile drug court evaluation design in particular.

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Dr. Kenneth Robinson is a leading lecturer and trainer on cognitive behavioral treatment. Dr. Robinson has worked with offender populations in prison and mental health settings for 20 years. He is the President of CCI and a faculty member of the National Judicial College.

ARTICLE SUMMARIES

JUVENILE DRUG COURT (JDC)-COST SAVINGS- SANTA CLARA

[19] The average drug court program cost per individual was compared to the cost of the California Youth Authority's residential and outpatient treatment.

JDC- SANTA CLARA RETEN- TION

[20] Though many consider it more difficult to work with juveniles, the retention rate for the Santa Clara Juvenile Drug Court program was similar to the national average for adult drug courts.

JDC-WILMINGTON RECIDIVISM

[21] Participants had 30% fewer rearrests than the comparison group during a four-month "treatment period."

JDC-WILMINGTON POST-PROGRAM RECIDIVISM

[22] Rearrest rates of compliant, non-compliant and comparison groups are examined.

INTRODUCTION

Juvenile drug courts have begun to address the distinct substance abuse needs of the youthful offender with programs designed to identify the special issues of this population. While these juvenile drug courts have only recently come into existence, two initial evaluations have been completed. These early evaluations are our first glimpse at the effectiveness of the juvenile drug court. Both evaluations suggest that juvenile drug courts are providing a positive impact on the recidivism and retention rates of substance abusing juvenile offenders. In the Santa Clara County Drug Treatment Court evaluation, the retention rate is almost on par with the national average for adult drug courts. In the Delaware Juvenile Drug Court Diversion Program evaluation, the rearrest rate for juveniles who have entered the program is lower than that

of the comparison group. The outcome data covers only one year's time, and the sample of participants in the programs is small. However, these evaluations offer significant insights into the dynamics of juvenile drug court programs and their potential impact.

BACKGROUND

The Santa Clara County evaluation, performed by Doctors Ellison and Ellis, incorporated both process information and outcome data in its methodology. The process evaluation examines seven critical questions on the success of the drug treatment court. The outcome evaluation describes the numbers of youths served, demographic characteristics, criminal justice history, substance abuse history and the average cost of delivering the drug treatment court for each youth.

There is limited data showing the extent of drug and alcohol abuse among juveniles in Santa Clara County. This data shows there were 535 juvenile offenders admitted into the juvenile detention facility for a drug or drug-related offense during fiscal year 1995-1996, while there were 703 offenders admitted for fiscal year 1996-1997, a 24% increase.

Due to this extraordinary increase in juvenile crime, the key stakeholders sought a proven approach to reduce illicit drug use and decrease the criminality of juvenile offenders. As a result, in August of 1996, the Santa Clara Drug Treatment Court was implemented under the direction of Judge Thomas Edwards, presiding judge of the Santa Clara County Juvenile Court. The drug treatment court was a voluntary experiment, with no additional budget augmentation for the development and implementation of the project.

The Santa Clara County Drug Court Treatment program is designed for juvenile offenders, 13-17 years of

age, who have met pre-established drug court criteria. The juvenile offender must have a history of alcohol or other drug abuse problems, have committed an offense pursuant to Section 602 of the California Welfare and Institutions Code, have no prior or pending drug sale convictions, have had no prior referrals to the juvenile drug treatment court and have been charged with a nonviolent offense.

DEMOGRAPHICS:

The evaluators reviewed demographic and outcome data on 61 juveniles who participated in the drug treatment court from its implementation in August 1996 to December 1997. The program participants were mostly male (74%). The age of the 61 program participants ranged from 14 to 17 years of age. Forty-nine percent of the juvenile population were Hispanic, 41% Caucasian, 5% African-American, 3% Asian and 2% Persian.

PROCESS EVALUATION

Drs. Ellison and Ellis' evaluation study was designed to answer seven questions rating the performance of the Santa Clara Drug Treatment Court. They are: have program participants made progress toward program goals and objectives as measured by criminal activity and recurring substance abuse as measured by drug tests? Have program participants made progress towards program goals and objectives as indicated by their success at home, school and the community? Are the costs of the program justified when compared to the costs of the old system? Was there a difference in residential placement outcomes when compared to those of community placement outcomes? How did program participants perceive the effectiveness of the drug court program? How did the drug treatment court strategies compare with adult standards

recommended by the National Association of Drug Court Professionals and the U.S. Department of Justice? Which of the drug court program characteristics did participants perceive as having the greatest impact on trying to stay drug free?¹

Have the program participants made progress towards program goals and objectives as measured by criminal activity and recurring substance abuse as measured by drug tests? The nine youths that graduated from the program had 9.5 months of continuously clean urine drug screens. Furthermore, these participants averaged 0.44 citations during the year that the juveniles participated in the program. The juveniles who dropped out or flunked the program had almost twice as many citations as their counterparts.¹

Have program participants made progress toward program goals and objectives as indicated by success at home, school and the community? There was no data collected by the program on this issue, and the evaluators and the authors suggest collection of this data on new program clients.¹

[19] *Are the costs of the program justified when compared to the costs of the old system?* The evaluators gathered direct cost analysis information on 50 juveniles. It is estimated that the average program cost per individual (50 juveniles, 8 youths in residential placement and 42 youths in non-placement) was \$13,449. The average cost per juvenile for residential treatment (The average stay in residential treatment is 10 months) was estimated at \$43,639. To incarcerate a juvenile for one year in the State of California Youth Authority costs approximately \$38,000. The average cost per juvenile for outpatient care was estimated at \$7,699

Was there a difference in residential placement outcomes when compared to those of community placement? The evaluators were unable to answer this question

because they did not feel there was a significant sample size. Only eight juveniles were committed into residential placement (for an average of 10 months) during the study. However, the single largest expense of the Santa Clara Drug Treatment Court was for long-term residential placements costing \$304,000 per year. One of the concerns of the evaluation team was the program's inability to access affordable residential bed space (short or long-term) for appropriate juvenile offenders. In the cases where residential treatment was considered necessary, the drug court team was forced to place juveniles outside the county at a cost of \$3,500 to \$5,000 per month. According to the study, the resources spent in 1997 could have provided 60-day short-term treatment for 40 juveniles.

How did program participants perceive the effectiveness of the drug court program? The evaluators held focus groups to assess the participants' viewpoints on the drug treatment court program. The participants were asked questions about the drug court to examine what they liked best and what they felt could be improved upon.

What did you like most about the drug treatment court? (*Top responses*)

1. The positive reinforcement by the drug treatment team.
2. The consistency in the team's efforts to hold participants accountable.
3. Being acknowledged and rewarded when doing well.
4. The participant retreat. Feel both participants and staff should be involved.

How could we improve the program? (*Top responses*)

1. Have local residential treatment facility for most severe cases.
2. Have closer supervision and monitoring.

3. Make participants live up to the conditions set by the court.
4. Place more recognition on progress and accomplishments.
5. Better define treatment phases.
6. More group outings.

After observing the drug court treatment team, the evaluators concluded that the staff worked well together as a team, despite resource limitations (e.g., short-term residential treatment). It was felt that there was a need for a drug court coordinator to handle policies, procedures and guidelines and to act as a liaison between the departments and bring cohesion to the team.

How did the drug treatment court strategies compare with adult standards recommended by the National Association of Drug Court Professionals and the U.S. Department of Justice? The evaluators found that the Santa Clara County Drug Treatment Court substantially implemented the “ten key components” as part of the program. The evaluators did note, however, that there was more structure needed in alcohol, drug and other treatment and rehabilitation services. The evaluators also commented on the need for forging partnerships among drug courts, public agencies and community-based organizations to enhance drug court effectiveness and generate local support.

Which of the drug court program characteristics did participants perceive as having the greatest impact on trying to stay drug-free? The evaluators held a focus group and received the following answers:

- ❖ Constant monitoring and support by the probation officer;
- ❖ Having to face the judge and explain my behavior
- ❖ Urine testing;
- ❖ Positive reinforcement by the drug treatment team;
- ❖ Expectations from the court;

- ❖ Not wanting to let the staff down;
- ❖ Sense of humor by the drug treatment team.

OUTCOME EVALUATION

CLINICAL PROGRESS MEASURED:

[20] During the 17-month evaluation period, 9 program participants (15%) graduated; 20 clients (33%) did not complete the program (this includes those who dropped out, were arrested for new offenses or were transferred out of the program); 32 clients (52%) were actively participating and in compliance with the program. Though many consider it more demanding to work with juveniles, the retention² rate for the Santa Clara County Juvenile Drug Court program was 67%, only 4 percentage points lower than the national average for the adult drug courts programs (71%).³

The clinical progress of participants was measured using the Adolescent Drug Abuse Diagnosis (ADAD) instrument. This unique tool measures the interviewers' (Santa Clara County Drug and Alcohol Services Staff) assessment of participant needs for additional treatment in the areas of medical, schooling, employment, social, family, psychological, legal and, alcohol and drug issues rather than the participants self-assessments. Scoring ranges from zero (no real problem, no treatment necessary) to eight (extreme problems, treatment necessary). Due to the small sample of participants and the unreliability of multiple interviewers, neither the evaluator nor the author could find statistical significance from the data. However, it is important to note that the drug court graduates scored lowest on the scale (no or little treatment necessary) in eight of the nine categories.¹

Clinical progress of the juvenile clients was also documented by measuring the number of months spent in the drug treatment court program, the number of months

spent continuously clean, the number of citations received, the age of first drug use, the motivational level of participants and the level of clients' self disclosure. Results show that drug court graduates spent more time in the program, had longer periods of clean time, were older overall, had a higher motivation level and a higher level of self disclosure than those still in the program or those who had dropped out of the program.

RECOMMENDATIONS

The evaluators recommended that Santa Clara County Drug Treatment Court should expand to serve a capacity of 100 juveniles over the next 12 months. That a formal personnel budget be established and that the assessment process be strengthened and structured to insure a more comprehensive assessment of each incoming juvenile client. Evaluators made specific recommendations involving the programmatic operation of the Santa Clara County Drug Treatment Court; (1) That a time limit be set for a juvenile to complete the drug court program, encouraging completion in a timely manner, (2) that the Santa Clara County judge should be tougher in holding offenders accountable for their actions and impose swift sanctions when the juvenile participant violates program rules, (3) that the court incorporate the use of incentives into the operations of the court, (4) that a short-term residential treatment/day program for initial detoxification be developed, providing greater access to a continuum of alcohol, drug and other related treatment and rehabilitation services, and (5) that a drug court coordinator be added to the program.

THE DELAWARE JUVENILE DRUG COURT DIVERSION PROGRAM

BACKGROUND

In 1995, the State of Delaware Family Court, in cooperation with the city of Wilmington, began a diversion/treatment program for juveniles. In order for a juvenile to be eligible, they must have no prior record and the arrest must be for a misdemeanor drug charge. The city of Wilmington contracted with SODAT, a nonprofit agency specializing in outpatient substance abuse treatment, to provide treatment for the juvenile drug court. SODAT provides case management services and a treatment program that includes physical exams, random, monthly urinalyses for illicit drug use and group, individual and family counseling for the juvenile substance abusing offender. In addition, extra measures were taken to keep youths in school and employment wherever possible.⁴ Juvenile offenders could avoid criminal adjudication by successfully completing the drug court treatment program.

DEMOGRAPHICS:

The program participants were mostly male (80.6%). The average age of the participants was 16 years, ranging from 11 to 19 years of age. Fifty-nine percent of the population was Caucasian, 37% African-American and 3% Hispanic. Over half of the juveniles lived inside the city or suburbs of Wilmington. The drug of choice reported by 92% of the juvenile participants was marijuana. Six percent claimed alcohol as their drug of choice but also admitted to having used marijuana in the past. Two percent of the juveniles claimed heroin was their drug of choice. Interestingly, there was no self-

reporting of cocaine use or cocaine as the drug of choice for the juvenile participants.

The Wilmington, Delaware Juvenile Drug Court Diversion Program evaluation was conducted by John P. O'Connell, Marsha L. Miller, Ph.D. and Evelyn A. Scocas. A database recording demographic and programmatic information was created using 144 juveniles admitted into the diversion program from the time of implementation in 1995 to the summer of 1997. The evaluators created a comparison group consisting of all misdemeanor juveniles arrested in the county, not receiving treatment for the first six months of 1995. Ninety juveniles were randomly chosen for this comparison group using a stratified technique.¹⁰

OUTCOME EVALUATION

RECIDIVISM DURING TREATMENT :

[21] A study was conducted to compare the recidivism^{vi} rate of juveniles who receive treatment versus juveniles who do not. At the time the evaluation was conducted, 81 juveniles had been discharged from the drug court treatment program either through graduation or unsuccessful termination. All participants had received some level of treatment services. The 81 treated juveniles were matched against a comparison group of 90 untreated juveniles as described previously. The treatment group spent an average of 4 months in treatment services. The untreated group was designated a "treatment period" beginning at initial arrest, spanning four months, the same amount of time as the treatment group. During the treatment period the treatment group had a recidivism rate of 21%. During the comparison treatment period, the non-treatment group had a recidivism rate of 30%, reflecting a

^{vi} Recidivism was defined by the evaluator as any new arrest.

30% reduction in recidivism for the treatment group over the non-treated group.

POST-PROGRAM RECIDIVISM:

[22] Evaluators conducted a study to determine the recidivism rate of juveniles who were compliant (following the rules of the treatment program and had graduated), juveniles who were non-compliant (not following the rules of the treatment program and were terminated) and juveniles who never received services. The evaluators examined the post-program recidivism of the three groups. After 12 months from graduation/termination the compliant group had a recidivism rate of 23 %. The non-compliant group had a recidivism rate of 75 % and the non-treated comparison group had a recidivism rate of 51%.

The fact that the non-compliant group was more likely to reoffend than those who never entered the treatment program may be a significant finding, although not representative of adult drug courts, where the literature reflects that participants who enter treatment and are unsuccessful are likely to have lower recidivism rates than participants who have received no services. Still, it should be noted that when the compliant group and the non-compliant group are combined, the recidivism rate is 33%, still substantially lower than the comparison group.

CONCLUSION

These initial evaluations appear to support the proposition that juvenile drug courts are having a positive impact in Santa Clara County, California and Wilmington, Delaware. It should be noted however, that both of these evaluations examined fairly new juvenile courts and small numbers of juveniles over short time periods.

These evaluations are, of course, only the beginning of the exploration and assessment of the juvenile drug court model. Future juvenile drug court evaluations may wish to review how such issues as religious background, problems/success in school, family concerns (e.g., substance abuse or physical abuse within the home), employment issues and drugs of choice effect drug court outcomes. By collecting more data variables on juveniles, we can design drug court programs that better fit the needs of our communities.

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² The formula for retention can be found by dividing the total number of program participants by the number of graduates and the number of current participants.

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⁵ Grouping of units by composing a population into homogenous groups before sampling. This improves the representation of the sample. Babbie, Earl. *The Practice of Social Research*. Wadsworth Publishing Co., Belmont, CA: 1992

The Future of Drug Courts: Comprehensive Drug Court Systems

By Judge Jeffrey Tauber

The future of drug courts is a concern to all practitioners. Focus groups held over the next two years will develop a strategy for the next century. In this commentary, Judge Jeffrey Tauber builds on findings of the February, 1998 focus group held at American University, in arguing for the expansion of drug courts into comprehensive drug court systems.

Jeffrey Tauber is a former drug court judge from Oakland, California, and currently the President of the National Association of Drug Court Professionals.

ARTICLE SUMMARIES

DRUG COURT SYSTEM (DCS)

[23] Drug courts are having a limited impact in the criminal justice system because only two or three percent of drug using offenders are involved.

DRUG COURT SYSTEM (DCS)

[24] Today, drug-using offenders mostly remain in the community and are passed over for the drug court's comprehensive controls because they are too serious an offender or too disinterested a participant.

DRUG COURT SYSTEM (DCS)

[25] The average drug-using offender spends an average of three months in jail but 24 months on probation and living in our communities. (BJS, 1995)

DRUG COURT SYSTEM (DCS)

[26] It makes no sense to limit drug court programs to the least serious offenders when the research clearly demonstrates that drug courts provide the most comprehensive and effective supervision.

DRUG COURT SYSTEM (DCS)

[27] A drug court system deals with all drug-using offenders on probation and living in our communities.

DRUG COURT SYSTEM (DCS)

[28] Denver initiated a drug court system in 1994 that handled all drug using offenders living in its community.

INTRODUCTION

Drug courts are profoundly impacting the criminal justice system. Where drug-using offenders often received little jail time and even less supervision, drug courts are mandating frequent drug testing, supervision, treatment, judicial monitoring and sanctions for drug-using offenders. Their impact can be measured by the growth of the field to nearly 400 drug courts from the 12 that existed four short years ago; by the more than 100,000 persons who have entered drug courts since the first drug court program opened nine years ago; and by the more than 70 percent of participants across the nation who either have successfully completed a program or remain as active participants in one.

The effect that drug courts are having on the criminal justice system can be readily seen in the level of program coordination, the links to community organizations, the collaboration between governmental agencies, the extraordinary involvement of judicial leadership, the innovative linkages with law enforcement and the commitment and dedication of program staff. Drug courts are rejuvenating the criminal justice system and changing the way in which it deals with drug-using offenders.

[23] However, while drug courts clearly are having an extraordinary effect on the criminal justice system, it is a limited one. Drug testing of arrestees at dozens of jails across the nation shows that 66 percent of all arrestees test positive for illegal drugs.¹ A report of Columbia University's National Center on Addiction and Substance Abuse (CASA) concludes that 80 percent of all offenders in the criminal justice system—some 1.4 million individuals—are substance abusers.² Despite those statistics, it is estimated that no more than three percent of that population participate in drug court programs. Overall,

about two-thirds of all probationers supervised in our communities (approximately two million adults) may be characterized as alcohol or drug involved.³ However, drug court programs involve no more than one or two percent of probationers supervised and living in our communities.

Drug court practitioners have come to the realization that to have a substantial impact on the overall criminal justice system, their programs need to extend to a broader population. While drug courts initially dealt with less serious offenders in diversionary programs, American University's Drug Court Clearinghouse (AU) reports that 70 percent of all drug courts already have probation-based and post-plea based programs that work with offenders with more extensive criminal histories and that the typical drug court participant has at least a 15-year history of drug usage.

Certainly, those drug offenders who are violent, predatory or significant traffickers must continue to be sent directly to prison for the appropriate term. However, what happens to offenders who are considered "too serious" for drug court but nonetheless are going to live in our communities on probation (even if they spend between six months to one year in jail)? What happens to those persons testing positive for drugs upon arrest, who are released back into the community on bail or on their own recognizance to await trial? What happens to those placed on probation who are uninterested, unwilling or seemingly unable to stop using illegal drugs?

PROBATIONERS LIVING IN OUR COMMUNITIES :

[24] Today, drug-using offenders mostly remain in the community and simply are passed over for the drug courts' comprehensive controls because they are too serious an offender or too disinterested a participant. Consider the alternatives to drug courts currently offered in

the overwhelming number of communities across the nation: light jail sentences with little or no drug testing, supervision, judicial monitoring or treatment thereafter.

Critics sometimes argue that drug courts are soft on crime and therefore, should be limited to first time or “less serious” offenders; that drug-using offenders should be removed from our communities and given long jail sentences. The facts, however, demonstrate otherwise.

CASA has completed a review of the comprehensive research, evaluations and literature of the drug court field and determined that “a number of consistent findings emerge from the available drug court evaluations.”

Drug courts have been more successful than other forms of community supervision in closely supervising drug offenders in the community through frequent monitoring and close supervision including frequent drug testing, placing and retaining drug offenders in treatment programs, providing treatment and related services to offenders who have not received such services in the past, generating actual and practical cost savings and substantially reducing drug use and recidivism while offenders are in the program.⁴

As to the assertion that drug courts are soft on crime, consider the fact that 58 percent of the more than 400 judges who have presided over drug court programs are former prosecutors, as compared to only 23 percent who are former defense attorneys.⁵

[25] Finally, it would remind those who believe drug-using offenders are removed from their communities for long periods of time, that *the average drug-using offender spends an average of three months in jail but 24 months on probation and living in your community.*⁶ [26] It makes no sense to limit drug court programs to the least serious drug-user on probation, when more serious drug-

using probationers are exactly the ones who most need the comprehensive judicial monitoring, probation supervision, frequent drug testing, treatment services and immediate sanctions that a drug court provides; when the research clearly demonstrates that drug courts provide the most comprehensive supervision and lower return to drug usage and criminality for drug-using offenders when they are in the program and living in our communities.

DRUG COURT SYSTEMS:

Drug court systems offer society the opportunity to deal comprehensively and systematically with a community's drug-using offender population. The nucleus of **drug court systems** already exists in the nearly 400 communities with drug court programs (including nearly all of our major cities). What is needed is a way to augment existing programs, creating **drug court systems** that can deal with a greatly expanded population base and ultimately, all drug-using offenders living in our communities. Some drug courts are leading the way. Denver, Colorado; Tampa, Florida; and Minneapolis, Minnesota are examples of communities that have successful, comprehensive **drug court systems** in place. (See Appendix A.)

Denver's **drug court system**, implemented in 1994, provides an excellent example. Currently, the Denver Drug Court team includes a judge and a magistrate who handle 75 percent of all drug-related cases filed in the 20-judge bench—over 40 percent of all felonies filed in the jurisdiction. All arrestees are drug tested, and those determined to have a drug abuse problem are screened to determine the level of drug abuse, history of criminality, seriousness of offense, treatment and rehabilitation needs, personal resources, (*e.g.*, housing, education, and employment) and appropriateness for community release.

Based upon a comprehensive assessment, drug-using offenders are placed in one of three drug court tracks. Those tracks provide different program components appropriate for the range of drug-using offenders. First time, minor offenders are offered a drug diversion program; less serious offenders are given straight probation; more serious offenders, with a criminal history or other aggravating condition, are placed on probation, go to jail and then into the drug court program only upon completion of his or her jail term. Serious offenders are sent directly to prison. (See Appendix A for a more detailed description)

[27] Such a **drug court system** deals with all drug-using offenders, tailoring the level of intervention and resource commitment to the needs of the offender but more importantly, to the needs of the community. First time offenders may need little more than a drug-testing and education regimen, but those with a long-term drug history may require significant residential treatment in addition to a term of incarceration. Every decision, from the determination of the drug testing, supervision and treatment conditions of bail or own recognizance release, to the sentencing of the serious offender to prison, would be the responsibility of the drug court team. The team consists of well-trained, dedicated and efficient practitioners, including judges (more than one where participant numbers dictate it), district attorneys, public defenders, treatment and rehabilitation providers, probation officers, corrections and law enforcement personnel and community leaders.

CONCLUSION

Drug courts have had a major impact on our communities. However, they have the potential to ac-

comply much more. Drug courts can provide the nucleus for comprehensive, community-wide systems for dealing with all drug-using offenders. Such **drug court systems** would combine early drug testing and screening of arrestees, jail and prison-based treatment for those in need of incarceration and appropriate, judicial monitoring, probation supervision, drug testing, treatment and rehabilitation services for those under court control in the community. In the future, **drug court systems** will provide the foundation for an effective new community-wide, community-involved strategy to reduce drug use and crime in our communities.

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APPENDIX A**THE DENVER, COLORADO DRUG COURT**

[28] The city of Denver has a population of approximately 500,000, with a population of 2.3 million in the Denver metropolitan area, which includes Arapahoe, Jefferson and Douglas counties. Over 7,000 participants have entered the program since it began operations on July 1, 1994. It currently has 1,000 active participants and over 2,000 have graduated from the program. The primary drugs of choice are cocaine, marijuana and heroin.

This drug court handles 75 percent of all drug cases filed in the city and county of Denver. All drug cases, with the exception of illegal aliens, all offenders with companion non-drug felony case arrests, or who have two or more prior felony convictions, are processed through this court. Most are assessed within 24 hours of arrest. The pre-trial case managers monitor offenders on bond, while they await entry into the program.

This is a hybrid model that diverts offenders into one of three tracks, based on the level of supervision needed to control their behaviors. Track one is restricted to offenders with minimal or no prior felony convictions, while offenders with a more lengthy record, but who are appropriate for community supervision, are diverted into track two. Lower risk offenders in track one are supervised by probation, while higher risk offenders in track two can be placed on intensive supervision or community corrections to enhance surveillance of their behaviors. Track three is a fast track for offenders who are not appropriate for tracks one or two.

Initially, offenders in tracks one and two appear before the drug court judge twice a month and submit to random drug testing two to three times a week during

phase one. Offenders in phase one are required to attend treatment and report to either their probation officer or community corrections case manager as required. Contacts with the drug court judge, treatment provider, probation officer or community corrections case manager diminishes as the offender advances through the program.

The majority of treatment is handled by a core of six to eight treatment agencies. However, the court makes referrals to another 20 providers throughout the metropolitan area, to meet the geographical, cultural, gender and ethnic needs of offenders. The probation department and Office of the Drug Court Coordinator have a central role in this drug court, providing supervision, case management, and coordination of treatment and pre-trial services.

Funding comes from the Department of Justice, Office of Justice Programs, Drug Courts Program Office, local and state resources.

THE 13TH JUDICIAL CIRCUIT, HILLSBOROUGH COUNTY, FLORIDA

The 13th Judicial Circuit encompasses Tampa, Hillsborough County, Florida and has a population of approximately 980,000. Approximately 680 participants have entered the original drug court program (the adult diversion program) since it began operation in June of 1992. There have been 265 graduates of the program. Currently, the program has 225 active participants. The primary drugs of choice are cocaine and marijuana.

The adult diversion program targets first time, adult offenders arrested for felony possession of illegal substances. Evaluated in June of 1994, there was an overall 67% successful completion rate. Of the participants who successfully completed the program and had

been out of treatment for 12 months or longer, 81% had not re-offended. To date, only nine participants have been arrested for new offenses while in the program, six of which were for new drug offenses.

An adult post-adjudication program was begun in 1994 and was reviewed at the time of the diversion evaluation. Although it was too early to measure the program's success, 80% of the program participants were still under judicial supervision, 9% had successfully completed the program and 9% had been terminated from the program.

The Tampa court created a formal drug division of the court in 1994. All cases involving drug charges are filed in the drug division, except where a defendant has a companion charge involving a violent offense. Approximately 42% of the felony caseload is filed in that one division. The department of corrections, as well as the drug court judge, supervises offenders who participate in this program.

The administrative office of the courts uses four county-funded positions to provide the court with offender assessments that allow appropriate treatment choices. Participants in this program are non-violent offenders who have pled guilty or *nolo contendere* and have admitted that they have a substance abuse problem.

In addition to the adult programs, on February 7, 1996, the 13th Judicial Circuit began Florida's first juvenile drug court. Since the program's inception, there have been 287 participants. Of that number, 84 have successfully graduated from the program while 70 have been terminated. Currently, there are 129 youths in the program.

HENNEPIN COUNTY, MINNEAPOLIS, MINNESOTA DRUG COURT

Hennepin County has a population of 1.6 million people. Approximately 2,000 participants have entered the drug court program since it began operations on January 6, 1997. There have been 30 graduates of the program. Since the drug court is new, many of those who have entered the program remain as active participants. Currently, the program has 1,800 active participants. The primary drugs of choice are crack cocaine, marijuana, heroin and methamphetamine.

The drug court targets all individuals arrested on felony drug charges and deals with all companion charges that a drug court defendant might have. A primary feature of the drug court is rapid intervention. Individuals often appear before a judge in the drug court on the same day or the day after arrest. Contemporaneous with the immediate appearance is a chemical health assessment and drug test with immediate results and, if appropriate, placement in treatment. Drug court participants often begin treatment the day after their arrest.

The drug court is divided into three tracks. The first two tracks are diversionary. The third is a post-conviction treatment track. Track one is organized through a probation reporting center, is divided into a maximum of three phases and may last between one to two years. It provides drug education with scheduled, but infrequent drug testing and judicial contact. The second track is similar to the first but provides more structure, with frequent drug testing and judicial oversight. Track three, the most comprehensive, is divided into a maximum of five phases and may last between one to two and one-half years. It provides frequent drug testing and judicial contact, as well as job training, drug education, hous-

ing assistance and various other support services. The drug court offers a range of 13 treatment programs (*e.g.*, inpatient or halfway house).

Initially, the drug court program used one judge. However, due to the large volume of cases and concomitant judicial supervision, additional judicial resources have been allocated. Currently, two full-time judges and one part-time referee are assigned to the drug court project. In 1997, the drug court handled 1,782 felony drug cases, representing a 47% increase in the number of these cases handled in 1996. Funding for the drug court program is provided by a combination of county, state, federal and private sources.

APPENDIX B

A NATIONAL COMPREHENSIVE DRUG COURT SYSTEMS ACT

The following model statute describes national legislation that could provide the necessary support for drug court systems across the United States.

I. FUNDS FOR DRUG TESTING ALL ARRESTEES AND SCREENING OF THOSE DETERMINED TO HAVE A DRUG ABUSE PROBLEM

Analysis: Drug testing and immediate drug screening is the necessary foundation for any comprehensive **drug court system**. With this information, the court will be able to make informed bail and own recognizance determinations, with appropriate conditions for continued drug testing, supervision, treatment, sanctions and judicial monitoring. Early determinations as to eligibility for different drug court tracks will accelerate the adjudication process and save court resources.

II. FUNDS FOR DRUG TREATMENT AND REHABILITATION SERVICES IN JAILS AND PRISONS

Analysis: For those receiving significant jail time before their releases into the community, jail provides an important opportunity to begin the drug court process. Drug testing, education and treatment should be provided in a separate, jail-based treatment facility for those with drug abuse problems. Those released from custody would

remain on probation status and be placed under the direct control of the drug court judge and program staff. For those who do poorly in the community phase of the drug court program, because of continued drug usage or failure to comply with other program conditions, jail sanctions offer the opportunity to work with the offender in a controlled atmosphere, guaranteeing his or her undivided attention.

Those sent to prisons are in a significantly different situation from those serving jail sentences. In most states, a state prison sentence translates into a substantial period of incarceration, usually measured in years. While the start-up point, length and mode of treatment may differ depending on the circumstances, what is clear is that it is in the community's interest for the offender to be returned to that community, drug-free and drug-resistant. To accomplish this, substantial funding is needed for proven, prison-based programs.

Upon completion of a prison sentence, the offender (whether on parole or split parole/probation status) would be similarly situated to a probationer released from jail into a drug court program. The offender would be required to complete a significant period under the control of a drug court program or a parole program based on the drug court model.

III. FUNDS FOR EXPANDED SUPERVISION TREATMENT AND REHABILITATION SERVICES IN THE COMMUNITY

Analysis: The expansion of community-based services envisioned in this act, while substantial, should be viewed in perspective. Those being drug-tested, supervised and treated in the community within a comprehensive **drug court system** would otherwise be in one of two

situations. They either would be incarcerated at a far greater cost or would be ignored by the criminal justice system, left alone to continue their drug usage and criminal lifestyle in our communities.

Furthermore, initial screening and continuing evaluations should allow the program to apply the appropriate level of intervention, (ranging upwards from drug testing and education for first-time offenders) minimizing resources expended. Finally, it should be noted that drug courts should not require any additional resource expenditures within the criminal justice system. As a matter of fact, drug court systems should provide substantial savings to the court system, law enforcement community and correctional establishments.

The comprehensive **drug court system** is an efficient, cost-effective approach for dealing with the drug-using offender. As evidenced by the Denver Drug Court Program (*see* Appendix A), cases are disposed of earlier, because of immediate screening and placement in drug court tracks, and there are commensurate reductions in judicial resources, attorneys' time, investigative fees and court expenses. Finally, law enforcement and corrections spend fewer resources engaged in the investigation, arrest, detention and incarceration of frequently drug tested and supervised drug court participants.

Note: Funds (although not necessarily under this section) should be available for law enforcement/community policing linkages with drug court programs. Community police liaisons are proving to be among the most impressive and innovative components of drug court systems. They provide monitoring and support functions (*e.g.*, delivering bench warrants or making house visits) as well as deliver critical information for decision-makers as to appropriate participant placement within a drug court system.

IV. FUNDS PROVIDED UNDER THIS ACT MUST BE DISTRIBUTED THROUGH A COMMUNITY STEERING COMMITTEE REFLECTING THE COMMUNITY-WIDE PARTNERSHIP THAT COMPRISES A DRUG COURT SYSTEM.

Analysis: Ultimately, the comprehensive **drug court system** delineated here will be the responsibility of the greater community. Without community “buy-in,” commitment and involvement in the development and implementation of the system, the program may fail when federal support is withdrawn. By requiring policy and resource decisions to be made by a community-wide steering committee, the act will insure the involvement and commitment of program partners. This will ensure that the **drug court system** will access existing community resources, create new linkages with community organizations and cement itself into the community’s infrastructure.

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