

DRUG COURT REVIEW

Volume IV, Issue 2

NATIONAL DRUG COURT INSTITUTE
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DRUG COURT REVIEW

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NATIONAL DRUG COURT INSTITUTE

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INTRODUCTION

The Editorial Board is pleased to present the second issue of volume four of the *Drug Court Review* (Volume IV, 2). This issue of Volume IV takes a look at three important areas to the drug court field: the crucial role of the judge as a “Key Component” of drug court, the critical elements of methodologically sound impact evaluations of drug courts, and the use of ballot initiatives in pursuit of “legalization” in several states. Each of these areas represents a critical issue to the drug court field, and each issue has an impact on drug courts throughout the United States.

These issues, and the information we are able to uncover about them, are important to the continued development and evolution of the drug court model.

In this issue:

- ◆ Douglas B. Marlowe, J.D., Ph.D., David S. Festinger, Ph.D., and Patricia A. Lee, M.S., discuss the results of the first scientifically rigorous studies to determine whether the judge is, in fact, a “key component” of drug court. The authors’ findings indicate that “high-risk” clients with specific characteristics performed substantially better in drug court when they were required to attend frequent status hearings before the judge. In contrast, “low-risk” offenders who did not have said characteristics performed better under monitoring by their treatment case managers and were not required to attend routine hearings.
- ◆ Charles Michael Johnson and Shana Wallace detail the critical elements necessary for building methodologically sound impact evaluations—evaluations that will aid drug courts in demonstrating their effectiveness. These critical elements include: a comparison group similar to that of the participants; the

collection and analysis of critical data at several points during and post program; and the involvement of an experienced evaluator.

- ◆ Kelly Lieupo and Susan P. Weinstein examine three proponents of legalization as well as the Drug Policy Alliance and the Campaign for New Drug Policies, organizations designed to further the agenda of legalization through the introduction of ballot initiatives and propositions in states across the country. This commentary also delves into initiatives and propositions that have passed in states such as Arizona and California, as well as those that were introduced and were either defeated or withdrawn from the ballot in other states.
- ◆ Finally, this issue of the *Review* concludes with a “Research Update” on two recent drug court research evaluations, compiled from the executive summaries of those evaluations themselves.

THE DRUG COURT REVIEW

Published semi-annually, the *Review's* goal is 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 *Review* builds a bridge between law, science and clinical communities, providing a common tool to all. A headnote and subject indexing system allows access to evaluation outcomes, scientific analysis and research on drug court related areas. Scientific jargon and legalese are interpreted for the practitioner into a common language.

Although the *Review's* emphasis is on scholarship and scientific research, it also provides commentary from experts in the drug court and related fields on important issues to drug court practitioners.

THE NATIONAL DRUG COURT INSTITUTE

The *Drug Court Review* is a project of the National Drug Court Institute. 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, Executive Office of the President, and the Bureau of Justice Assistance, U.S. Department of Justice.

The National Drug Court Institute's mission is to promote education, research and scholarship to the drug court field 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 were 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. The level of experience and expertise necessary to support an institute now exist.

Since its creation in December 1997, NDCI has launched a comprehensive practitioner training series for judges, prosecutors, public defenders, court coordinators, treatment providers, and community supervision officers; developed a research division responsible for developing a scientific research agenda and publication dissemination strategy for the field, as well as developing a series of evaluation workshops; and published a monograph series on relevant issues to drug court institutionalization and expansion.

ACKNOWLEDGEMENTS

I wish to thank all those who have contributed to this issue of the *Drug Court Review*: to the Office of National Drug Control Policy, Executive Office of the President, and the Bureau of Justice Assistance, U.S. Department of Justice, for the leadership, support, and collaboration that those agencies have offered to the National Drug Court Institute; and to Dr. Douglas B. Marlowe, Dr. David S. Festinger, Patricia A. Lee, Charles Michael Johnson, Shana Wallace, Kelly Lieupo, Susan P. Weinstein, Michael Rempel, Dana Fox-Kralstein, Amanda Cissner, Robyn Cohen, Melissa Labriola, Donald Farole, Ann Bader, Michael Magnani, and the Institute of Applied Research for their contributions as authors.

Judge Karen Freeman-Wilson (Ret.)
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**THE JUDGE IS A KEY COMPONENT
OF DRUG COURT**

**By Douglas B. Marlowe, J.D., Ph.D.,
David S. Festinger, Ph.D., and
Patricia A. Lee, M.S.**

**Treatment Research Institute,
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Drug courts are virtually defined by the fact that they are managed by the judge and require clients to attend frequent status hearings in court. The authors conducted the first scientifically rigorous studies to determine whether the judge is, in fact, a “key component” of drug court. The results indicated that “high-risk” clients who (1) had antisocial personality disorder (APD) or (2) had previously failed in drug abuse treatment performed substantially better in drug court when they were required to attend frequent status hearings before the judge. In contrast, “low-risk” offenders who did not have these characteristics performed better when they were monitored by their treatment case managers and were not required to attend routine court hearings. These findings were reproduced in several adult drug courts located in both rural and urban communities and serving both misdemeanor and felony offenders. The implications of these findings for drug court practice and drug policy are discussed, and important directions for future research in drug courts are proposed.

This research was supported by grant #R01-DA-13096 from the National Institute on Drug Abuse with supplemental funding from the Center for Substance Abuse Treatment. Portions of these data were presented at the 52nd Annual Meeting of the American Society of Criminology, San Francisco, CA; 63rd Annual Scientific Meeting of the College on Problems of Drug Dependence, Scottsdale, AZ; and 64th Annual Scientific Meeting of the College on Problems of Drug Dependence, Quebec City, Canada.

We gratefully acknowledge the on-going collaboration of the New Castle County Court of Common Pleas, Kent County Superior Court, Sussex County Superior Court, Delaware State Attorney General's Office, Delaware Public Defender's Office, Delaware Association of Criminal Defense Lawyers, Delaware State Division of Substance Abuse and Mental Health, Treatment Access Center, Brandywine Counseling, Inc., Kent County Counseling, Sussex County Counseling, and Thresholds, Inc. We also thank Carol Foltz, Ph.D. and Karen Dugosh, Ph.D. for their assistance with the statistical analyses; Kathie Benassuti, MCAT, Rhonda Graybeal, J.D., and Meghan Hall for their assistance with project management; and Michelle Drummond and Jessica DeFelice for their assistance with data collection.

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ARTICLE SUMMARIES

**JUDGE'S ROLE IN
DRUG COURT**

[1] This research was undertaken to test whether the judge is an indispensable element to successful drug court outcomes.

RESEARCH DESIGN

[2] Drug court participants were randomly assigned to levels of jurisdictional review ranging from bi-weekly to as-needed, and progress was closely monitored to insure ethical standards.

STUDY MEASURES

[3] Participants completed baseline measures, such as the ASI; drug treatment measures, such as urinalysis, and follow-up measures, such as the ASI.

STUDY SITES

[4] The study sites were all in Delaware and initiated with a misdemeanor population and progressed to a felony population.

**ORIGINAL STUDY
FINDINGS**

[5] Lower risk offenders performed better with less intensive judicial supervision, while higher risk offenders performed better with more intensive supervision.

**STUDY REPLICATION:
MISDEMEANOR
POPULATION**

[6] Participants with prior drug treatment history performed much better when assigned to bi-weekly hearings rather than as-needed.

**STUDY REPLICATION:
FELONY POPULATION**

[7] Findings with felony clients were consistent with misdemeanor clients, with some caveats.

**JUDGE IS KEY TO
DRUG COURT**

[8] More frequent hearings lead to greater success in high risk offender populations.

THE JUDGE IS A KEY COMPONENT OF DRUG COURT

Judicial status hearings are one of *the* defining components of drug court that clearly differentiates drug court from other interventions for drug-involved offenders (e.g., Marlowe, 2002; Marlowe, in press). Programs such as Treatment Accountability for Safer Communities (TASC) or intensive supervised probation (ISP), for example, may provide drug abuse treatment, case management, urinalyses, and sanctions and rewards; however, they are not judicially managed interventions and they do not involve frequent court appearances. It is surprising, therefore, that little research has focused on the role of the judge in drug court. Although it is true that drug court clients commonly credit their success in the program to their interactions with the judge (e.g., Cooper, 1997; Goldkamp et al., 2002; Harrell & Smith, 1997; Satel, 1998), until very recently there was *no* experimental evidence to indicate whether the judge is, in fact, necessary or helpful to drug court outcomes.

[1] In 1999, with funding from the National Institute on Drug Abuse (NIDA) and the Center for Substance Abuse Treatment (CSAT), the authors began a systematic program of research to determine whether judicial status hearings are an essential ingredient of drug court. More importantly, the authors were interested in identifying those types of clients who are most likely to benefit from on-going contact with the judge. According to the criminal justice theories of “Responsivity” and the “Risk Principle,” intensive interventions such as drug court are believed to be best suited for “high-risk” offenders who have more severe criminal propensities and drug-use histories, but may be ineffective or contraindicated for “low-risk” offenders (Andrews & Bonta, 1998; Gendreau, 1996; Hollin, 1999). The rationale for this is that low-risk offenders are less likely to be on a fixed antisocial trajectory and are more likely to “adjust course”

readily following a run-in with the law; therefore, intensive treatment and monitoring may offer little incremental benefit for these individuals at a substantial cost. High-risk offenders, on the other hand, are more likely to require intensive structure and monitoring to alter their entrenched negative behavioral patterns. Based upon a review of the literature concerning the greatest risk factors for failure in rehabilitative programs for offenders (e.g., Gendreau et al., 1996; Peters et al., 1999), it was hypothesized that judicial status hearings in drug court would have the greatest effects for subjects who are relatively younger, have an earlier age of onset of crime or drug use, have more severe drug problems, have antisocial personality disorder (APD), or have previously failed in drug treatment or a criminal diversion program.

IMPLICATIONS FOR PRACTICE

Judicial status hearings are among the most costly and time-consuming elements of drug court (e.g., Cooper, 1997; Finigan, 1999) and some critics have argued that they divert scarce resources from the provision of “real” substance abuse treatment (e.g., Anderson, 2001; Hoffman, 2002). Judges and bailiffs cost money, which may then not be available to pay counselors’ salaries. Moreover, the time it takes clinicians to prepare monthly progress reports for the judge and to appear at court hearings is time taken away from the provision of formal counseling. Finally, some commentators have argued that the intrusion of the judge into the treatment process could be disruptive or even harmful. Clients may be hesitant, for example, to confide clinically important information to their counselors for fear that the information would be disclosed to the judge and used against them (e.g., Schottenfeld, 1989).

Proponents of drug court take the contrary position that drug-abusing offenders often fail to meet their obligations and may pose a continuing threat to public safety

if they are not closely monitored and do not face immediate and consistent consequences for their noncompliance in treatment (e.g., Hora et al., 1999; Meyer & Ritter, 2002). This may be *as* therapeutic or *more* therapeutic than “coddling” these individuals in treatment because it instills a sense of accountability and applies basic principles of behavior modification in the most effective manner (Satel, 1999). The fact is that, in our society, only judges have the authority to administer significant sanctions and rewards to offenders with consistency and certainty (Harrell & Roman, 2001; Marlowe & Kirby, 1999). Clinicians and probation or parole officers rarely have the power or inclination to do so (e.g., Goldkamp, 2000; Taxman 1999).

Extreme positions are rarely borne out by research, and neither of these positions can account for the fact that high-risk offenders generally respond better to intensive criminal justice interventions whereas low-risk offenders generally respond equivalently to various levels of supervision. It is most likely that *both* of these positions are partially correct but that they are referring to *different clients*. Some offenders might be expected to perform well in drug abuse treatment if they are left alone to develop a therapeutic alliance with their counselor and to focus on their recovery. Others, however, are likely to require consistent and intensive judicial supervision in order to succeed. If one could identify those client characteristics that reliably predict success with more frequent judicial contacts, this could enhance client outcomes in drug court, target program costs most efficiently, reduce unwarranted intrusions of criminal justice authorities into treatment, and reduce public safety risks from the most incorrigible types of drug offenders.

IMPLICATIONS FOR POLICY

Research of this kind is further needed to inform policymakers, funding sources, and the public about the efficacy of drug courts. Although substantial evidence

suggests that drug courts can increase treatment retention and improve outcomes for drug offenders (Belenko, 1998; Belenko, 1999; Belenko, 2001; Gydish et al., 2001), the U.S. General Accounting Office (GAO, 2002) has rightly criticized the majority of drug court evaluations for using weak research designs, employing biased comparison samples, and failing to follow participants for an acceptable period of time following their graduation or termination from the program. Unfortunately, it is very difficult to conduct the type of randomized studies with no-treatment control conditions that are necessary to scientifically prove the efficacy of an intervention (Graebisch, 2000). An alternative approach, however, to assessing the efficacy of drug court is to evaluate the effects of manipulating its *core ingredients*. If it were demonstrated that judicial status hearings have a significant bearing on drug court outcomes – even if only for certain types of offenders – this would establish that drug courts have a unique mechanism of action. This would provide scientific support for the utility of drug courts and perhaps the only practicably obtainable evidence that the GAO and other stakeholders would be willing to accept.

Importantly, a major policy movement is afoot in this country to *dispense* with judicial monitoring of drug offenders. Proposition 200 in Arizona and Proposition 36 in California, for instance, provide for the statewide diversion of nonviolent drug-possession offenders to probation and community-based drug treatment. There are no provisions in these statutes for judicial status hearings and if an offender violates a drug-related condition of probation or is charged with a new drug-possession offense, the statutes essentially disenable judges from revoking probation or applying meaningful sanctions. Unless the state can make the difficult showing that the offender is a danger to public safety or is unamenable to drug treatment, the offender is usually entitled to a second, and then a third, opportunity at probation, albeit possibly with enhanced treatment conditions.

A comparable ballot initiative to Propositions 200 and 36 was recently passed in the District of Columbia, and the Hawaii state legislature recently enacted a similar law. Equivalent referenda were withdrawn from the 2002 elections in Florida and Michigan on technical, procedural grounds and are likely to be placed on the ballot again for the next elections. Unfortunately, in the absence of reliable data to guide policy decisions about judicial monitoring of drug offenders, future initiatives will continue to be subjected to uninformed popular vote (Marlowe, Elwork et al., in press). Empirically identifying which drug offenders require intensive judicial supervision would provide a more rational basis for assigning drug offenders either to the type of low-intensity interventions exemplified in Propositions 200 and 36 or to the higher-intensity intervention exemplified in drug court.

METHODS

Research Design

[2] The basic research design used in all of these studies was to randomly assign consenting drug court clients either to (1) attend judicial status hearings on a bi-weekly basis throughout their enrollment in drug court (“bi-weekly” condition) or (2) be monitored by their treatment case managers who petitioned the court for a status hearing in response to infractions (“as-needed” condition). These conditions reflect the extremes of contemporary drug court practice. The highest “dosage” of judicial status hearings generally used by drug courts is bi-weekly whereas the smallest “dosage” is on an as-needed basis, whenever there is a problem or need identified by the judge or by treatment personnel (NADCP, 1997). Apart from the schedule of status hearings, all participants were eligible for the same drug abuse treatment, case management, urinalyses, and sanctions and rewards, and all had the same opportunity to have their

criminal charges dropped contingent upon successful graduation from the program.

This is the strongest research design that could have been used for these studies. If, instead, drug court clients were simply followed naturally in the program and outcomes were compared between clients who saw the judge more often vs. less often, this would *not* have permitted any inference about the effects of judicial status hearings. It would be possible, for example, that the judge might have required more status hearings for those subjects who were performing poorly in the program, or might have reduced the required number of status hearings as a reward for those who were progressing favorably. This could lead to the paradoxical and wrong conclusion that status hearings bring about worse outcomes. The *only* way one could be confident in the true effects of judicial status hearings was to randomly assign participants to different schedules of hearings.

Human Subjects Protections and Ethical Safeguards

Needless to say, it was no small task to convince judges, prosecutors, and defense lawyers to vary the level of supervision of drug offenders on a random basis. The defense attorneys were understandably concerned that enhanced monitoring of their clients could lead to a greater detection of infractions and to harsher discipline, including termination from the program, conviction, or incarceration. The judges and prosecutors, on the other hand, were reluctant to permit some drug offenders to be relatively unsupervised, which could pose a threat to public safety. These concerns required a number of safeguards to be developed for the study.

The Institutional Review Boards (IRBs) of both the Treatment Research Institute and the Delaware State Department of Health and Social Services continuously monitored the studies for safety and ethical practices. In

addition, Single Project Assurances (SPAs) were obtained for all of the performance sites involved with the study. The SPAs provided assurances to the federal Office for Human Research Protections that all personnel connected with the study, regardless of their professional identity or employer, were made aware of and were bound by relevant ethical standards in the conduct of the research (45 CFR § 46). Finally, National Institutes of Health (NIH) Confidentiality Certificates were obtained, which shielded the research data from a court order or subpoena (42 CFR Part 2a; 42 U.S.C. § 2a(6)).

Monthly Steering Committee Meetings were established for the study that were regularly attended by the drug court judges, clerks of the court, and representatives of the attorney general, public defender, criminal defense bar, treatment programs, and the Delaware State Division of Substance Abuse and Mental Health. In these meetings, the study procedures were reviewed and any negative reactions that may have been experienced by research participants or by program staff were corrected. The presence of defense attorneys and clinicians ensured that the subjects' legal rights and treatment needs were continually addressed.

The drug court program staff understood that the research team could not report the results of preliminary data analyses to them during the course of the study because it might alter their behavior and confound the study. It was agreed, however, that the research team would regularly monitor the data and would inform the Steering Committee if participants in either one of the research conditions were performing unusually poorly relative to the other research condition or to non-research participants. The Steering Committee would then have the discretion to decide whether to continue with the study or to alter the research design.

Baseline Measures

[3] Participants received \$20 in the form of a check for completing a baseline research battery that took approximately 75 minutes. This battery included the Addiction Severity Index (ASI; McLellan, Kushner et al., 1992) that measures current (past 30 days) and lifetime drug problems, alcohol problems, legal problems, medical problems, family and social problems, employment problems, and psychiatric problems. “Composite scores” and “clinical factor scores” are calculated from the ASI, which are global indicators of problem-severity in each area. The composite scores are based exclusively on events occurring during the past 30 days, while the clinical factor scores are based on both 30-day and lifetime events. In addition, participants completed an Antisocial Personality Disorder (APD) Interview. This is a 30-item, true/false questionnaire that assessed whether each participant met official DSM-IV diagnostic criteria for APD.

During-Treatment Measures

Measures of during-treatment performance included participants’ attendance at scheduled counseling sessions, weekly urinalysis results, self-reported substance use and criminal activity, and graduation rates. The urine samples were collected on a random, weekly basis in the presence of a same-gender treatment staff person. The urinalyses were performed by the Medical Examiner’s Office or an independent laboratory using an Enzyme Multiple Immunoassay Test (EMIT) with Gas Chromatography Mass Spectrometry (GCMS) for confirmation of positive results on a five-panel screen for cannabis, opiates, amphetamines, cocaine, and PCP plus any additional substances specifically believed to be used by a client.

Participants also completed the Recent Treatment Survey (RTS) on a monthly basis during the first three

months of drug court. The RTS is an abbreviated version of the Treatment Services Review (TSR; McLellan, Alterman, et al., 1992) that assesses services received by participants in the same domains covered by the ASI. It also assesses participants' clinical status during treatment; for example, it inquires about the number of days each month that the participant used illicit drugs, used alcohol to intoxication, or engaged in illegal activity. Participants received a \$10 check for completing each of the three RTS assessments.

Follow-up Measures

A follow-up version of the ASI and a urine specimen were collected from participants at six months and 12 months post-admission to drug court, and the authors are also in the process of monitoring state criminal justice records for 24 months post-admission to assess rates of re-arrests, convictions, and incarcerations. The follow-up urinalyses were performed using a hand-held device, the Roche Test-Cup 5, for cannabis, opiates, amphetamines, cocaine and PCP, plus "QuickStiks" for benzodiazepines and barbiturates on a random "spot-check" basis to detect emerging drug-use trends in the population. Participants received a \$30 check for completing each of the six-month and 12-month assessments.

Study Sites

[4] The first study was conducted in the urban city of Wilmington, Delaware. Because the study involved manipulating a core component of drug court and because questions remained about the feasibility and safety of the design, the research was initiated with a less severe misdemeanor population. Eligible charges for this misdemeanor drug court included possession or consumption of cannabis, possession of drug paraphernalia, and possession of hypodermic syringes. The drug court program was scheduled to be at least 14 weeks in length although most

clients required five to six months to satisfy the conditions for graduation. In order to graduate, a client must have, at a minimum, completed a standard regimen of eight weekly drug-education groups, provided 14 drug-free urine specimens, and paid a \$200 drug court fee.

Because the first study was implemented safely and effectively, the identical research design was extended to four new adult drug courts serving both misdemeanor and felony offenders in the state capital of Dover, Delaware and the rural farming community of Georgetown, Delaware. The misdemeanor programs in these jurisdictions were structured very similarly to the misdemeanor program in Wilmington and had comparable graduation criteria. The felony programs were scheduled to be a minimum of six months in length and most clients required nearer to 12 months to graduate. The minimum criteria for graduation from the felony programs included attending eight weekly psycho-educational group counseling sessions, providing 16 consecutive clean urine specimens, providing evidence of regular attendance at NA or AA groups, and payment of a \$200 drug court fee.

FINDINGS

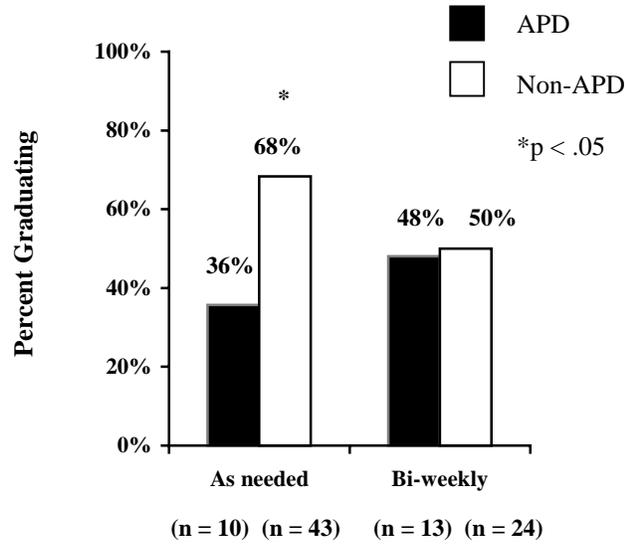
Original Study in Wilmington

[5] The results of the first study are detailed in two recent publications (Festinger et al., 2002; Marlowe, Festinger, Lee, et al., 2003) and the salient findings are briefly reviewed here. Contrary to the hypotheses, there were *no* main effects of status hearings on participants' counseling attendance, urinalysis results, self-reported drug use, self-reported alcohol intoxication, or self-reported criminal activity during the scheduled 14-week course of the drug court program (Marlowe, Festinger, Lee, et al., 2003). Moreover, there was *no* difference in graduation rates from the program (Festinger et al., 2002) or in urinalysis results, self-reported drug problems, self-reported alcohol problems,

or self-reported criminal activity at six months or 12 months post-admission (Marlowe et al., 2002).

As predicted, however, there were significant interaction effects depending upon participants' risk level. Participants who (1) met DSM-IV criteria for APD or (2) had a prior history of drug abuse treatment achieved more drug abstinence and/or were more likely to graduate successfully from the program when they were assigned to bi-weekly hearings, whereas participants without these risk factors performed more favorably when assigned to as-needed hearings (Festinger et al., 2002). Figure 1 illustrates the interaction effect for APD on graduation rates. Individuals without a diagnosis of APD were significantly more likely to graduate from the drug court when they were assigned to as-needed hearings (68%) as opposed to bi-weekly hearings (50%) ($p < .05$). Conversely, while not statistically significant, relatively more individuals who met APD criteria graduated when they were assigned to bi-weekly hearings (48%) as opposed to as-needed hearings (36%) ($p = .25$).

Figure 1. Interaction of antisocial personality disorder (APD) and frequency of judicial status hearings on graduation rates from misdemeanor drug court. Reprinted with permission from D. S. Festinger, D.B. Marlowe, P.A. Lee, K.C. Kirby, G. Bovasso, & A.T. McLellan (2002). Status hearings in drug court: When more is less and less is more. *Drug and Alcohol Dependence*, 68, 151-157. Copyright 2002 by D.S. Festinger, D.B. Marlowe, P.A. Lee, K.C. Kirby, G. Bovasso, A.T. McLellan, and Elsevier Press. Reprinted with permission from Elsevier.

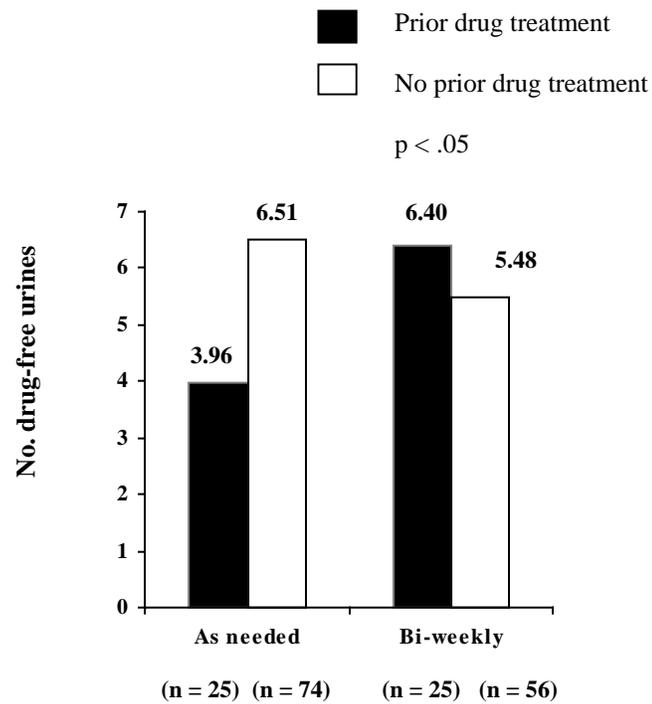


Although it is not depicted here, a comparable interaction effect was also found for APD diagnosis and urinalysis results. Participants with APD provided more drug-free urine samples during the first 14 weeks of drug court when assigned to bi-weekly hearings (mean ± SD = 6.37 ± 5.67) as opposed to as-needed hearings (4.33 ± 4.95); conversely, non-APD individuals provided more drug-free urines when assigned to as-needed hearings (6.54 ± 4.92) as opposed to bi-weekly hearings (5.31 ± 5.20) (p < .05).

Figure 2 depicts the interaction effect for prior drug treatment history and urinalysis results. Participants with a prior drug treatment history provided more drug-free urine samples during the first 14 weeks of drug court when they were assigned to bi-weekly status hearings (6.40 ± 5.45) as opposed to as-needed hearings (3.96 ± 4.46); conversely, individuals without a prior history of drug treatment provided more drug-free urines when assigned to as-needed hearings

(6.51 ± 5.04) as opposed to bi-weekly hearings (5.48 ± 5.35) ($p < .05$).

Figure 2. Interaction of prior drug treatment history and frequency of judicial status hearings on urinalysis results during the first 14 weeks of misdemeanor drug court. Reprinted with permission from D.S. Festinger, D.B. Marlowe, P.A. Lee, K.C. Kirby, G. Bovasso, & A.T. McLellan (2002). Status hearings in drug court: When more is less and less is more. *Drug and Alcohol Dependence*, 68, 151-157. Copyright 2002 by D.S. Festinger, D.B. Marlowe, P.A. Lee, K.C. Kirby, G. Bovasso, A.T. McLellan, and Elsevier Press. Reprinted with permission from Elsevier.



It is, of course, possible that participants' prior drug treatment histories might have simply reflected the severity of their drug abuse problems. That is, individuals with more serious or longer-term drug problems may have been more likely to have been referred or mandated into treatment. In fact, individuals with a prior drug treatment history did have significantly higher baseline ASI drug clinical factor scores ($p < .05$), higher baseline ASI drug composite scores ($p = .07$), and more lifetime years of drug use ($p < .05$) than those without such a history. While this confirms that subjects with prior drug treatment histories did have more severe drug problems, it is important to note that these indices of drug severity did *not* interact with group assignment to predict any dependent measure of outcome. In addition, there was no relationship between APD diagnosis and previous drug treatment.

The results of this first study provided support for the Risk Principle in a drug court context. High risk offenders performed more favorably when they were provided with more intensive judicial supervision, and low risk offenders performed more favorably when they were provided with less intensive judicial supervision. The differential effects for the high-risk vs. low-risk offenders apparently "canceled each other out" in the main analyses for the sample as a whole, and would have been missed entirely if the analyses had not specifically tested for interaction effects.

Importantly, however, because this study was conducted in one jurisdiction with one drug court program and one judge, questions remained about the generalizability of the findings. It was conceivable, for example, that this particular drug court judge might have been unusually adept at handling more serious antisocial offenders. If so, the results might not be applicable to other drug courts. Therefore, the study was replicated in four new drug courts in rural and semi-urban communities.

**Replication Study in Dover and Georgetown:
Misdemeanor Clients**

[6] The results of the replication study with misdemeanor clients are detailed in a recent publication (Marlowe, Festinger & Lee, in press) and the salient findings are briefly reviewed here. As was previously found in Wilmington, there were *no* differences between the bi-weekly and as-needed participants on counseling sessions attended, urinalysis results, self-reported drug use, self-reported alcohol intoxication, or self-reported criminal activity during the first 14 weeks of the program, or in graduation rates from the program.

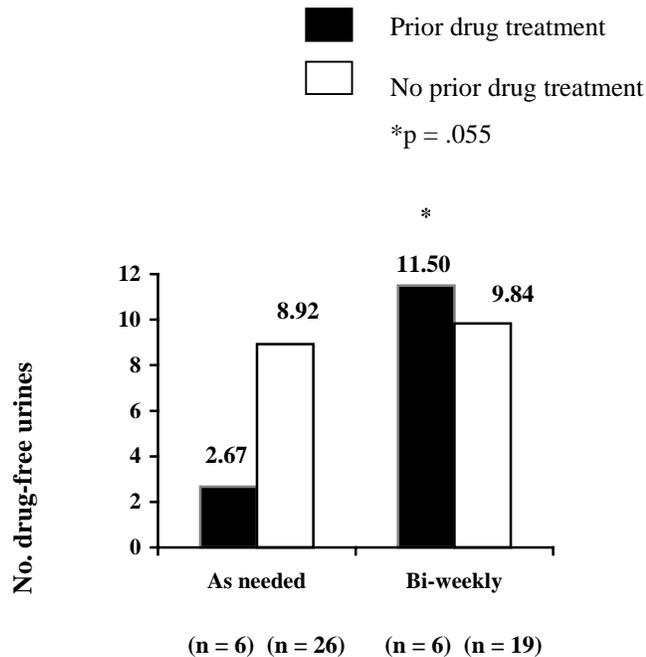
Importantly, the interaction effect was replicated from the previous study concerning participants' prior history of drug abuse treatment. As depicted in Figure 3, participants with a prior drug treatment history provided substantially more drug-free urine samples during the first 14 weeks of drug court when they were assigned to bi-weekly status hearings (11.50 ± 4.81) as opposed to as-needed hearings (2.67 ± 3.61) and this difference was marginally significant after statistically controlling for current criminal charges ($p = .055$).

In addition, there were substantial differences in graduation rates and termination rates for participants with prior drug treatment histories. Over 80 percent of participants with a prior drug treatment history graduated from the program when they were assigned to bi-weekly hearings, compared to less than 20 percent of those assigned to as-needed hearings ($p = .05$).

Because of the very large magnitude of these effects, statistical significance was reached after recruiting only a small number of participants with prior drug treatment histories (as-needed = 6, bi-weekly = 6). Such small numbers raise serious concerns about whether this study sample was

truly representative of the drug court population. It is possible that there might have been something unusual about these 12 individuals that was responsible for the differences that were detected. From a *scientific* standpoint, it would have been advisable to continue enrolling more drug court clients into the study and to check to be certain that the results remained the same over time with more subjects.

Figure 3. Replication study: Interaction of prior drug treatment history and frequency of judicial status hearings on urinalysis results during the first 14 weeks of misdemeanor drug court. Reprinted with permission from D.B. Marlowe, D.S. Festinger, & P.A. Lee (forthcoming 2003). The role of judicial status hearings in drug court: A controlled replication. *Offender Substance Abuse Report*, Volume 3, No. 3. Copyright 2003 by D.B. Marlowe, D.S. Festinger, P.A. Lee, and Civic Research Institute, Inc. Reprinted with permission from Civic Research Institute, Inc.



This course of action was not acceptable, however, from an *ethical* or *practical* standpoint. Given the serious legal repercussions to clients of failing in drug court, and the serious public safety concerns of having drug offenders continue to use drugs in the community, it was necessary to report these early findings to the Steering Committees and IRBs overseeing the study and to request their guidance about how to proceed. It was ultimately determined that the “risk/benefit ratio” had shifted for the study, meaning that the foreseeable risks to clients might have been higher than previously believed. This would require alterations to the consent form that would inform all current and future participants about the possible risks of being scheduled for as-needed hearings.

Although the risk appeared at present to be limited to *misdemeanor* participants with *prior drug treatment histories*, it was possible that it might have also extended to *felony* participants and to those with *APD*. Understandably, therefore, the judges and other program personnel were reluctant to continue randomly assigning clients to as-needed hearings. Given that the study had already yielded important and practical scientific information by replicating some of the previous findings from Wilmington, it was felt that the emerging ethical concerns overshadowed the remaining scientific questions. Therefore, recruitment was suspended indefinitely for the study and remedial procedures were instituted to assist the few negatively affected participants. Unfortunately, because it was necessary to stop the study prematurely, there was insufficient statistical power to follow up on other previous findings such as whether there was an interaction effect for misdemeanor participants with APD.

Replication Study in Dover and Georgetown: Felony Clients

[7] The results of the replication study with felony clients have not previously been published. The felony

participants were predominantly young adults (mean \pm SD = 28.99 \pm 8.54 years of age), male (73%), Caucasian (57%) or African American (39%), single (80%), high school educated (11.89 \pm 1.44 years), and employed (75%). Their most serious current criminal charges were possession or consumption of narcotics (61%), distribution or possession with intent to distribute drugs (36%), or possession of drug paraphernalia or hypodermic syringes (4%). Most of these individuals (87%) had been previously arrested, 29 percent had a prior criminal conviction, 21 percent had been previously incarcerated, and 23 percent met DSM-IV criteria for APD. They were represented by public defenders (54%), by private defense counsel (37%), or were pro se (9%).

The participants reported currently abusing cannabis (45%), alcohol (41%), cocaine (25%), opiates (21%), sedatives (11%), or hallucinogens (5%). Roughly one third (32%) had a prior history of drug abuse treatment. Based upon ASI cut-off scores for classifying the treatment needs of offenders (Lee et al., 2001), 35 percent of these participants produced “sub-threshold” drug composite scores similar to a non-substance using population (drug composite score \leq .04), 58 percent produced “moderate” drug composite scores similar to a national sample of substance abuse clients in outpatient treatment ($>$.04 and \leq .24), and 7 percent produced “severe” drug composite scores similar to a national sample of substance abuse clients in residential drug treatment ($>$.24). A check on randomization confirmed that each of these demographic, drug-use, and criminal-history variables was equally distributed in the two study conditions. Equivalent numbers of clients from the two counties were represented in the sample and outcomes did not differ between counties; therefore, the data were not nested by county in the analyses.

Several important cautions must be kept in mind before presenting the outcomes. First, as previously discussed, it was necessary to stop the study prematurely. As

a result, there were an insufficient number of participants to ensure that the study sample was representative of felony drug court clients generally. Second, there were relatively lower consent rates and greater attrition rates from the bi-weekly condition for the felony participants. In the previous studies, over 50 percent of misdemeanor clients consented to participate and less than 10 percent dropped out of the bi-weekly condition because of its onerous time demands (Marlowe, Festinger, Lee, et al., in press). In contrast, only 40 percent of felony clients consented to participate in this study and 28 percent dropped out of the bi-weekly condition. This may have been due to the fact that the felony programs were six to 12 months in length, compared to only four to six months for the misdemeanor programs. Understandably, the felony participants were often unwilling or unable to attend bi-weekly status hearings for such a long time, in part because the hearings interfered with their ability to maintain employment or education. Regardless of the reason, this raises further concerns about whether the sample was fairly representative of felony drug court clients.

With these caveats in mind, the results were consistent with what was found in the studies of misdemeanor participants. The study maintained excellent integrity of the experimental conditions. As can be seen in Table 1, participants in the bi-weekly condition were scheduled to attend significantly more judicial status hearings than participants in the as-needed condition and they actually attended significantly more status hearings ($p < .0001$). There were, however, *no* differences in counseling sessions attended, urinalysis results, self-reported drug use, self-reported alcohol intoxication, or self-reported criminal activity during the first 16 weeks of the program, or in graduation rates.

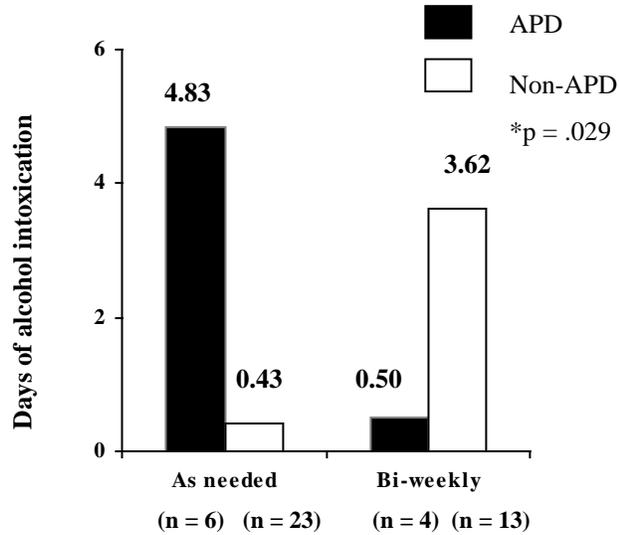
Table 1
Performance During the First 16 Weeks of Felony Drug Court, and Program Completion Status

	As Needed	(n=33)	Bi-weekly	(n=23)
	<u>M (SD)</u>	<u>%</u>	<u>M (SD)</u>	<u>%</u>
Status hearings scheduled	0.97 (1.36)	46%	4.39 (0.99)†	100%†
Status hearings attended	0.73 (1.10)	42%	3.83 (1.27)†	100%†
Counseling sessions attended	8.55 (8.82)	91%	7.09 (3.69)	91%
Total drug-free urines provided	7.85 (4.96)	88%	7.26 (5.45)	78%
Consecutive drug-free urines provided	5.73 (4.71)		4.74 (4.80)	
Self-reported days of illicit drug use	2.76 (9.55)	28%	2.67 (4.35)	39%
Self-reported days of alcohol intoxication	1.34 (4.20)	17%	3.06 (5.43)	33%
Self-reported days of illegal activity	0.00 (0.00)	0%	0.83 (3.54)	6%
Graduated		53%		35%
Terminated or absconded		25%		41%
Still enrolled in program		22%		24%

% = proportion of participants who met any criterion on each variable (e.g., attended *any* status hearings). Alcohol intoxication = felt the effects of alcohol or had 5 drinks in one day. †p < .0001.

Because of the small number of participants, it was not possible to evaluate many of the potential interaction effects. For most of the analyses, there were too few participants who had APD or a prior drug treatment history *and* were assigned to bi-weekly status hearings *and* remained in the study long enough to provide outcome data. Figure 4 depicts one of the few interaction analyses that could be fairly evaluated that produced significant results. Consistent with the previous findings, participants with APD reported engaging in more alcohol intoxication during the first three months of drug court when they were assigned to as-needed hearings (4.83 ± 8.54 days of intoxication) as opposed to bi-weekly hearings (0.50 ± 1.00); conversely, non-APD participants reported more alcohol intoxication when assigned to bi-weekly hearings (3.62 ± 6.19 days) as opposed to as-needed hearings (0.43 ± 1.31) ($p = .029$). Again, because of the small number of participants for this analysis, as well as the large number of statistical comparisons that were performed and the potential unreliability of self-report data, this finding should be viewed as *preliminary* and must be replicated in future studies.

Figure 4. Interaction of antisocial personality disorder (APD) and frequency of judicial status hearings on self-reported alcohol intoxication during the first 3 months of felony drug court.



DISCUSSION

[8] The results of this program of research provide compelling evidence that the judge *is* a key component of drug court -- for a subset of offenders. Similar patterns of results were obtained in randomized, controlled studies conducted in different drug courts located in urban and rural jurisdictions and serving both misdemeanor and felony offenders. In each case, consistent with Responsivity Theory and the Risk Principle, frequent status hearings were associated with improved outcomes for high-risk drug offenders, but were associated with equivalent or worse outcomes for low-risk offenders.

It bears repeating, however, that the small number of participants in the replication studies raise serious questions about whether the samples were fairly representative of drug court clients generally. Because the results were reproduced in sequential experimental studies, and because they are supported by previously validated criminal justice theories

(i.e., Responsivity and the Risk Principle), one is justified in placing greater confidence in the reliability of the findings. Nevertheless, it is essential that other researchers replicate this work in new settings with a larger number of participants.

This research has obvious implications for drug court practice and drug policy. Judicial status hearings are expensive and time consuming and should be targeted to clients who would be expected to benefit most from them. For low risk clients, the data suggest that it might be appropriate and cost-effective to maintain relatively non-porous boundaries between treatment providers and criminal justice personnel, giving these clients an opportunity to focus on their recovery in a safe and discreet clinical setting. Such an approach, however, would appear to be contraindicated for high-risk clients who are likely to “fall through the cracks” or to exploit gaps in communication (Marlowe, in press).

The findings also raise questions about whether high-risk offenders could reasonably be expected to succeed in the type of low-intensity diversionary intervention exemplified in Proposition 36 or Proposition 200. In the absence of ongoing judicial supervision, high-risk offenders in the present studies were substantially more likely to use illicit drugs, to use alcohol to intoxication, and to be terminated from the drug court program. At least in these studies, poorly performing clients could be readily brought in for status hearings. Under Proposition 36 or 200, such individuals would be entitled to several formal violation-of-probation (v.o.p.) hearings and limited responses would be available from the bench. At a minimum, it would appear that some mechanism should be in place in these statutes to permit poorly responding individuals to be readily transferred into a more intensive judicially managed program.

The variables of APD and drug treatment history were the most robust indicators of risk-level in these studies. This is consistent with prior research indicating that APD is

often associated with worse outcomes in drug abuse treatment (e.g., Alterman & Cacciola, 1991; Marlowe et al., 1997; Woody et al., 1985). It is more difficult, however, to interpret the influence of prior drug treatment history. It remains an open question whether this reflects the severity of subjects' drug problems, past negative experiences with drug treatment, or some other unknown influence. Arguably, individuals with a prior drug treatment history that wind up in drug court may have already failed at one or more experiences with standard treatment. Such individuals may require a more intensive and structured intervention in order to show improvement. It is also possible that prior negative experiences with treatment might have made these clients less willing to revisit standard treatment interventions. Enhanced supervision by the judge may have been required to get them to give treatment a "second chance." Further research is needed to get a definitive handle on the nature of this interaction effect.

Regardless, the findings underscore the importance of assessing APD and drug treatment history at the point of clients' entry into drug court. It might be most effective and cost-effective to prospectively assign drug court clients to different schedules of court hearings depending upon their risk level and clinical needs. Moreover, from the standpoint of research or evaluation efforts, it would appear essential to measure these traits as potential predictors of outcomes, and to determine whether they may be significantly interacting with various drug court interventions.

Perhaps the most important finding from these studies is that researchers and drug court professionals can work collaboratively to answer questions of practical relevance to the drug court field using rigorous scientific methods. It is possible to experimentally manipulate the core ingredients of drug court without offending clients' sensibilities or running afoul of their due process rights. With sufficient planning and foresight, researchers and

practitioners can work jointly to anticipate ethical quandaries, to safeguard clients' rights of confidentiality and autonomy, and to identify and correct any negative reactions that might be experienced by clients or staff during the course of the project. Where indicated, the study can be stopped prematurely and remedial measures can be instituted to ameliorate any short-term harm caused by the research interventions.

Without such controlled experimental research, there is *no* way to be confident in the effectiveness of drug court programs or to insure that drug courts aren't causing undue harm to a certain segment of clients. One can always take steps to avoid or reduce anticipated harm from a research study. It is far more difficult to avoid unforeseen harm from an unstudied intervention.

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**CRITICAL ELEMENTS TO CONSIDER FOR
METHODOLOGICALLY SOUND
IMPACT EVALUATIONS OF
DRUG COURT PROGRAMS**

**By Charles Michael Johnson and
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To demonstrate their effectiveness, drug courts must build methodologically sound impact evaluations. To be methodologically sound, impact evaluations should include certain critical elements, including: a comparison group similar to that of the participants; the collection and analysis of critical data at several points during and post program; and the involvement of an experienced evaluator.

The best method for building a similarly situated comparison group is to randomly assign qualified drug court participants to this group. If that is not possible, the individuals in the comparison group should match the participants in the drug court as closely as possible.

Data should be collected from participants at intake, during program participation, upon graduation, and after program completion or termination. Data should be collected from all participants and comparison group members, and should include, among other information, data on relapse and recidivism. Data should be maintained in an automated data management system.

The involvement of a qualified evaluator is critical to the evaluation process, especially during the design phase. Evaluators will assist the team in all aspects of evaluation design, and will ensure that, among other things, the comparison group can withstand scrutiny.

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¹ The ideas in this paper represent the opinions of the authors and not those of the U.S. General Accounting Office.

ARTICLE SUMMARIES

**METHODOLOGICALLY
SOUND IMPACT
EVALUATIONS**

[9] Building a sound evaluation involves a carefully constructed comparison group, data collection, and the input of a qualified evaluator.

COMPARISON GROUP

[10] Drug courts should take great care in constructing a comparison group, focusing on certain baseline characteristics.

**DATA COLLECTION &
ANALYSIS**

[11] Individual data should be collected at several points in time from participants and non-participants and stored in an automated data management system.

EVALUATOR

INVOLVEMENT CRITICAL

[12] It is critical that drug courts identify an evaluator with relevant experience and publications, if possible.

INTRODUCTION

Through support from federal, state, and local governments, drug court programs have grown significantly over the last decade. To sustain this growth, drug courts will find it necessary to demonstrate program impact on the communities they serve. Although many drug court programs have undergone some type of evaluation, many of these evaluations have not included critical elements essential to conducting methodologically sound impact evaluations, including the use of individuals who have formal training or experience in conducting impact evaluations. As drug courts become institutionalized in many areas of the country, drug courts need to adopt best practices in all areas of management, including evaluation. Past evaluations have lacked information, which may be attributed to inadequacies in the (1) collection and utilization of data and (2) design strategies for completing impact evaluations. This article will assist the drug court practitioner in identifying and building methodologically-sound impact evaluations.

WHAT IS A METHODOLOGICALLY SOUND IMPACT EVALUATION?

[9] An impact evaluation is an attempt to answer whether drug court program participants fare better, usually in terms of criminal recidivism and substance abuse relapse, than if they had not gone through a drug court program. This usually involves comparing outcomes for drug program participants to those of similarly situated offenders who are eligible for, but not participating in, a drug court program. Completing a methodologically sound impact evaluation may be complicated and resource-intensive, often more so than implementing a process evaluation or reporting on program outputs or statistics. To maximize the opportunity for

success, data collection and program impact evaluation plans should begin during the design stage of a drug court program.

Three critical elements help ensure that an impact evaluation is methodologically sound:

- Comparing program participants with non-participants and being careful, when constructing a comparison group, to ensure that it is composed of individuals similar to those in the participant group;
- Collecting and analyzing various types of data at several points in time for both participants and the comparison group, and doing so for post-program criminal recidivism and substance abuse relapse as well; and
- Involving a qualified, experienced evaluator, social science analyst, or statistician throughout the evaluation (especially during the design phase).

CRITICAL ELEMENT 1: Comparing Program Participants with Non-participants

[10] It is important to have some means of comparing participants in drug court programs with non-participants. A common method is to use comparison groups. The comparison group consists of eligible offenders who are not program participants. This group should be composed of individuals who, taken together, have similar characteristics to the individuals who go through the drug court program. Ideally, the only difference between drug court participants and comparison group subjects would be participation in the drug court program. This is often difficult to achieve. The optimal way to construct drug court participant and comparison groups is through random assignment. If a program happens to have more volunteers for the drug court than could be accommodated, a program should strongly consider (1) randomly assigning individuals to the program

and (2) using those that do not get randomly assigned as the comparison group. However, even this may be difficult to achieve as selection pressures may come from judges, lawyers, drug court administrators, and the defendants themselves.

If a program cannot randomly assign individuals, then the program should match drug court participants with subjects in a comparison group, focusing on and controlling for certain baseline characteristics, such as demographics, criminal justice and substance abuse history, and drug treatment motivation. When comparing outcomes, more complex statistical analyses will be required to control for the inherent differences between the two groups. Remember that at the end of the evaluation, a program should be able to argue that if program participants fare better, it is because of the drug court program and not because of baseline characteristics or other factors, such as participants, when compared with the comparison group subjects, were already more motivated to change, were older (younger people are more likely to be recidivist or relapse), or had less extensive criminal careers.

CRITICAL ELEMENT 2: Collecting and Analyzing Data at Several Points in Time

[11] A program should be vigilant in collecting various types of data over several points in time, including the collection of post-program recidivism and relapse data. In collecting data, some essentials should be considered:

- Collect data at several points in time for both the participant group and the comparison group. This includes collecting data when program participants enter the program, during treatment, and as they leave. In addition, it is vital to collect post-program recidivism and relapse data to be able to report on the

impact that drug court programs have after participants leave the program. Stakeholders will be interested in knowing if there are lasting effects.

- Collect individual-level data, not aggregates or averages.
- Collect data on all individuals, including those who leave the program without completing it. Even if a participant does not make it through the program, he or she should still be included. Results will be suspect if only graduates are compared with the comparison group.
- Maintain data in an automated data management system.

Data should be collected throughout the program: during the program time period, at the time of program completion or graduation, and for some period after participants graduate from, or leave, the program. The same data elements also should be collected for the comparison group for an equivalent time frame (that is, a logically equivalent time; for example, when a subject leaves jail or probation). Post-program data should be collected for at least six months; preferably, data should be collected for one or two years for both the participants and comparison group. It is important to track individuals and not just aggregate data or averages. Knowing the average relapse rate for a group of individuals at one point in time is not sufficient for ensuring a methodologically sound impact evaluation. Individual-level data are needed to establish that participants and the comparison group remain equivalent for any characteristics associated with outcomes. If a program only has aggregate data and then loses some participants or non-participants during follow-up, the validity of the matched comparison could become questionable because the two groups can no longer be shown to be equivalent.

For both program participants and non-participants, data should be collected for the following characteristics:

- Demographics (age, sex, marital status, race, income, and education);
- Criminal history (past arrests, convictions, and incarcerations);
- Substance abuse history;
- Level of use of controlled or addictive substances at the point of arrest;
- Measure of drug treatment motivation (if possible);
- Level and type of substance abuse treatment;
- Substance abuse relapse while in the program;²
- Rearrest or conviction for a crime while in the program;
- Completion or non-completion of the drug court program;
- Whereabouts and contact information at the time of program completion;
- Substance abuse relapse after program completion; and
- Rearrest or conviction for a crime after program completion.

We recognize that obtaining post-program data for the comparison group can be difficult. Often, data collection strategies must be prearranged with officials from other jurisdictions or other parts of the criminal justice system to ensure the availability of data throughout the evaluation. Finally, to improve the efficiency of data collection and data analysis, as well as the methodological soundness of future

² “While in the program” refers to the drug court program for program participants. However, for comparison group subjects, this may refer to the time during which comparison group subjects are under supervision, in jail, or another comparable point in time.

impact evaluations, a program should use a computerized data management system if at all possible.

Feasibility of Collecting Post-Program Data

Information collected from the U.S. Department of Justice's Drug Courts Program Office (DCPO) grantees continues to support the feasibility of collecting post-program outcome data. An estimated two-thirds of the DCPO-funded drug court programs maintained criminal recidivism data on participants after they left the programs, according to the results of follow-up structured interviews the U.S. General Accounting Office (GAO) conducted during 2001 with a representative sample of DCPO-funded drug court programs.³ Of the remaining one-third that did not maintain post-program recidivism data, about 63 percent indicated that it would be feasible for their program to provide such data.⁴ These estimates suggest that about 86 percent of DCPO-funded drug court programs would be able to provide post-program recidivism data if requested.

Through these follow-up interviews, GAO also found that about one-third of the DCPO-funded drug court programs maintained substance abuse relapse data on participants after they left the program.⁵ Of the estimated two-thirds that did not maintain post-program substance abuse relapse data, about 30 percent indicated that it would be feasible for their program to provide such data. These

³ About 84 percent of these programs collected post-program outcome data for six months or more.

⁴ GAO noted a 95 percent confidence interval, ranging from 45 to 78 percent, for this estimate.

⁵ About 84 percent of these programs collected substance abuse relapse data for six months or more after participants left the program.

estimates suggest that about 50 percent of DCPO-funded drug court programs would be able to provide post-program substance abuse data if requested.

According to survey results from data collected by the Drug Court Clearinghouse and Technical Assistance Project at American University (2000 and 2001), a significant number of the drug court programs were able to provide post-program outcome data. For example, about 47 percent of the DCPO-funded adult drug court programs that responded to the Drug Court Clearinghouse's 2000 operational survey reported maintaining some type of follow-up data on program participants after they left the program.⁶ Of these drug court programs, about 92 percent said that they maintained follow-up data on recidivism and about 45 percent said that they maintained follow-up data on relapse. Of the DCPO-funded adult and juvenile drug court programs that were in operation for at least one year and that responded to the Drug Court Clearinghouse's annual survey published in 2001,⁷ about 56 percent were able to provide follow-up data on program graduates' recidivism and about 55 percent were able to provide follow-up data on program graduates' relapse.

⁶ The Drug Court Clearinghouse's operational survey was administered to various adult drug court program stakeholders, including the judge and court officials, treatment providers, defense counsel, and participants. The response rate for the year 2000 survey was estimated at 88 percent.

⁷ The Drug Court Clearinghouse, under a grant from the U.S. Department of Justice, had been administering an annual data collection survey to collect operational and program participant data from operating adult, juvenile, family, and tribal drug court programs.

CRITICAL ELEMENT 3: Involving a Qualified Evaluator

[12] Because of the complexities involved in developing and executing a methodologically sound impact evaluation, it is important to obtain the services of a qualified, experienced evaluator. This evaluator could help create or review a program's evaluation design, advise on the evaluation effort as problems arise, and facilitate or perform the appropriate impact analyses. It is important to identify an evaluator who has previous experience with program evaluation and preferably one who has published the results of such work in a peer-reviewed journal. The evaluator should have specialized training in implementing studies that withstand some common threats to validity. This will ensure that if the program evaluation yields positive results, they can be attributed to the program itself and not to a myriad of other possible explanations. Competing explanations may occur when there are doubts about whether the comparison group is really equivalent to the participant group. For example, individuals who volunteer to go into a drug court program could be more motivated to change—both lifestyle and substance abuse patterns—than the subjects of the comparison group, who did not volunteer for a drug court program. Another problem may occur when one is able to obtain good follow-up data on drug court graduates, but unable to obtain follow-up data from a portion of the comparison group. This problem may compromise the validity of the study because it is possible that this missing portion of the comparison group differed in some important way from the non-missing portion.

As aspects of a program's evaluation change over time—and they generally do—the evaluator may advise the program on how to avoid any later threats to validity. The evaluator may also advise the program about how to analyze collected data, provide guidance on statistical analyses, or

better employ analyses that are appropriate for the types of data collected. Most evaluations suffer from some data loss and attrition (that is, the loss of some of the evaluation participants). For the comparison group, some sophisticated analyses may be required to control for characteristics that are not identical to those of the program participants. Finally, if random assignment is not possible, rely heavily on an evaluator to decide how to structure the comparison group.

CONCLUSION

Based on GAO's 2002 follow-up report, it would appear that drug court programs are closer than in previous years to having the data to (1) improve the quality of future impact evaluations and (2) better enable drug court programs, evaluators, and researchers to address program impact. However, if meaningful impact evaluations on the growing number of drug court programs are to be done, oversight agencies—such as the U.S. Department of Justice, the U.S. Department of Health and Human Services, and state and local governments—must encourage the continued collection and utilization of data on factors affecting program operations and outcomes. In particular, data should be collected on participants after they leave the program. Further, the effectiveness of programs could be demonstrated more definitively in future impact evaluations by including recidivism and, to the extent feasible, relapse data for both program participants and non-participants.

Without the inclusion of such data from a broad range of drug court programs, it will not be possible for drug court programs, researchers, or evaluators to adequately respond to issues raised on the overall impact of drug court programs.

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NDCI COMMENTARY

**BALLOT INITIATIVES — WOLVES
IN SHEEP'S CLOTHING**

**By Kelly Lieupo and Susan P. Weinstein
National Association of Drug Court Professionals**

This isn't a debate over whether drug abusers should be given jail or treatment. It's a choice between treatment that works and treatment that doesn't.¹

—Martin Sheen

Despite the fact that drug courts have proliferated throughout the country for more than a decade and have successfully enabled substance abusing offenders to reclaim their lives, proponents of legalization believe the use of therapeutic jurisprudence is too harsh and unwarranted. This commentary provides the reader with background information on three such proponents who founded the Drug Policy Alliance and the Campaign For New Drug Policies to further their agenda of legalization through the introduction of initiatives and propositions in multiple states throughout the country. Additionally, this commentary examines not only the propositions and initiatives that have passed in states such as Arizona and California but also those that were introduced and were either defeated or withdrawn from the ballots in a host of other states.

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¹ Sheen, M. (2000, August 7). Prop. 36 would devastate the drug court system. *The Los Angeles Times*. Los Angeles, CA.

ARTICLE SUMMARIES**STATE BALLOT
INITIATIVES THREATEN****DRUG COURT**

[13] Several recent state ballot initiatives offer treatment without judicial oversight or offender accountability, effectively eviscerating drug courts.

**SPECIFIC INITIATIVES
ADDRESSED**

[14] Initiatives have been passed in Arizona, California, and the District of Columbia; and defeated or delayed in Florida, Michigan, Missouri, and Ohio.

INTRODUCTION

Drug courts have proliferated throughout the country since 1989 and have successfully injected compassion into the criminal justice system without compromising its ability to ensure that judicial monitoring and offender accountability are administered effectively. They provide communities across the nation with an exceptional opportunity to reduce drug abuse and its concomitant crime substantially and are committed to increasing public safety, reducing recidivism rates and supporting the fair administration of justice. A defendant is required to submit to random drug testing several times each week, and immediate accountability and a one-on-one relationship with the judge are used to ensure compliance within the drug court system. Through all of these hallmarks of drug courts, substance-abusing defendants are able to become productive members of society, while public safety is increased dramatically.

Drug court programs are holistic in nature, treating not only a defendant's drug-using lifestyle but also offering a host of ancillary services which may include therapy sessions, educational and vocational classes, housing assistance and parenting seminars. The success of drug courts has been well documented; according to a National Institute of Justice study released in 2003, from a nation-wide sample of 1,700 drug court graduates, only 16.4 percent had been rearrested and charged with a felony offense within one year of program graduation (Roman, Townsend, & Bhati, 2003). They are the original form of therapeutic jurisprudence and drug reform policy.

Not only have drug courts succeeded in reducing recidivism rates nationwide, but they also have proven to be more cost-effective than the traditional system because there is an early investment in treatment that obviates the need for repeated investments in incarceration precipitated by

recidivism. A study of six drug courts in Washington State estimated that the average drug court participant produced \$6,779 in benefits that stemmed from the estimated 13 percent reductions in recidivism (Washington State Institute for Public Policy, 2003). In a study of New York State’s drug courts, an estimated \$254 million in incarceration costs were saved by diverting 18,000 non-violent drug offenders into treatment (Rempel, et al., 2003). A study of three adult drug courts in California documented avoided costs averaging \$200,000 annual per court per 100 participants (NPC Research, Inc. & Judicial Council of California, 2002). Finally, a cost benefit analysis of the Multnomah County, OR drug court program indicated that the drug court model saved an average of \$2,328.89 per year for each participant, when compared with “doing business as usual” (Carey & Finigan, 2003).

Since a primary goal of drug court is to treat rather than incarcerate defendants, immediate sanctions (including jail) and incentives are critical to ensuring the success of the drug court participant. In fact, evaluations have shown that the immediacy with which sanctions for non-compliance are employed is a key factor in motivating the participant to become substance abuse and crime free (Satel, 1999).

[13] “We know that drug courts outperform virtually all other strategies that have been attempted for drug-involved offenders” (Marlowe, DeMatteo, & Festinger, 2003). Yet, as with any effective program, there are critics. Consequently, these critics are now seeking to replace drug courts with various state ballot initiatives and propositions across the country. These initiatives, while admirable in their attempts to infuse compassion into the criminal justice system by allowing substance-dependant defendants to seek help for their addictions, mistakenly do so under the guise of therapeutic jurisprudence. The language of the initiatives is couched in artfully dangerous and misleading terms and falls short on accountability and sanctions. “Without

accountability and consequences, drug abusers have little incentive to change their behavior or take treatment seriously” (Sheen, 2000). These are veiled attempts at legalization, and the public should be alerted to the true motives of those who are backing them.

Financed by a trio of wealthy businessmen, these initiatives are extraordinarily misleading as to their scope and application. The trio consists of George Soros, a financier from the east coast, John Sperling, the founder of the University Phoenix and George Lewis, an insurance executive from the mid-west, and they have formed the Drug Policy Alliance and the Campaign for New Drug Policies to further their agenda. They have publicly waged a “war on the war on drugs” (Bank, 2001). They believe that “people should not be punished for what they put in their bodies” and have admitted that these initiatives are an incremental approach to the legalization of drugs (Staff writer, 2002; National Families in Action).

The Bush Administration, through Office of National Drug Control Policy (ONDCP) Director John Walters and then-Drug Enforcement Administration Administrator Asa Hutchinson, has denounced these initiatives and has taken every opportunity to reveal their true aim. Administrator Hutchinson announced that the initiative movement effectively undermines the drug court movement and removes any judicial discretion that would hold offenders accountable for non-compliance with their treatment regimen and that the ultimate goal of the backers is drug legalization (Staff writer, 2002). Similarly, members of the former Clinton Administration also have condemned the initiative movement and have criticized the campaign as a “disingenuous effort to promote drug use.” Former ONDCP Director General Barry McCaffrey (ret.) stated that “whether they want to admit it or not, the wealthy trio are trying to normalize drug use in America” (Bank, 2001).

True therapeutic jurisprudence implies that defendants are monitored by the judicial system and that consequences are invoked for any failure to comply with the regimented treatment programs. This, however, is not the case where the initiatives are concerned. In fact, the initiatives are void of the critical judicial monitoring, graduated sanctions and mandatory drug testing that have proven to be the keys to success in drug court, helping more than 400,000 drug-dependant criminal defendants in the United States regain their lives and become healthy, productive citizens.

Soros, Sperling and Lewis would have the public believe that jails and prisons throughout each state are overflowing with those who are being punished for simply being addicted to drugs. They would also have the public believe that the only viable option to ensure that substance-abusing defendants charged with drug or drug-related crimes receive the treatment they need is to forego prosecution. In fact, their assertion is that a majority of those in prison or jail for drug offenses are non-violent, first-time offenders, convicted of possession of minuscule amounts of illegal substances (See generally, Bank, 2001).

However, what they fail to divulge is that the percentage of those initially incarcerated for drug possession charges is actually very minute, as most are habitual offenders and traffickers who have plea bargained down to a possession charge. In 1999, more than 32,000 suspected drug offenders were referred to U.S. Attorneys’ Offices throughout the country. Of these, 97 percent were investigated for drug trafficking. Clearly, a majority of those in the prison system are not the recreational, non-violent drug users that these legalizers would have the public believe (McDonough, 2002).

Yet, these wealthy backers will continue to further their legalization agenda by introducing ballot initiatives to various states throughout America. One by one, they plan to

spend millions of their own dollars spreading false information to citizens who do not want to punish, but rather treat, drug-dependant, non-violent offenders. The following are some of the success and failures of ballot initiatives in the recent past.

INITIATIVES

Arizona – “Drug Medicalization, Prevention and Control Act of 1996” (Proposition 200), Senate Bill 1373, “Drug Medicalization, Prevention and Control Act of 2002” and House Concurrent Resolution 2013

[14] In 1996, Arizona was the first state to implement a statewide treatment initiative mandating treatment over jail. This initiative, the Drug Medicalization, Prevention and Control Act, also known as Proposition 200, essentially decimated the traditional drug court system by preventing judges from using incarceration as a sanction. Moreover, Proposition 200 requires that any first or second-time, non-violent offender convicted of personal possession or use of a controlled substance be sentenced to a term of probation and participate in a drug treatment or education program as a condition of probation. If the offender violates the terms of his probation and continues to use a controlled substance, the court is permitted to add additional conditions to his probation, including intensified drug treatment, home arrest or any other appropriate condition, with the exception of incarceration.

Despite the fact that the voters passed Proposition 200, the Arizona legislature attempted to circumvent the Proposition by passing Senate Bill 1373, which would have restored the court’s ability to use incarceration as a sanction for first-time drug offenders who have violated the terms of their probation. While the legislature did pass this bill, a citizens’ group, “The People Have Spoken,” ultimately prevented it from being codified into law by placing two

referenda on the 1998 ballot. These measures received a majority of the votes.

While Proposition 200 prevented the courts from incarcerating those convicted of personal possession or use of a controlled substance, it did not bar them from incarcerating those offenders charged with possession of drug paraphernalia. Prosecutors across the state capitalized on this omission and those convicted of possession of drug paraphernalia were incarcerated. As a result, “The People Have Spoken” placed another referendum on the November, 2002 ballot, entitled “An Initiative Measure: Drug Medicalization, Prevention and Control Act of 2002.”

This initiative, among other things, amended Proposition 200 to state that any first or second-time, non-violent offender convicted of personal use or possession of a controlled substance or drug paraphernalia is eligible for probation and cannot be incarcerated. It also provided that a civil penalty, rather than a criminal penalty, would be imposed for possession of up to two ounces of marijuana. In direct opposition to this initiative, the 45th legislature in the State of Arizona added a referendum, House Concurrent Resolution 2013, to the 2002 ballot that would allow the courts to impose a sanction of incarceration for those offenders who refuse to participate in drug treatment programs as a condition of probation. In a victory for drug courts, House Concurrent Resolution 2013 was passed while the Drug Medicalization, Prevention and Control Act of 2002 was rejected.

California – “The Substance Abuse and Crime Prevention Act” (Proposition 36)

In 2000, 61 percent of the voters in California approved Proposition 36, amid heated opposition from many fronts that included treatment, drug court, law enforcement and other allied professionals. Although some drug courts

have been able to co-exist with these courts, a handful have closed and some have been almost completely eviscerated by them. Proposition 36 courts are for first and second-time, non-violent, drug possession offenders, where they will get treatment instead of incarceration. One thing to note is that the term, “first or second-time offenders” refers to convictions for offenses occurring after July 1, 2001, blatantly disregarding a potential host of prior criminal offenses committed prior to that date.

The court cannot impose incarceration as a sanction for non-compliance. Moreover, the Proposition reads that if an offender does not “complete” two courses of treatment and is convicted for a third time, he or she may be subject to an immediate jail sentence. However, what it fails to indicate is that the jail sentence that can be imposed is limited to a mere 30 days. The offenders really do not have to “complete” a course of treatment but rather must participate in a course of treatment and if arrested for yet a third offense, only face a 30-day jail sentence.

Finally, the Proposition fails to establish minimum treatment criteria, guidelines and standards, and the monies for it are not to be used to drug test offenders in the program. Fortunately, those opposed to the Proposition have been successful in securing state funding to drug test Proposition 36 participants.

Early reports of Proposition 36 courts’ effectiveness indicate that the Proposition fails at least one-half of those it purports to help. One survey indicated that 50 percent of drug offenders in Proposition 36 court either never appeared for treatment or did not complete treatment. “They’re back out on the street using drugs again, committing crimes again, being re-arrested and recycled through” the system (Rusche, 2002). For example, the *LA Times* reported that an offender enrolled in a Proposition 36 court in Burbank ran a red light while under the influence of methamphetamines, his drug of

choice, killing a woman and her two-year old child (Carter, 2002).

District of Columbia – “Treatment Instead of Jail For Certain Non-violent Drug Offenders Initiative of 2002” (Initiative 62)

In November of 2002, 78 percent of the citizens in the District of Columbia voted to approve Initiative 62 entitled, “Treatment Instead of Jail For Certain Non-Violent Drug Offenders.” Initiative 62 reads that any defendant charged with possession or use of a controlled substance, or who is on parole or probation for a drug-related offense, shall be afforded the opportunity to opt for substance abuse treatment, which cannot last for a period longer than 18-months, in lieu of jail.

While this Initiative is similar to those listed above in that it delineates that incarceration can never be used as a sanction, it has a marked contrast, as those who are charged with possession or use of a Schedule I narcotic, which includes marijuana and heroin, are not eligible for this program. However, those charged with possession or use of a Schedule II narcotic, which includes cocaine, are eligible for this program.

Defendants opting to receive treatment under Initiative 62 may be subject to random drug testing but are not required to waive any confidentiality rights, and, therefore, the treatment provider cannot inform the court of the test results. However, if the treatment provider finds that the defendant is not complying with the prescribed treatment plan, he or she may bring this to the attention of an ombudsman’s office, which will handle any dispute that the defendant and treatment provider may have. The defendant will only appear in court again if a successful mediation cannot be reached through the ombudsman’s office. At this time, the court is permitted to modify the treatment program,

or expel the defendant from the program, but, again, at no time can incarceration be used as a sanction. Additionally, there are no guidelines to determine what kind of behavior warrants being expelled from the program. Expulsion is ultimately up to the discretion of the judge, who is not involved extensively with each case, as the Initiative only provides that a defendant may be removed if he or she poses a danger to society, has disrupted the program or is not amenable to treatment.

While there is no standard that defines successful completion, Initiative 62 provides that if the defendant successfully completes the treatment program, the charges against him or her will be dropped and his or her record will be expunged.

Again, while there certainly are similarities between Initiative 62 and the other propositions and initiatives, perhaps the most startling difference was brought to light in the court hearing that the District of Columbia brought against the District of Columbia Board of Elections and Ethics. The central issue in this hearing hinged upon whether or not Initiative 62 required the District of Columbia to appropriate funding and whether or not the summary statement which appeared on the ballot misled the voters.

The District of Columbia Board of Elections and Ethics contended that the Initiative does not state that the District is required to allocate any funds to support the implementation of Initiative 62. If an eligible defendant requests treatment but the District does not have the resources to pay for this treatment, then the defendant is simply entitled to forego incarceration without receiving treatment.

The District of Columbia, on the other hand, contended that because the summary statement provided that certain non-violent offenders are entitled to treatment instead of incarceration, that the District is therefore forced to pay for

this treatment. Otherwise, the rights of those non-violent offenders who are eligible for treatment have been violated. Further, the District of Columbia asserted that the summary statement did not state that if the District could not allocate funding toward Initiative 62 that the defendant would simply go free without treatment and therefore misled the voters.

Despite the fact that Initiative 62 was passed by an overwhelming majority, D.C. Superior Court judge, Jeanette Clark ruled in favor of the District of Columbia and rejected the legality of the Initiative.

Florida – “Right to Treatment and Rehabilitation for Nonviolent Drug Offenses”

Voters in the State of Florida narrowly escaped having to vote on the ballot initiative in their state, since there were a host of legal challenges that ultimately prevented it from getting on the ballot. All initiatives in Florida must be presented as constitutional amendments, requiring the Florida Supreme Court to review them before placing them on the ballot. Because of the length of time that it took the supreme court to rule on the matter, ultimately declaring that the initiative was constitutional, the proponents could not collect enough signatures to place the initiative on the state’s ballot. Although the initiative was not on the ballot in 2002, proponents have vowed to be back in that state in 2004.

Modeled after California’s Proposition 36 (see above), the Florida initiative provided that first and second-time, non-violent offenders could opt for treatment instead of incarceration. Similar to California, offenders who had violence in their pasts may have been eligible since the term, “first or second-time offenders” refers to convictions for offenses occurring after the date that the program was to have begun (*i.e.*, July 1, 2003). Additionally, like the California Proposition, the Florida initiative did not establish minimum treatment criteria, guidelines and standards, and the monies

for it were not to be used to drug test offenders in the program.

Michigan – “Drug Treatment Ballot Initiative”

The initiative that proponents hoped to have slated for the State of Michigan’s ballot in 2002, also modeled after California’s Proposition 36, did not make it on the ballot. Although the sponsors of the initiative secured the required number of signatures, the Michigan Court of Appeals ruled that it contained a “technical error,” making it ineligible for inclusion on the 2002 ballot. Opponents of the initiative, many of whom were drug court practitioners, pursued this technical violation based on the fact that the law requires petitions for constitutional amendments to list the section of the constitution that will be altered by the proposed amendments. The proponents of the initiative had failed to follow this procedure. However, much like the case in Florida, the proponents have vowed to return to the state in the near future.

The initiative is virtually identical to California’s Proposition 36 (see above) except that the offender would, within a judge’s discretion, be eligible to face a jail term of no more than 90 days, as opposed to 30 days in California, for a third offense while in treatment. Furthermore, Michigan’s initiative would have eviscerated most of the state’s mandatory minimum sentences for drug offenders and would have set only a 20-year minimum for major traffickers.

Missouri – “Drug Addiction Treatment Initiative”

Voters in the state of Missouri were never faced with the Missouri Drug Addiction Treatment Initiative, as it was withdrawn from the November, 2002 ballot. The underlying premise for this initiative was similar to that of the other initiatives and propositions in that it stated that any first and second-time non-violent offender charged with illegal

possession or use of a controlled substance could request treatment rather than incarceration. In the event that the defendant did not successfully complete the treatment program, he or she would have ultimately faced a maximum of 90 days of incarceration, regardless of the original charges. It also specifically provided that a person’s parole could not be revoked for illegal possession of a narcotic, unless the parolee plead guilty to, or was convicted of, a violent felony, had committed more than one possession offense *and* concurrently committed a misdemeanor that was not related to drug use.

Despite its apparent similarities, there is also a stark contrast between this and other initiatives that appeared on the 2002 ballots. The Missouri Drug Addiction Treatment Initiative is the only one of its kind that would have permitted a judge to use a maximum of two days of incarceration as a sanction for the third instance of relapse.

Due to the fact that proponents of this initiative did not obtain enough signatures, the initiative was not certified and they were forced to withdraw it from the 2002 ballot. In spite of this defeat, however, proponents plan to reintroduce the referendum in the next general election.

Ohio – “The Ohio Drug Treatment Initiative – Issue 1”

The proposed constitutional amendment in Ohio, Issue 1, was rejected by 70 percent of the voters on the November, 2002 ballot, due in large part to the efforts of the Ohioans Against Unsafe Drug Laws, a coalition of more than 18 organizations that banded together to combat this initiative. Had this amendment passed, it would have allocated \$38 million every year, for six years, regardless of the effectiveness of the program. This amendment did not require that any of the funds allocated be used for drug testing and nothing short of another constitutional amendment would allow any changes to be made.

Issue 1, like the other initiatives and propositions, provided that any first or second-time, non-violent offender facing charges of possession or use of an illegal substance would have been eligible for, and could have requested, treatment in lieu of jail. After the judge would have deemed the offender eligible, the offender would have been admitted to a treatment program and subsequently assessed. If the offender failed to adhere to his or her treatment program, the judge would have been permitted to amend the treatment regimen but would have been precluded, by law, from incarcerating the defendant as a sanction for non-compliance, unless the defendant was removed from the treatment program.

Like the other initiatives, there were no standards in place that would have dictated when the defendant could have been removed from the program. If a defendant was terminated from the treatment program, the judge would only have been permitted to sentence him or her to a maximum of 90 days of incarceration, regardless of the original offense. Conversely, if a defendant successfully completed the treatment program – and, again, there was nothing that defined successful completion – his or her record may have been expunged and sealed.

CONCLUSION

Clearly, the initiatives and propositions limit the power and effectiveness of drug courts, which have been proven to be successful in the fight against drug abuse and crime, and the fact that the proponents will not work with drug court professionals in drafting the initiatives, shows their true goal, legalization. Drug courts provide precisely what the propositions fail to deliver – court-supervised treatment with regular drug testing and consequences to those offenders who do not comply with treatment. This is the proper combination to rehabilitate offenders, increase public safety and restore human dignity.

It takes several millions of dollars to hire consultants to collect enough signatures to place an initiative on the ballot and to promote it. Citizens, like those in the drug court movement, without those means have lost their voice, while being forced to cede to those who have the power of the purse.

There are a host of issues that the initiatives fail to address. However, without the means to effectively get the word out to the public, the wealthy backers of the initiatives leave citizens in the various jurisdictions with the distorted impression that nothing, short of passing the proposed initiatives, can be, and is being, done to treat the needs of substance-abusing offenders while reducing the cost to the public and keeping drug offenders out of jail. Rather than dealing with the immediate problem at hand, which is to deal with, and treat, the substance-abusing offender while keeping the community safe, these initiatives are ultimately a disguised attempt to legalize drugs, cost the taxpayers in the respective states more money, ignore public safety issues and provide addicts with yet another excuse to escape facing their addictions.

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RESEARCH UPDATE

**REPORTS ON RECENT
DRUG COURT RESEARCH**

This issue of the Drug Court Review synthesizes reports on two studies in the field of drug court research and evaluation, and has included the Executive Summary of each: The New York State Adult Drug Court Evaluation: Policies, Participants, and Impacts; and A Cost-Benefit Analysis of the St. Louis City Adult Felony Drug Court.

ARTICLE SUMMARIES

**NEW YORK STATE
EVALUATION**

[15] This study is among the first to analyze drug court policies and participant characteristics across eleven drug court sites, including urban, suburban, medium-sized cities, and semi-rural areas. This study is also among the first to demonstrate consistent and meaningful recidivism impacts across a large number of sites.

**SAINT LOUIS COST-
BENEFIT ANALYSIS**

[16] This study found that while the overall initial costs of drug court exceeded those of probation, when compared against the benefits to the community after drug court, a net savings of \$2,615 per graduate was realized in the first 24 months following drug court; similarly, a net savings of \$7,707 per drug court participant was realized over four years following drug court.

**THE NEW YORK STATE ADULT
DRUG COURT EVALUATION:
POLICIES, PARTICIPANTS AND IMPACTS**

*Michael Rempel, Dana Fox-Kralstein, Amanda Cissner,
Robyn Cohen, Melissa Labriola, Donald Farole,
Ann Bader, and Michael Magnani*

Submitted to the New York State Unified Court System and
the U.S. Bureau of Justice Assistance
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EXECUTIVE SUMMARY

By combining drug treatment with ongoing judicial supervision, drug courts seek to break the cycle of addiction, crime, and repeat incarceration. While practice varies widely from state to state (and county to county), the outlines of the drug court model are clear: addicted offenders are linked to treatment; their progress is monitored by a drug court team composed of the judge, attorneys, and program staff; participants engage in direct interaction with the judge, who responds to progress and setbacks with a range of rewards and sanctions; and successful participants generally have the charges against them dismissed or reduced, while those who fail receive jail or prison sentences.

This report evaluates adult drug courts in New York State, one of a handful of states that is engaged in a coordinated effort to institutionalize drug courts statewide. With funding from the Bureau of Justice Assistance of the U.S. Department of Justice, the Center for Court Innovation, in collaboration with the New York State Unified Court System, has spent the past three years documenting the policies, participant characteristics, and performance of participants in eleven of the state's oldest and largest drug courts. Among other analyses, this report evaluates the impact of six drug courts on recidivism and identifies the

participant characteristics and programmatic features that increase the likelihood of successful drug court outcomes.

METHODOLOGY

[15] This report includes an analysis of drug court policies and participant characteristics in eleven drug courts¹. Four are from large urban counties of New York City (Bronx, Brooklyn, Manhattan, and Queens); one is suburban (Suffolk); three are from medium-sized cities (Syracuse, Rochester, and Buffalo); and three are from small city/semi-rural areas (Tonawanda, Lackawanna, and Ithaca).

This study is also among the first to demonstrate consistent and meaningful recidivism impacts across a large number of sites and over a relatively long-term tracking period. At each of six sites, the recidivism analyses compare the reconviction rates of drug court participants with similar defendants *not* entering the drug court. These comparisons include among the longest measurement periods in the research literature – at least three years following the initial arrest (four years in Brooklyn and Rochester); and, in separate analyses, at least one year after program completion or final case disposition (two years in Brooklyn and Rochester).²

¹ Quantitative findings were based on analyses of program participation data provided by the New York State Unified Court System and criminal history and recidivism data provided by the New York State Division of Criminal Justice Services. Drug court policy information was obtained from two surveys administered in April 2001 and July 2002; and from stakeholder interviews and court observations during site visits at nine of the eleven courts.

² The post-program period begins on the graduation date for drug court graduates, the release date from jail or prison for drug court failures, and, for the comparison group on the release date or if there was no sentence of incarceration on the disposition date. Defendants were assumed to serve two-thirds of any jail sentence (a

In developing comparison group criteria, a uniform set of research design principles was implemented. Comparison defendants had to have no contact with the drug court on the instant case, meet the same paper eligibility criteria as drug court participants, and be convicted on the instant case. In four sites (Bronx, Queens, Suffolk, and Syracuse), the comparison group consisted of defendants arrested just prior to the opening of the drug court. In two sites (Brooklyn and Rochester), the comparison group consisted of defendants arrested during a contemporaneous period but who were not referred to the drug court for reasons unrelated to program eligibility or defendant interest in participating.³

For each site, comparison samples were further refined using a *propensity score matching* methodology (e.g., see Rubin 1973; and Rosenbaum and Rubin 1983). Propensity score matching is among the strongest methodological alternatives to random assignment, since the approach ensures that each drug court's final comparison sample closely matches the drug court participant sample across a range of important background characteristics, such as sex, age, race/ethnicity, specific charges and criminal history.

standard “good time” assumption) and the minimum prison sentence if there was a range.

³In the first four years of the Brooklyn program, defendants were not routed to the drug court if arrested in two of five geographic arrest zones in Brooklyn; hence defendants arrested mainly in those zones could comprise the comparison group. In Rochester, in the early years of the program, certain arraignment judges did not refer cases to the drug court; hence defendants arraigned by one of those judges could comprise the comparison group.

IMPACT ON RECIDIVISM

All six drug courts (Bronx, Brooklyn, Queens, Suffolk, Syracuse, and Rochester) produced recidivism reductions compared with conventional case processing. The six courts represent a mix of geographic areas and policies (e.g., regarding eligibility criteria, screening and assessment protocols, graduation requirements, approach to sanctions, and supplemental services). Since the measurement periods tracked defendants at least three years after the initial arrest and at least one year after program completion, the results indicate that positive drug court impacts are durable over time.

The six drug courts generated an average 29% recidivism reduction over the three-year postarrest period and an average 32% reduction over the one-year post-program period. Major findings are as follows:

-Reduced post-arrest recidivism: Drug court participation led to a lower probability of recidivism three years after the initial arrest (significant in five courts and $p < .10$ in the sixth). Depending on the drug court, recidivism reductions ranged from 13% to 47% (average reduction = 29%) relative to the comparison group level.

-Reduced post-program recidivism: Drug court impacts extended beyond the period of program participation. Drug court participation led to a lower probability of recidivism at one year post-program (significant in three courts, $p < .10$ in one court, and suggested by the numbers but not significant in two). Post-program recidivism reductions ranged from 19% to 52% (average reduction = 32%).

-Survival over time: When comparing *in-program* to *post-program* recidivism rates for drug court

participants, recidivism did *not* rise in the post-program period, but rather *declined* in three of the six courts. Further, when comparing participant and comparison group recidivism rates after each additional year following the initial arrest (a “survival analysis”), in only one of the six courts was there clear evidence of *attenuation* of the drug court impact over time. This was contrary to the expectation that the magnitude of the drug court impact would peak immediately following the arrest (when judicial monitoring is most intensive); instead, results in most sites revealed positive *long-term* impacts persisting beyond the period of active judicial supervision.

-Impact of drug court graduation: Drug court graduates were *far* less likely than comparison defendants to recidivate in all six courts; however, drug court failures were as likely, if not more so, as comparison defendants to recidivate in four of the six courts. Translation: the benefits of drug court participation largely accrue to those who successfully graduate.

-Impact of arrest charge: In Rochester, participants arrested on drug charges performed better relative to the comparison group than participants arrested on a select number of non-drug charges. Although the analysis is relatively limited in scope and requires future replication, the findings suggest that drug courts may be more successful in curtailing drug-based criminal behavior (indicated by *drug* charges) than in curtailing criminal behavior driven by other criminal propensities.

-Other predictors of recidivism: Among drug court participants and comparison defendants alike, those with prior misdemeanor convictions and of younger

age were generally more likely than others to recidivate across all courts and analyses.

IMPACT ON CASE PROCESSING AND CASE OUTCOMES

For the same six sites, the impacts of drug courts on criminal case processing and case outcomes were analyzed. Key findings include:

-Initial case processing speed: Drug court cases reach initial disposition more quickly than conventional court cases. Participants in all six drug courts spent significantly *less* time from arrest to initial disposition/program entry than comparison defendants.

-Total Time Pending: When in-program participation time was included in the calculation, processing time for participants was far *longer* than for comparison defendants (due to the length of the drug court program). Hence to achieve positive impacts such as lower recidivism, drug courts require a significant up-front investment of court resources.

-Sentencing: Average sentence length stemming from the initial criminal case is sometimes shorter than in conventional prosecution – and sometimes not. Whereas graduates are never sent to jail or prison, drug court failures receive *longer* incarceration sentences than comparison defendants in five of the six courts. This highlights the importance of drug court graduation in reducing the use of incarceration. When considering initial case outcomes for all participants at once (combining graduates and failures), drug court participants averaged significantly *shorter* jail or prison sentences in three of six courts; but in one court, drug court participants

were sentenced for significantly *longer* on average and in the remaining two courts, there was no significant difference.

PROGRAM RETENTION RATES

Retention is a key measure of program success. A one-year retention rate indicates the percentage of participants who, exactly one year after entering drug court, had either graduated or remained active in the drug court program. Earlier research finds that retention not only indicates success in treatment but also predicts future success in the form of lower *post-program* recidivism and drug use. Drug courts generally produce *higher* retention rates than community-based treatment programs accepting a combination of voluntary and court-mandated treatment participants.⁴ Key findings about program retention and graduation rates across the eleven drug courts studied here include:

-Retention rates: The one-year retention rate exceeds the national standard of 60% for drug courts in eight of eleven courts studied (five New York State courts exceeded 70%).

-Long-term retention/graduation rates: When the retention period is extended to two and three years, more than half of participants in eight of eleven New York State courts are retained – and the rate exceeds

⁴ Belenko (1998) estimates that drug courts nationwide have an average one-year retention rate of 60%, which substantially exceeds retention rates outside of drug courts. *Three-month* retention rates range from just 30% to 60% across a nationwide sample of community-based treatment programs (Condelli and DeLeon 1993) and one-year retention rates range from 10-30% across a sample of therapeutic communities, a common residential treatment modality (Lewis and Ross 1994).

60% in three courts. The three-year retention rate gives a close approximation of each drug court's final graduation rate.

PREDICTORS OF SUCCESS

Across five drug courts (Bronx, Brooklyn, Queens, Suffolk, and Syracuse), several characteristics consistently predicted both drug court graduation and lower recidivism:

-Participant characteristics: Consistent with earlier studies, age predicted success; older defendants were more likely to graduate and less likely to recidivate. A primary drug of heroin made graduation *less* likely (in two of three courts examined for this effect) and prior criminal convictions were near universally predictive of future recidivism. Also, participants entering on *property* charges were somewhat more likely to return to criminal activity than those entering on *drug* charges.

-Immediacy: Immediate engagement in treatment (e.g., avoidance of early warranting) universally and strongly predicted drug court graduation.

-Importance of graduation: Graduation is itself a powerful predictor of avoiding *postprogram* recidivism; those who failed drug court were *far* more likely to recidivate in the post-program period.⁵ Further, contrary to previous research with non-drug court populations, no benefit was found to spending more total *time in treatment* only to fail in the end.

⁵ The impact of graduation status on post-program recidivism was significant in three of four courts tested. In Queens, the fourth court, there was a small sample of drug court failures available for the analysis, leading the effect to be non-significant; but the odds ratio of .311 suggests the possibility of a similarly powerful impact.

Among those who failed, more time in the drug court program (measured in four courts) or more days specifically attending treatment (measured in one court) had no impact on post-program recidivism. These results strongly point to drug court *graduation* as the pivotal indicator of long-term outcomes.

DRUG COURT POLICIES AND PARTICIPANT CHARACTERISTICS

In considering the drug court policies and participant characteristics in eleven courts, the analysis produced four general findings:

-Diversity of approaches: There is no single drug court model. All eleven courts mandate community-based treatment, regular drug testing, case management visits, updates before a dedicated judge, and rewards and sanctions in response to progress or noncompliance. However, policies vary considerably across several domains – legal eligibility criteria, whether a guilty plea is required prior to entry (the pre-plea or post-plea models), approach to treatment and case management, specific sanctioning practices, graduation requirements, legal consequences of graduation (e.g., case dismissal or charge reduction), and legal consequences of failure (e.g., length of resulting jail or prison sentence).

-Drug use patterns: The eleven courts also treat participants with different presenting problems. The median duration of drug use ranges from eight years (Manhattan and Queens) to eighteen (Brooklyn); and while the five most common primary drugs are similar statewide (heroin, crack, cocaine, marijuana, and alcohol), they are used in different proportions in each jurisdiction.

-Socioeconomic disadvantage: In all eleven courts, nearly half of the participants (and a much higher percentage in several) were neither employed nor in school at intake. More than a quarter of participants were currently or formerly homeless in seven courts.

-Female participants: The challenges faced by female drug court participants were particularly acute (including *more* severe drug use, treatment histories, and socioeconomic disadvantage than males), highlighting the need for supplemental services for this population.

TREATMENT AND RECOVERY

Major findings about the treatment and recovery process include:

-Treatment capacity: Despite early questions about whether there is sufficient treatment capacity in New York State to serve the increased demand for treatment generated by drug courts, so far participants have been able to enter treatment rapidly. The median time from drug court intake to treatment placement is less than one month in eight of nine courts examined and less than ten days in three courts.⁶

-Treatment modality: Over half of participants begin in an outpatient modality, in all but two courts.

⁶ Many courts do experience delays placing certain categories of participants: (1) with co-occurring mental health disorders, (2) requiring residential treatment, and (3) experiencing a case processing delay between intake and formalization of drug court participant status. This last finding highlights the need for streamlined referral and intake processes designed to move cases rapidly through the system.

When clinically feasible, most courts prefer to begin participants in *outpatient* treatment and then upgrade to inpatient in response to relapses or other compliance problems. Characteristics generally indicating a higher probability of inpatient care are primary drug of choice (heroin), living situation (homeless), employment status (unemployed) and age (younger defendants).

-Relapse: Relapse and noncompliance are common, even among those who ultimately succeed. In seven of eight courts examined, at least half of all graduates had at least one positive drug test, and many had several positives – usually in the earlier stages of participation. This highlights the value of drug courts according multiple chances to participants experiencing early problems.

-Graduated sanctions: In responding to noncompliance, drug courts apply sanctions, such as writing an essay, observing drug court for several days from the jury box, more frequent court appearances or case management visits, community service, or short jail stays. However, drug courts vary widely in the type and severity of sanctions most frequently used. Across three courts examined in depth (Brooklyn, Queens, and Suffolk), none routinely follow a “graduated sanctions” model, where successive infractions are met with increasingly severe sanctions. Instead, some infractions are *always* met with a similar sanction response. For example, a warrant or new arrest in Brooklyn nearly always incurs a jail sanction. Also, drug court teams frequently make individualized decisions based on what they believe will be most effective with a particular participant rather than adhering to a rigid schedule of graduated sanctions.

-Achievements beyond substance abuse recovery: Beyond substance abuse recovery, drug courts seek to promote further achievements and lifestyle changes in the areas of employment, education, vocational training, housing, and family reunification. Consistent with these goals, across all nine courts examined, graduates were significantly *more* likely to be employed at graduation than intake. Also, graduates in five of the nine courts were significantly more likely to be in school at graduation than intake.

CONCLUSION

This study provides strong evidence that drug courts produce lasting changes in their participants, persisting even after the period of active judicial supervision. In general, the study reveals impacts consistent with those detected in other evaluations that covered shorter timeframes and fewer courts. This study also finds that final program status is a critical predictor of subsequent outcomes. Drug court graduates had far lower recidivism rates than comparable defendants not entering the drug court, while drug court failures had similar or, in some courts, higher recidivism rates than the comparison group. Accordingly, future research should seek to pinpoint which policies and practices can help drug courts produce both more graduates and lower recidivism rates. With drug courts demonstrating considerable diversity in their geography, policies, and practices, the next generation of studies should seek to answer *why* drug courts work and *how* they can produce positive outcomes for more of their participants.

A COST-BENEFIT ANALYSIS OF THE ST. LOUIS CITY ADULT FELONY DRUG COURT

Institute of Applied Research, St. Louis, Missouri

Provided to the St. Louis City Adult Felony Drug Court,
City of St. Louis, 22nd Judicial Circuit
2004

HIGHLIGHTS OF FINDINGS

The St. Louis Adult Felony Drug Court in the City of St. Louis is a pre-plea drug court that began in April 1997 and accepts individuals charged with drug crimes shortly after arrest. The program is voluntary. Participants must submit to regular breath testing for alcohol and urinalysis for drugs, make regular court appearances, find and maintain employment, and participate in prescribed drug and alcohol treatment. If they successfully complete the program, which averages nearly a year and a half in length, their original charges are dismissed.

- The study was a cost-benefit analysis that compared the first 219 drug court graduates, who had completed drug court before 2001, with a carefully matched control group of 219 individuals charged with a drug crime who had pleaded guilty, had entered probation during the same period, were not offered drug court, and had successfully completed probation.
- The control group contained no individuals who were sentenced to prison. For this reason, the estimates of this study are conservative since drug court graduates with class A and class B felonies and those who are prior and persistent offenders would most likely have been sentenced to prison terms had they not been accepted into Drug Court.

- **The study collected consistent data on costs and benefits from a wide variety of data sources at the state and local level.** These included: wages, welfare, Medicaid, drug and alcohol treatment, mental health treatment, criminal arrests, criminal convictions, time in jail, prison sentences, court hearings and other court activities, administration and supervision in drug court and probation programs, and births of drug-exposed infants.
- **The overall costs of drug court exceeded those of probation.** Adding together costs of administration, supervision, drug and alcohol treatment, court hearings, urinalysis, and pretrial detention, it cost an average of \$7,793 for a drug court graduate to successfully complete drug court compared to an average of \$6,344 for an individual to successfully complete probation. The excess costs of drug court averaged \$1,449 per person.
- **Various benefits (cost savings) were found for drug court graduates compared to probationers** during and after drug court and probation.
 - Costs of *jail time* were less overall for drug court graduates
 - Costs of *pretrial detention* were dramatically less for drug court graduates.
 - *Wages* of drug court graduates were higher during and after drug court.
 - Drug court graduates also averaged significantly more months working than probationers. This led to:
 - ~ Higher taxes and FICA paid by graduates of drug court.

~ Lower TANF and food stamps utilized by drug court graduates.

- *Health care costs and mental health services* were significantly lower for drug court graduates after drug court.

- Drug court graduates who were incarcerated were *incarcerated for shorter periods* after graduation with reduced incarceration costs.

- *Costs to the criminal justice system and costs to victims of crime* were lower for drug court graduates compared to probation completers.

- The number of *infants who were born drug-exposed* and the consequent costs were greater for probation completers than for drug court graduates.

- o [16] Comparing the excess costs of drug court with the benefits after drug court:

- **A net savings of \$2,615 per graduate was found during the first 24 months after drug court compared to probation completers.**

- **A total of \$2.80 in outcome savings was realized for Missouri citizens for every \$1.00 in additional costs of drug court during the first 24 months after drug court or probation.**

Overall Costs and Benefits. By projecting all follow-up costs and benefits for an additional 24-month period, calculations of costs and benefits were possible over a four-year period.

- **Net savings over four years after drug court or probation amounted to \$7,707 per drug court**

participant. This represents the expenses that would have been incurred by the taxpayer had these drug court clients attended regular probation.

- For every dollar in additional costs for drug court for the 219 drug court graduates, taxpayers realized a savings of \$6.32 over the four-year period.

Gross Savings over Four years: The total cost of drug court for the 219 graduates was \$1,706,775 or \$7,793 per graduate. The benefits during the four-year period after drug court amounted \$2,005,274 for all 219 graduates or \$9,156 per graduate:

- After four years the benefits exceeded the total drug court cost associated with graduating 219 individuals by \$298,399 or \$1,362 per drug court graduate.

EXECUTIVE SUMMARY

The St. Louis Adult Felony Drug Court in the City of St. Louis is a pre-plea drug court that accepts individuals charged with drug crimes shortly after arrest. The program is voluntary. Participants must submit to regular breath testing for alcohol and urinalysis for drugs, make regular court appearances, find and maintain employment, and participate in prescribed drug and alcohol treatment. If they successfully complete the program, which averages nearly a year and a half in length, their original charges are dismissed.

The St. Louis Adult Felony Drug Court began operating on April 7, 1997 in the City of St. Louis (22nd Judicial Circuit). The graduates selected for this study were the first 219 to successfully complete the program. A number of reforms, including a special program for youthful

defendants, have been introduced since that time that are designed to enhance drug court outcomes. This group of graduates predates most of those reforms.

Research indicating the benefits of drug courts has accumulated during the previous decade. However, there have been few *controlled* studies designed to demonstrate whether the value of those benefits to the community offset the costs of operating the programs. The primary goal of the present study was a cost-benefit analysis of the St. Louis Adult Felony Drug Court that compared the first 219 drug court graduates, who had completed drug court before 2001, with a carefully matched group of other individuals charged with drug crimes who were not offered drug court but completed probation.

Selecting the Control Group. The study employed an experimental design. The control group was composed of individuals selected from probation records that had pleaded guilty to drug crimes, had entered probation during the same period and had successfully completed probation. A probation completer was identified that was the best match to each drug court graduate on criminal charge (primarily drug offenses), prior criminal convictions, age, race, gender and residential zip code, and had entered probation at approximately the same time the graduate had entered drug court. Like drug court participants, none had criminal charges indicating violence. All probation completers were assessed to have drug or alcohol problems, although none had been offered to participate in drug court.

The control group contained no individuals who were sentenced to prison. For this reason, the estimates of this study are conservative since drug court graduates with class A and class B felonies and those who are prior and persistent offenders would most likely have been sentenced to prison terms had they not been accepted into Drug Court.

The Approach to Costs and Benefits: The Taxpayers Perspective. The primary perspective or viewpoint assumed in this study is that of the ordinary citizen, the Missouri “taxpayer.” Under this perspective any relative increase in government expenditures, such as for welfare or publicly supported treatment, or decrease in taxes paid by drug court defendants would be considered a cost while a corresponding decrease in expenditures or an increase in taxes paid by defendants would be considered a benefit. Similarly, relative reduction in costs to taxpayers directly (such as a reduction in victim costs of crime) would be considered a benefit.

Improved Methods. The present study improved on previous drug court studies in several ways:

1. Limiting the control group to “probation completers” was a conservative measure designed to *avoid comparing success in drug court with failure in other criminal justice settings*. In this way the highest possible standard was set for the cost-benefit study.
2. Although control group members would have been eligible for drug court, none had applied for drug court and, consequently, none had been rejected from drug court.
3. Data on costs and benefits were collected for the two-year period *preceding* drug court or probation, the period of participation, and the two-year period *after* completion. This approach permitted the performance of individuals in the study to be adjusted based on their past history. By collecting data during drug court and probation, costs and benefits could be assessed from the day participants entered. Data from the two years after drug court or probation

permitted an assessment of longer-term cost and benefit outcomes.

4. The study collected consistent data on costs and benefits from a wide variety of objective data sources at the state and local level. These included: wages, welfare, Medicaid, drug and alcohol treatment, mental health treatment, criminal arrests, criminal convictions, time in jail, prison sentences, court hearings and other court activities, administration and supervision in drug court and probation programs, and births of drug-exposed infants.

Administrative, Supervision and Treatment Costs of Drug Court versus Probation. While offenders were in the drug court and probation programs, the costs of drug court overall were somewhat higher than the costs of maintaining offenders in probation.

- *Administrative costs* averaged \$429 per drug court graduate compared to an estimated \$195 per probation completer.
- *Supervision* was primarily the responsibility of regular probation officers for members of the control group, while probation officers specially assigned to the drug court (called diversion managers) supervised drug court graduates. Supervision averaged \$81 per completer and \$62 per graduate primarily because probation completers spent about three months more in probation than graduates spent in drug court.
- The average cost of *urinalysis* for graduates was \$651 compared to \$40 for probation completers.
- All drug court graduates participated in alcohol and drug treatment, the costs of which averaged \$147 per graduate. Only a minority of probation completers

was assigned to such treatment averaging \$41 per completer. The costs of court hearings were calculated to be \$504 per drug court graduate compared to \$237 per probation completer.

Other Costs and Benefits. Certain benefits, including increased taxes paid and reduced costs of public programs of drug court graduates, began to accrue during the program. These continued to increase during the follow-up period after graduation. By the end of the entire follow-up period of four years (two years of collected data and two years of projected data), the relative benefits of drug court substantially outweighed those of probation.

- Costs of *jail time* were greater for drug court participants while they were in drug court because jail-time was a sanction individually applied by the drug court judge. During the period of drug court and probation participation, costs of jail time averaged \$795 per drug court graduate and \$359 per probation completer. The situation was reversed during the two years after completion: \$264 per graduate and \$497 per completer. Pretrial detention (prior to the original drug charge) was essentially zero for drug court graduates since they were placed on personal recognizance (rather than remaining in jail or paying bail) and were immediately diverted to drug court. Some probation completers, however had jail time prior to bond or recognizance release. These costs were \$0 for drug court graduates but averaged \$2,737 per probation completer.
- Average monthly *wages* of drug court graduates were higher during drug court (\$639) than probationers during probation (\$614). This trend continued after drug court and probation: a 24-month average of \$18,251 for drug court graduates compared to \$16,822 for probation completers. These differences

were in part attributable to longer periods of employment for graduates.

- Federal, state and local *taxes and FICA* were about equivalent during the drug court probation period: the monthly average for drug court graduates was \$106 and for probation completers was \$107. However after completion of drug court or probation the 24-month average was greater for graduates (\$5,234) than for completers (\$4,782).
- Reception of welfare (*AFDC/TANF and food stamps*) reflected the difference in wages and time working. Monthly combined averages during drug court/probation were \$56 per graduate compared to \$59 per completer. The 24-month averages after graduation or completion were \$1,291 per graduate and \$1,468 per completer.
- *Health care costs and mental health services* were significantly different for the two groups. Other research has shown that a substantial benefit of drug and alcohol treatment is reduced health care costs. This was the finding of this study as well, since only a minority of probationers received alcohol and drug treatment services. While monthly Medicaid costs were about the same for graduates and completers (\$75 versus \$84, respectively), 24-month costs after the program were substantially lower for graduates (\$1,062) compared to completers (\$1,520). Mental health service costs averaged \$3 per month for graduates and \$7 per month for completers while they were in drug court or probation. But afterward the 24-month averages were \$12 for drug court graduates versus \$71 for probation completers.
- Other variables tracked included the costs of subsequent *arrests and incarcerations*. Graduates

were incarcerated for shorter periods after graduation with costs averaging \$104 per graduate compared to \$214 per completer.

- *Costs to victims* and other *costs to the criminal justice system* of later crimes were estimated based on the type of crime and costing methods used in other studies. Later crimes of probation completers more often involved crimes against persons, such as assault and robbery, while the later crimes of graduates were almost exclusively drug crimes. Consequently, 24-month averages were \$104 in tangible costs per graduate versus \$212 per completer and \$376 in intangible costs per graduates versus \$1,572 per completer.
- Finally, the costs associated with *infants who were born drug-exposed* were greater for completers than graduates. Among babies born to probation completers in the control group, six were identified as drug exposed leading to an average 24-month cost of \$789 per completer. One drug-exposed infant was found among graduates for an average 24-month cost of \$132.

Costs and Benefits during Drug Court and Probation and during the 24 Months afterward. These were calculated directly based on data collected for each study participant over two years.

- **Program Costs:** Costs computed for the two programs consisted of administration, supervision, urinalysis, pretrial detention, jail sanctions (and new arrests), court activities, court fees, drug and alcohol treatment services and mental health services. The costs of drug court for the 219 graduates totaled \$1,706,775 while the costs of probation for the 219

probation completers were \$1,389,460. The average costs per participant, therefore, were:

- Average per drug court graduate: \$7,793
- Average per probation completer: \$6,344
- Difference (excess cost of drug court): \$1,449

- **Benefits associated with Outcomes:** Adding costs of participation in later programs and subtracting savings from payment of taxes and FICA, the total dollars associated with outcomes were calculated for the first 24 months after drug court or probation. For drug court these were a positive \$172,053 while for probation the total was negative \$717,908. These resulted when costs of public programs, cost of probation supervision for later offenses, jail for later offenses, TANF, food stamps, Medicaid expenses, psychiatric payments by the state, later drug and alcohol treatment services, prison terms for later offenses, costs to victims of crime, and costs of drug-exposed infants born to graduates and completers) were subtracted from taxes and FICA paid. The averages per participant were:

- Average benefits (cost offsets – costs) per drug court grad: \$3,278
- Average benefits (cost offsets – costs) per probation completer: \$(786)
- Difference (in favor drug court): \$4,064

- **Net Savings over Two years:** The net savings for the first 24 months after drug court or probation may be calculated by subtracting the differences in program costs from the difference in benefits (\$889,961 - \$317,315). The savings attributable to drug court totaled \$572,646 for the entire group of 219 graduates.

- There was an average saving of \$2,615 per graduate for the first 24 months after drug court. This represents the expenses that would have been incurred by the taxpayer over the first two years after drug court or probation had the drug court clients attended regular probation.

- **Ratio of Costs to Benefits over Two years.** The cost-benefit ratio is obtained by dividing differences in benefits by differences in program costs (\$889,961 / \$317,315): This amounted to:

- A total of \$2.80 in outcome savings was realized for Missouri citizens for every \$1.00 in additional costs of drug court during the first 24 months after drug court or probation.

Overall Costs and Benefits. Follow-up costs and benefits were projected for an additional 24 months primarily through trend analyses. Projections were validated by comparing results to extended data (beyond 24 months) that was available for individuals who had entered drug court or probation during its earliest days. By adding two years of projected values to measured values for the first two years after drug court or probation, four-year costs and benefits were calculated.

- **Net Savings over Four Years:** The net savings attributable to drug court totaled \$1,687,859 for the entire group of 219 graduates.

- Net savings of over four years after drug court or probation amounted to \$7,707 per drug court participant. This represents the expenses that would have been incurred by the taxpayer over a four year period had the drug court clients attended regular probation.

- **Ratio of Costs to Benefits over Four years:** It costs about \$317,315 more to put these 219 individuals through drug court than sending them through probation. However, the relative savings associated with better outcomes of drug court compared to probation was \$2,005,174 over four years. Thus:
 - **For every dollar in added costs for drug court for the 219 drug court graduates, taxpayers realized a savings of \$6.32 over four years.**
- **Gross Savings over Four years:** The total cost of drug court for the 219 graduates was \$1,706,775 or \$7,793 per graduate. The benefits during the four-year period after drug court amounted \$2,005,274 for all 219 graduates or \$9,156 per graduate:
 - **After four years the benefits exceeded the total drug court cost associated with graduating 219 individuals by \$298,399 or \$1,362 per drug court graduate.**

SUBJECT INDEX

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