
Nebraska Reentry Court Best Practice Standards



Nebraska Supreme Court

Administrative Office of the Courts and Probation

April 2017

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Introduction

In April 2016, the Nebraska Legislature passed, and the Governor signed, legislation broadening the definitions of problem-solving courts to include Reentry, Veterans, Mental Health, Driving Under the Influence (DUI) and other problem-solving courts. In response, the Nebraska Supreme Court's Problem-Solving Court Committee appointed a Reentry Court Subcommittee to establish implementation plans that included the development of best-practice standards for Reentry courts. After a comprehensive review of the research on the operation and effectiveness of Reentry courts in the United States, the subcommittee determined the *Nebraska Adult Drug Court and DUI Court Best Practice Standards* and the *Nebraska Veterans Treatment Courts Best Practice Standards* would serve as the framework for the *Nebraska Reentry Courts Best Practice Standards*.

Unlike research related to adult drug court best practice standards, the research pertaining to Reentry courts is in an early stage and is not as extensive or complete. Nonetheless, the subcommittee reviewed relevant evaluation studies that pertain to existing Reentry courts in the supporting evidence section of this document. Furthermore, in 2010 the National Institute of Justice funded a research project entitled, *Evaluation of Second Chance Act Adult Reentry Courts* (NESCAARC) that is an in-progress study of 8 existing Reentry courts. The subcommittee refers to this material when relevant to the standards that follow. Despite continuing efforts to professionalize Reentry court practices, at the time of the completion of this introduction, no national standards for reentry courts have been proposed or promulgated. Further, there is currently no entity or group pursuing the development of national standards for reentry courts.

The subcommittee examined the research literature conducted on adult drug courts and other problem-solving courts to review the psychological and behavioral elements bearing on the efforts to change unwanted thinking patterns and behaviors. The subcommittee's efforts lead to the conclusion that most of the methods and programs employed to treat addiction, to effect behavioral modification and the motivation to change behavior, and to facilitate habit formation, with minor adjustments (as identified in the standards that follow this introduction), can be directly applied to the population of individuals who may be eligible for reentry courts. Further, the subcommittee found the needs of and the risks presented by the populations to be served by reentry courts are very similar to the needs of persons served by Drug, DUI and Mental Health courts. With respect to programs and services required for reentry courts, which are not present in Drug and Veterans courts, the subcommittee determined that interim standards denominated as guidelines should be adopted with a corresponding commitment to the collection and analyses of performance, fidelity and outcome data to assist in developing evidence based standards to replace the guidelines.

Most of the standards found in this document have been identified as applicable across Drug Courts, DUI Courts, Mental Health Courts and Veterans Treatment Courts, and are presumed to be best-practices, despite the limited research specific to reentry courts. Standards identified with 3 asterisks (***) **have not** been determined to be applicable across program types and are considered only as guidelines. As additional research produces evidence to support change, the subcommittee will make modifications to both the standards and guidelines.

In 2012, the Nebraska Problem-Solving Court Leadership Group developed a strategic plan to identify the goals and policies required to ensure Nebraska's problem-solving courts are conducted under a uniform set of operating principles and operated ethically, effectively, and efficiently. The establishment of statewide standards was central to this effort to ensure the proper expansion of the capacity of the courts and to ensure the use of best practices and quality assurance measures. The Nebraska Administrative Office of the Courts and Probation was awarded a grant from the Bureau of Justice Assistance in 2013 to support the development of the standards and to facilitate the implementation of the standards by providing a supporting information infrastructure along with statewide training and technical assistance to DUI and drug court teams.

The development of the standards was a collaborative effort among practitioners from all of the Nebraska Drug Court and DUI courts, the Nebraska Administrative Office of the Courts and Probation, and the National Center for State Courts. The development of the standards was completed over the course of two separate meetings held in December 2013 and July 2014. An extensive review of the National Association of Drug Court Professionals' (NADCP) Adult Drug Court Best Practice Standards was conducted and, along with other research findings, served as the foundation for the *Nebraska Adult Drug Court and DUI Court Best Practice Standards* approved by the Nebraska Supreme Court in June 2015.

After studying the current practices employed in existing Reentry courts, the Reentry Problem-Solving Court Subcommittee developed a high degree of confidence that the use of the *Nebraska Adult Drug Court and DUI Court Best Practice Standards* as a framework for the reentry court standards will provide the best available direction and guidance for the development of Nebraska Reentry Court Best Practice Standards.

The Reentry Problem-Solving Court Subcommittee examined the extension of the reentry court program to offenders placed on parole. The initial intention of the subcommittee was to design a program for eligible participants released from incarceration on parole or on post-release supervision. After research and examination of parole's constitutional and statutory structure, the subcommittee concluded the reentry court program should be limited to post-release supervision and should not initially include persons on parole.

Persons released from incarceration on parole are subject to supervision by the Nebraska Board of Parole. Neb. Const. art. IV, § 13 confers upon the Nebraska Board of Parole the power to grant parole under such conditions as may be prescribed by law. Neb. Rev. Stat. § 83-1,110 (1) provides every "committed offender shall be eligible for parole when the offender has served one half the minimum term of his or her sentence." Section 83-1,116 requires the parole board to set conditions of parole for a committed offender and § 83-1,113 vests in the board of parole the authority to revoke parole and terminate the committed offender's supervision under parole. Section 83-1,118 also allows the board of parole to discharge a parolee from parole for specified reasons including completion of the requirements of the sentence imposed on the offender. Section 83-1,123 provides that a parolee whose parole is revoked must be committed to the department of corrections until discharge becomes mandatory under the original sentence or until re-paroled.

The Parole Board's jurisdiction potentially extends to all committed offenders with indeterminate sentences. The board does not have jurisdiction over offenders who receive sentences of incarceration for Class III, Class IIIA, or Class IV felonies only or persons committed to the department for a misdemeanor sentence imposed consecutively or concurrently with a Class III, IIIA, or IV felony. However, if the sentencing of incarceration for a misdemeanor, Class III, IIIA, or IV felony also includes incarceration for a Class IIA felony or above, parole is a potential outcome for the offender.

Members of the subcommittee conferred with the Acting Parole Administrator, a current Parole Board Member, and the legal counsel for the Board of Parole concerning the feasibility and the constitutional and legal issues inherent in the Board of Parole granting judicial supervision of persons on parole through a reentry court. After such consultation and review of the applicable law and the Nebraska constitution, the members of the subcommittee determined the use of reentry courts for persons on parole should be deferred. The constitutional and legal issues, including the separation of powers doctrine, all indicated, at a minimum, that changes to statutes and the rules and procedures governing the Board of Parole would be required to implement judicial supervision of parolees.

The subcommittee determined the time established for the completion of the work of the subcommittee was not sufficient to solicit and obtain the amendments to the statutes and the board's rules and regulations necessary to authorize judicial supervision of parolees. Such amendments would be more complicated than other efforts to amend statutes and rules because of the complexity of avoiding an impermissible effect on the Nebraska Constitution's grant of power to the Board of Parole.

As a result of the foregoing, the subcommittee recommended reentry courts be limited to offenders on post-release supervision at the current time. The subcommittee is open to the future inclusion of parolees who fit the reentry court eligibility criteria following the necessary changes to Nebraska law.

I. The Reentry Court Team

A. Program Planning and Oversight*¹

A steering committee or advisory board composed of representatives from a wide range of agencies and disciplines shall conduct initial planning and implementation. The steering committee or advisory board shall represent all aspects of the criminal justice system, treatment and ancillary service providers, funding entities, and the community at large. All reentry courts shall have a written procedure for modifying policies and procedures.

B. Team Composition*

The reentry court team shall include a judge, prosecutor, defense counsel, problem-solving court coordinator, probation-based community supervision officer, and treatment provider(s). It is highly recommended that each reentry court team includes a Department of Corrections representative, law enforcement representative, employment and housing specialists, and other ancillary service providers. Every effort shall be made to assign members to the team for significant periods of time in order to maximize adherence to program tenets and to promote stability of the team.

C. Pre-court Staffing Meetings*

All team members shall attend pre-court staffing meetings and shall be afforded the opportunity to provide information and professional perspectives regarding program participants' progress and make recommendations for modifications to individual case plans, as well as sanctions and incentives.

D. Court Status Hearings*

All team members shall attend court status hearings to demonstrate the collaborative nature of Reentry courts. Additionally, appearance by all team members enables a swift response when the court learns new information about the client.

E. Communication*

Programs shall have written formal and informal procedures for information communication among team members that outline the frequency, timely and accurate dissemination of information. Team members shall regularly communicate with each other and the judge outside of pre-court staffing meetings. All team members shall follow confidentiality policy and procedure for all instances and means of communication.

¹ Items marked with one asterisk (*) indicate items identified as reasonably easy to implement under the present conditions at most sites. Items with two asterisks (**) indicate items identified as more aspirational in nature that would potentially require two to five years and additional training or policy/practice changes in order for some sites to comply with the standard. Other sites might be able to implement these steps immediately. Items marked with three asterisks (***) are standards that, in the absence of research, may or may not apply to Reentry Courts.

F. Initial and Continuing Education*

All programs shall have a written orientation plan for new team members. All team members shall attend on-going education that shall address or concern the evidence based research into the formation of habits, behavior modification, motivation to change or other areas of knowledge addressed to the successful operation of effective problem-solving courts. All team members participate in training on the use of incentives and sanctions.

G. Roles and Responsibilities*

Formal written agreements (e.g. Memoranda of Agreement/Understanding) among partner agencies/organizations and the court shall detail team member roles and responsibilities. Written protocols shall be in place to ensure the appropriate resolution of conflict among team members.

H. Supervision Caseloads*

Current risk assessment instruments and caseload standards shall be used to guide officer caseloads. When supervision caseloads exceed twenty-four active participants per supervision officer, program operations shall be monitored carefully to ensure supervision officers can evaluate participant performance accurately, share significant observations with team members, and complete other supervisory duties as assigned. When supervision caseloads exceed thirty active participants per supervision officer, the reentry court team shall evaluate program fidelity to standards, the progression plan, and local policies and shall adopt a plan to address caseloads.

II. Target Population, Eligibility, Referral, Entry, and Orientation

A. Objective Eligibility and Exclusion Criteria**

Eligibility and exclusion criteria shall be defined objectively, specified in writing, and communicated to potential referral sources including judges, law enforcement, defense attorneys, prosecutors, treatment professionals, and community supervision officers. The reentry court teams shall not apply personal impressions to determine participant suitability for the program. Only offenders sentenced to incarceration and post-release supervision shall be eligible for the reentry court programs.

B. High-Risk and High-Need Participants*/***

The reentry court shall target participants for admission who are at substantial risk for reoffending as determined by validated risk assessment instruments properly applied. These individuals are commonly referred to as high-risk and high-need individuals.

C. Validated Eligibility Assessments*/***

Candidates for the reentry court shall be assessed for eligibility using validated risk assessment and screening tools prior to program entry. The risk assessment tools shall be empirically demonstrated to predict criminal recidivism or the likelihood of failure on community supervision and shall show equivalent predictive validity for women and racial or ethnic minority groups that are represented in the local reentry population. The risk assessment tools shall include validated screening tools, which include symptoms of substance use and/or mental health disorders. Trained and qualified professionals proficient in the administration of the risk assessment tools and interpretation of the results shall conduct screenings and assessments. The subcommittee developed entry criterion using the Level of Service/ Case Management Inventory (LS/CMI) as a validated instrument that predicts recidivism among probationers using the Nebraska Supreme Court's definition of recidivism. Appendix IV describes the use of the LS/CMI to identify high-risk/high-need individuals to establish eligibility criteria. As more data become available, these criteria may change.

Candidates with substance use or co-occurring mental health indicators must be assessed by professionals trained and proficient in the *Standardized Model for the Delivery of Substance Use Services*, administration of the assessment tools, and interpretation of the results.

D. Trauma-Informed Services**

Participants shall be assessed using a validated instrument for trauma history, trauma-related symptoms, and post-traumatic stress disorder (PTSD). Participants shall have access to best practice treatment for trauma related diagnoses.

All reentry court team members, including court personnel and other criminal justice professionals, shall receive formal training on the delivery of trauma-informed services.

E. Identify and Consider Responsivity Factors*

Reentry courts shall identify and establish evidence-based case management plans using characteristics of participants that are most likely to ensure the participant's ability to respond favorably to treatment goals.

F. Criminal History Disqualifications**

Except as hereinafter stated, and barring legal prohibitions, current convicted offense or criminal history shall not presumptively exclude candidates from participation in reentry court. Any eligibility or admission policy or procedure approved by the Supreme Court and in effect at the time of the adoption of this standard, which contains written criteria for a judicially monitored evaluation of the candidate's current offense or criminal history meets this standard.

G. Clinical Disqualifications **

Candidates shall not be automatically disqualified from participation in the reentry court because of co-occurring mental health or medical conditions or because they have been legally prescribed psychotropic or addiction medication.

III. Program Structure

A. Program Capacity*

All reentry courts shall develop a plan to ensure that the reentry court programs and services are provided to all participants consistent with evidence-based practices. When the census of an individual reentry court reaches 125 active participants, program operations shall engage in increased frequency and intensity monitoring to ensure program operations comply with best practice standards. If monitoring suggests any aspect of the court's operations are not compliant with best practices, the team shall develop a remedial action plan and timetable to rectify the deficiencies and evaluate the success of the remedial actions.

B. Program Entry*

Programs shall minimize the time between the release from incarceration and entry into the reentry court and the time between the reentry court entry and first treatment episode.

C. Successful and Unsuccessful Program Termination, and Program Duration*

1. **Benefits of Program Participation***- Benefits of program participation shall be clearly articulated in a written document and participants shall be made aware of these benefits prior to program entry.
2. **Consequences for Unsuccessful Program Exit***- Participants shall be given written notice of the potential consequence for failure to complete the reentry court program prior to program entry.
3. **Program Length***- Program length shall be a minimum of 12 months unless the sentencing order provides for a lesser term. 12 months is the minimum length needed to allow participants to initiate and maintain recovery; mental health stability; develop coping and relapse prevention skills; transition to and maintain compliance with a continuing care plan; and transition to full-time employment and achieve consistently available housing.
4. **Program Progression Structure*/***-** Programs shall adopt the *Reentry Court Progression Plan* which defines the progress expected of participants during the program. The *Reentry Court Progression Plan* shall be predicated on the achievement of realistic and defined behavioral objectives. As participants advance through the program, sanctions for infractions may increase in magnitude, rewards for achievements may decrease, and supervision services may be reduced. Treatment reduction will occur only if a licensed professional clinically determines that a reduction in treatment is unlikely to precipitate a relapse to substance use or mental health instability.

5. **Successful Completion Requirements*/***** - Participants shall meet specified requirements in order to “successfully complete” the reentry court program. Programs shall define completion requirements to include those that focus on long-term success. These requirements should be an extension of the participants’ progress in the program and shall incorporate a written post-program plan that focuses on skills to maintain the behavioral changes each participant accomplished during program participation. The reentry court team shall implement this plan prior to program exit to allow the participant to practice learned behaviors and skills during participation in the program.
- a. **Period of Time Clean and Sober Prior to Program Exit*/***-** For those participants whose primary diagnosis is a substance use disorder, a minimum of 90 days of continuous sobriety shall be required for successful completion; however, each reentry court may establish its own minimum standard that exceeds the established minimum.
 - b. **Stable and Pro-Social Activities and Environment*-** Programs shall require participants to be involved in pro-social activities prior to completion. Programs shall require participants to have identified the elements of pro-social living environments prior to program completion. Participants, who are not suffering from documented disability, shall be required to have employment or be enrolled in an educational program prior to program completion. Programs shall require participants to establish a stable living residence. A stable residence shall mean a dwelling place with little change in its location or occupants from day to day and is exclusively occupied by the participant and the participant’s spouse or partner and dependents. Stable residence includes half and $\frac{3}{4}$ way housing operated under the direct supervision of a licensed drug and alcohol or mental health practitioner, single-family apartments, condominiums, duplexes and single-family houses. Stable housing excludes homeless shelters, boarding rooms, group residences, and hotels and motels.
 - c. **Written Sustained Success Plan*-** Each participant shall develop a written long-term success plan that shall be implemented prior to program completion. Programs shall require participants to demonstrate the ability to comply with the sustained success plan in preparation for transition out of the program. If a participant is unable to follow the sustained success plan while in the program, the plan shall be modified to ensure that the participant can follow the plan after exiting the program.
6. **Unsuccessful Termination.** Participants who fail to meet the program requirements shall be terminated from the program by the reentry court judge and immediately remanded to the sheriff in the county of the reentry court for delivery to the sentencing court.

IV. Treatment

A. Continuum of Care*/***

For those whose primary diagnosis is a substance use disorder, the reentry court shall offer a continuum of care for substance use treatment consistent with the *Standardized Model for the Delivery of Substance Use Services*. The *Standardized Model for the Delivery of Substance Use Services* shall govern the level of care provided. For participants with a diagnosed mental health disorder, the reentry court shall offer a continuum of care for treatment consistent with mental health disorders as found within the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) and consistent with current evidence-based practices for mental health treatment. Treatment for individuals with co-occurring disorders will apply standards and criteria from both the *Standardized Model for the Delivery of Substance Use Services* and the DSM-5, and consistent with current evidence-based practices for mental health treatment. Adjustments to the level of care shall be predicated on each participant's needs and response to treatment and are not tied to the reentry court's programmatic structure.

B. In-Custody Treatment*

Participants shall not be incarcerated to achieve clinical or social service objectives. The court shall not be prohibited from utilizing incarceration for reasons of public safety or preventing harm to self or others.

C. Team Representation**/***

One or two treatment agencies/representatives shall be primarily responsible for managing the delivery of treatment services to reentry court participants. Licensed representatives from these agencies shall be core members of the reentry court team and regularly attend team meetings and status hearings.

D. Group Treatment Dosage and Duration**/***

Each reentry court shall prioritize referrals to services for those needs associated with an increased risk to reoffend and incorporate compliance with these services into the reentry court requirements. The reentry court shall match the dosage, duration and intensity of services to the participant's level of criminogenic risk and need as determined by an empirically validated assessment instrument.

For those whose primary diagnosis is a substance use disorder, a sufficient dosage and duration of substance use treatment to achieve long-term sobriety and recovery from addiction shall be provided. High-risk, high-need participants shall receive six to ten hours of substance use counseling per week during the initial phase of treatment and approximately 200 hours of counseling over nine to twelve months; however, the reentry court shall allow flexibility to accommodate individual differences in each participant's response to treatment.

For participants with a diagnosed mental health disorder, the reentry court shall offer a continuum of care for treatment consistent with mental health disorders as found within the

Diagnostic and Statistical Manual of Mental Disorders (DSM-5) and consistent with current evidence-based practices for mental health treatment. Treatment for individuals with co-occurring disorders will apply standards and criteria from both the *Standardized Model for the Delivery of Substance Use Services* and the DSM-5, and consistent with current evidence-based practices for mental health treatment. Adjustments to the level of care shall be predicated on each participant's needs and response to treatment and are not tied to the reentry court's programmatic structure.

E. Treatment Modalities/****

In addition to group substance use treatment, high-risk, high-needs participants shall meet with a treatment provider or clinical case manager for at least one individual treatment session per week. For participants with a diagnosed mental health disorder, the reentry court shall offer a continuum of care for treatment consistent with mental health disorders as found within the Diagnostic and Statistical Manual of Mental Disorders (DSM-5) and consistent with current evidence-based practices for mental health treatment. Treatment for individuals with co-occurring disorders will apply standards and criteria from both the *Standardized Model for the Delivery of Substance Use Services* and the DSM-5, and consistent with current evidence-based practices for mental health treatment. Adjustments to the level of care shall be predicated on each participant's needs and response to treatment. The frequency of individual sessions may be reduced if doing so would be unlikely to precipitate a behavioral setback or relapse. All participants shall be screened for their suitability for group interventions. Group participation shall be guided by evidence-based selection criteria including participants' gender, trauma history and co-occurring psychiatric symptoms. Treatment groups optimally have no more than twelve participants and at least two leaders or facilitators. Caseloads for clinicians shall be small enough to provide them sufficient opportunities to assess participant needs and deliver adequate and effective dosages of substance use treatment and indicated complementary services. Program operations shall be monitored carefully for fidelity to ensure adequate services are delivered when caseloads exceed the following thresholds:

- 50 active participants for clinicians providing clinical case management
- 40 active participants for clinicians providing individual therapy or counseling
- 30 active participants for clinicians providing both clinical case management and individual therapy or counseling

F. Evidence-Based Treatment/****

Treatment providers shall administer behavioral or cognitive-behavioral treatment programs that are documented in manuals and have been demonstrated to improve outcomes for persons with substance use and or mental health disorders, which have contributed to involvement in the criminal justice system. Treatment providers shall be proficient at delivering the interventions and shall be supervised regularly to ensure continuous fidelity to the treatment models and effective programming outcomes.

G. Identify Services in the Community to Target Participant Needs*

Each reentry court shall develop a continuum of ancillary services to target the criminogenic needs and responsivity factors of reentry court participants. Ancillary services may include services such as job skills training, family therapy, mental health treatment, trauma treatment, and housing assistance.

H. Assess Changes in Participants' Needs and Responsivity Factors*

Each reentry court shall assess and document changes in needs in conjunction with responsivity factors at regular intervals using a validated assessment tool. The reentry court shall revise case plans to respond to changes in participants' needs and responsivity factors.

I. Medication Assisted Treatment**

Participants may use prescribed psychotropic or addiction medications, based on medical necessity, when prescribed by a treating physician with expertise in addiction psychiatry or addiction medicine, in collaboration with the reentry court team. Such collaboration shall not vest the power to the reentry court team to decline or refuse to permit the use of medication presented by properly qualified and informed licensed prescriber.

J. Provider Training and Credentials*/**

Treatment providers shall be registered service providers with the Nebraska Office of Probation Administration, have substantial experience working with criminal justice populations, and be supervised regularly to ensure continuous fidelity to evidence-based practices.

K. Peer Support Groups*

Participants shall attend self-help or peer support groups in addition to professional counseling. Additionally, reentry court participants shall have access to community support specialists, mentors, and other similar resources to assist with navigation of the court, treatment, housing and employment.

L. Trauma-Informed Services*/**

Participants with PTSD shall receive an evidence-based intervention designed to manage distress without resorting to substance use or other avoidance behaviors, desensitizes the participant to symptoms of panic and anxiety, and encourages participants to engage in productive actions that reduce the risk of re-traumatization. Participants with PTSD or severe trauma-related symptoms shall be evaluated for suitability for group interventions and shall be treated on an individual basis or in small groups when necessary to manage panic, dissociation, or severe anxiety.

M. Criminal Thinking Interventions*/***

Participants shall receive an evidence-based criminal-thinking intervention upon entry into the reentry court. Staff members shall be trained to administer a standardized and validated

cognitive-behavioral criminal-thinking intervention such as Moral Reconciliation Therapy, the Thinking for a Change program, and the Reasoning & Rehabilitation program.

N. Overdose Prevention and Referral*/***

Those individuals, whose primary diagnosis is a substance use disorder, shall complete a brief evidence-based educational curriculum describing specific and definite measures they can take to prevent or reverse drug overdose.

V. Court Sessions/Judicial Monitoring/Status Hearings

A. Professional Training**

Prior to assuming the role of reentry court judge, or as soon thereafter as practical, the judge shall attend the judicial training program administered by the National Drug Court Institute or the National Judicial College. The judge shall attend training events at least every three years on topics such as legal and constitutional issues in reentry court, judicial ethics, evidence-based substance use and mental health treatment, behavior modification, use of incentives and graduated sanctions, and community supervision.

B. Length of Term*

The judge or judges shall preside over the reentry court for no less than two consecutive years to maintain the continuity of the program and ensure knowledge of the reentry court policies and procedures.

C. Consistent Docket*

Participants shall appear before the same judge or judges throughout their enrollment in reentry court. If more than one judge serves as a primary judge, the judges shall maintain consistency and accountability through frequent communication and status updates regarding participants.

D. Frequency of Status Hearings*

Participants shall appear before the judge(s) for status hearings no less frequently than every two weeks during the beginning of the program. The frequency of status hearings may be reduced gradually after participants demonstrate sustained adherence to program requirements such as abstinence from alcohol and illicit drugs, mental health maintenance and are regularly engaged in treatment. Status hearings shall be scheduled no less frequently than every four weeks.

E. Length of Court Interactions*

The judge shall spend sufficient time during status hearings to review each participant's progress in the program. A minimum of three to seven minutes is recommended but more time may be necessary to adequately deal with individual case issues. Ongoing research into or about reentry court suggests that this minimum time may be insufficient. Thus monitoring of this standard is required to reflect evidence from ongoing studies in the reentry court literature.

F. Judicial Demeanor*

The judge shall offer supportive comments to participants, stress the importance of their commitment to treatment and other program requirements, and express optimism about their abilities to improve their health and behavior. The judge shall not humiliate participants or subject them to foul or abusive language. The judge shall allow participants, at an appropriate time, the opportunity to explain their perspectives concerning factual controversies and the imposition of sanctions, incentives, and therapeutic adjustments.

G. Judicial Decision Making*

The judge shall be the ultimate arbiter of factual controversies and shall make the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty. The judge shall make such decisions after taking into consideration the input of other reentry court team members and shall discuss the decision in court with the participant. The judge shall consider the input of appropriately licensed, qualified and trained treatment professionals when imposing treatment-related conditions.

VI. Drug and Alcohol Testing

A. Policy and Procedures*

All programs shall have written drug and alcohol testing policies and procedures that address: chain of custody protocols (including direct observation of sample collection); protocols for determination of sample validity addressing dilution, tampering and adulteration; the process of contesting a sample; and measures to ensure that all testing is scientifically reliable and valid. Programs shall use scientifically valid and reliable testing procedures and establish a chain of custody for each specimen. If a participant denies substance use in response to a positive screening test, a portion of the same specimen shall be subjected to confirmatory analysis using an instrumented test, such as gas chromatography/mass spectrometry (GC/MS) or liquid chromatography/mass spectrometry (LC/MS). Programs shall have a policy that addresses training requirements for all staff administering drug and alcohol testing. Upon entering the reentry court, participants shall receive a clear and comprehensive explanation of their rights and responsibilities related to drug and alcohol testing. This information shall be described in a participant contract or handbook and reviewed periodically with participants to ensure they remain cognizant of their obligations.

B. Frequency of Testing*

Random drug and alcohol testing shall occur at least twice weekly at the beginning of the program. The frequency of testing can only be reduced at the request of the reentry court Team and with the approval of the reentry court judge. Testing may occur at any time, but shall also include during non-traditional work hours, in evenings, and on weekends and holidays. Participants shall be required to deliver a test specimen as soon as practicable after being notified that a test has been scheduled. Urine specimens shall be delivered no more than eight hours after being notified that a urine test has been scheduled. For tests with short detection windows, such as oral fluid tests, specimens shall be delivered no more than four hours after being notified that a test was scheduled.

C. Random Testing*

Drug and alcohol tests shall be administered randomly. Participants shall be required to submit samples within an appropriate time frame to detect drug and/or alcohol consumption.

D. Scope of Drugs Tested*

Drug or alcohol testing shall not be limited to a single drug of choice but, instead, regularly include a panel of drugs in order to detect a broad array of known drugs of use in the local reentry court population. Testing for the detection of alcohol consumption shall accompany all drug tests.

E. Availability of Results*

Drug test results shall be available to the team and to the court within 48 hours of test administration.

F. Licit Addictive or Intoxicating Substances*

Consequences shall be imposed for the non-medical use of intoxicating or addictive substances, including but not limited to alcohol, cannabis (marijuana) and prescription medications, regardless of the licit or illicit status of the substance. The reentry court team shall consider expert medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.

VII. Incentives, Sanctions, and Therapeutic Adjustments

A. Advance Notice**

The reentry court team shall specify in writing and communicate in advance to reentry court participants the policies and procedures concerning the administration of incentives, sanctions, and therapeutic adjustments. The policies and procedures shall provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment; the range of consequences that may be imposed for those behaviors; the criteria for phase demotion, and termination from the program; and the legal and collateral consequences that may ensue from termination. The reentry court team shall reserve a reasonable degree of discretion to modify a presumptive consequence in light of the circumstances presented in each case.

B. Opportunity to Respond*

Participants shall be given an opportunity, at an appropriate time, to explain their perspective concerning factual controversies and the imposition of sanctions and therapeutic adjustments.

C. Professional Demeanor*

Interactions with participants from all service providers and team members shall always be professional in nature. Sanctions shall be delivered without expressing ridicule. Participants shall not be shamed or subjected to foul or abusive language.

D. Progressive Sanctions**

The reentry court shall have a range of sanctions of varying magnitudes that may be administered in response to program infractions. For goals that are difficult for participants to accomplish (i.e. distal), such as abstaining from substance use or obtaining employment, the sanctions shall increase progressively in magnitude over successive infractions. For goals that are relatively easy for participants to accomplish (i.e. proximal), such as being truthful or attending counseling sessions, sanctions of a higher magnitude may be administered after only a few infractions.

E. Therapeutic Adjustments*

Participants shall not receive sanctions if they are otherwise compliant with their treatment and supervision requirements but are not responding to the treatment interventions. Under such circumstances, the appropriate course of action may be to reassess the individual and adjust the treatment plan accordingly. Adjustments to treatment plans shall be based on the recommendations of duly trained treatment professionals (e.g. participants are placed in the appropriate level of care).

F. Incentivizing Prosocial Behaviors*/**

The reentry court shall place as much emphasis on incentivizing productive and pro-social behaviors as it does on reducing crime, substance use, and other infractions. Criteria for phase advancement and successful program completion include objective evidence that participants are engaged in productive activities such as employment, education, or attendance in peer support groups.

G. Jail Sanctions*

Jail sanctions shall be imposed judiciously and sparingly. Reentry court shall utilize a graduated sanction system unless participants pose an immediate risk to themselves or public safety. Jail sanctions shall be definite in duration and typically last no more than three to five days.

VIII. Cultural Competence

A. Equivalent Access*

Eligibility criteria for the reentry court are non-discriminatory in intent and impact. If an eligibility requirement has the unintended effect of differentially restricting access for members of a historically disadvantaged group², the requirement shall be adjusted to increase the representation of such persons unless doing so would jeopardize public safety or the effectiveness of the reentry court. The assessment tools used to determine participants' eligibility for the reentry court shall be empirically validated for use with members of historically disadvantaged groups represented in the respective arrestee population.

B. Equivalent Retention**

The reentry court shall regularly monitor whether members of historically disadvantaged groups complete the program at rates equivalent to other participants. If completion rates are significantly lower for members of a historically disadvantaged group, the reentry court team shall investigate the reasons for the disparity, develop a remedial action plan, if warranted, and evaluate the success of the remedial actions.

C. Equivalent Treatment*

The reentry court team will make reasonable efforts to provide members of historically disadvantaged groups the same levels of care and quality of treatment as other participants with comparable clinical needs. The reentry court shall administer evidence-based treatments that are effective for use with members of historically disadvantaged groups represented in the reentry court population.

D. Equivalent Incentives and Sanctions*

Members of historically disadvantaged groups shall receive the same incentives and sanctions as other participants for comparable achievements or infractions. The reentry court shall regularly monitor the delivery of incentives and sanctions to ensure they are administered equivalently to all participants. This data will be collected and reviewed on an ongoing basis by the internal evaluation team, and analyzed as part of the external evaluation.

E. Equivalent Dispositions*

Members of historically disadvantaged groups shall not receive a disparate legal disposition or sentence for completing or failing to complete the reentry court program based on being a member of a historically disadvantaged group. Data pertaining to the treatment of historically

² Members of historically disadvantaged groups are defined as, those “who have historically experienced sustained discrimination or reduced social opportunities because of their race, ethnicity, gender, sexual orientation, sexual identity, physical or mental disability, religion, or socioeconomic status (The National Adult Drug Court Standards, Vol. 1).”

disadvantaged groups will be collected and reviewed on an ongoing basis by the internal evaluation team, and analyzed as part of the external evaluation.

IX. Data and Evaluation

A. Electronic Case Management**

Programs shall regularly enter data into the designated Problem-Solving Court data management system for use in case and program management. Programs shall review statistics relevant to program performance and implement policy adjustments and training when necessary. To ensure that the data is accurate, the program shall utilize an independent research assistant or identify a reentry court team member who is responsible for data quality assurance.

B. Timely and Reliable Data Entry*

Staff members shall record information concerning the provision of services and in-program outcomes within forty-eight hours of the respective events. Timely and reliable data entry shall be required of each staff member.

C. Independent Evaluation**

Programs shall undergo a process evaluation and an outcome evaluation every three years. Where such information is available, new arrests, new convictions, and new incarcerations shall be monitored for at least three years following each participant's exit from the reentry court. Offenses shall be categorized according to the level (felony, misdemeanor, or summary offense) and nature (e.g., person, property, drug, or traffic offense) of the crime involved. Outcomes shall be examined for all reentry court participants regardless of whether they successfully completed or were unsuccessfully terminated from the program. Outcome evaluations shall be an experimental or quasi-experimental test and conducted by an independent evaluator. The evaluation methodology shall be state of the science at the time the evaluation is conducted (for example, propensity analysis shall be used for quasi-experimental tests). Programs shall work closely with the evaluator to ensure that the reentry court team can utilize evaluation results to examine program effectiveness and cost-efficiency, make improvements to program practices, and inform data collection processes in preparation for future evaluations.

D. Internal Evaluation**

Internal evaluation of programs shall be ongoing while an external evaluation shall take place at least once every three years. Outcomes shall be examined for all reentry court participants regardless of whether they successfully completed or were terminated from the program. An independent evaluator shall conduct an outcome evaluation at least once every three years. Programs shall examine standard compliance, program effectiveness and cost-efficiency, program practices, data collection processes, and case management quality assurance.

E. Comparison Groups*

Outcomes for reentry court participants shall be compared to those of an unbiased and equivalent comparison group. The method to choose an equivalent comparison group shall be the state of science at the time the comparison group is chosen. At the present, time choosing

an equivalent comparison group commonly involves matching the treatment group and comparison group on selection factors through a propensity modeling process. Individuals in the comparison group should meet legal and clinical eligibility criteria for participation in the reentry court, but not enter the program for reasons having no relationship to their outcomes. Comparison groups shall not include individuals who were denied entry to the program because of their legal charges, criminal history, or clinical assessment results. Participants in the reentry court and comparison groups shall have an equivalent opportunity to engage in conduct of interest to the evaluation, such as substance use and criminal recidivism. Outcomes for both groups shall be examined over an equivalent time period beginning from a comparable start date. If participants in either group were incarcerated or detained in a residential facility for a significantly longer period of time than participants in the other group, the length of time participants were detained or incarcerated is accounted for statistically in outcome comparisons using either survival analysis and or Cox regressions. Outcomes shall be examined for all eligible participants who entered the reentry court regardless of whether they were successfully or unsuccessfully terminated from the program.

F. Using Data and Evaluation Results to Manage*

Programs shall use the results of independent program evaluations, internal process evaluation results and regular reviews of programmatic data and performance measure reports as the basis for program change. As policy changes are made, data and performance measure reports and evaluation shall be used to examine the effectiveness of the policy change and make further adjustments when necessary.

Appendix I

Nebraska Reentry Court Progression Plan

The goal of the reentry court is to assist individuals released from incarceration under post-release supervisions and their families in addressing behavioral health issues that are contributing to a cycle of addiction or criminal activity, and provide an opportunity to reestablish law abiding, productive lives within the community. This Progression Plan follows the Nebraska Supreme Court's Reentry Court Best Practice Standards and was designed to provide objective, measurable, and consistent progression through any Nebraska Reentry Court program.

All reentry courts shall ensure each participant adheres to the core requirements of the progression plan. Specific details including, but not limited to, program structure, delivery of services, and programming details shall be determined by each individual reentry court. Reentry courts shall ensure the core requirements of the progression plan are completed in compliance with the Nebraska Reentry Court Standards. Any individual plan may be modified based on the circumstances of the individual's progress through the program. Items marked with a single bullet point (•) are identified as core requirements that all participants must complete in compliance with the Nebraska Reentry Court Standards.

Eligible participants must complete the Screening Process before a decision is made on program entry, as follows:

1. Screening Stage/Process

Goal: To ensure the admission of high-risk and high-need participants through objective eligibility and exclusion criteria and validated eligibility assessments.

Purpose: To complete evidence-based screenings and assessments to determine eligibility and suitability for candidates.

- Behavioral Health Consultation and Diagnostic Evaluation as required
- Evaluation(s) completed following the Standardized Model of Substance Abuse Services [NSC Standardized Model for Delivery of Substance Abuse Services](#). Validated Screens and Assessment(s) completed (LS/CMI, GAIN-SS, RANT, SSI, SRARF, Mental Health Screening Form III, and Financial Eligibility Screen)
- Baseline drug test

Note: Collateral information obtained during the Screening Stage shall be used to determine eligibility for voucher access and utilized to determine if there is a need for additional assessment(s). Information obtained during this process can be utilized to access adult mental health services.

2. Early Recovery

Goal: To establish a foundation of support through treatment, initial stabilization and ancillary services.

Purpose: To support the participant through the utilization of an individualized program plan, treatment, and ancillary services.

- Approve residence
- Drug testing, as determined necessary
- Evaluate medical needs (medical, dental, vision, and auditory)
- Begin or continue treatment
- Peer support groups
- Educate and inform on community based ancillary services
- Status hearings
- Individualized program plan
 - Target criminogenic needs and responsivity factors
 - Short and long-term goals
 - Ongoing assessment
 - Critical path map

Participants shall complete objectives, display program compliance, demonstrate meaningful progress with the individual treatment plan and the individual supervision plan. Based upon professional judgment and experience it is recommended that participants shall have a minimum of 14 days of continuous program compliance and attend a minimum of 4 weeks of status hearings to be eligible for advancement. This standard shall hold until additional empirical evidence indicates otherwise.

3. **Decision-Making**

Goal: Reduce criminogenic risk/needs, strengthen recovery and behavior health through the application of learned skills and behavior modification.

Purpose: Strengthen recovery and behavioral health by providing the tools needed to create opportunities for behavior change. Participants should be able to demonstrate an understanding and commitment to recovery and behavior change.

Continued expectations from Early Recovery

Approved residence
 Drug testing, as determined necessary
 Continuum of care
 Peer support groups
 Develop and utilize ancillary services
 Status hearings
 Individualized program plan

Additional expectations for the participant

- Psycho-educational classes, as needed
- Completion of or engaged in primary treatment services
- Life Skills (hygiene, budgeting, vocational rehab.)
- Healthy lifestyles (dental/medical, nutrition, exercise)
- Obtain employment and/or further education
- Establish program fee schedule
- Obtain valid driver's license or begin process of obtaining a valid driver's license

Participants shall complete objectives, display program compliance, demonstrate meaningful progress with the individual treatment plan and the individual supervision plan, and for those

participants who have a substance use disorder shall have 90 days sustained sobriety, to be eligible for advancement or completion of the program.

4. Community Transition

Goal: To establish sustainable mechanisms for healthy and pro-social community involvement.

Purpose: Practicing coping skills to avoid relapse, sustain recovery, and improve behavioral health; building healthy pro-social relationships and other support system; and, becoming economically self-sufficient.

Continued expectations from Early Recovery

Approved residence
 Drug testing, as determined necessary
 Continuum of care
 Peer support groups
 Develop and utilize ancillary services
 Status hearings
 Individualized program plan

Continued expectations from Decision Making

Psycho-educational classes, as needed
 Continuum of care
 Life Skills (hygiene, budgeting, vocational rehab.)
 Healthy lifestyles (dental/medical, nutrition, exercise)
 Program fee schedule
 Obtain valid driver's license or begin process of obtaining a valid driver's license

Additional expectations for the participant

- Completing outpatient and/or demonstrating progress toward treatment goals
- Addressing financial obligations
- Gainful employment and/or education
- Cognitive programming

- Positive community involvement

Participants shall complete objectives, display program compliance, demonstrate meaningful progress with the individual treatment plan and the individual supervision plan, and for those participants who have a substance use disorder shall have 90 days sustained sobriety, to be eligible for advancement or completion of the program.

5. Sustained Recovery/Maintenance

Goal: A lifelong commitment to recovery from substance use, mental health management, and leading a pro-social life.

Purpose: Demonstrating independence for a continued sober, healthy, and crime-free lifestyle.

Continued expectations from Early Recovery

Approved residence
 Drug testing, as determined necessary
 Continuum of care
 Peer support groups
 Utilize ancillary services
 Status hearings
 Individualized program plan

Continued expectations from Decision Making

Psycho-educational classes as needed
 Continuum of care
 Life Skills (hygiene, budgeting, vocational rehab.)
 Healthy lifestyles (dental/medical, nutrition, exercise)
 Program fee schedule
 Obtain valid driver's license or continue process of obtaining a valid driver's license

Continued expectations from Community Transition

Completing outpatient and/or demonstrating progress toward treatment goals
 Addressing financial obligations

Gainful employment and/or education

Cognitive programming

Positive community engagement

Participants shall complete objectives, display program compliance, demonstrate meaningful progress with the individual treatment plan and the individual supervision plan, and for those participants who have a substance use disorder shall have 90 days sustained sobriety to be eligible for advancement or program completion.

6. Program Completion Requirements

In addition to completion of all elements of the individual treatment program, to complete reentry court each participant shall have:

- 180 days compliance of treatment plan
- 180 days continuous employment
- Long term recovery plan and/or mental health maintenance plan
- Fees paid in full
- Positive community engagement
- Completion of all Reentry Treatment Court programming requirements
- Approved residence

Appendix II

Supporting Evidence for the Reentry Court Team

The supporting evidence is based on the National Adult Drug Court Standards developed by the National Association of Drug Court Professionals, (2013), p.34-40; and (2015), p.38-58.

A. Program Planning and Oversight:

Engaging the community in the planning and implementation of a new program such as a drug court has been consistently identified as essential to successful implementation (Fixsen, et al., 2005). Implementation literature across different domains (including business, education, and criminal justice) consistently cites the importance of “stakeholder involvement” and “buy in” throughout the implementation process (Fixsen, et. al., 2005). Rogers (2002) identified communication, a clear theory of change that makes the case for the intended changes (in this case, implementing the drug court model), and the development of champions who can consistently advocate as key to implementation. Adelman and Taylor (2003), in the context of education, described some early stages of preparation for adopting innovations that include developing a “big picture” context for the planned program or intervention (How is the problem currently addressed? How will the planned intervention add value to current efforts?), mobilizing interest, consensus, and support among key stakeholders, identifying champions, and clarifying how the functions of the intervention (drug court) can be institutionalized through existing, modified, or new resources. A 2010 national survey of drug court professionals (judges, prosecutors, defense attorneys, drug court coordinators, treatment providers, probation officers, law enforcement officers and others) found that focusing on procedures and consistently monitoring fidelity to the drug court model can prevent team and program drift (Van Wormer, 2010).

B. Team Composition

Several drug court evaluations have demonstrated that a key component of drug court success is inclusion of a diverse array of stakeholders, including a judge, prosecutor, defense counsel, coordinator, community supervisor, law enforcement officer, and treatment provider, in the drug court team (Carey et al, 2005; Carey et al, 2008). In a study of sixty nine drug courts, courts that included law enforcement on the drug court team had 87% greater reductions in recidivism and 44% increase in cost savings compared to courts that did not (Carey et al., 2012). More details on the benefits of diverse teams are covered in sections C and D below.

In their process evaluation of eight federally funded reentry courts, Lindquist, Hardison, Rempel & Carey (2013) found that the problem solving court teams almost always included a judge, case managers, supervision officers and treatment providers but did not frequently involve the participation of law enforcement agents.

C. Pre-court Staffing Meetings

The Carey et al. (2012) study of 69 drug courts included key informant interviews, site visits, focus groups and document reviews. It assessed the impact of attending staff meetings on recidivism and cost savings. The study found that compared to courts that did not, courts in which staff meetings were attended by the defense attorney showed an a reduction in recidivism of 20% more than drug courts in which such person did not attend the pre-court staffing meeting and an increase of cost savings of (93 % more than drug courts in which such persons did not attend such meetings. Those meetings attended by a coordinator showed a reduction in recidivism of 58% more than in drug courts in which such person did not attend and an increase in cost savings of 41%. Those meetings attended by law enforcement showed

a reduction in recidivism of 67% more than in drug courts in which such person did not attend the meeting and an increase in cost savings of 42% more. Those meetings attended by a representative from treatment showed a reduction in recidivism of 105% more than drug courts in which such persons did not attend a pre-court staffing meeting. In courts where staff meetings were attended by the judge both attorneys, a treatment representative, program coordinator, and a probation officer, recidivism was reduced by 50% more than in drug courts in which such persons collectively did not attend the meetings and cost savings increased by 20%.

D. Court Status Hearings

The same Carey et al. (2012) study assessed the impact of drug court staff member attendance at status hearings. They found that in drug courts in which status hearings were attended by a representative from treatment such courts reduced recidivism 105% more than drug courts in which such persons did not attend the status hearings and such drug courts produced 81% more in cost savings. Although the drug courts that do not include treatment representatives at the status hearings still reduced recidivism, the drug courts that do include treatment representatives at status hearings reduced recidivism 105% more. Similarly, those courts in which status hearings are attended by law enforcement showed an 83% increase in recidivism reduction and a 64% increase in cost savings compared to drug courts without such persons in attendance at status hearings. In courts where status hearings were attended by the judge, both attorneys, a treatment representative, probation officer, and coordinator, such courts produced 35% more recidivism and 36% more in cost savings compared to drug courts which did not have similar attendance at status hearings. The study evaluated each practice separately for effect and the values for the effects were not aggregated to identify an optimum combination of practices.

E. Communication

Communication plays an important role in many aspects of effective drug courts (Carey et al., 2008, Wolfe et al., 2004). Carey et al. (2012) evaluated the impact of communicating via email in their assessment of 69 drug courts. They found that programs with communication protocols (email in this instance) had a 119% greater reduction in recidivism and a 39% increase in cost savings. Additionally, research in interdisciplinary collaboration highlights the role of communication in enhancing collaboration on interdisciplinary teams (Stokols et al., 2008).

In their process evaluation of 8 federally funded reentry courts, Lindquist, et al., (2014) showed that communication among team members is frequent and that there were no central hubs so that all team members interacted freely and openly with all other team members.

F. Initial and Continuing Education

An evaluation of 18 drug courts included comparisons of business-as-usual courts to drug courts in which all staff were trained and drug courts in which not all staff were trained (Carey et al., 2008). Drug courts in which all staff were trained showed a 41% improvement in outcome cost savings over business-as-usual courts, while drug courts in which not all staff were trained only showed an 8% savings over business-as-usual courts. In drug courts where all staff were trained, the graduation rate was 63% compared to 40% for drug courts where not all staff were trained.

Lindquist et al.'s (2013) process evaluation found that most of the team members in the NESCAARC sites had undergone training on the use of sanctions and rewards. Hamilton (2011) completed a propensity (quasi-experimental) evaluation of the Harlem Parole Reentry Court and found both positive and iatrogenic effects of heightened supervision. First, participants in the reentry court demonstrated significantly lower reconvictions at year 2 (28%) as compared to those in normal parole supervision (34%).

However, the results also showed significantly higher rates of parole revocation due to technical violations (15% vs. 8%) among the reentry clients compared to those with traditional supervision. Upon further examination, the researcher concluded that this was primarily a surveillance effect due to the increased supervision of parolees, which resulted in greater detection of minor violations. There were more frequent employment check-ins, home visits and urine analyses leading to greater detection of parole violations. Hamilton (2011) suggested several changes to improve outcomes in the Harlem Court: 1) develop and implement a formalized set of guidelines for administration of graduated sanctions and train staff to successfully use those guidelines, 2) institute a standardized assessment tool to evaluate risk and need for incoming and ongoing clients, and 3) implement evidence based practice interventions in the form of cognitive behavioral therapy techniques. The Harlem court implanted these suggestions before Ayoub and Pooler (2015) conducted a true, randomized experiment to evaluate its effectiveness. The outcome of that study showed positive results: 1) reconvictions for those in the reentry court group were significantly lower (29%) as compared to those in the control group (37%) during the first 18 months after release, 2) felony convictions were significantly lower in the reentry court group (4% vs. 10%) by 18 months and importantly 3) parole revocations were significantly lower in the reentry court group (12% vs. 22%) at 18 months in the randomized experiment. It would appear that the success of reentry courts might turn on the successful design of a graduated sanctions program combined with adequate training and administering quality control measures with regard to the implementation of the sanctions program.

Carey et al. (2012) assessed 69 drug courts and found that drug courts that trained staff before program implementation showed a 55% greater reduction in recidivism and 238% greater cost savings than those that did not. In her survey of 295 drug court staff, Van Wormer (2010) found that continuing education is essential to fighting “team drift”. Other research demonstrates that training can improve implementation (Latessa & Lownkamp, 2006, Melde et al., 2006; Rhine et al., 2006; Murphy & Lutze 2009). Participants in drug court who exhibit trauma-related symptoms require specific, trauma-informed services beginning in the first phase of drug court and continuing as necessary throughout the participant’s enrollment in the program. Even though all participants with trauma histories may not require formal post-traumatic stress disorder (PTSD) treatment, each staff member, including court personnel and criminal justice professionals, should be trauma-informed for all participants (Bath, 2008).

G. Roles and Responsibilities

In their assessment of team decision-making across three sites, Crea et al. (2009) suggest that fidelity to the decision-making models is critical, and that fidelity can be enhanced with clear role definitions. The team drift literature points to the need for clear definitions of roles and ongoing education to keep programs focused on their mission (Van Wormer, 2010).

H. Supervision Caseloads

The American Parole and Probation Association (APPA) introduced caseload guidelines in 2006, including guidelines regarding intensive supervised probation (ISP). ISP is designed for probationers that are both high-risk and high-needs, and as such are at a higher risk of failing probation and having serious social service and treatment needs (Petersilia, 1999). Drug courts are similar to ISP in that they are intended for high-risk, high-need individuals. Therefore, the APPA caseload recommendations are instructive for drug courts. The APPA recommends caseloads of 50:1 for moderate-risk and high-risk probationers without serious social-service or treatment needs, and caseloads of 20:1 for high-risk, high-need probationers (Byrne, 2012; DeMichele, 2007). A randomized experiment confirmed that probationers on a 50:1 caseload received more services, including substance abuse and mental health treatment, probation office sessions, telephone check-ins, employer contacts, and field visits than probationers supervised by officers with higher caseloads (Jalbert & Rhodes, 2012). As a result of receiving more services,

probationers on a 50:1 caseload had better probation outcomes, including fewer positive drug tests as well of fewer technical violations (Jalbert & Rhodes, 2012). Probation officers with caseloads substantially above the 50:1 recommendation had difficulty monitoring probationers closely and reducing technical violations.

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Appendix III

Supporting Evidence for Target Population, Eligibility, Referral, Entry, and Orientation

The supporting evidence is based on the National Adult Drug Court Standards developed by the National Association of Drug Court Professionals, (2013), p.6 – 10, 13; and (2015) p.59-73.

A. Objective Eligibility and Exclusion Criteria

Research shows that subjective eligibility criteria, including suitability determinations based on defendant motivation for change or readiness for treatment, have no impact on graduation or post-program recidivism rates (Carey & Perkins, 2008; Rossman et al., 2011). Standardized assessment tools are significantly more reliable and valid than professional judgment for predicting success in correctional supervision and matching participants to appropriate treatment and supervision services (Andrews et al., 2006; Bhati et al., 2008; Miller & Shutt, 2001; Sevigny et al., 2013; Shaffer, 2010; Wormith & Goldstone, 1984;).

B. High-Risk and High-Need Participants

A substantial body of research shows that drug courts that focus on high-risk/high-need defendants³ reduce crime approximately twice as much as those serving less serious defendants (Cissner et al., 2013; Fielding et al., 2002; Lowenkamp et al., 2005) and return approximately 50% greater cost savings to their communities (Bhati et al., 2008; Carey et al., 2008, 2012; Downey & Roman, 2010).

Lindquist et al., (2013) reviewed the entry criteria for the eight federally funded reentry courts in the NESCAARC project to find that the default was to set eligibility criteria according to risk – most often including moderate to high-risk clients. The eligibility criteria in the Nebraska standards are consistent with those in Lindquist et al.'s review.

C. Validated Eligibility Assessments

Drug and DUI courts should use validated assessment tools to assess risk and need. Research suggests that standardized assessment tools are significantly more reliable and valid than professional judgment for predicting success in correctional supervision and matching defendants to appropriate treatment and supervision services (Andrews et al., 2006; Miller & Shutt, 2001; Wormith & Goldstone, 1984). Drug courts that employ standardized assessment tools to determine candidates' eligibility for the program have significantly better outcomes than drug courts that do not use standardized tools (Shaffer, 2010).

Eligibility assessments should be performed along the dimensions of both risk and need to match defendants to appropriate levels of criminal justice supervision and treatment services, respectively (Andrews & Bonta, 2010; Casey et al., 2011; Marlowe, 2009). Most substance abuse screening tools are not sufficient for this purpose because they do not accurately differentiate substance dependence or

³ Those who are (1) addicted to or dependent on illicit drugs or alcohol and (2) at high-risk for criminal recidivism or failure in less intensive rehabilitative dispositions.

addiction from lesser degrees of substance abuse or substance involvement (Greenfield & Hennessey, 2008; Stewart, 2009) nor do they assess risk for reoffending. Assessment tools used to determine candidates' eligibility for programs—which are often validated on samples of predominantly Caucasian males—should not be assumed to be valid for use with minorities, females, or members of other demographic subgroups (Burlew et al., 2011). Studies have found that women and racial or ethnic minorities interpreted assessment items differently than other test respondents, making the test items less valid for these groups (Carle, 2009; Perez & Wish, 2011; Wu et al., 2010).

In their evaluation of the eight NESCAARC reentry courts, Lindquist et al (2013, 2014) point out the importance of utilizing risk and need as eligibility criteria for clients. They report each of the 8 federally funded reentry courts made use of one of several validated risk assessment instruments including the Level of Service Inventory- Revised (LSI-R), Level of Service/Case Management Inventory (LS/CMI), Risk and Needs Triage (RANT), Correctional Offender Management Profiling for Alternative Sanctions (COMPAS), Ohio Risk Assessment System (ORAS), and the Wisconsin Risk Assessment tool. The Nebraska Reentry Courts will utilize one of these instruments for its inclusion eligibility criteria, namely the LS/CMI.

D. Trauma-Informed Services

Evidence-based treatments for individuals diagnosed with PTSD are manualized, standardized, and cognitive-behavioral in orientation (Benish et al., 2008). Best practices for effective intervention focus on objectives including: creating a safe and dependable therapeutic relationship between participant and therapist; encouraging participants to cope with negative emotions without resorting to avoidance behaviors such as substance abuse; helping participants construct a “narrative” of their traumatic histories to facilitate a productive and healthy understanding of the traumatic events and to prevent future re-traumatization; and gradually exposing participants to memories and images of the event in order to reduce feelings of panic and anxiety associated with the event (Benish et al., 2008; Bisson et al., 2007; Bradley et al., 2005; Mills et al., 2012).

E. Criminal History Disqualifications

Research on criminal history disqualification focuses on disqualifying defendants who have been charged with, or have a history of, committing three classes of offenses: 1. felony theft and property crimes; 2. violent crimes; and 3. drug dealing. Research shows that not only are drug courts effective in reducing recidivism among individuals charged with felony theft and property crimes, but courts that serve these populations yielded almost twice the cost savings compared to those that did not (Carey et al., 2008, 2012). The additional costs savings were attributed to the fact that cost-savings associated with reduced recidivism for these more serious offenses were greater than those associated with reduced recidivism associated with simple drug possession cases (Downey & Roman, 2010). Research on defendants with a history of violent crime in drug courts show more mixed results. Some studies find they perform as well or better than nonviolent participants (Carey et al., 2008, 2012; Saum & Hiller, 2008; Saum et al., 2001) but two meta-analyses demonstrated that drug courts which include defendants charged with violent crimes are significantly less effective than those that do not (Mitchell et al., 2012; Shaffer, 2010). The most likely explanation for this discrepancy is that some of the drug courts might not have provided adequate services to meet the need and risk levels of violent defendants. Less research has been conducted on the inclusion of individuals charged with drug dealing. Existing studies suggested that these individuals can perform as well (Marlowe et al., 2008) or better (Cissner et al., 2013) than other participants in drug court programs.

F. Clinical Disqualifications

Assuming that adequate services are available, there is no empirical justification for excluding addicted defendants with co-occurring mental health or medical problems from participation in drug courts. Mental illness, in and of itself, is not recognized as being criminogenic (Skeem and Petersen, 2012). A national study of twenty-three adult drug courts found that drug courts were equivalently effective for a wide range of participants regardless of their mental health conditions (Rempel et al., 2012; Rossman et al., 2011; Zweig et al., 2012). Another study of approximately seventy drug courts found that programs that excluded defendants with serious mental health issues were significantly less cost-effective and had no better impact on recidivism than drug courts that did not exclude such individuals (Carey et al., 2012). Because mentally ill individuals are likely to cycle in and out of the criminal justice system and use expensive emergency room and crisis-management resources, intervening with these individuals in drug courts (assuming they are drug addicted and at high-risk for treatment failure) has the potential to produce substantial cost savings (Rossman et al., 2012; Skeem et al., 2011).

A valid prescription for medication to treat drug addiction should not serve as the basis for a blanket exclusion from a drug court (Parrino, 2002). Numerous controlled studies have reported significantly better outcomes when addicted participants received medically assisted treatments including opioid antagonist medications such as naltrexone, opioid agonist medications such as methadone, and partial agonist medications such as buprenorphine (Chandler et al., 2009; Finigan et al., 2011; National Institute of Drug Abuse, 2006).

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Appendix IV

Reentry Court Subcommittee Basis

For Target Population and Program Entry Guidelines

Target Population

Identification of an appropriate target population is critical to case management, data fidelity, evaluation, and program creation. The RNR (Risk-Need-Responsivity) model is an empirically based rehabilitation approach to corrections used worldwide to treat offenders (Andrews & Bonta, 2003; Andrews, Bonta, & Wormith, 2006; Andrews & Dowden, 2006; Andrews, Zinger, Hoge, Bonta, Gendreau, & Cullen, 1990; Gendreau & Andrews, 1990; Ward, Melsler, & Yates, 2007). According to RNR, the principles of assessing risk level through criminogenic needs and intervening through cognitive social learning techniques are the most effective way to bring about desistance (Andrews & Bonta, 2010). The risk principle proposes that the level of treatment should match the level of risk so that high-risk offenders should receive stronger doses of intervention, while low risk offenders should receive minimal or no intervention. The need principle states that treatments should focus only on criminogenic needs, which are the factors most predictive of decisions to engage in criminal activity. The responsivity principle further suggests that correctional programs should match the characteristics of the offenders (e.g., learning style, motivation, intensity, etc.). Several studies have provided evidence to support the RNR model as a generally effective means of reducing recidivism (Andrews et al., 1990) and with special populations, such as violent offenders (Dowden & Andrews, 2000), women (Dowden & Andrews, 1999a), and juveniles (Dowden & Andrews, 1999b; Dowden & Andrews, 2003). (Matching individual risk and needs to targeted best practice interventions is a critical component of effective case management and behavioral modification).

Reentry Courts in Nebraska shall target high risk and high need individuals who are at a high risk to reoffend. The Reentry Subcommittee made a decision to utilize clearly defined and objective eligibility requirements. With the exception of Post Release Supervision time, all other eligibility requirements shall come from validated and properly applied assessment tools.

Description of LS/CMI

The Level of Service/Case Management Inventory (LS/CMI) is an assessment that measures the risk and need factors of late adolescent and adult offenders (Andrews, Bonta, & Wormith, 2006). The LS/CMI is also a fully functioning case management tool. This single application provides all the essential tools needed to aid professionals in the treatment planning and management of offenders in justice, forensic, correctional, prevention and related agencies. The inventory consists of a commonly used set of scales with over 1 million administrations (internationally) in 2010 alone (Andrews, Bonta, & Wormith, 2011). Each scale includes a series of binary items that together measure one of the “Big Four” predictors of criminal behavior (i.e., criminal history, anti-social attitudes, antisocial associates, and antisocial personality) or one of the remaining four scales that make up the “Central Eight” criminogenic factors (i.e., education/employment, family/marital status, leisure recreation, and substance abuse). Most recently, Olver, Stockdale, and Wormith conducted a large-scale meta-analysis of all LSI scales which included 128 studies and 130,833 offenders and found a moderate effect size ($r = .30$) using a random effects model to predict general (not violent) community recidivism. In the U.S. the effect size was slightly lower but still significant ($r = .22$). Wiener found the validity coefficient of the LS/CMI in Nebraska to be similar to the rest of the United States with an r-value of .21.

UNL Recidivism Study

The Law/Psychology Program at the University of Nebraska/Lincoln recently completed a study examining the rate of recidivism for probationers (Wiener et al., 2016) adopting the Nebraska Supreme Court's definition of recidivism. It reads "As applied to adults, recidivism shall mean a final conviction of a Class I or II misdemeanor, a Class IV felony or above, or a Class W misdemeanor based on a violation of state law or an ordinance of any city or village enacted in conformance with state law, within 3 years of being successfully released." (Nebraska Supreme Court Administrative Operations, Article 10, §1-1001). The results of the study showed that the overall recidivism rate during the three-year window for the probationers with LS/CMI scores (N = 10,058) was 20.1%. This was higher than for the full sample with a recidivism score of 14.2% (N = 65,058) because officers do not administer this risk evaluation tool to lower risk offenders. The recidivism rate increased from very low risk (7.1%) through high risk (29.0%) and then leveled off and changed very little between high risk to very high risk (32.2%).

UNL Law/Psychology project used the LS/CMI scales to develop a prediction equation that differentiated between successful and unsuccessful probationers using the LSC/MI scales among the higher but not highest risk offenders (i.e., those with total LS/CMI scores less than 40 out of a possible 42 score). The committee found few people with scores as high or higher than 40 and those, who scored in this extremely high group represented individuals who were very unlikely to be on Post-Release Supervision. The prediction equation showed that individuals with a combined score of 12 or higher on 3 scales with strong predictive validity ($r = .19$) had a 20% probability of recidivating. The three factors (Criminal History, Education/Employment and Criminal Companions) were the best predictors of recidivism.

Based upon the results of this analysis, the criteria for target population for reentry court eligibility are the following:

- Total LSCMI score less than 40
- Combined LSCMI score 12 or more on Criminal History, Education/Employment, and Companions (summed)
- 12 months or more post release supervision
- Other individuals assessed as high risk and high overall need utilizing a validated offense specific assessment and 12 months or more of post release supervision⁴⁵

Current research indicates offenders committing a crime involving sexual acts (Sexual Offenders), face more reentry challenges than other offenders including social stigma and sex-offender-specific legislation. Further, according to studies of recidivism data, convicted sex offenders committed 40% of new sex crimes within the first year after release from prison. Sex offenders also have the highest

⁴ The committee endorses the use of the LS/CMI for risk assessment as it has been validated through multiple studies in the research literature for use with general population offenders, Nebraska commonly uses the instrument for Presentence Investigations and for Post-Release Supervision and UNL has validated the LS/CMI in its use in Nebraska. However, other specialized and validated risk instruments can also define high risk/high need individuals when an LS/CMI score is unavailable or inappropriate.

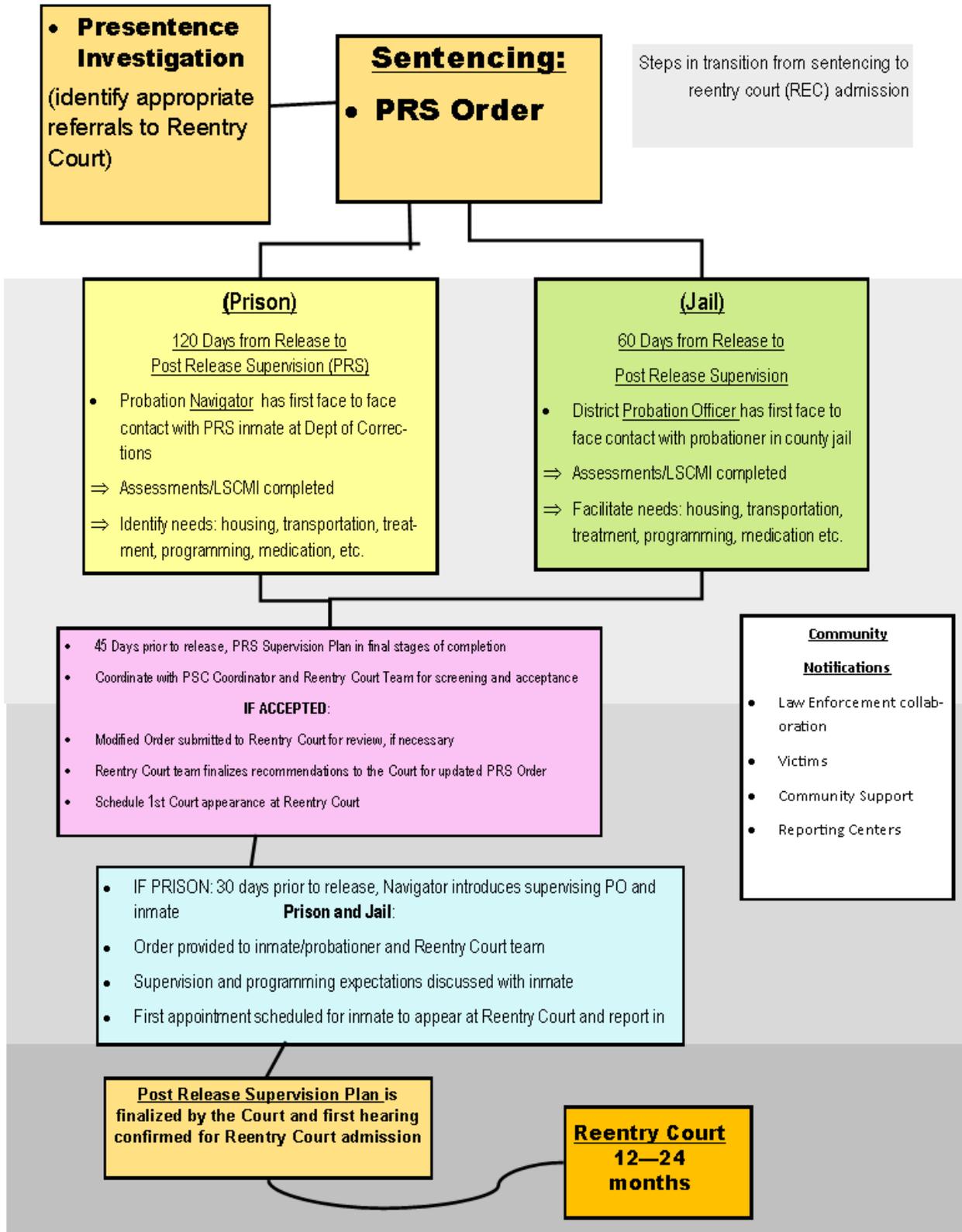
⁵ Recent test analysis on Probation District 9 showed that there have been 44 individuals sentenced to either DOC or jail meeting the above criteria from August 31, 2015 to March 14, 2017

rate of relapse among offenders.⁶ Sex offenders will be evaluated for reentry court using the same eligibility criteria as used for other offenders but once admitted to the reentry court program, they will be assigned to sex-offender-specific treatment programs administered by the probation administration. To reduce the risk of recidivism for this particular segment of offenders, it is recommended sex offenders appear before the judicial officer apart from the other offenders to minimize the factors that contribute to recidivism, including social stigma.⁷

Points of Entry

The LS/CMI is part of most Pre-sentence Investigations (PSIs) that Investigation officers complete before sentencing. If no PSI is available, LS/CMI scores are available from Reentry Navigator Officers who administer them 120 days prior to release from the institution. For individuals leaving county jail, local district staff administer an LS/CMI as part of the Post Release Supervision Plan.

⁶ (Kristen M. Budd, Mary J. Burbrink, Tyrell A. Conner, 2016) *Team Members Perceptions on a Sex Offender Reentry Court's Failure to Launch: A Pilot Study*, *Journal of Sexual Aggression*, 22:3, 394-409.



Appendix V

Supporting Evidence for Program Structure

The supporting evidence is based on the National Adult Drug Court Standards developed by the National Association of Drug Court Professionals, (2013), p.19-24, 40-51; and (2015), p.51-58.

A. Program Capacity

Recidivism reduction declines significantly as program size increases. A study of 69 drug courts found that programs with less than 125 participants had over five times the reduction in recidivism compared to those with 125 or more participants (Carey et al, 2012). Research also suggests that to avoid the decrease in positive outcomes associated with a larger number of participants, larger programs should regularly monitor their practices to ensure that they maintain fidelity to the drug court model and to best practices (Carey et al, 2012). It is unnecessary for drug courts to place arbitrary restrictions on program size, and it should be a goal of the drug court field to serve every drug addicted person in the criminal justice system who meets evidence based eligibility criteria for the programs (Fox & Berman, 2002). However, many drug courts are not equipped with the resources to increase capacity and continue to deliver quality services. A study of approximately seventy drug courts found a significant inverse relationship between the size of the drug court census and the effects on criminal recidivism (Carey et al., 2008, 2012a). Programs evidenced a steep decline in effectiveness when the census exceeded 125 participants, and drug courts with fewer than 125 participants were five times more effective in reducing recidivism than drug courts with more than 125 participants (Carey et al., 2012b). Staff should monitor drug court operations, and if some operations are drifting away from best practices, a remedial action plan should be implemented to rectify the deficiencies, such as hiring additional staff, purchasing more drug and alcohol tests, providing continuing education for staff, or scheduling status hearings on more days of the week.

B. Program Entry

Carey et al. (2012) also found that programs in which the time between arrest and program entry was 50 days or less had a 63% greater reduction in recidivism when compared to programs in which the time between arrest and program entry was longer. A study of 18 drug courts found that a shorter time between arrest and entry into the program was associated with lower recidivism rates and greater cost savings (Carey et al., 2008).

SAMHSA's *Treatment Improvement Protocol 44* (Center for Substance Abuse Treatment, 2005) recommends providing screening and assessment at the earliest point possible and moving defendants into treatment as soon as possible.

C. Graduation, Duration, Program Participation

1. Benefits of Program Participation AND 2. Consequences for Unsuccessful Program Exit

A national study of twenty-three adult drug courts, the NIJ-Multisite Adult Drug Court Evaluation (MADCE), finds better outcomes for courts that provide participants with a written schedule of rewards for participation and sanctions for non-compliance prior to beginning participation (Rossman et al., 2011). The same study found that programs in which clients perceived that courts had a higher degree of leverage over them (e.g. that they were being closely monitored and that the consequences of noncompliance would be negative) prevented more crimes than those with a low degree of leverage (Rossman et al., 2011).

A meta-analysis of approximately sixty studies including seventy drug courts examined the relationship between recidivism and the type of reward associated with graduation (Shaffer, 2006). Shaffer (2006) found that drug courts are more effective at reducing recidivism when graduation leads to charges and/or motions to revoke probation being dismissed than when it is linked to avoiding a sanction.

3. Program Length

The MADCE study found that it is important to provide substance abuse treatment of sufficient duration to allow participants to alter their behavior and attitudes (Rossman et al., 2011). In a meta-analysis including 60 studies covering 76 distinct drug courts and 6 aggregated drug court programs, programs that lasted 8-16 months were significantly more effective in reducing recidivism than programs that were shorter or longer (Shaffer, 2006). In a study of 69 drug courts, programs that were 12 months or longer had a 57% greater reduction in recidivism than shorter programs (Carey et al., 2012). As Marlowe, Dematteo, and Festinger (2003) point out, 12 months in substance treatment is required to reduce the probability of relapse by 50 percent. As they point out, twelve months of drug treatment appears to be the “median point” on the dose-response curve; that is, approximately 50% of clients who complete twelve months or more of drug abuse treatment remain abstinent for an additional year following completion of treatment.

Lindquist et al. (2013) report that reentry court participation is typically shorter than other types of community participation ranging from 6 months to two years across the 8 NESCAARC sites with the most typical participation ending between 12 and 18 months.

4. Program Progression Structure

Several studies have found that using a written schedule of graduated sanctions and incentives is most effective in producing positive outcomes (Cissner & Rempel, 2005; Harrell et al., 2000; Rossman et al., 2011). In a meta-analysis of adult drug courts including 92 studies, Mitchell et al (2012) specifically examined multi-phase programs and found that programs with more than three phases had a larger reduction in drug recidivism than programs with fewer phases.

5. Graduation Requirements

a. Period of Time Clean and Sober Prior to Program Exit

In a study of 69 drug courts, programs in which participants were required to have at least 90 days of negative drug tests prior to successfully exiting the program had 164% greater reduction in recidivism and 50% greater cost savings than programs that required fewer days clean (Carey et al., 2012).

b. Stable and Pro-social Activities and Environment

Carey et al. (2012) also found that programs which require participants to have sober housing prior to graduation have 48% greater cost savings than programs which do not. In addition, programs which require participants to have a job or be in school prior to graduation have an 83% greater cost-savings than programs that do not. Andrews and Bonta (2010), when defining their new widely-applied *Risk-Needs-Responsivity (RNR)* model identified “prosocial recreational activities” as a criminogenic need that, if not met, is associated, if weakly, with recidivism.

c. Written Sustained Recovery Plan

The provision of after care services is associated with reduced recidivism (Van Voorhis & Hurst, 2000). In a random-assignment study of 453 veterans receiving substance abuse treatment, Seigal et al. (2002) found that engagement in aftercare with continued supervision and case management after completing treatment significantly reduced negative behavior.

Lindquist et al. (2013) report that 3 of the 8 NESCAARC reentry courts provide a post-program release aftercare component including extended community supervision such as continued drug testing and some limited program services.

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Appendix VI

Supporting Evidence for Treatment

The supporting evidence is based on the National Adult Drug Court Standards developed by the National Association of Drug Court Professionals (2013) p.38 – 49; and (2015) p.5-25.

A. Continuum of Care

Outcomes are significantly better in drug courts that offer a continuum of care including residential treatment and recovery, housing, and outpatient treatment (Carey et al., 2012; Koob et al., 2011; McKee, 2010). Participants who are placed initially in residential treatment should be stepped down gradually to day treatment or intensive outpatient treatment and subsequently to outpatient treatment⁸ (Krebs et al., 2009). Moving participants directly from residential treatment to a low frequency of standard outpatient treatment has been associated with poor outcomes in substance abuse treatment studies (McKay, 2009a; Weiss et al., 2008).

Significantly better results are achieved when substance abuse participants are assigned to a level of care based on a standardized assessment of their treatment needs as opposed to relying on professional judgment or discretion (Andrews & Bonta, 2010; Babor & Del Boca, 2002; Karno & Longabaugh, 2007; Vieira et al., 2009). Studies have confirmed that participants who received the indicated level of care according to the *American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-Related Disorders*⁹ (ASAM-PPC) had significantly higher treatment completion rates and fewer instances of relapse to substance use than participants who received a lower level of care than was indicated (De Leon et al., 2010; Gastfriend et al., 2000; Gregoire, 2000; Magura et al., 2003; Mee-Lee & Gastfriend, 2008) and had equivalent or worse outcomes than those receiving a higher level of care than what was indicated (Lovins et al., 2007; Lowenkamp & Latessa, 2005; Magura et al., 2003; Wexler et al., 2004). The negative impact of receiving an excessive level of care appears to be most pronounced for participants below the age of twenty-five (DeMatteo et al., 2006; Lowenkamp & Latessa, 2004; McCord, 2003; Petrosino et al., 2000; Szalavitz, 2010).

PTSD may also co-occur with substance abuse and anxiety disorders, further complicating treatment decisions (Friedman, 2014). The National Survey on Drug Use and Health found that “7.0 percent of participants aged 18 or older experienced past year serious psychological distress (SPD), 7.1 percent met the criteria for a past year substance use disorder (SUD), and 1.5 percent had co-occurring SPD and SUD (based on combined 2004-2006 data, SAMHSA, 2007).” The more recent 2009 National Post-Deployment Adjustment Survey yielded a 20 percent PTSD occurrence and a 27 percent alcohol misuse occurrence for those participants that had been deployed (Elbogen, Johnson, Newton, et al., 2012). The physical and psychological conditions participants face as a result of their service may also relate or lead to secondary social issues. It should also be noted that these issues may co-occur. For example, homeless veterans are more likely to have chronic medical conditions and mental health needs than other homeless adults (O’Toole, Conde-Martel, Gibbon, Hanusa, & Fine, 2003).

⁷ Broadly speaking, standard outpatient treatment is typically less than nine hours per week of services, intensive outpatient treatment is typically between nine and nineteen hours, and day treatment is typically over twenty hours but does not include overnight stays (Mee-Lee & Gastfriend, 2008).

⁹ The *American Society of Addiction Medicine Patient Placement Criteria for the Treatment of Substance-Related Disorders* (ASAM-PPC) is the most commonly used placement criteria (Mee-Lee et al., 2001).

Lindquist et al., (2013; 2014) found that some of the NESCAARC reentry courts excluded clients with mental health problems but only did so if there were mental health problem solving courts available to serve these clients' needs. All other reentry courts offered a full range of mental health services. Later process analyses suggested that clients needed even more mental health services.

Evidence suggests racial and ethnic minority participants may be more likely than non-minorities to receive a lower level of care than is warranted from their assessment results (Integrated Substance Abuse Programs, 2007; Janku & Yan, 2009).

B. In-Custody Treatment

Relying on in-custody substance abuse treatment can reduce the cost-effectiveness of a drug court by as much as 45% (Carey et al., 2012). Also, research shows that substance abuse treatment provided in jails or prisons is not particularly effective (Pearson & Lipton, 1999; Pelissier et al., 2007; Wilson & Davis, 2006). Although specific types of in-custody programs, such as therapeutic communities (TCs), have been shown to improve outcomes for jail or prison inmates (Mitchell et al., 2007), most of the benefits of those programs were attributable to the fact that they increased the likelihood participants would complete outpatient treatment after their release from custody (Bahr et al., 2012; Martin et al., 1999; Wexler et al., 1999).

C. Team Representation

Outcomes are significantly better in drug courts that rely on one or two primary treatment agencies to manage the provision of treatment services for participants (Carey et al., 2008, 2012; Shaffer, 2006; Wilson et al., 2006). In a study of 69 drug court programs, recidivism was reduced as much as two fold in programs where representatives from these primary agencies are core members of the drug court team and regularly attend staff meetings and court hearings (Carey et al., 2012). This arrangement helps to ensure that timely information about participants' progress in treatment is communicated to the drug court team and treatment-related issues are taken into consideration when decisions are reached in staff meetings and status hearings. When drug courts are affiliated with large numbers of treatment providers outcomes were enhanced for programs in which the treatment providers communicate frequently with the court via e-mail or similar electronic means (Carey et al., 2012).

D. Treatment Dosage and Duration

The longer participants remain in treatment and the more sessions they attend, the better their outcomes (Banks & Gottfredson, 2003; Gottfredson et al., 2007; Gottfredson et al., 2008; Peters et al., 2002; Shaffer, 2010; Taxman & Bouffard, 2005). The best outcomes are achieved when addicted participants complete a course of treatment extending over approximately nine to twelve months (270 to 360 days; Peters et al., 2002; Huebner & Cobbina, 2007). On average, for drug courts treating those addicted to drugs and at high risk of recidivism or treatment failure, participants will require approximately six to ten hours of counseling per week during the first phase of the program (Landenberger & Lipsey, 2005) and 200 hours of counseling over the course of treatment (Bourgon & Armstrong, 2005; Sperber et al., 2013). The most effective drug courts publish general guidelines concerning the anticipated length and dosage of treatment; but retain sufficient flexibility to accommodate individual differences in responses to treatment (Carey et al., 2012).

E. Treatment Modalities

Drug treatment can be provided in individual and group settings. Research shows that outcomes are significantly better in drug courts that require participants to attend individual sessions with a treatment provider or clinical case manager at least once per week during the first phase of the program (Carey et al., 2012; Rossman et al., 2011).

Group counseling can improve outcomes for drug court participants, but only under certain conditions. It is especially important that the groups apply evidence-based practices and that participants are screened for their suitability for group-based services (Andrews et al., 1990; Gendreau, 1996; Hollins, 1999; Lowenkamp et al., 2006). The size of the group also has implications for its effectiveness. Research indicates counseling groups are most effective with six to twelve participants and two facilitators (Brabender, 2002; Sobell & Sobell, 2011; Velasquez et al., 2001; Yalom, 2005). Groups with more than twelve members have fewer verbal interactions, spend insufficient time addressing individual members' concerns, are more likely to fragment into disruptive cliques or subgroups, and are more likely to be dominated by antisocial, forceful or aggressive members (Brabender, 2002; Yalom, 2005). Groups with fewer than four members commonly experience excessive attrition and instability (Yalom, 2005).

Evidence reveals group interventions may be contraindicated for certain types of participants, such as those suffering from serious brain injury, paranoia, sociopathy, major depression, or traumatic disorders (Yalom, 2005). Individuals with these characteristics may need to be treated on an individual basis or in specialized groups that can focus on their unique needs and vulnerabilities (Drake et al., 2008; Ross, 2008). Researchers have identified substantial percentages of drug court participants who may require specialized group services for comorbid mental illness (Mendoza et al., 2013; Peters, 2008; Peters et al., 2012) or trauma histories (Sartor et al., 2012). Better outcomes have been achieved, for example, in drug courts (Messina et al., 2012; Liang & Long, 2013) and other substance abuse treatment programs (Grella, 2008; Mills et al., 2012) that developed specialized groups for women with trauma histories.

Drug courts must identify a range of complementary needs of its participants, refer them to indicated services, and ensure that the services are delivered in an effective sequence. This complex task must be informed by a professionally trained clinician or clinical case manager who can perform clinical and social service assessments, who understands how the services should be sequenced and matched to the participant, and can monitor and report on participant progress (Monchick et al., 2006; Rodriguez, 2011). Generally, clinical case managers are social workers, psychologists, or addiction counselors who have special training in identifying participant needs, referrals for indicated services, coordinating care between agencies, and reporting on participant progress in the program (Monchick et al., 2006; Rodriguez, 2011). Court case managers will generally administer a brief screening designed to identify participants who may require more substantial clinical assessments. Participants who score above a certain threshold on the screening instrument should be referred to a clinically-trained treatment professional for additional assessment.

F. Evidence-Based Treatments

A substantial body of research spanning several decades reveals that outcomes from correctional rehabilitation are significantly better when (1) individuals receive behavioral or cognitive-behavioral counseling interventions, (2) the interventions are carefully documented in treatment manuals, (3) treatment providers are trained to deliver the interventions reliably according to the manual, and (4) fidelity to the treatment model is maintained through continuous supervision of the treatment providers (Andrews et al., 1990; Andrews & Bonta, 2010; Gendreau, 1996; Hollins, 1999; Landenberger & Lipsey, 2005; Lowenkamp et al., 2006; Lowenkamp et al., 2010; Smith et al., 2009). Adherence to these principles

has been associated with significantly better outcomes in drug courts (Gutierrez & Bourgon, 2012) and in other drug abuse treatment programs (Prendergast et al., 2013). Fidelity to the treatment model is maintained through continuous supervision of the treatment providers (Hollin, 1999; Landenberger & Lipsey, 2005; Lowenkamp et al., 2006; Lowenkamp et al., 2010; Lutze & VanWormer, 2007; Smith et al., 2009).

Examples of manualized CBT curricula that have been proven to reduce criminal recidivism among prisoners include Moral Reconciliation Therapy (MRT), Reasoning and Rehabilitation (R&R), Thinking for a Change (T4C), Relapse Prevention Therapy (RPT) and the Matrix Model (Cullen et al., 2012; Dowden et al., 2003; Ferguson & Wormith, 2012; Landenberger & Lipsey, 2005; Lipsey et al., 2001; Lowenkamp et al., 2009; Marinelli-Casey et al., 2008; Milkman & Wanberg, 2007; Pearson et al., 2002; Wilson et al., 2005). The Matrix Model and RPT were developed for the treatment of addiction and MRT has been adapted successfully to treat drug-abusing prisoners (Bahr et al., 2012; Wanberg & Milkman, 2006) and drug court participants (Cheesman & Kunkel, 2012; Heck, 2008; Kirchner & Goodman, 2007).

G. Identify Services in Community to Target Participant Needs

In a study of 69 drug court programs, Carey et al. (2012) found that programs that offered ancillary services had better outcomes than those that did not. Programs that offered mental health treatment had 80% greater recidivism reduction, those that offered parent classes had a 65% greater recidivism reduction and those that offered family/domestic relations counseling had 65% greater recidivism reduction, compared to programs that did not offer these services. Programs offering parenting classes reported 52% increase in cost savings and those offering anger management had 43% increase in cost savings compared to programs that did not offer these services.

I. Medications

Medically assisted treatment (MAT) can significantly improve outcomes for addicted persons (Chandler et al., 2009; National Center on Addiction & Substance Abuse, 2012; National Institute on Drug Abuse, 2006). Buprenorphine or methadone maintenance administered prior to and immediately after release from jail or prison has been shown to significantly increase opiate-addicted inmates' engagement in treatment; reduce illicit opiate use; reduce rearrests, technical parole violations, and reincarceration rates; and reduce mortality and hepatitis C infections (Dolan et al., 2005; Gordon et al., 2008; Havnes et al., 2012; Kinlock et al., 2008; Magura et al., 2009). Positive outcomes have also been reported for antagonist medications, such as naltrexone, which are non-addictive and non-intoxicating. Studies have reported significant reductions in heroin use and rearrest rates for opiate-addicted probationers and parolees who received naltrexone (Cornish et al., 1997; Coviello et al., 2012; O'Brien & Cornish, 2006). In addition, at least two small-scale studies reported better outcomes in DWI drug courts or DWI probation programs for alcohol-dependent participants who received an injectable form of naltrexone called Vivitrol (Finigan et al., 2011; Lapham & McMillan, 2011).

J. Provider Training and Credentials

Studies have found that clinicians with higher levels of education and clinical certification were more likely to hold favorable views toward the adoption of evidence-based practices (Arfken et al., 2005) and to deliver culturally competent treatments (Howard, 2003). A large-scale study found that clinically certified professionals significantly outperformed noncertified staff members in conducting standardized clinical assessments (Titus et al., 2012). Clinicians are also more likely to endorse treatment philosophies favorable to participant outcomes if they are educated about the neuroscience of addiction (Steenbergh et al., 2012). Providers are better able to administer evidence-based practices when they receive three days of pre-implementation training, periodic booster trainings, and monthly individualized supervision

and feedback (Bourgon et al., 2010; Edmunds et al., 2013; Robinson et al., 2012). Finally, research suggests treatment providers are more likely to be effective if they have substantial experience working with populations in criminal justice settings and are accustomed to functioning in a criminal justice environment (Lutze & van Wormer, 2007).

K. Peer Support Groups

Participation in self-help or peer-support groups is consistently associated with better long-term outcomes following a substance abuse treatment episode (Kelly et al., 2006; Moos & Timko, 2008; Witbrodt et al., 2012). Individuals who are court mandated to attend self-help groups perform as well or better than non-mandated individuals (Humphreys et al., 1998). The critical variable appears to be how long the participants were exposed to the self-help interventions and not their original level of intrinsic motivation (Moos & Timko, 2008).

Successful outcomes are more likely if participants attend self-help groups and also engage in recovery-relevant activities like developing a sober-support social network (Kelly et al., 2011a), engaging in spiritual practices (Kelly et al., 2011b; Robinson et al., 2011), and learning effective coping skills from fellow group members (Kelly et al., 2009). Research has demonstrated that interventions can improve participant engagement in self-help groups and recovery activities. Examples include 12-step facilitation therapy (Ries et al., 2008), which teaches participants about what to expect and how to gain the most benefits from 12-step meetings. In addition, intensive referrals improve outcomes by assertively linking participants with support-group volunteers who may escort them to the groups, answer any questions they might have, and provide them with support and camaraderie (Timko & DeBenedetti, 2007).

L. Trauma-Informed Services

Participants in drug court that exhibit trauma-related symptoms require specific, trauma-informed services beginning in the first phase of drug court and continuing, as necessary, throughout the participant's enrollment in the program. Individuals in the criminal justice system with PTSD are nearly one and half times more likely to reoffend than individuals without PTSD (Sadeh & McNeil, 2015). Additionally, participants with PTSD are at a much greater risk of being discharged prematurely or dropping out of substance abuse treatment than participants without PTSD (Mills et al., 2012; Read et al., 2004; Saladin et al., 2014). Even though all participants with trauma histories may not require formal PTSD treatment, each staff member, including court personnel and criminal justice professionals, should receive trauma-informed training (Bath, 2008).

M. Criminal Thinking Interventions

Drug court participants frequently exhibit criminal-thinking patterns that may lead to program failure and criminal recidivism (Gendreau et al., 1996; Helmond et al., 2015; Knight et al., 2006; Walters, 2003). Some drug court participants may hold counter-productive attitudes or values, have difficulty understanding their role in interpersonal conflict, as well as difficulty anticipating consequences before they act. These anti-social sentiments can cause participants to be viewed as suspicious or manipulative, and may lead to frequent conflict. There are several evidence based cognitive-behavioral interventions to address criminal-thinking patterns. Evidence based programs that demonstrate improved outcomes for participants include Moral Reconciliation Therapy (Cheesman & Kunkel, 2012; Heck, 2008; Kirchner & Goodman, 2007), Thinking for a Change (Lowenkamp et al., 2009), and Reasoning & Rehabilitation (Cullen et al., 2012; Tong & Farrington, 2006). Studies suggest that the most beneficial time to introduce these interventions is after participants are stabilized in treatment and are no longer experiencing acute symptoms of withdrawal (Milkman & Wanberg, 2007).

N. Overdose Prevention and Referral

Unintentional overdose deaths from illicit and prescribed opiates has tripled over the last fifteen years (Meyer et al., 2014), and individuals addicted to opiates are at a high-risk for overdose immediately following their release from jail or prison because their tolerance of opiates is reduced significantly during time in incarceration (Dolan et al., 2005; Strang, 2015; Strang et al., 2014). Drug courts should educate participants and their family members about simple overdose prevention and reversal strategies. Drug court personnel and other criminal justice professionals should be trained on the administration of overdose reversal medications such as naloxone, a non-addictive, non-intoxicating medication that poses a minimal risk of medical side-effects (Barton et al., 2002; Kim et al., 2009). Studies in Scotland and the United States have demonstrated that educating at-risk persons and their significant others about how to prevent or reverse an overdose significantly reduces overdose deaths (National Institute on Drug Abuse, 2014; Strang, 2015).

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Appendix VII

Supporting Evidence for Court Sessions/ Judicial Monitoring/Status Hearings

The supporting evidence is based on the National Adult Drug Court Standards developed by the National Association of Drug Court Professionals, (2013), p.20 – 25; and (2015) p.38-50.

A. Professional Training

Research indicates the judge exerts a unique and substantial impact on outcomes in drug courts (Carey et al., 2012; Jones, 2013; Jones & Kemp, 2013; Marlowe et al., 2006; Zweig et al., 2012). A national study of twenty-three adult drug courts found that programs produced significantly greater reductions in crime and substance abuse when the judges were rated by independent observers as being knowledgeable about substance abuse treatment (Zweig et al., 2012). Similarly, a statewide study of drug courts in New York reported significantly better outcomes when judges were perceived by the participants as being open to learning about the disease of addiction (Farole & Cissner, 2007). Focusing on training in particular, research shows that outcomes are significantly better when drug court judges attend annual training conferences on evidence-based practices in substance abuse and mental health treatment and community supervision (Carey et al., 2008, 2012; Shaffer, 2010).

B. Length of Term

Evidence suggests many drug court judges are significantly less effective at reducing crime during their first year on the bench than during ensuing years (Finigan et al., 2007). A study of approximately seventy drug courts found nearly three times greater cost savings and significantly lower recidivism when judges presided over drug courts for at least two consecutive years (Carey et al., 2008, 2012). Significantly greater reductions in crime were also found when judges were assigned to drug courts on a voluntary basis and their term on the drug court bench was indefinite in duration (Carey et al., 2012).

C. Consistent Docket

Drug courts that rotated their judicial assignments or required participants to appear before alternating judges had the poorest outcomes in several research studies (Finigan et al., 2007; National Institute of Justice, 2006).

D. Frequency of Status Hearings

In a series of experiments, researchers randomly assigned drug court participants to either appear before the judge every two weeks for status hearings or to be brought into court only in response to repetitive rule violations. The results revealed that high-risk participants had significantly better counseling attendance, drug abstinence, and graduation rates when they were required to appear before the judge every two weeks (Festinger et al., 2002). This finding was replicated in misdemeanor and felony drug courts serving urban and rural communities (Jones, 2013; Marlowe et al., 2004a, 2004b). It was also confirmed in prospective matching studies in which the participants were assigned at entry to biweekly hearings if they were determined to be high risk (Marlowe et al., 2006, 2007, 2008, 2009, 2012).

Similarly, a meta-analysis involving ninety-two adult drug courts (Mitchell et al., 2012) and another study of nearly seventy drug courts (Carey et al., 2012) found significantly better outcomes for drug courts that scheduled status hearings every two weeks during the first phase of the program. Scheduling status

hearings at least once per month until the last phase of the program was also associated with significantly better outcomes and nearly three times greater cost savings (Carey et al., 2008, 2012).

E. Length of Court Interactions

In a study of nearly seventy adult drug courts, outcomes were significantly better when the judges spent an average of at least three minutes, and as much as seven minutes, interacting with the participants during court sessions (Carey et al., 2008, 2012).

Lindquist et al. (2013) found that among the 8 NESCAARC reentry courts hearings varied in length from a minimum of 32 minutes to 4 hours with the number of cases ranging from 2 to 25 per court session.

F. Judicial Demeanor

Studies have consistently found that drug court participants perceived quality of interactions with the judge to be among the most influential factors for success in the program (Farole & Cissner, 2007; Goldkamp et al., 2002; Jones & Kemp, 2013; National Institute of Justice, 2006; Satel, 1998; Saum et al., 2002; Turner et al., 1999). The NIJ Multi-site Adult Drug Court Evaluation (MADCE) found that significantly greater reductions in crime and substance use were produced by judges who were rated by independent observers as being more respectful, fair, attentive, enthusiastic, consistent and caring in their interactions with the participants in court (Zweig et al., 2012). Similarly, a statewide study in New York reported significantly better outcomes for judges who were perceived by the participants as being fair, sympathetic, caring, concerned, understanding and open to learning about the disease of addiction (Farole & Cissner, 2007). In contrast, outcomes were significantly poorer for judges who were perceived as being arbitrary, jumping to conclusions, or not giving participants an opportunity to explain their side of the controversies (Farole & Cissner, 2007; Zweig et al., 2012). Program evaluations have similarly reported that supportive comments from the judge were associated with significantly better outcomes in drug courts (Senjo & Leip, 2001) whereas stigmatizing, hostile, or shaming comments from the judge were associated with significantly poorer outcomes (Miethe et al., 2000).

These findings are consistent with a body of research on procedural fairness or procedural justice. The results of those studies indicated that criminal defendants and other litigants were more likely to have successful outcomes and favorable attitudes towards the court system when they were treated with respect by the judge, given an opportunity to explain their side of controversies, and perceived the judge as being unbiased and benevolent in intent (Burke, 2010; Burke & Leben, 2007; Frazer, 2006; Lee, et al., 2013).

In their randomized experimental evaluation of the Harlem Reentry Court, Ayoub and Pooler (2015) found that the clients in the reentry court perceived greater levels of procedural justice than did those in normal parole supervision group. Perceptions of procedural justice are significant predictors of successful rehabilitation in the criminal justice literature.

G. Judicial Decision Making

Research on the impact of a team approach to decision making is limited. In an evaluation of the Staten Island Treatment Court, respondents (judge, prosecutor, and defense attorney) cited the importance of strong relationships among the members of the drug court team in overcoming implementation challenges (O'keefe & Rempel, 2005). In focus groups, experienced treatment courts judges from California and New York reported that a "team approach" was a key ingredient to success (Farole, et al., 2005). A 2010 national survey of drug court professionals (judges, prosecutors, defense attorneys, drug

court coordinators, treatment providers, probation officers, law enforcement officers and others) found agreement that the collaborative efforts of drug courts provided benefits to the justice, public health, and education systems. (VanWormer, 2010). In a study of nine drug courts in California, courts where more agency staff attended drug court meetings had more positive outcomes including fewer rearrests, court cases, jail days, and prison days (Carey et al., 2005).

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Appendix VIII

Supporting Evidence for Drug and Alcohol Testing

The supporting evidence is based on the National Adult Drug Court Standards developed by the National Association of Drug Court Professionals, (2013), p.52-66; and (2015), p.26-37.

A. Policy and Procedures

Cary (2011) and McIntire and Lessenger (2007) describe techniques participants use to falsify samples including dilution, adulteration, substitution and tampering. Policies and procedures should focus on limiting opportunities to falsify samples (ASAM 2013, Cary 2011, Katz et al., 2007, Tsai et al, 1998). Chain of custody and reporting of results should also be focused on ensuring valid and reliable results (Meyer 2011). Drug and alcohol test results must be derived from scientifically valid and reliable methods in order to be admissible as evidence in legal proceedings (Meyer, 2011). Appellate courts have confirmed the scientific validity of several methods for analyzing urine, such as the enzyme multiple immunoassay technique (EMIT), gas chromatography/ mass spectrometry (GC/MS), liquid chromatography/mass spectrometry (LC/MS), as well as tests for sweat, oral fluid, and ankle-monitors (Meyer, 2011). Drug courts must follow customary chain-of-custody procedures for test specimens, including establishing a paper trail identifying each individual in custody of the testing specimen, and to have adequate labeling and security measures to maintain the integrity of the testing specimen. Drug court outcomes are significantly better when policies and procedures are clearly outlined in a participant handbook or manual (Carey et al., 2012). Criminal defendants were much more likely to react favorably to an adverse judgement if given advance notice regarding how the judgement would be made (Burke & Leben, 2007; Frazer, 2006; Tyler, 2007). Drug courts can improve participant's perceptions of fairness by detailing policies and procedures in a manual or handbook, and frequently reminding participants of testing procedures and participant requirements located in the contract or handbook.

B. Frequency of Testing

In a study of 69 drug courts Carey et al. (2012) found that programs that tested at least two times per week in phase one increased cost savings by 61% compared to programs that tested less frequently. Research has also shown the importance of testing on weekends and holidays because these are high-risk times for drug and alcohol abuse (Kirby et al, 1995; Marlatt & Gordon, 1985). Drug courts that perform urine drug testing more frequently experience better outcomes in terms of higher graduation rates, lower drug use, and lower criminal recidivism amongst participants (Banks & Gottfredson, 2003; Gottfredson et al., 2007; Griffith et al., 2000; Harrell et al., 1998; Hawken & Kleiman, 2009; Kinlock et al., 2013; National Institute on Drug Abuse, 2006). Drug court participants consistently identified frequent drug and alcohol testing as being among the most influential factors for successful completion of the program (Gallagher et al., 2015; Goldkamp et al., 2002; Saum et al., 2002; Turner et al., 1999; Wolfer, 2006). For the first several months of the program, the most effective drug courts administer urine drug testing at least twice a week (Carey et al., 2008). A study of seventy drug courts demonstrated that programs that performed urine drug testing at least twice a week produced a 38% greater reduction in crime and were 61% more cost-effective than programs that performed urine drug testing less often (Carey et al., 2012). The metabolites of most drugs is detectable in urine for approximately two to four days, so testing less frequently could leave an unacceptable gap of time where participants can abuse drugs and avoid detection, leading to poorer outcomes (Stitzer & Kellogg, 2008).

C. Random Testing

Research shows that drug testing is most effective when it is performed on a random basis (ASAM, 2013; ASAM, 2010; Auerbach, 2007; Carver, 2004; Cary, 2011; Harrell & Kleiman, 2002; McIntire et al., 2007). Auerbach (2007) and Cary (2011) suggest providing no more than an 8 hour notice that the test will be performed.

D. Scope of Drugs Tested

Research suggests that it is important to test for a broad array of drug types (Carey, 2011). Cary (2010) describes SPICE and K2, two synthetic cannabinoids that can be difficult to detect with standard drug testing. In a study including over 300 surveys and 25 interviews, Perrone et al. (2013) demonstrated that people switch from using marijuana to using synthetic cannabinoids to avoid detection during testing duration and switch back after the testing period.

E. Availability of Testing Results

In a study of 69 drug courts, Carey et al. (2012) found that programs in which drug test results were available in two days or less had 73% greater reduction in recidivism and 68% increase in cost savings, compared to programs that took longer to receive results.

F. Licit Addictive or Intoxicating Substances

Research has shown that the ingestion of alcohol and cannabis gives rise to further criminal activity (Bennett et al., 2008; Boden et al., 2013; Friedman et al., 2001; Pedersen & Skardhamar, 2010; Reynolds et al., 2011), precipitates relapse to other drugs of abuse (Aharonovich et al., 2005), increases the likelihood that participants will fail out of drug court (Sechrest & Shicor, 2001), and reduces the efficacy of rewards and sanctions that are used in drug courts to improve participants' behaviors (Lane et al., 2004; Thompson et al., 2012).

If addiction medications may be helpful, their use should be authorized only if a physician with training in addiction psychiatry or medicine carefully monitors the participant. There is a serious risk of morbidity, mortality, or illegal diversion of medications when general medical practitioners prescribe addiction medications to this population (Bazazi et al., 2011; Bohnert et al., 2011; Daniulaityte et al., 2012; Johanson et al., 2012).

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Appendix IX

Supporting Evidence for Incentives, Sanctions, and Therapeutic Adjustments

The supporting evidence is based on the National Adult Drug Court Standards developed by the National Association of Drug Court Professionals (2013) p.26 – 37; and (2015) p.59-74.

A. Advance Notice

A national study of twenty-three adult drug courts, called the NIJ-Multisite Adult Drug Court Evaluation (MADCE), found significantly better outcomes for drug courts that had a written schedule of predictable sanctions that was shared with participants and staff members (Zweig et al., 2012). Another study of approximately forty-five drug courts found 72% greater cost savings for drug courts that shared their sanctioning regimen with all team members (Carey et al., 2008a, 2012). A meta-analysis of approximately sixty studies involving seventy drug courts found significantly better outcomes for drug courts that had a formal and predictable system of sanctions (Shaffer, 2010). Finally, statewide studies of eighty six adult drug courts in New York (Cissner et al., 2013) and twelve adult drug courts in Virginia (Cheesman & Kunkel, 2012) found significantly better outcomes for drug courts that provided participants with written sanctioning guidelines and followed the procedures in the guidelines. The most effective drug courts also described expectations for earning positive reinforcement and the manner in which rewards would be administered (Burdon et al., 2001; Stitzer, 2008).

Evidence from MADCE also suggests that drug courts should remind participants frequently about what is expected of them in the program and the likely consequences of success or failure (Zweig et al., 2012). Significantly higher retention rates were produced when staff members in drug courts consistently reminded participants about their responsibilities in treatment and the consequences that would follow from graduation or termination (Young & Belenko, 2002).

Research shows that some flexibility improves outcomes, as well. Two of the above studies reported significantly better outcomes when the drug court team had some discretion to modify a presumptive consequence in light of the facts presented in each case (Carey et al., 2012; Zweig et al., 2012). Because certainty is a critical factor in behavior modification programs (Marlowe & Kirby, 1999), discretion should generally be limited to modifying the magnitude of the consequence as opposed to withholding a consequence altogether. Drug courts that intermittently failed to impose sanctions for infractions had significantly poorer outcomes in at least one large statewide study (Cissner et al., 2013).

B. Opportunity to Respond & C. Professional Demeanor

A substantial body of research on procedural justice or procedural fairness reveals that criminal defendants are most likely to react favorably to an adverse judgment or punitive sanction if they believe fair procedures were followed in reaching the decision. The best outcomes were achieved when defendants were (1) given a reasonable opportunity to explain their side of the dispute, (2) treated in an equivalent manner to similar people in similar circumstances and (3) accorded respect and dignity throughout the process (Burke & Leben, 2007; Frazer, 2006; Tyler, 2007).

In the MADCE study, outcomes were significantly better when participants perceived the judge as fair and when independent observers rated the judge's interactions with the participants as respectful, fair, consistent, and predictable (Rossman et al., 2011). In contrast, outcomes were significantly poorer for

judges who were rated as being arbitrary or not giving participants an opportunity to explain their side of the controversy (Farole & Cissner, 2007; Rossman et al., 2011). Stigmatizing, hostile, and shaming comments from the judge have also been associated with significantly poorer outcomes in drug courts (Gallagher, 2013; Miethe et al., 2000).

D. Progressive Sanctions

In general, sanctions are less effective at low and high magnitudes than in the intermediate range (Marlowe & Kirby, 1999; Marlowe & Wong, 2008). The most effective drug courts develop a wide and creative range of intermediate-magnitude sanctions that can be increased or decreased in response to participants' behaviors (Marlowe, 2007).

Research suggests that different approaches should be taken for easier, as compared to more difficult to accomplish goals. For difficult goals, significantly better outcomes are achieved when the sanctions increase progressively in magnitude over successive infractions (Harrell & Roman, 2001; Harrell et al., 1999; Hawken & Kleiman, 2009; Kilmer et al., 2012; National Institute on Drug Abuse, 2006). Providing gradually escalating sanctions for difficult goals gives treatment a chance to take effect and prepares participants to meet steadily increasing responsibilities in the program. For easier goals, on the other hand, applying higher-magnitude sanctions is more effective, as it prevents participants from getting accustomed to punishment and punishment becoming less effective (Marlowe, 2011).

E. Therapeutic Adjustments

It is important to differentiate between cases in which an individual is not engaging in treatment (non-compliance) and cases when an individual is not benefiting from the treatment that is being provided (non-responsiveness), because non-compliance and non-responsiveness suggest different responses (Marlowe, 2011). A series of studies have been conducted to assess an adaptive system used to help practitioners differentiate these cases and recommend enhanced supervision for non-compliance and enhanced clinical case management for non-responsiveness (Marlowe et al., 2008, 2009, 2012). Results show that that participants randomly assigned to the adaptive system were more than twice as likely to be drug abstinent in the first 18 weeks, than those who were not (Marlowe et al., 2012), though more recent research suggests that this approach is less effective at later stages of participation (Marlowe et al., 2013).

F. Incentivizing Productivity

Sanctions and positive reinforcement are most likely to be effective when administered in combination (DeFulio et al., 2013). Drug courts achieve significantly better outcomes when they focus as much on incentivizing productive behaviors as they do on reducing undesirable behaviors. In the MADCE, drug courts that offered higher and more consistent levels of praise and positive incentives from the judge achieved significantly better outcomes (Zweig et al., 2012). Several other studies found that a 4:1 ratio¹⁰ of incentives to sanctions was associated with significantly better outcomes among drug users (Gendreau, 1996; Senjo & Leip, 2001; Woodahl et al., 2011).

¹⁰ Support for the 4:1 ratio must be viewed with caution because it was derived from post hoc (after the fact) correlations rather than from controlled studies. By design, sanctions are imposed for poor performance and incentives are provided for good performance; therefore, a greater proportion of incentives might not have caused better outcomes, but rather better outcomes might have elicited a greater proportion of incentives. Nevertheless, although this correlation does not prove causality, it does suggest that drug courts are more likely to be successful if they make positive incentives readily available to their participants.

Studies have revealed that drug courts achieved significantly greater reductions in recidivism and greater cost savings when they incentivized participants to participate in prosocial activities, like having a job, enrolling in school, or living in sober housing by requiring such participation as a condition of graduation from the program (Carey et al., 2012).

G. Jail Sanctions

The certainty and immediacy of sanctions are far more influential to outcomes than the magnitude or severity of the sanctions (Harrell & Roman, 2001; Marlowe et al., 2005; Nagin & Pogarsky, 2011). Drug courts are significantly more effective and cost-effective when they use jail sanctions sparingly (Carey et al., 2008b; Hepburn & Harvey, 2007). Research in drug courts indicates that jail sanctions produce diminishing returns after approximately three to five days (Carey et al., 2012; Hawken & Kleiman, 2009). A multisite study found that drug courts that had a policy of applying jail sanctions of longer than one week were associated with increased recidivism and negative cost-benefits. Drug courts that relied on jail sanctions of longer than two weeks were two and a half times less effective at reducing crime and 45% less cost-effective than drug courts that tended to impose shorter jail sanctions (Carey et al., 2012).

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Appendix X

Supporting Evidence for Cultural Competence

The supporting evidence is based on the National Adult Drug Court Standards developed by the National Association of Drug Court Professionals (2013) p.11-19; and (2015) p.59-66.

A. Equivalent Access

Evidence suggests African-American and Hispanic or Latino citizens may be underrepresented by approximately 3% to 7% in drug courts. National studies have estimated that approximately 21% of drug court participants are African-American and 10% are Hispanic or Latino (Bureau of Justice Assistance, 2012; Huddleston & Marlowe, 2011). In contrast, approximately 28% of arrestees and probationers were African-American and approximately 13% of probationers were Hispanic or Latino. Additional research is needed to examine the representation of other historically disadvantaged groups in drug courts.

Some researchers have suggested that unduly restrictive eligibility criteria might be partly responsible for the lower representation of minority persons in drug courts (Belenko et al., 2011; O’Hear, 2009). It has been suggested, for example, that African-Americans or Hispanics may be more likely than Caucasians to have prior felony convictions or other entries in their criminal records that disqualify them from participation in drug court (National Association of Criminal Defense Lawyers [NACDL], 2009; O’Hear, 2009).

A recent study on equivalent access that examined reentry courts began with the hypothesis that referrals to Drug courts, DUI courts and Reentry courts for non-Whites and other lower SES clients would be lower than for Whites and higher SES clients in the Southwestern United States (Morgan, Mitchell, Thoen, Campion, Bolanos, Sustaita and Henderson, 2016). The authors based their hypothesis on earlier findings in the literature and therefore were surprised to find that the reentry court did not demonstrate differential referral rates as a function of race, ethnicity, SES or attorney status. Most of the research on differential access examines drug courts and a few mental health courts. It is not clear that reentry courts will share the inequivalent access problem, given that reentry court clients have already served time in the criminal justice system, which over represents rather than underrepresents minorities.

Assessment tools used to determine candidates’ eligibility for drug and DUI courts are often validated on samples of predominantly Caucasian males and may not be valid for use with minorities, females, or members of other demographic subgroups (Burlew et al., 2011; Huey & Polo, 2008). Studies have found that women and racial or ethnic minorities interpreted test items differently than other test respondents, making the test items less valid for the women or minorities (Carle, 2009; Perez & Wish, 2011; Wu et al., 2010).

B. Equivalent Retention

Numerous studies have reported that a significantly smaller percentage of African-American or Hispanic participants graduated successfully from drug court as compared to non-Hispanic Caucasians (Finigan, 2009; Marlowe, 2013). In several of the studies, the magnitude of the discrepancy was as high as 25% to 40% (Belenko, 2001; Sechrest & Shicor, 2001; Wiest et al., 2007). These findings are not universal, however. A smaller but growing number of evaluations has found no differences in outcomes or even superior outcomes for racial minorities as compared to Caucasians (Brown, 2011; Cissner et al., 2013; Fulkerson, 2012; Saum et al., 2001; Somers et al., 2012; Vito & Tewksbury, 1998).

To the extent such disparities exist, evidence suggests they might not be a function of race or ethnicity per se, but rather might be explained by broader societal burdens that are often borne disproportionately by minorities, such as lesser educational or employment opportunities or a greater infiltration of crack cocaine into some minority communities (Belenko, 2001; Dannerbeck et al., 2006; Fosados, et al., 2007; Hartley & Phillips, 2001; Miller & Shutt, 2001). When evaluators accounted statistically for these confounding factors, the influence of race or ethnicity disappeared (Dannerbeck et al., 2006). Interviews and focus groups conducted with racial minority participants have suggested that drug courts may be paying insufficient attention to employment and educational problems that are experienced disproportionately by minority participants (Cresswell & Deschenes, 2001; DeVall & Lanier, 2012; Gallagher, 2013; Leukefeld et al., 2007).

C. Equivalent Treatment

Racial and ethnic minorities often receive lesser quality treatment than non-minorities in the criminal justice system (Brocato, 2013; Janku & Yan, 2009; Fosados et al., 2007; Guerrero et al., 2013; Huey & Polo, 2008; Lawson & Lawson, 2013; Marsh et al., 2009; Schmidt et al., 2006). A commonly cited example of this phenomenon relates to California Proposition 36, the Substance Abuse and Crime Prevention Act of 2000, a statewide diversion initiative for nonviolent drug possession defendants. A several-year study of Proposition 36 (Nicosia et al., 2012; Integrated Substance Abuse Programs, 2007) found that Hispanic participants were significantly less likely than Caucasians to be placed in residential treatment for similar patterns of drug abuse, and African-Americans were less likely to receive medically assisted treatment for addiction. To date, no empirical studies have determined whether there are such disparities in the quality of treatment in drug courts.

Drug courts must also ensure that the treatments they provide are valid and effective for members of historically disadvantaged groups in their programs. Because women and racial minorities are often under-represented in clinical trials of addiction treatments, the treatments are frequently less beneficial for these individuals (Burlew et al., 2011; Calsyn et al., 2009).

A small but growing number of treatments have been tailored specifically to meet the needs of women or racial minority participants in drug courts. In one study, outcomes were improved significantly for young African-American male participants when an experienced African-American clinician delivered a curriculum that addressed issues commonly confronting these young men, such as negative racial stereotypes (Vito & Tewksbury, 1998). Efforts are underway to examine the intervention used in that study - Habilitation, Empowerment & Accountability Therapy (HEAT) - in a controlled experimental study.

Substantial evidence shows that women, particularly those with histories of trauma, perform significantly better in gender-specific substance abuse treatment groups (Dannerbeck et al., 2002; Grella, 2008; Liang & Long, 2013; Powell et al., 2012). This gender-specific approach has been demonstrated to improve outcomes for female drug court participants in at least one randomized controlled trial (Messina et al., 2012). Similarly, a study of approximately seventy drug courts found that programs offering gender-specific services reduced criminal recidivism significantly more than those that did not (Carey et al., 2012). Studies indicate the success of culturally tailored treatments depends largely on the training and skills of the clinicians delivering the services (Castro et al., 2010; Hwang, 2006).

D. Equivalent Incentives and Sanctions

Some commentators have questioned whether racial or ethnic minority participants are sanctioned more severely than non-minorities in drug courts for comparable infractions. Anecdotal observations have been cited to support this concern (NACDL, 2009) and minority participants in at least one focus group did

report feeling more likely than other participants to be ridiculed or laughed at during court sessions in response to violations (Gallagher, 2013). No empirical study, however, has borne out the assertion. To the contrary, what little research has been conducted suggests drug courts and other problem-solving courts appear to administer sanctions in a racially and ethnically even-handed manner (Arabia et al., 2008; Callahan et al., 2013; Frazer, 2006; Guastaferrero & Daigle, 2012; Jeffries & Bond, 2012). Considerably more research is required to study this important issue in a systematic manner and in a representative range of drug courts.

E. Equivalent Dispositions

Concerns have similarly been expressed that racial or ethnic minority participants might be sentenced more harshly than non-minorities for failing to complete drug court (Drug Policy Alliance, 2011; Justice Policy Institute, 2011; O’Hear, 2009). This is an important matter because, as discussed previously, minorities may be more likely than non-minorities to be terminated from drug courts. Although the matter is far from settled, evidence from at least one study suggests that participants who were terminated from drug court did receive harsher sentences than traditionally adjudicated defendants who were charged with comparable offenses (Bowers, 2008). There is no evidence, however, to indicate whether this practice differentially impacts minorities or members of other historically disadvantaged groups. In fact, one study in Australia found that indigenous minority drug court participants were less likely than non-minorities to be sentenced to prison (Jeffries & Bond, 2012).

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Appendix XI

Supporting Evidence for Data and Evaluation

The supporting evidence is based on the National Adult Drug Court Standards developed by the National Association of Drug Court Professionals, (2013), p.34-40; and (2015), p.66-74.

A. Electronic Case Management

Accurate record keeping is critical to data and evaluation. A study including 18 drug courts found that programs that used paper files to keep records necessary to perform evaluations had higher investment costs, lower graduation rates, and less improvement in outcome costs than programs that used electronic records for these purposes (Carey et al., 2008). In a study of 69 drug courts, keeping electronic records, as opposed to paper case files, was a critical step to allowing programs to track their own statistics and to participate in evaluations conducted by independent evaluators (Carey et al., 2012).

B. Timely and Reliable Data Entry

Poor data entry by staff is a substantial threat to a valid program evaluation. The optimum time to record information about services and events is when they occur, otherwise known as real-time recording. Real-time recording prevents lapses in memory from causing gaps in recorded information, and with such a wide variety of services and events in need of recording, it is the most reliable method. True real-time recording is challenging to accomplish but in all circumstances, data should be recorded within forty-eight hours of events. After forty-eight hours, errors in data recording have been shown to increase significantly, and after one week, the data is likely to be inaccurate, so much so that it would be more prudent to leave the data as missing rather than try to fill in the gaps from faulty memory (Marlowe, 2010). Failure to record service, performance, and event information in a reliable and timely manner jeopardizes the effectiveness of the program and the quality of participant care.

C. Independent Evaluation

In addition to keeping accurate records, engaging with independent researchers to conduct evaluations of drug court programs has been shown to be valuable. Carey et al. (2008) found that programs that participated in more than one evaluation conducted by an independent evaluator had improved outcome costs compared to those that did not (Carey et al., 2008). While drug courts should be continually monitoring program performance internally according to best practices, they can benefit greatly by inviting an independent evaluator to examine their program and make recommendations for improvement. Drug courts that involved an independent evaluator and implemented at least some of their recommendations were twice as cost-effective and twice as effective at reducing crime as drug courts that did not involve an independent evaluator (Carey et al., 2008, 2012). Participant perceptions of the program are often highly predictive of outcomes, particularly perceptions of the manner in which incentives and sanctions are delivered (Goldkamp et al., 2002; Harrell & Roman, 2001; Marlowe et al., 2005), the quality of treatment services provided (Turner et al., 1999), and the procedural fairness of the program (Burke, 2010; McIvor, 2009). Participants are much more likely to be forthright with an independent evaluator about their perceptions than with program staff, who control their fate in the criminal justice system. Insights from independent evaluators could provide valuable remedies for program deficiencies that can lead to improved participant perceptions and outcomes.

E. Comparison Groups

In order to measure the effectiveness of problem-solving court programs, it is important to address the question of whether the problem-solving court program is responsible for the favorable outcomes of some participants, or if those participants would have had equal success outside the program. The performance of problem-solving court participants must be compared to an unbiased and equivalent comparison group. Comparing the performance of the problem-solving courts to what most likely would have happened if the problem-solving court did not exist is referred to as testing the counterfactual hypothesis, and it helps determine whether the problem-solving court was effective (Popper 1956). There are acceptable and unacceptable methods of forming comparison groups and the validity of the results will vary depending on how the comparison group was formulated. The strongest inference of causality is reached with the random assignment method. Eligible participants are randomly assigned to either the problem-solving court program or to a comparison group. Random assignment provides the greatest likelihood that the groups started out with an equal chance of success, and is the best indicator of program effectiveness (Campbell & Stanley, 1963; Farrington, 2003; Farrington & Welsh, 2005; National Research Council, 2001; Telep et al., 2015). Some problem-solving courts are reluctant to use the random assignment method as it denies potentially effective services to eligible participants. This makes random assignment a strong choice for programs with insufficient capacity, and a number of courts with insufficient capacity have successfully used random assignment to form comparison groups (e.g., Gottfredson et al., 2003; Jones, 2011; Turner et al., 1999). A second acceptable method to form comparison groups is the quasi-experimental comparison group. This group is formulated from individuals who were eligible for the drug court program, but chose not to enter for reasons unlikely to be related to their outcomes. A third is the matched comparison group, where staff construct a comparison group from a large and heterogeneous pool, such as a statewide probation database. There are also unacceptable methods to forming a comparison group. Comparison groups should not be formulated from individuals who refused to enter the problem-solving court, were denied access to the problem-solving court because of criminal or clinical histories, individuals who dropped out of problem-solving court, or individuals who were terminated prematurely from the problem-solving court program. It is likely these individuals were disadvantaged from the outset, and their inclusion in comparison groups will bias the results of any comparison (Campbell & Stanley, 1963).

F. Using Data and Evaluation Results to Program Manage

The final step in the evaluation process is using results from data analysis and evaluation to adjust program practices. Carey et al. (2008) found that programs that reported program statistics and used evaluation data to modify court operations had higher graduation rates (60% vs. 39%) and better results in terms of outcome costs (34% vs. 13%) compared to programs that did not. In their 2012 study, Carey et al. found that programs benefited substantially from using both their own program statistics to modify court operations and from using the results of independent evaluations to modify court operations. Programs that made modifications based on regular reporting of program statistics experienced 105% reduction in recidivism and 131% increase in cost savings, while those that use results of independent evaluations showed an 85% reduction in recidivism and 100% increase in cost savings. (Carey et al., 2012).

Reentry courts are a relatively new addition to the family of problem solving courts and as such, the methodologies that researchers have used to conduct external and even internal evaluations make use of both simple and sophisticated social science techniques. Vance (2011) described 6 foundational principles of Reentry courtss (i.e., transitional planning, use of evidence based practices, integrated case management, graduated sanctions and rewards, a continuum of services and quality data collection and evaluation) and then moved on to discuss early empirical evaluations of courts that endorse these positions. Vance (2011) describes the *District of Oregon Reentry Court: Evaluation, Policy*

Recommendations, and Replication Strategies (Close, Aubin, and Alltucker, 2008), the *Evaluation of the Court Assisted Recovery Effort (C.A.R.E.) Program - United States District Court for the District of Massachusetts* (Farrell and Wunderlich, 2009), and the *Evaluation of the Accelerated Community Entry Court Program (Western District of Michigan)* (Lowenkamp and Bechtel, 2010). The Oregon Reentry Court evaluation included three groups: a traditional comparison group, a group of clients not finishing the program and a final group of clients who finished the program. Because there was no attempt to match the clients in each group on selection factors and the fact that the sample sizes were very small, Vance (2011) qualified the finding that the comparison group outperformed the other two groups with considerable doubt stemming from the weak methodology. In a second more sophisticated study of the C.A.R.E. Reentry Court in Massachusetts, evaluators compared reentry court outcomes to outcomes of a comparison group that underwent traditional supervision, but only after carefully matching the clients in both groups on selection factors and demonstrating that members of both groups were equivalent on the most important confounding variables. The results showed that the participants in the C.A.R.E. court were 2.6 times more likely to show successful outcomes as compared to those in the comparison group, a statistically significant outcome. Finally, the evaluation of the Western District of Michigan Reentry Court also used a carefully matched comparison sample of clients who underwent traditional supervision and it showed some positive significant results including the fact that while only 25% of the reentry sample showed arrests for a new crime, 50% of the comparison group demonstrated new arrests.

More recent evaluation studies of the Harlem Reentry Court employed methodologies that are even more sophisticated. Hamilton (2010; 2011) used propensity analyses to match clients in the reentry court to a sample of clients undergoing traditional parole supervision. Propensity analysis constructs a non-equivalent control group design by using sophisticated statistical analyses (i.e. logistic regression) to model the selection process differentiating those who were in the treatment condition from those who were not. Common matched selection factors include demographics, risk assessments, type of index offense, criminal history and so on. In the end, each individual receives a probability score – the probability that he or she would end up in the treatment group. Researchers select those not in the treatment group who have an equal probability of winding up in the treatment group (as those who are actually in the treatment group) and make them the comparison sample. This process simulates a true randomized experiment in which participants have an equal probability of assignment to the treatment and experimental groups – that is, the result of an unbiased coin toss. Using this technique, Hamilton (2010, 2011) found that those in the reentry court had lower re-arrest rates; lower reconviction rates and those who completed the program were experienced lower odds of re-arrest and reconviction. Unfortunately, the reentry court clients were more likely to violate parole and end up with revocation, an iatrogenic outcome. However, after the Harlem Reentry Court developed and implemented a formalized set of guidelines for administration of graduated sanctions and trained staff to use those guidelines successfully, Ayoub and Pooler (2015) completed an experimental study in which they randomly assigned parolees to either the Harlem Reentry Court or traditional parole supervision. They found that those in the reentry court, showed significantly better outcomes than those in the randomized control group including lower rates of reconvictions, felony reconvictions and revocations.

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